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THE VALUE ADDED TAX ACT 1998

Act 2/1998

Date in Force: 1st July 1998

Sections 9,22,74(4)(a) and(c),74(7)(b) and 75 shall come into force on the appointed day
– 7th September 1998

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An Act

To provide for the replacement of the sales tax on goods value added tax on goods and services and for the purposes connected therewith and incidental thereto.

ENACTED by the Parliament of Mauritius, as follows —

PART I – PRELIMINARY

1. Short title

This Act may be cited as the **Value Added Tax Act 1998**.

2. Interpretation

In this Act —

“appointed day” means 7 September 1998;

“business” has the meaning given to it by section 3;

“certificate” means a certificate of registration issued under section 17;

“Commissioner” means the Commissioner for Value Added Tax;

“Committee” means the Assessment Review Committee set up under section 8E of the Unified Revenue Act 1983;

Added by [\[Act No. 23 of 2001\]](#)

“Customs” means the Customs and Excise Department;

“customs duty” means the duty leviable under the Customs Act 1988 and the Customs Tariff Act;

“customs laws” has the same meaning as in the Customs Act 1988;

“customs value”, in relation to goods, means the value as determined under the Customs Act 1988;

“document” means any document and includes information stored in a computer, disc, cassette, or on microfilm, or preserved by any mechanical or electronic device;

“duty free shop” has the same meaning as in the Customs Act 1988;

“excise duty” means the excise duty chargeable under the Excise Act 1994 on the excisable goods specified in Part I of the First Schedule to that Act;

“exempt supply” means a supply of such goods or services exempted from the payment of VAT as are specified in the First Schedule;

“export enterprise” has the same meaning as in the Industrial Expansion Act 1993;

“export processing zone” has the same meaning as in the Industrial Expansion Act 1993;

“freeport zone” has the same meaning as in the Freeport Act 1992;

“goods” —

- (a) means any movable or immovable property; and
- (b) includes animals; but
- (c) does not include money;

“hire purchase agreement” has the same meaning as in the Hire Purchase and Credit Sale Act;

“import” means bring or cause to be brought within Mauritius;

“input tax”, in relation to a taxable person, means -

- (a) VAT charged on the supply to him of any goods or service and
- (b) VAT paid by him on the importation of any goods,

being goods or services used or to be used in the course or furtherance of his business;

“input tax allowable” means the input tax allowable under section 21

“invoice” —

(a) means a document notifying an obligation to make payment; and

(b) includes any document similar to an invoice; but

(c) does not include a VAT invoice;

“local authority” has the same meaning as in the Local Government Act 1989;

“Minister” means the Minister to whom responsibility for the subject of finance is assigned;

“money” includes currencies whether of Mauritius or any other country but does not include a collector’s piece, investment article or item of numismatic interest;

“officer” means a public officer posted to the VAT Department;

“output tax”, in relation to a taxable person, means VAT on the taxable supplies he makes in the course or furtherance of his business;

“person” includes any *société*, trust, economic entity or similar organisation, club or association, Ministry or Government department and any local authority;

“qualified auditor” has the same meaning as in the Companies Act 1984;

“quarter” means a period of 3 months ending at the end of March, June, September or December;

“registered person” means a person who is registered under section 15 or 16;

“record” —

(a) means a record specified in section 19; and

(b) includes copies of VAT invoice specified in section 20;

“return” means a return specified in section 22;

“services” means anything which is not goods or money;

“société” —

(a) means a société formed under any enactment in Mauritius;

(b) includes —

(i) a *société de fait* or a *société en participation*

(ii) a joint venture; or

(iii) a *société* or partnership formed under the law of a foreign country;

“supply” has the meaning given to it by section 4;

“tax” -

(a) means the value added tax specified in section 9; and

(b) includes any surcharge under section 26 and any penalty under sections 24(9), 27 and 67; but

(c) does not include any fine;

Amended by [\[Act No. 25 of 2000\]](#)

“taxable period”, in relation to a taxable person, means —

(a) in the case where his annual turnover of taxable supplies exceeds the amount specified in the Second Schedule, a month, or part of a month; or

(b) in any other case, a quarter or part of a quarter;

“taxable person” —

(a) means any person who is required to be registered under section 15; and

(b) includes a registered person;

“taxable supply” means a supply of goods in Mauritius, or a supply of services performed or utilised in Mauritius; and

(a) includes a supply which is zero-rated; but

(b) does not include an exempt supply,

made by a taxable person in the course or furtherance of his business;

“traveller” has the same meaning as in the Customs Regulations 1989;

“tribunal” Deleted by [[Act No. 23 of 2001](#)]

“trust” means any trust constituted under any enactment;

“value added tax” means the value added tax charged in accordance with his Act;

“VAT” means value added tax and any reference in this Act to VAT is a reference to value added tax;

“VAT invoice”—

(a) means a VAT invoice under section 20; but

(b) does not include a receipt or invoice under section 19;

“VAT Registration Number” means the VAT Registration Number allocated to a person under section 17;

“visitor” has the same meaning as in the Customs Regulations 1989.

Amended by [[Act No. 25 of 2000](#)]; [[Act No. 23 of 2001](#)]

3. Meaning of business

(1) In this Act,

“business” —

(a) means —

(i) any trade, commerce or manufacture, profession, vocation or occupation; or

(ii) any other activity in the nature of trade, commerce or manufacture, profession, vocation or occupation; and

(b) includes any activity carried on by a person, whether or not for gains or profit, and which involves in part or in whole the supply of goods or services to other persons for a consideration.

(2) Anything done in connection with the termination or intended termination of a business is treated as being done in the course or furtherance of that business.

(3) Where in the case of a business carried on by a taxable person goods forming part of the assets of the business are, under any power exercisable by another person, sold by the other in or towards satisfaction of a debt owed by the taxable person, they shall be deemed to be supplied by the taxable person in the course or furtherance of his business.

(4) The disposal of a business as a going concern, or of its assets or liabilities, whether or not in connection with its re-organisation or winding up, is a supply made in the course or furtherance of the business.

4. Meaning of supply

(1) Subject to the other provisions of this Act, “supply” means —

- (a) in the case of goods, the transfer for a consideration of the right to dispose of the goods as the owner; or
- (b) in the case of services, the performance of services for a consideration.

(2) Without prejudice to the provisions of the Third Schedule and to any regulations made under subsection (4)

- (a) “supply” in this Act includes all forms of supply, but not anything done otherwise than for a consideration;
- (b) anything which is not a supply of goods but is done for a consideration (including, if so done, the granting, assignment or surrender of

any right) is a supply of services.

(3) The Third Schedule shall apply for determining what is, or is to be treated as, a supply of goods or a supply of services.

(4) Without prejudice to section 72(l)(b), the Minister may, by regulations, amend the Third Schedule to provide, with respect to any transaction, whether —

(a) it is to be treated as a supply of goods and not as a supply of services;

(b) it is to be treated as a supply of services and not as a supply of goods; or

(c) it is to be treated as neither a supply of goods nor a supply of services.

(5) (a) A supply of goods incidental to the supply of services is part of the supply of the services.

(b) A supply of services incidental to the importation of goods is part of the importation of the goods.

(c) A supply of services incidental to the supply of goods is part of the supply of the goods.

(6) A supply of services made by a person in performing the duties of his office or employment is not a supply made by that person.

5. Time of supply

(1) Subject to the other provisions of this Act, a supply of goods or services shall be deemed to take place —

(a) at the time an invoice or a VAT invoice in respect of that supply is issued by the supplier; or

(b) at the time payment for that supply is received by the supplier,

whichever is the earlier.

(2) Where services are supplied for a continuous period under any enactment or agreement which provides for periodic payments, the services are treated as successively supplied for successive parts of the period as determined by the enactment or agreement and each successive supply shall be deemed to take place —

(a) at the time an invoice or a VAT invoice in respect of the supply is issued by the supplier; or

(b) at the time payment for that supply is received by the supplier,

whichever is the earlier.

(3) Where a taxable supply is made —

(a) under a hire purchase agreement, the supply shall be treated as a supply of goods and it shall be deemed to be supplied at the time the agreement is made; or

(b) under a lease agreement, the supply shall be treated as a supply of services and it shall be deemed to be supplied -

(i) at the time an invoice or a VAT invoice in respect of that supply is issued by the supplier; or

(ii) at the time payment for that supply is received by the supplier,

whichever is the earlier.

(4) Where any goods specified in Part II of the Seventh Schedule are supplied at the stage in the chain of distribution immediately before the retail stage, the time of supply of those goods shall, subject to subsection (1), be treated, for all intents and purposes, as if the supply at the retail stage has taken place.

(5) Notwithstanding the other provisions of this section, the Minister may, by regulations, make provision with respect to the time at which a supply is to be treated as taking place in cases where it is a supply of goods or services for a consideration, the whole or part of which, is payable periodically or from time to time, or at the end of any period.

Amended by [[Act No. 20 of 2002](#)]

6. Application of the Act

(1) This Act shall bind the State.

(2) Where in any enactment or agreement made before or after the commencement of this Act, it is provided that notwithstanding any other enactment a statutory corporation or any other person shall be exempt from the payment of the whole or part of any tax, that provision shall not be construed as an exemption from the payment of VAT under this Act.

(3 – 5) Amended by [[Act No. 18 of 2003](#)]

Added by [[Act No. 20 of 2002](#)]

PART II - ADMINISTRATION

7. Commissioner for Value Added Tax

For the due administration of this Act, there shall be a Commissioner for Value Added Tax who shall be a public officer and who shall be assisted by such other officers as may be necessary.

8. Confidentiality

(1) Subject to subsection (2), every officer shall maintain the confidentiality of any return, assessment, document or other matter that comes to his knowledge or possession in the performance of his duties and of functions under this Act and any regulations made thereunder.

(2) Except for the purposes of administering this Act or any other revenue law or where so authorised to do so by the Minister, no officer shall communicate to any person any matter relating to this Act and any regulations made thereunder.

(3) Any officer who, without lawful excuse, contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 2 years.

PART III - LIABILITY TO VALUE ADDED TAX

9. Charge to value added tax

(1) VAT shall be charged on any supply of goods or services made in Mauritius, where it is a taxable supply made by a taxable person in the course or furtherance of any business carried on by him.

(2) VAT on any taxable supply is a liability of the person making the supply and becomes due at the time of supply.

(3) Where food or drink, cooked or prepared in any manner, is supplied, such food or drink shall, notwithstanding the other provision of this Act, be deemed to be a taxable supply.

(4) Subject to the other provisions of this Act, every person who -

(a) imports goods, other than goods specified in the First Schedule, shall pay a value added tax on those goods; or

(b) being a taxable person, makes taxable supplies, shall, after the end of the taxable period in which those supplies are made, pay to the Commissioner, within such time as may be prescribed a value added tax on those supplies.

(5) VAT on the importation of goods shall be charged, levied and payable as if it were customs duty or excise duty and as if all goods imported into Mauritius are dutiable and liable to customs duty or excise duty.

(6) Every taxable person shall be liable to pay to the Commissioner VAT on all his taxable supplies as from the date he is required to be registered as a registered person under this Act.

(7) The liability under the Act of a société, club, association, or similar organisation, as a taxable person shall not be affected by any change in its associateship or membership, as the case may be.

(8) No person shall charge VAT on any supplies of goods or services he makes unless he is a registered person at the time the supplies are made.

(9) Notwithstanding the other provisions of this section, where any goods specified in the Part II of the Seventh Schedule are supplied at the stage in the chain of distribution immediately before the retail stage, the supply shall be deemed to have been made at the retail stage and VAT on such supply shall be charged on such value as includes the retail margin.

Amended by [[Act No. 20 of 2002](#)]

10. Rate of VAT

(1) Subject to section 51, VAT shall be charged at the rate specified in the Fourth Schedule and shall be charged —

(a) on any taxable supply by reference to the value of the supply as determined under section 12; and

(b) on the importation of any goods, other than those specified in the First Schedule, by reference to the value of the goods as determined under section 13.

(2) Notwithstanding any other enactment or agreement and subject to subsections (3) and (4), where the rate of tax is varied before the supply of any goods or services takes place pursuant to section 5, the rate of tax on the supply of those goods or services shall be varied as from the date of the variation.

(3) Where, in the course of the execution of a contract for the supply of any goods or services, the rate of tax is varied, the rate of tax on the supply of those goods or services shall be varied with respect to the remaining part of the contract as from the date of the variation.

(4) Where, in respect of a continuous supply of services, invoices are issued at regular intervals and the rate of tax is varied, the rate of tax on the supply of those services shall be varied as from the date of the variation.

Amended by [[Act No. 18 of 1999](#)]; [[Act No. 20 of 2002](#)]

11. Zero-rating

(1) Where a taxable person supplies goods or services and the supply is zero-rated —

(a) no VAT shall be charged on the supply; but

(b) it shall in all respects be treated as a taxable supply,

and accordingly the rate at which VAT is treated as charged on the supply shall be nil.

(2) A supply of goods or services is zero-rated by virtue of this

Section if the goods or services are of a description specified in the Fifth Schedule.

12. Value of taxable supplies

(1) For the purposes of this Act, the value of any taxable supply made by a taxable person shall, subject to the other provisions of this Act, be determined in accordance with the provisions of this section.

(2) If the supply is for a consideration in money, its value shall be taken to be such amount as, with the addition of the VAT chargeable, is equal to the consideration.

(3) if the supply is for a consideration not consisting or not wholly consisting of money, the value of the supply shall be taken to be the open market value of the supply.

(4) Where a taxable supply is not the only matter to which a consideration in money relates, the supply shall be deemed to be for such part of the consideration as is properly attributable to it.

(5) For the purposes of subsection (3), the open market value of a supply of goods or services shall be taken to be the amount that would fall to be taken as its value under subsection (2) if the supply were for such consideration in money as would be payable by a person who has no relationship with any person which would affect that consideration.

(6) Where a supply of any of the goods specified in Part I of the Seventh Schedule is made by a registered person -

(a) at the stage in the chain of distribution immediately before the stage of retail, VAT shall be calculated on such value of the supply as excludes the retail margin.

(b) at the stage of retail, VAT shall be calculated on the value of the supply as specified in paragraph (a).

(7) Where a supply of any of the goods specified in Part II of the Seventh Schedule is made by a registered person -

(a) at the stage in the chain of distribution immediately before the stage of retail, VAT shall be calculated on such value of the supply as includes the retail margin.

(b) at the stage of retail, VAT shall be calculated on the value of the supply as specified in paragraph (a).

Amended by [[Act No. 18 of 1999](#)]; [[Act No. 20 of 2002](#)]

13. Value of imported goods

The value shall, in respect of goods imported by any person. Be the sum of —

- (a) the customs value of the goods; and
- (b) the customs duty and excise duty payable on the goods

14. Reverse charge on supply of services received from abroad

(1) Where a person who does not belong in Mauritius makes a taxable supply of services which are performed or utilised in Mauritius, to a registered person, then all the same consequences shall follow under this Act as if the registered person had himself supplied the services in Mauritius and that supply were a taxable supply.

Amended by [[Act No. 18 of 2003](#)]

(2) Where a supply of services which is treated as made by a registered person under subsection (1), then the provisions of section 21 shall apply and the registered person may claim the tax on the supply of those services as input tax.

(3) The invoice or other documentation from the person making the supply shall be treated as a VAT invoice.

(4) The value of the supply under this section shall be the amount paid or payable for the services.

(5) For the purposes of this section, a person does not belong in Mauritius if that person —

(a) has no permanent establishment in Mauritius for the carrying on of his business; or

(b) has his place of abode outside Mauritius.

PART IV - REGISTRATION

15. Compulsory registration

(1) Subject to the other provisions of this section, every person —

(a) who, in the course or furtherance of his business, makes taxable supplies; and

(b) whose turnover of taxable supplies exceeds or is likely to exceed any of the amounts corresponding to any of the periods, specified in the Sixth Schedule,

shall apply to the Commissioner, in such form and in such manner as may be approved by him, for compulsory registration as a registered person under the Act.

(2) (a) Notwithstanding section 16, every person engaged in -

(i) any business or profession specified in Part I of the Tenth Schedule and whose turnover of taxable supplies does not exceed or is not likely to exceed any of the amounts corresponding to any of the periods specified in the Sixth Schedule; or

(ii) any business specified in Part II of the Tenth Schedule, irrespective of his turnover of taxable supplies,

shall apply to the Commissioner, in such form and in such manner as may be approved by him, for compulsory registration as a registered person under the Act.

(b) Paragraph (a)(i) shall not apply to a person holding an office or employment, unless the person, otherwise than by virtue of any enactment, is also engaged, in addition to his office or employment, in any business or profession specified in Part I of the Tenth Schedule.

(3) Where the turnover of a person is made up exclusively of supplied which are zero-rated, that person shall not be bound to apply for registration under this section.

(4) Where the Commissioner is satisfied that the applicant is required to be registered, he shall register the applicant as a registered person under the Act.

(5) Where the Commissioner is satisfied that —

(a) a person, in the course or furtherance of his business, makes taxable supplies;

(b) the taxable supplies made by certain other persons should properly be regarded as those made by that person;

(c) where the taxable supplies referred to in paragraphs (a) and (b) are together taken into account, that person would be liable to be registered; and

(d) the main reason or one of the main reasons for that person carrying on business in the way he does is the avoidance of a liability to be registered,

the Commissioner may issue a direction to that person directing that the persons named therein shall be treated as a single taxable person and that single taxable person shall be liable to be registered under this section.

Amended by [\[Act No. 18 of 1999\]](#); [\[Act No. 20 of 2002\]](#)

16. Voluntary registration

(1) Notwithstanding section 15, any person who, in the course furtherance of his business, makes taxable supplies may apply to the Commissioner, in such form and in such manner as may be approved by him, for voluntary registration as a registered person under the Act.

(2) Where the applicant satisfies the Commissioner that-

(a) he currently keeps and maintains a proper record of his business;

(b) he has kept and maintained a proper record of his business for a period of at least one year preceding the year in which the application for registration is made and

(c) he has been discharging his obligations under the revenue laws,

the Commissioner may register the applicant as a registered person under the Act.

17. Certificate of registration

(1) Where a person has been registered under section 15 or 16, the Commissioner shall allocate to that person a VAT Registration Number and issue to

him a certificate of registration in a form approved by the Commissioner on such terms and conditions as he thinks fit.

(2) The Commissioner shall, in the certificate of registration issued to a person under subsection (1), specify the VAT Registration Number allocated to that person.

18. Cancellation of registration

(1) Where the Commissioner is satisfied that a registered person should cease to be registered under the Act, he may, by notice in writing, require the registered person, within 14 days of the date of the notice, to show cause why he should not cease to be registered and if the Commissioner is satisfied that, having regard to all circumstances of the case, it is expedient to do so, he may cancel the registration with effect from such date as the Commissioner may determine and give notice thereof to the person.

(2) Where the registration of a registered person is cancelled under subsection (1), the person shall —

- (a) cease to hold himself out to be a registered person;
- (b) submit a return and pay all tax due including the tax due on any goods forming part of the assets of the business, other than those specified in section 21(2)(b);
- (c) immediately return to the Commissioner his certificate of registration and all its copies.

Amended by [[Act No. 20 of 2002](#)]

PART V - RECORD AND VAT IN VOICE

19. Record

(1) Every person shall, for the purposes of this Act, keep in the course of his business, a full and true written record, whether on computer or otherwise, in the English or French language of every transaction he makes.

(2) Every person referred to in subsection (1) who —

- (a) imports or exports goods shall keep, in respect of those goods, a copy of his Customs declarations, either electronic through the Trade Net or

otherwise, in chronological order;

(b) receives goods or to whom services are supplied shall keep receipts, invoices or VAT invoices in respect of those goods or services in chronological order they are received or supplied; and

(c) makes supplies of goods or services shall, subject to section 20, issue to the purchaser a receipt or invoice in respect of those goods or services and keep legible copies thereof, either on computer or otherwise in chronological order,

in such manner as may be prescribed.

(3) Subsection (2)(c) shall not apply to the business specified in item 6(b)(ii) of the Fifth Schedule and items 1 and 4 of Part II of the Tenth Schedule.

(4) Every record under subsection (1) or (2) shall be kept for a period of at least 5 years after the completion of the transaction to which it relates.

(5) For the purposes of subsection (2)(a), "Trade Net" has the same meaning as in the Customs (Use of Computer) Regulations 1997.

Amended by [\[Act No. 20 of 2002\]](#); [\[Act No. 18 of 2003\]](#)

20. VAT invoice

(1) Every registered person who makes a taxable supply to another registered person shall issue to that person a VAT invoice in respect of that supply.

(2) A registered person who issues a VAT invoice under subsection (1) shall specify in that VAT invoice —

(a) the words "VAT INVOICE" in a prominent place;

(b) his name, business address and his VAT Registration Number;

(c) its serial number and date of issue;

(d) the quantity and description of the goods or the description of the services;

(e) the value of the supply exclusive of VAT;

(f) the amount of VAT chargeable and the rate applied;

and

(g) the name, address and the VAT Registration Number

of

the purchaser.

(3) Every person who issues a VAT invoice under this section shall keep legible copies thereof, either on computer or otherwise, in chronological order.

(4) Every copy of a VAT invoice under this section shall be kept for a period of at least 5 years after the completion of the transaction to which it relates.

(5) No person shall issue a VAT invoice or any other document indicating an amount which purports to be VAT on the supply of any goods or services unless —

- (a) he is registered as a registered person under this Act; and
- (b) the supply is a taxable supply.

(6) No VAT invoice shall be issued to a person unless, at the time the VAT invoice is issued, that person is registered as a registered person under this Act.

(7) This section shall not apply to the business specified in item 6(b)(ii) of the Fifth Schedule and items 1 and 4 of Part II of the Tenth Schedule.

Added by [\[Act No. 20 of 2002\]](#); Amended by [\[Act No. 18 of 2003\]](#)

PART VI - RETURN, PAYMENT AND REPAYMENT OF TAX

21. Credit for input tax against output tax

(1) Subject to the other provisions of this section, any person may if he is a taxable person, take, either in his return referred to in section 23 or in his statement referred to in section 23, as a credit against his output tax in any taxable period, the amount of input tax allowable to him during that period.

(2) No input tax shall be allowed as a credit under this section in respect of —

- (a) goods or services used to make an exempt supply;
- (b) motorcars and other motor vehicles for the transport of not more than 9 persons including the driver, motor cycles and mopeds, for own use or consumption, and their spare parts and accessories;
- (c) accommodation or lodging, catering services, receptions, entertainment, and the rental or lease of motor cars and

other vehicles specified in paragraph (b);

(d) maintenance or repairs of motorcars and other vehicles specified in paragraph (b);

(e) petroleum oils and other oils or preparations of heading No. 27.10 of Part I of the First Schedule to the Customs Tariff Act, except -

(i) fuel oils;

(ii) oils or preparations used for resale; and

(iii) gas oils for use in stationary engines, boilers and burners;

(f) petroleum gas of heading No. 27.11 of Part I of the First Schedule to the Customs Tariff Act and used for the running of motor cars and other vehicles specified in paragraph (b),

(g) goods and services used by banks, or services provided by banks, holding a Category 1 Banking Licence under the Banking Act and

(h) goods and services used by persons for the purpose of providing services specified in item 4 of Part II of the Tenth Schedule, or services specified in item 4 of Part II of the Tenth Schedule.

Amended by [\[Act No. 18 of 1999\]](#); [\[Act No. 20 of 2002\]](#); [\[Act No. 18 of 2003\]](#); [\[Act No. 28 of 2004\]](#)

(3) (a) Where goods or services are used to make a taxable supply, the credit in respect of those goods or services shall be allowed in full.

(b) Subject to paragraphs (c) and (d), where goods or services are used to make both taxable supplies and exempt supplies, the credit in respect of those goods or services shall be allowed in the proportion of the value of taxable supplies to total turnover on the basis of -

(i) in the case of a new business, the estimated figures for the current accounting year; or

(ii) in any other case, the actual figures for the previous accounting year.

(c) The amount of input tax taken in accordance with paragraph (b)(i) shall be adjusted by the person at the end of his accounting year, and an adjustment shall be made by him in his return for the taxable period immediately following the end of that year.

(d) Where it is proved to the satisfaction of the Commissioner that the apportionment in accordance with paragraph (b) is, having regard to the nature of the business, not fair and reasonable, the Commissioner may approve such alternative basis of apportionment as he considers appropriate in the circumstances, subject to such conditions as may be prescribed.

Amended by [\[Act No. 18 of 1999\]](#); [\[Act No. 23 of 2001\]](#)

(4) The amount of any input tax or output tax shall be adjusted to take into account any debit note or credit note or a bad debt.

(5) No credit for input tax shall be allowed unless —

- (a) VAT invoices issued by suppliers legally authorised to charge VAT; or
- (b) Customs import declarations, either electronic or otherwise, in support of the credit,

are made available to the Commissioner for examination on demand.

(6) Where credit for any input tax has not been taken in the taxable period in which it ought to have been taken, a registered person may take such credit within a period of 24 months of the date the input tax was paid.

Amended by [\[Act No. 20 of 2002\]](#)

(7) (a) Where, in respect of a building (including extension and renovation) forming part of the fixed assets of a registered person, a credit for input tax has been taken, and before the end of the nineteenth year following the year it was acquired, that building no longer forms part of his fixed assets, the registered person shall be liable to pay back to the Commissioner, in respect of the remaining portion of that period, the proportionate amount of the credit allowed.

(b) The registered person shall, in his return for the taxable period in which the building has ceased to form part of his fixed assets,

treat the proportionate amount referred to in paragraph (a) as output tax.

(8) For the purposes of determining the proportion of the value of taxable supplies to total turnover under subsection (3)(b), the value of taxable supplies shall exclude the value of capital goods.

**Amended by [\[Act No. 18 of 1999\]](#); [\[Act No. 13 of 2001\]](#);
[\[Act No. 20 of 2002\]](#)**

22. Return and payment of tax

(1) Every registered person shall, after the end of every taxable period, within such time as may be prescribed, submit to the Commissioner in respect of that period a return, in such manner and in such form as may be approved by the Commissioner, specifying —

- (a) the amount of output tax payable;
- (b) the amount of input tax allowable;
- (c) the value of all taxable supplies made by him;
- (d) the value of goods imported and the value of all taxable supplies made to him; and
- (e) such other particulars as may be required in the form of the return.

(2) Where a registered person submits a return under subsection (1) and —

(a) the output tax exceeds the input tax, the difference representing the amount of tax payable shall be paid to the Commissioner at the time the return is submitted, or

(b) the input tax exceeds the output tax which would have been payable if the credit has not been taken, the excess amount shall, subject to section 24, be retained to be carried forward onto the return for the following taxable period for the payment of any VAT that is for the time being payable or may become payable by the registered person.

(3) Where a registered person does not make any supply of goods or services and does not receive any goods or services he shall submit a nil

return.

23. Tax liability prior to date of registration

(1) Where a registered person ought to have been registered on a day prior to the date of his registration, he shall, not later than 30 days after the date of his registration —

(a) submit a statement, in a form approved by the Commissioner, giving the information and particulars specified in section 22 in respect of the taxable periods commencing on the date the person was required to be registered and ending on the date immediately preceding the date of his registration, provided that such periods do not exceed 5 years; and

(f) at the same time, pay any tax due in accordance with the of statement together with the appropriate penalty specified in section 27.

(2) Notwithstanding section 21(5)(a), any registered

person may, in the statement under subsection (1), take as a credit

against his output tax for the taxable period, the amount of input tax allowable to him during that period provided that the amount of input tax is duly supported by receipts or invoices issued by VAT registered persons and the amount of VAT is separately shown thereon.

Added by [\[Act No. 18 of 2003\]](#)

24. Repayment of tax

(1) Where a registered person submits a return under section 22 and the excess amount includes input tax amounting to more than Rs 150,000 rupees or such other amount as may be prescribed, on capital goods being building (including extension and renovation), plant, machinery or equipment, of a capital nature, the registered person may, in that return, make a claim to the Commissioner for a repayment of the amount of input tax allowable in respect of those capital goods.

Amended by [\[Act No. 23 of 2001\]](#)

(2) Subject to subsections (3) and (4), where, in respect of a taxable period, a return shows an excess amount, the registered person may, in that return, make a claim to the Commissioner for a repayment, in addition to any amount repayable under subsection (1) of that part of the excess amount which corresponds to the

proportion of the value of zero-rated supplies to the total value of taxable supplies in that taxable period.

Amended by [\[Act No. 18 of 1999\]](#); [\[Act No. 23 of 2001\]](#)

(3) For the purposes of subsection (2), the excess amount in a return shall not include any input tax for capital goods, whether repayable under subsection (1) or not.

Amended by [\[Act No. 23 of 2001\]](#)

(4) (a) Where a return shows an excess amount and the registered person is mainly engaged in the zero-rated supplies, he may, in that return, make a claim to the Commissioner for a repayment of the whole or part of the excess amount.

(b) On receipt of a claim under paragraph (a), the Commissioner may —

(i) repay the whole or part of the excess amount; or

(ii) retain the excess amount to be carried forward onto the return for the following taxable period.

Amended by [\[Act No. 18 of 1999\]](#); [\[Act No. 23 of 2001\]](#)

(5) A claim for repayment under this section shall be made in such manner and in such form as may be approved by the Commissioner and shall be submitted together with the return.

(6) Where a claim for repayment is made under this section, the amount claimed shall not be carried forward to the return for the following taxable period and the Commissioner may, on being satisfied that the registered person is entitled to the repayment, proceed to make repayment.

(7) A repayment under this section shall be made within 45 days of the date of receipt by the Commissioner of the return and the claim referred to in subsection (5).

(8) Where the repayment is made after the period specified in subsection (7), the repayment shall carry interest at the prevailing Bank rate.

(9) Where in respect of a claim for repayment under this section, it is found that an amount has been overclaimed, the registered person shall, subject to subsection (10), be liable to pay to the Commissioner a penalty representing 20 per cent of the amount overclaimed provided that the penalty shall not exceed 200,000 rupees.

Added by [Act No. 25 of 2000]; [Act No. 18 Of 2003]

(10) Subsection (9) shall not apply where the amount of penalty does not exceed 250 rupees.

Added by [Act No. 25 of 2000]

(11) Subject to subsection (12), the penalty under subsection (9) shall be payable to the Commissioner within 28 days of the date of the notification for payment of the penalty.

Added by [Act No. 25 of 2000]

(12) Any penalty payable under subsection (9) shall be applied and set off against any amount of tax which is for the time being repayable to the registered person.

Amended by [Act No. 18 of 1999]; Added by [Act No. 25 of 2000]

25. Change in taxable period

(1) Where the annual turnover of taxable supplies of a registered person whose taxable period is a quarter exceeds the amount specified in the Second Schedule, he shall —

(a) within 15 days of the date of the closing of his annual accounts, notify the Commissioner of that fact in writing; and

(b) change his taxable period from a quarter to a month as from the month immediately following that quarter.

(2) Where the annual turnover of taxable supplies of a registered person whose taxable period is a month does not exceed the amount specified in the Second Schedule, he may —

(a) within 15 days of the date of the closing of his annual accounts, notify the Commissioner of that fact in writing; and

(b) change his taxable period from a month to a quarter as from the quarter immediately following that month.

(3) Where a registered person changes his taxable period under subsection (1) or (2), he shall submit the return under section 22 in the accordance with his new taxable period.

26. Surcharge for non-submission of return by due date

Where, in respect of a taxable period, a registered person fails to submit any return under section 22 on or before the last day on which the return is required to be submitted under that section, he shall be liable to pay to the Commissioner, in addition to any tax which may be payable, a surcharge of —

(a) 2000 rupees; or

(b) 200 rupees for every day until the return for that taxable period is submitted,

whichever is the higher provided that the total surcharge payable shall not exceed 20,000 rupees.

Amended by [\[Act No. 25 of 2000\]](#)

27. Penalty for late payment of tax

Where a taxable person fails to pay any tax due on or before the last day on which it is payable under section 9,21(7) or 37, he shall be liable to pay to the Commissioner, in addition to the tax and to any surcharge under section 26, a penalty representing —

(a) 10 per cent of the tax excluding the surcharge for the first month or part of the month during which the tax remains unpaid; and

(b) 2 per cent of the tax excluding the penalty and the surcharge for each subsequent month or part of the month during which the tax remains unpaid,

up to a maximum of 100 per cent of the tax.

PART VII - POWERS OF COMMISSIONER

28. Power to require information

(1) Subject to section 33, the Commissioner may, by notice in writing, require any person to furnish to him, within such time as may be specified in the notice, information and particulars relating to —

- (a) the supply of any goods or services made to the person by any other person;
- (b) the supply of any goods or services made by the person to any other person;
- (c) contracts for the supply of any goods or services;
- (d) the amount owed by the person to any other person; and
- (e) such other transactions,

which the Commissioner considers necessary or relevant for the purposes of this Act and which may be in the possession or custody, or under the control, of that person.

(2) Where a notice under subsection (1) is issued to a person, that person shall comply with the requirements of that notice.

29. Obligation to furnish information

(1) Every person, when so required by the Commissioner shall, for the purposes of this Act, within the time fixed by the Commissioner, give orally or in writing, as may be required, all such information as may be demanded of him by the Commissioner for the purpose of enabling the Commissioner to ascertain his tax liability, make an assessment or collect tax.

(2) Subject to section 33, any person, when so required by notice in writing, shall, for the purposes of this Act, furnish to the Commissioner, within the time specified in the notice —

(a) a certified copy of the profit and loss account and balance sheet or such other statement of account as may be required, duly audited by a qualified auditor;

(b) details of transactions in all the bank accounts of the person, his spouse and minor children; and

(c) a certified statement of all assets and liabilities of the person, his spouse and minor children.

30. Use of computer system

(1) Notwithstanding the other provisions of this Act and subject to section 8D of the Unified Revenue Act 1983, the Commissioner may authorise —

- (a) an application for registration under Part IV;
- (b) a return under section 22 or a statement under section 23;
- (c) any payment or repayment of tax under the Act; or
- (d) any act or thing which is required to be done under the Act,

to be made, submitted or done electronically through such computer system as may be approved by him.

Amended by [[Act No. 23 of 2001](#)]

(2) With effect from such date as may be notified in the *Gazette* the Commissioner may direct that any matter, act or thing referred to in subsection (1) shall be made, submitted or done electronically or otherwise.

(3) Any certificate of registration under section 17, any assessment of tax under section 37, or any act or thing which is required to be done by the Commissioner under the Act, may be issued, made or done electronically through computer or other mechanical or electronic device.

(4) A person who submits a return and pays tax in the manner specified in subsection (1) shall continue to submit returns and pay tax in that manner unless otherwise authorised by the Commissioner.

(5) Where, immediately before the commencement of this section, a person has been submitting a return and has been paying tax electronically, the computer system of that person shall be deemed to have been approved by the Commissioner for the purposes of subsection (1).

Amended by [[Act No. 23 of 2001](#)]

31. Production of books and records

The Commissioner may, for the purposes of ascertaining the tax liability of any person, require that person —

- (a) to produce for —

(i) examination, either at the business premises of that person or at the Office of the Commissioner, books, records, copies of VAT invoices, contracts for the supply of goods or services, bank statements, or other documents, whether on computer or otherwise, which the Commissioner considers necessary and which may be in the possession or custody or under the control of that person;

(ii) retention, for such period as the Commissioner considers necessary, any record or document specified in subparagraph (i) and for taking copies of or extracts therefrom;

(b) to call, either at the business premises of the person or at the Office of the Commissioner, for the purpose of being examined in respect of any transaction or matter relating to the tax liability of that person.

32. Power to inspect books, records and goods

(1) Subject to subsection (3), the Commissioner or any officer authorised by him in writing may, for the purposes of this Act, at all reasonable times, enter any business premises or place where any business is carried on or anything is done in connection with the business and —

(a) may require the person carrying on the business or any person on those premises or in that place who is employed by the person carrying on the business to produce any books, records, copies of VAT invoice, balance sheet, stock sheet, contracts for the supply of goods or services, bank statements or other documents relating to the business, whether these are recorded in a computer system or otherwise, and may remove and retain any such records or other documents, for such period as may be considered reasonable for their examination or inspection;

(b) may examine any such records or other documents and take copies of or extracts therefrom;

(c) may inspect any goods;

(d) may require the person —

(i) to produce any goods for inspection; or

(ii) to carry out a cash count; and

(e) may require the person carrying on the business or any person

on those premises or in that place who is employed by the person carrying on the business to give to the Commissioner or the authorised officer all reasonable assistance and to answer all proper questions either orally or in writing.

(2) For the purposes of this Act, the Commissioner may, at any time, cause a physical stocktaking of the goods of a registered person to be carried out.

(3) Subsection (1) shall not apply to any person —

(a) who carries on any banking business, or the business of dealings in foreign currency, regulated by the Banking Act 1988, the Bank of Mauritius Act, the Foreign Exchange Dealers Act 1995 or any other enactment relating thereto; or

(b) who carries on the business of providing financial services.

(4) Any person who —

(a) fails to provide such assistance or to answer such questions as may be required under this section; or

(b) obstructs the Commissioner or any officer in the exercise of his powers under this section,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 5 years.

32A. Power to access computers and other electronic devices

(1) For the purposes of ascertaining the tax liability of any person under this Act, the Commissioner may, subject to subsection (2), at any reasonable time —

(a) have access to —

(i) any computer, computer software, whether installed in the computer or otherwise, electronic till or any other device, used in connection with any document which the person is required to produce for the purpose of ascertaining his tax liability; or

(ii) any information, code or technology which has the capability of retransforming or unscrambling encrypted data contained or available to such computers or devices into readable and comprehensive format or text;

(b) inspect and check the operation of any such computer, electronic till or other device and make extracts of any computer software, computer output or such other document used in connection therewith;

(c) require any person by whom or on whose behalf the computer or other electronic device is operated, or any person concerned with the operation of the equipment, to give such assistance as is necessary for the purposes of this section; and

(d) require any person in possession of decryption information to grant him access to such decryption information necessary to decrypt data required for the purposes of this section.

(2) Subsection (1) shall not apply to any person referred to in section 32(3).

Amended by [\[Act No. 28 of 2004\]](#)

33. Time limit to require information, books or records

(1) Subject to subsection (2), no person shall be required -

(a) to furnish or give any information under section 28 or 29; or

(b) to produce any books or records under section 31 or 32,

after 5 years immediately following the last day of the taxable period in which any related transaction took place.

(2) Subsection (1) shall not apply in case of wilful neglect, evasion or fraud.

34. Power to require security

(1) The Commissioner may, for the purposes of securing payment of any tax due, require a person to give security in such amount and in such manner as the Commissioner thinks fit.

(2) Any person who, without any reasonable cause, fails to give such security as is required under subsection (1) shall commit an offence.

35. Warrant to search and seize

(1) Subject to subsection (2), where the Commissioner has reasonable ground to believe that an offence has been, is being or is likely to be committed under this Act, he may apply to a District Magistrate for the issue of a warrant to an officer —

(a) to enter and search any business premises or place where any business is carried on or anything is done in connection with the business;

(b) to inspect or examine any goods or books, records or other documents, whether kept on computer or otherwise, found therein; and

(c) to seize those goods, books, records or other documents or any computer, device, apparatus, material or computer software used in connection with the business, where such seizure is necessary for any examination or investigation.

(2) Subsection (1) shall not apply to any person referred to in section 32(3).

(3) Any goods, books, records or other documents or computer, device, apparatus, material or computer software seized under subsection (1)(c) shall be returned to the person from whom they were seized when longer required.

Amended by [[Act No. 28 of 2004](#)]

36. Proceedings for temporary closing down of business

(1) Where, in respect of a taxable period, a registered person —

(a) fails to submit a return under section 22 or fails to pay the tax payable under that section on or before the last day on which the return is required to be submitted and payment of tax made; and

(b) the Commissioner is of the opinion that tax ought to have been paid by the registered person for that taxable period,

the Commissioner may notify the person in writing of his intention to close down part or the whole of the business of that person for a temporary period not exceeding 14 days, unless the person complies with the requirement of that section within a period of 7 days of the date of the notice.

(2) (a) Where the registered person fails to comply with the notice issued under subsection (1), the Commissioner may make an application under oath, in such form as may be prescribed, to a District Magistrate for an order to close down part or the whole of the business of that person for a period not exceeding 14 days.

(b) Where an application under oath is made to the Magistrate in the manner specified in paragraph (a), the Magistrate may forthwith grant the application.

(c) Upon granting an application under paragraph (b), the Magistrate shall issue an order to an Usher, in such Form as may be prescribed, to close down the business of the person in accordance with the provisions of this section.

(3) Where an Usher executes an order under subsection (2), he shall affix in a conspicuous place on the front of the premises of the business or part of the business which has been closed, a notice duly certified by the Commissioner bearing the words "CLOSED TEMPORARILY FOR NOT SUBMITTING VAT RETURN AND NOT PAYING VAT"; or the words "CLOSED TEMPORARILY FOR NOT PAYING VAT", as the case may be.

(4) Where an order under subsection (2) has been executed and the registered person complies with the requirements of —

(a) section 22; or

(b) section 22(1) and gives security to the satisfaction of the Commissioner for the payment of any tax due,

the order shall lapse and the Commissioner shall, in writing, notify the registered person accordingly.

(5) Any person who, contrary to the order, carries on the business or part of the business concerned or who commits any act in breach of the order under this section, shall commit an offence.

36A. Anti-avoidance provisions

(1) Where the Commissioner is satisfied that the purpose or effect of any arrangement or transaction is directly or indirectly —

(a) to reduce or avoid any liability imposed or which would otherwise have been imposed on any person by this Act;

(b) to relieve any person from any liability to tax;

(c) to alter the incidence or postpone the time due of any tax which is payable by or which would otherwise have been payable by any person; or

(d) to obtain credit for any input tax or repayment of any tax which would not otherwise have been obtained.

the Commissioner may, without prejudice to such validity as it may have in any other respect or for any other purpose, disregard or vary, for the purposes of this Act, the arrangement or transaction and make such adjustments as he considers appropriate so as to counteract any tax advantage obtained or obtainable by that person from or under that arrangement or transaction.

(2) This section shall not apply to any arrangement or transaction carried out for bona fide commercial reasons and does not have as one of its main purposes the avoidance or reduction of tax or the obtaining of any tax advantage

(3) For the purposes of this section, 'tax advantage' includes -

(a) any reduction in the liability of any person to pay tax;

(b) any reduction in the total consideration payable by any person in respect of any supply of goods or services;

(c) any postponement of the time when tax is due or payable; or

(d) any increase in the entitlement of a person to a credit for input tax or repayment of tax;

Added by [\[Act No. 25 of 2000\]](#)

VIII - ASSESSMENTS, OBJECTIONS AND REVIEW OF ASSESSMENTS

37. Commissioner may make assessments

(1) Subject to subsections (3) and (4), where —

(a) a person —

(i) fails to submit a return under section 22 or a statement under section 23;

(ii) fails to keep proper records;

(iii) fails to comply with any of the requirements under section 29, 31 or 32;

(iv) being a taxable person, fails to apply for registration as a registered person under the Act;

(v) benefits from a repayment of tax under section 24 and it is subsequently found that the tax or part of the tax ought not to have been repaid; or

(vi) fails to remit to the Commissioner any VAT charged on any supply made by him; or

(b) the Commissioner is not satisfied —

(i) with a return submitted under section 22 or statement under section 23; or

(ii) with the adequacy or correctness of the record kept,

the Commissioner may, on such information as is available to him, make an assessment of the tax due and payable by that person and give to that person written notice of the assessment.

(2) Where the Commissioner has given notice of assessment to any person under subsection (1), that person shall, subject to section 38, pay the amount of tax specified in the notice, not later than 28 days of the date of the notice.

(3) Subject to subsection (5), an assessment under subsection (1), shall not be made after 5 years immediately following the last day of the taxable period in which the liability to pay tax arose.

(4) No assessment under subsection (1) shall be made where the amount of

tax does not exceed 250 rupees.

(5) Subsection (3) shall not apply in case of wilful, neglect evasion or fraud.

38. Objection to assessments

(1) Where a person assessed to tax under section 37 is dissatisfied with the assessment, he may, within 28 days of the date of the notice of assessment, in writing, lodge with the Commissioner an objection against the assessment.

(2) Any person who lodges an objection under subsection (1) shall —

(a) state in his letter of objection, in respect of each of the taxable periods covered by the assessment —

(i) the adjustments that are required to be made and the reasons therefor; and

(ii) the amount of tax which, in the opinion of the person, is likely to become payable on determination of his objection; and

(b) if he is a registered person, submit, at the time the objection is lodged, in respect of each of the taxable periods covered by the assessment, any return required under section 22 or any statement required under section 23; and

(c) pay, at the time the objection is lodged, the amount of any tax —

(i) specified in the return or statement referred to in paragraph (b); or

(ii) referred to in paragraph(a)(ii),

together with any surcharge under section 26 and any penalty under sections 24(9) and 27

Amended by [\[Act No. 18 of 2003\]](#)

(3) Where it is proved to the satisfaction of the Commissioner that, owing to illness or other reasonable cause, a person

has been prevented from lodging an objection within the time specified in subsection (1), the may consider the objection as a valid objection under that subsection.

(4) Where the Commissioner refuses to consider a late objection he shall, within 28 days of the date of receipt of the letter of objection, give notice of the refusal to the person.

(5) Where the person fails to comply with subsection (2)(a) or (b) and fails to pay the tax under subsection (2)(c) or fails to furnish adequate security to the satisfaction of the Commissioner for payment of any tax under subsection (2)(c), the objection shall be deemed to have lapsed and the Commissioner shall, within 28 days of the date of receipt of the letter of objection, give notice thereof.

Amended by [\[Act No. 23 of 2001\]](#)

(6) Where a notice under subsection (4) or (5) is given, the tax specified in the notice of assessment together with any surcharge under section 26 and any penalty under section 27 shall be paid within 28 days of the date of the notice.

39. Determination of objections

(1) For the purposes of considering an objection, the Commissioner may, by notice in writing, require the person, within the time fixed by the Commissioner, to furnish or give any information, or produce any books or records, specified in sections 29 and 31.

- (2) After considering an objection, the Commissioner shall —
- (a) disallow or allow it, in whole or in part;
 - (b) determine the objection;
 - (c) where appropriate, amend the assessment accordingly and give notice of his determination to the person.

(3) Where a notice of determination under subsection (2) is given, the tax specified in the notice together with any surcharge under section 26 and any penalty under section 27 shall be paid within 28 days of the date of the notice.

(4) A notice of determination under subsection (2), shall be given to the person within 6 months of the date on which the letter of objection is received.

(5) Where an objection is not determined by the Commissioner within the

period specified in subsection (4), the objection shall be deemed to have been allowed by the Commissioner.

(6) No objection under section 38 shall be dealt with in any manner whatsoever by an officer who has been directly involved in making the assessment.

40. Representations to Assessment Review Committee

Any person who is aggrieved by a decision of the Commissioner —

- (a) as to whether or not a supply of goods or services is a taxable supply;
- (b) relating to the registration or cancellation of registration of any person;
- (c) under section 38(4) and (5), 39 or 67,

may lodge written representations with the Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act 1983

Amended by [\[Act No. 23 of 2001\]](#)

41. Conclusiveness of assessments

Except during a hearing of representations before the Assessment Review Committee —

- (a) no assessment under section 37, decision under section 38(4) or (5), determination under section 39, an agreement under section 61 or a notice under section 67, shall be disputed in any court or in any proceedings either on the ground that the person affected is not liable to tax or the amount of tax due and payable is excessive or on any other ground; and
- (b) every such assessment, decision, determination, agreement or notice, shall be final and conclusive.

Amended by [\[Act No. 23 of 2001\]](#)

42. Priority for VAT charged by a registered person

(1) Notwithstanding any other enactment, VAT due and payable by a registered person under this Act —

(a) shall be held on behalf of the Government of Mauritius; and

(b) shall not be subject to attachment in respect of any debt or liability of the registered person.

(2) In the event of the liquidation or bankruptcy of the registered person, the amount of tax due and payable by that person shall not form part of the estate in liquidation or bankruptcy and shall be paid in full to the Commissioner before any distribution of property is made.

43. Recovery of tax by attachment

The Commissioner may, without prejudice to any other action which he may take, enforce payment of any tax payable under this Act by attachment in the same manner as is provided in the Attachment (Rates and Taxes) Act.

44. Recovery of tax by distress and sale

(1) The Commissioner may issue a warrant in a form as may be prescribed to an Usher of the Supreme Court to recover tax payable under this Act by distress and sale of the goods, chattels and effects of the person charged or of the person answerable for its payment.

(2) Three days' notice of such sale shall be given in the *Gazette*.

45. Inscribed privilege

(1) The Government shall have, in respect of any tax payable under this Act and so long as the tax is not paid in full or the tax liability is not discharged, a privilege on all immovable properties belonging to the person by whom the tax is payable.

Amended by [Act No. 18 of 2003]

(2) Where the Commissioner thinks it necessary for securing the recovery of

any tax payable under this Act to inscribe the privilege provided for under subsection (1), he shall deposit with the Conservator of Mortgages 2 identical memoranda in a form as may be prescribed and shall forthwith notify the person by whom the tax is payable, of the deposit of the memoranda.

(3) The Conservator of Mortgages shall, upon deposit of the memoranda, inscribe the privilege generally on all immovable properties belonging, or which may subsequently belong, to the person by whom the tax is payable, and shall return one of the memoranda to the Commissioner with a statement written or stamped on it to the effect that the privilege has duly been inscribed.

(4) Where a privilege is inscribed under this section, it shall take effect from the date of the inscription.

(5) Where any tax in respect of which an inscription has been taken under this section is paid in full or the tax liability is discharged, the Commissioner shall forthwith send to the Conservator of Mortgages a request in a form as may be prescribed to erase the inscription.

(6) The inscription of a privilege under this section shall be erased the Conservator of Mortgages at the request of the Commissioner.

(7) Any inscription or erasure of inscription which is required to be taken or made under this section shall be free from stamp duty under the Stamp Duty Act 1990 or registration dues leviable under the Registration Duty Act or any other costs.

46. Uninscribed privilege

- (1) Notwithstanding section 45, but subject to subsection (2), the privilege for the recovery of taxes under Articles 2148 and 2152 of the Code Napoleon shall operate on account of tax payable under this Act independently of and without the necessity for inscription, upon —
- (a) personal property wherever found;
 - (b) the proceeds of the sale of immovable property; and
 - (c) the crops, fruits, rents and revenues,

belonging to the person owing the tax.

- (2) The privilege conferred under subsection (1) shall operate only in respect of

tax payable for a period of 12 months, at the discretion of the Commissioner, and shall rank immediately after the privilege for judicial costs.

47. Conainte

(1) Where any tax is payable under this Act, the Commissioner may apply to a Judge in Chambers for an order (Conainte) to issue against the debtor.

(2) Any order issued under subsection (1) shall —

- (a) be served on the debtor; and
- (b) be executory.

(3) Any debtor aggrieved by an order issued under subsection (1) may, within 21 days of the service of the order, appeal to the Supreme Court.

(4) No costs shall be awarded against an unsuccessful party except disbursement for —

- (a) stamp duty under the Stamp Duty Act 1990;
- (b) service of the order; and
- (c) execution of the order.

48. No limitation of action *for* recovery of tax

No law relating to the limitation of action shall bar or affect any action or remedy for the recovery of tax payable under this Act.

PART IXA - COMMISSIONER, LARGE TAXPAYER DEPARTMENT

48A. Interpretation of Part IXA

In this Part -

"Commissioner, Large Taxpayer Department" means the Commissioner, Large Taxpayer Department referred to in section 8B of the Unified Revenue Act 1993;

"large taxpayer" has the same meaning as in section 8B of the Unified Revenue Act 1983.

48B. Administration of Value Added Tax enactments by Commissioner, Large Taxpayer Department

- (1) Notwithstanding the other provisions of this Act or any regulations made thereunder, the Commissioner, Large Taxpayer Department shall administer the Value Added Tax enactments in so far as they relate to large taxpayers.
- (2) Where, according to the records of the Commissioner for Value Added Tax, a person qualifies as a large taxpayer -
- (a) the Commissioner for Value Added Tax shall -
- (i) transfer all accounts, returns, assessments and other documents in respect of that person, to the Commissioner, Large Taxpayer Department; and
- (ii) as from the date of transfer under subparagraph (i), cease to administer value added tax in relation to that person; and
- (b) the Commissioner, Large Taxpayer Department, shall, as from the date of transfer under subparagraph (a), administer value added tax in respect of that person.
- (3) Where, in respect of a period of 12 taxable periods, a person qualifies as a large taxpayer, he shall -
- (a) immediately notify in writing the Commissioner for Value Added Tax of that fact;
- (b) immediately after the end of the twelfth taxable period and, thereafter, submit his return and pay the tax due, if any, to the Commissioner, Large Taxpayer Department; and
- (c) discharge all his obligations under the Value Added Tax enactments towards the Commissioner, Large Taxpayer Department.

Amended by [[Act No. 18 of 1999](#)]; [[Act No. 25 of 2000](#)]; [[Act No. 23 of 2001](#)]

49. VAT relating to a bonded warehouse or an excise warehouse

(1) Subject to the other provisions of this Act, no VAT shall be chargeable on any goods entering a bonded warehouse or an excise warehouse.

(2) VAT shall be chargeable on any goods, other than those specified in the First Schedule, upon their removal from a bonded warehouse to any other place in Mauritius.

(3) For the purposes of this section —

“bonded warehouse” has the same meaning as in the Customs Act 1988; and

“excise warehouse” has the same meaning as in the Excise Act 1994.

50. VAT relating to a freeport zone

(1) Notwithstanding the other provisions of this Act, no VAT shall be payable on any goods imported into a freeport zone.

(2) Where a licensee in a freeport zone makes any taxable supply to any person in Mauritius at any place outside the freeport zone, the taxable supply shall be deemed to be imported goods and VAT shall be chargeable thereon.

51. VAT relating to an export process zone

(1) Subject to any provision of this section, no VAT shall be payable on -

(a) scheduled equipment and scheduled materials imported into an export processing zone; or

(b) any goods removed from an export processing zone by an export enterprise to another export enterprise as if the goods so removed were goods imported by the other export enterprise,

where the export enterprise having imported the goods referred to in paragraph (a) or (b), as the case may be, has not, at any time during the 3 preceding years, removed any goods, other than those specified in the First Schedule, and other than plant, machinery or equipment, of a capital nature; for sale on the local market and has given a certificate to that effect to the

Commissioner.

(2) Notwithstanding any customs laws, VAT shall be payable -

(a) as provided in subsection (3) on any goods, other than those specified in the First Schedule and other than plant, machinery or equipment, of a capital nature, imported into an export processing zone or received by an export enterprise from another export enterprise in the manner specified in subsection (1), where the export enterprise has, at any time during the 3 preceding years, removed goods, other than those specified in the First Schedule, for sale on the local market;

Amended by [[Act No. 28 of 2004](#)]

(b) on any taxable supply made to an export enterprise;

(c) on any taxable supply made by an export enterprise to another export enterprise in respect of the treatment or processing of goods received from the other enterprise; and

(d) on any goods, other than those specified in the First Schedule, which are removed from an export processing zone to any other place in Mauritius as if the goods removed were imported goods.

(3) Notwithstanding section 10, VAT under subsection (2)(a) shall be -

(a) in the case of scheduled equipment and scheduled materials imported by an export enterprise registered under section 15 of 16, payable in an amount equal to 5 per cent of the amount of VAT chargeable on those goods;

(b) in the case of goods imported by an export enterprise which is not registered as a registered person under the Act, charged at the rate specified in the Fourth Schedule.

(4) For the purposes of this section -

"scheduled equipment" has the same meaning as in the Industrial Expansion Act 1993";

"Scheduled materials" has the same meaning as in the Industrial Expansion Act 1993";

Amended by [\[Act No. 18 of 1999\]](#); [\[Act No. 23 of 2001\]](#)

52. VAT relating to a pioneer status enterprise

VAT shall be payable —

- (a) on any goods, other than those specified in the First Schedule, imported by a pioneer status enterprise under the Industrial Expansion Act 1993;
- (b) on any taxable supply made to pioneer status enterprise; and
- (c) on any supply of goods or services made by pioneer status enterprise.

53. VAT relating to a duty free shop

(1) Notwithstanding the other provisions of this Act, no VAT shall be payable —

- (a) on any goods imported for sale in a duty free shop;
- (b) on any goods supplied by a registered person to a duty free shop for sale; and
- (c) on any taxable supply made by an operator of a duty free shop —
 - (i) situated at the port or airport;
 - (ii) situated elsewhere, where the goods are delivered, under Customs control, to a visitor or traveller at the port or airport.

(2) Notwithstanding any customs laws, VAT shall be payable on any supply of goods, other than those specified in the First Schedule, made by an operator of a duty free shop to a visitor when such goods are delivered at the duty free shop to the visitor.

Amended by [\[Act No. 23 of 2001\]](#)

PART XI - OFFENCES

54. Failure to register or pay tax

Any person who —

(a) being a taxable person —

(i) fails to apply for registration under section 15; or

(ii) fails to pay any tax due; or

(b) being a registered person, fails to include in his return any VAT charged,

shall commit an offence.

55. Failure to submit return and pay tax

Any person who, being a registered person —

(a) fails to submit any return, including a nil return, under section 22;

(b) fails to submit a statement under section 23; or

(c) fails to pay tax in accordance with his return or statement,
shall commit an offence.

56. Failure to keep records or to issue VAT invoice

Any person who —

(a) being a registered person, fails to issue a VAT invoice under section 20;

(b) for the purposes of this Act —

(i) fails to keep records or to issue a receipt or an invoice under section 19; or

(ii) fails to furnish information under section 29 or to produce books,

records or other documents under section 31,
shall commit an offence.

57. Incorrect return or information

Any person who, for the purposes of this Act —

- (a) makes an incorrect return or statement by omitting or understating any output tax or by overstating any input tax;
- (b) makes an incorrect claim for repayment under section 24; or
- (c) gives any incorrect information in relation to any matter affecting his own tax liability or the tax liability of any other person,

shall commit an offence.

58. False returns, books, records or VAT invoices

Any person who wilfully and with intent to evade VAT -

- (a) submits a return under section 22 or a statement under section 23, which is false in any material particular;
- (b) makes a false claim for repayment under section 24;
- (c) gives any false information to the Commissioner;
- (d) makes to the Commissioner any statement which is false or incomplete in any material particular;
- (e) prepares or maintains or authorises any other person to prepare or maintain any false books, records, VAT invoices or other documents;
- (f) falsifies or authorises any other person to falsify any books, records, VAT invoices or other documents; or
- (g) misleads or attempts to mislead the Commissioner in relation to any matter or thing affecting his own or any other person's liability to VAT,

shall commit an offence.

59. Other offences

Any person who —

- (a) fails to comply with any of the requirements under section 25(1), 29,31 or 32;
- (b) not being a registered person or being a person who has ceased to be a registered person, holds himself out to be a registered person;
- (c) obstructs any officer in the performance of his functions under the Act or any regulations made thereunder; or
- (d) otherwise contravenes any other provisions of this Act or any regulations made thereunder,

shall commit an offence.

60. Penalties for offences

(1) Any person who commits an offence under section 36(5), 56, 59(a) or (d) shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 3 years.

(2) Any person who commits an offence under section 57, 59(b) or (c) shall, on conviction, be liable to a fine which shall be —

(a) 100,000 rupees; or

(b) double the amount of tax involved,

whichever is the higher, and to imprisonment for a term not exceeding 5 years.

(3) (a) Any person who commits an offence under section 54, 55 or 58 shall, subject to paragraph (b), on conviction, be liable to a fine which shall be —

(i) 200,000 rupees; or

(ii) treble the amount of tax involved,

whichever is the higher, and to imprisonment for a term not exceeding 8 years.

(b) Where a person is convicted for an offence under section 55(a) or (b), he shall, in addition to any penalty imposed under paragraph (a), be ordered by the court to submit the return or statement, as the case may be within such time as the court may determine.

61. Compounding of offences

(1) The Commissioner may, with the concurrence of the Revenue Authority established under the Unified Revenue Act, compound an offence committed by a person under this Act or any regulations made under it, where such person agrees in writing to pay an amount acceptable to the Commissioner representing —

(a) any tax unpaid; and

(b) an amount not exceeding the maximum pecuniary penalty imposable.

(2) Every agreement under subsection (1) shall be made in writing under the hand of the Commissioner and the person, and witnessed by an officer.

(3) Every agreement under subsection (1) shall be final and conclusive and a copy thereof shall be delivered to the person.

(4) Where the Commissioner compounds an offence in accordance with this section —

(a) the amount for which the offence is compounded shall be deemed to be tax assessed under this Act and shall be recoverable as tax; and

(b) no further proceedings shall be taken in respect of the offence so compounded against the person.

Amended by [\[Act No. 10 of 1998\]](#)

62. Tax payable notwithstanding prosecution

Any person convicted of an offence under this Act or any regulations made thereunder or who has agreed to the compounding of an offence under section 61 shall

not be relieved of his liability for payment of any tax due.

PART XII - MISCELLANEOUS

63. Cessation or transfer of business

(1) Where a registered person intends to cease business, he shall immediately notify the Commissioner in writing of the date of the cessation of business.

(2) Subject to subsection (3), a registered person who ceases business shall, within 15 days of the date of the cessation —

- (a) submit a return and pay all tax due including the tax due on any goods forming part of the assets of the business other than those specified in section 21
- (2) (b); and

Amended by [[Act No. 18 of 2003](#)]

(b) return to the Commissioner his certificate of registration and all his copies.

(3) Where a registered person, who ceases to carry on business, sells or otherwise transfers his business as a going concern to another person, he shall not submit a return and pay the tax as required under subsection (2)(a), but the purchaser or transferee of the business shall be deemed to be a taxable person and shall forthwith register as a registered person under section 15.

64. Tax liability of appointed person

(1) Where an administrator, executor, receiver or liquidator is appointed to manage or wind up the business of any taxable person, the appointed person shall —

(a) give notice of the appointment to the Commissioner within 15 days of the date of the appointment, in such manner and in such form as may be approved by the Commissioner;

(b) before disposing of any asset of the taxable person, set aside such sum out of the asset as appears to the Commissioner to be sufficient to provide for any tax that is or may become due and payable by the taxable person; and

(c) do everything that is required to be done by a taxable person under this Act.

(2) Any appointed person who, without reasonable cause or justification, fails to comply with any of the requirements of subsection (1) shall be personally liable to pay any tax that is or may become due and payable and shall commit an offence.

65. Refund of tax

(1) Any person other than a taxable person may, within 3 years of the date of payment of the tax, make an application to the Commissioner, in a form approved by the Commissioner, for a refund of tax paid at importation, where —

(a) the tax was paid in error;

(b) the goods are found to be defective and are subsequently exported under Customs control; or

(c) the person subsequently benefits from a duty remission.

(2) Subject to subsection (3), where the Commissioner is satisfied that the applicant is entitled to a refund, he shall proceed to make the refund.

(3) No refund of tax which is less than 250 rupees or such other amount as may be prescribed shall be made.

Amended by [[Act No. 28 of 2004](#)]

66. Exempt bodies or persons

Any person specified in Column I of the Ninth Schedule shall be exempted from the payment of VAT in respect of goods and services corresponding to the person specified in Column 2 of that Schedule.

Amended by [[Act No. 18 of 1999](#)]

67. Erroneous refund, exemption or reduction

(1) Where any person has benefited through error from a refund, exemption or reduction of tax, he shall be liable to pay the amount of tax which has been erroneously refunded, exempted or reduced.

68. Service of documents

(1) Any return, statement or other document or any payment required or authorised to be served on, given or made to, the Commissioner shall be forwarded to him so as to reach the Office of the Commissioner not later than the due date.

(2) Any notice of assessment or other notice or other document required to be served on, or given to, any person by the Commissioner may be served or given by —

(a) delivering it personally to him;

(b) leaving it at, or sending it by post to, his usual or last known place of business or residence; or

(c) transmitting it electronically through computer or other mechanical or electronic device.

(3) Where a person —

(a) refuses to accept delivery of a letter addressed to him; or

(b) fails to take delivery of such a letter which he has been informed awaits him at a post office,

the letter shall be deemed to have been served on him on the date on which he refused to accept the letter or was informed that the letter was at the post office.

69. Admissibility of documents produced by computer

(1) In any legal proceedings under this Act or any regulations made thereunder, a statement contained in a document produced by a computer shall be admissible as evidence of any fact stated therein of which direct oral evidence would be admissible if it is shown that the prescribed conditions have been satisfied.

(2) In any proceedings, the court may for special cause require evidence to be given of any matter under this section.

(3) Any person giving any information under this section which is false or misleading in any material particular shall commit an offence and shall, on conviction be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 8 years.

69A. Rulings

(1) A person, who in the course or furtherance of his business, makes taxable supplies, may apply to the Commissioner for a ruling as to the application of this Act to any of the supplies made to him or made by him.

(2) An application under this section shall be in writing and shall -

(a) include full details of the transaction relating to the supply together with all documents relevant to the transaction;

(b) specify precisely the question as to which the ruling is required;

(c) give a full statement setting out the opinion of that person as to the application of this Act to that supply; and

(d) be accompanied by such fee as may be prescribed.

(3) The Commissioner shall, within 30 days of the receipt of an application under this section, give a ruling on the question to the applicant.

(4) Subject to subsection (5), a ruling under this section shall be binding on the Commissioner.

(5) Where there is a material difference between the actual facts relating to the transaction and the details contained in the application, the ruling shall not be binding on the Commissioner.

(6) A ruling under this section shall be published by the Commissioner in such manner as he thinks fit except, that the identity of the person to whom the ruling relates shall not be indicated in the publication.

(7) Subject to subsection (8), a person may rely upon a ruling published under subsection (6) as a statement binding on the Commissioner with respect to the application of this Act to the facts set out in that ruling.

(8) The Commissioner may publish a notice in the *Gazette* to the effect that a ruling, which he had previously published, shall cease to be binding with effect from a date which shall not be earlier than the date of the notice.

Amended by [\[Act No. 18 of 1999\]](#)

70. Jurisdiction of Magistrate

Notwithstanding —

(a) section 114(2) of the Courts Act; and

(b) section 72(5) of the District and Intermediate Courts (Criminal Jurisdiction) Act,

a Magistrate shall have jurisdiction to try an offence under this Act or any regulations made thereunder and may impose any penalty provided by this Act.

71. Burden of proof

(1) Notwithstanding any other enactment, the burden of proof that any tax has been paid, or any supply of goods or services, or any person, is exempt from tax shall lie on the person —

(a) liable to pay the tax;

(b) claiming that the tax has been paid; or

(c) claiming that he is, or the supply of the goods or services is, exempt from tax.

(2) In any action or proceedings arising out of the seizure of any goods under this Act, the burden of proving that the seizure is illegal shall lie on the person making the allegation.

72. Regulations

(1) The Minister may —

(a) make such regulations as he thinks fit for the purposes of this Act;

(b) by regulations —

(i) prescribe any matter which may or is required to be prescribed under this Act; or

(ii) amend the First Schedule, the Second Schedule and the Third Schedule.

(2) Any regulations made under this section may provide for the fees and charges.
levying of fees and
charges.

73. Transitional provisions

(1) Subject to the other provisions of this section, where, on the appointed day, a person was registered under the Sales Tax Act 1982 and his return for the last taxable period under the Sales Tax Act 1982 shows an excess amount, that amount shall be deemed to be sales tax on trading stocks held by that person and shall not be refundable and shall not be carried forward as a credit to be offset against his VAT liability, if any,

(2) Where a person becomes a registered person under this Act on the appointed day, he shall, within 15 days of that day, submit to the Commissioner, as at the day immediately preceding the appointed day, a certified inventory of —

(a) his trading stocks; and

(b) capital goods, being plant, machinery or equipment, of a capital nature, acquired within a period not exceeding 3 months immediately preceding the appointed day,

showing the amount of sales tax paid or payable thereon.

(3) Subject to subsections (4) and (5), where a person has submitted a certified inventory under subsection (2), the sales tax paid or payable on his trading stocks and capital goods shall be deemed to be value added tax and he may take a credit of —

(a) where his taxable period is a month, 50 per cent of the amount deemed to be value added tax in his return for each of the third and sixth taxable periods; or

(b) where his taxable period is a quarter, 50 per cent of the amount deemed to be value added tax in his return for each of the second and third taxable periods.

(4) Any credit in respect of capital goods under subsection (3) shall be allowed in conformity with the Seventh Schedule.

(5) No credit under subsection (3) shall be allowed, unless —

(a) the person has complied with the requirements of the Sales Tax Act 1982 and paid all tax due under that Act, as appropriate;

(b) the inventory referred to in subsection (2) has been submitted;

(c) the credit is exclusively in respect of sales tax paid or payable on taxable goods for resale or for manufacture of other taxable goods for sale and on capital goods, being plant, machinery or equipment of a capital nature;

(d) the sales tax on the trading stocks was paid or payable within a period not exceeding 3 months immediately preceding the appointed day; and

(e) the sales tax paid or payable is substantiated by proper invoices from registered persons under the Sales Tax Act 1982 or by Customs import declarations, either electronic or otherwise.

(6) The person shall, together with the inventory referred to in subsection (2),

submit a statement specifying —

(a) the amount of sales tax which relates to —

(i) taxable goods for resale or for manufacture of other taxable goods for sale; and

(ii) capital goods, being plant, machinery or equipment of a capital nature;

(b) the amount of sales tax paid or payable within a period not exceeding 3 months immediately preceding the appointed day.

(7) The inventory referred to in subsection (2) and the statement referred to in subsection (6) shall be duly certified by a qualified auditor.

74. Consequential amendments

(1) The Sales Tax Act 1982 is amended in section 2 —

(a) in the definition of “Commissioner”, by deleting the words “Sales Tax” and replacing them by the words “Value Added Tax”; and

(b) in the definition of “officer” by deleting the words “Sales Tax Department” and replacing them by the words “VAT Department”.

(2) The Hotel and Restaurant Tax Act 1986 is amended in section 2, by deleting the words “Sales Tax Act 1982” wherever they appear and replacing them by the words “Value Added Tax Act 1998”.

(3) The Customs Act 1988 is amended in section 2, in the definition of “taxes”, in paragraph (a), by deleting the words “sales tax” wherever they appear and replacing them by the words “value added tax”.

(4) The Excise Act 1994 is amended —

(a) in section 2 —

(i) by deleting the definition of “sales tax”; and

(ii) by inserting in its appropriate alphabetical order, the following new definition -

“value added tax” means the value

added tax chargeable under the Value Added Tax Act 1998;

(b) in section 10, in subsection(3)(b), by deleting the words “Commissioner for Sales Tax” and replacing them by the words “Commissioner for Value Added Tax”; and

(c) in section 48, in subsection (2Xa), by deleting the words “sales tax” and replacing them by the words “value added tax”.

(5) The Gaming Act is amended in section 2, in the definition of “Commissioner”, by deleting the words “the Sales Tax Act 1982” and replacing them by the words “the Value Added Tax Act 1998”.

(6) The Tax Appeal Tribunal Act 1984 is amended —

(a) in section 4, in subsection (3), by adding immediately after paragraph (g) the following new paragraph —

(h) in the case of liability to value added tax under the Value Added Tax Act 1998 —

(i) where he is a registered person, submit all returns and statements due and pay the amount of any tax shown on those returns and statements together with any surcharge and any penalty due and the specified amount; or

(ii) in any other case, pay the specified amount; or

(b) in section 6, in subsection(S) (b), by deleting the words “and the Hotel and Restaurant Tax Act 1986” and replacing them by the words “,the Hotel and Restaurant Tax Act 1986 and the Value Added Tax Act 1998”; and

(c) in the Schedule, by adding the following —

The Value Added Tax Act 1998

(7) The Unified Revenue Act 1983 is amended in the Schedule -

(a) in PART I, by deleting the words “Commissioner for Sales Tax” and replacing them by the words “Commissioner for Value Added Tax”; and

(b) in PART II, in paragraph (a), by adding the following -

The Value Added Tax Act 1998

75. Repeal and savings

(1) The following enactments are repealed —

(a) The Sales Tax Act 1982;

(b) The Sales Tax Regulations 1982; and

(c) The Sales Tax (Exemptions) Regulations 1983.

(2) Notwithstanding subsection (1), the enactments specified in that subsection shall be deemed to be still in force in relation to any matter arising under those enactments in respect of any period prior to the appointed day.

76. Commencement

(1) Subject to subsection (2), this Act shall come into force on 1 July 1998.

(2) Sections 9, 22, 74(3), 74(4)(a) and (c), 74(7)(u) and 75 shall come into force on the appointed day – 7th September 1998

FIRST SCHEDULE

(sections 2, 9, 10, 49, 51, 52 and 53)

Goods or services exempted

1. Rice.
2. Wheat cereal flours (including wheat flour)
3. Bread.
4. Animal or vegetable fats and oils (other than ghee produced in Mauritius and edible oils).

Amended by [\[GN No. 113 of 2000\]](#)

5. Butter.
6. Milk and cream, (other than sterilized liquid milk), buttermilk, whey, kephir and other fermented or acidified milk and cream; cheese and curd.
7. Food of a kind used for human consumption -

(a) fish (excluding fresh, chilled or frozen fish, the produce of Mauritius, and canned tuna, smoked fish and processed fish produced in and exported from Mauritius)

Amended by [\[GN No. 113 of 2000\]](#); [\[G.N. No. 12 of 2003\]](#); [\[GN No. 37 of 2003\]](#) ; [\[GN No. 89 of 2004\]](#)

(b) meat (excluding meat of poultry) other than canned meat produced in and exported from Mauritius; meat offal (excluding offal of poultry);

(c) primary agricultural and horticultural produce (including toma-toes, potatoes, onions and other vegetables, fruits, tea coffee, cocoa beans and nuts) which have not been process except for reaping, threshing, husking, crushing, winnowing, trimming, drying and packaging to put them into marketable condition

other than vegetables and fruits produced in and exported from Mauritius and birds' eggs in the shell; and

(d) soya bean protein cakes or chunks.

8. Food preparations from goods of heading Nos. 04.01 to 04.04 not containing cocoa powder or containing cocoa powder in a proportion by weight of less than 10%, for infant use, put up for retail sale of heading No. 1901.101.

9. Common salt other than common salt produced in Mauritius.

Amended by [[GN No. 113 of 2000](#)]

10. Live animals of a kind generally used as, or yielding or producing food for human consumption other than live poultry.

11. Unprocessed agricultural and horticultural produce other than horticultural produce produced in and exported from Mauritius.

Amended by [[Act No. 18 of 2003](#)]

12. Medical, hospital and dental services including clinical laboratory services, services provided in a health institution and veterinary services.

13. Antibiotics of heading No. 29.41 other than those produced in and exported from Mauritius.

14. Pharmaceutical products of heading Nos. 30.01 to 30.06., other than those produced in and exported from Mauritius.

Amended by [[GN No. 89 of 2004](#)]

15. Invalid carriages of heading No. 87.13; orthopaedic or other appliances or articles of heading No. 90.21.

16. Educational and training services.

17. Journals and periodicals of heading No. 49.02 other than those produced in and exported from Mauritius.

18. Deleted by [[GN No. 97 of 1999](#)]

19. Deleted by [\[GN No. 97 of 1999\]](#)

20. Goods re-imported in respect of which no refund under this Act was made on exportation under item Nos. E1 and E2.

21. Goods imported under the transshipment procedure laid down in the Customs Act 1988 under item No. E4.

22. Articles re-imported after repairs on proof that they were sent from Mauritius provided that they shall be charged with VAT on the value of the repairs and the customs duty and excise duty chargeable thereon under item No. E6.

23. Bona fide baggage of a passenger under item No. E8.

24. Household and personal effects of a passenger under item No. E9.

25. Goods imported in the baggage of a passenger under item No. E10.

26. Goods (excluding merchandise for sale, tobacco in any form, wines, spirits, arms and ammunition) imported by post of a value for duty purposes not exceeding 1000 rupees under item No. E11.

26A. Sharlon shade, greenhouse, shade screens, fertigation pumps, irrigation pumps, drip irrigation and automatic irrigation controllers imported by persons for use in agriculture under item No. E12.

Added by [\[Act No. 18 of 2003\]](#)

27. The transport of passengers by public service vehicles excluding contract buses for the transport of tourists and contract cars.

28. -

29. -

30. (a) Charges under a hire purchase agreement or under a finance lease agreement; and

(b) Postal services and services provided by a person holding a Postal Service Licence under the Postal Services Act 2002 in connection with payment of pension and utility bills.

Amended by [[Act No. 28 of 2004](#)]

31. Vegetable seeds, fruit and flower seeds, bulbs and plants, used for sowing or planting.

32. **Deleted by [[GN No. 97 of 1999](#)]**

33. Molasses when supplied, either for consideration or otherwise, to planters and bagasse.

34. Herbicides

35. -

36. (a) The renting of fixed telephone lines.

(b) Charges in respect of internet services provided by an internet service provider, of an amount of up to 100 rupees per billing period.

Amended by [[GN No. 40 of 2004](#)]

37. **Deleted by [[GN No. 97 of 1999](#)]**

38. Aircraft leasing.

39. Aircrafts of heading No 88.02.

Amended by [[GN No. 113 of 2000](#)]

40. Ships for the transport of persons or goods or both persons goods falling under heading No. 89.01.

41. Fishing vessels, factory ships and other vessels for processing or preserving fishery products of heading No. 89.02.

42. Works of art, collectors' pieces and antiques of heading Nos. 97 to 97.06.

43. Cargo handling services in respect of goods so transported by sea or air -

(a) from or to Mauritius

(b) from or to the Island of Rodrigues;

(c) from or to the Outer Islands; or

(g) from a place outside Mauritius to another place outside Mauritius.

Amended by [[Act No. 18 of 2003](#)]

44. Kerosene including kerosene jet type fuel.
45. Entrance fees to any event in respect of any sport discipline specified in the Physical Education and Sport (Designation of Sport Disciplines) Regulations 1986.
46. The renting of, or other grant of the right to use, accommodation in a building used predominately as a place of residence of any person and his family, if the period of accommodation for a continuous term exceeds 90 days.
47. The grant, assignment or surrender of any interest in or right over land or of any licence to occupy land liable to Registration Duty under the Registration Duty Act.
48. The Sale or transfer of an immovable property, or the construction, sale or transfer of a building or part of a building, flat or tenement used for residential purposes.
49. Burial and cremation services and coffins.
50. The following financial services -
 - (a) banking services (other than services supplied by holders of a Category 2 Banking Licence) including -
 - (i) services provided by the Bank of Mauritius; and
 - (ii) the issue, transfer or receipt of, or any dealing with, money, any security for money or any note or order for the payment of money and the operation of any current, deposit or savings account, but except -
 - (A) services provided to merchants accepting a credit card or debit card as payment for the supply of goods or services (merchant's discount);
 - (B) services in respect of safe deposit lockers, issue and renewal of credit cards and debit cards; and
 - (C) services for keeping and maintaining customers' accounts (other than transactions involving the primary dealer system);
 - (b) services provided by foreign exchange dealers and money changers;

- (c) the issue, transfer or receipt of, or dealing with any stocks, bonds, shares, debentures and other securities, including the underwriting and the settlement and clearing of such securities;
- (d) the issue or transfer of ownership of a unit under any unit trust;
- (e) the management of investment funds and of pension funds;
- (f) the arrangement, provision, or transfer of ownership, of any contract of insurance or re-insurance under the Insurance Act but except services provided by an insurance agent, insurance broker or insurance salesman.

Amended by [\[Act No. 18 of 2003\]](#)

- (fa) the making of loans between entities within the same group; and
- (g) such other financial services as may be prescribed.

For the purposes of this Schedule —

- (a) the heading Nos. refer to the heading numbers of Part I of the First Schedule to the Customs Tariff Act;
- (b) the item Nos. refer to the item Nos. of Part II of the First Schedule to the Customs Tariff Act;
- (c) “fish and crustaceans, molluscs and other aquatic invertebrates” and “meat (including chicken) and meat offal” in item 7(a) and 7(b) —
 - (i) include food preparations containing more than 20 % by weight of fish or crustaceans, molluscs or other aquatic invertebrates, sausage, meat (including chicken), meat offal, blood, or any combination thereof; but
 - (ii) exclude caviar and caviar substitutes of heading 16.04 and the stuffed products of heading No. 19.02 or the preparations of heading No. 21.03 or 21.04;
- (d) “health institution” in item 12 has the same meaning as in the Private Health Institutions Act 1989;
- (e) “public service vehicles” in item 27 has the same meaning as in

the Road Traffic Act;

(f) “contract cars” in item 27 has the meaning assigned to it by section 75 of the Road Traffic Act;

(g) “Outer Islands” in item 43 has the same meaning as in the Outer Islands Development Corporation Act 1982;

(h) “land” in item 47 means any vacant land or any land or part thereof with any building, flat or tenement thereon.

(i) “services” in item 50(f) in relation to -

(i) an insurance agent, shall not include services in respect of contracts of life insurance entered into prior to 10 January 2003; or

(ii) an insurance broker or insurance salesman, shall not include services in respect of contracts of life insurance entered into prior to 1 October 2003.

51. Bus chassis and buses to be operated under a road service licence and to be used for the transport of the general public by a company operating more than 75 buses under road service licences.

(j) the exemption granted under item 51 shall be valid up to 31 August 2007.

Amended by [\[GN No. 160 of 1998\]](#); [\[GN No. 113 of 2000\]](#); [\[Act No. 97 of 1999\]](#); [\[Act No. 33 of 2000\]](#); [\[Act No. 13 of 2001\]](#); [\[Act No. 20 of 2002\]](#); [\[G.N. No. 12 of 2003\]](#); [\[Act No. 18 of 2003\]](#); [\[GN No. 167 of 2004\]](#)

SECOND SCHEDULE
(sections 2 and 25)

Amount of annual turnover 12 million rupees

THIRD SCHEDULE
(section 4)

MATTERS TO BE TREATED AS SUPPLY OF GOODS OR SERVICES

1. The sale, transfer or disposal of a business is a supply of goods.
2. The grant, assignment or surrender of any interest in or right over land or of any licence to occupy land is a supply of goods.
3. The transfer of an undivided share in movable or immovable property is a supply of services.
4. Any transfer of the whole property in goods is a supply of goods; but the transfer —
 - (a) of any undivided share of the property; or
 - (b) of the possession of goods,
 is a supply of services.
5. Goods produced by applying to another person's goods a treatment or process is a supply of goods.
6. Where the possession of goods is transferred -
 - (a) under an agreement for the sale of the goods; or
 - (b) under an agreement which expressly contemplates that the property also will pass at some time in the future (determined by, or ascertainable from, the agreement but in any case not later than when the goods are fully paid for),
 it is then in either case a supply of the goods.
7. Where by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration that is a supply of goods.
8. Any goods given as donation, any goods put to private use or any gift of goods made for any purpose other than for business is a supply of goods.
9. The supply of any form of power (including electricity), gas, water, heat, refrigeration, air-conditioning or ventilation is a supply of goods.
10. The development, sale or transfer of computer software is a supply of services.

11. The leasing of, or other grant of the right to use, goods is a supply of services.

12. The sale, transfer, assignment, or licensing of patents, copyrights, trademarks, software, and other proprietary information is a supply of services.

FOURTH SCHEDULE
(section 10)

Rate of VAT 15 per cent

Amended by [[Act No. 23 of 2001](#)]; [[Act No. 20 of 2002](#)]

FIFTH SCHEDULE
(Section 11)

1. Goods, other than those specified in the First Schedule, exported from Mauritius under Customs control.

2. 2. The following goods -

- (a) wheat flour, wheat bran;
- (b) edible oils;
- (c) margarine;
- (d) sterilized liquid milk, curdled milk and cream, yoghurt;
- (e) sugar;
- (f) live poultry, meat of poultry, edible offal of poultry and birds' eggs in the shell;
- (g) fertilizers;
- (h) animal feeding stuffs other than prepared pet foods;
- (i) printed books, booklets, brochures, pamphlets, leaflets and similar printed matter (except directories and reports) of heading No 49.01 atlases of H.S. Code 4905.911;
- (j) children's picture, drawing or colouring books of heading No 49.03;
- (k) music, printed or in manuscript, whether or not bound or illustrated of heading No 49.04;
- (l) vegetables and fruits produced in and exported from Mauritius;
- (m) horticultural produce produced in and exported from Mauritius;
- (n) common salt produced in Mauritius;
- (o) fish, fresh, chilled or frozen, the produce of Mauritius;
- (p) ghee produced in Mauritius;

Amended by [\[Act No. 25 of 2000\]](#); [\[Act No. 18 of 2003\]](#)

3. The transport of passengers and goods by sea or air -

- (a) from or to Mauritius;
- (b) from or to the Island of Rodrigues;
- (c) from or to the Outer Islands; or
- (d) from a place outside Mauritius to another place outside Mauritius.

Amended by [\[Act No. 18 of 2003\]](#)

4. (a) A supply of goods made by an operator of a duty free shop situated at the port or airport.

(b) A supply of goods made by an operator of a duty free shop situated at a place other than the port or airport, provided that the goods are delivered, under Customs control, to the visitor or traveler at the port or airport.

5. The supply of any goods or services, other than those specified in the First Schedule and in section 21(2) provided that the goods and services so supplied are meant wholly and exclusively for the freeport activities of the licensee.

Amended by [\[Act No. 23 of 2001\]](#)

6. (a) The supply of services to a person who belongs in a country other than Mauritius and who is outside Mauritius at the time the services are performed.

(b) The supply of services -

- (i) by a holder of a management licence under the Financial Services Development Act 2001 in respect of services supplied to corporations holding a Category 1 Global Business Licence or a Category 2 Global Business Licence; or
- (ii) by companies holding a Category 2 Banking Licence under the Banking Act.

Amended by [\[Act No. 13 of 2001\]](#); [\[Act No. 20 of 2002\]](#)

(c) For the purposes of paragraph (a), a person belongs in a country other than Mauritius if that person —

- (i) has no permanent establishment in Mauritius for the carrying on of his business; or

(ii) has his place of abode outside Mauritius.

For the purposes of this Schedule, any reference to goods or services is a reference to goods or services, other than those specified in the First Schedule.

7. (a) Electricity supplied by the Central Electricity Board and the renting out of a meter, the reconnecting of electricity supply and the carrying out of infrastructure works, by the Board;

(b) Water supplied by the Central Water Authority and the renting out of a meter and the carrying out of infrastructure works, by the Authority;

(c) Water for irrigation.

8. Goods and services supplied by the Wastewater Management Authority established under Wastewater Management Authority Act 2000.

Amended by [\[Act No. 18 of 1999\]](#); [\[Act No. 25 of 2000\]](#); [\[Act No. 33 of 2000\]](#); [\[Act No. 13 of 2001\]](#); [\[Act No. 35 of 2001\]](#); [\[Act No. 20 of 2002\]](#)
[\[Act No. 18 of 2003\]](#)

SIXTH SCHEDULE
(section 15)

Amount

Periods

750,000 rupees	Any period of 3 months
1,500,000 rupees	Any period of 6 months
2,250,000 rupees	Any period of 9 months
3,000,000 rupees	Any period of 12 months

SEVENTH SCHEDULE
(sections 5, 9 and 12)

PART I

1. Liquified petroleum gas

2. Bars of iron or steel
3. Portland cement

PART II

1. Motor spirit and gas oils
2. Cigarettes containing tobacco

Amended by [[Act No. 18 of 1999](#)]; [[Act No. 20 of 2002](#)]

EIGHTH SCHEDULE
(Section 24)

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Repealed by [[Act No. 18 of 1999](#)]

NINTH SCHEDULE
(section 66)

Column 1	Column 2
1. Disabled persons and the blind.	Appliances and identifiable spare parts (including cells for hearing aids but excluding such articles as spectacles, lenses and contact lenses); spare parts of invalid carriages; reading matter and articles specially designed for the blind.

2. Benevolent and charitable institutions affiliated with the Mauritius Council of Social Services or receiving a subsidy from Government.

Goods received as donations from abroad and related to their normal activities, not intended for sale.

3. Any religious body approved by the Minister

Goods (not being articles or materials intended either for the construction, repair or furnishing of buildings used for public worship or for the manufacture of things to be used in connection with public worship) for actual use in connection with public worship.

4. The Mauritius Red Cross Society, the St John's Ambulance (Mauritius), Mauritius Scouts Association, Mauritius Girl Guides Association and any other society, association or organisation approved by the Minister.

Articles directly related to their normal activities, not intended for sale.

5. Any person.

Any goods not exceeding 1,000 rupees in customs value imported in a single package where the Comptroller is satisfied that the package is not part of a larger consignment.

6. Airlines

(1) Instructional material and training aids for use in connection with the technical training of ground and flight personnel in

Mauritius;

(2) Repairs, maintenance and servicing equipment for the purpose of establishing and maintaining international or national service operated by that airline;

When certified by the Director of Civil Aviation that the goods are to be used for the purposes mentioned in paragraphs (1) and (2);

(3) Fuel and lubricants and other consumable technical supplies contained in the tanks or other receptacles on any aircraft arriving in Mauritius, provided that no quantity of such fuel, lubricants or other consumable technical supplies is unloaded without paying tax except temporarily and under customs control; and fuel, lubricants and other consumable technical supplies taken on board the aircraft for consumption during flight.

Any goods imported or purchased ex-bond as may be approved by the Minister.

Specialised machinery and

<p>7. A non-citizen serving in Mauritius under a Bilateral or Multilateral Agreement with the Government of Mauritius</p>	<p>equipment and parts thereof and raw materials, as per list approved by the Minister</p>
<p>8. Enterprises engaged in line of activities approved by the Minister</p>	<p>Rent, telephone and other services</p>
<p>9. Diplomatic missions and agents</p>	<p>Services provided by banks in respect of a credit card or debit card accepted by the company as payments for the supply of services it provides</p>
<p>10. Any company engaged wholly and exclusively in -</p> <p>(a) the provision of e-commerce services to persons residing outside Mauritius; or</p> <p>(b) the registration and processing in Mauritius of bets placed on overseas sporting events by persons residing outside Mauritius</p>	<p>Services provided by banks in respect of credit cards or debit cards processed by the company or accepted by the company as payment for the supply of services it provides</p>

Amended by [\[Act No. 18 of 1999\]](#); [\[Act No. 33 of 2000\]](#)[\[Act No. 28 of 2004\]](#)

Added by [\[Act No. 18 of 2003\]](#)

TENTH SCHEDULE
(sections 15, 19 & 20)

PART I

Business or profession of -

1. Accountant and or auditor
2. Advertising agent
3. Adviser including investment adviser and tax adviser
4. Architect and or draughtsman
5. Attorney and or solicitor
6. Barrister having more than 2 years standing at the Bar
7. Clearing and forwarding agent under the Customs Act
8. Consultant including legal consultant, tax consultant, management consultant and management company other than a holder of a management licence under the Financial Services Development Act 2001
9. Customs house broker under the Customs Act
10. Engineer
11. Estate agent
12. Land surveyor
13. Marine surveyor
14. Motor surveyor
15. Notary
16. Optician
17. Project manager
18. Property valuer
19. Quantity surveyor
20. Sworn auctioneer
21. Tour operator
22. Travel agent registered with the International Air Transport Association (IATA)
23. General sales agent of airlines.
24. car rental

PART II

Business of -

1. Banking by a company holding a Category 1 Banking Licence under the Banking Act
 2. (a) Insurance agent under the Insurance Act except the business in respect of contracts of life insurance entered into prior to 10 January 2003
 - (b) Insurance broker under the Insurance Act except the business in respect of contracts of life insurance entered into prior to 1 October 2003

3. Management services by a holder of a management licence under the Financial Services Development Act 2001 in respect of services supplied other than those supplied to corporations holding a Category 1 Global Business Licence or a Category 2 Global Business Licence under that Act

4. Services in respect of credit cards issued by companies other than banks to merchants accepting such credit cards as payment for the supply of goods or services

Note: - For the purposes of item 2(a) of Part II, no
adjustment or refund shall be allowed
In respect of the period prior 1 September 2003

Amended by [\[Act No. 20 of 2002\]](#); [\[Act No. 18 of 2003\]](#)

Related documents: