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CHAPTER 476

THE VALUE ADDED TAX ACT

Commencement: 1st January, 1990

An Act of Parliament to impose a tax to be known as value added tax on goods delivered in, or imported into Kenya; and on certain services supplied in Kenya and for connected purposes

7 of 1989, 20 of 1989, L.N. 395/89, 10 of 1990, 8 of 1991, 3 of 1992, 9 of 1992, 9 of 1993.

PART I—PRELIMINARY

1. This Act may be cited as the Value Added Tax Act.

Short title.

2. (1) In this Act, unless the context otherwise requires— "aircraft" includes every description of conveyance for the transport by air of human beings or goods;

Interpretation. 10 of 1990, s. 13 8 of 1991, s. 36 8 of 1993, s. 21.

"appeal" means an appeal under section 33;

"authorized dealer" means a person authorized under the Exchange Control Act to deal in foreign currency;

Cap. 113.

"authorized officer", in relation to any provision of this Act, means any officer appointed under section 3 who has been authorized by the Commissioner to perform any functions under or in respect of that provision;

"building" means houses including prefabricated houses, garages, dwellings, apartment houses, hospitals and institutional buildings, colleges, schools, churches, office buildings, factories, warehouses, theatres, cinemas, silos, mill buildings, barns, stables, greenhouses and similar roofed structures affording protection and shelter, radio and television masts, transmission lines and towers, car ports, bandstands, grandstands, water storage tanks, gantries, bridges, headframes for mines and other similar structure but not including mobile homes, caravans and trailers;

"business" includes any trade, commerce or manufacture, or any concern in the nature of trade, commerce or manufacture;

"certificate of registration" means a certificate issued under the Sixth Schedule;

"Commissioner" means a person appointed under section 3 to be the Commissioner of Value Added Tax;

"company" means a company as defined in the Companies Act and body corporate formed under any other written law, and includes any association, whether incorporated or not,

Cap. 486.

(3) A certificate issued by the Commissioner under subsection (1) shall become invalid forty days after the date of issue.

PART VII—REMISSION, REBATE AND REFUND

Remission
of tax.
9 of 1992, s. 24,
9 of 1993, s. 25.

23. (1) Subject to subsection (3), the Minister may, by order in the Gazette, remit wholly or partly tax payable in respect of any taxable supply or class of taxable supplies, if he is satisfied that it is in the public interest to do so.

(2) Where any remission is granted under this section on a condition that tax shall be payable in the event of the breach of any term or condition or on the occurrence of any event, the tax shall, on the breach of that term or condition or on the occurrence of that event forthwith become due and payable by such persons as may be specified in the order concerned.

(3) Remission under subsection (1) shall not apply to a registered person, and shall only apply in respect of—

- (a) capital goods, excluding motor vehicles, purchased of a total value not less than five million shillings per investment from funds derived from sources outside Kenya for new investment aimed at net foreign exchange saving or earnings; and
- (b) such other goods, including motor vehicles, donated or purchased for donation by any person to organizations or institutions approved by the Government; and
- (c) goods, including motor vehicles and aircraft, imported or purchased by any company which has been granted an oil exploration or oil prospecting licence in accordance with a production sharing contract with the Government of Kenya and in accordance with the provisions of the Petroleum (Exploration and Production) Act; and
- (d) capital equipment and machinery imported or purchased solely for use in the manufacture of goods in a licensed customs bonded factory for export only; and
- (e) official aid funded projects;
- (f) Goods imported under bond for manufacture of exports, indirect exports, goods free of import duty, goods for use in official aid funded projects or goods for official use of Kenya Armed Forces in accordance with the Customs and Excise Act.

Cap. 308.

Cap. 472.

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