

**VALUE ADDED TAX ACT**

Act 2 of 1998 – 1 July 1998

**ARRANGEMENT OF SECTIONS**

**SECTION**

- PART I – PRELIMINARY**
1. Short title
  2. Interpretation
  3. Meaning of “business”
  4. Meaning of “supply”
  5. Time of supply
  6. Application of Act
- PART II – ADMINISTRATION**
7. —
  8. Confidentiality
- PART III – LIABILITY TO VAT**
9. Charge to VAT
  10. Rate of VAT
  11. Zero-rating
  12. Value of taxable supplies
  13. Value of imported goods
  14. Reverse charge on supply of services received from abroad
- PART IV – REGISTRATION**
15. Compulsory registration
  - 15A. Penalty for failure to apply for compulsory registration
  16. Voluntary registration
  17. Certificate of registration
  - 17A. Increase in amount specified for compulsory registration
  18. Cancellation of registration
- PART V – RECORD AND VAT INVOICE**
19. Record
  - 19A. Use of electronic fiscal device
  20. VAT invoice
- PART VI – RETURN, PAYMENT AND REPAYMENT OF TAX**
21. Credit for input tax against output tax
  22. Return and payment of tax
  23. Tax liability before date of registration
  24. Repayment of tax
  25. Change in taxable period
  26. Penalty for non-submission of return by due date
  - 26A. Penalty for failure to join electronic system
  27. Penalty for late payment of tax
  - 27A. Interest on tax unpaid or amount repaid or refunded in excess
- PART VII – POWERS OF DIRECTOR-GENERAL**
- 27B. —
  - 27C. —
  - 27D. Interpretation of Part VII
  - 27E. VAT annual accounting system
  - 27F. Records
  - 27G. Change in accounting system
  28. Power to require information
  - 28A. Act or thing in respect of period before 3 years preceding last day of taxable period
  29. Obligation to furnish information
  30. Use of computer system
  31. Production of books and records
  32. Power to inspect books, records and goods
  - 32A. Power to access computers and other electronic devices
  33. Time limit to require information, books or records
  34. Power to require security
  - 34A. Power to waive penalty or interest
  35. Warrant to search and seize
  36. Proceedings for temporary closing down of business
  - 36A. Anti-avoidance provisions
- PART VIII – ASSESSMENTS, OBJECTIONS AND REVIEW OF ASSESSMENTS**
37. Director-General may make assessments

SECTION

- 37A. Penalty on amount claimed in assessment
- 37B. Validity of notice of assessment or determination
- 38. Objection to assessments
- 39. Determination of objections
- 40. Representations to Assessment Review Committee
- 41. Conclusiveness of assessments

**PART IX – RECOVERY OF TAX**

- 42. Priority for VAT charged by a registered person
- 43. Recovery of tax by attachment
- 44. Recovery of tax by distress and sale
- 45. Inscribed privilege
- 46. Uninscribed privilege
- 47. Contrainte
- 48. No limitation of action for recovery of tax

**PART IXA –**

- 48A. – 48B. –

**PART X – VAT RELATING TO BONDED WAREHOUSES, FREEPORT ZONE, AND DUTY-FREE SHOPS OR SHOPS UNDER THE DEFERRED DUTY AND TAX SCHEME**

- 49. VAT relating to a bonded warehouse or an excise warehouse
- 50. VAT relating to a freeport zone
- 51. – 52. –
- 53. VAT relating to a duty-free shop or shop under the Deferred Duty and Tax Scheme

**PART XA – SOLIDARITY LEVY**

- 53A. Purpose of solidarity levy
- 53B. Liability to solidarity levy
- 53C. Payment of solidarity levy
- 53D. Circumstances in which no levy is payable
- 53E. Adjustment of levy
- 53F. Late payment of levy
- 53G. Assessment and recovery of levy
- 53H. Interpretation

**PART XB – LEVY ON MESSAGES**

- 53I. – 53M –

**PART XI – OFFENCES**

- 54. Failure to register or pay tax
- 55. Failure to submit return and pay tax
- 56. Failure to keep records or issue VAT invoice
- 57. Incorrect return or information
- 58. False returns, books, records or VAT invoices
- 59. Other offences
- 60. Penalties for offences
- 61. Compounding of offences
- 62. Tax payable notwithstanding prosecution

**PART XII – MISCELLANEOUS**

- 63. Cessation or transfer of business
- 63A. Tax liability of principal officer of private company
- 64. Tax liability of appointed person
- 65. Refund of VAT to persons other than taxable persons
- 65A. Refund of VAT to persons other than registered persons
- 65B. Refund of VAT to diplomatic missions and agents
- 65C. Refund of VAT to persons on residential building, house or apartment
- 65D. Time limit for refund and payment of interest
- 66. Exempt bodies or persons
- 67. Erroneous refund, exemption or reduction
- 68. Service of documents
- 69. Admissibility of documents produced by computer
- 69A. Rulings
- 69B. Statement of Practice
- 70. Jurisdiction of Magistrate
- 71. Burden of proof
- 72. Regulations
- 73. Transitional provisions
- 74. – 76. –

FIRST SCHEDULE

SECOND SCHEDULE

THIRD SCHEDULE

SECTION

FOURTH SCHEDULE  
FIFTH SCHEDULE  
SIXTH SCHEDULE  
SEVENTH SCHEDULE  
EIGHTH SCHEDULE

NINTH SCHEDULE  
TENTH SCHEDULE  
ELEVENTH SCHEDULE  
TWELFTH SCHEDULE  
THIRTEENTH SCHEDULE

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**VALUE ADDED TAX ACT**

**EDITORIAL NOTE:** The word "Commissioner" has been deleted and replaced by the words "Director-General" wherever it occurs, by section 27 (19) (b) of Act 33 of 2004 w.e.f. 1 July 2006.

**PART I – PRELIMINARY**

**1. Short title**

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

**2. Interpretation**

In this Act—

"appointed day" means 7 September 1998;

"Authority" means the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act;

"business" has the meaning assigned to it in section 3;

"business registration number" has the same meaning as in the Business Registration Act;

"certificate" means a certificate of registration issued under section 17;

"CO<sub>2</sub> levy" has the same meaning as in the Excise Act;

"customs duty" means the duty leviable under the Customs Act or the Customs Tariff Act;

"customs laws" has the same meaning as in the Customs Act;

"customs value", in relation to goods, means the value as determined under the Customs Act;

"Director-General" means the Director-General of the Authority;

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

"duty-free shop" has the same meaning as in the Customs Act;

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

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

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

“goods” —

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

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

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

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

- (a) VAT charged on the supply to him of any goods or services; and
- (b) VAT paid by him on the importation of any goods, being goods or services used or to be used in the course or furtherance of his business;

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

“invoice” —

- (a) means a document notifying an obligation to make payment; and
- (b) includes any document similar to an invoice; but
- (c) does not include a VAT invoice;

“levy on energy consumption” means the levy chargeable under section 3E of the Excise Act;

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

“MID levy” means the MID levy chargeable under section 3A of the Excise Act;

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

“money” —

- (a) includes currencies of Mauritius or any other country; but
- (b) does not include a collector’s piece, investment article or item of numismatic interest;

“non-resident”, for the purpose of section 21 (2) (g) and (ga), item 50 (a) of the First Schedule, item 6 (b) (ii) of the Fifth Schedule and item 1 of Part II of the Tenth Schedule—

- (a) in the case of an individual, means a person—
  - (i) whose permanent place of abode is outside Mauritius; and

- (ii) who is outside Mauritius at the time the services are supplied;
- (b) in the case of any other person—
  - (i) means a person whose centre of economic interest is located outside Mauritius; and
  - (ii) includes a company incorporated in Mauritius in so far as its banking transactions carried out through a permanent establishment outside Mauritius are concerned; but
  - (iii) does not include a company incorporated outside Mauritius in so far as its banking transactions carried out through a permanent establishment in Mauritius are concerned;

“officer” means an officer of the Authority;

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

“person” includes a Ministry or Government department;

“private company” has the same meaning as in the Companies Act;

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

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

“record” —

- (a) means a record specified in section 19; and
- (b) includes a copy of a VAT invoice specified in section 20;

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

“return” means a return specified in section 22;

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

“small enterprise” means a person whose annual turnover does not exceed 10 million rupees;

“société” —

- (a) means a *société* formed under any enactment in Mauritius; and
- (b) includes—
  - (i) a *société de fait* or a *société en participation*;
  - (ii) a joint venture; or
  - (iii) a *société* or partnership formed under the law of a foreign country;

“supply” has the meaning assigned to it in section 4;

“tax” –

- (a) means the VAT specified in section 9; and
- (b) includes any penalty and any interest imposed under this Act; but
- (c) does not include a fine;

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

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

“taxable person” –

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

“taxable supply” –

- (a) means a supply of goods in Mauritius, or a supply of services performed or utilised in Mauritius; and
- (b) includes a supply which is zero-rated; but
- (c) does not include an exempt supply,

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

“trust” means a trust constituted under an enactment;

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

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

“VAT Exemption Card” means a card issued under item 9 (b) of the Ninth Schedule;

“VAT invoice” –

- (a) means a VAT invoice under section 20; but
- (b) does not include a receipt or invoice under section 19;

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

“visitor” means a person holding –

- (a) a foreign passport; and
- (b) a valid ticket for travel by air or sea to a foreign airport or port.

[S. 2 amended by Act 25 of 2000; s. 22 (a) of Act 23 of 2001 w.e.f. 11 August 2001; s. 27 (19) (a) of Act 33 of 2004 w.e.f. 1 July 2006; s. 25 (3) of Act 43 of 2004 w.e.f. 1 January 2005; s. 33 (a) of Act 14 of 2005 w.e.f. 1 July 2005; s. 31 (a) of Act 15 of 2006 w.e.f. 1 October 2006; s. 38 (a) of Act 18 of 2008 w.e.f. 7 June 2008; s. 19 (a) of Act 10 of 2010 w.e.f. 24 December 2010; s. 7 (a) of Act 19 of 2011 w.e.f. 13 July 2011; s. 19 (a) of Act 37 of 2011 w.e.f. 15 December 2011; s. 29 (a) of Act 26 of 2012 w.e.f. 22 December 2012; s. 29 (a) of Act 26 of 2012 w.e.f. 1 September 2013; s. 53 (a) of Act 9 of 2015 w.e.f. 14 May 2015.]

### 3. Meaning of “business”

(1) In this Act—

“business”—

(a) means—

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

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

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

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

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

### 4. Meaning of “supply”

(1) Subject to this Act—

“supply” means—

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

*continued on page V4 – 7*





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

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

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

(4) Without prejudice to section 72 (1) (b), the Minister may, by regulations, amend the Third Schedule to provide, with respect to a transaction, whether—

- (a) it is to be treated as a supply of goods and not as a supply of services;
- (b) it is to be treated as a supply of services and not as a supply of goods; or
- (c) it is to be treated as neither a supply of goods nor a supply of services.

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

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

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

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

## **5. Time of supply**

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

- (a) at the time an invoice or a VAT invoice in respect of that supply is issued by the supplier; or
- (b) at the time payment for that supply is received by the supplier,

whichever is earlier.

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

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

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

(3) Where a taxable supply is made—

- (a) under a hire purchase agreement, the supply shall be treated as a supply of goods and it shall be deemed to be supplied at the time the agreement is made; or
- (b) under a lease agreement, the supply shall be treated as a supply of services and it shall be deemed to be supplied—
  - (i) at the time an invoice or a VAT invoice in respect of that supply is issued by the supplier; or
  - (ii) at the time payment for that supply is received by the supplier,

whichever is the earlier.

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

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

[S. 5 amended by s. 31 (a) of Act 20 of 2002 w.e.f. 1 October 2002.]

## 6. Application of Act

(1) This Act shall bind the State.

(2) Where in an enactment or agreement made before or after 1 July 1998, it is provided that notwithstanding any other enactment a statutory corporation or any other person shall be exempt from the payment of any tax, that provision shall not be construed as an exemption from the payment of VAT.

## PART II – ADMINISTRATION

7. —

[S. 7 repealed by s. 27 (19) (c) of Act 33 of 2004 w.e.f. 1 July 2006.]

## 8. Confidentiality

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

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

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

[S. 8 amended by s. 33 (b) of Act 14 of 2005 w.e.f. 21 April 2005.]

### PART III – LIABILITY TO VAT

#### 9. Charge to VAT

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

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

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

(4) Subject to this Act, every person who—

- (a) imports goods, other than goods specified in the First Schedule, shall pay VAT on those goods; or
- (b) being a taxable person, makes taxable supplies

shall, after the end of the taxable period in which those supplies are made, pay to the Director-General, within such time as may be prescribed, VAT on those supplies.

(5) VAT on the importation of goods shall be charged, levied and payable as if it were customs duty, excise duty, MID levy, CO<sub>2</sub> levy or levy on energy consumption and as if all goods imported into Mauritius are dutiable and liable to customs duty, excise duty, MID levy, CO<sub>2</sub> levy or levy.

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

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

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

(9) Notwithstanding the other provisions of this section, where—

- (a) any goods specified in Part II of the Seventh Schedule; or
- (b) prepaid cards in respect of any services,

are supplied at any stage in the chain of distribution immediately before the retail stage, the supply shall be deemed to have been made at the retail stage and VAT on such supply shall be charged on such value as includes the retail margin.

[S. 9 amended by s. 31 (c) of Act 20 of 2002 w.e.f. 1 October 2002; s. 31 (b) of Act 15 of 2006 w.e.f. 1 October 2006; s. 38 (b) of Act 18 of 2008 w.e.f. 7 June 2008; s. 7 (b) of Act 19 of 2011 w.e.f. 13 July 2011; s. 7 of Act 19 of 2012; s. 29 (b) of Act 26 of 2012 w.e.f. 1 September 2013.]

## **10. Rate of VAT**

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

- (a) on a taxable supply, by reference to the value of the supply as determined under section 12; and
- (b) on the importation of goods, other than those specified in the First Schedule, by reference to the value of the goods as determined under section 13.

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

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

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

[S. 10 amended by Act 18 of 1999; s. 31 (d) of Act 20 of 2002 w.e.f. 1 July 2002.]

## **11. Zero-rating**

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

- (a) no VAT shall be charged on the supply; but
- (b) it shall in all respects be treated as a taxable supply, and accordingly the rate at which VAT is treated as charged on the supply shall be nil.

(2) A supply of goods or services is zero-rated by virtue of this section if the goods or services are of a description specified in the Fifth Schedule.

## **12. Value of taxable supplies**

(1) For the purpose of this Act, the value of a taxable supply made by a taxable person shall, subject to this Act, be determined in accordance with this section and shall be expressed in Mauritius currency.

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

(3) If the supply is for a consideration not consisting of money, the value of the supply shall be taken to be the open market value of the supply or such other value as the Director-General may determine.

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

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

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

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

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

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

[S. 12 amended by Act 18 of 1999; s. 31 (e) of Act 20 of 2002 w.e.f. 1 October 2002; s. 19 (b) of Act 10 of 2010 w.e.f. 24 December 2010; s. 30 (a) of Act 26 of 2013 w.e.f. 21 December 2013.]

### 13. Value of imported goods

The value shall, in respect of goods imported, be the sum of—

- (a) the customs value of the goods;
- (b) the customs duty and excise duty payable on the goods;
- (c) the MID levy;
- (d) the CO<sub>2</sub> levy; and
- (e) the levy on energy consumption.

[S. 13 amended by s. 38 (c) of Act 18 of 2008 w.e.f. 7 June 2008; s. 7 (c) of Act 19 of 2011 w.e.f. 13 July 2011; s. 29 (c) of Act 26 of 2012 w.e.f. 1 September 2013.]

#### 14. Reverse charge on supply of services received from abroad

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

(2) Where a supply of services which is treated as made by a person under subsection (1) and that person is—

- (a) a registered person, section 21 shall apply and the registered person may claim the tax on the supply of those services as input tax;
- (b) a non-registered person, he shall make a return, in such form and manner as the Director-General may determine, in respect of the month in which the supply is made and pay the tax on the value of services supplied, without any input tax.

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

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

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

- (a) has no permanent establishment in Mauritius for the carrying on of his business; or
- (b) has his place of abode outside Mauritius.

(6) In this section—

“non-registered person” means any person not registered under this Act other than—

- (a) an individual not required to be registered under the Business Registration Act;
- (b) such person as may be prescribed.

(7) Subsection (2) (b) shall not apply to a supply made to an individual other than for the purpose of his business.

[S. 14 amended by s. 19 (b) of Act 18 of 2003 w.e.f. 21 July 2003; s. 58 (a) of Act 18 of 2016 w.e.f. 2 February 2017.]

### PART IV – REGISTRATION

#### 15. Compulsory registration

(1) Subject to this section, every person—

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

- (b) whose turnover of taxable supplies exceeds, or is likely to exceed, the amount specified in the Sixth Schedule,

shall apply to the Director-General, in such form and in such manner as may be approved by him, for compulsory registration as a registered person.

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

- (i) any business or profession specified in Part I of the Tenth Schedule and whose turnover of taxable supplies does not exceed or is not likely to exceed the amount specified in the Sixth Schedule; or
- (ii) any business specified in Part II of the Tenth Schedule, irrespective of his turnover of taxable supplies,

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

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

(2A) Notwithstanding the other provisions of this Act, the registration of a person engaged in the business specified in item 1 of Part II of the Tenth Schedule shall be in respect of—

- (a) the banking services referred to—
  - (i) in subparagraphs (A), (B), and (C) of item 50 (a) (ii) of the First Schedule;
  - (ii) in item 6 (b) (ii) of the Fifth Schedule; and
- (b) his other taxable supplies, irrespective of the amount of his turnover.

(3) Where the turnover of a person is made up exclusively of—

- (a) zero-rated supplies; or
- (b) zero-rated supplies and exempt supplies,

that person shall not be bound to apply for registration under this section.

(4) Where the Director-General is satisfied that the applicant is required to be registered, he shall register the applicant as a registered person.

(5) Where the Director-General is satisfied that—

- (a) a person, in the course or furtherance of his business, makes taxable supplies;
- (b) the taxable supplies made by certain other persons should properly be regarded as those made by that person;
- (c) where the taxable supplies referred to in paragraphs (a) and (b) are together taken into account, that person would be liable to be registered; and

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

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

[S. 15 amended by Act 18 of 1999; s. 31 (f) of Act 20 of 2002 w.e.f. 1 September 2002; 1 December 2002; s. 31 (c) of Act 15 of 2006 w.e.f. 1 October 2006; s. 31 (a) of Act 17 of 2007 w.e.f. 22 August 2007.]

#### **15A. Penalty for failure to apply for compulsory registration**

Any taxable person who does not apply for compulsory registration under section 15 shall be liable to pay to the Director-General a penalty of 5,000 rupees for every month or part of the month from the taxable period in respect of which he is liable to be registered as a registered person up to the month immediately preceding the month in which the application for registration is submitted, provided that the total penalty payable shall not exceed 50,000 rupees.

[S. 15A inserted by s. 31 (d) of Act 15 of 2006 w.e.f. 1 October 2006.]

#### **16. Voluntary registration**

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

(2) Where the applicant satisfies the Director-General that—

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

(b) —

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

the Director-General may register the applicant as a registered person.

[S. 16 amended by s. 29 (d) of Act 26 of 2012 w.e.f. 22 December 2012.]

#### **17. Certificate of registration**

(1) Where a person has been registered under section 15 or 16, the Director-General shall allocate to that person a VAT Registration Number, and issue to him a certificate of registration in a form approved by the Director-General, on such terms and conditions as he may determine.

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

#### **17A. Increase in amount specified for compulsory registration**

(1) Where the amount specified in the Sixth Schedule is increased, any registered person who is no longer required to remain registered under the Act shall, by irrevocable notice in writing to the Director-General, within 30 days of the coming into operation of the increase, elect to cease to be registered.



(2) Where a person makes an election under subsection (1), he shall cease to be a registered person as from the beginning of the taxable period immediately following the date of his notification.

(3) Where a person gives notice under subsection (1), he shall—

- (a) at the same time, submit any overdue return;
- (b) submit, by the due date, the return for each taxable period up to and including the taxable period ending on the date on which he would cease to be registered;
- (c) pay any tax due together with any penalty under sections 26, 26A and 27 and any interest under section 27A;
- (d) cease to hold himself out to be a registered person as from the date he would cease to be registered; and
- (e) return to the Director-General his certificate of registration and all its copies.

(4) The Director-General shall, on receipt of a notice under subsection (1)—

- (a) deregister the person; and
- (b) where necessary, enforce compliance by the person of the requirements of subsection (3).

(5) Any person who does not give notice by the time limit referred to in subsection (1) shall continue to be a registered person under section 16.

(6) Where a person ceases to be a registered person under this section and his return for the last taxable period shows an excess of input tax over output tax, the excess of input tax over output tax shall not be refundable.

[S. 17A inserted by s. 58 (b) of Act 18 of 2016 w.e.f. 1 July 2015.]

## **18. Cancellation of registration**

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

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

- (a) cease to hold himself out to be a registered person;
- (b) submit a return and pay the tax specified therein;
- (c) immediately return to the Director-General his certificate of registration and all its copies.

(3) Where the Director-General cancels the registration of a person and the return for the last taxable period of that person shows an excess of input tax over output tax, the excess of input tax over output tax shall not be refundable.

[S. 18 amended by s. 29 (e) of Act 26 of 2012 w.e.f. 22 December 2012; s. 30 (b) of Act 26 of 2013 w.e.f. 21 December 2013; s. 58 (c) of Act 18 of 2016 w.e.f. 1 July 2015.]

*continued on page V4 – 15*

## PART V – RECORD AND VAT INVOICE

### 19. Record

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

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

- (a) imports or exports goods shall keep, in respect of those goods, a copy of his Customs declarations, either electronic through the TradeNet or otherwise, in chronological order;
- (b) receives goods or to whom services are supplied shall keep receipts, invoices or VAT invoices in respect of those goods or services in chronological order they are received or supplied; or
- (c) makes supplies of goods or services shall, subject to section 20, issue to the purchaser a receipt or invoice in respect of those goods or services and keep legible copies, either electronically or otherwise, in chronological order,

in such manner as may be prescribed.

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

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

(5) For the purpose of subsection (2) (a)—

“TradeNet” has the same meaning as in the Customs (Use of Computer) Regulations 1997.

[S. 19 amended by s. 31 (h) of Act 20 of 2002 w.e.f. 10 January 2003; s. 19 (c) of Act 18 of 2003 w.e.f. 21 July 2003; s. 30 (c) of Act 26 of 2013 w.e.f. 21 December 2013.]

### 19A. Use of electronic fiscal device

(1) The Director-General may, for the purpose of this Act, require any person to use an electronic fiscal device to record any matter or transaction which may affect the liability to tax of that person.

(2) The electronic fiscal device shall be of such type, description and usage as may be prescribed.

[S. 19A inserted by s. 53 (b) of Act 9 of 2015 w.e.f. 14 May 2015.]

### 20. VAT invoice

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

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

- (a) the words “VAT INVOICE” in a prominent place;

- (b) his name, business address, VAT Registration Number and business registration number;
- (c) its serial number and date of issue;
- (d) the quantity and description of the goods or the description of the services;
- (e) the value of the supply, indicating whether the value is subject to VAT or not;
- (f) where the value of the supply is subject to VAT—
  - (i) the value of the supply;
  - (ii) the amount of VAT chargeable and the rate applied;
- (g) where the purchaser is a registered person, the name, business address, business registration number and the VAT Registration Number of the purchaser.

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

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

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

- (a) he is a registered person; and
- (b) the supply is a taxable supply.

(6) —

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

[S. 20 amended by s. 31 (i) of Act 20 of 2002 w.e.f. 10 January 2003; s. 19 (d) of Act 18 of 2003 w.e.f. 21 July 2003; s. 19 (c) of Act 10 of 2010 w.e.f. 24 December 2010; s. 19 (b) of Act 37 of 2011 w.e.f. 1 October 2012; s. 29 (f) of Act 26 of 2012 w.e.f. 22 December 2012; s. 30 (c) of Act 26 of 2013 w.e.f. 21 December 2013; s. 53 (c) of Act 9 of 2015 w.e.f. 1 July 2015.]

## **PART VI – RETURN, PAYMENT AND REPAYMENT OF TAX**

### **21. Credit for input tax against output tax**

(1) Subject to this section, a person may, if he is a taxable person, take, in his return referred to in section 22 or in his statement referred to in section 23, as a credit against his output tax in any taxable period, the amount of input tax allowable to him during that period.

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

- (a) goods or services used to make an exempt supply;

- (b) motor cars and other motor vehicles for the transport of not more than 9 persons, including the driver, motorcycles and mopeds, for own use or consumption, and their spare parts and accessories;
- (c) accommodation or lodging, catering services, receptions, entertainment, and the rental or lease of motor cars and other vehicles specified in paragraph (b);
- (d) maintenance or repairs of motor cars and other vehicles specified in paragraph (b);
- (e) petroleum oils and other oils or preparations of heading No. 27.10 of Part I of the First Schedule to the Customs Tariff Act, except—
  - (i) fuel oils;
  - (ii) oils or preparations used for resale; and
  - (iii) gas oils for use in stationary engines, boilers and burners;
- (f) petroleum gas of heading No 27.11 of Part I of the First Schedule to the Customs Tariff Act and used for the running of motor cars and other vehicles specified in paragraph (b);
- (g) goods and services used by banks holding a banking licence under the Banking Act for providing banking services other than to non-residents and corporations holding a Global Business Licence under the Financial Services Act;
- (ga) banking services provided by banks holding a banking licence under the Banking Act other than to non-residents and corporations holding a Global Business Licence under the Financial Services Act; and
- (h) goods and services used by persons for the purpose of providing services specified in item 4 of Part II of the Tenth Schedule, or services specified in item 4 of Part II of the Tenth Schedule.

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

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

- (i) in the case of a new business, the estimated figures for the current accounting year; or
- (ii) in any other case, the actual figures for the previous accounting year.

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

(d) Where it is proved to the satisfaction of the Director-General that the apportionment in accordance with paragraph (b) is, having regard to the

nature of the business, not fair and reasonable, the Director-General may approve such alternative basis of apportionment as he considers appropriate in the circumstances, subject to such conditions as may be prescribed.

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

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

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

are made available to the Director-General for examination on demand.

(6) Where credit for any input tax has not been taken in the taxable period in which it ought to have been taken, a registered person may take such credit within a period of 36 months of the date the input tax ought to have been taken.

(7) (a) Where, in respect of a building or part of a building, including extension and renovation, forming part of the fixed assets of a registered person, a credit for input tax has been taken, and before the end of the nineteenth year following the year in which it was acquired—

- (i) that building or part of that building is sold or otherwise transferred;
- (ii) the person transfers his business or ceases to carry on business; or
- (iii) the Director-General is satisfied that the person should cease to be registered under the Act,

the registered person shall, subject to subsection (7A), be liable to pay back to the Director-General, in respect of the remaining portion of that period, the proportionate amount of the credit allowed.

(b) The registered person shall treat the proportionate amount referred to in paragraph (a) as output tax in his return for the taxable period in which—

- (i) the building or part of the building is sold or otherwise transferred;
- (ii) he transfers his business or ceases to carry on business; or
- (iii) his registration as a registered person is cancelled pursuant to paragraph (a) (iii),

whichever is the earliest.

(7A) (a) Where the building or part of a building referred to in subsection (7) (a) in respect of which a credit for input tax has been taken is sold or otherwise transferred to a registered person, before the end of the nineteenth year following the year in which it was acquired, the seller or transferor shall be deemed to have made a taxable supply and shall charge VAT on that supply in accordance with paragraph (b).

(b) The VAT chargeable under paragraph (a) shall be the credit for input tax taken by the seller or transferor in his VAT return in respect of the building or part of the building, multiplied by the factor referred to in paragraph (c).

(c) The factor shall be the proportion which the period between the date of sale or transfer and the expiry of the 20-year period from the date of acquisition bears to the 20-year period.

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

(9) Notwithstanding subsection (5), but subject to subsection (10), where a person is registered for VAT under section 15, he may, subject to subsection (2), take credit in his first VAT return of the VAT paid or payable on his trading stocks and capital goods, being plant, machinery or equipment of a capital nature, held on the date immediately preceding the date of his registration.

(10) No credit shall be allowed under subsection (9) unless—

- (a) the registered person submits to the Director-General at the time of submission of his first VAT return, an inventory duly certified by a qualified auditor, of—
  - (i) his trading stocks; and
  - (ii) his capital goods, being plant, machinery or equipment of a capital nature,  
on the date immediately preceding the date of his registration;
- (b) the goods forming part of his trading stocks and the capital goods were acquired within a period not exceeding 3 months immediately preceding the date of his registration;
- (c) the VAT paid or payable is substantiated by receipts or invoices issued by VAT registered persons or by customs import declarations; and
- (d) credit for input tax in respect of the goods has not been taken under section 23.

(11) (a) Where, in respect of a taxable period, a registered person carries forward an excess amount of input tax over output tax and it is found that the excess has been overclaimed, the person shall be liable to pay to the Director-General a penalty representing 20 per cent of the amount overclaimed and such penalty shall be deemed to be output tax and shall be included by that person in his return in respect of the taxable period immediately following that taxable period.

(b) The penalty under paragraph (a) shall not exceed 100,000 rupees.

(c) Paragraph (a) shall not apply where a penalty has been claimed under section 24(9) in respect of the overclaimed excess.

[S. 21 amended by Act 18 of 1999; s. 22 (b) of Act 23 of 2001 w.e.f. 11 August 2001; s. 31 (j) of Act 20 of 2002 w.e.f. 10 January 2003; s. 19 (e) of Act 18 of 2003 w.e.f. 1 October 2003; s. 20 (a) of Act 28 of 2004 w.e.f. 1 October 2004; s. 33 (c) of Act 14 of 2005 w.e.f. 1 July 2005; s. 31 (b) of Act 17 of 2007 w.e.f. 22 August 2007; s. 38 (d) of Act 18 of 2008 w.e.f. 1 July 2009 in respect of input tax taken in taxable period commencing 1 July 2008 and onwards; s. 47 (a) of Act 14 of 2009 w.e.f. 30 July 2009; s. 19 (c) of Act 37 of 2011 w.e.f. 15 December 2011; s. 29 (g) of Act 26 of 2012 w.e.f. 22 December 2012; s. 30 (d) of Act 26 of 2013 w.e.f. 21 December 2013; s. 53 (d) of Act 9 of 2015 w.e.f. 14 May 2015; s. 58 (d) of Act 18 of 2016 w.e.f. 1 October 2016.]

## 22. Return and payment of tax

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

- (a) the amount of output tax payable;
- (b) the amount of input tax allowable;
- (c) the value of all taxable supplies made by him;
- (d) the value of goods imported and value of all taxable supplies made to him;
- (e) the amount of solidarity levy payable under section 53B;
- (ea) the amount of levy under section 53J; and
- (f) such other particulars as may be required in the form of the return.

(1A) Where the annual turnover of taxable supplies does not exceed the amount specified in the Second Schedule, a registered person may, notwithstanding subsection (1), by irrevocable notice in writing to the Director-General, elect the taxable period in relation to him be a period of a month or part of a month.

(1B) Where a registered person has made an election under subsection (1A), he shall submit a return in accordance with this section as from the end of the quarter in which the election is made.

(1C) Where a registered person submits his return electronically, he shall also submit electronically a summary of the value of supplies made to any person, other than a final consumer, in such format as the Director-General may determine.

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

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



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

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

[S. 22 amended by s. 31 (e) of Act 15 of 2006 w.e.f. 1 July 2006 and 7 August 2006;  
s. 19 (d) (i) of Act 37 of 2011 w.e.f. 15 January 2012; s. 19 (d) (ii) of Act 37 of 2011 w.e.f.  
1 July 2012.]

*continued on page V4 – 21*



### 23. Tax liability before date of registration

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

- (a) submit a statement, in such form as the Director-General may approve, giving the information and particulars specified in section 22 in respect of the taxable periods commencing on the date the person was required to be registered and ending on the date immediately preceding the date of his registration, provided that such periods do not exceed 5 years; and
- (b) at the same time, pay any tax due in accordance with the statement together with any interest under section 27A.

(2) Notwithstanding section 21 (5) (a), any registered person may, in the statement under subsection (1), take as a credit against his output tax for the taxable period, the amount of input tax allowable to him during that period provided that—

- (a) the amount of tax is duly supported by receipts or invoices issued by VAT registered persons and the amount of VAT is separately shown thereon; and
- (b) credit has not been taken under section 21 (9).

[S. 23 amended by s. 19 (f) of Act 18 of 2003 w.e.f. 21 July 2003; s. 31 (f) of Act 15 of 2006 w.e.f. 1 October 2006; s. 31 (c) of Act 17 of 2007 w.e.f. 22 August 2007.]

### 24. Repayment of tax

(1) Where a registered person submits a return under section 22 and the excess amount includes input tax amounting to more than 100,000 rupees or such other amount as may be prescribed, on capital goods being building or structure, including extension and renovation, plant, machinery or equipment, of a capital nature, the registered person, may, in that return, make a claim to the Director-General for a repayment of the amount of input tax allowable in respect of those capital goods.

(1A) Notwithstanding subsection (1), the Director-General may, on receipt of a claim under that subsection—

- (a) repay the whole or part of the excess amount; or
- (b) retain the excess amount to be carried forward onto the return for the following taxable period.

(2) Subject to subsections (3) and (4), where, in respect of a taxable period, a return shows an excess amount, the registered person may, in that return, make a claim to the Director-General for a repayment, in addition to any amount repayable under subsection (1), of that part of the excess amount which corresponds to the proportion of the value of zero-rated supplies to the total value of taxable supplies in that taxable period.

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

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

(aa) Where a registered person proves to the satisfaction of the Director-General that any excess amount in his VAT return is unlikely to be set off against subsequent output tax, the Director-General may allow, in such circumstances as may be prescribed, the repayment of the whole or part of the excess amount.

(b) On receipt of a claim under paragraphs (a) and (aa), the Director-General may—

- (i) repay the whole or part of the excess amount; or
- (ii) retain the excess amount to be carried forward onto the return for the following taxable period.

(5) A claim for repayment under this section shall be made in such form and manner as the Director-General may approve, and shall be submitted together with the return.

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

(7) Subject to subsection (7A) or (7B), a repayment under this section shall be made within 45 days of the date of receipt by the Director-General of the return and the claim referred to in subsection (5).

(7A) Where a claim for repayment in respect of capital goods being fittings, equipment and furniture acquired by a VAT registered person for the purpose of renovation works of an amount of at least 10 million rupees in a shop, restaurant or other retail outlet, other than a supermarket or hypermarket, as confirmed by the Board of Investment, reaches the Director-General on or before 31 December 2014, the repayment shall, subject to subsection (7B), be made within 7 days of the date of receipt by the Director-General of the return and the claim referred to in subsection (5).

(7B) Where the Director-General requests a registered person to submit invoices, documents or information in respect of a claim for repayment under this section, the time limit for the repayment referred to in subsection (7) or (7A) shall run as from the date of submission of all invoices, documents and information requested.

(8) Where the repayment is made after the period specified in subsection (7), (7A) or (7B), the repayment shall carry interest, free of income tax, at the prevailing Repo rate determined by the Bank of Mauritius.

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

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

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

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

[S. 24 amended by Act 18 of 1999; Act 25 of 2000; s. 22 (c) of Act 23 of 2001 w.e.f. 11 August 2001; s. 19 (g) of Act 18 of 2003 w.e.f. 21 July 2003; s. 33 (d) of Act 14 of 2005 w.e.f. 21 April 2005; s. 31 (g) of Act 15 of 2006 w.e.f. 7 August 2006; s. 31 (d) of Act 17 of 2007 w.e.f. 22 August 2007; s. 29 (h) of Act 26 of 2012 w.e.f. 22 December 2012; s. 30 (e) of Act 26 of 2013 w.e.f. 21 December 2013; s. 53 (e) of Act 9 of 2015 w.e.f. 14 May 2015.]

## **25. Change in taxable period**

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

- (a) within 15 days of the date of the closing of his annual accounts, notify the Director-General of that fact in writing; and
- (b) change his taxable period from a quarter to a month as from the month immediately following that quarter.

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

- (a) within 15 days of the date of the closing of his annual accounts, notify the Director-General of that fact in writing; and
- (b) change his taxable period from a month to a quarter as from the quarter immediately following that month.

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

## **26. Penalty for non-submission of return by due date**

(1) Subject to subsection (2), where, in respect of a taxable period, a registered person fails to submit a return on or before the last day on which the return is required to be submitted, he shall be liable to pay to the Director-General, in addition to any tax which may be payable, a penalty of

2,000 rupees for every month or part of the month until the return for that taxable period is submitted, provided that the total penalty payable shall not exceed 20,000 rupees.

(2) Where a registered person is a small enterprise, the maximum penalty payable under subsection (1) shall not exceed 5,000 rupees.

[S. 26 amended by Act 25 of 2000; repealed and replaced by s. 31 (h) of Act 15 of 2006 w.e.f. 1 October 2006; s. 53 (f) of Act 9 of 2015 w.e.f. 14 May 2015.]

#### **26A. Penalty for failure to join electronic system**

Any registered person who is required under regulations made under this Act to submit his return and make any payment of tax due electronically but fails to join the electronic system, after written notice being given to him by the Director-General, shall be liable to pay to the Director-General, on his failure within a period of 7 days from the date of the notice to justify the failure to join the system, a penalty of 5,000 rupees, for every month or part of the month from the taxable period specified in the notice up to the taxable period immediately preceding the taxable period in respect of which he submits his return, and to make any payment of tax due electronically, provided that the total penalty payable shall not exceed 50,000 rupees.

[S. 26A inserted by s. 31 (i) of Act 15 of 2006 w.e.f. 1 October 2006.]

#### **27. Penalty for late payment of tax**

(1) Subject to subsection (3), where a taxable person fails to pay any tax due on or before the last day on which it is payable under section 21 (7), 22, 23, 37, 39 or 67, he shall be liable to pay to the Director-General, in addition to the tax and any penalty under sections 15A, 24 (9), 26 (1), 26A and 37A, a penalty of 10 per cent of the tax.

(2) The penalty under the subsection (1) shall apply to the tax excluding any penalty under section 15A, 24 (9), 26 (1), 26A and 37A and any interest under section 27A.

(3) Where the person referred to in subsection (1) is a small enterprise and it fails to pay any tax due on or before the last day on which it is payable under section 21 (7), 22, 23, 27E (3) and (10), 37, 39 or 67, the penalty shall be 2 per cent of the tax.

(4) The penalty under subsection (3) shall apply to the tax excluding any penalty under section 15A, 24 (9), 26 (2), 26A or 37A and any interest under section 27A.

[S. 27 amended by s. 31 (j) of Act 15 of 2006 w.e.f. 1 October 2006; s. 53 (g) of Act 9 of 2015 w.e.f. 14 May 2015; s. 58 (e) of Act 18 of 2016 w.e.f. 1 October 2016.]

#### **27A. Interest on tax unpaid or amount repaid or refunded in excess**

(1) Interest at the rate of one per cent per month or part of the month shall be paid to the Director-General on—

- (a) any tax unpaid under section 9 or 21 (7) from the date the tax remained unpaid to the date of payment;

- (b) any amount claimed by the Director-General in respect of tax repaid in excess and on any amount paid thereon as interest under section 24 from the date of the repayment up to the date of payment of the amount claimed; or
- (c) any amount claimed by the Director-General under section 67 in respect of tax refunded, exempted or reduced erroneously—
  - (i) from the date of the erroneous refund, exemption or reduction to the date specified in the notice under section 67; and
  - (ii) in the case of non-payment by the date specified in the notice under section 67, from that date to the date of payment of the amount claimed.

(2) The interest under subsection (1) shall not apply to any penalty under section 15A, 24 (9), 26, 26A, 27 or 37A.

[S. 27A inserted by s. 31 (j) of Act 15 of 2006 w.e.f. 1 October 2006.]

#### **PART VIA – PUBLIC SECTOR AGENCY TO DEDUCT AN AMOUNT FROM VAT**

[Part VIA inserted by s. 53 (h) of Act 9 of 2015 w.e.f. 1 July 2016; repealed by s. 58 (f) of Act 18 of 2016 w.e.f. 1 July 2016.]

#### **27B. —**

[S. 27B inserted by s. 53 (h) of Act 9 of 2015 w.e.f. 1 July 2016; repealed by s. 58 (f) of Act 18 of 2016 w.e.f. 1 July 2016.]

#### **27C. —**

[S. 27C inserted by s. 53 (h) of Act 9 of 2015 w.e.f. 1 July 2016; repealed by s. 58 (f) of Act 18 of 2016 w.e.f. 1 July 2016.]

#### **PART VIB – VAT RELATING TO SMALL ENTERPRISE**

[Part VIB inserted by s. 53 (h) of Act 9 of 2015 w.e.f. 1 July 2015.]

#### **27D. Interpretation of Part VIB**

In this Part—

“accounting year” means—

- (a) in the case of a company, a period of 12 months ending on the date of the end of its accounting period;
- (b) in any other case, a period of 12 months ending on 30 June;

“company” has the same meaning as in the Income Tax Act.

[S. 27D inserted by s. 53 (h) of Act 9 of 2015 w.e.f. 1 July 2015.]

#### **27E. VAT annual accounting system**

(1) Subject to this section, a small enterprise may apply to the Director-General to operate the VAT annual accounting system on—

- (a) an accrual basis; or
- (b) a cash basis.

(2) Where a VAT registered person applies for its net income from business to be calculated in accordance with Sub-part D of Part VIII of the Income Tax Act, he shall be considered to have applied to operate the VAT annual accounting system on a cash basis.

(3) A small enterprise which operates the VAT annual accounting system shall—

- (a) comply with such terms and conditions as the Director-General may approve;
- (b) within such time as may be prescribed, after the end of each of the first 3 calendar quarters in its accounting year, submit to the Director-General, a simplified VAT statement in such form and manner as the Director-General may approve; and
- (c) pay any VAT payable in accordance with subsection (4) or (5).

(4) The VAT payable pursuant to subsection (3) (b) shall be—

- (a) in the case of a VAT registered person whose annual total turnover does not exceed 10 million rupees on 1 July 2015, 25 per cent of the amount of VAT payable in respect of the preceding accounting year, after adding back any allowable input VAT in respect of capital goods in that year;
- (b) in the case of a small enterprise which registers for VAT on 1 July 2015, 25 per cent of the estimated VAT payable for the accounting year, after adding back any input VAT in respect of capital goods which the small enterprise intends to acquire in the first accounting year after its VAT registration.

(5) Where a small enterprise has in the relevant part of the first 3 quarters of an accounting year been supplied with capital goods and the input tax in respect thereof exceeds 50,000 rupees, the small enterprise may deduct from the VAT payable in accordance with subsection (4) the allowable input tax in respect of the capital goods.

(6) Where the computation referred to in subsection (5) shows an excess of input tax over VAT payable, the balance may be claimed as a repayment.

(7) Where the annual VAT return for an accounting year is not due before the due date for the submission of the simplified VAT statement referred to in subsection (3) (b) at the end of the first quarter in the succeeding accounting year, the basis for the computation of the VAT payable or claim for repayment for the statement in the succeeding accounting year shall be the accounting year immediately preceding the accounting year for which the VAT return is not due.

(8) A small enterprise which operates the annual VAT accounting system shall, within such time as may be prescribed, after the end of every accounting year, submit to the Director-General, a VAT return, in respect of that accounting year, in such form and manner as the Director-General may approve, specifying such particulars as may be required in the return.



(9) Where a small enterprise submits a return under subsection (8), the balance of output tax over input tax shall be adjusted by any tax payable or claimed as repayment in the VAT statements submitted in respect of the quarters ending in the accounting year.

(10) Where the adjusted balance under subsection (9) shows—

- (a) an amount of VAT payable, that amount shall be paid within such time as may be prescribed;
- (b) excess VAT, the balance shall, subject to subsection (11), be carried forward onto the return for the following accounting year.

(11) Where excess VAT shown by the adjusted balance includes input tax amounting to more than 50,000 rupees in respect of capital goods, the small enterprise may make a claim for repayment of the amount of input tax allowable in respect of capital goods.

(12) Where a VAT registered person makes a claim for repayment pursuant to subsection (6) or (11), the Director-General shall, on being satisfied with the claim, effect the repayment to the VAT registered person within 45 days of the date of receipt of the claim or the documents requested in support of the claim, whichever is the later.

(13) Where the application of a small enterprise to operate the VAT annual accounting system on a cash basis has been approved, it shall—

- (a) be considered to have made a supply in the accounting year in which the payment for the supply is received;
- (b) be considered to have received a supply in the accounting year in which payment for that supply is made;
- (c) subject to section 21, be entitled to take credit for input tax in respect of taxable supplies for which payment has been made;
- (d) be entitled to make a claim for repayment of VAT on submission of his statement or return, provided the excess includes VAT paid exceeding 50,000 rupees in respect of capital goods.

[S. 27E inserted by s. 53 (h) of Act 9 of 2015 w.e.f. 1 July 2015; amended by s. 58 (g) of Act 18 of 2016 w.e.f. 1 September 2016.]

## **27F. Records**

A small enterprise shall keep records in such form and manner as the Director-General may approve.

[S. 27F inserted by s. 53 (h) of Act 9 of 2015 w.e.f. 1 July 2015.]

## **27G. Change in accounting system**

Where a small enterprise intends to change its VAT accounting system, it shall, by written notice, inform the Director-General accordingly and shall comply with such conditions as the Director-General may determine.

[S. 27G inserted by s. 53 (h) of Act 9 of 2015 w.e.f. 1 July 2015.]

## PART VII – POWERS OF DIRECTOR-GENERAL

### 28. Power to require information

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

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

which the Director-General considers necessary or relevant for the purpose of this Act and which may be in the possession or custody, or under the control, of that person.

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

### 28A. Act or thing in respect of period before 3 years preceding last day of taxable period

(1) Notwithstanding this Act, the Director-General shall, in any taxable period, in relation to the tax liability of a person, not—

- (a) require any information, statement or return;
- (b) make any assessment or claim,

under this Act in respect of a period before 3 years preceding the last day of the taxable period, unless the Director-General applies ex parte for and obtains the authorisation of the Independent Tax Panel under the Mauritius Revenue Authority Act.

(2) An authorisation under subsection (1) shall be granted where the Director-General establishes to the satisfaction of the Independent Tax Panel that there is prima facie evidence of fraud or non-submission of a statement under section 23 or a return by a taxable person.

(3) In an application under subsection (1), the Director-General shall specify the period in respect of which he proposes to do the act or thing referred to in subsection (1).

[S. 28A inserted by s. 53 (i) of Act 9 of 2015 w.e.f. 1 June 2016; amended by s. 58 (h) of Act 18 of 2016 w.e.f. 7 September 2016.]

## 29. Obligation to furnish information

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

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

- (a) a certified copy of the profit and loss account and balance sheet or such other statement of account as may be required, duly audited by a qualified auditor;
- (b) details of transactions in all the bank accounts of the person, his spouse and minor children; and
- (c) a certified statement of all assets and liabilities of the person, his spouse and minor children.

## 30. Use of computer system

(1) Notwithstanding the other provisions of this Act, the Director-General may authorise—

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

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

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

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

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

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

[S. 30 amended by s. 22 (d) of Act 23 of 2001 w.e.f. 11 August 2001.]

### **31. Production of books and records**

The Director-General may, for the purpose of ascertaining the tax liability of any person, require that person to—

- (a) produce for—
  - (i) examination, at the business premises of that person or at the office of the Director-General, books, records, copies of VAT invoices, contracts for the supply of goods or services, bank statements, or other documents, whether electronically or otherwise, which the Director-General considers necessary and which may be in the possession or custody or under the control of that person;
  - (ii) retention, for such period as the Director-General considers necessary, a record or document specified in subparagraph (i) and for taking copies of or extracts;
- (b) call at the business premises of the person or at the office of the Director-General, for the purpose of being examined in respect of a transaction or matter relating to the tax liability of that person.

[S. 31 amended by s. 30 (f) of Act 26 of 2013 w.e.f. 21 December 2013.]

### **32. Power to inspect books, records and goods**

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

- (a) require the person carrying on the business or any person on those premises or in that place who is employed by the person carrying on the business to produce any book, record, copy of VAT invoice, balance sheet, stock sheet, contract for the supply of goods or services, bank statement or other document relating to the business, whether these are recorded electronically or otherwise, and may remove and retain any such record or other document, for such period as may be considered reasonable for their examination or inspection;
- (b) examine any such record or other document and take copies or extracts;
- (c) inspect any goods;
- (d) require the person—
  - (i) to produce any goods for inspection; or
  - (ii) to carry out a cash count; and

- (e) require the person carrying on the business or any person on those premises or in that place who is employed by the person carrying on the business to give to the Director-General or the authorised officer all reasonable assistance and to answer all proper questions orally or in writing.

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

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

- (a) who carries on any banking business, or the business of dealings in foreign currency, regulated by the Banking Act, the Bank of Mauritius Act or any other enactment relating to those businesses; or
- (b) who carries on the business of providing financial services regulated by the Financial Services Act.

(4) Any person who—

- (a) fails to provide such assistance or to answer such questions as may be required under this section; or
- (b) obstructs the Director-General or any officer in the exercise of his powers under this section,

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

[S. 32 amended by s. 33 (e) of Act 14 of 2005 w.e.f. 1 July 2005; s. 30 (g) of Act 26 of 2013 w.e.f. 21 December 2013.]

### **32A. Power to access computers and other electronic devices**

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

- (a) have access to—
  - (i) any computer, computer software, whether installed in the computer or otherwise, electronic till or any other device, used in connection with any document which the person is required to produce for the purpose of ascertaining his tax liability; or
  - (ii) any information, code or technology which has the capability or retransforming or unscrambling encrypted data contained in or available to such computers or devices into readable and comprehensive format or text;
- (b) inspect and check the operation of any such computer, electronic till or other device and make extracts of any computer software, computer output or such other document used in connection therewith;

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

*continued on page V4 – 27*

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

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

[S. 32A inserted by s. 20 (b) of Act 28 of 2004 w.e.f. 26 August 2004.]

### **33. Time limit to require information, books or records**

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

- (a) furnish or give any information under section 28 or 29; or
- (b) produce any books or records under section 31 or 32,

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

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

### **34. Power to require security**

(1) The Director-General may, for the purpose of securing payment of any tax due, require a person to give security in such amount and in such manner as the Director-General may determine.

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

### **34A. Power to waive penalty or interest**

(1) The Director-General may waive the whole or part of any penalty or interest imposed under this Act where he is satisfied that failure to comply with this Act was attributable to a just or reasonable cause.

(2) In the exercise of his power under subsection (1), the Director-General shall, in writing, record the reasons for waiving the whole or part of the penalty or interest.

[S. 34A inserted by s. 31 (k) of Act 15 of 2006 w.e.f. 7 August 2006.]

### **35. Warrant to search and seize**

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

- (a) enter and search any business premises or place where any business is carried on or anything is done in connection with the business;
- (b) inspect or examine any goods or books, records or other documents, whether kept on computer or otherwise, found there; and

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

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

(3) Any goods, books, records or other documents or computer, device, apparatus, material or computer software seized under subsection (1) (c) shall be returned to the person from whom they were seized when no longer required.

[S. 35 amended by s. 20 (c) of Act 28 of 2004 w.e.f. 26 August 2004.]

### **36. Proceedings for temporary closing down of business**

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

- (a) a registered person fails to submit a return under section 22 or fails to pay the tax payable under that section on or before the last day on which the return is required to be submitted and payment of tax made; and
- (b) the Director-General is of the opinion that tax ought to have been paid by the registered person for that taxable period; or
- (c) a taxable person fails to pay any amount of tax assessed or claimed under this Act,

the Director-General may notify the person in writing of his intention to close down the business of that person for a period not exceeding 14 days, unless the person complies with this Act within a period of 7 days of the date of the notice.

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

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

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

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

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



- (a) section 22; or
- (b) section 34 (1) and gives security to the satisfaction of the Director-General for the payment of any tax due,

the order shall lapse and the Director-General shall, in writing, notify the registered person accordingly.

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

[S. 36 amended by s. 19 (e) of Act 37 of 2011 w.e.f. 15 December 2011.]

### **36A. Anti-avoidance provisions**

(1) Where the Director-General is satisfied that the purpose or effect of any arrangement or transaction is, directly or indirectly, to—

- (a) reduce or avoid any liability imposed or which would otherwise have been imposed on any person by this Act;
- (b) relieve any person from any liability to tax;
- (c) alter the incidence or postpone the time due of any tax which is payable by or which would otherwise have been payable by any person; or
- (d) obtain credit for any input tax or repayment of any tax which would not otherwise have been obtained,

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

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

(3) For the purpose of this section—

“tax advantage” includes—

- (a) any reduction in the liability of any person to pay tax;
- (b) any reduction in the total consideration payable by any person in respect of any supply of goods or services;
- (c) any postponement of the time when tax is due or payable; or
- (d) any increase in the entitlement of a person to a credit for input tax or repayment of tax.

[S. 36A inserted by Act 25 of 2000.]

**PART VIII – ASSESSMENTS, OBJECTIONS AND REVIEW OF ASSESSMENTS**

[Part VIII amended by s. 22 (e) of Act 23 of 2001.]

**37. Director-General may make assessments**

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

- (a) a person—
  - (i) fails to submit a return under section 22 or a statement under section 23;
  - (ii) fails to keep proper records;
  - (iii) fails to comply with any of the requirements under section 29, 31 or 32;
  - (iv) being a taxable person, fails to apply for registration as a registered person;
  - (v) benefits from a repayment of tax under section 24 and it is subsequently found that the tax or part of the tax ought not to have been repaid;
  - (vi) fails to remit to the Director-General any VAT charged on any supply made by him; or
- (b) the Director-General is not satisfied—
  - (i) with a return submitted under section 22 or a statement under section 23; or
  - (ii) with the adequacy or correctness of the records kept,

the Director-General may, on such information as is available to him, make an assessment of the tax due and payable by that person or of the excess amount to be carried forward in case the input tax exceeds the output tax and give to that person written notice of the assessment.

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

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

(4) No assessment under subsection (1) shall be made where the amount of tax or the reduction in the excess amount to be carried forward does not exceed 250 rupees.

(5) Subsection (3) shall not apply in case of fraud.

[S. 37 amended by s. 33 (f) of Act 14 of 2005 w.e.f. 21 April 2005; s. 53 (j) of Act 9 of 2015 w.e.f. 1 June 2016.]

### 37A. Penalty on amount claimed in assessment

(1) Where an assessment is made under section 37, the amount of tax claimed in the assessment shall carry a penalty not exceeding 50 per cent and such penalty shall be deemed to be part of the tax claimed.

(2) For the purpose of subsection (1)—

“tax claimed”, in relation to the relevant taxable period—

- (a) means the difference between the amount of tax payable in the assessment and tax declared in the return under section 22 or statement under section 23; but
- (b) does not include—
  - (i) any penalty under sections 15A, 24 (9), 26, 26A, and 27; and
  - (ii) any interest under section 27A.

[S. 37A inserted by s. 31 (l) of Act 15 of 2006 w.e.f. 1 October 2006.]

### 37B. Validity of notice of assessment or determination

The validity of a notice of assessment or determination made under this Act shall not be affected by reason of an error, a mistake or an omission as to—

- (a) the name or address of the person;
- (b) the date or period; or
- (c) the amount of VAT assessed,

where the person intended to be assessed or affected is sufficiently designated and the error, mistake or omission is not likely to mislead that person.

[S. 37B inserted by s. 58 (i) of Act 18 of 2016 w.e.f. 7 September 2016.]

### 38. Objection to assessments

(1) (a) Where a person assessed to tax under section 37 is dissatisfied with the assessment, he may, within 28 days of the date of the notice of assessment, object to the assessment in such form as the Director-General may approve.

(b) The form referred to in paragraph (a), duly filled in, shall be sent by the person objecting, by registered post, to the Director-General.

(2) Any person who objects under subsection (1) shall—

- (a) specify in the form, in respect of every item in the notice of assessment, the detailed grounds of objection and the adjustments that are required to be made and the reasons therefor;
- (b) at the time of his objection, where he has not submitted any return required under section 22 or any statement required under section 23 in respect of each of the taxable periods covered by the assessment—
  - (i) submit the required return or statement;

- (ii) pay any amount of tax specified in the return or statement referred to in subparagraph (i), together with any penalty under sections 15A, 24 (9), 26, 26A and 27, and any interest under section 27A; and
- (iii) in addition, pay 10 per cent of the difference between the amount claimed in the notice of assessment and the amount payable under subparagraph (ii);
- (c) where he has, prior to the assessment, submitted all returns required under section 22 or statements required under section 23 for each of the taxable periods covered by the assessment—
  - (i) pay, at the time of his objection, any outstanding tax on those returns or statements; and
  - (ii) in addition, pay 10 per cent of the amount claimed in the notice of assessment;
- (d) —

(2A) Where the person, within the time limit referred to in subsection (1), satisfies the Director-General on reasonable grounds that he is unable to pay the amount of tax under subsection (2) (b) and (c) in one instalment, the person shall—

- (a) pay that amount; or
  - (b) give security by way of a bank guarantee,
- on such terms and conditions as the Director-General may approve.

(3) Where it is proved to the satisfaction of the Director-General that, owing to illness or other reasonable cause, a person has been prevented from making an objection within the time specified in subsection (1), the Director-General may consider the objection as a valid objection under that subsection.

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

(5) Where the person fails to comply with subsection (2), the objection shall be deemed to have lapsed and the Commissioner shall give notice thereof to that person.

(6) Where a notice under subsection (4) or (5) is given, the tax specified in the notice of assessment together with any penalty under sections 15A, 24 (9), 26, 26A, 27 and 37A and any interest under section 27A shall be paid within 28 days of the date of the notice or the excess amount as assessed shall be deemed to be the excess amount to be carried forward, as the case may be.

[S. 38 amended by s. 22 (f) of Act 23 of 2001 w.e.f. 11 August 2001; s. 19 (h) of Act 18 of 2003 w.e.f. 21 July 2001; s. 33 (g) of Act 14 of 2005 w.e.f. 21 April 2005; s. 31 (m) of Act 15 of 2006 w.e.f. 1 October 2006; s. 31 (e) of Act 17 of 2007 w.e.f. 22 August 2007; s. 38 (e) of Act 18 of 2008 w.e.f. 19 July 2008; s. 19 (d) of Act 10 of 2010 w.e.f. 24 December 2010; s. 53 (k) of Act 9 of 2015 w.e.f. 14 May 2015; s. 58 (j) of Act 18 of 2016 w.e.f. 7 September 2016.]

**39. Determination of objections**

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

(2) After considering an objection, the Director-General shall—

- (a) disallow or allow it, in whole or in part;
- (b) determine the objection; or
- (c) where appropriate, amend the assessment accordingly, and

give notice of his determination to the person.

(3) Where a notice of determination under subsection (2) is given, the tax specified in the notice together with any penalty under sections 15A, 24 (9), 26, 26A, 27 and 37A and any interest under section 27A shall be paid within 28 days of the date of the notice, or the excess amount of input tax as determined shall be carried forward, as the case may be.

(3A) Where an assessment is reduced pursuant to a determination under subsection (2), any amount of tax paid under subsection 38 (2) (d) in excess of the amount payable in accordance with that determination, shall be refunded, together with interest, free of income tax, at the prevailing Repo rate determined by the Bank of Mauritius, from the date the payment is received by the Director-General to the date it is refunded.

*continued on page V4 – 33*



(4) A notice of determination under subsection (2) in respect of an assessment—

- (a) made before 1 October 2006 shall be given to the person within 6 months of the date on which the objection is lodged; or
- (b) made on or after 1 October 2006 shall be given to the person within 4 months of the date on which the objection is lodged.

(5) Where an objection is not determined by the Director-General within the period specified in subsection (4), the objection shall be deemed to have been allowed by the Director-General.

(6) Any objection under section 38 shall be dealt with independently by an objection directorate set up by the Director-General.

[S. 39 amended by s. 33 (h) of Act 14 of 2005 w.e.f. 21 April 2005; s. 31 (n) of Act 15 of 2006 w.e.f. 7 August 2006 and 1 October 2006; s. 29 (i) of Act 26 of 2012 w.e.f. 22 December 2012; s. 30 (h) of Act 26 of 2013 w.e.f. 21 December 2013.]

#### 40. Representations to Assessment Review Committee

(1) Any person who is aggrieved by a decision of the Director-General—

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

may lodge written representations with the Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act.

(2) (a) Where an agreement is reached before, or a decision is made by, the Assessment Review Committee, the Director-General, shall, within 5 working days of the date of the agreement or notification of the decision, as the case may be, issue a notice to the person specifying the amount of value added tax payable.

(b) Where a notice is issued to a person under paragraph (a), that person shall pay the amount of value added tax within 28 days of the date of the notice.

[S. 40 amended by s. 22 (g) of Act 23 of 2001 w.e.f. 11 August 2001; s. 53 (l) of Act 9 of 2015 w.e.f. 14 May 2015.]

#### 41. Conclusiveness of assessments

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

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

- (b) every such assessment, decision, determination, agreement or notice, shall be final and conclusive.

[S. 41 amended by s. 22 (h) of Act 23 of 2001 w.e.f. 11 August 2001.]

## PART IX – RECOVERY OF TAX

### 42. Priority for VAT charged by a registered person

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

- (a) shall be held on behalf of Government; and
- (b) shall not be subject to attachment in respect of any debt or liability of the registered person.

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

### 43. Recovery of tax by attachment

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

### 44. Recovery of tax by distress and sale

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

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

### 45. Inscribed privilege

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

(2) Where the Director-General thinks it necessary, for securing the recovery of any tax payable under this Act, to inscribe the privilege provided for under subsection (1), he shall deposit with the Conservator of Mortgages 2 identical memoranda, in such form as may be prescribed, and shall notify the person by whom the tax is payable, of the deposit of the memoranda.

(3) The Conservator of Mortgages shall, on deposit of the memoranda—

- (a) inscribe the privilege generally on all immovable properties belonging, or which may subsequently belong, to the person by whom the tax is payable; and
- (b) return one of the memoranda to the Director-General with a statement written or stamped on it to the effect that the privilege has duly been inscribed.



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

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

(b) The Director-General may send a request to the Conservator of Mortgages to erase the inscription in respect of any property belonging to the debtor where the Director-General is satisfied that the value of the other properties of the debtor is sufficient to secure payment of the amount of tax which has remained unpaid.

(6) (a) The Conservator of Mortgages shall, at the request of the Director-General, erase the inscription of a privilege under this section.

(b) Where an inscription of privilege is erased pursuant to paragraph (a), the Director-General shall, within 5 working days of the date of the notification of the erasure by the Conservator of Mortgages, give notice in writing thereof to the person who owed the tax.

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

[S. 45 amended by s. 19 (i) of Act 18 of 2003 w.e.f. 21 July 2003; s. 27 (19) (f) of Act 33 of 2004 w.e.f. 1 July 2006; s. 4 (j) of Act 4 of 2006 w.e.f. 2 October 2004; s. 53 (m) of Act 9 of 2015 w.e.f. 14 May 2015.]

*continued on page V4 – 35*



#### 46. Uninscribed privilege

(1) Notwithstanding section 45, but subject to subsection (2), the privilege for the recovery of taxes under Articles 2148 and 2152 of the Code Civil Mauricien shall operate on account of tax payable under this Act independently of, and without the necessity for, inscription, on—

- (a) personal property wherever found;
- (b) the proceeds of the sale of immovable property; and
- (c) the crops, fruits, rents and revenues,

belonging to the person owing the tax.

(2) The privilege conferred under subsection (1) shall operate only in respect of tax payable for a period of 12 months, at the discretion of the Director-General, and shall rank immediately after the privilege for judicial costs.

#### 47. *Contrainte*

(1) Where any tax is payable under this Act, the Director-General may apply to a Judge in Chambers for an order (*contrainte*) to issue against the debtor.

(2) An order issued under subsection (1) shall be—

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

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

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

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

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

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

### PART IXA —

[Part IXA repealed and replaced by s. 22 (i) of Act 23 of 2001 w.e.f. 1 January 2002;  
repealed by s. 27 (19) (g) of Act 33 of 2004 w.e.f. 1 July 2006.]

#### 48A. – 48B. —

[Ss. 48A and 48B repealed and replaced by s. 22 (i) of Act 23 of 2001 w.e.f. 1 January 2002;  
repealed by s. 27 (19) (g) of Act 33 of 2004 w.e.f. 1 July 2006.]

**PART X – VAT RELATING TO BONDED WAREHOUSES, FREEPORT ZONE AND DUTY-FREE SHOPS OR SHOPS UNDER THE DEFERRED DUTY AND TAX SCHEME**

[Part X amended by s. 31 (f) of Act 17 of 2007 w.e.f. 22 August 2007.]

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

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

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

(3) For the purpose of this section—

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

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

**50. VAT relating to freeport zone**

(1) (a) Notwithstanding this Act but subject to paragraph (b), no VAT shall be payable on any goods imported into a freeport zone.

(b) Where an authorisation is granted under section 7 (3) (a) of the Freeport Act, VAT shall be payable on the goods and services relating to the authorised activities.

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

[S. 50 repealed and replaced by s. 29 (j) of Act 26 of 2012 w.e.f. 22 December 2012.]

**51. – 52. —**

[Ss. 51 and 52 repealed by s. 31 (o) of Act 15 of 2006 w.e.f. 1 October 2006.]

**53. VAT relating to a duty-free shop or shop under the Deferred Duty and Tax Scheme**

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

(a) on any goods imported for sale in a duty-free shop;

(aa) on jewellery manufactured by a VAT registered company and supplied to a duty-free shop;

- (b) on any goods supplied by a registered person to a duty-free shop for sale; and
  - (c) on any goods supplied to a passenger by an operator of a duty-free shop.
- (2) No VAT shall be payable on—
- (a) any goods imported for sale in; or
  - (b) jewellery manufactured by a VAT registered company and supplied to,

a shop operating under the Deferred Duty and Tax Scheme referred to in section 22 of the Customs Act.

[S. 53 amended by s. 22 (k) of Act 23 of 2001 w.e.f. 11 August 2001; repealed and replaced by s. 31 (p) of Act 15 of 2006 w.e.f. 1 October 2006; amended by s. 31 (g) of Act 17 of 2007 w.e.f. 1 October 2006.]

## **PART XA – SOLIDARITY LEVY**

[Part XA inserted by s. 31 (q) of Act 15 of 2006 w.e.f. 1 July 2006.]

### **53A. Purpose of solidarity levy**

The purpose of the solidarity levy raised under this Part shall be to finance the Empowerment Programme referred to in the 2006-2007 Budget Speech.

### **53B. Liability to solidarity levy**

(1) Subject to other provisions of this Part, every operator shall be liable to pay to the Director-General a solidarity levy calculated on his turnover at the rate specified in Part II of the Eleventh Schedule.

(2) The levy under this Part shall be raised in respect of the 4 financial years ending 30 June 2010.

(3) The liability to solidarity levy shall be suspended in respect of the taxable period from 1 January 2009 to 30 June 2010.

[S. 53B amended by s. 25 of Act 1 of 2009 w.e.f. 1 January 2009.]

### **53C. Payment of solidarity levy**

Every operator shall, after the end of every taxable period, within such time as may be prescribed, pay to the Director-General, in respect of that period, the levy in such manner as the Director-General may approve.

### **53D. Circumstances in which no levy is payable**

No levy shall be paid in a financial year where—

- (a) the operator had incurred a loss; or
- (b) the profit of the operation before tax does not exceed 5 per cent of his turnover,

in respect of the accounting year immediately preceding the commencement of the financial year.

### **53E. Adjustment of levy**

(1) Where no levy is payable by an operator in a financial year by virtue of section 53D and at the end of the financial year, it is found that his profit before tax in respect of the accounting year immediately preceding the end of the financial year exceeds 5 per cent of his turnover for that accounting year, the operator shall pay to the Director-General the total levy in respect of that financial year within such time as may be prescribed.

(2) Where levy is payable by an operator during a financial year and it is found that—

- (a) the operator had incurred a loss; or
- (b) the profit of the operator before tax does not exceed 5 per cent of his turnover,

in respect of the accounting year immediately preceding the end of the financial year, the levy paid during that financial year shall be refunded to the operator within such time as may be prescribed.

### **53F. Late payment of levy**

Where the operator fails to pay the levy on or before the last day on which it is payable under section 53C, he shall be liable to pay to the Director-General, in addition to the levy—

- (a) a penalty of 5 per cent of the levy; and
- (b) interest on the levy, excluding the penalty under paragraph (a), at the rate of 0.5 per cent per month or part of the month during which the levy remains unpaid.

[S. 53F amended by s. 53 (n) of Act 9 of 2015 w.e.f. 14 May 2015.]

### **53G. Assessment and recovery of levy**

The provisions of Parts VII, VIII and IX and sections 65, 67, 68, 69, 70 and 71 shall apply to the levy with such modifications, adaptations and exceptions as may be necessary to bring them into conformity with this Part.

[S. 53G repealed and replaced by s. 31 (h) of Act 17 of 2007 w.e.f. 22 August 2007.]

### **53H. Interpretation**

In this Part—

“levy” —

- (a) means the solidarity levy referred to in section 53B; and
- (b) includes the penalty and interest referred in section 53F;

“operator” means a taxable person engaged in any business specified in Part I of the Eleventh Schedule.

**PART XB – LEVY ON MESSAGES**

[Part XB inserted by s. 19 (f) of Act 37 of 2011 w.e.f. 15 January 2012; repealed by s. 53 (o) of Act 9 of 2015 w.e.f. 1 July 2015.]

**53I. – 53M. —**

[Repealed by s. 53 (o) of Act 9 of 2015 w.e.f. 1 July 2015.]

*continued on page V4 – 39*





## PART XI – OFFENCES

### 54. Failure to register or pay tax

Any person who—

- (a) being a taxable person—
  - (i) fails to apply for registration under section 15; or
  - (ii) fails to pay any due; or
- (b) being a registered person, fails to include in his return any VAT charged,

shall commit an offence.

### 55. Failure to submit return and pay tax

Any person who, being a registered person—

- (a) fails to submit a return, including a nil return, under section 22;
- (b) fails to submit a statement under section 23; or
- (c) fails to pay tax in accordance with his return or statement,

shall commit an offence.

### 56. Failure to keep records or to issue VAT invoice

Any person who—

- (a) being a registered person, fails to issue a VAT invoice under section 20; or
- (b) for the purpose of this Act—
  - (i) fails to keep a record or to issue a receipt or an invoice under section 19; or
  - (ii) fails to furnish information under section 29 or to produce books, records or other documents under section 31,

shall commit an offence.

### 57. Incorrect return or information

Any person who, for the purpose of this Act—

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

shall commit an offence.

### 58. False returns, books, records or VAT invoices

Any person who wilfully and with intent to evade VAT—

- (a) submits a return under section 22 or a statement under section 23, which is false in any material particular;

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

shall commit an offence.

#### **59. Other offences**

Any person who—

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

shall commit an offence.

#### **60. Penalties for offences**

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

(2) Any person who commits an offence under section 57, 59 (b) or (c) shall, on conviction, be liable to a fine which shall not exceed double the amount of tax involved and to imprisonment for a term not exceeding 5 years.

(3) (a) Subject to paragraph (b), any person who commits an offence under section 54, 55 or 58 shall, on conviction, be liable to a fine which shall not exceed treble the amount of tax involved and to imprisonment for a term not exceeding 8 years.

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

[S. 60 amended by s. 47 (b) of Act 14 of 2009 w.e.f. 30 July 2009.]

## 61. Compounding of offences

(1) (a) The Director-General may, with the consent of the Director of Public Prosecutions, compound any offence committed by a person under this Act or any regulations made thereunder, where such person agrees in writing to pay such amount acceptable to the Director-General representing—

- (i) any tax unpaid; and
- (ii) an amount not exceeding the maximum pecuniary penalty imposable under this Act for such offence.

(b) For the purpose of paragraph (a), the Director-General shall chair a committee which shall consist of 3 other officers of the management team of the Authority.

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

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

(4) Where the Director-General compounds an offence in accordance with this section—

- (a) the amount for which the offence is compounded shall be deemed to be tax assessed under this Act, and shall be recoverable as tax; and
- (b) no further proceedings shall be taken, in respect of the offence so compounded, against the person.

[S. 61 amended by Act 10 of 1998; s. 27 (19) (h) of Act 33 of 2004 w.e.f. 1 July 2006; s. 29 (k) of Act 26 of 2012 w.e.f. 22 December 2012.]

## 62. Tax payable notwithstanding prosecution

A person convicted of an offence under this Act or any regulations made under it or who has agreed to the compounding of an offence under section 61 shall not be relieved of his liability for payment of any tax due.

## PART XII – MISCELLANEOUS

### 63. Cessation or transfer of business

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

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

- (a) submit a return and pay all tax due including the tax due on any goods forming part of the assets of the business, other than those specified in section 21 (2) (b); and
- (b) return to the Director-General his certificate of registration and all his copies.

(3) Subject to section 21 (7A), where a registered person who ceases to carry on business, sells or otherwise transfers his business as a going concern to another registered person, he shall not charge VAT on the sale or transfer.

(4) —

[S. 63 amended by s. 19 of Act 18 of 2003 w.e.f. 21 July 2003; s. 19 (g) of Act 37 of 2011 w.e.f. 15 December 2011; s. 30 (i) of Act 26 of 2013 w.e.f. 21 December 2013.]

#### **63A. Tax liability of principal officer of private company**

(1) The principal officer of a private company shall—

- (a) be answerable for the doing of all such things as are required to be done by that company under this Act;
- (b) be required to retain out of any money or property of the company, so much as is sufficient to pay VAT which is or will become payable by that company; and
- (c) be personally liable in respect of the VAT payable by that company to the extent of any amount he has or should have retained under paragraph (b).

(2) For the purpose of subsection (1)—

“principal officer” means the executive director, or any other person who exercises or who is entitled to exercise or who controls or who is entitled to control, the exercise of powers which would fall to be exercised by the Board of directors.

[S. 63A inserted by s. 19 (h) of Act 37 of 2011 w.e.f. 15 December 2011.]

#### **64. Tax liability of appointed person**

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

- (a) give notice of the appointment to the Director-General, within 15 days of the date of the appointment, in such form and manner as the Director-General may approve;
- (b) before disposing of any asset of the taxable person, set aside such sum out of the asset as appears to the Director-General to be sufficient to provide for any tax that is or may become due and payable by the taxable person; and
- (c) do everything that is required to be done by a taxable person under this Act.

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

## 65. Refund of VAT to persons other than taxable persons

Any person, other than a taxable person, may, within 3 years of the date of payment of the tax, make an application to the Director-General, in such form and manner as the Director-General may determine, for a refund of tax paid at importation, where—

- (a) the tax was paid in error;
- (b) the goods have been damaged, pilfered, lost or destroyed during the voyage;
- (c) the goods have been ordered to be destroyed as being unfit for consumption; or
- (d) the goods are found to be defective, obsolete or not according to specifications and are subsequently exported in accordance with section 23 (1A) of the Customs Act.

[S. 65 amended by s. 20 (e) of Act 28 of 2004 w.e.f. 26 August 2004; s. 19 (e) of Act 10 of 2010 w.e.f. 24 December 2010; s. 19 (i) of Act 37 of 2011 w.e.f. 1 January 2012; s. 29 (l) of Act 26 of 2012 w.e.f. 22 December 2012; repealed and replaced by s. 30 (j) of Act 26 of 2013 w.e.f. 21 December 2013.]

## 65A. Refund of VAT to persons other than registered persons

(1) Any person referred to in subsection (2), other than a registered person, may, subject to subsections (3) and (4), make an application to the Director-General, in such form and manner as the Director-General may determine, for a refund of VAT paid on equipment specified in the Twelfth Schedule and used for the purpose of his activities.

(2) An application under subsection (1) shall be made, in respect of equipment specified in—

- (a) Part I of the Twelfth Schedule, by a planter or a horticulturist registered with the Small Farmers Welfare Fund under the Small Farmers Welfare Fund Act or a co-operative society registered under the Co-operatives Act;
- (b) Part II of the Twelfth Schedule, by a pig breeder registered with the Small Farmers Welfare Fund under the Small Farmers Welfare Fund Act or a co-operative society registered under the Co-operatives Act;
- (c) Part III of the Twelfth Schedule, by a breeder, other than a pig breeder, registered with the Small Farmers Welfare Fund under the Small Farmers Welfare Fund Act or a co-operative society registered under the Co-operatives Act;
- (d) Part IV of the Twelfth Schedule, by an apiculturist registered with the Entomology Division of the Ministry responsible for the subject of agriculture;
- (e) Part V of the Twelfth Schedule, by a fisherman registered with the Fishermen Welfare Fund under the Fishermen Welfare Fund Act or a co-operative society registered under the Co-operatives Act; or

(f) Part VI of the Twelfth Schedule, by the holder of a baker's licence, other than that issued to a hypermarket or supermarket operating as a classified trade under the Local Government Act, issued under the Bread (Control of Manufacture and Sale) Regulations 1988.

(3) An application under subsection (2) shall—

- (a) be made in respect of VAT paid on equipment imported or purchased from a registered person as from 1 January 2013; and
- (b) be submitted to the Director-General within 15 days after the end of every quarter, in such form and manner as the Director-General may determine.

(4) On receipt of an application under subsection (3) (b), the Director-General shall proceed with the refund not later than 15 days from the date of receipt of the application.

(5) (a) No application under subsection (2) shall be made where, for a quarter, the amount refundable is less than 1,000 rupees.

(b) Where the amount refundable is less than 1,000 rupees for a quarter, the amount may be carried forward to the following quarter.

(c) No refund shall be made where an application is made more than one year from the date of payment of the tax.

[S. 65A inserted by s. 30 (k) of Act 26 of 2013 w.e.f. 1 January 2014.]

#### **65B. Refund of VAT to diplomatic missions and agents**

(1) Where goods, other than motor vehicles, petrol, alcoholic beverages and cigarettes, are purchased from a registered person by a diplomatic mission and an agent approved jointly by the Secretary for Foreign Affairs and the Director-General and the purchase price of the goods, exclusive of VAT, specified in each invoice is not less than 3,000 rupees, the diplomatic mission and agent may make an application to the Director-General for a refund of the VAT paid on those goods.

(2) Every application for a refund under paragraph (a) shall—

- (a) be made within 30 days after the end of every quarter, in such form and manner as the Director-General may determine; and
- (b) be accompanied by a certified copy of the VAT invoice showing the amount of VAT paid.

(3) On receipt of an application under subsection (2) (b), the Director-General shall proceed with the refund not later than 45 days from the date of receipt of the application.

[S. 65B inserted by s. 30 (k) of Act 26 of 2013 w.e.f. 1 January 2014.]

**65C. Refund of VAT to persons on residential building, house or apartment**

(1) Subject to this section, any person who satisfies the conditions set out in Part VII of the Twelfth Schedule may make an application for a refund of VAT on the construction of a residential building by a building contractor or the purchase of a residential apartment or house from a property developer.

(2) Every application under subsection (1) shall, subject to subsection (3)—

- (a) be made in such form and manner as the Director-General may determine;
- (b) be accompanied, in the case of—
  - (i) the construction of a residential building, by VAT invoices issued under section 20;
  - (ii) the purchase of a residential apartment or house from a property developer, by receipts issued under section 19 (2) (c); and
- (c) be submitted to the Director-General, not later than 30 days from the end of every quarter in respect of which the VAT has been paid.

(3) (a) Subject to paragraph (b), the amount of VAT refundable under this section shall—

- (i) in the case of the construction of a residential building, not exceed the amount of VAT paid; or
- (ii) in the case of the purchase of a residential apartment or house from a property developer, not exceed the purchase price multiplied by the factor 0.104.

(b) Any refund under paragraph (a) shall not exceed 500,000 rupees.

(4) (a) No refund of VAT shall be made to a person where the application is made more than 12 months from the date of payment of the final amount of VAT to the building contractor or property developer, as the case may be.

(b) Subject to paragraph (c), no application under subsection (2) shall be made where, in respect of a quarter, the amount of VAT refundable does not exceed 25,000 rupees.

(c) Paragraph (b) shall not apply in respect of the final application.

(d) Subject to paragraph (c), where the amount of VAT refundable does not exceed 25,000 rupees in respect of a quarter, the person shall include that amount in his application in respect of the subsequent quarter, provided that in respect of each subsequent quarter, the total amount exceeds 25,000 rupees.

(5) On receipt of an application under this section, the Director-General shall proceed with the refund not later than 30 days from the date of receipt of the application.

[S. 65C inserted by s. 30 (k) of Act 26 of 2013 w.e.f. 1 January 2014; amended by s. 58 (k) of Act 18 of 2016 w.e.f. 7 September 2016.]

**65D. Time limit for refund and payment of interest**

(1) Subject to subsection (3) and section 65A (4), 65B (3) or 65C (5), where the Director-General is satisfied that the applicant is entitled to a refund, he shall proceed to make the refund within 3 months of the date of receipt of the application.

(2) Where the refund is made after 3 months from the date of receipt of the application under subsection (1), the refund shall carry interest, free of income tax, at the prevailing Repo rate determined by the Bank of Mauritius.

(3) No refund of tax under section 65, 65A, 65B or 65C which is less than 250 rupees or such other amount as may be prescribed shall be made.

[S. 65D inserted by s. 30 (k) of Act 26 of 2013 w.e.f. 1 January 2014.]

**66. Exempt bodies or persons**

(1) Any person specified in Column 1 of the Ninth Schedule shall be exempted from the payment of VAT in respect of goods or services corresponding to the person specified in Column 2 of that Schedule.

(2) Where goods or services are supplied pursuant to subsection (1), the registered person shall not charge VAT on the goods or services supplied, nor shall any element of VAT be added to the price of those goods or services.

[S. 66 amended by Act 18 of 1999; s. 31 (r) of Act 15 of 2006 w.e.f. 7 August 2006.]

**67. Erroneous refund, exemption or reduction**

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

(2) The Director-General may, by written notice, order the person under subsection (1) to pay, within 28 days of the date of the notice, the tax which has been erroneously refunded, exempted or reduced, together with the appropriate interest under section 27A (1) (c) (i).

*continued on page V4 – 45*



(3) Where a person referred to in subsection (1) does not comply with an order of the Director-General within 28 days of the date of the notice under subsection (2), he shall be liable to pay, in addition to the tax, a penalty under section 27 and interest under section 27A (1) (c) (ii).

[S. 67 amended by s. 31 (s) of Act 15 of 2006 w.e.f. 1 October 2006.]

#### **68. Service of documents**

(1) A return, statement or other document or a payment required authorised to be served on, given or made to the Director-General shall be forwarded to him so as to reach the office of the Director-General not later than the due date.

(2) A notice of assessment or other notice or other document required to be served on, or given to, a person by the Director-General may be served or given by—

- (a) delivering it personally to him;
- (b) leaving it at, or sending it by post to, his usual or last known place of business or residence; or
- (c) transmitting it electronically or through any other electronic or mechanical device.

(3) Where a person—

- (a) refuses to accept delivery of a letter addressed to him; or
- (b) fails to take delivery of such a letter which he has been informed awaits him at a post office,

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

[S. 68 amended by s. 30 (l) of Act 26 of 2013 w.e.f. 21 December 2013.]

#### **69. Admissibility of documents produced by computer**

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

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

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

### 69A. Rulings

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

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

- (a) include full details of the transaction relating to the supply together with all documents relevant to the transaction;
- (b) specify precisely the question as to which the ruling is required;
- (c) give a full statement setting out the opinion of that person as to the application of this Act to that supply; and
- (d) be accompanied by such fee as may be prescribed.

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

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

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

(6) A ruling under this section shall be published by the Director-General in such manner as he may determine except that the identity of the person to whom the ruling relates shall not be indicated in the publication.

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

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

[S. 69A amended by Act 18 of 1999.]

### 69B. Statement of Practice

The Director-General shall, from time to time, issue and publish Statements of Practice in relation to the application of specific provisions of this Act.

[S. 69B inserted by s. 38 (f) of Act 18 of 2008 w.e.f. 19 July 2008.]

### 70. Jurisdiction of Magistrate

(1) Notwithstanding—

- (a) section 114 (2) of the Courts Act; and
- (b) section 72 (5) of the District and Intermediate Courts (Criminal Jurisdiction) Act,

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

(2) The prosecution of an offence under any of the sections of this Act specified in the Fourth Schedule to the Mauritius Revenue Authority Act shall take place, at the discretion of the Director of Public Prosecutions, before a Judge sitting without a jury, the Intermediate Court or a District Court.

[S. 70 amended by s. 27 (19) (i) of Act 33 of 2004 w.e.f. 1 July 2006; s. 31 (t) of Act 15 of 2006 w.e.f. 1 July 2006.]

### **71. Burden of proof**

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

- (a) liable to pay the tax;
- (b) claiming that the tax has been paid; or
- (c) claiming that he is, or the supply of the goods or services is, exempt from tax.

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

### **72. Regulations**

(1) The Minister may—

- (a) make such regulations as he may determine the purpose of this Act;
- (b) by regulations—
  - (i) prescribe any matter which may or is required to be prescribed under this Act; or
  - (ii) amend the First Schedule, the Second Schedule, the Third Schedule and the Twelfth Schedule.

(2) Any regulations made under this section may provide for—

- (a) the proper implementation of any international convention, treaty or agreement to which Mauritius is a contracting party; or
- (b) the levying of fees and charges.

[S. 72 amended by s. 31 (i) of Act 17 of 2007 w.e.f. 22 August 2007; s. 19 (j) of Act 37 of 2011 w.e.f. 15 December 2011.]

### **73. Transitional provisions**

(1) Notwithstanding this Act, where a person who applies for VAT registration on or before 30 June 2013 ought to have been registered before the date of his registration, he shall submit the statement under section 23 in respect of taxable periods commencing on the date he was required to be registered or 1 January 2010, whichever is the later, and ending on the date immediately preceding the date of his registration.

(2) A person referred to in subsection (1)—

- (a) shall submit the statement required under section 23, by 30 September 2013 at latest;
- (b) may take credit for input tax for the taxable periods in respect of which the statement is submitted; and
- (c) shall be allowed such deemed credit for input tax as may be determined by the Director-General where he cannot substantiate the VAT paid or payable on the taxable supplies made to him during the period before registration.

(3) A person who makes an application for VAT registration pursuant to subsection (1) shall not be liable to—

- (a) penalty for failure to apply for compulsory registration under section 15A;
- (b) penalty for late payment of tax under section 27; and
- (c) interest on unpaid tax under section 27A, from the date the tax was due to 30 September 2013.

(4) Where, on or before 30 September 2013, a registered person makes a voluntary disclosure of his undeclared or underdeclared VAT liability for taxable periods before taxable period commencing on 1 October 2012, he shall, at the same time, pay the VAT at the appropriate rate in force in respect of each taxable period, free from any penalty that may have become due in accordance with this Act and free of interest up to 30 September 2013 under section 27A.

(5) For the purpose of the disclosure under subsection (4), the person shall be entitled to credit for input tax in respect of the period of the disclosure.

(6) Where the VAT disclosed under subsection (4) is not paid by 30 September 2013, any unpaid VAT shall carry interest at the rate of one per cent per month.

(7) Where a person who has been assessed to tax—

- (a) has objected to the assessment under section 38;
- (b) has lodged a representation with the Clerk of the Assessment Review Committee; or
- (c) has appealed to the Supreme Court or to the Judicial Committee of the Privy Council,

he may apply to the Director-General for the tax assessed to be considered as a voluntary disclosure of undeclared VAT under subsection (4), provided that he withdraws his objection, representation or appeal, as the case may be.

(8) Where a person has made an application under subsection (7), his VAT liability shall be recomputed to take into account the credit for input tax for the period assessed and any agreement reached between the person and the Director-General on any item under dispute.

(9) (a) The disclosure under subsection (4) shall be made in such form and manner and under such conditions as the Director-General may determine.

(b) Failure to comply with any condition under this subsection shall entail the withdrawal of any benefits under subsections (4) and (10) to the taxpayer.

(10) Where a person—

- (a) submits a statement of VAT payable in respect of the period before the date of his registration pursuant to subsection (2); or
- (b) makes a voluntary disclosure of his VAT liability pursuant to subsection (4); and

the Director General is satisfied with the statement or disclosure, as the case may be, the person shall be deemed, notwithstanding sections 54 to 61, not to have committed an offence.

(10A) (a) Where the Director-General and a person have entered into an agreement for the payment of the tax due by that person pursuant to subsection (4) in respect of a period, the Director-General shall not—

- (i) request from that person any information, statement or return; or
- (ii) make an assessment on, or a claim on, that person,

for that period, unless the Director-General applies ex parte for and obtains the authorisation of the Independent Tax Panel under the Mauritius Revenue Authority Act.

(b) Where, before 1 June 2016, an assessment or a claim has been made after the date of an agreement pursuant to subsection (4) in respect of the period covered in the agreement and the assessment or claim has remained pending at the level of objection at the Authority or pending before the Assessment Review Committee, the assessment or claim shall, 1 June 2016, lapse, unless the Director-General applies ex parte for and obtains the authorisation of the Independent Tax Panel.

(c) An authorisation under paragraph (a) or (b) shall be granted where the Director-General establishes to the satisfaction of the Independent Tax Panel that there is prima facie evidence of fraud.

(11) Where VAT arrears outstanding as at 31 December 2012 are paid by a person on or before 30 November 2013, any penalty included in the VAT arrears shall be reduced—

- (a) by 100 per cent of penalty charged under sections 15A and 24 (9); and
- (b) by 75 per cent of penalty and interest charged under sections 26, 27 and 27A, provided that an application for the reduction is made to the Director-General on or before 30 September 2013.

(12) In subsection (11)—

“VAT arrears” —

(a) means tax in respect of—

- (i) a return made under section 22;
- (ii) a statement made under section 23; or
- (iii) an assessment made under section 37,

before 30 June 2006 and tax and penalties in connection thereto have remained unpaid; but

(b) does not include tax due under an assessment which is pending before the Assessment Review Committee, Supreme Court or Judicial Committee of the Privy Council.

(13) This section shall not apply to any person—

(a) who has been convicted on or after 1 July 2001 of an offence relating to;

(b) against whom any civil or criminal proceedings are pending or contemplated in relation to an act of; or

(c) in relation to whom an enquiry is being conducted into an act of, trafficking of dangerous drugs, arms trafficking, or an offence related to terrorism under the Prevention of Terrorism Act, money laundering under the Financial Intelligence and Anti-Money Laundering Act or corruption under the Prevention of Corruption Act.

(14) Where a person ceases to be a registered person on 1 April 2013 on grounds that his annual turnover does not exceed or is not likely to exceed 4 million rupees and his return for the last taxable period shows an excess amount, that amount shall be deemed to be value added tax on trading stocks held, and in respect of services not supplied, by that person and shall not be refundable and shall not be carried forward as a credit to be offset against his VAT liability, if any.

[S. 73 added by s. 31 (u) of Act 15 of 2006 w.e.f. 7 August 2006; amended by s. 31 (j) of Act 17 of 2007 w.e.f. 1 July 2007; repealed and replaced by s. 19 (k) of Act 37 of 2011 w.e.f. 15 December 2011; 1 January 2012; s. 29 (m) of Act 26 of 2012 w.e.f. 22 December 2012; amended by s. 53 (p) of Act 9 of 2015 w.e.f. 1 June 2016.]

**74. – 76. —**

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### **FIRST SCHEDULE**

[Sections 2, 9, 10, 49, 51, 52 and 53]

#### **GOODS OR SERVICES EXEMPTED**

1. —
2. Wheat; cereal flours (including wheat flour).

3. Bread.
4. Animal or vegetable fats and oils (other than ghee produced in Mauritius and edible oils).
5. —
6. —
7. Food of a kind used for human consumption—
  - (a) – (b) —
  - (c) primary, agricultural and horticultural produce, including tomatoes, potatoes, onions and other vegetables, fruits, coffee, cocoa beans and nuts but excluding tea, honey and spices, which have not been processed except for reaping, threshing, husking, crushing, winnowing, trimming, drying and packaging to put them into marketable condition and birds' eggs in the shell; and
  - (d) —
8. Food preparations for instant use put up for retail sale, of H.S. Codes No. 1901.10 and No. 1905.401.
- 8A. Breakfast cereals.
9. Common salt other than common salt produced in Mauritius.
10. Live animals of a kind generally used as, or yielding or producing, food for human consumption other than live poultry.
11. Unprocessed agricultural and horticultural produce.
12. Medical, hospital and dental services including clinical laboratory services, services provided in a health institution, veterinary services and a residential care home registered with the Ministry responsible for the subject of social security.
13. – 14. —
15. Invalid carriages of heading No. 87.13; orthopaedic or other appliances or articles of heading No. 90.21.
16. (a) Educational services.  
(b) Training services approved by the Mauritius Qualifications Authority.
17. Journals and periodicals of heading No. 49.02.
18. – 19. —
20. Goods re-imported in respect of which no refund under this Act was made on exportation under item Nos. E1 and E2.
21. Goods imported under the transshipment procedure laid down in the Customs Act under item No. E4.

22. Articles re-imported after repairs on proof that they were sent from Mauritius provided that they shall be charged with VAT on the value of the repairs and the customs duty and excise duty chargeable thereon under item No. E6.
23. *Bona fide* baggage of a passenger under item No. E8.
24. Household and personal effects of a passenger under item No. E9.
25. Goods imported in the baggage of a passenger under item No. E10.
26. Goods (excluding merchandise for sale, tobacco in any form, wines, spirits, arms and ammunition) imported by post of a value for duty purposes not exceeding 2,000 rupees under item No. E11.
- 26A. Sharlon shade, greenhouse, shade screens, fertigation pumps, irrigation pumps, drip irrigation and automatic irrigation controllers imported by persons for use in agriculture under item No. E12.
27. The transport of passengers by public service vehicles excluding contract buses for the transport of tourists and contract cars.
28. – 29. –
30. (a) Charges under a hire purchase agreement or under a finance lease agreement.
- (b) Postal services and services provided by a person holding a Postal Service Licence under the Postal Services Act in connection with payment of pension and utility bills.
31. Vegetable seeds, fruit and flower seeds, bulbs and plants, used for sowing or planting.
32. – 33. –
34. Herbicides.
35. –
36. (a) The renting of fixed telephone lines.
- (b) Charges in respect of Internet services provided by an Internet service provider, of an amount of up to 100 rupees per billing period.
37. –
38. Aircraft leasing.
39. Aircrafts of heading No. 88.02.
40. Ships for the transport of persons or goods or both persons and goods falling under heading No. 89.01.
41. Fishing vessels, factory ships and other vessels for processing or preserving fishery products of heading No. 89.02.



42. Works of art, collectors' pieces and antiques of heading Nos. 97.01 to 97.06.
43. Cargo handling services in respect of goods so transported by sea or air—
- (a) from or to Mauritius;
  - (b) from or to the Island of Rodrigues;
  - (c) from or to the Outer Islands; or
  - (d) from a place outside Mauritius to another place outside Mauritius.
44. —
45. Entrance fees to any event in respect of any sport discipline specified in the Physical Education and Sport (Designation of Sport Disciplines) Regulations 1986.
46. The renting of, or other grant of the right to use, accommodation in a building used predominantly as a place of residence of any person and his family, if the period of accommodation for a continuous term exceeds 90 days.
47. Subject to item 48, the grant, assignment or surrender of any interest in or right over land or of any licence to occupy land.
48. The sale or transfer of an immovable property, a building or part of a building, apartment, flat or tenement—
- (a) for residential purposes;
  - (b) for any other purpose except land with any building, building or part of a building, apartment, flat or tenement together with any interest in or right over land, sold or transferred by a VAT registered property developer to a VAT registered person.
49. Burial and cremation services and coffins.
50. The following financial services—
- (a) banking services, other than services supplied by a bank holding a banking licence under the Banking Act in respect of its banking transactions with non-residents and corporations holding a Global Business Licence under the Financial Services Act, including—
    - (i) services provided by the Bank of Mauritius; and
    - (ii) the issue, transfer or receipt of, or any dealing with, money, any security for money or any note or order for the payment of money, the provision of prescribed Islamic financing arrangement as defined under the Banking Act and the operation of any current, deposit or savings account, but except—
      - (A) services provided to merchants accepting a credit card or debit card as payment for the supply of goods or services (merchant's discount);
      - (B) services in respect of safe deposit lockers, issue and renewal of credit cards and debit cards; and
      - (C) services for keeping and maintaining customers' accounts, other than transactions involving the primary dealer system;
  - (b) services provided by foreign exchange dealers and money changers;

- (c) the issue, transfer or receipt of, or dealing with any stocks, bonds, shares, debentures and other securities, including the underwriting and settlement and clearing of such securities;
- (d) the issue of transfer of ownership of a unit under any unit trust;
- (e) the management of investment funds and of pension funds;
- (f) the arrangement, provision, or transfer of ownership, of any contract of insurance or re-insurance under the Insurance Act;
- (fa) the making of loans between entities within the same group; and
- (g) such other financial services as may be prescribed.

50A. Services referred to in paragraphs (c) and (d) under Category D of item 3 of the Second Schedule to the Freeport Act.

51. Semi-low floor buses of H.S. Codes 8702.1021 and 8702.9021 and chassis for semi-low floor buses of H.S. Codes 8407.3411, 8408.2011 and 8706.0012 operated under a road service licence and used for the transport of the general public.

52. (a) Gold compounds of H.S. Code 2843.30.

(b) Gold, unwrought or in semi-manufactured forms, or in powder form, or waste and scrap of heading No. 71.08.

(c) Chains and similar articles produced in continuous length exceeding 200 centimetres, clasps and parts of silver suitable for use in the manufacture of jewellery of H.S. Code 7113.111.

(d) Chains and similar articles produced in continuous length exceeding 200 centimetres, clasps and parts of other precious metal suitable for use in the manufacture of jewellery of heading No. 7113.191.

(e) Minted gold bars imported, purchased or offered for sale by the Bank of Mauritius.

53. Blood glucose strip of H.S. Code 3822.001.

54. Lancets of heading 90.18 and glucometer of H.S. Code 9027.801.

55. Equipment for medical, surgical and dental uses, of heading No. 90.18 and of H.S. Codes 3701.10, 3702.10, 8419.20, 9006.301, 9019.105, 9019.20, 9022.12, 9022.13, 9022.14, 9022.21, 9022.30, 9022.901; 9022.902, 9022.909, 9029.801, 9402.101, 9405.103 and 9405.403.

55A. Equipment for medical, surgical and dental uses, of heading No. 94.03 and of H.S. Codes 8414.60, 8414.80, 8419.89 and 9011.80, when imported for use in a health institution.

56. Cotton of heading Nos. 52.01, 52.02 and 52.03.

57. Pearls, diamonds, stones, silver and platinum, including waste and scrap, of heading Nos. 71.01, 71.02, 71.03, 71.05, 71.06, 71.10 and 71.12 and of H.S. Codes 7104.20 and 7104.90.

58. Machinery and equipment, of heading Nos. 84.44 to 84.49 and 84.51 and of H.S. Codes 8452.21, 8452.29, 8452.40 and 8452.90.

59. Emeryl, natural corundum, natural garnet and other natural abrasives of H.S. Code 2513.20.
60. Preparations for the treatment of textile materials, leather, furskins or other materials of H.S. Codes 3403.11 and 3403.91.
61. Printed circuits of heading 85.34 and electronic integrated circuits and micro-assemblies of heading 85.42.
62. Pigs', hogs' or boars' bristles and hair; badger hair and other brush making hair; and waste of such bristles or hair of heading No. 05.02.
63. Machinery of H.S. Codes 8422.20 to 8422.40.
64. Watch movements of heading 91.08 and H.S. Codes 9110.11 to 9110.19 and watch or clock parts of heading No. 91.14.
65. Construction of a building or part of a building, flat or tenement, excluding repairs or renovation, to be used for residential purposes, provided that—
- (a) the contract in respect thereof has been entered into; or
  - (b) the letter of intent relating to an Integrated Resort Scheme prescribed under the Investment Promotion Act has been issued,
- before 1 October 2006.
66. Anti-smoking chewing gum and anti-smoking patches.
67. Life jackets of H.S. Codes 3926.201, 4015.901 and 6307.20.
68. Parts of footwear of H.S. Code 64.06.
69. Buckles and shoe lasts.
70. Shoe welt.
71. Colostomy bags and disposal urinary bags.
72. Entrance fees to cinemas, concerts and shows.
73. Cinematographic films, including royalties.

For the purposes of this Schedule—

- (a) the heading Nos. refer to the heading numbers of Part I of the First Schedule to the Customs Tariff Act;
- (b) the item Nos. refer to the item Nos. of Part II of the First Schedule to the Customs Tariff Act;
- (c) —
- (d) "health institution", in items 12 and 55A, has the same meaning as in the Private Health Institutions Act;
- (e) "public service vehicles", in item 27, has the same meaning as in the Road Traffic Act;
- (f) "contract cars", in item 27, has the same meaning as in section 75 of the Road Traffic Act;

- (g) "Outer Islands", in item 43, has the same meaning as in the Outer Islands Development Corporation Act;
- (h) "land", in item 47, means any vacant land or any land or part of it with any building, flat or tenement on it;
- (i) "services", in item 50 (f) in relation to—
  - (i) an insurance agent, shall not include services in respect of contracts of life insurance entered into before 10 January 2003; or
  - (ii) an insurance broker or insurance salesman, shall not include services in respect of contracts of life insurance entered into before 1 October 2003;
- (j) —

74. Bio-pesticides.

75. Cocopeat and substrate used as a growing medium for plants, of H.S. Codes 1404.901, 2703.001 and 6806.101.

76. Plates, sheets and strips of cellular or non-cellular rubber of H.S. Codes 4008.11 and 4008.21.

77. Briefs and napkins for incontinent persons.

78. Commode chairs with toilet bowls.

79. Disposable urinary and faecal incontinence bags and pads.

80. 3D printers.

81. Hospital beds with mechanical or electrical fittings.

[First Sch. amended by GN 160 of 1998; GN 97 of 1999; Act 33 of 2000; GN 113 of 2000; s. 46 (15) (a) of Act 13 of 2001 w.e.f. 1 December 2001; s. 31 (k) of Act 20 of 2002 w.e.f. 10 January 2003; s. 19 (k) (v) of Act 18 of 2003 w.e.f. 1 September 2003 and 1 October 2003; s. 20 (f) of Act 28 of 2004 w.e.f. 26 August 2004; GN 40 of 2004; GN 89 of 2004; GN 167 of 2004; s. 33 (i) of Act 14 of 2005 w.e.f. 21 April 2005; GN 161 of 2005; s. 31 (v) of Act 15 of 2006 w.e.f. 1 October 2006; GN 134 of 2006; GN 149 of 2006; GN 212 of 2006; GN 60 of 2007; GN 177 of 2007 w.e.f. 1 October 2006; s. 38 (g) (i) and (ii) of Act 18 of 2008 w.e.f. 15 July 2008; s. 38 (g) (iii) of Act 18 of 2008 w.e.f. 19 July 2008; s. 19 (f) of Act 10 of 2010 w.e.f. 1 March 2011; s. 19 (l) of Act 37 of 2011 w.e.f. 15 December 2011; GN 202 of 2012 w.e.f. 25 October 2012; GN 203 of 2012 w.e.f. 10 November 2012; s. 29 (n) of Act 26 of 2012 w.e.f. 22 December 2012; s. 30 (m) of Act 26 of 2013 w.e.f. 1 January 2014; GN 5 of 2015 w.e.f. 24 January 2015; s. 18 (4) (a) of Act 34 of 2016 w.e.f. 1 January 2017; GN 187 of 2016 w.e.f. 1 September 2016.]

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## SECOND SCHEDULE

[Sections 2 and 25]

Amount of annual turnover

10 million rupees

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**THIRD SCHEDULE**

[Section 4]

**MATTERS TO BE TREATED AS SUPPLY OF GOODS OR SERVICES**

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

**FOURTH SCHEDULE**

[Section 10]

Rate of VAT 15 per cent  
[Fourth Sch. amended by s. 22 (l) of Act 23 of 2001 w.e.f. 11 August 2001; s. 31 (l) of Act 20 of 2002 w.e.f. 1 July 2002.]

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**FIFTH SCHEDULE**

[Section 11]

1. Goods exported from Mauritius under Customs control.
2. The following goods—
  - (a) rice, wheat flour and wheat bran;
  - (b) edible oils;
  - (c) margarine and butter;
  - (d) milk and cream, buttermilk, whey, kephir and other fermented or acidified milk and cream; cheese and curd;
  - (e) sugar, sugar cane, molasses and bagasse;
  - (f) live poultry, meat of poultry, edible offal of poultry and birds' eggs in the shell;
  - (fa) edible meat and edible meat offal, fresh, chilled or frozen;
  - (fb) soya bean cakes or chunks;
  - (fc) meat-free vegetable burgers and vegetable sausages of HS code 2106.904;
  - (fd) tea;
  - (fe) honey;
  - (ff) spices;
  - (g) fertilisers;
  - (h) animal feeding stuffs other than prepared pet foods;
  - (i) printed books, booklets, brochures, pamphlets, leaflets and similar printed matter, except directories and reports, of heading No. 49.01 and atlases of H.S. Code 4905.911;
  - (j) children's picture, drawing or colouring books of heading No. 49.03;
  - (k) music, printed or in manuscript, whether or not bound or illustrated of heading No. 49.04;
  - (l) — (m) —
  - (n) common salt produced in Mauritius;
  - (o) fish;
  - (p) ghee produced in Mauritius;
  - (q) kerosene, including kerosene jet type fuel.

3. The transport of passengers and goods by sea or air—
- (a) from or to Mauritius;
  - (b) from or to the Island of Rodrigues;
  - (c) from or to the Outer Islands; or
  - (d) from a place outside Mauritius to another place outside Mauritius.
4. (1) A supply of goods made by an operator of a duty-free shop situated at the port or airport.
- (2) A supply of goods made by an operator of a duty-free shop situated at a place other than the port or airport, provided that the goods are delivered, under Customs control, to the visitor at the port or airport.
5. The supply of goods or services, other than those specified in the First Schedule and in section 21 (2) provided that the goods and services so supplied are meant wholly and exclusively for the freeport activities of the licensee whose business premises are located in a freeport zone.
6. (1) The supply of services to a person who belongs in a country other than Mauritius and who is outside Mauritius at the time the services are performed.
- (2) The supply of services—
- (a) by a holder of a management licence under the Financial Services Act to corporations holding a Category 1 Global Business Licence or a Category 2 Global Business Licence; or
  - (b) by a bank holding a banking licence under the Banking Act in respect of its banking transactions with non-residents and corporations holding a Global Business Licence under the Financial Services Act.
- (3) For the purpose of subparagraph (1), a person belongs in a country other than Mauritius if that person—
- (a) has no permanent establishment in Mauritius for the carrying on of his business; or
  - (b) has his place of abode outside Mauritius.
- [For the purpose of this item, a reference to services is a reference to services, other than those specified in the First Schedule.]
7. (1) Electricity supplied by the Central Electricity Board and the renting out of a meter, the reconnecting of electricity supply and the carrying out of infrastructure works, by the Board.
- (1a) Photovoltaic generators, photovoltaic panels, photovoltaic batteries and photovoltaic inverters.
- (2) Water supplied by the Central Water Authority and the renting out of a meter and the carrying out of infrastructure works, by the Authority.
- (3) Water for irrigation.
- (4) Chilled deep sea water used for the provision of air conditioning services.
8. Goods and services supplied by the Waste Water Management Authority established under the Waste Water Management Authority Act.

9. Aeronautical services provided within an area at the airport, approved by the Director of Civil Aviation in respect of renting of spaces, hangarage and handling of aircraft by an operator holding an investment certificate under the Investment Promotion Act.
10. Dyes, products and preparations, of heading 38.09 and of H.S. Codes 3204.11 to 3204.17, 3204.19 and 3212.901.
11. Raw hides and skins and leather of headings 41.01 to 41.15.
12. Silk, silk yarn and woven fabrics of silk, of headings 50.02 to 50.07.
13. Wool and other animal hair, yarn and woven fabrics made of wool or other animal hair, of headings 51.01 to 51.13.
14. Cotton sewing thread, yarn and woven fabrics of cotton, of headings 52.04 to 52.12.
15. Vegetable fibres, yarn and woven fabrics of vegetable fibres, of headings 53.01 to 53.11.
16. Sewing thread, yarn, fabrics of synthetic, artificial or man-made filaments, of headings 54.01 to 54.08.
17. Yarn and fabrics of synthetic, artificial or man-made staple fibres, of headings 55.01 to 55.16.
18. Wadding and non-wovens, of heading 56.03 and of H.S. Codes 5601.211, 5601.221 and 5601.291.
19. Rubber thread and cord, yarn and strip and the like, of headings 56.04, 56.05 and 56.06.
20. Fabrics of headings 58.01 to 58.04, 58.06, 58.09, 59.03, 59.06, 60.01 to 60.06 and of H.S. Code 5907.001.
21. Labels, embroidery in the piece and the like, of headings 58.07, 58.08, 58.10 and 58.11 and H.S. Code 6307.902.
22. Buttons and press-fasteners, snap-fasteners and press studs, button moulds and other parts of these articles; button blanks, of heading 96.06.
23. Slide fasteners and parts thereof, of heading 96.07.
24. Dyeing services.
25. Soluble chemicals being potassium nitrate of H.S. Code 2834.21, mono potassium phosphate of H.S. Code of 2835.24 and magnesium sulphate of H.S. Code 2833.21.
26. Antibiotics of heading No. 29.41.
27. Pharmaceutical products of heading Nos. 30.01 to 30.06.



For the purpose of item 2 (f), (fa) and (o) of this Schedule—

“fish”, “meat of poultry” and “edible offal of poultry”—

- (a) include food preparations containing more than 20 per cent by weight of fish, sausage, meat (including meat of poultry) and an edible offal (including offal of poultry), or any combination thereof; but
- (b) do not include caviar and caviar substitutes of heading 16.04 and stuffed products of heading 19.02 or the preparations of heading No. 21.03 or 21.04.

28. Construction of semi-industrial fishing vessels during the period from 1 January to 31 December 2012.

29. Production of films for export.

30. Entrance fee to a new world class aquarium or other new leisure attractions as the Economic Development Board may approve and subject to such period and conditions as may be prescribed.

31. Up to 30 June 2017, fees payable for examination of vehicles under the Road Traffic Act.

32. CCTV camera systems, including CCTV digital video recorders.

33. Burglar alarm systems and sensors.

[Fifth Sch. amended by Act 18 of 1999; Act 25 of 2000; Act 33 of 2000; s. 46 (15) (b) of Act 13 of 2001 w.e.f. 1 December 2001; s. 22 (m) of Act 23 of 2001 w.e.f. 11 August 2001; s. 3 of Act 35 of 2001; s. 31 (m) of Act 20 of 2002 w.e.f. 10 January 2003; s. 19 (l) of Act 18 of 2003 w.e.f. 21 July 2003; s. 33 (j) of Act 14 of 2005 w.e.f. 21 April 2005; s. 33 (j) of Act 14 of 2005 w.e.f. 1 July 2005; s. 31 (x) of Act 15 of 2006 w.e.f. 1 October 2006; s. 31 (k) of Act 17 of 2007 w.e.f. 1 October 2006; s. 38 (h) of Act 18 of 2008 w.e.f. 15 July 2008; s. 19 (g) of Act 10 of 2010 w.e.f. 1 March 2011; s. 19 (m) of Act 37 of 2011 w.e.f. 15 December 2011; s. 30 (n) of Act 26 of 2013 w.e.f. 1 January 2014; s. 53 (q) of Act 9 of 2015 w.e.f. 14 May 2015; s. 58 (l) of Act 18 of 2016 w.e.f. 7 September 2016; s. 18 (4) (b) of Act 34 of 2016 w.e.f. 1 January 2017.]

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## SIXTH SCHEDULE

[Section 15]

### ANNUAL TURNOVER OF TAXABLE SUPPLIES

6 million rupees

[Sixth Sch. repealed and replaced by s. 31 (y) of Act 15 of 2006 w.e.f. 1 October 2006; amended by s. 29 (o) of Act 26 of 2012 w.e.f. 1 April 2013; s. 53 (r) of Act 9 of 2015 w.e.f. 1 July 2015.]

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**SEVENTH SCHEDULE**

[Sections 5, 9 and 12]

**PART I**

Bars of iron or steel  
Liquefied petroleum gas  
Portland cement

**PART II**

Cigarettes containing tobacco  
Motor spirit and gas oils

[Seventh Sch. amended by Act 18 of 1999; s. 31 (n) of Act 20 of 2002 w.e.f. 1 October 2002; s. 30 (o) of Act 26 of 2013 w.e.f. 1 April 2014; s. 53 (s) of Act 9 of 2015 w.e.f. 1 April 2014.]

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**EIGHTH SCHEDULE**

[Section 24]

[Eighth Sch. repealed by Act 18 of 1999.]

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**NINTH SCHEDULE**

[Section 66]

<b>Column 1</b>	<b>Column 2</b>
1. Disabled persons and the blind	Appliances and identifiable spare parts (including cells for hearing aids but excluding such articles as spectacles, lenses and contact lenses); spare parts of invalid carriages; reading matter and articles specially designed for the blind
2. Benevolent and charitable institutions affiliated with the Mauritius Council of Social Services or receiving a subsidy from Government	Goods received as donations from abroad and related to their normal activities, not intended for sale
3. Any religious body approved by the Director-General	Goods (not being articles or materials intended either for the construction, repair or furnishing of buildings used for public worship or for the manufacture of things to be used in connection with public worship) for actual use in connection with public worship

**NINTH SCHEDULE—continued**

- |    |   |  |
|----|---|--|
| 4. | The International Federation of Red Cross and Red Crescent Societies, the Mauritius Red Cross Society, the St John's Ambulance (Mauritius), Mauritius Scouts Association, Mauritius Girl Guides Association and any other society, association or organisation approved by the Director-General | Articles directly related to their normal activities, not intended for sale  |
| 5. | Any person  | Any goods not exceeding 1,000 rupees in customs value imported in a single package where the Director-General is satisfied that the package is not part of a larger consignment  |
| 6. | Airlines  | <p>(1) Instructional material and training aids for use in connection with the technical training of ground and flight personnel in Mauritius</p> <p>(2) Aircraft spare parts including aircraft engines, repairs, maintenance and servicing equipment for the purpose of establishing and maintaining international or national service operated by that airline</p> <p>When certified by the Director of Civil Aviation that the goods are to be used for purposes mentioned in paragraphs (1) and (2)</p> <p>(3) Fuel and lubricants and other consumable technical supplies contained in the tanks or other receptacles on any aircraft arriving in Mauritius, provided that no quantity of such fuel, lubricants or other consumable technical supplies is unloaded without paying tax except temporarily and under customs control; and fuel, lubricants and other consumable technical supplies taken on board the aircraft for consumption during flight</p> <p>(4) (a) Printed ticket stock<br/>(b) Airway bill</p> |
| 7. | A non-citizen serving in Mauritius under a bilateral or multilateral agreement with the Government of Mauritius   | Any goods imported or purchased ex-bond as may be approved by the Minister   |
| 8. | —   | —  |

**NINTH SCHEDULE**—*continued*

9. Diplomatic missions and agents
- (1) Rent, telephone and other services
  - (2) Goods purchased from a registered person on presentation of a VAT Exemption Card issued jointly by the Director-General and the Secretary for Foreign Affairs, subject to the conditions specified in the VAT Exemption Card
10. Any company engaged wholly and exclusively in—
- (a) the provision of e-commerce service to persons residing outside Mauritius; or
  - (b) the registration and processing in Mauritius of bets placed on overseas sporting events by persons residing outside Mauritius
11. Any person approved by the Tertiary Education Commission established under the Tertiary Education Commission Act, as a person engaged in the provision of tertiary education
12. Any holder of a road service licence for the transport of the general public by bus
13. Any company licensed as—
- (a) a private hospital under the Private Health Institutions Act;
  - (b) a nursing home under the Private Health Institutions Act holding a licence for residential care home under the Residential Care Homes Act; or
  - (c) a residential care home under the Residential Care Homes Act,
- registered under the Economic Development Board Act
14. (1) National Housing Development Company Ltd
- (2) Housing development trust, or other non-profit vehicle, carrying on the construction of social housing, registered with the committee set up under section 50L (3) of the Income Tax Act
- Services provided by banks and companies other than banks in respect of credit cards or debit cards processed by the company or accepted by the company as payment for the supply of services it provides
- Construction of a purpose-built building for the provision of tertiary education, as may be approved by the Tertiary Education Commission
- Semi-low floor bus bodies built on chassis for semi-low floor buses
- Construction of a purpose-built building for a private hospital, nursing home or residential care home
- Construction of social housing and any improvement or repairs of a capital nature in relation thereto
- Construction of social housing

**NINTH SCHEDULE—continued**

- |     |   |  |
|-----|---|--|
| 15. | Any person engaged in a bio-farming project duly approved by the Food and Agricultural Research and Extension Institute or the Commission responsible for the subject of agriculture of the Rodrigues Regional Assembly | Materials and equipment for the exclusive use of, or in furtherance of, the bio-farming project          |
| 16. | Any company engaged in the exploration and production of petroleum products   | Plant, machinery and equipment for exclusive use in the exploration and production of petroleum products |
| 17. | Any company engaged in the exploration and mining of seabed minerals  | Plant, machinery and equipment for exclusive use in the exploration and mining of seabed minerals        |

[Ninth Sch. amended by Act 18 of 1999; Act 33 of 2000; s. 19 (m) of Act 18 of 2003 w.e.f. 21 July 2003; s. 20 (g) of Act 28 of 2004 w.e.f. 1 October 2004; s. 33 (k) of Act 14 of 2005 w.e.f. 21 April 2005; s. 31 (z) of Act 15 of 2006 w.e.f. 21 March 2006, 7 August 2006 and 1 October 2006; s. 19 (n) of Act 37 of 2011 w.e.f. 15 December 2011; s. 29 (p) of Act 26 of 2012 w.e.f. 22 August 2012; s. 30 (p) of Act 26 of 2013 w.e.f. 1 January 2014; s. 53 (t) of Act 9 of 2015 w.e.f. 14 May 2015; s. 58 (m) of Act 18 of 2016 w.e.f. 7 September 2016.]

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**TENTH SCHEDULE**

[Sections 15, 19 and 20]

**PART I – BUSINESS OR PROFESSION**

Accountant and/or auditor

Advertising agent

Adviser, including investment adviser and tax adviser

Architect

Attorney and/or solicitor

Barrister having more than 2 years' standing at the Bar

Clearing and forwarding agent under the Customs Act

Consultant, including legal consultant, tax consultant, management consultant and management company other than a holder of a management licence under the Financial Services Act

Customs house broker under the Customs Act

Engineer

Estate agent

Land surveyor

**TENTH SCHEDULE—continued**

Marine surveyor  
Motor surveyor  
Notary  
Optician  
Project manager  
Property valuer  
Quantity surveyor  
Sworn auctioneer  
General sales agent of airlines  
Agent in the importation of second-hand motor cars or other motor vehicles

**PART II – BUSINESS**

Banking by a company holding a banking licence in respect of its banking transactions other than with non-residents and corporations holding a Global Business Licence under the Financial Services Act

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

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

[Note: For the purposes of item 2 (a) of Part II, no adjustment or refund shall be allowed in respect of the period before 1 September 2003.]

[Tenth Sch. inserted by s. 31 (o) of Act 20 of 2002 w.e.f. 10 August 2002; repealed and replaced by s. 19 (n) of Act 18 of 2003 w.e.f. 1 October 2002 and 10 January 2003; amended by s. 19 (o) of Act 18 of 2003 w.e.f. 21 July 2003; s. 33 (l) of Act 14 of 2005 w.e.f. 1 July 2005; s. 31 (za) of Act 15 of 2006 w.e.f. 1 October 2006; s. 19 (o) of Act 37 of 2011 w.e.f. 15 December 2011; s. 53 (u) of Act 9 of 2015 w.e.f. 1 July 2015.]

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**ELEVENTH SCHEDULE**

[Sections 53B and 53H]

**PART I – BUSINESS**

Hotel  
Hotel management  
Tour operator

**ELEVENTH SCHEDULE—continued**

**PART II – RATE OF LEVY**

0.85 per cent

**PART III – RATE OF LEVY**

—

[Eleventh Sch. added by s. 31 (zb) of Act 15 of 2006 w.e.f. 1 July 2006; amended by s. 19 (p) of Act 37 of 2011 w.e.f. 15 January 2012; s. 53 (v) of Act 9 of 2015 w.e.f. 1 July 2015.]

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**TWELFTH SCHEDULE**

[Sections 65A and 65C]

**PART I – EQUIPMENT APPLICABLE TO A PLANTER OR  
AN HORTICULTURIST**

Agricultural and horticultural appliances for spraying liquids or powders

Agricultural plastic crates

Bush cutters

Cooling chamber

Dryers for agricultural products

Fencing, including poles

*Fil horticole*

Forced air dryers for fruits and vegetables

Greenhouse film cover

Hand tools, including spades, forks, rakes, *sécateurs*

Harvesting and threshing machinery

Heavy-duty high-pressure cleaning equipment (industrial type)

Heavy-duty water pumping equipment (industrial type)

Industrial type agro processing equipment

Industrial type chill room or cold room

Insect/bird proof nets

Machines for cleaning, sorting or grading seed, grain or dried leguminous vegetables

**TWELFTH SCHEDULE—continued**

Machinery for the preparation of fruits, nuts or vegetables

Manure spreaders and fertiliser distributors

PH meters and EC meters

Plastic mulch

Post-harvest equipment

Protective masks

Refractometer

Seeds distributors, seeds trays, sowing machines and transplanters

Spare parts for agricultural machinery and equipment

Straw and fodder bailers

Tractors up to 120hp, trailers, ploughs, furrowers, tillers, rotovators, blades, buckets, seedless, harrows and hoes

Tyres used for tractors

Weed mats

Weight scales

**PART II – EQUIPMENT APPLICABLE TO A PIG BREEDER**

Heavy-duty high-pressure cleaning equipment (industrial type)

Heavy-duty water pumping equipment (industrial type)

Industrial type chill room or cold room

**PART III – EQUIPMENT APPLICABLE TO A BREEDER OTHER THAN  
PIG BREEDER**

Bush cutters

Dairy machinery

Debeaking machines, vaccinators

Drenching guns

Drinkers, feed trough and battery cages

Heavy-duty high-pressure cleaning equipment (industrial type)

Heavy-duty water pumping equipment (industrial type)



**TWELFTH SCHEDULE—continued**

Incubators, chippers and brooders

Industrial type chill room or cold room

Machines for grading eggs

Milking machines and milk tanks

**PART IV – EQUIPMENT APPLICABLE TO AN APICULTURIST**

Honey extractor

Smoking-out apparatus for bee-keeping

**PART V – EQUIPMENT APPLICABLE TO A FISHERMAN**

Equipment used in fishing vessels (off lagoon)

Industrial type chill room or cold room

Outboard and inboard motors of less than 25hp

VHF telecommunications radio

**PART VI – EQUIPMENT AND MACHINERY APPLICABLE TO A BAKER**

Bakery machine of HS codes 8438.10

Bread slicer

Depositing machine, for depositing on trays (flat and baguette) with retracting belt

Dough mixer, dough hopper and pre-portioner, dough divider

Fermentation room

Flour sifter

Industrial ovens used in bakery

Metal detector machine

Moulding machine, rounding machine, conical rounder machine, shaping machine, dough cutting machine

Water dosing machine and water cooler

**PART VII – CONDITIONS**

1. The applicant or spouse of the applicant shall be a citizen of Mauritius of age of not less than 18 years.

**TWELFTH SCHEDULE—continued**

2. The construction of a residential building, house or residential apartment shall be started and completed in the years 2014 to 2019 and in the period of 6 months ending 30 June 2020.
3. —
4. —
5. The cost of the construction of a residential building or house or the purchase price of a residential apartment shall not exceed 4 million rupees.
6. The annual net income for income tax purposes of the applicant and that of his spouse shall not, in the aggregate, exceed 2 million rupees.
7. The applicant or his spouse, or both, shall be the owner or co-owners of the residential building, house or residential apartment.
8. Any refund of VAT to the applicant and his spouse shall not, in the aggregate, exceed 500,000 rupees.
9. No refund shall be made in relation to an immovable property—
  - (a) situated on Pas Géométriques;
  - (b) acquired under—
    - (i) the Investment Promotion (Real Estate Development Scheme) Regulations 2007;
    - (ii) the Investment Promotion (Property Development Scheme) Regulations 2015; or
    - (iii) the Investment Promotion (investment Hotel Scheme) Regulations 2015; or
  - (c) situated in a Smart City under the Investment Promotion (Smart City Scheme) Regulations 2015.

[Twelfth Sch. added by s. 19 (q) of Act 37 of 2011 w.e.f. 1 January 2012; s. 29 (q) of Act 26 of 2012 w.e.f. 22 December 2012; amended by s. 30 (q) of Act 26 of 2013 w.e.f. 1 January 2014; s. 53 (w) of Act 9 of 2015 w.e.f. 14 May 2015; GN 187 of 2016 w.e.f. 1 September 2016.]

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**THIRTEENTH SCHEDULE**

[Thirteenth Sch. added by s. 53 (x) of Act 9 of 2015 w.e.f. 1 July 2016; repealed by s. 58 (n) of Act 18 of 2016 w.e.f. 1 July 2016.]

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