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VALUE-ADDED TAX (AMENDMENT) ACT 1978

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - LONG TITLE

AN ACT TO AMEND THE VALUE-ADDED TAX ACT, 1972, AND THE ACTS AMENDING THAT ACT AND TO PROVIDE FOR RELATED MATTERS.

[20th December, 1978]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 1

Principal Act.

1.—In this Act "the Principal Act" means the Value-Added Tax Act, 1972.

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 2

Amendment of section 1 of Principal Act.

2.—Section 1 of the Principal Act is hereby amended by—

(a) the deletion of the definitions of "accountable person" "established", "manufacturer", "rendering" and "residing";

(b) the substitution of "'establishment'" for "'permanent establishment'" and

(c) the insertion of the following definitions:

"'agricultural produce' has the meaning assigned to it by section 8;" ,

"'agricultural service' has the meaning assigned to it by section 8;" ,

"'Community' means the European Economic Community;" ,

"'farmer' has the meaning assigned to it by section 8;" ,

"'flat-rate addition' has the meaning assigned to it by section 12A;" ,

"'flat-rate farmer' has the meaning assigned to it by section 12A;" ,

"'supply', in relation to goods, has the meaning assigned to it by section 3 and, in relation to services, has the meaning assigned to it by section 5, and cognate words shall be construed accordingly; and

"'taxable person' has the meaning assigned to it by section 8;" .

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 3

Amendment of section 2 of Principal Act.

3.—Section 2 (1) of the Principal Act is hereby amended by the

substitution for paragraph (a) of the following paragraph:

"(a) on the supply of goods and services effected within the State for consideration by a taxable person in the course or furtherance of any business carried on by him, and".

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 4
Amendment of section 3 of Principal Act.

4.—Section 3 of the Principal Act is hereby amended—

(a) by the substitution in subsection (1) of "In this Act 'supply', in relation to goods, means—" for "In this Act 'delivery', in relation to goods, shall, subject to subsection (1A), include—", and of the following paragraphs for paragraphs (e) and (f):

"(e) the application (otherwise than by way of disposal to another person) by a person for the purposes of any business carried on by him of the goods, being goods which were developed, constructed, assembled, manufactured, produced, extracted, purchased or imported by him or by another person on his behalf, except where tax chargeable in relation to the application would, if it were charged, be wholly deductible under section 12, and

(f) the appropriation by a taxable person for any purpose other than the purpose of his business or the disposal free of charge of the goods where tax chargeable in relation to the goods—

(i) upon their acquisition by the taxable person, if they had been so acquired, or

(ii) upon their development, construction, assembly, manufacture, production, extraction, importation or application under paragraph (e),

as the case may be, was wholly or partly deductible under section 12,".

(b) by the substitution of the following subsection for subsection (1A):

"(1A) Anything which is a supply of goods by virtue of paragraph (e) or (f) of subsection (1) shall be deemed, for the purposes of this Act, to have been effected for consideration in the course or furtherance of the business concerned:

Provided, however, that the following shall not be deemed to have been effected for consideration, that is to say:

(a) a gift of goods made in the course or furtherance of the business (otherwise than as one forming part of a series or succession of gifts made to the same person) the cost of which to the donor does not exceed a sum specified for that purpose in regulations,

(b) the gift, in reasonable quantity, to the actual or potential customer, of industrial samples in a form not ordinarily available for sale to the public,"

(c) by the insertion of the following subsection:

"(1B) The provision of electricity, gas and any form of power, heat, refrigeration or ventilation shall be deemed, for the purposes of this Act, to be a supply of goods and not a supply of services.", and

(d) by the substitution for subsection (3) of the following subsection:

"(3) (a) The supply by auction of goods being—

(i) livestock, horses, greyhounds, vegetables, fruit, flowers, poultry, eggs or fish, or

(ii) immovable goods supplied in circumstances in which tax is not chargeable,

shall be deemed, for the purposes of this Act, to constitute a supply of the goods to and simultaneously by the auctioneer.

(b) The supply through an estate agent or other agent of—

(i) livestock, horses or greyhounds, or

(ii) immovable goods supplied in circumstances in which tax is not chargeable,

shall be deemed, for the purposes of this Act, to constitute a supply of the goods to and simultaneously by the agent.".

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 5
Supply of services.

5.—The following section shall be substituted for section 5 of the Principal Act:

"5. (1) In this Act 'supply', in relation to a service, means the performance or omission of any act or the toleration of any situation other than the supply of goods and other than a transaction specified in section 3 (5).

(2) The provision of food and drink, of a kind specified in paragraph (xii) of the Second Schedule, in a form suitable for human consumption without further preparation—

(a) by means of a vending machine,

(b) in the course of operating a hotel, restaurant, cafe, refreshment house, canteen, establishment licensed for the sale for consumption on the premises of intoxicating liquor, catering business or similar business, or

(c) in the course of operating any other business in connection with the carrying on of which facilities are provided for the consumption of the food or drink supplied,

shall be deemed, for the purposes of this Act, to be a supply of services and not a supply of goods.

(3) Any of the following shall, if so provided by regulations, and in accordance therewith, be deemed, for the purposes of this Act, to be a supply of services by a person for consideration in the course or furtherance of his business—

(a) the use of goods forming part of the assets of his business for purposes other than those of his business,

(b) the supply by him of services for his own private or personal use and the supply by him of services free of charge for the private or personal use of his staff or for any purposes other than those of his business,

(c) the supply of services for his own private or personal use or that of his staff, for the supply of which he provides materials or facilities or towards the cost of which he contributes in whole or in part,

(d) the supply by him of services, other than those referred to in the preceding paragraphs of this subsection, for the purposes of his business except where tax on such services, if it were chargeable, would be wholly deductible under section 12.

(4) The supply of services through a person (in this subsection referred to as the agent) who, while purporting to act on his own behalf, concludes agreements in his own name but on the instructions of and for the account of another person, shall be deemed, for the purposes of this Act, to constitute a supply of the services to and simultaneously by the agent.

(5) Subject to subsections (6) and (7), the place where a service is supplied shall be deemed, for the purposes of this Act, to be the place where the person supplying the service has his establishment or (if more than one) the establishment of his which is most concerned with the supply or (if he has no establishment) his usual place of residence.

(6) (a) The place of supply of services connected with immovable goods, including the services of estate agents, architects and firms providing on-site supervision in relation to such goods, shall be deemed, for the purposes of this Act, to be the place where the goods are situated.

(b) Transport services shall be deemed, for the purposes of this Act, to be supplied where the transport takes place.

(c) The following services shall be deemed, for the purposes of this Act, to be supplied where they are physically performed:

(i) cultural, artistic, sporting, scientific, educational, entertainment or similar services.

(ii) ancillary transport activities such as loading, unloading and handling,

(iii) valuation of movable goods,

(iv) work on movable goods,

(d) he place of supply of services consisting of the hiring out of movable goods (other than means of transport) which are exported by the person from whom they are hired from one member State of the Community with a view to their being used in another such member State shall be deemed, for the purposes of this Act, to be the place of utilisation.

(e) The place of supply of services of any of the descriptions specified in the Fourth Schedule shall be deemed, for the purposes of this Act, to be—

(i) in case they are received, otherwise than for a business purpose, by a person whose usual place of residence is situated outside the Community, the place where he usually resides,

(ii) in case they are received by a person who has no establishment in the country in which, but for this subparagraph, the services would be deemed to be supplied and are so received for the purposes of any business carried on by him, the place where he has his establishment or (if more than one) the establishment of his at which or for the purposes of which the services are most directly used or to be used or (if he has no establishment anywhere) the place where he usually resides,

(iii) in any other case, the place specified in subsection (5) that is appropriate to the circumstances.

(7) Provision may be made by regulations for varying, in relation to services generally or of a description specified therein, the rules for determining their place of supply, and for that purpose the Fourth Schedule may be added to or varied.

(8) The transfer of the goodwill or other intangible assets of a business, in connection with the transfer of the business or part thereof, to another taxable person shall be deemed, for the purposes of this Act, not to be a supply of services."

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 6
Amendment of section 8 of Principal Act.

6.—Section 8 of the Principal Act is hereby amended by the substitution of the following subsections for subsections (1), (2), (3), (7), (8) and (9):

"(1) A person who, otherwise than as an employee of another person, engages in the supply, within the State, of taxable goods or services in the course of business shall, in addition to the persons referred to in section 4 (5) and subsections (2) and (2A), be a taxable person and shall be accountable for and liable to pay the tax charged in respect of such supply.

(2) Where by virtue of section 5 (6) (e) (ii) a taxable service that, apart from that provision, would be treated as supplied abroad, is deemed to be supplied in the State, the person who receives the service shall, in relation thereto, be a taxable person and be liable to pay the tax charged as if he had himself supplied the service for consideration in the course or furtherance of his business.

(2A) (a) The Minister may, following such consultations as he may deem appropriate, by order provide that the State and every local authority shall be taxable persons with respect to specified categories of supplies made by them of goods or services and, accordingly, during the continuance in force of any such order but not otherwise, the State and every local authority shall be accountable for and liable to pay tax in respect of any such supplies made by them as if the supplies had been made in the course of business.

(b) The Minister may by order amend or revoke an order under this subsection, including an order under this paragraph.

(c) An order under this subsection shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the order is passed by Dáil Éireann within the next twenty-one days on which Dáil Éireann has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(3) The following persons shall not, unless they otherwise elect and then only during the period for which such election has effect, be taxable persons—

(a) a farmer,

(b) a person whose supplies of taxable, goods or services consist exclusively of—

(i) supplies to taxable persons and persons to whom section 13 (3) applies of fish (not further processed than gutted, salted and frozen) which he has caught in the course of a sea-fishing business,

(ii) supplies of machinery, plant or other equipment which have been used by him in the course of a sea-fishing business, and

(iii) supplies of goods and services, other than those referred to in subparagraphs (i) and (ii), the total consideration for which has not exceeded and is not likely to exceed £3,000 in any period consisting of 6 consecutive taxable periods,

(c) (i) subject to subparagraph (ii), a person for whose supply of taxable goods and services the total consideration has not exceeded and is not likely to exceed £3,000 in any taxable period,

(ii) subparagraph (i) shall apply if, but only if, not less than 90 per cent. of the total consideration referred to therein is

derived from the supply of taxable goods which the person has imported or which have been supplied to him by other taxable persons or which, being goods of a kind chargeable with tax at the rate of zero per cent., were supplied to him by persons other than taxable persons and not less than 50 per cent. of such consideration is derived from the supply of goods and services chargeable with tax at either of the rates for the time being specified in paragraph (a) or (b) of section 11 (1),

(d) (i) subject to subparagraph (ii), a person for whose supply of taxable goods and services the total consideration has not exceeded and is not likely to exceed £1,500 in any taxable period,

(ii) subparagraph (i) shall apply if, but only if, not less than 90 per cent. of the total consideration referred to therein is derived from the supply of taxable goods.

(e) a person, other than a person to whom paragraph (a), (b), (c) or (d) applies, for whose supply of taxable goods and services the total consideration has not exceeded and is not likely to exceed £500 in any taxable period.

(7) Where any goods or services are provided by a club or other similar organisation in respect of a payment of money by any of its members, then, for the purposes of this Act, the provision of the goods or services shall be deemed to be a supply by the club or other organisation of the goods or services (as the case may be) in the course or furtherance of a business carried on by it and the money shall be deemed to be consideration for the supply.

(8) Provision may be made by regulations whereby, if the Revenue Commissioners are satisfied that the business activities of two or more taxable persons are so interlinked that it would be expedient, in the interest of efficient administration of the tax to do so, then at the request of the taxable persons concerned—

(a) those activities may be deemed, for the purpose of this Act, to be carried on by any one of the persons and all transactions by or between such persons shall be deemed, for those purposes, to be transactions by that one person and all other rights and obligations under this Act shall be determined accordingly, and

(b) each such person may be made jointly and severally liable to comply with all the provisions of this Act and regulations (including the provisions requiring the payment of tax) that apply to those persons and subject to the penalties under this Act to which they would be subject if each such person was liable to pay to the Revenue Commissioners the whole of the tax chargeable, apart from regulations under this subsection, in respect of all such persons.

(9) In this Act—

'agricultural produce' means, in relation to a farmer, goods, other than live horses and live greyhounds, produced by him in the course of an Annex A activity;

'agricultural service' means, in relation to a farmer, any Annex B service supplied by him using his own labour or that of his employees or effected by means of machinery, plant or other equipment normally used for the purposes of an Annex A activity carried on by him;

'Annex A activity' means any activity of a description specified in Annex A (which is set out in Part 1 of the Fifth Schedule) of Council Directive No. 77/388/EEC of 17 May, 1977 (OJ No. L 14511 13.6.1977);

'Annex B service' means any service of a description specified in Annex B (which is set out in Part II of the Fifth Schedule) of the said Council Directive;

'farmer' means a person who engages in at least one Annex A activity and whose supplies of taxable goods and services in the course of business consist exclusively of—

(a) supplies of agricultural produce,

(b) supplies of agricultural services,

(c) supplies of machinery, plant or other equipment which has been used by him for the purposes of an Annex A activity, and

(d) supplies of goods and services, other than those referred to in paragraphs (a), (b) and (c), the total consideration for which has not exceeded and is not likely to exceed £3.000 in any period consisting of six consecutive taxable periods.".

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 7
Amendment of section 9 of Principal Act.

7.—Section 9 of the Principal Act is hereby amended by the substitution of the following subsection for subsection (1):

(1) The Revenue Commissioners shall set up and maintain a register of persons who may become or who are taxable persons.".

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 8
Amount on which tax is chargeable.

8.—The following section shall be substituted for section 10 of the Principal Act:

"10. (1) The amount on which tax is chargeable by virtue of section 2 (1) (a) shall, subject to this section, be the total consideration which the person supplying goods or services becomes entitled to receive in respect of or in relation to such supply of goods or services, including all taxes, commissions, costs and charges whatsoever but not including value-added tax chargeable in respect of the supply.

(2) If the consideration referred to in subsection (1) does not consist of or does not consist wholly of an amount of money, the

amount on which tax is chargeable shall be the total amount of money which might reasonably be expected to be charged if the consideration consisted entirely of an amount of money equal to the open market price:

Provided that in computing the amount on which tax is chargeable as aforesaid a deduction may be made for the open market price of second-hand movable goods given in exchange or part exchange for goods, whether new or second-hand, of the same kind—

(3) (a) If for any non-business reason the actual consideration in relation to the supply of any goods or services is less than that which might reasonably be expected to be received if the consideration were an amount equal to the open market price or there is no consideration, the amount on which tax is chargeable shall be the open market price.

(b) If the consideration actually received in relation to the supply of any goods or services exceeds the amount which the person supplying the goods or services was entitled to receive, the amount on which tax is chargeable shall be the amount actually received, excluding tax chargeable in respect of the supply.

(c) If, in a case not coming within paragraph (a), the consideration actually received in relation to the supply of any goods or services is less than the amount on which tax is chargeable or no consideration is actually received, such relief may be given by repayment or otherwise in respect of the deficiency as may be provided by regulations.

(4) The amount on which tax is chargeable in relation to a supply of goods referred to in paragraph (d) (ii), (e) or (f) of section 3 (1) or a supply of services by virtue of regulations made for the purposes of section 5 (3) shall be the cost, excluding tax, of the goods to the person supplying the goods or the cost, excluding tax, of supplying the services, as the case may be.

(5) The amount on which tax is chargeable in relation to services for the tax chargeable on which the recipient is, by virtue of section 8 (2), liable shall be the consideration for which the services were in fact supplied to him.

(6) Where a right to receive goods or services for an amount stated on any token, stamp, coupon or voucher is granted for a consideration, the consideration shall be disregarded for the purposes of this Act except to the extent (if any) that it exceeds that amount.

(7) Provision may be made by regulations for the purpose of determining the amount on which tax is chargeable in relation to one or more of the following:

(a) supplies of goods and services to which an order under section 8 (2A) applies,

(b) supplies of stamps, coupons, tokens or vouchers when supplied as things in action (not being stamps, coupons, tokens or vouchers

specified in subsection (6)),

(c) supplies of goods or services wholly or partly in exchange for stamps, coupons, tokens or vouchers of a kind specified in subsection (6) or paragraph (b),

(d) supplies deemed, pursuant to subsection (3) or (4) of section 3, to be made to and by the persons therein mentioned,

and such regulations may, in the case of supplies referred to in paragraph (b), provide that the amount on which tax is chargeable shall be nil.

(8) (a) Where the value of movable goods (not being goods of a kind specified in paragraph (xii) of the Second Schedule) provided under an agreement for the supply of services exceeds two-thirds of the total consideration under the agreement for the provision of those goods and the supply of the services, other than transport services in relation to them, the consideration shall be deemed to be referable solely to the supply of the goods and tax shall be charged at the appropriate rate or rates specified in section 11 on the basis of any apportionment of the total consideration made in accordance with paragraph (b).

(b) Where goods of different kinds are provided under an agreement of the kind referred to in paragraph (a), the amount of the consideration referable to the supply of goods of each kind shall be ascertained for the purposes of that paragraph by apportioning the total consideration in proportion to the value of the goods of each kind provided.

(c) This subsection shall also apply to an agreement for the supply of immovable goods and, accordingly, the references in paragraphs (a) and (b) to an agreement for the supply of services shall be deemed to include a reference to such an agreement.

(9) (a) On the supply of immovable goods and on the supply of services consisting of the development of immovable goods, the value of any interest in the goods disposed of in connection with the supply shall be included in the consideration.

(b) The value of any interest in immovable goods shall be the open market price of such interest.

(10) In this section—

'interest', in relation to immovable goods, and 'disposal', in relation to any such interest, shall be construed in accordance with section 4 (1);

'the open market price', in relation to the supply of any goods or services, means the price, excluding tax, which the goods might reasonably be expected to fetch or which might reasonably be expected to be charged for the services if sold in the open market at the time of the event in question."

Amendment of section 11 of Principal Act.

9.—Section 11 of the Principal Act is hereby amended by the substitution of the following subsections for subsections (1), (2), (3) and (4A):

"(1) Tax shall, subject to subsection (2), be charged at whichever of the following rates is appropriate in any particular case—

(a) 10 per cent. of the amount on which tax is chargeable in relation to the supply of goods of a kind specified in Part I of the Third Schedule or the supply of services of a kind specified in Part II of that Schedule.

(b) zero per cent. of the amount on which tax is chargeable in relation to the supply of any goods in the circumstances specified in paragraph (i) of the Second Schedule or the supply of goods of a kind specified in paragraphs (v) (a) and (b), (vii), (viii), (x), (xii) to (xv) and (xvii) to (xx) of that Schedule or the supply of services of a kind specified in that Schedule, and

(c) 20 per cent. of the amount on which tax is chargeable in relation to the supply of any other goods or services.

(2) (a) In relation to the supply of livestock, tax shall be chargeable at the rate specified in subsection (1) (a) on 10 per cent. of the total amount on which tax is chargeable and at the rate of zero per cent. on the balance of the said total amount.

(b) On the supply of immovable goods and on the supply of services consisting of the development of immovable goods, or the maintenance and repair of those goods including the installation of fixtures, if the value of movable goods (if any) provided in pursuance of the agreement for making any such supply does not exceed two-thirds of the total amount on which tax is chargeable in respect of the agreement, tax shall be chargeable at the rate specified in subsection (1) (a) on 30 per cent. of the total amount on which tax is chargeable and at the rate of zero per cent. on the balance of the said total amount.

(3) Subject to section 10 (8), where—

(a) supplies of different kinds are made for a consideration in money which is referable to all the supplies and not separately to the different kinds of supplies, and

(b) one or both of the following subparagraphs applies or apply, that is to say—

(i) but for this subsection, tax would not be chargeable in respect of one or more (but not all) of the supplies,

(ii) but for this subsection, tax would (apart from subsection (2)) fall to be charged at two or more of the rates specified in subsection (1) in respect of the supplies,

then, unless regulations provide for apportionment of the

consideration—

(c) where subparagraph (i) (but not subparagraph (ii)) of paragraph (b) applies, tax shall be chargeable in respect of all the supplies at the rate specified in subsection (1) appropriate to the supply of taxable goods or services included in the supplies,

(d) where subparagraph (ii) of paragraph (b) applies (whether alone or with subparagraph (i) of that paragraph), tax shall be chargeable in respect of all the supplies at the higher or highest rate (as the case may be) specified in subsection (1) appropriate to the supply of any taxable goods or services included in the supplies:

Provided that, where goods

(I) are chargeable with tax at different rates,

(II) are packaged for sale as a unit, and

(III) are offered for sale for a consideration in money which is referable to the package as a whole and not to the different kinds of goods included therein,

the inclusion in the package of goods chargeable at a particular rate shall not be taken into account for the purpose of the preceding provisions of this subsection where the total tax-exclusive value of such goods does not exceed 50 per cent of the total tax-exclusive consideration for the package or 5 pence, whichever is the lesser, and, in any such case, the rate of tax chargeable in relation to the package shall be determined by reference to the other goods included therein.

(4A) Where—

(a) goods of a kind specified in paragraph (xii) of the Second Schedule are used by a person in the course of the supply by him of taxable services, and

(b) the goods are provided by or on behalf of the person to whom the services are supplied,

the person who supplies the taxable services shall be liable in respect thereof, in addition to any other liability imposed on him under this Act, to pay tax on the value of the goods so used at the rate specified in section 11 (1) (a).".

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 10
Amendment of section 12 of Principal Act.

10.—Section 12 of the Principal Act is hereby amended by the substitution of the following subsections for subsections (1) and (3):

"(1) In computing the amount of tax payable by a taxable person in respect of a taxable period there may be deducted—

(a) the tax charged to him during the period by other taxable persons by means of invoices, prepared in the manner prescribed by regulations, in respect of supplies of goods or services to him.

(b) the tax paid by him during the period, or payable by him in relation to the period, in respect of goods imported by him,

(c) the tax chargeable during the period in respect of goods applied for the purposes of his business and treated as supplied in accordance with section 3 (1) (e),

(d) the tax chargeable during the period in respect of services carried out by him for the purposes of his business and treated as supplied by him for consideration in the course or furtherance of his business in accordance with section 5 (3) (d),

(e) the tax chargeable during the period, being tax for which he is liable by virtue of section 8 (2), in respect of services received by him, and

(f) tax charged to him during the period by means of invoices prepared in the manner prescribed by regulations and issued to him in accordance with section 12A.

(3) (a) Notwithstanding anything in subsection (1), a deduction of tax under that subsection shall not be made if, and to the extent that, the tax relates to—

(i) the provision of food or drink, or accommodation or other personal services, for the taxable person, his agents or his employees, except to the extent, if any, that such provision constitutes a supply of services in respect of which he is accountable for tax,

(ii) entertainment expenses incurred by the taxable person, his agents or his employees.

(iii) the acquisition (including hiring) of motor vehicles otherwise than as stock-in-trade or for the purposes of a business which consists in whole or part of the hiring of motor vehicles or for use, in a driving school business, for giving driving instruction,

(iv) the purchase of petrol otherwise than as stock-in-trade, or

(v) goods or services used by the taxable person for the purposes of an exempted activity (whether carried on in the State or elsewhere) or for purposes other than those of his business.

but subparagraph (v) shall not operate to prevent a deduction of tax if, and to the extent that, the tax relates to goods and services used for the purposes of any of the following activities:

(I) transport outside the State of passengers and their accompanying baggage,

(II) services specified in paragraph (i), (xi) or (xii) of the First Schedule, and agency services in regard thereto, supplied

outside the Community, and

(III) insurance services and the provision of credit, and agency services in regard thereto, directly in connection with the export of goods to a place outside the Community.

(b) In paragraph (a) of this subsection 'motor vehicles' means motor vehicles designed and constructed for the conveyance of persons by road and sports motor vehicles, estate cars, station wagons, motor cycles, motor scooters, mopeds and auto cycles, whether or not designed and constructed for the purpose aforesaid, excluding vehicles designed and constructed for the carriage of more than 16 persons (inclusive of the driver), invalid carriages and other vehicles of a type designed for use by invalids or infirm persons."

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 11
Special provisions for tax invoiced by flat-rate farmers.

11.—The following section shall be inserted after section 12 of the Principal Act:

"12A. (1) Where a flat-rate farmer supplies agricultural produce or an agricultural service to a person, the farmer shall, subject to section 17 (2), issue to the person an invoice indicating the consideration (exclusive of the flat-rate addition) in respect of the supply and an amount (in this Act referred to as 'a flat-rate addition') equal to 1 per cent. of the said consideration (exclusive of the said addition), and the person shall, if he is a taxable person, be entitled to treat the flat-rate addition as tax deductible under section 12 subject, however, to any restrictions imposed by or under subsection (3) or (4) of that section.

(2) In this Act 'flat-rate farmer' means a farmer who is not a taxable person."

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 12
Remission of tax on goods exported, do.

12.—The following section shall be inserted after section 12A (inserted by this Act) of the Principal Act:

"13. (1) Regulations may make provision for remitting or repaying, subject to such conditions (if any) as may be specified in the regulations or as the Revenue Commissioners may impose, the tax chargeable in respect of the supply of goods, or of such goods as may be specified in the regulations, in cases where the Revenue Commissioners are satisfied—

(a) that the goods have been or are to be exported,

(b) that the goods have been shipped on board an aircraft or ship proceeding to a place outside the State,

(c) that the goods are, or are to be used in, a fishing vessel used or to be used for the purposes of commercial sea fishing.

(2) Regulations may make provision for remitting or repaying, subject to such conditions (if any) as may be specified in the regulations or as the Revenue Commissioners may impose, the tax chargeable in respect of the supply of all or any one or more (as may be specified in the regulations) of the following services:

(a) services directly linked to the export of goods or the transit of goods from a place outside the State to another place outside the State,

(b) the repair, maintenance and hiring of plant or equipment used in a vessel or an aircraft specified in paragraph (v) of the Second Schedule,

(c) the repair, maintenance and hiring of a vessel used, or of plant or equipment used in a vessel used, for the purposes of commercial sea fishing.

(3) (a) The Revenue Commissioners shall, in accordance with regulations, repay to a person to whom this subsection applies, deductible tax chargeable in respect of supplies of goods or services to him or in respect of goods imported by him.

(b) This subsection applies to a person who shows to the satisfaction of the Revenue Commissioners that he carries on a business outside the State and that he supplies no goods or services in the State.

(c) In this subsection "deductible tax", in relation to a person to whom this subsection applies, means tax chargeable in respect of goods or services used by him for the purposes of any business carried on by him to the extent that such tax would be deductible by him under section 12 if the business were carried on by him within the State but does not include tax chargeable in respect of goods for supply within the State or for hiring out for utilisation within the State.

(4) Where imported goods chargeable with tax under section 2 (1) (b) are supplied while warehoused and before the tax becomes due, the supply shall be disregarded for the purposes of this Act if it is made under an agreement in writing requiring the purchaser to account for such tax and, in such a case, the purchaser shall be deemed, for the purposes of sections 15 and 27 (4), to have imported the goods.

(5) Where goods chargeable with a duty of excise on their manufacture or production are supplied while warehoused and before payment of the duty, then—

(a) if there is more than one such supply, any but the last such supply shall be disregarded for the purposes of this Act,

(b) the amount on which tax is chargeable in relation to such supply or the last such supply (as the case may be) shall be increased by the amount of the duty, and

(c) the tax chargeable on the supply shall be payable, together

with the duty, by the person by whom the duty is paid:

Provided that regulations may—

(a) make provision for enabling goods which are supplied as aforesaid and are so supplied to a registered person for the purposes of a business carried on by him to be removed from warehouse, subject to such conditions or restrictions as may be specified in the regulations or as the Revenue Commissioners may impose, without payment of the tax on the supply and

(b) provide that tax be accounted for by him in the return, made by him under section 19 (3), in respect of the taxable period during which the goods are so removed.".

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 13
Determination of tax due by reference to cash receipts.

13.—The following section is hereby substituted for section 14 of the Principal Act:

"14. (1) (a) A person who satisfies the Revenue Commissioners that, taking one period with another, he derives not less than 90 per cent. of his turnover from the supply of taxable goods or services to persons who are not registered persons may, in accordance with regulations, be authorised to determine the amount of tax which becomes due by him during any taxable period (or part thereof) during which the authorisation has effect by reference to the amount of the moneys which he receives during such taxable period (or part thereof) in respect of supplies, whether made before, on or after the specified day, of taxable goods and services.

(b) A person, other than a person to whom paragraph (a) applies, may, in accordance with regulations, be authorised to determine the amount of tax referable to taxable services which becomes due by him during any taxable period (or part thereof) during which the authorisation has effect by reference to the amount of the moneys which he receives during such taxable period (or part thereof) in respect of the supply, whether before, on or after the specified day, of taxable services.

(2) The Revenue Commissioners may, in accordance with regulations, cancel an authorisation under paragraph (a) or (b) of subsection (1), and may, by regulations, exclude from the application of the said paragraphs (a) and (b) any tax due in respect of specified descriptions of supplies of goods or services and any moneys received in respect of such supplies.".

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 14
Charge of tax on imported goods.

14.—The following section is hereby substituted for section 15 of the Principal Act:

"15. (1) Subject to subsection (2), section 14 shall not apply to tax provided for by section 2 (1) (b) and that tax shall be

charged—

(a) on goods of a kind specified in Part I of the Third Schedule at the percentage specified in section 11 (1) (a) of the value of the goods.

(b) on all other goods at the percentage specified in section 11 (1) (c) of the value of the goods.

(2) Tax as aforesaid shall not be charged on goods of a kind specified in paragraphs (xviii), (xx) and (xxi) of the First Schedule and paragraphs (v), (vii), (viii), (x), (xii) to (xv) and (xvii) to (xx) of the Second Schedule.

(3) The value of imported goods for the purposes of this section shall be their value determined in accordance with the acts for the time being in force adopted by the institutions of the Community relating to the valuation of goods for customs purposes, modified by the substitution of references to the territory of the State for references to the customs territory of the Community, together with any taxes, duties and other charges levied either outside or, by reason of importation, within the State (except value-added tax) on the goods and not included in the determination.

(4) Notwithstanding subsection (3), the value of imported livestock for the purposes of this section shall be 10 per cent. of their value as ascertained in accordance with that subsection.

(5) The Revenue Commissioners may, in accordance with regulations, remit or repay, if they think fit, the whole or part of the tax chargeable—

(a) on the importation of any goods which are shown to their satisfaction to have been previously exported,

(b) on the importation of any goods if they are satisfied that the goods have been or are to be re-exported,

(c) on the importation of any goods from the customs free airport by an unregistered person who shows to the satisfaction of the Revenue Commissioners that he has already borne tax on the goods.

(6) Subject to the foregoing provisions of this section, the provisions of the Customs Consolidation Act, 1876, and of other law in force in the State relating to customs shall apply, with such exceptions and modifications (if any) as may be specified in regulations, to tax referred to in this section as if it were a duty of customs.

(7) Regulations may—

(a) make provision for enabling goods imported by registered persons or by such classes of registered persons as may be specified in the regulations for the purposes of a business carried on by them to be delivered or removed, subject to such conditions or restrictions as may be specified in the regulations or as the

Revenue Commissioners may impose, without payment of the tax chargeable on the importation, and

(b) provide that the tax be accounted for by the persons or classes of persons aforesaid in the return, made by them under section 19 (3), in respect of the taxable period during which the goods are so delivered or removed."

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 15
Amendment of section 17 of Principal Act.

15.—Section 17 of the Principal Act is hereby amended—

(a) by the insertion, after subsection (1), of the following subsection:

"(2) A flat-rate farmer who, in accordance with section 12A, is required to issue an invoice in respect of the supply of agricultural produce or an agricultural service shall, in respect of each such supply, issue an invoice in the form and containing such particulars (in addition to those specified in the said section 12A) as may be specified by regulations if the following conditions are fulfilled:

(a) the issue of an invoice is requested by a taxable person,

(b) the taxable person provides the form for the purpose of the invoice and enters the appropriate particulars thereon, and

(c) the taxable person gives to the flat-rate farmer a copy of the invoice,

but may issue the invoice if those conditions or any of them are not fulfilled:",

(b) by the insertion, after subsection (3), of the following subsection:

"(4) Where subsequent to the issue by a flat-rate farmer of an invoice in accordance with subsection (2), the consideration as stated on the invoice is increased or reduced, or a discount is allowed, whichever of the following provisions is appropriate shall have effect:

(a) in case the consideration is increased, the flat-rate farmer shall issue another invoice (if the conditions referred to in subsection (2) are fulfilled in relation to it) containing particulars of the increase and of the flat-rate addition appropriate thereto and in such form and containing such other particulars as may be specified by regulations and such other invoice shall be deemed, for the purposes of section 12, to be issued in accordance with section 12A, but the said farmer may issue the invoice if the said conditions or any of them are not fulfilled,

(b) in case the consideration is reduced or a discount is allowed, the flat-rate farmer shall, if the person to whom the supply was made is a taxable person, issue a document (in this

section referred to as 'a farmer credit note') containing particulars of the reduction or discount and in such form and containing such other particulars as may be specified by regulations, and the amount which the taxable person may deduct under section 12 shall, in accordance with regulations, be reduced by an amount equal to the amount of the flat-rate addition appropriate to the amount of the reduction or discount.",

(c) by the insertion after subsection (6) of the following subsection:

"(6A) (a) If a person, other than a flat-rate farmer, issues an invoice stating an amount of flat-rate addition, he shall be liable to pay to the Revenue Commissioners as tax the amount of flat-rate addition stated and shall, in relation to such amount, be deemed, for the purposes of this Act, to be a taxable person.

(b) If a flat-rate farmer issues an invoice stating an amount of flat-rate addition otherwise than in respect of an actual supply of agricultural produce or an agricultural service or in respect of such a supply but stating a greater amount of flat-rate addition than is appropriate to the supply, he shall be liable to pay to the Revenue Commissioners as tax the amount or the excess amount, as the case may be, of the flat-rate addition stated and shall, in relation to such amount or such excess amount, be deemed, for the purposes of this Act, to be a taxable person.

(c) If a flat-rate farmer, in a case in which he is required to issue a farmer credit note under subsection (4) (b), fails to issue the credit note within the time allowed by regulations or issues a credit note stating a lesser amount of flat-rate addition than is appropriate to the reduction in consideration or the discount, he shall be liable to pay to the Revenue Commissioners as tax the amount of flat-rate addition which should have been stated on the credit note or the amount of the deficiency of flat-rate addition, as the case may be, and shall, in relation to such amount or such deficiency, be deemed, for the purposes of this Act, to be a taxable person.",

(d) by the insertion in subsection (8), after "subsection (1)" of "or subsection (2), as may be appropriate,",

(e) by the insertion in subsection (9), after paragraph (a), of the following paragraph—

"(aa) Paragraph (a) shall not apply where the person who issued the invoice referred to therein was, at the time of its issue, a person authorised, in accordance with section 14 (1), to determine his tax liability in respect of supplies of the kind in question by reference to the amount of moneys received.",

(f) by the insertion in subsection (10) (a) after "another registered person" of "or agricultural produce or agricultural services are supplied to a registered person by a flat-rate farmer",

(g) by the insertion after subsection (11) of the following subsection:

"(11A) Where a person who is entitled to receive a farmer credit note under subsection (4) (b) from another person issues to that other person, before the date on which a farmer credit note is issued by that other person, a document (in this section referred to as 'a farmer debit note') in such form and containing such particulars as may be specified by regulations, then, for the purposes of this Act-

(a) the person who issues the debit note shall, if the person to whom it is issued accepts it, be deemed to have received from the person by whom the debit note was accepted a farmer credit note containing the particulars set out in such debit note, and

(b) the person to whom such debit note is issued shall, if he accepts it, be deemed to have issued to the person from whom the debit note was received a farmer credit note containing the particulars set out in such debit note.",

(h) by the insertion in subsection (12) (a) (ii) before "services", of "goods or ", and

(i) by the insertion of the following subsection after subsection (12):

"(13) The provisions of this Act (other than this section) relating to credit notes and debit notes issued under subsections (3) and (11), respectively, of this section shall apply in relation to farmer credit notes and farmer debit notes as they apply in relation to the credit notes and debit notes aforesaid.".

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 16
Amendment of section 19 of Principal Act.

16.-Section 19 of the Principal Act is hereby amended by the substitution of the following subsection for subsection (3):

"(3) Within 9 days immediately after the tenth day of the month immediately following a taxable period, a taxable person shall furnish to the Collector-General a true and correct return prepared in accordance with regulations of the amount of tax which became due by him during the taxable period, not being tax already paid by him in relation to goods imported by him, and the amount, if any, which may be deducted in accordance with section 12 in computing the amount of tax payable by him in respect of such taxable period and such other particulars as may be specified in regulations, and shall at the same time remit to the Collector-General the amount of tax, if any, payable by him in respect of such taxable period.".

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 17
Determination of tax due.

17.-The following section shall be substituted for section 23 of the Principal Act:

"(1) Where, in relation to any period consisting of one taxable

period or of two or more consecutive taxable periods, the Revenue Commissioners have reason to believe that an amount of tax is due and payable to them by a person in any of the following circumstances:

(a) the total amount of tax payable by the person was greater than the total amount of tax (if any) paid by him,

(b) the total amount of tax refunded to the person in accordance with section 20 (1) was greater than the amount (if any) properly refundable to him, or

(c) an amount of tax is payable by the person and a refund under section 20 (1) has been made to the person,

then, without prejudice to any other action which may be taken, they may, in accordance with regulations but subject to section 30, make an estimate in one sum of the total amount of tax which in their opinion should have been paid or the total amount of tax (including a nil amount) which in accordance with section 20 (1) should have been refunded, as the case may be, in respect of the taxable period or periods comprised in such period and may serve a notice on the person specifying—

(i) the total amount of tax so estimated,

(ii) the total amount of tax (if any) paid by the person or refunded to the person in relation to the said period, and

(iii) the total amount so due and payable as aforesaid (referred to subsequently in this section as 'the amount due')

(2) Where notice is served on a person under subsection (1), the following provisions shall apply:

(a) the person may, if he claims that the amount due is excessive, on giving notice to the Revenue Commissioners within the period of twenty-one days from the date of the service of the notice, appeal to the Appeal Commissioners, and

(b) on the expiration of the said period, if no notice of appeal is received or, if notice of appeal is received, on determination of the appeal by agreement or otherwise, the amount due or the amended amount due as determined in relation to the appeal, shall become due and payable as if the tax were tax which the person was liable to pay for the taxable period during which the period of fourteen days from the date of the service of the notice under subsection (1) expired or the appeal was determined by agreement or otherwise, whichever taxable period is the later."

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 18
Amendment of section 26 of Principal Act.

18.—Section 26 of the Principal Act is hereby amended—

(a) by the insertion, in subsection (1) after "11 (7)", of "12A",

(b) by the insertion after subsection (2) of the following subsection:

"(2A) Any person who, otherwise than under and in accordance with section 12A or 17 (4), issues an invoice in which an amount of flat-rate addition is stated shall be liable to a penalty of £20.", and

(c) by the insertion, in subsection (3), after "(2)" of "or (2A)".

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 19
Amendment of section 27 of Principal Act.

19.—Section 27 of the Principal Act is hereby amended—

(a) by the substitution of the following subsection for subsection (4):

"(4) If a person, in a case in which he represents that he is a registered person or that goods imported by him were so imported for the purposes of a business carried on by him, improperly procures the importation of goods without payment of tax in circumstances in which tax is chargeable, he shall be liable to a penalty of £500, and, in addition, he shall be liable to pay to the Revenue Commissioners the amount of any tax that should have been paid on the importation.", and

(b) by the insertion of the following subsections after subsection (8):

"(9) Where, in pursuance of regulations made for the purposes of section 13 (1) (a), tax on the supply of any goods has been remitted or repaid and—

(a) the goods are found in the State after the date on which they were alleged to have been or were to be exported, or

(b) any condition specified in the regulations or imposed by the Revenue Commissioners is not complied with,

and the presence of the goods in the State after that date or the non-compliance with the condition has not been authorised for the purposes of this subsection by the Revenue Commissioners, the goods shall be liable to forfeiture and the tax which was remitted or repaid shall be charged upon and become payable forthwith by the person to whom the goods were supplied or any person in whose possession the goods are found in the State and the provisions of section 24 (1) shall apply accordingly, but the Revenue Commissioners may, if they think fit, waive payment of the whole or part of that tax.

(10) The provisions of the Customs Acts relating to forfeiture and condemnation of goods shall apply to goods liable to forfeiture under subsection (9) as if they had become liable to forfeiture under those Acts and all powers which may be exercised by an

officer of Customs and Excise under those Acts may be exercised by officers of the Revenue Commissioners authorised to exercise those powers for the purposes of the said subsection."

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 20
Amendment of section 30 of Principal Act.

20.—Section 30 of the Principal Act is hereby amended—

(a) by the substitution of the following subsection for subsection (3):

"(3) Proceedings may not be commenced by virtue of subsection (2) against the personal representative of a deceased person at a time when, by virtue of paragraph (b) of subsection (5) an estimation of tax may not be made on the said personal representative in respect of tax which became due by such person before his death.",

and

(b) by the substitution, in subsection (5), of the following paragraph for paragraph (b):

"(b) No estimation of tax shall be made by virtue of this subsection later than three years after the expiration of the year in which the deceased person died, in a case in which the grant of probate or letters of administration was made in that year, and no such estimation shall be made later than two years after the expiration of the year in which such grant was made in any other case, but the foregoing provisions of this subsection shall have effect subject to the proviso that where the personal representative—

(i) after the year in which the deceased person died, lodges a corrective affidavit for the purposes of assessment of estate duty or delivers an additional affidavit under section 38 of the Capital Acquisitions Tax Act, 1976, or

(ii) is liable to deliver an additional affidavit under the said section 38, has been so notified by the Revenue Commissioners and did not deliver the said additional affidavit in the year in which the deceased person died,

such estimation may be made at any time before the expiration of two years after the end of the year in which the corrective affidavit was lodged or the additional affidavit was or is delivered."

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 21
Amendment of section 32 of Principal Act.

21.—Section 32 of the Principal Act is hereby amended—

(a) by the substitution in subsection (1) of the following paragraphs for paragraphs (b), (e), (g) and (p):

"(b) the treatment under section 5 (3) of the use and services specified therein as services supplied by a person for consideration

in the course of business;

(e) the manner in which, notwithstanding section 11 (3), any amount may be apportioned;

(g) the determination, under section 14, of a person's tax liability for any period by reference to moneys received and the adjustments, including a charge of tax, which may be made when a person becomes entitled to determine his tax liability in the manner aforesaid or, having been so entitled, ceases to be so entitled, or ceases to be a taxable person;

(p) matters consequential on the death of a registered person or his becoming subject to any incapacity including the treatment of a person of such class or classes as may be specified in the regulations as a person carrying on the business of the deceased or incapacitated person;" ,

(b) by the deletion of paragraph (w) of the said subsection (1), and

(c) by the insertion after subsection (2) of the following subsection:

"(2A) Regulations under this section for the purposes of section 5 (7), subsection (1) or (2) of section 13 or subsection (6) or (7) of section 15 shall not be made without the consent of the Minister for Finance."

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 22
Amendment of section 35 of Principal Act.

22.—Section 35 of the Principal Act is hereby amended by the addition to the section of the following subsection:

"(3) (a) Where, under an agreement made before the commencement of section 12A, a flat-rate farmer supplies agricultural produce or an agricultural service after such commencement to any person, the consideration provided for under the agreement shall, in the absence of agreement to the contrary, be increased by an amount equal to the flat-rate addition appropriate to the said consideration.

(b) Where, in relation to a supply of agricultural produce or an agricultural service by a flat-rate farmer, the flat-rate farmer issues an invoice in which the flat-rate addition is stated separately, the flat-rate addition so stated shall, for the purpose of its recovery, be deemed to be part of the consideration for the transaction and shall be recoverable accordingly by the flat-rate farmer."

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 23
Amendment of section 29 of Finance Act, 1975.

23.—Section 29 of the Finance Act, 1975. is hereby amended by the substitution for paragraph (ii) of subsection (1) of the following paragraph:

"(ii) a refund of value-added tax under regulations under that Act or under an order under section 20 (3) of that Act.".

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 24
Exempted activities.

24.—The Principal Act is hereby amended by the substitution of the following Schedule for the First Schedule thereto:

Section 1 of Principal Act.

"FIRST SCHEDULE

Exempted Activities

(i) supply of stocks, shares or other securities;

(ii) school or university education, and vocational training or retraining (including the supply of goods and services incidental thereto), provided by educational establishments recognised by the State, and education, training or retraining of a similar kind provided by other persons;

(iii) professional services of a medical, dental or optical nature other than services rendered in the course of carrying on a business which consists in whole or in part of selling goods;

(iv) letting of immovable goods with the exception of—

(a) letting of machinery or business installations when let separately from any other immovable goods of which such machinery or installations form part;

(b) letting in the course of carrying on a hotel business;

(c) provision of parking accommodation for vehicles by the operators of car parks; and

(d) hire of safes;

(v) hospital and medical care or treatment provided by a hospital, nursing home, clinic or similar establishment;

(vi) services for the protection or care of children and young persons, and the provision of goods closely related thereto, provided otherwise than for profit;

(vii) supply of goods and services closely related to welfare and social security by non-profit making organisations;

(viii) services supplied in the course of their profession by barristers;

(ix) urgency services in regard to—

(a) the arrangement of passenger transport or accommodation for persons, and

- (b) the collection of debts, rents or insurance premiums,
- (c) banking and insurance services,
- (d) supply of stocks, shares and other securities,
- (e) the lending of money or affording of credit otherwise than by way of hire-purchase or credit-sale transactions;
- (x) services rendered in the course of their profession by solicitors, accountants, actuaries and veterinary surgeons;
- (xi) banking and insurance services.
- (xii) lending money or affording credit otherwise than by means of hire-purchase or credit-sale transactions;
- (xiii) the national broadcasting and television services, excluding advertising;
- (xiv) transport of passengers and their accompanying baggage;
- (xv) betting;
- (xvi) issue of tickets or coupons for the purpose of a lottery;
- (xvii) promotion of and admissions to sporting events;
- (xviii) collection, storage and supply of human organs, human blood and human milk;
- (xix) funeral undertaking;
- (xx) supply of live horses;
- (xxi) supply of live greyhounds;
- (xxii) supply of services and of goods closely related thereto for the benefit of their members by non-profit making organisations whose aims are primarily of a political, trade union, religious, patriotic, philosophical, philanthropic or civic nature where such supply is made without payment other than the payment of any membership subscription;
- (xxiii) provision of facilities for taking part in sporting and physical education activities, and services closely related thereto, provided for its members by non-profit making organisations;
- (xxiv) supply of goods by a person being goods—
- (a) which were used by him for the purposes of a business carried on by him,
- (b) in relation to the acquisition or application of which he had borne tax, and

(c) which are of such a kind or were used in such circumstances that no part of the said tax was deductible under section 12;

(xxv) catering services supplied—

(a) to patients of a hospital or nursing home in the hospital or nursing home, and

(b) to students of a school in the school."

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 25
Amendment of Second Schedule to Principal Act.

25.—The Second Schedule to the Principal Act is hereby amended—

(a) by the substitution of the following paragraph for paragraph (i):

"(i) Goods supplied—

(a) subject to a condition that they are to be transported directly by or on behalf of the person making the supply—

(I) outside the State, or

(II) to a registered person within the customs-free airport,

or

(b) by a registered person within the customs-free airport to another registered person;" ,

(b) by the substitution for paragraph (v) of the following paragraph:

"(v) the supply, modification, repair, maintenance and hiring of—

(a) sea-going vessels of a gross tonnage of more than 15 tons being vessels used or to be used—

(I) for the carriage of passengers for reward,

(II) for the purposes of a sea fishing business.

(III) for other commercial or industrial purposes.

or

(IV) for rescue or assistance at sea, or

(b) aircraft used or to be used by a transport undertaking operating for reward chiefly on international routes;" ,

(c) by the substitution of the following paragraph for paragraph (vi):

"(vi) services, supplied by an agent acting in the name and on behalf of another person, in procuring—

(a) the export of goods from the State,

(b) services specified in paragraphs (iii), (iv), (v) or (x). or

(c) the supply of goods or services outside the State;" ,

(d) by the substitution of the following paragraph for paragraph (x):

"(x) gold supplied to the Central Bank of Ireland;" ,

and

(e) by the substitution of the following paragraph for paragraph (xvi):

"(xvi) the supply, to a person who has neither an establishment nor his usual place of residence in the State, of work on movable goods acquired within the State, or imported for the purpose of having such mark carried out, and afterwards exported;" ,

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 26
Amendment of Third Schedule to Principal Act.

26.—The Third Schedule to the Principal Act is hereby amended—

(a) by the substitution for paragraph (xix) of the following paragraph:

"(xix) mechanically propelled road vehicles;" ,

(b) by the substitution for paragraph (xxi) of the following paragraph:

"(xxi) ships, boats and other vessels excluding—

(a) ships, boats and other vessels designed and constructed for the conveyance of passengers and not exceeding 15 tons gross,

(b) sports and pleasure craft of all descriptions including yachts, cabin cruisers, dinghies, canoes, skiffs and racing boats.
and

(c) vessels of a kind specified in paragraph (v) (a) of the Second Schedule;" ,

(c) by the substitution for paragraph (xxvii) of the following paragraph:

"(xxvii) bodies and chassis designed for mechanically propelled road vehicles;" ,

(d) by the substitution for paragraph (xxviii) of the following paragraph:

"(xxviii) second-hand movable goods other than goods of a kind specified in the Second Schedule;" ,

and

(e) by the substitution of the following paragraphs for paragraph (xxix):

"(xxix) radio receiving sets and television receiving sets that are of the domestic or portable type or that are of a type suitable for use in road vehicles;

(xxx) gramophones, radiogramophones and record players;

(xxxi) gramophone records." .

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 27
Services that are taxed where received.

27.—The following Schedule shall be substituted for the Fourth Schedule to the Principal Act:

Section 5 of Principal Act.

"FOURTH SCHEDULE

Services that are taxed where received

(i) Transfers and assignments of copyright, patents, licences, trade marks and similar rights;

(ii) advertising services:

(iii) services of consultants, engineers, consultancy bureaux, lawyers, accountants and other similar services, data processing and provision of information (but excluding services connected with immovable goods);

(iv) acceptance of any obligation to refrain from pursuing or exercising in whole or in part, any business activity or any such rights as are referred to in paragraph (i);

(v) banking, financial and insurance services (including re-insurance, but not including the provision of safe deposit facilities);

(vi) the provision of staff;

(vii) the services of agents who act in the name and for the account of a principal when procuring for him any services specified in paragraphs (i) to (vi)."

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 28
"Annex A activities" and "Annex B services".

28.—The following Schedule shall be substituted for the Fifth Schedule to the Principal Act:

Section 8 of Principal Act.

"FIFTH SCHEDULE

PART I

Annex A of Council Directive No. 77/388/EEC of 17 May, 1977

LIST OF AGRICULTURAL PRODUCTION ACTIVITIES

I. CROP PRODUCTION

1. General agriculture, including viticulture
2. Growing of fruit (including olives) and of vegetables, flowers and ornamental plants, both in the open and under glass
3. Production of mushrooms, spices, seeds and propagating materials; nurseries

II. STOCK FARMING TOGETHER WITH CULTIVATION

1. General stock farming
2. Poultry farming
3. Rabbit farming
4. Beekeeping
5. Silkworm farming
6. Snail farming

III. FORESTRY

IV. FISHERIES

1. Fresh-water fishing
2. Fish farming
3. Breeding of mussels, oysters and other molluscs and crustaceans
4. Frog farming

V. Where a farmer processes, using means normally employed in an agricultural, forestry or fisheries undertaking, products deriving essentially from his agricultural production, such processing shall also be regarded as agricultural production.

PART II

Annex B of Council Directive No. 77/388/EEC of 17 May, 1977

LIST OF AGRICULTURAL SERVICES

Supplies of agricultural services which normally play a part in agricultural production shall be considered the supply of agricultural services and include the following in particular:

- field work, reaping and mowing, threshing, baling, collecting, harvesting, sowing and planting
- packing and preparation for market, for example drying, cleaning, grinding, disinfecting and ensilage of agricultural products
- storage of agricultural products
- stock minding, rearing and fattening
- hiring out, for agricultural purposes, of equipment normally used in agricultural, forestry or fisheries undertakings
- technical assistance
- destruction of weeds and pests, dusting and spraying of crops and land
- operation of irrigation and drainage equipment
- lopping, tree felling and other forestry services."

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 29
Amendment of Imposition of Duties Act, 1957.

29.—Section 1 (a) of the Imposition of Duties Act. 1957. is hereby amended—

(a) by the insertion after "a customs duty" of "or an excise duty", and

(b) by the substitution of "other duty" for "other customs duty",

and the references in paragraph (e) of that section to any excise duty and in paragraphs (h) and (i) of that section to any duty shall be construed as including references to any excise duty imposed under the said paragraph (a) and an excise duty imposed under the said paragraph (a) shall be deemed, for the purposes of the said paragraph (h), to be a customs duty and an excise duty, and the said paragraph (a), as so amended, is set out in the Table to this section.

TABLE

(a) impose, whether with or without qualifications, limitations, drawbacks, allowances, exemptions, or preferential rates, and as from any specified day, a customs duty or an excise duty of such amount as they think proper on any particular description of goods imported into the State and, where the goods are chargeable with any other duty, so impose the first-mentioned duty either in addition to or in substitution for the other duty;

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 30
Repeals and consequential amendments.

30.-(1) The enactment mentioned in column (2) of the First Schedule is hereby repealed to the extent specified in column (3) of that Schedule.

(2) In consequence of the amendments of the Principal Act specified in this Act and of the repeals specified in the First Schedule, the Principal Act is hereby further amended by the substitution of the word or expression mentioned in column (3) of the Second Schedule at any reference number for the word or expression mentioned in column (2) of that Schedule at that reference number wherever it occurs in the provision of the Principal Act mentioned in column (4) of that Schedule at that reference number.

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 31
Transitional provisions.

31.-(1) (a) The register that, immediately before the commencement of this Act, was the register of persons who may become or who are accountable persons shall, as on and from such commencement, become and be the register of persons who may become or who are taxable persons under section 9 of the Principal Act as amended by this Act and the persons who, immediately before such commencement, were registered in the former register shall, upon such commencement, stand registered in the latter register.

(b) A person who, immediately before the commencement of this Act, was authorised to treat-

(i) the moneys which he received in respect of the delivery of taxable goods or rendering of taxable services as the consideration in respect of such delivery of goods or rendering of services,

and

(ii) the moneys he received in respect of the rendering of taxable services as the consideration for the rendering of such services,

shall he deemed (if he could be so authorised) to have been authorised to determine his tax liability in respect of supplies of goods and services or supplies of services, as the case may be, under section 14 of the Principal Act as amended by this Act.

(c) A person who, immediately before the commencement of this Act, was an accountable person and who, upon such commencement, would not, unless he so elected under section 8 (3) of the Principal Act, be a taxable person, shall, upon such commencement, be deemed to have so elected and shall be a taxable person until the time when the election is cancelled or he permanently ceases to supply taxable goods and services, whichever is the later.

(2) In relation to a person who, immediately before the commencement of this Act, was an accountable person-

(a) references in subsection (3) of section 7 of the Principal Act to a waiver shall be deemed to include references to a waiver made under subsection (1) of the said section 7 before such commencement,

(b) references in subsection (5) of section 8 of the Principal Act to an election shall be deemed to include references to an election made under subsection (3) of the said section 8,

(c) references in the said subsection (3) of the said section 7 to the supply of services shall be deemed to include references to the rendering of services before such commencement, and

(d) references in the said subsection (5) and subsection (6) (b) of the said section 8 to the supply of goods or services shall be deemed to include references to the delivery of goods, or the rendering of services, before such commencement.

VALUE-ADDED TAX (AMENDMENT) ACT 1978 - SECT 32

Short title, construction, collective citation and commencement.

32.-(1) This Act may be cited as the Value-Added Tax (Amendment) Act, 1978.

(2) The Value-Added Tax Act, 1972, and (in so far as they relate to value-added tax) the Finance Act, 1973, the Finance Act, 1975, the Finance (No. 2) Act, 1975, the Finance Act, 1976, the Finance Act, 1978, and this Act shall be construed together as one Act and may be cited together as the Value-Added Tax Acts, 1972 to 1978.

(3) This Act, other than section 29, shall come into operation on such day as the Minister may by order appoint.

FIRST SCHEDULE

Enactments Repealed

Number and Year	Short Title	Extent of Repeal	(1)(2)(3)No.
22 of 1972	Value-Added Tax Act, 1972.	Section 2 (2). In paragraph (b) of section 3 (5), the words from "unless the goods" to the end of on paragraph. In section 4 (2), the words "section 2(2),". In section 4 (2), the words "section 2(2),". In section 11 (8) (a), the words "and may, in like manner, vary the Fourth Schedule by deleting therefrom descriptions of goods of any kind or by varying any description of goods for the time being specified therein,".Section 11 (9).The proviso to section 19 (1).Section 36.Paragraph (ii) of the Second schedule.Paragraph (iv) of Part II of the Third Schedule.	

SECOND SCHEDULE

Consequential Amendments

Reference Number	Existing word or expression	Substituted word or expression
(1)(2)(3)(4)	Provision of Principal Act	1."delivery" "supply"
	The definition of "exempted activity", and the definition of "taxable goods" in section 1 (1); sections 3 (2), 3 (4), 3 (5) (a), 3 (5) (b), 3 (6) (a), 3 (6) (b), 4 (1) (a) (ii), 4 (2), 4 (3) (a), 4	

(3) (b) (ii), 4 (5) (b), 4 (6), 4 (7), 11 (1B) (a) (ii), 11 (1B) (b) (ii), 11 (4), 11 (5), 11 (7) (e) (i), 17 (12) (a) (i), 17 (12) (a) (iii) and 34 (5).2."rendering""supply"The definition of "taxable services" in section 1 (1); sections 7 (1) (where the word first occurs), 7 (3), 7 (4), 11 (1B) (a) (ii), 11 (1B) (b) (ii), 11 (7) (e) (ii), 17 (12) (a) (i) and 34 (5) (c).3."delivered""supplied"Sections 3 (6), 11 (4), 11 (5), 11 (7) (b) (i), 34 (1), 34 (5) and paragraph (viii) of Second Schedule.4."rendered""supplied"Sections 11 (7) (b) (ii), 17 (12) (a) (ii) and 34 (5).5."delivering""supplying"Sections 4 (1) (a) (i) and 4 (1) (a) (ii).6."rendering""supplying"Section 7 (1) (where the word secondly occurs).7."delivers""supplies"Section 11 (4).8."renders""supplies"Section 7 (1).9."delivery of such goods or the rendering of such services""supply of goods and services"Sections 8 (5) and 8 (6) (b)10."delivery of goods or rendering of the service""supply of goods or services"Section 17 (1).11."delivery of the goods or the rendering of the service""supply of the goods or services"Section 19 (2).12."delivery of any goods or a rendering of any service""supply of any goods or service"The definition of "exempted activity" in section 1 (1).13."delivery of goods by the person or the rendering of services""supply of goods or services"Section 16 (3).14."delivery to such person of goods of a kind specified in the order or the rendering to him of services""supply to such person of goods or services"Section 20 (3).15."delivery of goods of any kind or the rendering of a service""supply of goods or services"Section 6 (2) (a).16."delivery or rendering""supply"Sections 17 (8), 19 (2), 20 (3) (a), 35 (1A) (a) and 35 (1A) (b).17."delivery of goods or the rendering of services""supply of goods or services"Sections 8 (5), 8 (6) (b), 16 (2), 17 (8), 35 (1A) (a) 35 (1 A) (b).18."delivery of goods or the rendering of services""the said business"Section 18 (1).19."delivery of goods or a rendering of services""supply of goods or services"Section 35 (2).20."delivering goods or rendering services""supplying goods or services"Section 17 (7).21."delivers goods or renders services""supplies goods or services"Sections 11 (1B) (g), 17 (1), 32 (1) (s) and 35 (1) (b) (i).22."delivers goods in the course of business or renders services in the course of business""supplies goods or services in the course or furtherance of any business"Section 16 (2).23."goods are delivered or services are rendered""goods or services are supplied"Sections 17 (10) (a) and 32 (1) (s).24."goods are delivered or services are rendered""goods or services are supplied"Sections 17 (10) (b) and 19 (1) (c).25."accountable person" except where preceded by the word "an""taxable person"Sections 3 (5) (b) (iii), 11 (1B) (g), 11 (5), 12 (2), 16 (1), 17 (1), 17 (3) (a), 17 (3) (b), 17 (12) (a) (i), 17(12) (a) (ii), 17 (12) (a) (iii), 21 (1), 34 (1) (a) and 34 (1) (b).26."an accountable person""a taxable person"Sections 4 (5), 8 (4), 8 (6), 9 (2), 11 (1B) (a), 11 (1B) (c), 12 (1A) (a), 16 (2), 17 (1), 17 (3), 17 (5), 17 (6), 17 (12) (a), 22 (1), 22 (2) (a), 26 (6) (d), 32 (1) (d), 32 (1) (s) 32 (1) (uu), 32 (1) (x), 32 (1) (xx), 34 (1), 34 (2), 35 (1) (b) (i) and 35 (2).27."accountable persons""taxable persons"Section 32 (1) (h).28."not accountable""not a taxable person"Section 32 (1) (d).29."supplied""provided"section 3 (1) (c), 11 (4)30."subsection (1) (d)""subsection (1) (b)"Section 11 (7) (e) (i), 11 (7) (e) (ii).31."section 5 (4)""section 13"Section 17 (12) (a) (ii)32."section 5 (4)""any other provision of this Act or regulations"Section 20

(4).33."second-hand goods or any goods of a kind specified in the Fourth Schedule"or second-hand goods"Section 34 (4).34."would, if the proviso to the said subsection (1) were disregarded, fall due"falls due"Section 35 (1A) (a).35."section 11 (1) (e)"section 11 (1)(c)"Paragraph (vii) of Part II of Third Schedule.36."subsection (3) (a) (iv)"subsection (3) (b) (iii) or (9)"Section 8 (4).37."subsection (3) (a)"subsection (3) (a) or (b)".Subsection 8 (6) (a) (i).38."subsection (3) (b), (3) (c) or (3) (d)"subsection (3) (c), (3) (d) or (3) (e)"Subsection 8 (6) (a) (ii).