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AN ACT to provide for the imposition and collection of  
a value added tax, to abolish certain taxes and  
other impositions, and for related purposes

(19th September 1989)

37 of 1989

WHEREAS it is enacted by section 13(1) of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution, and if any Act does so declare it shall have effect accordingly:

Preamble

And whereas it is provided in subsection (2) of the said section 13, that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

ENACTED by the Parliament of Trinidad and Tobago as follows:

Enactment

**PART 1**

**PRELIMINARY**

1. (1) This Act may be cited as the Value Added Tax Act, 1989. Short title
- (2) This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.
2. This Act binds the State. Act binds State
3. (1) In this Act - Interpretation
  - “appointed day” means the day appointed under section 6;
  - “certificate of registration” means a certificate of registration issued under section 27;
  - “certificate of waiver” means a certificate of waiver given

under section 45 or 46;

“clearance certificate” means a certificate issued under section 55A;

Finance Act 1992

“commercial supply” means a supply that is a commercial supply in accordance with section 14;

“entered” has the meaning given to that expression by the Customs Act:<sup>1</sup>

Chap.78:01

“importer”, includes the owner or any other person for the time being possessed of or beneficially interested in any goods at and from the time of the importation thereof until the same are duly delivered out of the charge of the officers, and also any person who signs any document relating to any imported goods required by the customs laws to be signed by an importer and for the purposes of this definition “officers” has the same meaning as it has in the Customs Act;<sup>2</sup>

Finance Act, 1990  
Chap. 78:01

“infringement notice” means a notice issued under section 59A;

Finance Act, 1991

“money” includes -

(a) any bank note or other negotiable instrument used or circulated, or intended for use or circulation, as currency; and

(b) any postal note, money order, promissory note, or bill of exchange,

whether issued or given in Trinidad and Tobago or any

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<sup>1</sup> Note: The Customs Act defines “entered” as “entered” in relation to goods imported, warehoused, put on board an aircraft or ship as stores or exported means the acceptance and signature by the proper Officer of an entry, specification, or shipping bill, and declaration signed by the importer or exporter on the prescribed form in the prescribed manner, together with the payment to the proper Officer by the importer or exporter of all rents and charges due to the State in respect of the goods, and in the case of dutiable goods (except on the entry for warehousing of imported goods), the payment by the importer or exporter to the proper Officer of the full duties due thereon, or else where permitted, the deposit of a sum of money or giving of security for the duties, as provided by law or, in the case of goods for which security by bond is required on the exportation, putting on board an aircraft or ship as stores or removal of such goods, the giving of such security;

<sup>2</sup> Note: The Customs Act defines “officer” as “Officer” includes any person employed in the Department of Customs and Excise, and any Revenue Officer in charge of a Revenue Office and members of the Police Service, as well as any person acting in the aid of an Officer or any such person; and any person acting in the aid of an Officer acting in the execution of his office or duty shall be deemed to be an Officer acting in the execution of his office or duty;”

other country, but does not include a collector's piece, investment article, or item of numismatic interest;

“prescribed services” means any services not listed as exempt services in Schedule 1;

“proforma invoice” means a proforma invoice given under section 46;

“recipient”, in relation to a supply of goods or services, means the person to whom the goods or services are supplied;

“registered” means registered under this Act;

“registration number”, in relation to a registered person, means the identifying number borne by the certificate of registration issued to that person;

“return” means a return required by section 31(1);

“supplier”, in relation to a supply of goods or services, means the person by whom the goods or services are supplied;

“tax” means value added tax under this Act;

“tax invoice” means a tax invoice given under section 36;

“the Board” means the Board of Inland Revenue established by section 3 of the Income Tax Act;

Chap. 75:01

“zero-rated” means zero-rated under section 8.

- (2) The Minister may by Order amend Schedule 1 and an Order under this subsection is subject to negative resolution of Parliament.
  - (3) The Minister may by Order amend Schedule 3A. Finance Act, 1992
4. (1) In this Act “business” includes any trade, profession or vocation. What constitutes a business
- (2) For the purposes of this Act-
    - (a) an activity that is carried on, whether or not for pecuniary profit, and involves or is intended to involve, in whole or

in part, the supply of goods or services for consideration;

- (b) the activities of a club, association or organisation, other than a trade union registered under the Trade Unions Act, in providing, for a subscription or other consideration, facilities or advantages to its members; or,

Chap.88:02  
Finance Act, 1990

- (c) an activity involving the admission, for a consideration, of persons to any premises.

Finance Act, 1990

shall be regarded as a business.

- (3) A body having objects in the public domain that are of a political, religious, philanthropic, philosophical or patriotic nature shall not be regarded as carrying on a business by reason only that it provides to its members, for a subscription, the right to participate in its management or receive reports on its activities but no other facility or advantage.
- (4) A person shall not be regarded as carrying on a business by reason only of any engagement, occupation or employment under a contract of service or as a director of a company except where, in carrying on any business, the person accepts an office and supplies services as the holder of that office in which case those services shall be regarded as being supplied in the course of, or furtherance of, the business.
- (5) Anything done in connection with the commencement or termination of a business shall, for the purposes of this Act, be regarded as done in the course of, or furtherance of, the business.
5. For the purposes of this Act, the amount of any consideration that is in a currency other than the currency of Trinidad and Tobago shall be converted to the currency of Trinidad and Tobago at the rate at which the Central Bank would, at the time of supply or importation, as the case may be, have purchased that currency in the form of notes. Consideration in foreign currency

## **PART 2**

### **IMPOSITION OF THE TAX**

6. Subject to this Act, a tax, to be known as value added tax, shall be charged in accordance with this Act - Value added Tax
- (a) on the entry of goods imported into Trinidad and Tobago; and
  - (b) on the commercial supply within Trinidad and Tobago of goods or prescribed services by a registered person,
- where that entry or commercial supply takes place on or after the day appointed for the purposes of this section by Order made by the President, being a day that is the first day of a calendar month and is not less than three months after publication of the Order.
7. (1) The amount of the tax shall be calculated in accordance with this Act at the rate of fifteen percent or such other rate as the Minister by Order specifies, except in the case of an entry or a supply that is zero- rated. Rate of Tax
- (2) The Order made under subsection (1) is subject to affirmative resolution of Parliament.
8. (1) Where goods are prescribed in Schedule 2 - Zero-rating
- (a) the entry of any such goods imported; or
  - (b) the supply of those goods,
- is zero-rated for the purposes of this Act.
- (2) Where services are, or the supply of services is, prescribed in Schedule 2, the supply of those services is zero-rated for the purposes of this Act.
- (3) Where the entry or supply of any goods or the supply of any services is zero-rated, the rate at which tax is regarded as being charged shall be nil, and consequently no tax shall be charged on the entry or supply.
- (4) The Minister may by Order amend Schedule 2 and an Order under this subsection is subject to negative resolution of Parliament.

### **PART 3**

### **TAX ON IMPORTS**

9. Tax charged on the entry of imported goods shall be of an amount calculated by multiplying the rate of tax applicable under this Act by the value of the goods imported. Calculation of tax
10. (1) The Comptroller of Customs and Excise shall be responsible for the collection of the tax to which this Part applies.
- (2) Tax on the entry of imported goods shall be charged and payable under this Act but, for the purposes of collecting and enforcing the payment of this tax the Customs Act and any other written law relating to the importation of goods shall apply in the same manner as if it were a duty of customs. Comptroller to collect tax  
Finance Act, 1990
11. Tax on the entry of imported goods becomes due and payable at the time when the goods are entered, and is the liability of the importer. When tax due and payable
12. For the purposes of this Act, the value of goods imported into Trinidad and Tobago is the total of the amount of- Value of imported goods  
Finance Act, 1991
- (a) the value of the goods determined in accordance with the Sixth Schedule to the Customs Act<sup>3</sup> (whether or not duty is payable under that Act); and
- (b) any duties, taxes (other than the tax charged under this Act) and other charges that are charged, paid or payable upon the entry of imported goods;

except that where the goods are re-imported after being exported for repair, renovation or improvement and it is further shown that the goods have been subjected to a process of repair, renovation or improvement abroad and where their form or character has not been changed, the value of the goods, for the purposes of calculating tax, if any, on the entry of the goods when they are re-imported, is the amount of the increase in their value that is attributable to the process.

13. Deleted Finance Act, 1991

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<sup>3</sup> Note: The former Sixth Schedule to the Customs Act has been repealed and replaced by a new Sixth Schedule with effect from 1/1/91.

This new Sixth Schedule which deals with the valuation of imported goods is not reproduced here due to its length (20 pages), but, it can be found in the Laws of Trinidad and Tobago, Customs Act, Chapter 78:01 a copy of which is available in the VAT Library, 6th Floor, VAT Administration Centre.

In essence, under the new Sixth Schedule, the value of imported goods is taken almost exclusively to be the transaction (invoice) value, that is, the price actually paid or payable for the goods to be imported into Trinidad and Tobago.

- 13A. Where a person pays tax on imports in excess of his liability to the Comptroller of Customs and Excise, the Comptroller shall refund the amount by which the payment exceeds such liability.

Refund on overpayments of tax on imports  
Finance Act, 1990

## **PART 4**

### **TAX ON SUPPLY**

#### **Division 1 - The Tax**

14. (1) A supply of goods or prescribed services that is made in the course of, or furtherance of, any business is a “commercial supply” for the purposes of this Act. Commercial supply
- (2) Upon the sale, transfer or other disposition, whether for consideration or not, of a business as a going concern, the sale, transfer or other disposition of any stock in trade held for the purposes of the business shall be regarded as being a commercial supply. Finance Act, 1990
- (3) Where any goods belonging to a person for the purposes of carrying on a business are appropriated to a use other than for the purposes of that business, the appropriation shall be regarded as a commercial supply.
- (4) Where any goods belonging to a person for the purposes of carrying on a business are sold to satisfy a debt, the sale shall be regarded as a commercial supply on behalf of that person.
- (5) Where a registered person ceases to carry on business, or ceases to be registered but continues to carry on business, any goods on hand that have not been supplied by him at the time when he ceases to carry on business, or ceases to be registered, shall be deemed to have, at that time, been supplied by him and for the purposes of this Act, the deemed supply shall be regarded as a commercial supply and he shall be regarded as both the supplier and the recipient. Finance Act, 1990
- (6) Where, under a contract of insurance, a person receives an amount by way of an indemnity payment relating to a loss incurred on or after the appointed day in relation to goods or services in the course of, or furtherance of, any business, the person shall, for the purposes of the application of this Act to that person but not to the person by whom the payment is made, be regarded as having made a



commercial supply of the goods or services to which the payment relates, at the time when the payment is made, and the amount of the payment shall be regarded as having been the consideration for the supply, including such amount, if any, as may be claimed in respect of tax.

Finance Act,1990

- (7) A sale, transfer, other disposition or indemnity payment occurring in subsections (2), (4) or (6) shall not constitute a commercial supply to a person who would not otherwise be liable for registration but for such event. Finance Act,1990
- (8) Where subsection (6) applies, the person by whom the indemnity payment is to be made shall withhold from it the amount, if any, as may be claimed in respect of tax and pay it to the Board on behalf of the person to whom the payment is to be made. Finance Act,1992
15. (1) Schedule 3 applies for determining what is, for the purposes of this Act, to be included as a supply of goods or services. What constitutes a supply of goods or services
- (2) The Minister may by Order amend Schedule 3 and an Order under this subsection is subject to negative resolution of Parliament.
16. (1) For the purposes of this Act, the supply of goods and services shall, subject to sub-sections (3) and (4), be regarded as taking place within Trinidad and Tobago if - Place of supply
- (a) the supplier is resident in Trinidad and Tobago; or
- (b) the supplier is not resident in Trinidad and Tobago but -
- (i) in the case of a supply of goods, the goods supplied are in Trinidad and Tobago at the time of the supply;
- or
- (ii) in the case of a supply of services, the services are physically performed in Trinidad and Tobago by a person who is in Trinidad and Tobago at the time the services are performed.
- (2) For the purposes of this Act, the supply of goods or services shall, subject to sub-sections (1)(b) and (5), be regarded as not taking place within Trinidad and Tobago if the supplier is not resident in Trinidad and Tobago.
- (3) Where, in the circumstances referred to in sub-section (1)(b), the goods or services supplied are supplied to a registered person for

the purposes of his making a commercial supply in Trinidad and Tobago, the supply shall be regarded as not taking place within Trinidad and Tobago unless the supplier and recipient agree that the supply is to be regarded as taking place within Trinidad and Tobago, save that this provision does not apply where the supplier is registered or liable to be registered, other than as a result of the supply referred to in this subsection.

Finance Act, 1990

- (4) Where goods are imported into Trinidad and Tobago and either -
- (a) have not yet been entered; or
  - (b) are supplied to a person in such circumstances that he is liable to pay tax on the entry of the goods,

the supply of the goods shall be regarded as not taking place within Trinidad and Tobago.

- (5) The supply of international travel or international package tours shall be regarded as taking place within Trinidad and Tobago if the travel or package tour is paid for in Trinidad and Tobago or if the journey also originates in Trinidad and Tobago or Trinidad and Tobago is the place of the issue of the ticket for travel.

Finance Act 35 of 1998  
w.e.f. 1/1/99  
Finance Act 91 of 2000  
w.e.f 28/8/00

17. (1) Except as otherwise provided in this section, a supply of goods or services takes place, for the purposes of this Act, when -

Time of supply

- (a) An invoice for the supply is given by the supplier;
- (b) payment is made for the supply; or
- (c) the goods are made available, or the services are rendered, as the case may be, to the recipient,

whichever is the earlier.

- (2) Where goods are supplied to a person -

- (a) under an agreement for hire-purchase or lease with an option to purchase; or
- (b) under an arrangement whereby the recipient has an option to return the goods to the supplier,

the supply takes place, for the purposes of this Act, when the goods are made available to the recipient.

- (3) Where a supply of services, other than a supply to which subsection (2) or (4) applies, is continuous, the supply takes place, for the purposes of this Act, when an invoice for the supply is given by the supplier, but only to the extent of the supply to which the invoice relates.
- (4) Where services are supplied under an agreement that expressly provides for the consideration to be paid in periodic payments, whether or not the services are provided periodically, the services, shall, to the extent that an invoice for the services is not given by the supplier, be regarded as being successively supplied at the times when the periodic payments are made or become due, whichever is earlier.
- (5) Where goods are supplied progressively or periodically under an agreement that provides for the consideration for the supply to be paid from time to time upon the supplier giving invoices, the goods shall be regarded as being supplied at the time when -
  - (a) an invoice for the supply of the goods is given by the supplier;
  - (b) payment for the supply of the goods is made; or
  - (c) payment for the supply of the goods becomes due,whichever is earlier.
- (6) Where a building, structure or other works is constructed under an agreement that expressly provides for the consideration to be paid at specified stages of the construction, the supply of the goods and services involved in the construction of the building to each stage shall be regarded as taking place when -
  - (a) an invoice in respect of the construction of the building to that stage is given;
  - (b) payment in respect of the construction of the building to that stage is made; or
  - (c) payment in respect of the construction of the building to that stage becomes due,

whichever is the earlier, except that the proportion of the supply to which the deposit, if any, relates shall be regarded as taking place at the time the deposit is paid.

18. (1) Except as otherwise provided in this section, the amount of the value of the supply of goods or services is, for the purposes of this Act - Value of supply
- (a) where the supply is for a consideration wholly in money, the amount of the consideration, not including tax and road improvement tax on motor vehicle fuel; Finance Act,1994
- (b) where the supply is not for a consideration or is for a consideration that is not wholly in money, the amount of its open market value.
- (2) Where the supply of goods or services is for a consideration wholly in money but the consideration is payable by a person standing in such a relationship as affects the amount of the consideration, the amount of the value of the supply is, for the purposes of this Act, the amount of its open market value.
- (3) Where an employer supplies meals or temporary accommodation to an employee, the amount of the value of the supply is, for the purposes of this Act, the amount of the consideration in money payable by the employee for the supply or, if no consideration in money is payable by the employee for the supply, nil.
- (4) In subsection (3), “temporary accommodation” means accommodation not exceeding an aggregate of thirty days in any twelve month period. Finance Act,1990
- (5) Where goods are supplied in accordance with section 14(5) the value of the goods that are deemed to be self-supplied shall be based on either -
- (i) on the open market value of the goods; or
- (ii) the cost of the goods at the time of acquisition,
- whichever is the lower. Finance Act, 1990

19. For the purposes of this Act, the amount of the open market value of the

supply of goods or services is equal to the amount of the consideration, not including tax, that would, if the consideration were wholly in money, be expected to be payable for it by a person standing in no such relationship as would affect that consideration. Open market value of supply

### **Division 2 - Registration**

20. (1) Subject to subsection (2), a person who, on or after the appointed day, makes a commercial supply is required to be registered. Suppliers to be registered
- (2) Subsection (1) does not apply to a person who -
- (a) has, in accordance with section 24, made an application to be registered that has not yet been dealt with by the Board; or
  - (b) makes a commercial supply in the circumstances referred to in section 21.
- (3) A person who, not being registered, makes a commercial supply by reason of which he is required by subsection (1) to be registered commits an offence and is liable on summary conviction to a fine of fifteen thousand dollars and imprisonment for one year.
21. (1) The circumstances referred to in section 20(2)(b) in which a person may make a commercial supply without being registered are - Low level supplies
- (a) where -
    - (i) during the period of twelve months ending with the month immediately before the month in which the supply is made, the value of his commercial supplies was not more than two hundred thousand dollars; and Finance Act, 1995  
Finance Act, 1996  
Finance Act, 1998  
w.e.f. 1/1/99
    - (ii) there are reasonable grounds for believing that the value of his commercial supplies during the period of twelve months commencing with the month in which the supply is made will not be more than two hundred thousand dollars; or
  - (b) where, at any time before the supply is made, the Board has declared, in writing, that it is satisfied that the value of his

commercial supplies during the period of twelve months commencing with the month in which the supply is made will not be more than two hundred thousand dollars.

- (2) Where a person has been carrying on a business for less than the period of twelve months referred to in subparagraph (i) of subsection (1)(a), the circumstance required by that subparagraph is deemed only to exist if, during that lesser period, the average monthly value of his commercial supplies was not more than sixteen thousand six hundred dollars.

Finance Act 8 of 1996  
Finance Act 35 of 1998

22. (1) The Board may, by notice in writing given to a person, declare, for the purposes of section 21, that it is satisfied that the value of his commercial supplies during the period of twelve months commencing with such month, after the notice is given, as the Board specifies in the notice will not be more than two hundred thousand dollars.

Finance Act, 1995  
Finance Act, 1996  
Finance Act, 1998  
Declarations

- (2) The Board may, by notice in writing given to a person, declare that there are reasonable grounds for believing that the value of the commercial supplies to be made by that person during the period of twelve months commencing with such month, after the notice is given, as the Board specifies in the notice will be more than two hundred thousand dollars, and for the purposes of section 21 the giving of that notice constitutes reasonable grounds for so believing.

- (3) Where the Board has given a person notice under subsection (1) or (2) it may, by a further notice in writing given to that person, revoke the notice under subsection (1) or (2) with effect from the commencement of such month, after the notice of revocation is given, as the Board specifies in the notice of revocation and the declaration in the notice revoked shall accordingly cease to have effect.

23. (1) Where a person who makes a commercial supply is, at the time the supply takes place, registered, he may recover from the person to whom the supply is made an amount calculated by multiplying the value of the supply by the rate of tax charged on that supply and, unless the supply is expressed to be for a consideration that includes an amount in respect of tax, that amount is recoverable in addition to any other consideration for the supply.

Registered person may recover tax from person supplied

- (2) A person who, other than in accordance with subsection (1), recovers or seeks to recover from any other person an amount represented to be in respect of tax commits an offence and is liable on summary conviction to a fine of thirty thousand dollars and imprisonment for two years.
24. A person who is not registered and intends to make a commercial supply may, in the manner and form approved by the Board, apply to the Board to be registered. Application for registration
25. Subject to section 26, where a person applies under section 24 to be registered, the Board - Registration
- (a) shall, if the applicant intends to make commercial supplies other than in the circumstances referred to in section 21; and
- (b) may, if the application intends only to make commercial supplies in the circumstances referred to in section 21,
- cause the applicant to be registered.
26. Where, upon a person ceasing to carry on business, any goods held by him for the purposes of the business are to be appropriated by him to his private use or to any other purpose or upon a person who continues to carry on business ceasing to be registered and thereupon being deemed to have made a supply, the appropriation or supply shall be disregarded for the purposes of determining whether or not the Board has a discretion under section 25 to refuse an application by the person to be registered and, if the Board refuses the application, section 20 does not apply in relation to the appropriation or supply. Certain self-supply may be disregarded
27. (1) The Board shall cause each person registered to be issued with a certificate of registration and such number of copies of it, if any, as he requires for the purposes of subsection (3). Certificate of registration
- (2) A certificate of registration shall bear an identifying number and shall show the date from which the registration is effective.
- (3) A registered person shall cause his certificate of registration, or a copy of it issued by the Board, to be displayed in public view at the place from which the person carries on the business in connection with which he makes a commercial supply, or in each such place where there is more than one.

- (4) A person who contravenes subsection (3) commits an offence and is liable on summary conviction to a fine of three thousand dollars and a further one hundred dollars in respect of each day during which the offence has continued.
  - (5) A person who, not being registered, displays a certificate of registration, a copy of a certificate of registration, or a document purporting to be a certificate of registration or purporting to be a copy of a certificate of registration, commits an offence and is liable on summary conviction to a fine of fifteen thousand dollars and imprisonment for one year.
28. (1) A registered person shall, within twenty-one days, give the Board notice in writing of -
- Notification of changes
- (a) any change affecting the accuracy of the particulars provided by him in his application to be registered;
  - (b) the business in respect of which the person is registered closing down;
  - (c) any other matter of which he is required by the regulations to give the Board notice.
- (2) Where a registered person -
- (a) dies;
  - (b) becomes bankrupt;
  - (c) goes into liquidation or receivership; or
  - (d) becomes a party to an amalgamation,
- the registered person or the person responsible for the affairs of the registered person shall, within twenty-one days, give the Board notice in writing thereof.
- (3) Where the Board has not been given notice as required by this section of any matter relating to a registered person, it may assess that person under this Act and otherwise exercise its powers under this Act as if the matter of which it was not given notice had not taken place, and the registered person, or the estate of the registered person, is liable accordingly.
- (4) A person contravening this section commits an offence and is liable on summary conviction to a fine of three thousand dollars.



29. (1) A registered person who is not required, or will not be required by this Act to be registered may apply in writing to the Board to have his registration cancelled.

Cancellation of registration

- (2) Whether or not a registered person has applied to have his registration cancelled, the Board may cancel the registration of a person if it appears to the Board that the person will not be required to be, and should not continue to be, registered.

- (3) Where a registered person has applied to have his registration cancelled the Board may refuse to cancel the registration solely on the grounds that the person has, within the last two years, made supplies by reason of which he has been required to be registered, but nothing in this subsection limits the grounds on which the Board may refuse to cancel the registration of a person.

- (3A) Where a person, who is registered under section 25, fails to commence making commercial supplies the Board may, subject to subsections (3B), (3C) and (3D) cancel the registration of that person, and that person shall be required to pay to the Board within twenty-five days of cancellation of his registration or such further period as the Board may allow, an amount equivalent to all input tax that had been refunded to him during the period of his registration.

- (3B) Before the Board cancels a registration under subsection

- (3A) it shall serve a notice on the registered person requiring him to show cause why it should not exercise its powers under that subsection.

- (3C) Where a person served with a notice under subsection (3B) satisfies the Board that he -

- (a) intends to make commercial supplies; and  
(b) is taking steps to commence making those supplies,

the Board shall not cancel his registration.

- (3D) Where a person served with a notice under subsection (3B) satisfies the Board that -

- (a) at the time of his registration, he intended to make commercial supplies;
- (b) he made reasonable efforts to make those supplies;
- (c) he no longer intends to make these supplies; and
- (d) he has reasonable grounds for his change of intentions;

the Board shall cancel his registration, and that person shall be required to pay an amount equivalent to all input tax refunded to him after the date of the notice or, if it appears to the Board that he ceased to intend to make commercial supplies on a date earlier than the date of that notice, after that earlier date.

(3E) A registered person aggrieved by a cancellation under subsection (3A) may appeal to the Tax Appeal Board in accordance with the Tax Appeal Board Act.

Finance Act, 1991

- (4) The Board shall give notice of the cancellation of the registration of a person personally to the person or his agent or by registered post addressed to the person and the cancellation shall not have effect before -
  - (a) where the notice is given personally, the day on which it was given;
  - (b) where the notice is given by registered post -
    - (i) the day on which it is received by the person; or
    - (ii) the day that is fifteen days after the day on which it was posted,

whichever is the earlier.

- (5) A person who, in accordance with subsection (4), is given notice of the cancellation of his registration shall, within fifteen days after the cancellation has effect, return to the Board his certificate of registration and any copies of it that have been issued in accordance with section 27.
- (6) A person who contravenes subsection (5) commits an offence and is liable on summary conviction to a fine of fifteen thousand dollars and imprisonment for one year.

- (7) The obligations and liabilities under this Act of a person in respect of anything done or omitted to be done while that person was a registered person are not affected by that person ceasing to be a registered person.

**Division 3 - Payment of the Tax**

30. (1) Each registered person shall, for the purposes of this Act, be in category A, category B, or category C, as the Board determines.
- (2) Except as may be otherwise prescribed in the regulations -
- (a) the tax periods of persons in category A are the period of one month commencing on the appointed day, and each period of two months thereafter; and
- (b) the tax periods of persons in category B are the period of two months commencing on the appointed day, and each period of two months thereafter.
- (3) The tax periods of a person in category C are such periods as the Board from time to time determines in relation to that person.
- (4) The Board may determine that a person be transferred from any category referred to in this section to any other of those categories with effect from such time as the Board specifies, and that determination shall make such transitional provision relating to the tax periods of that person as is necessary to ensure that his tax periods follow one another continuously without any period of overlap.

Tax periods

31. (1) Every person shall, within the time required by this section, furnish to the Board a return, in a form approved by the Board and signed by him, relating to each tax period during which he was a registered person.
- (2) A return shall be furnished to the Board at the address specified on the form -
- (a) within twenty-five days after the end of the tax period to which it relates; or

Returns

- (b) where the person ceases to be registered during a tax period, within twenty-five days after the person ceases to be registered,

or within such further time as the Board may, in writing, allow and is not so furnished until it is received at that address.

- (3) A form approved by the Board under subsection (1) shall include particulars of the amount of tax payable, or the refund due, in respect of the tax period concerned and may include such other particulars as the Board sees fit, which may differ according to the circumstances in which the form is to be used.
  - (4) The amount specified in a return as being the amount of tax payable, or the amount of the refund due, in respect of a tax period shall be calculated in accordance with section 32.
  - (5) A person contravening this section commits an offence and is liable on summary conviction to a fine of five hundred dollars.
32. (1) The tax payable by, or the refund due to, a person in respect of a tax period is calculated by ascertaining the total amount of the output tax in respect of commercial supplies made by that person during the tax period, in accordance with section 33, and deducting from that amount the total amount of the allowable input tax of that person for the tax period, ascertained in accordance with section 34.
- Calculation of tax payable or refund due
- (2) Notwithstanding that the output tax in respect of a tax period may be less than the allowable input tax, or may be nil, the full amount of the allowable input tax may nevertheless be deducted, with the effect that, In respect of that period, a refund is due.
33. (1) Subject to this section, output tax in respect of commercial supplies made by a person during a tax period is calculated by multiplying the value of each such supply by the rate of tax charged on that supply, and taking the aggregate of the amounts so obtained.
- Output tax
- (2) Subject to subsection (3), a person may, if all the supplies he proposes to make are to be commercial supplies, apply to the Board for approval -
    - (a) to use option A, if none of the supplies he proposes to make are to be zero-rated supplies;

- (b) to use option B, if he proposes to make supplies that are zero-rated and supplies that are not zero-rated and to account separately for the total value of the supplies that he makes in each of those categories; Finance Act, 1990
  - (c) to use option C, if he proposes to make supplies that are zero-rated and supplies that are not zero-rated and does not propose to account separately for the total value of the supplies that he makes in each of those categories. Finance Act, 1990
- (3) A registered person is not eligible to make an application under subsection (2) if any return required to be furnished by him has not been duly furnished, or any amount required under this Act to be paid by him in respect of tax, interest, or a penalty has not been duly paid.
- (4) An application under subsection (2) shall be in writing, in a form approved by the Board, stating -
  - (a) the nature of the business in the course of which commercial supplies are to be made;
  - (b) the type of supplies to be made;
  - (c) the estimated value of the commercial supplies to be made by he applicant during the period of twelve months commencing on the day on which the application is made; and
  - (d) the reason for making the application.
- (5) Upon an application being made under subsection (2) by a person eligible to make the application, the Board may, in its discretion, approve in writing the application and, by notice in writing given to the person, the Board may subsequently revoke the approval with effect from such time as is specified in the notice. Finance Act, 1990
- (6) Where a person has the approval of the Board under this section, subsection (1) does not apply unless otherwise stated herein, to the calculation of output tax on supplies made by that person during a tax period in which he has that approval, and his output tax shall instead be calculated - Finance Act, 1990
  - (a) if he has approval to use option A, according to the formula:

$$OT = CT \times \frac{R}{(R + 100)}$$

where

OT is the output tax to be calculated;

CT is the total value of the commercial supplies he made during the tax period, including any amount claimed in respect of tax;

Finance Act, 1990

R is the number of percent to which the rate of tax specified by or under section 7 is equal;

- (b) if he has approval to use option B, according to the formula:

$$OT = CN \times \frac{R}{(R + 100)}$$

where

OT is the output tax to be calculated;

CN is the total value of the commercial supplies he made during the tax period that are not zero-rated, including any amount claimed in respect of tax;

Finance Act, 1990

R is the number of percent to which the rate of tax specified by or under section 7 is equal;

- (c) if he has approval to use option C

(i) with respect to supplies of stock in trade, according to the formula:

Finance Act, 1990

$$OT = \frac{(VN + IN)}{(VT + IT)} \times CT \times \frac{R}{(R + 100)}$$

where

OT is the output tax to be calculated;

VN is the value inclusive of tax, at the time of such supply, of commercial supplies of stock in trade, not being zero-rated, made to the person during the tax period for the purposes of his carrying on business;

Finance Act, 1992

VT is the value inclusive of tax, at the time of such supply, of commercial supplies of stock in trade, whether or not zero-rated, made to the person during the tax period for the purposes of his carrying on business; Finance Act, 1992

IN is the value inclusive of tax, at the time of such entry, of imported stock in trade not being zero-rated, that are entered by the person during the tax period and are required for the purposes of his carrying on business; Finance Act, 1992

IT is the value inclusive of tax, at the time of such entry, of imported stock in trade, whether or not zero-rated, that are entered by the person during the tax period and are required for the purposes of his carrying on business; Finance Act, 1992

CT is the total value of the commercial supplies of stock in trade, whether or not zero-rated, made by the person during the tax period, including any amount claimed in respect of tax; Finance Act 1990

R is the number of percent to which the rate of tax specified by or under section 7 is equal; and L.N. 5 of 1990

(ii) with respect to all other supplies, in the manner set out in subsection (1). Finance Act, 1990

34. (1) In relation to a person making commercial supplies during a tax period, the input tax for the period means the sum of - Input tax

(a) any amounts claimed from that person under section 23 in respect of output tax in respect of commercial supplies made during that tax period, being output tax in respect of which there has been given a tax invoice in accordance with Section 36(2); and Finance Act, 1992

(b) any tax paid on the entry into Trinidad and Tobago of goods entered by that person during that tax period, Finance Act, 1992

but does not include output tax on supplies, or tax on the entry of imported goods, where or to the extent that the goods or services supplied or entered are required other than for the purposes of his carrying on a business in Trinidad and Tobago.

- (2) Where a person is registered, the supply to him of any stock in trade that is on hand and has not been supplied by him when he becomes registered shall, if the person can produce an inventory audited by a chartered accountant showing that the stock in trade was on hand when he became registered, be regarded for the purpose of ascertaining his input tax for his first tax period as if it had been made to him during that tax period.
- (3) The allowable input tax that a person may, under section 32, deduct from the output tax in respect of a tax period is -
- (a) where all the supplies made by the person during the tax period are commercial supplies, the whole of the input tax relating to commercial supplies; Finance Act, 1990
- (b) where some, but not all, of the supplies made by the person during the tax period are commercial supplies - Finance Act, 1990
- (i) all of the input tax for the period that is in respect of supplies required solely for the purposes of the making, whether or not during that tax period, of commercial supplies;
- (ii) none of the input tax for the period that is in respect of supplies required solely for the purposes of the making, whether or not during that tax period, of supplies that are not commercial supplies; and
- (iii) such proportion of the input tax for the period that is not in respect of supplies referred to in subparagraph (i) or (ii) as the value of his commercial supplies during that period represents and to which the input tax relates as a proportion of his total supplies during the period; Finance Act, 1998
- (c) where the person made no commercial supplies during the tax period, such proportion, if any, of the input tax for the period as the Board may consider to be fair and reasonable.
35. (1) A person who is required by section 31 to furnish a return in respect of a tax period shall, within the time allowed by that section for furnishing the return, pay to the Board the amount of tax, if any, calculated in accordance with this Act as being payable in respect of that period. Payment or refund of tax



- (2) Where, in a return furnished to the Board in accordance with section 31, a refund of any amount is specified as being due, the Board shall satisfy the amount -
- (a) by paying the amount, or any of it, to the person to whom the refund is due; or
  - (b) by applying the amount, or any of it, to the payment of any outstanding tax, interest or penalty payable under this Act <sup>4</sup>or any other Act administered by the Board, by the person to whom the refund is due.

Finance Act No 5 of 2004

Amended By Finance Act No. 21 of 2005

- (3) Any amount of refund due that remains outstanding for more than a period of six months after -
- (a) the date by which the return in which the refund was specified as being due was required to be furnished to the Board; or
  - (b) the date on which the return referred to in paragraph (a) was furnished to the Board,

whichever is the later, shall bear interest at the rate of one percent per month or part of a month from the day after the expiration of that period until the amount outstanding is satisfied in accordance with subsection (2).

- <sup>5</sup>(3A) For the avoidance of doubt, a return shall referred to in subsection (3) shall be accurate in all particulars and satisfy the requirements of sections 31 to 34.

Finance Act No 5 of 2004

- (4) Subject to Division 4, the amount specified in a return as being the amount of the tax payable, or the amount of the refund due, in respect of a tax period shall be conclusively deemed, for the purposes of this Act, to be correct.
- (5) <sup>6</sup>Notwithstanding anything in this section, where the amount of tax calculated in accordance with this Act as being payable to the Board in respect of a tax period does not exceed one hundred dollars, the amount so calculated shall be deemed to be nil.

Finance Act No. 30 of 2008

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<sup>4</sup> Note: Effective 1<sup>st</sup> January 2004

<sup>5</sup> Note: Effective 30<sup>th</sup> January 2004

<sup>6</sup> Note: Effective 1<sup>st</sup> January 2008

- (6) Any amount that a person pays to the Board other than in accordance with subsection (1) may be applied by the Board to satisfy any outstanding amount that the person is required by this Act to pay to the Board and, where there is insufficient to satisfy all of the amounts outstanding, the priority in which it shall be applied shall be according to the length of time for which the amounts have been outstanding, those outstanding for the longest being satisfied first.
36. (1) Subject to subsection (3A), a registered person making a commercial supply exceeding the sum of twenty dollars on or after the appointed day shall, at the time when the supply takes place, give the recipient a tax invoice, in accordance with subsection (3), in respect of the supply or, if he is requested by the recipient to do so, a tax invoice in accordance with subsection (2).
- (2) A tax invoice under this subsection shall include -
- (a) the words “tax invoice” shown conspicuously thereon;
  - (b) an identifying serial number and the date on which the tax invoice was given;
  - (c) the name, address and registration number of the supplier;
  - (d) the name and address of the recipient;
  - (e) a description of the goods or services supplied, including the quantity of goods or number of services supplied;
  - (f) the consideration for the supply, not including tax;
  - (g) the value of the supply;
  - (h) the rate of tax applicable to the supply and the amount claimed from the recipient in respect of tax;
  - (i) such other particulars, if any, as are required by the regulations to be included in the tax invoice.
- (3) A tax invoice under this subsection shall include -
- (a) the name, address and registration number of the supplier;

Tax Invoices  
Finance Act, 1992

- (b) the date on which the invoice was given;
  - (c) the consideration for the supply inclusive of tax;
  - (d) such other particulars, if any, as are required by the regulations to be included in the invoice. Finance Act, 1992
- (3A) A registered person carrying on a business listed in Schedule 3A may make a commercial supply without issuing a tax invoice but such person shall, if requested by the recipient to do so, give a tax invoice in accordance with subsection (2). Finance Act, 1992
- (4) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of three thousand dollars. Finance Act, 1990
37. (1) This section applies where a registered person has given a tax invoice in respect of a commercial supply and thereafter - Credit and debit notes
- (a) the supply is cancelled;
  - (b) the consideration for the supply is altered, whether due to a discount or otherwise; or Finance Act, 1990
  - (c) the goods or services, or any part of the goods or services, supplied are returned to the supplier.
- (2) Where this section applies, the supplier shall give to the recipient a credit note or a debit note, as the case requires, to adjust the amount shown on the tax invoice as being in respect of tax to the amount, if any, that would have been so shown if -
- (a) the cancellation or alteration referred to in subsection (1)(a) or (b) had taken place before the tax invoice was given; or
  - (b) the goods or services returned had not been supplied,
- as the case requires.
- (3) A credit note or debit note required by subsection (2) to be given shall include -
- (a) the words “credit note” or “debit note”, as the case requires, shown conspicuously thereon;

- (b) the name, address and registration number of the supplier;
  - (c) the name and address of the recipient;
  - (d) the date on which the credit note or debit note, as the case requires, is given;
  - (e) the identifying number of the tax invoice to which it relates and the date on which it was given;
  - (f) the amount shown on the tax invoice as being in respect of tax, the adjusted amount, and the amount of the credit or debit, as the case requires, that is necessary to make the adjustment; and
  - (g) a brief explanation of the circumstances giving rise to the note being given.
- (4) A supplier who gives a credit note or debit note under this section shall, in calculating the amount of tax payable, or the amount of the refund due, in respect of the tax period in which the note is given, add the amount of any adjustment in a debit note to, and deduct the amount of any adjustment in a credit note from, the tax charged on supplies made by him during the tax period.
- (5) A recipient who -
- (a) being registered, is given a credit note or debit note under this section; and
  - (b) in calculating tax payable by him, has taken into account as input tax the amount that, in the tax invoice to which the note relates, was shown as being in respect of tax,
- shall, in calculating the amount of tax payable, or the amount of the refund due, in respect of the tax period in which the note is given, add the amount of any adjustment in a credit note to, and deduct the amount of any adjustment in a debit note from, the tax charged on supplies made by him during the tax period.
- (6) A supplier shall not give more than one credit note or debit note in respect of the same adjustment but this subsection does not prevent him from providing a copy, clearly marked to indicate that it is a copy, where the original of a note has been lost.

- (7) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of three thousand dollars.
38. (1) Every registered person shall keep, at his principal place of business in Trinidad and Tobago or such other place as the board may approve, such books and records, expressed in the English Language and the currency of Trinidad and Tobago, as are appropriate to enable the Board to ascertain the liability of that person to tax. Books and records to be kept
- (2) The regulations may make provision as to what books and records are required by subsection (1) to be kept, and the manner in which they are to be kept.
- (3) Without limiting subsection (2), the records required by subsection (1) to be kept shall include tax invoices, proforma invoices, and certificates of waiver given to him and copies of tax invoices and proforma invoices given by him.
- (4) A person required by subsection (1) to keep books and records shall, whether or not he continues to be registered, retain in Trinidad and Tobago those books and records for not less than six years after the end of the last tax period to which they relate, except that this subsection does not require the retention of any books or records -
- (a) where the Board has given notice in writing that such retention is not required; or
- (b) where the person has ceased to exist and the affairs of the person have been wound up.
- (5) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of fifteen thousand dollars and imprisonment for one year.

#### **Division 4 - Assessments**

39. (1) Where - Board may assess tax
- (a) a person fails to furnish a return in accordance with this Act;
- (b) a person requests the Board, in writing, to amend a return that the person has furnished under this Act; or

- (c) the Board is not satisfied with a return made by any person or as to any matter on the basis of which the return is prepared,

the Board may assess the amount of tax that should, in the opinion of the Board, be payable by that person, or the refund that should, in the opinion of the Board, be due to that person, in respect of the tax period concerned and the amount so assessed is payable in lieu of the tax that would otherwise be payable by that person, or the refund that would otherwise be due to that person, in respect of that tax period.

- (2) Where a person makes any commercial supply contrary to section 20, the Board may assess the amount of tax that would, in the opinion of the Board, have been payable by that person in respect of any such commercial supply if he had been registered and his tax period had been such period as the Board may determine, and the amount so assessed is payable by that person as tax.

- (3) Where a person who makes a supply -

- (a) falsely represents that tax is charged on that supply;
- (b) falsely represents the amount of tax charged on that supply;

or

- (c) in contravention of section 23(2), recovers or seeks to recover an amount represented to be in respect of tax, the Board may assess that person as being liable to pay an amount of tax on the basis of so much of the amount that it appears to the Board was represented to be charged as tax, or was recovered or sought to be recovered in respect of tax, as exceeds the amount, if any, that he is authorized by section 23 to recover in respect of the supply and, where the person is not registered, the assessment shall be made as if that person were registered and his tax period had been such period as the Board may determine.

- (4) Where an assessment of the tax payable by a person is made or amended under this section wholly or in part as a result of any act or omission of that person that constitutes an offence against this Act, the assessment may include such additional amount by way of penal tax as the Board sees fit, but so that the additional amount does not exceed three times the amount of tax (other than penal tax) that is included in the assessment or amendment as a result of the act or omission that constitutes the offence.

- (5) An assessment under this section may be amended or vacated by the Board notwithstanding that the tax or refund as assessed may

already have been paid.

- (6) The liability of a person to pay tax assessed under this section is not affected by the fact that the person may not have been registered at the relevant time nor by the fact that the person may have been convicted of, and punished for, the contravention concerned, and the liability of the person to be proceeded against or punished for an offence is not affected by an assessment under this section or the payment of an amount so assessed.
  - (7) The Board shall give to the person to whom the assessment relates notice in writing of an assessment, or the amendment or vacation of an assessment, and any amount required by an assessment or amended assessment to be paid by that person shall be paid within thirty days after the notice is given.
  - (8) An assessment under subsection (1) shall not be made, amended, nor vacated at any time after six years has elapsed since the end of the tax period to which the assessment relates.
  - (9) An assessment under subsection (2) shall not be made, amended, nor vacated at any time after six years has elapsed since the end of the month in which the supply to which the assessment relates was made.
  - (10) Subsections (8) and (9) do not apply where the Board is satisfied that there are reasonable grounds for believing that tax has been or may have been lost through the fraud, willful default, or gross neglect of any person.
- 39A. Where a person pays tax on supplies in excess of his liability to the Board, the Board shall refund the amount by which the payment exceeds such liability. Refund of overpayments of tax on supplies  
Finance Act, 1990
40. (1) A person disputing an assessment, or the amendment of an assessment, under section 39 may apply to the Board by notice of objection in writing delivered to the Board to review and revise the assessment and - Objections and appeals
- (a) sections 86 and 97 of the Income Tax Act applies<sup>7</sup>, with such modifications as are necessary and subject to Finance Act 19 of 1994

<sup>7</sup> Note: Section 86 of the Income Tax Act reads as follows:

“86.(1) The Board shall cause to be served on each person whose name appear on the assessment lists a notice addressed to him at his usual place of abode or business stating the amount of his chargeable income and the amount of tax payable by him,

subsections (2) and (3), for the purpose of enabling the

- 
- and informing him of his rights under subsection (2).
- (2) If any person disputes the assessment he may apply to the Board by notice of objection in writing delivered to the Board to review and to revise the assessment made upon him. Such application shall state precisely the grounds of his objections to the assessment and shall be made within fifteen days from the date of the service of the notice of assessment.
- (3) An application under subsection (2) may be made out of time if the Board is satisfied that there was a reasonable excuse for not making the application within the time limited and that the application was made thereafter without unreasonable delay.
- (4) Where the Board disallows an objection for the reason that it is not satisfied under subsection (3), an appeal shall lie to the Appeal Board from such a decision in accordance with section 87.
- (5) On receipt of a notice of objection duly made, the Board shall reconsider the assessment and may vacate or vary the assessment, or confirm the assessment and disallow the objection.
- (6) The Board shall serve on the objector notice of its decision under subsection (5).
- (7) In the event of any person assessed, who has objected to an assessment made upon him, agreeing with the Board as to the amount at which he is liable to be assessed the amount so agreed shall be the amount at which such person shall stand assessed, and the assessment shall be confirmed or amended accordingly; but in the event of any person who under subsection (2) has applied to the Board for a revision of the assessment made upon him failing to agree with the Board as to the amount at which he is liable to be assessed, his right of appeal to the Appeal Board under this Act against the assessment made upon him shall remain unimpaired.
- (8) Where, within twenty-four months after the service of the notice of objection, the Board fails to determine the objection, the objection shall be deemed to have been determined in favour of the person who has disputed his assessment and the assessment shall be amended accordingly.
- (9) Where, upon the expiration of twelve months after the service of the notice of objection the Board fails to determine the objection, the person who has disputed his assessment may, notwithstanding section 7(2) of the Tax Appeal Board Act appeal to the Appeal Board within twelve months of such expiration..
- Act No. 1 of 1986
- Act No. 1 of 1986  
Ch.4:50
- (10) Where an objection against an assessment has been made before 27th September 1966 (that is, the date of the passing of the Finance Act 1966), and proceedings in respect of that objection are subsequent to the date of the coming into operation of the said Act still pending before the Board, then unless such objection is determined by the Board within one year from the passing of the Act, the objection shall be deemed to have been determined in favour of the person who has disputed his assessment and the assessment shall be amended accordingly.
- Act No. 29 of 1966
- (11) Upon the expiration of the time for giving notice of appeal to the Appeal Board under section 7 of the Tax Appeal Board Act, the person who has disputed his assessment shall, if no appeal is then pending, within thirty days, pay to the Board of Inland Revenue any part of the tax that was in dispute and any interest and penalties remaining unpaid as is determined by the Board.

Ch. 4.50"



application to be dealt with and the objection to be determined; and

- (b) section 87 of the Income Tax Act and the provisions of the Tax Appeal Board Act apply<sup>8</sup>, with such modifications as are necessary, for the purpose of enabling the making of, and the hearing and determination of, appeals from decisions of the Board upon objections under this section.

Chap. 4:50

- (2) Except with the leave of the Board an application under subsection (1) to review and to revise an assessment shall not be made unless

any amount required by the assessment to be paid has been paid to the Board or such security has been given for the payment of that amount as is acceptable to the Board.

- (3) Where, within six months after an application is made in accordance with subsection (2), the Board fails to determine the objection, the objection shall be deemed to have been determined in favour of the person disputing his assessment and the assessment shall be amended accordingly.

Finance Act, 1990

### **Division 5 - Special Cases**

- 41. (1) A person carrying on business through several branches or divisions, each of which -

Branches and Divisions

- (a) can be separately identified by reason of the nature or location of its business activity; and
- (b) maintains a separate system of accounting,

may apply in writing to the Board for any such branch or division to be separately registered.

- (2) The Board may, on application being made therefor under subsection (1), cause a branch or division to be separately registered,

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<sup>8</sup> Note: Section 87 of the Income Tax Act reads as follows:

“87. Any person who has disputed his assessment by notice of objection under this Act, and who is dissatisfied with the decision of the Board may appeal to the Appeal Board in accordance with the provisions of the Tax Appeal Board Act.

Rights of appeal against Board decision  
Ch.4:50

whereupon the business carried on through the branch or division shall be regarded as being carried on by a separate registered person and not by the person who made the application.

- (3) Notwithstanding subsection (2), the obligations and liabilities of a branch or division separately registered under this section devolve upon the person upon whose application the branch or division was separately registered, but nothing in this subsection prevents the application of this Act to or in relation to supplies made to, or by, a branch or division separately registered as if it were a separate person.
- (4) The Board may, on the application of the person referred to in subsection (3) or of its own motion, cancel the separate registration of a branch or division.

42. (1) In this section - Unincorporated bodies

“body” means an unincorporated body of persons and includes a partnership, a joint venture, and the trustees of a trust;

“member” means a member of a body and includes a partner, a joint venturer, and a trustee;

“partnership” and “partner” have the same meanings as in the Partnership Act.

Chap.81:02

- (2) Where a body carrying on business is registered -
  - (a) a supply of goods or services made or received in the course of, or furtherance of, the business (whether or not by a member of the body acting in his capacity as a member) shall, for the purposes of this Act, be regarded as made or received by the body and not by any member of the body; and
  - (b) a change in the membership of the body does not affect the continuity of the registration of the body.
- (3) The members of a registered body are jointly and severally liable for any liability of the body and, for that purpose, a person who, in the case of a partnership or joint venture or the trustees of a trust, is a member or, in the case of any other unincorporated body, is a member involved in the management of the body does not cease to be a member of the body until the Board has been notified in writing of such cessation, but the doing by one member of any thing that the body is liable to do is sufficient to discharge that liability.

- (4) For the purposes of this Act, any document given or served in accordance with this Act that is addressed to a body by the name in which it is registered is deemed to be given to, or served on, that body and all of its members.
43. (1) In this section “absentee” means - Agents of absentee principals
- (a) any person, not being a company, for the time being out of Trinidad and Tobago; or
- (b) a company, not incorporated in Trinidad and Tobago, that -
- (i) does not have a fixed or permanent place in Trinidad and Tobago for the carrying on of business in its own name; or
- (ii) is for the time being declared by the Board, by notice given to the company, to be an absentee for the purposes of this section.
- (2) A person who, in Trinidad and Tobago, carries on a business on behalf of a principal who is an absentee may perform the functions under this Act of the principal. Finance Act, 1990
- (3) In the absence of the appointment of a person in accordance with subsection (2) the Board may deem a person who carries on business on behalf of a principal who is an absentee to be the agent for the purposes of compliance and accountability. Finance Act, 1990

## PART 5

### RELIEFS

44. Where a person imports - Certain imports exempt
- (a) goods that, under item 6, 20,<sup>9</sup>27 or 41 of the Second Schedule to the Customs Act<sup>10</sup>, are exempt from payment of customs duty; Finance Acts, 1993; 5 of 2004

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<sup>9</sup> Note: Effective 30<sup>th</sup> January 2004

<sup>10</sup> Note: Items 6,20 and 41 of the Second Schedule to the Customs Act read as follows:  
“Baggage and household effects

- 6(a) The accompanied baggage of a passenger being wearing apparel, articles of personal adornment, toilet requisites and any portable articles in a passenger’s baggage on or his person which he might reasonably be expected to carry with him for his own regular and private use, which are so declared and passed as

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such by the proper officer and in which in the case of the accompanied baggage of a passenger seventeen years old and over may be included:

- (1) wine or spirits not exceeding one litre in all, and
- (2) tobacco, not exceeding 250 grams, or
- (3) cigars, not exceeding fifty, in number, or
- (4) cigarettes, not exceeding two hundred in number;
- (5) goods to the aggregate of \$100.00 belonging to a passenger (including a passenger under seventeen years old), which accompany that passenger and were acquired abroad by him for his personal or household use or as souvenirs or gifts and admitted as such by the Comptroller;

Provided that:

- (a) a passenger shall not be entitled to the exemption granted above in respect of alcoholic beverages or tobacco products in excess of the quantities specified in Items (1) to (4) of this subparagraph;
- (b) a passenger may only claim the allowance once every year.

Exemptions under this item shall not apply to arms and ammunition, except service weapons being carried by a member of an armed force entitled to carry such arms on his person.

- (b) Household effects, admitted as such by the Comptroller, which accompany a passenger and are for his personal use and not for sale or exchange and are declared to have been in the use and possession of the passenger for at least one year.
- (c) Household effects, admitted as such by the Comptroller, not exceeding a C.I.F. value of \$25,000.00 which accompany a citizen of Trinidad and Tobago returning to reside in Trinidad and Tobago who has resided abroad continuously for at least five years immediately prior to his return and which are for his personal use and not for sale or exchange.
- (d) Baggage and household effects, imported within two months before or after the arrival of a passenger, or within such further period as the Comptroller shall in the circumstances deem reasonable, provided that the articles would have been exempted from import duty had they been imported under subparagraph (a) or (b) hereof.
- (e) Used implements, instruments and tools of profession, trade, occupation or employment admitted as such by the Comptroller, of persons arriving in the country, which are not intended for sale or exchange, and which are declared to have been in the possession and use of the passenger for a reasonable period.
- (f) Personal effects, not being merchandise, of Trinidadians and Tobagonians or of persons domiciled in Trinidad and Tobago, who have died abroad.

Government.....

- 20 Goods imported or taken out of bond by or on behalf of the Central Government for its own use.

Trophies.....

- 41 Cups, Medals, Shields and similar trophies, not being articles of general utility, proved to the satisfaction of the Comptroller to be specially imported for bestowal as honorary distinctions or prizes in the spheres of art, literature, science or sport and awards for acts of gallantry, for public service or for other similar outstanding actions or conducts, or when won abroad or sent by donors resident abroad; provided that the articles do not bear any advertisement and that this exemption shall not apply or extend to the importation or stocking of the articles for purposes of trade.

- (b) goods that are imported under section 40 of the Customs Act<sup>11</sup>;
- (c) component parts, accessories and navigational instruments for installation in aeroplanes and ships used in international commercial services; Finance Act, 1990
- (d) goods exported, other than for the purposes of repair, renovation or improvement, and subsequently re-imported in accordance with section 21 (a)<sup>12</sup> of the Customs Act; Finance Act, 1990
- (e) goods for manufacture in bond under regulations 193 to 210<sup>13</sup> inclusive of the Customs Regulations; Finance Act, 1990

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<sup>11</sup> Note: section 40 of the Customs Act reads as follows:

“The Comptroller may give permission to any person to import any goods without payment of duty thereon, upon being satisfied that the goods are so imported for temporary use only. Goods imported for temporary use”

Such permission shall be subject to section 42 and to the following conditions:

- (a) that the goods shall be exported within three months of the date of such permission; and
- (b) that the person to whom such permission is given shall deposit in the hands of the Comptroller the amount of the duty on the goods, or else give security therefor, at the election of the Comptroller.”

<sup>12</sup> Note : section 21(a)of the Customs Act reads as follows:

21. Where any goods whether made or produced within Trinidad and Tobago or not, being of a class or description liable to any import duty of customs, are re-imported into and entered for use within Trinidad and Tobago after exportation therefrom, and it is shown to the satisfaction of the Comptroller that any duty of customs or excise chargeable in respect of the goods prior to their exportation was duly paid, either prior to the exportation or at any subsequent time, and either that no drawback of any such duty was allowed on exportation, or that any drawback so allowed has been repaid to the Comptroller, then - Duty on goods re-imported

- (a) If it is further shown as aforesaid that the goods have not been subjected to any process abroad, the goods shall be exempt from any such duty when the same are entered for use within Trinidad and Tobago after re-importation, unless the rate of duty of excise or customs, as the case may be, chargeable on goods of the same class or description at the time when the same are entered for use within Trinidad and Tobago after re-importation shall exceed the rate paid on the same goods as a duty of excise or on first importation and entry, as the case may be, in which case such goods shall be chargeable with duty at a rate equal to the difference between the rate at which the duty previously paid was calculated and the rate in force at the date when such goods are entered for use within Trinidad and Tobago after re-importation.

<sup>13</sup> Note: the Customs Regulations Nos. 193 to 210 read as follows:

“IMPORTATION FOR MANUFACTURE IN BOND

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193. In this Part Interpretation  
 “bonded area” and “bonded factory” means respectively the area and factory in respect of which entry is made in accordance with regulation 201 and which have been approved by the Comptroller;  
 “excise warehouse” means a warehouse as defined for the purposes of the Excise (General Provisions) Act;  
 “manufacturer” means any person who makes or produces or causes to be made or produced in a bonded area or bonded factory goods in the making or production of which raw or semi-manufactured goods imported or delivered from an excise warehouse without payment of Customs or Excise Duty as the case may be have been used. Ch.78:50
- A. IMPORTATION
194. Where it is shown to the satisfaction of the Comptroller that any goods are permitted to be imported or delivered from an excise warehouse without payment of duty for use in manufacturing or processing in a bonded area, or bonded factory in Trinidad and Tobago, the conditions specified in this Part shall be observed. Duty-free admission
195. (1) On importation the goods shall be entered in triplicate and the entry shall be in the Form C19. The importer shall declare on the entry -  
 (a) the purpose for which it is intended that the goods will be used;  
 (b) the name of the bonded factory or bonded area in which the goods will be used;  
 (c) that the goods will be used solely for the manufacture or process specified;  
 (d) that on completion of manufacture or processing none of the completed product will be removed from the bonded factory or bonded area either for (1) exportation or (2) consumption in Trinidad and Tobago until delivery has been authorised by the proper Officer. Entry Form C19
- (2) Whenever goods liable to ad valorem duty are imported, satisfactory documentary evidence as to value shall be produced, and unless copies are available for official certification the original invoices or other documents shall be annexed to the entry.
196. Every manufacturer shall give such security, by bond or deposit, as the Comptroller may require - Security for duty  
 (a) that goods, whether imported or delivered from an excise warehouse for processing or manufacture in Trinidad and Tobago shall be removed, stored and accounted for to his satisfaction; and  
 (b) for the payment of any duty prescribed by law on such products made from imported materials or materials delivered from an excise warehouse when they are removed for consumption within Trinidad and Tobago.
- 197.(1) The examination of goods imported for manufacture or processing shall be carried out in the bonded area or bonded factory; but should the Comptroller in any special circumstances so allow, examination may be carried out at the place of importation. Any such goods imported by post shall be examined at a post office by the proper Officer unless the Comptroller in special circumstances

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- permits otherwise. Import examination
- (2) Whenever goods are removed to a bonded area for examination, the proper Officer at the place of importation shall immediately send the triplicate copy of the Free Entry to the Officer at the bonded area or bonded factory. The goods shall be removed directly from the place of importation to be bonded area and, if not sealed, shall be accompanied by a customs guard. Packages shall not be opened or otherwise dealt with except in the presence of, or by the authority of the proper Officer.
- (3) Whenever goods are examined at the place of importation or at a post office, the triplicate copy of the entry, duly endorsed and certified by the Officer carrying out the examination, shall be sent by him immediately to the Officer in charge of the bonded area to which they are to be removed.
- (4) Where goods are of a kind, class or nature which cannot be readily identified, facilities shall be given by the importer thereof for establishing their identity to the satisfaction of the officer by stamping, plumbing, sampling or by such other means as the officer may require.
198. Spirits distilled in Trinidad and Tobago which are to be used in the manufacture or processing of products may be removed without payment of excise duty from a warehouse to a bonded factory or bonded area subject to the provisions of the Excise enactments relating to the removal of spirits. Locally distilled spirits
199. The manufacturer shall keep accounts in a Register in such form as the Comptroller may require showing the receipt and disposal of all goods imported or received from an excise warehouse for manufacture or processing. The accounts shall show the port of importation and ship by which the goods were imported, the date and number of the entry and the quantity and description of the goods together with any marks by which the goods can be identified. In the case of locally distilled spirits received from an excise warehouse, the accounts shall show the place whence received, the date and number of the permit accompanying the spirits and the quantity and strength of the spirits. Whenever the normal records kept by the manufacturer for his own information can be satisfactorily used for this purpose, the Comptroller may in his discretion accept such form of accounts and dispense with the use of an official register for keeping the required accounts. The accounts, together with all relative invoices, packing slips, permits or other documents relating to the goods shall be made available by the manufacturer for inspection by the proper Officer as and when he may require.
200. A return of stocks of materials imported or received from an excise warehouse without payment of duty and of articles produced therefrom shall be submitted by the manufacturer to the Comptroller at the end of each month and a return of total receipts and disposals shall be submitted by him at the end of each calendar year. Accounts  
Returns
201. Every manufacturer shall, before he begins his operations, make entry according to Form C79 of all premises, rooms, places and machinery intended to be used by him for his business specifying the purpose for which each room, place and piece of machinery is to be used and the mark by which it is distinguished. The manufacturer shall sign the entry and deliver it to the Comptroller. Entry of bonded areas and premises  
Form C79
202. The manufacturer shall provide proper office accommodation for the use of

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Officers and all costs in connection with Customs supervision shall be borne by the manufacturer. The manufacturer shall also furnish all apparatus, tools or equipment necessary for the examination weighing or testing of materials or goods use in manufacture or processing.

Provision of office accommodation and payment of expenses

#### B. EXPORTATION

203. Goods entered for exportation shall be examined in the bonded area from which they are to be removed for exportation but the Comptroller may permit examinations to be carried out in such places and under such conditions as he may in any special circumstances consider suitable and necessary.  
Place of examination
204. Where goods are to be examined at a bonded area, a notice to pack for export, in duplicate, according to Form C80 shall be forwarded in time to reach the proper Officer at least 24 hours before the time of commencement of packing. After the packing the exporter shall produce shipping bills in duplicate and the original Shipping Bill shall be produced by the exporter to the proper Officer at the time of shipment.  
Notice to pack for export  
Form C80
205. Facilities shall be provided by the exporter for the Officer to carry out the examination of the goods and for the inspection, if required, of the exporter's books and accounts together with any documents relating to the goods. When the goods are not of a class, nature or kind which can be readily identified, facilities shall be granted by the exporter for establishing their identity to the satisfaction of the Comptroller of stamping, plumbing, sampling or by such other means as he may require.  
Facilities to Officer
206. Before delivery from a bonded factory or bonded area all packages shall have affixed thereto a card or a stencil printed thereon in bold characters a notice as follows, "To be produced to the Officer of Customs and Excise at....." (the place of shipment). The goods shall be produced to the Officer at the place of shipment and may be subject to such further examination as he may require.  
Despatch of goods and production at shipment
207. When goods have not been examined prior to production at the ship's side or delivery to a post office the exporter shall hand to the Shipping Officer both original and duplicate shipping bills, completed and marked boldly "Ship's side Examination" and accompanied by a cancelled "notice to pack".  
Goods not examined at bonded premises, etc.

#### C. HOME CONSUMPTION

208. Before delivery from a bonded area or bonded factory of any goods for consumption in Trinidad and Tobago a notice in duplicate to pack for local delivery account to Form C80 shall be forwarded in time to reach the proper Officer at least 24 hours before the time of commencement of packing. After the packing the manufacturer shall produce the relative customs or excise entries in triplicate together with all relevant invoices and other documents as required by the Officer.  
Notice to pack for home consumption



(f) goods imported or taken out of bond by or on behalf of the Trinidad and Tobago Bureau of Standards, any Municipality, County Council or the Tobago House of Assembly and admitted by the Comptroller as necessary for use in the construction, furnishing, upkeep and repair of the buildings belonging to such body or institution, or for carrying out the usual and customary purposes for which such body exists, Finance Act, 1993

(g) goods, free of customs duty under the Fiscal Incentives Act (hereinafter referred to as “the Act”) or section 56(3) of the Customs Act, being goods imported by an enterprise classified under section 9 of the Act as a highly capital intensive enterprise and declared an approved enterprise by an Order under section 10 of the Act, during the period commencing with the date of publication of the Order and terminating on the date on which the benefits granted by the Order cease,

tax shall not be charged under this Act on the entry of the goods imported. Finance Act, 1993

44A. Repealed Finance Act 8 of 1996

45. (1) A person importing any fishing boat, marine engine, fishing net, line or other capital equipment solely for the purposes of carrying on the business of commercial fishing may apply, in accordance with subsection (2), to the Minister to whom responsibility for marine exploitation is assigned (in this section referred to as “the Minister”)

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Form C80

209. All goods declared for consumption in Trinidad and Tobago shall be examined at the manufacturer’s premises prior to duty payment and delivery. The manufacturer shall provide all facilities for the plumbing, weighing, sampling and testing of the goods and materials used in their manufacture. Examination

210.(1) All entries for duty payment shall be lodged with the proper Officer for checking and verification. Duty shall be collected at the rates fixed from time to time. An order according to Form C81 shall be issued for the delivery from the manufacturers’ premises of any completed products on which duty has been paid. Duty payment and delivery Form C81

(2) Where Customs duty becomes payable on materials liable to duty ad valorem the highest value of the like materials imported by or for the use of the manufacturer during the preceding six months shall be taken for the purpose of assessing duty, but the Comptroller may vary this basis where he is satisfied that such variation will not involve risk of loss of revenue.”

for tax on entry of the imported goods to be waived. Certain imports by fishermen

- (2) An application under subsection (1) shall be made in writing, in such form as the Board approves, requesting that tax on the entry of the imported goods be waived and declaring that the imported goods are required solely for the purposes of carrying on the business of commercial fishing, and shall be accompanied by the form required under the Customs Act for the entry of the imported goods.
  - (3) The Minister may, upon application being made to him in accordance with this section for tax on the entry of imported goods to be waived, give the applicant a certificate of waiver signed by him or on his behalf identifying the imported goods to which it relates and stating that -
    - (a) he is satisfied that the applicant is a bona fide commercial fisherman and that the imported goods identified are required solely for the purposes of carrying on the business of commercial fishing; and
    - (b) tax on the entry of the imported goods is waived.
  - (4) Where, under the Customs Act, an officer accepts the form required under that Act for the entry of imported goods and the form is accompanied by a certificate of waiver that is in accordance with subsection (3) and relates to the entry, the entry shall be regarded as zero-rated.
46. (1) A person intending to have any fishing boat, marine engine, fishing net, line or other capital equipment supplied to him solely for the purposes of carrying on the business of commercial fishing may apply, in accordance with subsection (2), to the Minister to whom responsibility for marine exploitation is assigned (in this section referred to as “the Minister”) for tax on the intended supply to be waived. Certain supplies to fishermen
- (2) An application under subsection (1) shall be made in writing, in such form as the Board approves, requesting that tax on the intended supply be waived and declaring that the supply is required solely for the purposes of carrying on the business of commercial fishing, and shall be accompanied by the original and one copy of a proforma invoice, in accordance with subsection (3), relating to the intended supply.
  - (3) The proforma invoice which is required by subsection (2) to accompany an application shall comply with all the requirements of this Act for a tax invoice, including the requirement to show the rate

of tax applicable to the intended supply and the amount to be claimed from the recipient in respect of tax, but shall be clearly identified as being a proforma invoice and is not a tax invoice for the purposes of this Act.

- (4) The Minister may, upon application being made to him in accordance with this section for tax on an intended supply to be waived, give the applicant a certificate of waiver signed by him or on his behalf identifying the proforma invoice for the intended supply to which it relates, specifying the goods intended to be supplied, and stating that -
- (a) he is satisfied that the applicant is a bona fide commercial fisherman and that the goods specified in the proforma invoice are required solely for the purposes of carrying on the business of commercial fishing; and
  - (b) the tax referred to in the proforma invoice is waived.
- (5) Where a supplier who has given a proforma invoice is presented with a certificate of waiver that is in accordance with subsection (4) and relates to the supply for which the proforma invoice was given, he may make the supply as if no tax were payable on it, and for the purposes of this Act the supply shall be regarded as a zero-rated supply.
- 46A. (1) Where goods or prescribed services are supplied or rendered to a diplomatic mission, consulate, or an international or regional organisation or agency or to a member of the diplomatic or consular service or a member of his family forming part of his household, such mission, consulate, organisation, agency or member of the diplomatic or consular service may apply to the Board for a refund of tax paid on the supply of goods or services in accordance with subsection (2).
- Reliefs for diplomats and others  
Finance Act, 1990
- (2) An application made under subsection (1) shall be made in writing in such a form as the Board approves and shall be accompanied by a tax invoice and such other documents as the Board may require.
- (3) Notwithstanding subsection (1), the Minister may by Order publish from time to time a list of the missions, consulates, organisations or agencies and persons who are entitled to a refund and the categories of supplies in respect of which the tax is refundable.

46B. The President may remit or refund in whole or in part, to the following persons and institutions, any tax on motor vehicles whenever he shall deem it expedient to do so -

Reliefs for certain persons  
Finance Act, 1990

- (a) judges of the Supreme Court;
- (b) public servants who are required to keep motor vehicles for the performance of their official duties;
- (c) holders of offices falling under the purview of the Salaries Review Commission;
- (d) charitable institutions and other deserving cases.

47. (1) Where - Bad debts

- (a) the amount specified by a person in a return as being the amount of tax payable, or the amount of the refund due, has been calculated taking into account a commercial supply made by that person for a consideration in money; and
- (b) all or any of the consideration remains unpaid, despite its having become due and payable and reasonable efforts having been made for its recovery, and has been written off as a bad debt,

the person who furnished the return may, in calculating the amount of tax payable, or the amount of refund due, that is to be specified in the return for the period in which the amount was written off or, where a period of twelve months has not then elapsed since the amount became due and payable, the first return after that period of twelve months elapses, deduct the amount of tax included in the previous return that was attributable to the amount written off.

- (2) Where an amount in respect of which a deduction has been made under subsection (1) is wholly or partly recovered by a registered person, that person shall include as tax payable in his return for the period during which the amount is recovered the amount previously deducted or, where only part of the amount written off is recovered, such proportion of the amount previously deducted as the amount recovered represents as a proportion of the amount written off.

## PART 6

## MISCELLANEOUS

48. (1) For the purposes of this section the expression “alteration of the law” means the coming into force of this Act, and Order under section 7 or any amendment to this Act, by which -
- Effect of changes in tax on existing contracts
- (a) a supply of goods or services is charged with, or ceases to be charged with, tax; or
  - (b) the rate of tax in respect of the supply of goods or services is increased or reduced.
- (2) Where an alteration in the law is made and a supplier has at any time, entered into a contract with a recipient in respect of the supply of goods or services, unless -
- (a) express provision for the exclusion of any such alteration in the law is contained in the contract; or
  - (b) the alteration in the law has been taken into account in entering into the contract,
- every such contract shall be deemed to be modified so that -
- (c) where the alteration in the law renders the supply liable to be charged with tax, or an increased amount of tax, the supplier may add to the amount agreed to be paid to him by the recipient the amount of that tax, or increase in tax, as the case may be;
  - (d) where the alteration in the law renders the supply no longer liable to be charged with tax, or liable to be charged with a reduced amount of tax, the supplier or the recipient may deduct from the amount agreed to be paid under the contract the amount of that tax, or reduction in tax, as the case may be.
49. The Board is responsible for the administration of this Act. Administration
50. (1) The Board may designate persons to be authorised persons for the purposes of this Act. Authorised persons
- (2) The Board shall cause to be issued to each authorised person an authority in writing signed on behalf of the Board.

- (3) An authorised person shall produce the authority issued to him under subsection (2) whenever required to do so by a person in respect of whom he has exercised, or is about to exercise, any power conferred on him by this Act.
51. (1) An authorised person shall comply with any direction given to him by the Board in connection with the performance of his functions under this Act. Functions of authorised persons
- (2) An authorised person may -
- (a) for the purposes of this Act, require a person to furnish to the authorised person, orally or in writing, as the authorised person, may specify, such information as is in the knowledge of, or is reasonably available to, that person;
  - (b) by notice in writing, require a person to produce to the authorised person any books, records, or other source from which information can be derived that is or may be relevant to the administration of this Act;
  - (c) take samples of any goods in the possession of a person if it appears appropriate for the purposes of administering this Act;
  - (d) make copies of anything produced pursuant to a requirement under paragraph (b) or seized under section 118 of the Income Tax Act as applied by section 55 of this Act;<sup>14</sup>

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<sup>14</sup> Note: Section 118 of the Income Tax Act as follows:

“118. (1) Subject to this section and to section 117, the Board or any person authorised by it for any purpose related to the administration or enforcement of this Act may, at all reasonable times, enter into any premises or place where any business is carried on or any property is kept or anything is done in connection with any business or any books or where records are or are required to be kept pursuant to this Act, and Powers of entry for certain purposes  
Act No. 29 of 1966

- (a) audit or examine the books and any account, voucher, letter, telegram or other document, which relates or may relate to the information that is or should be in the books or records or to the amount of tax payable under this Act;
- (b) examine property described by an inventory or any property, process or matter the examination of which may, in its opinion, assist it in determining the accuracy of an inventory or in ascertaining the information that is or is required to be contained in the books or records or the amount of any tax payable under this Act;
- (c) require the owner or manager of the property or business and any other person on the premises or place to give it all reasonable assistance with its audit

(e) issue infringement notices.

Finance Act, 1991

(3) A sample of goods taken under subsection (2)(c) shall be disposed of and accounted for as the Board authorizes except that, in the case

examination and to answer all questions relating to the audit or examination either orally, or if it so requires, in writing, on oath or by statutory declaration and, for that purpose require the owner or manager to attend at the premises or place with it;

(d) search, if necessary with the assistance of any police officer, any building, receptacle or place or documents, books, records, papers or things which may afford evidence as to the violation of any provision of this Act or the regulations;

(e) if, during the course of the audit or examination, it appears to it that there has been a violation of this Act or the regulations,, seize and take away any of the records, books of account, vouchers, letters, telegrams and other accounts and retain them until they are produced in any proceedings.

(2) Admission to any premises shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier, so however, that if any person is aggrieved by any such notice he may, within the said period of twenty-four hours, so inform the Board in writing, and thereupon section 117(4) shall apply as if the reference to subsection (2) occurring therein was a reference to subsection (1) of this section.

(3) If it is shown to the satisfaction of a Magistrate on sworn information in writing -

(a) that admission to any premises has been refused, or that refusal is apprehended, or that an application for admission would defeat the object of the entry; and

(b) that there is reasonable ground for entry into the premises for any purpose as is mentioned in subsection (1),

the Magistrate may by warrant under his hand authorize the Board by any authorised officer to enter the premises, if need be by force, except that such a warrant shall not be issued unless the Magistrate is satisfied either that notice of the intention to apply for a warrant has been given to the occupier, or that the giving of such notice would defeat the object of the entry. Where it is shown to the satisfaction of the Magistrate that the giving of the notice would defeat the object of the entry, the provisions of this subsection shall apply notwithstanding anything to the contrary in subsection (2).

(4) An authorised officer entering any premises by virtue of this section, or of a warrant issued thereunder, may take with him such other persons as may be necessary.

(5) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.

(6) Any person who in compliance with the provisions of this section, or of a warrant issued thereunder, is admitted into a factory or work-place, discloses to any person any information obtained by him in the factory or work-place with regard to any manufacturing process or trade secret, is, unless such disclosure was made in the performance of his duty, liable to a fine of fifteen thousand dollars or to imprisonment for twelve months.

Finance Act 35 of 1998

(7) Any person who hinders or molests or interferes with any person doing anything that he is authorised to do or prevents or attempts to prevent any person from doing any such thing and any person who unless he is unable to do so fails or refuses to do anything he is required by or pursuant to this section to do is guilty

of an offence and liable on summary conviction to a fine of fifteen thousand dollars and to imprisonment for two years."

Finance Act 35 of 1998

of goods the open market value of which exceeds twenty dollars, the goods shall within a reasonable time, be returned in good order to the person from whom they were taken or the person shall be paid such compensation by the Board, being not less than the open market value of the goods, as the Board determines.

52. (1) A person who uses or discloses any information obtained under this Act other than for the purposes of this Act or the administration of any other tax administered by the Board commits an offence unless the use or disclosure is with the consent of the person from whom the information is obtained or is for the purpose of legal proceedings arising out of the administration of this Act or that other tax. Secrecy
- (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine of fifteen thousand dollars and imprisonment for one year.
53. The Board may, in any circumstances in which the Board considers it appropriate for the protection of the revenue to do so, require a person to give to the Board such security as the Board considers appropriate for the protection of the revenue. Board may require security
54. (1) Where any amount that a person is required to pay to the Board is not paid by the due date, the amount outstanding bears a penalty of eight percent of the amount outstanding and interest at the rate of two percent per month or part of a month. Interest and penalty
- (2) The Board may, where it is satisfied that the circumstances of the case justify the reduction or waiver of a penalty or interest arising under subsection (1), reduce or waive the penalty or interest accordingly.
- (3) In this section “due date” is the date specified in section 31(2) as the date when the return for the period in question should be filed, save that where the tax period is allocated under section 39(2) and (3) for the purposes of making an assessment, the due date is twenty-five days after the end of the tax period so allocated.
- (4) The provisions of this Act relating to the collection and recovery of tax shall apply to the collection and recovery of the amount of penalty and interest referred to in subsection (1). Finance Act, 1991.
- 54A. (1) <sup>15</sup>Notwithstanding any written law to the contrary, there shall be a waiver of the following liabilities: Waiver of interest,

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<sup>15</sup> Note : Effective 21<sup>st</sup> August 2007



penalty

- (a) interest and penalties on outstanding taxes due and payable as at 31<sup>st</sup> December, 2006, where such taxes are paid during the period 21<sup>st</sup> August, 2007 to 30<sup>th</sup> April, 2008;
  - (b) outstanding interest charged on any taxes due and payable as at 31<sup>st</sup> December, 2006, where such taxes have been paid prior to 21<sup>st</sup> August, 2007;
  - (c) penalties in respect of taxes due and payable as at 31<sup>st</sup> December, 2006 and paid prior to 21<sup>st</sup> August, 2007, where such penalties have not been paid.
  - (d) penalties on outstanding returns for periods up to 31<sup>st</sup> December, 2006 and filed during the period 21<sup>st</sup> August, 2007 and 30<sup>th</sup> April, 2008; and
  - (e) penalties with respect to returns for periods up to 31<sup>st</sup> December, 2006 and filed prior to 21<sup>st</sup> August, 2007, where such penalties have not been paid.
- (2) For the avoidance of doubt, the waiver granted under subsection (1) shall not -
- (a) affect any liability to the taxes which are due and payable under this Act; or
  - (b) apply to any interest and penalties paid prior to 21<sup>st</sup> August, 2007.
- (3) Where any taxes remain outstanding after 30<sup>th</sup> April 2008, the interest, penalties which would have been payable on such outstanding taxes shall be revived and become payable as if the waiver in subsection (1) had not been granted.

F.A. 91 of 2000  
F.A. 30 of 2007

55. (1) Section 82(2) and (3) of the Income Tax Act shall apply<sup>16</sup> as if references therein to taxes, interest and penalties under that Act included reference to taxes, interest and penalties under this Act.
- Certain provisions of Income Tax to apply

<sup>16</sup> Note: Section 82(2) and (3) of the Income Tax Act read as follows:

“82 (2) Every assignee, liquidator, administrator, executor and other like person, other than a trustee in bankruptcy, before distributing any property under his control, shall obtain a certificate from the Board certifying that there are not outstanding any taxes, interest or penalties that have been assessed under this Act and are chargeable against or payable out of the property. Certificate before distribution  
(3) Distribution of property without a certificate required by subsection (2) shall render the person required to obtain the certificate personally liable for the unpaid taxes, interest and penalties. Liability”

- (2) <sup>17</sup>Sections 88, 104 to 115, 118, 121(2), 121A, 122, 123, 124, 131 and 132 of the Income Tax Act shall, with the modifications set out in subsection (3) and such other modifications as the case requires, apply to and in relation to the administration of this Act and the collection and recovery of any amount payable under this Act as if that amount were payable under that Act. <sup>18</sup> Finance Act, 1996

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<sup>17</sup> Note: Section 88 inserted by Act No. 5 of 2004 with effect from 30<sup>th</sup> January 2004

<sup>18</sup> Note: these sections read as follows:

“104. (1) If upon demand made by the Board a person neglects or refuses to pay any tax or any portion thereof that has become payable, the Board by warrant under its hand, in the form given in the Sixth Schedule, may authorise any person hereinafter referred to as an “authorised person” to distrain the person charged by his goods and chattels Distraint by Board Sixth Schedule

(2) For the purpose of levying any such distress, the authorised person may break open, in the day-time, any house or premises, calling to his assistance any constable. Every such constable shall, when so required, aid and assist the authorised person in the execution of the warrant and in levying the distress in the house or premises.

(3) A distress levied by the authorised person shall be kept for seven days, at the costs and charges of the person neglecting or refusing to pay.

(4) If the person aforesaid does not pay the sum due, together with the costs and charges, within the said seven days, the distress shall be sold by public auction by the authorised person or any person deputed by him for payment of the sum due and all costs and charges. The costs and charges of taking, keeping and selling the distress shall be retained by the authorised person or any person deputed by him, and any overplus coming by the distress, after the deduction of the costs and charges and of the sum due, shall be restored to the owner of the goods distrained.

(5) In this section “constable” includes any member of the police service and any member of supplemental bodies of police established by the Supplemental Police Act or the Special Reserve Police Act.

Ch.15 No. 2  
Ch.15 No. 3

105. (1) No goods or chattels whatever, belonging to any person at the time any tax becomes in arrear, shall be liable to be taken by virtue of any execution or other process, warrant or authority whatever, or by virtue of any agreement or assignment, on any account or pretence whatever, except at the suit of the landlord for rent, unless the person at whose suit the execution of seizure is made or to whom the assignment was made, pays or causes to be paid to the Board before the sale or removal of the goods or chattels, all arrears of tax which are due at the time of seizure, or which are payable for the year in which the seizure is made; but where tax is claimed for more than one year, the person at whose instance the seizure has been made, may, on paying to the Board the tax which is due for one whole year, proceed in his seizure in like manner as if no tax has been claimed.

Priority of claim for tax

(2) In case of neglect or refusal to pay the tax so claimed or the tax for one whole year, as the case may be, the authorised person shall distrain the goods and chattels notwithstanding the seizure or assignment, and shall proceed to the sale thereof, as prescribed by this Act for the purpose of obtaining payment of the whole of the tax charged and claimed, and the reasonable costs and charges attending such distress and sale, and the authorised person so doing shall be indemnified by virtue of this Act.

106. (1) Warrants shall be executed by the respective persons to whom they are directed in any part of Trinidad and Tobago.

Execution of warrants

(2) Constables shall aid in the execution of this Act.

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107. Any person who, by himself or by any person in his employ, obstructs, molests or hinders - Obstruction of officers  
(a) an authorised person or any person employed in relation to any duty of tax in the execution of his duty, or of any of the powers or authorities by law given to the authorised person or any other person; or  
(b) any person acting in the aid of an authorised person or any person so employed, is guilty of an offence.

108. (1) Any surplus moneys arising on any sales under this Act shall be paid to the person entitled thereto. Surplus on sale  
(2) The Board may, if it thinks fit, pay any such surplus moneys into Court; and the High Court or a judge thereof may, on the petition of any person entitled or claiming to be entitled to such moneys or any part thereof, make order for the payment of the same or any part thereof to the person entitled thereto.

#### RECOVERY OF TAX IN CERTAIN CASES

109. (1) Where the Board has reason to believe that a person may leave Trinidad and Tobago, the Board may before the day otherwise fixed for payment, serve a notice of assessment upon such person, demanding payment of all taxes, interest and penalties for which the person is liable or would be liable if the time for payment had arrived, and the same shall be paid forthwith notwithstanding any other provision of this Act. Persons leaving Trinidad and Tobago or defaulting

(2) A person upon whom a demand has been made under subsection (1) may give security to the satisfaction of the Board for the payment of the tax assessed.

(3) Any person who has paid the tax in accordance with the demand made by the Board or who has given security for such payment under subsection (2) shall have the right of objection and appeal conferred by sections 86 and 87 and the amount paid by him shall be adjusted in accordance with the results of any objection or appeal.

(4) The provisions of this section shall not affect the powers conferred on the Board by section 89.

110. (1) Where - Provisions as to recovery of tax and penalties

(a) the amount of any tax for the time being due and payable under any assessment does not exceed three thousand dollars;

(b) the tax under any assessment is payable by instalments and the sum for the time being due and payable in respect of any of those instalments does not exceed twelve hundred dollars,

the tax shall, without prejudice to any other manner of recovery, be a sum enforceable as a civil debt by proceedings commenced in the name of the Board.

(2) All or any of the sums due in respect of tax from any person and payable to the Board (being sums which are by law sums enforceable as a civil debt) may, whether or not they are due under one assessment, be included in the same complaint, summons, order, warrant or other document required by law to be laid before a Magistrate or to be issued by a Magistrate, and every document as aforesaid shall as respects such sum be construed as a separate document and its

invalidity as respects any one such sum shall not affect its validity as respects any other such sum.

(3) A written statement as to the wages, salaries, fees and other emoluments paid for any period to the person against whom proceedings under this section are brought, purporting to be signed by his employer for that period or by any responsible person in the employment of the employer shall in any such proceedings be prima facie evidence that the wages, salaries, fees and other emoluments therein stated to have been paid to the person charged have in fact been so paid.

(4) Where a penalty other than a fine, is imposed by or under this Act in addition to tax, the penalty shall be added to the assessment, and collected and

recovered in like manner as any tax included in such assessment may be collected and recovered.

(5) Any tax that is by this section a sum enforceable as a civil debt, may be recovered as if it was a simple contract debt in any court of competent jurisdiction.

(6) For the avoidance of doubt it is hereby declared to be the law that any tax charged under the provisions of this Act is a debt due to the State and may without prejudice to any other manner in which the same may at any time be lawfully recovered be sued for and recovered from the person charged therewith in the manner provided in the State Liability and Proceedings Act.

Ch.8 No.2

(7) Any person who in the opinion of the Court may be able to give information concerning the property or goods of the person charged may lawfully be summoned to give evidence in any civil or criminal proceedings.

111. (1) Where any amount payable to the Board under section 99 or under any other provision of this Act has not been paid within thirty days after payment thereof became due, the Board may make out a certificate in such form as may be prescribed stating the amount payable and the name, the trade or profession and the usual or last known place of abode of the person by whom such amount is payable.

Certificate

(2) On production thereof to the Registrar of the Supreme Court, a certificate made under this section shall be registered by him in the High Court and when so registered shall have the same force and effect, and all proceedings may be taken thereon, as if the said certificate were a judgment for the State obtained in the said Court for a debt of the amount specified in the certificate together with any interest required to be paid by this Act to the day of payment.

(3) Rules of Court may be made under section 77 of the Supreme Court of Judicature Act providing for the procedure to be followed upon the registration of such certificates.

Ch.4:01

(4) All reasonable costs and charges attendant upon the registration of the certificate shall be recoverable in like manner as if they had been included in such certificate.

112. (1) Where the Board has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment of tax under this Act, it may, by registered letter or by a letter served personally, require such first-mentioned person to pay the moneys otherwise payable to such second-mentioned person in whole or in part to the Board on account of the liability of the second-mentioned person under this Act.

Garnishments

(2) The receipt of the Board for moneys paid as a required under this section shall to the extent of the payment be a good and sufficient discharge of the original liability -

(a) of the person who pays such moneys to the Board to the person liable to make a payment of tax under this Act;

(b) of the person liable to make a payment of tax under this Act to the Board.

(3) Where the Board, under this section, has required an employer to pay to it on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement shall be applicable to all future payments by the employer to the employee in respect of remuneration until the liability of the employee under this Act is satisfied and shall operate to require payments to the Board out of each payment of remuneration due to the employee of such amount as may be stipulated by the Board in the registered or other letter.

(4) Every person who has discharged any liability to a person liable to make a payment of tax under this Act without complying with a requirement under this

section shall be liable to pay to the Board as a debt due to the State an amount equal to the liability discharged or the amount which he was required under this section to pay to the Board whichever is the less.

(5) Where the person who is or is about to become indebted or liable carries on business under a name or style other than his own name, the registered or other letter under subsection (1) may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

Service of Garnishees

(6) Where the persons who are or are about to become indebted or liable carry on business in partnership, the registered or other letter under subsection (1) may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of a partnership.

#### NOTICES

113. (1) Every notice to be given by the Board under this Act shall be signed by the Board or by some person or persons from time to time appointed by it for that purpose, and every such notice shall be valid if the signature of the Board or of such person or persons is duly printed or written thereon; but any notice in writing under this Act to any person requiring him to furnish particulars to the Board, or any notice under this Act requiring the attendance of any person or witness before the Board shall be personally signed by the Board or by any person duly authorised by it.

Signatures of notices

(2) A signature attached to any notice and purporting to be the signature of any person so appointed shall be taken to be the signature of that person until the contrary is shown

114. (1) Notice may be served on a person either personally or by being sent by post to his last known business or private address; but service by post in the case of a notice requiring the attendance of any person or witness before the Board shall be by registered post.

Service of notices

(2) A notice sent by post shall be deemed to have been served, in the case of persons resident in Trinidad and Tobago not later than the fifteenth day succeeding the day when posted, and in the case of persons not so resident, not later than the thirtieth day succeeding the day on which the notice would have been received in the ordinary course by post and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.

#### IMPRISONMENT OF DEFAULTERS

115. (1) If a person neglects or refuses to pay the tax charged upon him by virtue of this Act and no sufficient distress can be found whereby the same may be levied, the President may, by warrant under his hand and the Public Seal of Trinidad and Tobago, commit such person to prison, there to be kept without bail until payment be made of that sum or security given to his satisfaction for payment thereof, together with such further sum as he may adjudge to be reasonable for the costs and expenses of apprehending and conveying such person to prison where he shall detained and kept according to the tenor and effect of the warrant.

In case of refusal to pay where there are no distrainable effects, defaulter may be imprisoned

(2) The President may issue his warrant to the Commissioner of Prisons directing the liberation of any defaulter and, on receipt thereof, the Commissioner of Prisons shall forthwith release and discharge such defaulter out of custody, unless he is under detention for some other cause than that set forth in the warrant of commitment.

Release”

“118. (1) Subject to this section and to section 117, the Board or any person authorised by it for any purpose related to the administration or enforcement of this Act may, at all reasonable times, enter into any premises or place where any

business is carried on or any property is kept or anything is done in connection with any business or any books or where records are or are required to be kept pursuant to this Act, and -

Powers of entry for certain purposes

- (a) audit or examine the books and any account, voucher, letter, telegram or other document, which relates or may relate to the information that is or should be in the books or records or to the amount of tax payable under this Act;
- (b) examine property described by an inventory or any property, process or matter the examination of which may, in its opinion, assist it in determining the accuracy of an inventory or in ascertaining the information that is or is required to be contained in the books or records or the amount of any tax payable under this Act;
- (c) require the owner or manager of the property or business and any other person on the premises or place to give it all reasonable assistance with its audit examination and to answer all questions relating to the audit or examination either orally, or if it so requires, in writing, on oath or by statutory declaration and, for that purpose require the owner or manager to attend at the premises or place with it;
- (d) search, if necessary with the assistance of any police officer, any building, receptacles or place for documents, books, records, papers or things which may afford evidence as to the violation of any provision of this Act or the regulations;
- (e) if, during the course of the audit or examination, it appears to it that there has been a violation of this Act or the regulations, seize and take away any of the records, books of account, vouchers, letters, telegrams and other accounts and retain them until they are produced in any proceedings.

(2) Admission to any premises shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier, so however, that if any person is aggrieved by any such notice he may, within the said period of twenty-four hours, so inform the Board in writing, and thereupon section 117(4) shall apply as if the reference to subsection (2) occurring therein was a reference to subsection (1) of this section.

(3) If it is shown to the satisfaction of a Magistrate on sworn information in writing -

- (a) that admission to any premises has been refused, or that refusal is apprehended, or that an application for admission would defeat the object of the entry; and
- (b) that there is reasonable ground for entry into the premises for any purpose as is mentioned in subsection (1).

the Magistrate may by warrant under his hand authorise the Board by any authorised officer to enter the premises, if need be by force, except that such a warrant shall not be issued unless the Magistrate is satisfied either that notice of the intention to apply for a warrant has been given to the occupier, or that the giving of such notice would defeat the object of the entry. Where it is shown to the satisfaction of the Magistrate that the giving of the notice would defeat the object of the entry, the provisions of this subsection shall apply notwithstanding anything to the contrary in subsection (2).

(4) An authorised officer entering any premises by virtue of this section, or of a warrant issued thereunder, may take with him such other persons as may be necessary.

(5) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.

(6) Any person who in compliance with the provisions of this section, or of a warrant issued there under, is admitted into a factory or work-place, discloses to any person any information obtained by him in the factory or work-place with regard to any manufacturing process or trade secret, is, unless such disclosure was made in the performance of his duty, liable to a fine of fifteen thousand dollars or to imprisonment for twelve months.

Finance Act 35 of 1998

(7) Any person who hinders or molests or interferes with any person doing anything that he is authorised to do or prevents or attempts to prevent any person from doing any such thing and any person who unless he is unable to do so fails or refuses to do anything he is required by or pursuant to this section to do is guilty of an offence and liable on summary conviction to a fine of fifteen thousand dollars and to imprisonment for two years.”

Finance Act 35 of 1998

“121. (2) Where a person is guilty of an offence under this Act, the Court may, in addition to any penalty which it may impose, make an order for the immediate payment of any tax or for the penalty imposed or for both such tax and such penalty and the Court may make such order for imprisonment in default for any period not exceeding two years as it may consider fit.”

“122. (1) Proceedings for the recovery of any fine or penalty incurred under this Act in connection with or in relation to tax may be commenced at any time within seven years next after the date on which it was incurred.

Time limit for proceedings to recover fines and penalties

(2) The time limited by subsection (1) for commencing proceedings for the recovery of any fine or penalty from any person in connection with or in relation to any tax covered by any assessment shall, where any form of fraud or wilful default has been committed by him or on his behalf in connection with or in relation to that tax, be extended so as to authorise the commencement of such proceedings at any time within three years from the final determination of the amount of tax covered by the assessment.

(3) For the purposes of subsection (2) the amount of the tax covered by any assessment shall not be deemed to be finally determined until that assessment can no longer be varied or revised, whether by the Board of Inland Revenue or by the Appeal Board or by the order of any Court.

(4) Nothing in subsection (2) shall extend the time for the bringing of any proceedings against the personal representatives of any person by whom or on whose behalf any form of fraud or wilful default has been committed.

123. The provisions of this Act shall not affect any criminal proceedings under any other written law.

Saving for criminal proceedings

124. The President may remit or refund the whole or any part of the tax payable or paid, as the case may be, by any person if he is satisfied that it would be just and equitable to do so.

President may remit tax”

“131. (1) The Board may, in relation to any particular matters or class of matters, by writing under their hand delegate to a Commissioner or other person all or any of its powers or functions under this Act except this power of delegation, so that the delegated powers or functions may be exercised by the Commissioner or other person with respect to the matter or class of matters specified in the instrument of delegation.

Delegation by Board

(2) Every delegation under this section shall be revocable at will, but any delegation shall not prevent the exercise of any power or function by the Board.

(3) Any delegation under this section may be made subject to a power of review and alteration within the period specified in the instrument of delegation, by the Board of any act done in pursuance of the delegation and the decision given upon such review or alteration shall be deemed to be that of the Board.

132. The Board, a Commissioner or any officer acting under its authority shall be indemnified against any liability with respect to any act or thing performed or

- (3) In applying the provisions of the Income Tax Act referred to in subsection (2), as required by that subsection -
- (a) the reference in section 109(3) of that Act to sections 86 and 87<sup>19</sup> of that Act shall be read as a reference to section 40 of this Act;

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done by it or in its name in connection with any duty imposed by this Act.

Indemnity for liability”

<sup>19</sup> Note: Sections 86 and 87 read as follows:

“86. (1) The Board shall cause to be served on each person whose name appears on the assessment lists a notice addressed to him at his usual place of abode or business stating that amount of his chargeable income and the amount of tax payable by him, and informing him of his rights under subsection (2).

Notices to be served on persons assessed

(2) If any person disputes the assessment he may apply to the Board by notice of objection in writing delivered to the Board to review and to revise the assessment made upon him. Such application shall state precisely the grounds of his objections to the assessment and shall be made within fifteen days from the date of the service of the notice of assessment.

(3) An application under subsection (2) may be made out of time if the Board is satisfied that there was a reasonable excuse for not making the application within the time limited and that the application was made thereafter without unreasonable delay.

(4) Where the Board disallows an objection for the reason that it is not satisfied under subsection (3), an appeal shall lie to the Appeal Board from such a decision in accordance with section 87.

(5) On receipt of a notice of objection duly made, the Board shall reconsider the assessment and may vacate or vary the assessment, or confirm the assessment and disallow the objection.

(6) The Board shall serve on the objector notice of its decision under subsection

(5).

(7) In the event of any person assessed, who has objected to an assessment made upon him, agreeing with the Board as to the amount at which he is liable to be assessed the amount so agreed shall be the amount at which such person shall stand assessed, and the assessment shall be confirmed or amended accordingly; but in the event of any person who under subsection (2) has applied to the Board for a revision of the assessment made upon him failing to agree with the Board as to the amount at which he is liable to be assessed, his right of appeal to the Appeal Board under this Act, against the assessment made upon him shall remain unimpaired.

(8) Where, within twenty-four months after the service of the notice of objection, the Board fails to determine the objection, the objection shall be deemed to have been determined in favour of the person who has disputed his assessment and the assessment shall be amended accordingly.

Act No. 1 of 1986

(9) Where, upon the expiration of twelve months after the service of the notice of objection the Board fails to determine the objection, the person who has disputed his assessment may, notwithstanding section 7(2) of the Tax Appeal Board Act appeal to the Appeal Board within twelve months of such expiration.

Act No. 1 of 1986 Ch.4:50

(10) Where an objection against an assessment has been made before 27th September 1966 (that is, the day of the passing of the Finance Act 1966) and proceedings in respect of that objection are subsequent to the date of the coming



- (b) the reference in section 109(4) of that Act to the powers conferred on the Board by section 89<sup>20</sup> of that Act shall be read as reference to any other power of assessment given by this Act to the Board; and

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into operation of the said Act still pending before the Board then unless such objection is determined by the Board within one year from the passing of the Act, the objection shall be deemed to have been determined in favour of the person who has disputed his assessment and the assessment shall be amended accordingly.

(11) Upon the expiration of the time for giving notice of appeal to the Appeal Board under section 7 of the Tax Appeal Board Act, the person who has disputed his assessment, shall, if no appeal is then pending, within thirty days, pay to the Board of Inland Revenue any part of the tax that was in dispute and any interest and penalties remaining unpaid as is determined by the Board.

Ch. 4:50

#### APPEALS AGAINST ASSESSMENT

87. Any person who has disputed his assessment by notice of objection under this Act, and who is dissatisfied with the decision of the Board may appeal to the Appeal Board in accordance with the provisions of the Tax Appeal Board Act.

Rights of appeal against Board decision  
Ch.4:50”

<sup>20</sup> Note: Section 89 reads as follows:

- “89. (1) Subject to this section, where it appears to the Board that any person liable to tax has not been assessed or has been assessed at a less amount than that which ought to have been charged, the Board may, within the year of income or within the year of income or within six years after the expiration thereof, assess such person at such amount or additional amount as according to its judgment ought to have been charged, and the provisions of this Act as to notice of assessment, appeal and other proceedings under this Act shall apply to such assessment or additional assessment and to the tax charged thereunder.

Assessments, additional assessments etc.

- (2) Where any fraud or any gross or wilful neglect has been committed by or on behalf of any person in connection with or in relation to -
- (a) any tax for the former years of assessment or for any subsequent year of income; or
- (b) any claim, deduction, relief, exemption or other matter having or that might have had a direct or indirect effect upon the amount of tax for the former years of assessment or for any subsequent year of income, an assessment or additional assessment, as the case may be, may, for any such former year of assessment or year of income, be made at any time on that person under subsection (1) or, section 83 or, subject to subsection (3), on the personal representative of that person under subsection (1) or section 66 and section 83.
- (3) In the case of an assessment or an additional assessment made upon the personal representative of a deceased person in respect of any income of that deceased person that would but for his death have been assessed and charged to tax on him, the time allowed pursuant to subsection (1), sections 66 and 83 for the making of the assessment or additional assessment, as the case may be, shall not extend beyond the expiration of a period of three years after the former year of assessment or the year of income in which the deceased person died.
- (4) Subsections (1) and (3) have effect for the former years of assessment 1961 and 1962 and subsequent years of income but do not render invalid any

- (c) The references in section 118 of that Act to section 117<sup>21</sup> and 117(4) of that Act shall be disregarded but, upon a person who is aggrieved by notice of intended entry notifying the Board in accordance with section 118(2) of that Act that he is aggrieved, the person may, within seven days of receipt of notice of the intended entry, apply to a Judge in Chambers for a declaration of his rights in the matter and the Judge shall hear and determine the application and make such order as the justice of the case requires.

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assessment, objection or appeal made or pending under this Act before 20th April 1965 (that is, the date of commencement of the Income Tax (Amendment) Act 1963).”

<sup>21</sup> Note: Section 117 reads as follows:

- “117. (1) The Board may for any purpose related to the administration or enforcement of this Act require any person, except a person engaged in confidential professional relationship with such person, to give it information in such manner and detail and at such time as the Board may from time to time require by notice in writing with respect of his income or assessment or assets or the income or assessments or assets of any other person or to permit it or any person duly authorized by it in writing to inspect any record of any monies, funds or other assets held by that person on his own behalf or which may be held by him for, or of any monies due by him to, any other person. Powers of Inspection of records
- (2) Notwithstanding any rule of law to the contrary, but subject to this section, the Board may, for the purpose of determining any objection to an assessment require by writing any bank or any officer thereof to furnish information in writing or may summon any such officer to appear before it to give evidence respecting the assessment or to furnish statements of accounts and affairs verified in the manner specified by it, and the Board may examine such officer on oath or otherwise.
- (3) Where the Board proposes to exercise the powers conferred on it under subsection (2) it shall give notice of its intention to do so, to the person who has disputed his assessment and shall inform such person of his rights under this section.
- (4) If the person who has disputed his assessment is aggrieved by the proposal of the Board to exercise its powers under subsection (2), he may, within seven days of receipt of notice thereof from the Board, apply to a Judge in Chambers for a declaration of his rights in the matter, and the Judge shall hear and determine such application and shall make such order as the justice of the case requires.
- (5) A person is guilty of an offence who -
- (a) fails to give to the Board any information in accordance with the provisions of this section; or
- (b) fails to produce for the inspection of the Board or any person duly authorized by it any records which he may be required by the Board or such duly authorized person to produce.
- (6) For the purposes of giving effect to a declared agreement within the meaning of the Tax Information Exchange Agreements Act the Board is deemed to have the powers set out in subsection (2) notwithstanding the absence of an assessment or objection, and subsections (3), (4) and (5) shall apply mutatis mutandis.”

Income Tax (Amendment) (No.2) Act, 1989

- (4) The penalty for an offence under any provision of the Income Tax Act as applied by this section is the same as the penalty prescribed for that offence in the Income Tax Act.
- 55A. (1) The Board may issue or cause to be issued a clearance certificate for the purposes of the Central Tenders Board Ordinance where the Board is satisfied that the person to whom the certificate is to be issued -
- Clearance Certificate  
Finance Act, 1992
- (a) does not owe any tax on his own behalf or on behalf of any other person; or
- (b) has made satisfactory arrangements with the Board for the payment of any tax payable by him on his own behalf or on behalf of any other person.
- (2) A clearance certificate shall be in a form approved by the Board.
- (3) A clearance certificate shall be valid for such period not exceeding six months as may be determined by the Board.
- (4) A person aggrieved by a refusal of the Board to grant him a clearance certificate may appeal to the Tax Appeal Board and the decision of the Tax Appeal Board shall be final.
56. A person who -
- General Offences
- (a) without lawful excuse fails to comply with a requirement made under this Act; or
- (b) knowingly provides any information required by or under this Act that is false or misleading in any material particular,
- commits an offence and is liable on summary conviction to a fine of fifteen thousand dollars and imprisonment for one year.
57. Where a person by whom an offence against this Act is committed is a body corporate, every director or other officer concerned in any capacity in the management of the body corporate is guilty of the like offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.
- Additional liability for offence by body corporate

58. A complaint for an offence against this Act shall be made within three years from the time when the matter of the complaint arose. Limitation period for prosecutions
59. The President may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the purposes of this Act. Regulations

## PART 6A

### MODIFIED PENALTIES

- 59A. (1) An authorized person who has reason to believe that a person has committed a prescribed offence may, within three months after the alleged offence is believed to have been committed, give an infringement notice to the alleged offender. Infringement Notices  
Finance Act, 1991
- (2) An infringement notice shall be in the prescribed form and shall in every case -
- (a) contain a description of the alleged offence; and
  - (b) advise that if the alleged offender does not wish to have a complaint of the alleged offence heard and determined by a court, the modified penalty specified in the notice may be paid to the Board within a period of twenty-eight days after the giving of the notice.
- (3) In an infringement notice the modified penalty referred to in the notice shall be the amount that was the prescribed modified penalty at the time the alleged offence is believed to have been committed.
- (4) The Board may, in a particular case, extend the period of twenty-eight days within which the modified penalty may be paid and the extension may be allowed whether or not the period of twenty-eight days has elapsed.
- (5) Where the modified penalty specified in an infringement notice has been paid within twenty-eight days or such further time as is allowed and the notice has not been withdrawn, the bringing of proceedings and the imposition of penalties are prevented to the same extent as they would be if the alleged offender has been convicted by a court of, and punished for, the alleged offence.

- (6) The Board may, whether or not the modified penalty has been paid, withdraw an infringement notice by sending to the alleged offender a notice in the prescribed form stating that the infringement notice has been withdrawn.
- (7) Where an infringement notice is withdrawn after the modified penalty has been paid, the amount paid shall be refunded.
- (8) An amount paid as a modified penalty shall, subject to subsection (7), be dealt with as if it were a penalty imposed by a court.
- (9) Payment of a modified penalty shall not be regarded as an admission for the purposes of any proceedings, whether civil or criminal.

## **PART 7**

### **INITIAL REGISTRATION**

60. (1) Where - Certain persons required to register by two months before appointed day
- (a) during the period of twelve months ending immediately before the day that is four months before the appointed day a person made commercial supplies the value of which was more than one hundred and twenty thousand dollars;
  - (b) the average monthly value of the commercial supplies of a person who has been in business for a period ending immediately before the day that is four months before the appointed day that is less than twelve months was more than ten thousand dollars; or
  - (c) there are reasonable grounds for believing that the value of the commercial supplies of a person during the period of twelve months commencing on the day that is two months before the appointed day will be more than one hundred and twenty thousand dollars,
- the persons commits an offence if, by the day that is two months before the appointed day, he has not applied in accordance with this Act to be registered.
- (2) A person who commits an offence against subsection (1) is liable on summary conviction to a fine of three thousand dollars.

## PART 8

### AMENDMENTS AND REPEALS

61. The written laws referred to in column 1 of Schedule 4 are amended or repealed as correspondingly set out in column 2 of that Schedule. Schedule 4 to have effect
62. (1) A written law referred to in Schedule 4, other than the Income Law Act, shall, in so far as it relates to any entry or supply taking place before the appointed day, have effect as if it had not been amended or repealed as set out in that Schedule. Transitional
- (2) Without limiting subsection (1), the amendments to the Stamp Duty Act and the Stamp Duty Regulations set out in Schedule 4 have no effect in relation to an instrument signed or otherwise executed before the appointed day. Chap.76:01

## PART 9

### TRANSITIONAL PROVISIONS

63. (1) Notwithstanding section 17(1),(3), (4), (5) and (6), where on or before 31st December, 1989 an invoice is given or payment is made for the supply of goods or services, which are made available or rendered before 1st April, 1990, no tax shall be payable on such supply and only that portion of a supply as is made available or rendered after 31st March, 1990 shall be subject to tax.
- Invoices given and payments made on or before 31st December, 1989
- (2) For the purposes of this section, the time of supply of those goods or services referred to in subsection (1), shall be the time when the goods are made available or the services rendered. Finance Act, 1990

## SCHEDULE 1

Section 3

### EXEMPT SERVICES

1. Medical, dental, hospital, optical and paramedical services, other than veterinary services.
2. Bus and taxi services other than bus services supplied by the Public Transport Service Corporation under the Public Transport Service Act. L.N. 31 of 1991
3. (Deleted)
4. Training and education provided -
  - (a) in a public school or private school within the meaning of the Education Act, where that school - Chap.39:01
    - (i) in the case of a private school, is registered under that Act; and
    - (ii) in any case, is approved for the purposes of this item by the Minister to whom responsibility for education is assigned; or
  - (b) through the University of the West Indies or the Hugh Wooding Law School.
5. Real estate brokerage.
6. Rental of residential property.
7. Accommodation in hotels, inns, guest houses for any period in excess of thirty days.
8. Public Postal Services.
9. Betting, gambling and lotteries.
10. Financial Services L.N.215 of 1989

Financial services are services which are closely related to financial intermediation, market intermediation, and risk pooling, and include:

  - (a) the exchange of currency (whether effected by the exchange of bank notes or coins, by crediting or debiting accounts of otherwise);
  - (b) the lending, borrowing or depositing of money;

- (c) The issue, sale, underwriting, acceptance, purchase, renewal, variation, receipt, payments or transfer of ownership of a financial instrument;
- (d) the payment or collection of any amount of interest, principal, dividend or other amount whatever in respect of a financial instrument;
- (e) the provision of credit;
- (f) the provision, taking, variation or release of a guarantee, indemnity, security or bond in respect of the performance of obligations under a financial instrument;
- (g) the provision, or transfer or ownership, of an interest in a superannuation scheme, or the management of a superannuation scheme;
- (h) agreeing to do, or arranging, any of the activities above but not advising thereon.

L.N.63 of 1990

A “financial instrument” is a document the main effect of which is to entitle a specified person to a sum of money, and includes currency, all forms of indebtedness, shares of capital stock, policies of insurance and re-insurance, cheques and other payment instruments, letters of credit, options, future contracts, and guarantees.

11. Services supplied by a person not resident in Trinidad and Tobago to an approved enterprise under the Trinidad and Tobago Free Zones Act for the carrying on of an approved activity in a free zone.

Act No. 19 of 1988  
Finance Act, 1991

12. Services performed by a financial institution licensed under the Financial Institutions Act in respect of which financial services tax is payable.

Finance Act, 1994

## SCHEDULE 2



**ZERO-RATING**

1. (1) Any -
- (a) unprocessed food of a kind used for human consumption; Finance Act, 1992
  - (b) rice;
  - (c) flour;
  - (d) milk in any form, including processing and tinned milk;
  - (e) margarine;
  - (f) bread;
  - (g) baby formulas and baby milk substitutes; L.N. 215 of 1989
  - (h) cheese and curd;
  - (i) corned beef;
  - (j) curry;
  - (k) fresh butter;
  - (l) peanut butter;
  - (m) table salt;
  - (n) salted butter;
  - (o) tinned sardines;
  - (p) smoked herring;
  - (q) toilet paper;
  - (r) yeast;
  - (s) baking powder;
  - (t) pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli and cannelloni. Finance Act, 1996
  - (u) cane sugar;
  - (v) cocoa powder, whether or not containing added sugar or other sweetening matter;
  - (w) coffee;
  - (x) mauby;
  - (y) orange juice; LN 290 of 2004
  - (z) herring; The Value Added Tax Order, 2004

- (aa) tuna;
- (ab) mackerel;

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The Value Added Tax Act (Amendment of the Second Schedule) No. 3 ) Order, 2005

- (ac) ghee of Tariff Heading 0405.902
- (ad) soya-bean oil;
- (ae) maize (corn) oil and its fractions;
- (af) sesame oil and its fractions;
- (ag) chicken sausage, canned;
- (ah) salami sausages;
- (ai) icing sugar;
- (aj) preparations of malt extract;
- (ak) cornflakes;
- (al) biscuits, unsweetened;
- (am) grapefruit juice;
- (an) vanilla essence;
- (ao) soy sauce;
- (ap) tomato ketchup;
- (aq) prepared mustard;
- (ar) mineral water;
- (as) ordinary natural water;
- (at) aerated beverages;
- (au) orange drink;
- (av) grapefruit drink;
- (aw) vinegar;

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The Value Added Tax Act (Amendment to Schedule 2 ) Order, 2007

- (2) In this item “unprocessed” in relation to a food means that the food contains no additives and that it is not the result of the application of a process other than freezing, chilling or packaging, a mechanical process, or a process that solely employs the elements of the weather.

- 2. (1) Any live bird, fish crustacean, mollusc or other animal of a kind general used as, or yielding or producing, food for human consumption.
- (2) Any draught animal.
- 3. Animal feeding stuffs suitable for any animal referred to in item 2.
- 4. Seeds and other means of propagation of plants and plants that are used for providing -

L.N. 63 of 1990

- (a) a food referred to in item 1(1)(a), (b) or (c); or

- (b) a feeding stuff referred to in item 3.
- 5. Preparations for agricultural use including peat, moss, fertilizers, insecticides, herbicides and fungicides. Act No. 37 of 1989 Amended
- 6. Self-propelled agricultural equipment, agricultural tractors and agricultural implements for attachment to agricultural tractors; agricultural implements propelled by draught animals; agricultural devices designed to be carried by the operator.
- 7. Water and sewerage services supplied by a public authority.
- 7A. Bus services supplied by the Public Transport Service Corporation under the Public Transport Service Act. L.N.31 of 1991
- 8. Medicines and drugs of a kind available only by prescription.
- 8A. Any of the following medicines for human use -
  - (a) analgesics in the form of liquids, tablets, capsules or other solid dosage forms for oral or rectal use;
  - (b) cough and cold preparations in the form of liquids, tablets, capsules or other solid dosage forms for oral and nasal use;
  - (c) antacids and antiflatulants in the form of liquids, tablets, capsules and other solid dosage forms for oral use;
  - (d) laxatives in the form of liquids, tablets, capsules or other solid dosage forms for oral or rectal use;
  - (e) anthelmintics in the form of liquids, tablets or capsules for oral use;
  - (f) oral rehydration preparations in the form of salts or solutions of W.H.O./Pharmacopoeia standards. Finance Act, 1992
- <sup>22</sup>8AA. Any of the following imported inputs used in the manufacture of pharmaceutical products-
  - (a) Acetyl Salicylic having tariff number 2918.22.00;
  - (b) Allantoin having tariff number 2924.20.00;
  - (c) Ammonium Chloride USP having tariff number 2827.10.00;
  - (d) Anhydrous Dextrose having tariff number 1702.30.00;
  - (e) Benzoic Acid having tariff number 2916.31.00;
  - (f) Benzl Benzonate having tariff number 2916.31.00;
  - (g) Brij 35 having tariff number 2915.90.00;

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<sup>22</sup> Note: Legal Supplement Part B -Vol. 44, No. 47 - 21<sup>st</sup> March, 2005

- (h) Camphor Crystals having tariff number 2914.21.00;
- (i) Castor Oil USP having tariff number 1515.30.00;
- (j) Capsium Oleo Resin having tariff number 3301.29.90;
- (k) Caramel having tariff number 2106.90.90;
- (l) Carbopal 940 having tariff number 2916.12.00;
- (m) Cedar Leaf Oil having tariff number 3301.29.90;
- (n) Cetostearyl Alcohol having tariff number 2905.17.00;
- (o) Cetrimide BP having tariff number 2903.69.00;
- (p) Cetyl Alcohol having tariff number 2905.17.00;
- (q) Chorhexidine Gluconate 20% having tariff number 2918.16.00;
- (r) Chlorpheniramine Maleate having tariff number 2942.00.00;
- (s) Cocamidopropyl Betaine having tariff number 2915.90.00;
- (t) Croda Absorption Base Type having tariff number 1505.00.00;
- (u) Crodasinic LS 30 having tariff number 2942.00.00;
- (v) Crodamol MM having tariff number 2915.90.00;
- (w) Edetate Disodium having tariff number 2921.21.00;
- (x) Eucalyptol NF having tariff number 3301.25.00;
- (y) Eucalyptus Oil having tariff number 3301.25.00;
- (z) Fragrance Baby having tariff number 3302.90.00;
- (aa) Fragrance Bouquet having tariff number 3302.90.00;
- (bb) Fragrance Herbal having tariff number 3302.90.00;
- (cc) Fragrance Pine having tariff number 3302.90.00;
- (dd) Glucam P 20 having tariff number 2938.90.00;
- (ee) Glycerine USP having tariff number 1520.00.00;
- (ff) Glyceryl Monostearate having tariff number 2915.70.00;
- (gg) Gum Arabic having tariff number 1301.20.00;
- (hh) Hydrogen Peroxide 50% having tariff number 2847.00.00;
- (ii) Isopropyl Alcohol having tariff number 2905.12.00;
- (jj) Lanolin Anhydrous having tariff number 1505.00.00;
- (kk) Lanolin Clear Oil having tariff number 1505.00.00;
- (ll) Liquid Deodoriser Fragrance having tariff number 3302.90.00;
- (mm) Magnesium Stearate having tariff number 2915.70.00;
- (nn) Menthol Crystals having tariff number 2906.11.00;
- (oo) Methyl Parabens having tariff number 2916.31.00;
- (pp) Methyl Salicylate having tariff number 2918.22.00;
- (qq) Micro Crystalline cellulose having tariff number 2938.90.00;
- (rr) Mineral Oil Britol 7NF having tariff number 2901.29.90;
- (ss) Nutmeg Oil having tariff number 3301.29.40;
- (tt) Paraffin Liquid USP 35 having tariff number 2901.29.90;
- (uu) Peg Distearate 6000 having tariff number 2915.90.00;
- (vv) Phosphoric Acid having tariff number 2809.20.00;
- (ww) Polaxmer 407 NF having tariff number 2942.00.00;
- (xx) Polyethylene Glycol having tariff number 2909.49.00;
- (yy) Polysorbate 60 NF having tariff number 2915.90.00;
- (zz) Potassium Chloride Powder having tariff number 3104.20.00;
- (aaa) Potassium Stearate having tariff number 2915.70.00;

- (bbb) Propyl Parabens having tariff number 2916.31.00;
- (ccc) Propylene Glycol having tariff number 2905.32.00;
- (ddd) Pine Oil Alpid having tariff number 3301.29.00;
- (eee) Quinoline Yellow Dye having tariff number 3204.90.00;
- (fff) Salicylic Acid having tariff number 2918.21.00;
- (ggg) Sodium Benzoate having tariff number 2916.31.00;
- (hhh) Sodium Chloride Powder USP having tariff number 2501.00.40;
- (iii) Sodium Dioctyl Sulfosuccinate having tariff number 2904.10.90;
- (jjj) Sodium Hydroxide Solid having tariff number 2815.11.00;
- (kkk) Sodium Saccharin having tariff number 2925.11.00;
- (lll) Sorbitol 70% Solution having tariff number 2905.44.00;
- (mmm) Sorbitan Tristearate having tariff number 2915.70.00;
- (nnn) Starch 1500 having tariff number 1108.19.00;
- (ooo) Stearic Acid having tariff number 2915.70.00;
- (ppp) Sunset Yellow Dye having tariff number 3204.90.00;
- (qqq) Teinowax having tariff number 2712.90.00;
- (rrr) Terpeneol having tariff number 2906.14.00;
- (sss) Thymol having tariff number 2907.19.00;
- (ttt) Triethanolamine 99% having tariff number 2922.13.00;
- (uuu) Trisodium Citrate having tariff number 2918.15.00;
- (vvv) Turpentine Oil having tariff number 3301.29.90;
- (www) Vitamin E Oil having tariff number 2936.28.00;
- (xxx) White Beeswax having tariff number 1521.00.00;
- (yyy) White corn starch having tariff number 1108.12.00;
- (zzz) Xanthan Gum having tariff number 1301.90.90;
- (aaaa) Zinc Oxide having tariff number 2817.00.00

Legal Notice No. 60

Value Added Tax (Amendment) Order, 2005

8B. Diabetic -

- (a) diagnostic testing kits and devices for testing glucose in blood and urine; Finance Act, 1992
- (b) insulin syringes with needles and devices of a type not exceeding 100 units (1.0 ML) capacity, for the administration of U-100 insulin.

9. Aeroplanes and ships imported by or supplied to the State or State corporations.

10. Repairs of aeroplanes and ships used in international commercial services (whether or not belonging to the State or a State Corporation).

11. Any goods which are supplies to a destination outside the territory of

Trinidad and Tobago.

- 11A. Any goods which are supplied to a destination within a free zone under the Trinidad and Tobago Free Zones Act. Act No. 19 of 1988 Finance Act, 1991
12. Any services which are supplied for a consideration that is payable in a currency other than that of Trinidad and Tobago, to a recipient who is not within Trinidad and Tobago at the time when the services are performed. L.N. 215 of 1989
13. Natural gas.
14. Crude oil as defined in section 2 of the Petroleum Taxes Act. Chap. 75:04
15. Veterinary services supplied in respect of animals referred to in item 2.
16. Pest control services supplied for the purposes of agriculture.
17. International freight and ancillary services including port and harbour services, docking, berthing and mooring, conservancy, aircraft landing, parking and housing, apron services, airport navigation services, transportation to the point where the goods are entered, demurrage or arranging any such services.
18. Unconditional gifts of goods or services to an organisation approved by the President under section 6(1)(e) and (g)<sup>23</sup> of the Corporation Tax Act. Chap. 75:02 L.N. 215 of 1989
19. Domestic travel between Trinidad and Tobago. L.N. 215 of 1989
20. Goods and water for consumption or sale on board an aeroplane or ship in the course of providing international commercial services. L.N. 63 of 1990
21. Charter of ships or aircraft for use in international commercial services. L.N. 63 of 1990

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<sup>23</sup> Note: these sections read as follows:

“6(1) There shall be exempt from corporation tax -

...

“(e) the profits of any sporting body of persons, that are approved by the President by writing under his hand, derived from public or private subscriptions or donations, whether by deed of covenant or otherwise, or derived from charges for admission to witness sporting events, or from the provision of refreshment, to patrons who witness sporting events;”

...

“(g) profits of any ecclesiastical, charitable or educational institution of a public character, approved by the President by writing under his hand, in so far as such profits are not derived from a trade or business carried on by such institution;”

22. Books namely literary works, reference books, directories collections of letters or documents permanently bound in covers, loose-leaf books, manuals or instructions whether complete with their binder or not, amendments to loose-leaf books even if issued separately, school work books and other educational texts in question-and-answer format with spaces for insertion of answers, children's picture and painting books, exercise books, but excluding brochures, pamphlets and leaflets, news-papers, magazines, journals and periodicals, photograph and stamp albums. Finance Act, 1992
23. Steelband Instruments L.N. 37 of 1993
24. Accommodation at a building or group of buildings occupied together for the purpose of primarily providing sleeping accommodation for reward for its guests, not being persons resident therein under a contract of service.
25. Repairs of yachts and pleasure crafts owned by persons who are neither citizens nor residents of Trinidad and Tobago at the time when the repairs are performed.
26. (1) Any service supplied to yachts and pleasure craft owned by persons who are neither citizens nor resident of Trinidad and Tobago at the time when the service is supplied.
- (2) In this item "service" includes port and harbour services, docking, berthing, mooring, conservancy or the arranging of such services.
27. Plant, equipment, machinery or components which are imported and the Customs and Excise is satisfied are intended for use in - Comptroller of
- (a) constructing, altering, reconstructing or extending an enterprise classified as a highly capital intensive enterprise under section 9 of the Fiscal Incentives Act (hereinafter referred to as "the Act") and declared, by Order, to be an approved enterprise under section 10 of the Act;
- (b) equipping an enterprise referred to in paragraph (a) for the purpose of manufacturing its approved product as defined by the Act,
- during the period commencing with the date of publication of the Order referred to in paragraph (a) and terminating on the date on which the benefits granted by that Order cease. L.N. 48 of 1995  
L.N. 241 of 1998
28. The items contained in the First Schedule to the Customs Act under Tariff

Heading No. 90.21, being orthopaedic appliances, including crutches, surgical belts and trusses; splints and other fracture appliances; artificial parts of the body; hearing aids and other appliances which are worn or carried or implanted in the body, to compensate for a defect or disability, other than items in Tariff Subheading Nos. 9021.21 and 9021.29, being artificial teeth and dental fittings.

- <sup>24</sup>29. The items contained in the First Schedule to the Customs Act under Tariff Heading No. 84.71, being automatic data processing machines and units thereof, magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included.

Finance Act, 1998  
w.e.f. 5/10/98  
Finance Act 17 of 2007

- <sup>25</sup>30. Computer peripherals and mouse pads, not including audio compact discs of Tariff Subheading 8523.40.40 and digital versatile discs (DVDs) of Subheadings 8523.40.60 and 8523.40.70.

Finance Act 17 of 2007.

- <sup>26</sup>30A. Terminal equipment or other equipment to be installed or used for a public telecommunications network or telecommunications service or radio-communications service and certified as such by the Telecommunications Authority of Trinidad and Tobago.

Finance Act 17 of 2007.

31. The items contained in the First Schedule to the Customs Act –

- (a) Glasses for corrective spectacles having tariff sub-heading number 7015.10
- (b) Contact lenses having tariff sub-heading number 9001.30
- (c) Spectacle lenses of glass having tariff sub-heading number 9001.40
- (d) Spectacle lenses of other materials having tariff sub-heading number 9001.50
- (e) Frames and mountings of plastic having tariff sub-heading number 9003.11

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<sup>24</sup> Repealed and replaced, effective July 10, 2007.

<sup>25</sup> Repealed and replaced, effective July 10, 2007.

<sup>26</sup> Effective July 10, 2007.



- (f) Frames and mountings of other material having tariff sub-heading number 9003.19
  - (g) Parts having tariff sub-heading number 9003.90 L.N. 196/2000  
w.e.f. 28/8/2000
  - (h) Corrective spectacles having tariff sub-heading number 9004.90. L.N. 256/2000  
w.e.f. 30/10/2000
32. The items contained in the First Schedule to the Customs Act -
- (a) Invalid carriages, not mechanically propelled having tariff heading number 8713.10
  - (b) Other invalid carriages having tariff heading number 8713.90
  - (c) Parts and accessories of invalid carriages having tariff heading number 8714.20. L.N. 196/2000  
w.e.f. 28/8/2000
33. The items contained in the First Schedule to the Customs Act, being -
- (a) sports footwear having tariff heading number 6402.19;
  - (b) sports footwear having tariff heading number 6403.19;
  - (c) sports footwear having tariff heading number 6404.111;
  - (d) golf requisites having tariff heading number 9506.31;
  - (e) tennis requisites having tariff heading number 9506.40;
  - (f) soccer requisites having tariff heading number 9506.992;
  - (g) athletic requisites having tariff heading number 9506.912;
  - (h) cricket requisites having tariff heading number 9506.991;
  - (i) other sports having tariff heading number 9506.919;
  - (j) gymnastics having tariff heading number 9506.911;
  - (k) other outdoor games having tariff heading number 9506.999. Finance Act 91/2000  
w.e.f. 1/1/2001
  - (l) golf balls having tariff heading number 9506.32.00
  - (m) lawn-tennis balls having tariff heading number 9506.61.00

- (n) inflatable balls for soccer having tariff heading number 9506.62.10
- (o) other inflatable balls for soccer having tariff heading number 9506.62.90
- (p) other balls having tariff heading number 9506.69.00

LN 290  
Value Added Tax Order, 2004

34. The item contained in the First Schedule to the Customs Act being salted fish under Tariff Heading Number Ex. 03.05. L.N. 202/2001

35. The items contained in the First Schedule to the Customs Act, being-

L.N. 202/2001  
L.N. 197/2003

- (a) toothpastes having Tariff Heading Number 3306.101;
- (b) personal deodorants and antiperspirants having Tariff Heading Number Ex. 3307.20;
- (c) soap in the form of bars, cakes, moulded pieces or shapes, having Tariff Heading Number Ex. 3401.112;
- (d) soap in the form of bars, cakes, moulded pieces or shapes for laundry and other household uses having Tariff Heading Number Ex. 3401.191;
- (e) sanitary towels and tampons having Tariff Heading Number 4818.401;
- (f) napkins and napkin liners for babies having Tariff Heading Number 4818.402;
- (g) diapers for adults having Tariff Heading Number Ex. 4818.409;
- (h) sanitary towels and tampons having Tariff Heading Number 5601.100;
- (i) napkins and napkin liners for babies having Tariff Heading Number 5601.102; and
- (j) diapers for adults having Tariff Heading Number Ex. 5601.109.

Act No. 37 of 1989  
amended

36. The items contained in the First Schedule to the Customs Act, Tariff Heading number 34 02 being-

- (a) dishwashing liquids having tariff subheading number 34 02.20.10;
- (b) other liquid detergents having tariff subheading number 3402.20.20; and
- (c) other detergents having tariff subheading number 3402.20.30.

LN 26 of 2007  
The Value Added Tax Act (Amendment to Schedule 2 ) Order, 2007

**SCHEDULE 3**

Section 15

**MATTERS WITH RESPECT TO THE SUPPLY OF  
GOODS OR SERVICES**

1. The term “supply” includes all forms of supply and, in relation to services, includes the provision of any service. L.N. 63 of 1990
2. The production of goods by applying a treatment or process to goods belonging to another person shall be regarded as a supply of services to that other person.
3. The supply of water other than in a container or the supply of natural gas, any form of power, refrigeration, or air-conditioning shall be regarded as a supply of services.
4. The hiring, rental or leasing of goods shall be regarded as the supply of services.
5. Subject to items 6 and 7, where the supply of anything for consideration is not a supply of goods, it shall be regarded as a supply of services.
6. The lease or rental of - L.N. 63 of 1990
  - (a) an interest in land; or
  - (b) a building or other structure attached to land,shall be regarded as a supply of services and, for the purposes of this item, payments made under a lease with an option to purchase are deemed to be payments in respect of the lease of the property.
7. The sale of - L.N. 63 of 1990
  - (a) an interest in land; or
  - (b) a building or other structure attached to land,shall be regarded as neither a supply of goods nor a supply of services.
8. The supply in the course of business of -
  - (a) any gift, the value of which does not exceed twenty dollars, generally available to customers of the business;
  - (b) a trade sample; or

- (c) any securities, any patent or other right to intellectual property, or any other chose-in-action,

shall be regarded as neither a supply of goods nor a supply of services.

### **SCHEDULE 3A**

[Section 36(3A)]

#### **BUSINESS EXEMPT FROM THE REQUIREMENT TO ISSUE A**

#### **TAX INVOICE**

Fast Food Outlets.

Finance Act, 1992

Gas Stations.

Cinemas.

### **SCHEDULE 4**

**REPEALS AND AMENDMENTS**

<b>First Column Written Law</b>	<b>Second Column Repeal or Amendment</b>
1. Cinematograph and Video Entertainment Tax Act, Chap. 77:03	Repealed in whole.
2. Copra Products Control Act, Chap. 64:30	Section 5 and 6 repealed.
3. Customs A.T.A. (Admission Temporaire/ Temporary Admission) Carnet System Act, 1986	Section 17(c) deleted.
4. (a) Excise (General Provisions) Act, Chap.78:50	Section 3 is amended in the definition of “Excise Act” by deleting the words “the Copra Products Control Act,”.
(b) Excise Regulations	Regulation 5 repealed.
(c) Match (Excise) Regulations	Repealed in whole.
(d) Excise Duty (Deodorised Edible Oil) Order, 1988	Repealed in whole.
(e) Resolution under section 13 of the Excise (General Provisions) Act imposing excise duty on matches (Government Notice No. 342 dated 24th December, 1934 , as amended)	Repealed in whole.
5. Finance Act, 1988	Part XXI repealed.
6. Hotel Accommodation Tax Act, Chap. 76:05	Repealed in whole.
7. Income Tax Act, Chap. 75:01	Section 3(2) amended by deleting the words “three Commissioners” and substituting the words “four Commissioners”.
8. Miscellaneous Taxes Act, Chap. 77:01	Part I repealed.

9. Motor Vehicles and Road Traffic Act,  
Chap. 48:50
10. Stamp Duty Act, Chap. 76:01

The heading to Part III amended by deleting the words “And Airline Ticket Tax.”

Section 27A and 27B repealed.

Section 32(1)(a) and (b) deleted.

First, Second, Third Fourth and Fifth Schedules deleted.

Section 40A repealed.

Section 10(1)(d), (e) and (f) deleted.

Section 25 repealed.

Section 30 amended by deleting the words; “and the expression”, and all the words thereafter, and substituting a full stop.

Sections 32 and 37 repealed.

Section 39, and the heading thereto, repealed.

Section 58 amended by deleting the words , “ and upon the protest by a Notary Public of a bill of exchange or promissory note,”.

Sections 68 to 70 and the heading thereto, repealed.

First Schedule amended -

- (a) by deleting the words “Bill of Exchange” where they first occur, and all the words thereafter that are before the words “Bill of Health” where they first occur;
- (b) by deleting the words “Bill of Lading of or for goods, merchandise or effects to be

- exported ... 0.25 and see section 39”; and
- (c) by deleting the words “Protest of any Bill of Exchange” and all the words thereafter that are before the words “Re-Grant of forfeited lands”.
11. Stamp Duty Regulations
- Regulations 11 and 13 repealed.
- Regulation 17 amended -
- (a) by deleting the item commencing with the words “*Bill of Exchange*”; and
- (b) by deleting the item commencing with the words “*Promissory Note*”.
- Regulation 18 repealed.
- Regulation 19 amended -
- (a) by deleting the item “*Bill of Lading*”; and
- (b) by deleting the item commencing with the word “*Protest*”.
- Regulations 20 and 21 are repealed.
12. Trinidad and Tobago Electricity Commission Act, Chap. 54:70
- Section 53A repealed.
13. Trinidad and Tobago Telephone Act, Chap. 47:30
- Section 11A repealed.
14. Wireless Telegraphy Ordinance, Ch. 36:2
- Schedule amended -
- (a) In Part I, by repealing regulation I;

- (b) in Part II -
  - (i) by deleting from the form of receiving licence the words “The payment of the fee of \$ is hereby acknowledged.”;
  - (ii) by deleting from the note “*Additional Sets*” relating to receiving licences the words “on payment of the prescribed fee; and
  - (iii) by deleting condition 8 relating to receiving licences; and
- (c) In Part IV -
  - (i) by repealing regulations 1, 2 3 and the heading thereto;
  - (ii) in regulation 4, by deleting the words “the fee for which shall be 60 cents”;
  - (iii) in regulation 5, by deleting the words “the fee of which shall be 60 cents”; and
  - (iv) by repealing regulation 6.

Excise Duty

(Edible Oil) Order, 1988

Repealed in whole

Finance Act, 1993

**REGULATIONS**

MADE BY THE PRESIDENT UNDER SECTION 59 OF THE



VALUE ADDED TAX ACT

**THE VALUE ADDED TAX (PRESCRIBED OFFENCES-MODIFIED PENALTIES) REGULATIONS, 1992**

1. These Regulations may be cited as the Value Added Tax (Prescribed Offences-Modified Penalties) Regulations, 1992. Citation
2. In these Regulations “the Act” means the Value Added Tax Act, 1989. Interpretation Act No.  
37 of 1989
3. For the purposes of section 59A of the Act- Prescribed offences

(a) the offences listed in the First Column hereunder are prescribed offences in respect of which the modified penalties listed in the Second Column, may at the option of the alleged offender be payable:

<i>Offence</i>	<i>Penalty</i>
(i) Failure to display a certificate of registration contrary to section 27(4)	\$1,500.00
(ii) Failure to notify the Board of the changes in the status of a business or person contrary to section 28(4)	\$1,500.00
(iii) Failure to file a return by the due date contrary to section 31(5)	\$300.00
(iv) Failure to issue a Tax Invoice contrary to section 36(4)	\$1,500.00

(b) the Infringement Notice, and the Notice of Withdrawal of the Infringement Notice, both of which may be issued by the Board to the alleged offender or person as the case may be, shall be in the forms set out in Part A and Part B of the Schedule respectively.

L. N No. 169

**SCHEDULE**

**PART A**

(Regulation 3[b])

**INFRINGEMENT NOTICE**  
*Made pursuant to section 59A of the value Added Tax Act, 1989*

BOARD OF INLAND REVENUE  
VALUE ADDED TAX ADMINISTRATION CENTRE  
20, ST. VINCENT STREET  
PORT-OF-SPAIN

(NAME AND ADDRESS  
OF ALLEGED OFFENDER)

TAKE NOTICE that the Board of Inland Revenue has reason to believe that you have

.....

(description of alleged offence)

contrary to section.....of the Value Added Tax Act, 1989. A person who commits such an offence is liable on summary conviction to a fine of \$.....and imprisonment for .....

.....

You are advised that if you do not wish to have a complaint of the alleged offence heard and determined by a court, you may pay the modified penalty of \$ ..... to the Board, within a period of twenty-eight days after the giving of this notice.

You are further advised that payment of the modified penalty within the stipulated time, prevents the bringing of proceedings and the imposition of penalties to the same extent as if you were convicted by a court, and punished for the alleged offence.

You are further advised that payment of a modified penalty shall not be regarded as an admission for the purposes of any proceedings, whether civil or criminal.

You are further advised that if the modified penalty is not paid by the stipulated time, the Board will proceed to have a complaint of the alleged offence heard and determined by a court.

Date of issue .....

.....

*Board of Inland Revenue*

**PART B**

(Regulation 3[b])

No. ....of 19....

## NOTICE OF WITHDRAWAL OF INFRINGEMENT NOTICE

*Made pursuant to section 59A of the Value Added Tax Act, 1989*

BOARD OF INLAND REVENUE  
VALUE ADDED TAX ADMINISTRATION CENTRE  
20, ST. VINCENT STREET, PORT-OF-SPAIN

(NAME AND ADDRESS  
OF PERSON)

TAKE NOTICE that the Board of Inland Revenue has withdrawn the Infringement Notice No. .... of 19  
..... issued to you on the .....19.....

You are advised that if you have already paid the modified penalty, the amount paid shall be refunded.

Date of issue .....  
*Board of Inland Revenue*

Dated this 23<sup>rd</sup> day of October, 1992.

### REGULATIONS

MADE BY THE PRESIDENT PURSUANT UNDER SECTION 38(2) OF THE  
VALUE ADDED TAX ACT

### THE VALUE ADDED TAX (BOOKS AND RECORDS) REGULATIONS, 1992

1. These Regulations may be cited as the Value Added Tax (Books and Records) Regulations, 1992.

Citation

2. In these Regulations-

“the Act” means the Value Added Tax Act, 1989;

“registered” has the meaning assigned to it in the Act.

Interpretation  
Act No. 37 of 1989

3. (1) Subject to subregulation (2), the books and records required by section 38(1) of the Act to be kept by a registered person for any tax period, shall include the following:

Books and records

- (a) copies of tax invoices, proforma invoices and certificates of waiver;
- (b) purchase invoices including bills and receipts to support expenditure made;
- (c) import and export documentation;
- (d) copies of debit and credit notes received or given;
- (e) cash receipt and cash payment books;

- (f) purchase, sales, salaries and wages books;
- (g) stock sheets;
- (h) fixed assets register;
- (i) copies of financial statements-balance sheet and trading and profit and loss statement;
- (j) bank statements, deposit slips and returned cheques;
- (k) general ledger, general journal and Director's Minute Book;
- (l) records of daily takings and till rolls;
- (m) all business correspondence relating to the purchase or supply of goods;
- (n) a record of supplies taken for personal use or given free of charge;
- (o) such other records as may be required to be kept for the purposes of the business.

(2) The Board may however, in certain circumstances permit a registered person to keep records other than in accordance with subregulation (1)

4. (1) A registered person shall for each tax period keep certain records to be known as a "VAT Account" and these records shall contain a summary of the totals of output tax and input tax, in the following manner:

VAT account and other documents

<i>Vat Deductible</i>	<i>Vat Payable</i>
(Input Tax)	(Output Tax)
Purchases/Expenses	Sales
Imports	Deemed Commercial Supplies
Bad debts written off	Bad debts recovered
	Credit and Debit Notes given and received

- (2) The registered person shall also keep-
- (a) all books and records up to date and in sufficient detail to allow him to calculate the tax liability correctly and in a manner that will enable the Board to verify the figures used in the Value Added Tax return; and
  - (b) all documentation which described the accounting system used in each tax period.

Dated this 23<sup>rd</sup> day of October, 1992.