

The Value Added Tax Act

PART I – PRELIMINARY Interpretation

1. In this Act , unless the context otherwise requires –

- (a) "application to own use", in relation to goods, means applying the goods to personal use, including personal use by a relative, or any other non-business use;
- (b) "Commissioner General" means the Commissioner General of the Uganda Revenue Authority;
- (c) "company" means a body corporate or unincorporate, whether created or recognized under a law in force in Uganda or elsewhere, but does not include a partnership or trust;
- (d) "consideration", in relation to a supply of goods or services, means the total amount in money or kind paid or payable for the supply by any person, directly or indirectly, including any duties, levies, fees, and charges paid or payable on, or by reason of, the supply other than tax, reduced by any discounts or rebates allowed and accounted for at the time of the supply;
- (e) "exempt import" has the meaning in section 20;
- (f) "exempt supply" means a supply of goods or services to which section 19 applies;
- (g) "finance lease", in relation to goods, includes the lease of goods where—
 - (i) the lease term exceeds 75 percent of the expected life of the goods;
 - (ii) the lessee has an option to purchase the goods for a fixed or determinable price at the expiration of the lease; or
 - (iii) the estimated residual value of the goods to the lessor at the expiration of the lease term, including the period of any option to renew, is less than 20 percent of its fair market value at the commencement of the lease;
- (h) "goods" includes all kinds of movable and immovable property, thermal and electrical energy, heating, gas, refrigeration, air conditioning and water, but does not include money;
- (i) "hire purchase agreement" means an agreement that is a hire purchase agreement in terms of Hire Purchase law in Uganda;
- (j) "import" means to bring, or to cause to be brought, into Uganda from a foreign country or place;
- (k) "importer", in relation to an import of goods, includes the person who owns the goods, or any other person for the time being possessed of or beneficially interested in the goods and, in relation to goods imported by means of a pipeline, includes the person who owns the pipeline;
- (l) "input tax" means tax paid or payable in respect of a taxable supply to or an import of goods by a taxable person;
- (m) "Minister" means the Minister responsible for Finance;

- (n) "money" includes -
- (i) coins or paper currency that the Bank of Uganda has issued as legal tender;
 - (ii) coins or paper currency of a foreign country which is used or circulated as currency;
 - (iii) a bill of exchange, promissory note, bank draft, postal order, or money order, other than a coin or paper currency that is a collector's piece, investment article or an item of numismatic interest;
- (o) "output tax" means the tax chargeable under section 4 in respect of a taxable supply;
- (p) "person" includes a partnership, company, trust, government, and any public or local authority;
- (q) "public international organization" means an organization listed in the First Schedule to this Act;
- (r) "reduced consideration" has the meaning in section 18(7);
- (s) "relative", in relation to an individual, includes an ancestor of the individual, a descendant of the individual's grandparents, or the spouse of the individual or of any of the foregoing;
- (t) "services" means anything that is not goods or money;
- (u) "tax" means the Value Added Tax chargeable under this Act;
- (v) tax fraction means the fraction calculated in accordance with the formula;

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$r + 100$

in which formula r is the rate of tax applicable to the taxable supply;

- (w) "taxable period" means the calendar month;
- (x) "taxable person" has the meaning in section 6;
- (y) "taxable supply" has the meaning in section 18;
- (z) "taxable transaction" means a taxable supply or an import of goods or services that is subject to tax under this Act;
- (aa) "taxable value", in relation to a taxable supply or an import of goods or services is determined under Part VI of this Act;
- (bb) "trust" means any relationship where property is under the control or management of a trustee;
- (cc) "trustee" includes -
 - (i) an executor, administrator, tutor, or curator;
 - (ii) a liquidator or judicial manager;
 - (iii) a person having or taking on the administration or control of property subject to another person having a beneficial interest in the property;
 - (iv) a person acting in a fiduciary capacity;
 - (v) a person having possession, control, or management of the property of a person under a legal disability.

Interpretation of Fair Market Value

2. (1) For the purposes of this Act, the fair market value of a taxable supply at any date is the consideration in money which a similar supply would generally fetch if supplied in similar circumstances at that date in Uganda,

being a supply freely offered and made between persons who are not associates.

(2) Where the fair market value of a taxable supply cannot be determined under subsection (1), the fair market value of the supply shall be such amount that, in the opinion of the Commissioner General having regard to all the circumstances of the supply, is the fair market value of the supply.

(3) In this section, "similar supply", in relation to a taxable supply, means a supply that is identical to, or closely or substantially resembles, the taxable supply, having regard to the characteristics, quality, quantity supplied, functional components, reputation of, and materials comprising the goods and services which are the subject of the taxable supply.

Interpretation of Associate

3. (1) For the purposes of this Act, "associate", in relation to a person, means any other person who acts or is likely to act in accordance with the directions, requests, suggestions, or wishes of the person whether or not they are communicated to that other person.

(2) Without limiting the generality of subsection (1), the following are treated as an associate of a person -

(a) a relative;

(b) a partner, an associate of a partner under another application of this section, or a partnership in which the person is a partner;

(c) the trustee of a trust under which the person, or an associate under another application of this section, benefits or is capable of benefiting;

(d) a company in which the person either alone, or together with an associate or associates under another application of this section, controls directly or indirectly 50% or more of the voting power in the company, or which is accustomed or may reasonably be expected to act in accordance with the directions or wishes of the person or an associate of the person;

(e) where the person is a partnership, a partner in the partnership, an associate of the partner under another application of this section, or another partnership in which the person or an associate is a partner;

(f) where the person is the trustee of a trust, any other person or an associate of such other person under another application of this section who benefits or is capable of benefiting under the trust; or

(g) where the person is a company, a person who either alone or together with an associate or associates under another application of this section controls directly or indirectly 50% or more of the voting power of the company, or in accordance with whose directions or wishes the company is accustomed or may reasonably be expected to act.

PART II - CHARGE OF TAX Charge of Tax

4. A tax, to be known as valued added tax, shall be charged in accordance with this Act on:

(a) every taxable supply in Uganda made by a taxable person;

(b) every import of goods other than an exempt import; and

(c) the supply of any imported services by any person.

Person Liable to Pay Tax

5. Except as otherwise provided in this Act, the tax payable -
- (a) in the case of a taxable supply, is to be paid by the taxable person making the supply;
 - (b) in the case of an import of goods, is to be paid by the importer;
 - (c) in case of an import of services, is to be paid by the recipient of the imported services.

PART III - TAXABLE PERSONS

Taxable Person

6. (1) A person registered under section 7 is a taxable person from the time the registration takes effect;
- (2) A person who is not registered, but who is required to apply to be registered, is a taxable person from the beginning of the tax period immediately following the period in which the duty to apply for registration arose.

Persons required or permitted to Register

7. (1) A person who is not already a registered person shall apply to be registered in accordance with section 8 -
- (a) within twenty days of the end of any period of three calendar months if during that period the person made taxable supplies, the value of which exclusive of any tax exceeded one-quarter of the annual registration threshold set out in subsection (2); or
 - (b) at the beginning of any period of three calendar months where there are reasonable grounds to expect that the total value exclusive of any tax of taxable supplies to be made by the person during that period will exceed one-quarter of the annual registration threshold set out in subsection (2).
- (2) The annual registration threshold is fifty million shillings.
- (3) In determining whether the registration threshold is exceeded for the period specified in subsection (1), it is to be assumed that the person is a taxable person during that period.
- (4) A person supplying goods or services for consideration as part of his or her business activities, but who is not required by subsection (1) or (5) to apply for registration, may apply to the Commissioner General to be registered in accordance with section 8.
- (5) Notwithstanding subsection (1), a person being a national, regional, local or public authority or body which carries on business activities shall apply for registration at the date of commencement of those activities.
- (6) An engineer, lawyer, economist, architect, publisher, auctioneer, estate agent, valuer, accountant, auditor, clearing and forwarding agent or other professional supplying goods or services for consideration as part of his or her business, but who is not required by subsection (1) or (2) to apply for registration, shall apply to be registered in accordance with section 8, without regard to the eligibility requirement under subsection (2).

Registration

8. (1) An application for registration under section 7 shall be in the form prescribed by the Commissioner General, and the applicant shall provide the Commissioner General with such information as the Commissioner General may require.

(2) The Commissioner General shall register a person who applies for registration under section 7 and issue to that person a certificate of registration including the VAT registration number unless the Commissioner General is satisfied that that person is not eligible for registration under this Act or, in the case of an application under subsection 7(4) -

(a) the person has no fixed place of abode or business; or

(b) the Commissioner General has reasonable grounds to believe that that person -

(i) will not keep proper accounting records relating to any business activity carried on by that person;

(ii) will not submit regular and reliable tax returns as required by section 31; or

(iii) is not a fit and proper person to be registered.

(3) Registration under this section takes effect -

(a) in the case of an application under section 7(1), (5) or (6) from the beginning of the tax period immediately following the period in which the duty to apply for registration arose; or

(b) in the case of an application under section 7(4), from the beginning of the tax period immediately following the period in which the person applied for registration.

(4) A certificate of registration shall state the name and other relevant details of the taxable person, the date on which the registration takes effect, and the tax identification number.

(5) The Commissioner General shall establish and maintain a register containing the relevant details of all taxable persons.

(6) The Commissioner General may register a person if there are reasonable grounds for believing that the person is required to apply for registration under section 7 but has failed to do so, and that registration shall take effect from the date specified in the certificate of registration.

(7) The Commissioner General shall serve a notice in writing on a person of the decision to refuse to register the person under sub-section (2) within one month of receiving the application.

(8) The Commissioner General shall serve a notice in writing on a person of a decision to register the person under subsection (6) within one month of making the decision.

(9) A person dissatisfied with a decision referred to in subsection (8) may only challenge the decision under Part VIII of this Act on the basis that the decision is an assessment.

(10) A taxable person shall notify the Commissioner General in writing of any change -

(a) in the name or address of that person;

- (b) in circumstances where the person no longer satisfies the grounds for registration; or
- (c) of a material nature in business activities or in the nature of taxable supplies being made, and the notification shall be made within fourteen days after the change has occurred.

Cancellation of Registration

9. (1) A taxable person shall apply in writing for the cancellation of the registration if that person has ceased to make supplies of goods or services for consideration as part of the business activities of the person.

(2) Subject to subsection (3), a taxable person may apply in writing to have his or her registration cancelled if, with respect to the most recent period of three calendar months, the value of his or her taxable supplies exclusive of tax does not exceed one-quarter of the annual registration threshold in section 7(2) and if the value of his or her taxable supplies exclusive of tax for the previous 12 calendar months does not exceed 75 percent of the annual registration threshold.

(3) In the case of a taxable person who applied for registration under section 7(4), an application under subsection (2) may only be made after the expiration of two years from the date of registration.

(4) The Commissioner General may cancel the registration of –

- (a) a person who has applied for cancellation under subsection (1) or (2); or
- (b) a person who has not applied for cancellation of registration but in respect of whom the Commissioner General is satisfied that he or she is neither required nor entitled under section 7 to apply for registration.

(5) The Commissioner General may cancel the registration of a person who is not required to apply for registration under section 7 where the person –

- (a) has no fixed place of abode or business;
- (b) has not kept proper accounting records relating to any business activity carried on by him or her;
- (c) has not submitted regular and reliable tax returns as required by section 31; or
- (d) is not, in the opinion of the Commissioner General, a fit and proper person to be registered.

(6) The Commissioner General shall serve a notice in writing on a taxable person of a decision to cancel or refuse to cancel the registration under this section within fourteen days of making the decision.

(7) The cancellation of registration shall take effect from the end of the tax period in which the registration is cancelled.

(8) Where the registration of a person is cancelled, the Commissioner General shall remove the person's name and the details described in section 8 from the register.

(9) A taxable person whose registration has been cancelled under this section shall be regarded as having made a taxable supply of all goods on hand

(including capital goods) and shall be liable for output tax, at the time the registration is cancelled, on all goods in respect of which he or she received input tax credit, the output tax payable being based on the fair market value of the goods at the time his or her registration was cancelled.

(10) The obligations and liabilities of a person under this Act, including the lodging of returns required by section 31, in respect of anything done or omitted to be done by that person while a taxable person shall not be affected by cancellation of the person's registration.

PART IV – SUPPLIES OF GOODS AND SERVICES Supply of Goods

10. (1) Except as otherwise provided under this Act, a supply of goods means any arrangement under which the owner of the goods parts or will part with possession of the goods, including an agreement of sale and purchase.

(2) A supply of electrical or thermal energy, heating, gas, refrigeration, air conditioning or water is a supply of goods.

(3) The application of goods to own use is a supply of the goods.

Supply of Services

11. (1) Except as otherwise provided under this Act, a supply of services means any supply which is not a supply of goods or money, including –

- (a) the performance of services for another person;
- (b) the making available of any facility or advantage; or
- (c) the toleration of any situation or the refraining from the doing of any activity.

(2) A supply of services made by an employee to an employer by reason of employment is not a supply made by the employee.

Mixed supplies

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

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

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

(4) Regulations made under section 78 may provide that a supply is a supply of goods or services.

Supply by Agent

13. (1) A supply of goods or services made by a person as agent for another person being the principal is a supply by the principal.

(2) Subsection (1) does not apply to an agent's supply of services as agent to the principal.

Time of Supply

14. (1) Except as otherwise provided under this Act, a supply of goods or services occurs –

- (a) where the goods are applied to own use, on the date on which the goods or services are first applied to own use;
- (b) where the goods or services are supplied by way of gift, on the date on

which ownership in the goods passes or the performance of the service is completed;

(c) in any other case, on the earliest of the date on which -

(i) the goods are delivered or made available, or the performance of the service is completed;

(ii) payment for the goods or services is made; or

(iii) a tax invoice is issued.

(2) Where -

(a) goods are supplied under a rental agreement; or

(b) goods or services are supplied under an agreement or law which provides for periodic payments,

the goods or services are treated as successively supplied for successive parts of the period of the agreement or as determined by that law, and each successive supply occurs on the earlier of the date on which payment is due or received.

(3) For the purposes of this section, where two or more payments are made or are to be made for a supply of goods or services other than a supply to which subsection (2) applies, each payment shall be regarded as made for a separate supply to the extent of the amount of the payment on the earlier of the date the payment is due or received.

(4) A person making a supply to which subsection (1) (a) or (b) applies shall keep a record of the date on which the supply occurred as determined under this section.

(5) In this section, "rental agreement" means any agreement for the letting of goods including a hire-purchase agreement or finance lease.

Place of Supply of Goods

15. (1) Except as otherwise provided under this Act, a supply of goods takes place where the goods are delivered or made available by the supplier.

(2) A supply of thermal or electrical energy, heating, gas, refrigeration, air conditioning, or water, takes place where the supply is received.

Place of Supply of Services

16. (1) Except as otherwise provided under this Act, a supply of services takes place where the services are rendered.

(2) A supply of services in connection with immovable property takes place where the immovable property is located.

(3) A supply of services of, or incidental to, transport takes place where the transport commences.

(4) A supply of services to which paragraph 1(a) of the Third Schedule applies shall be regarded as having been made in Uganda.

(5) Where a person is required to pay a fee for receiving a signal or service for a supply of television, radio, telephone or other communication services, the supply takes place where that person receives the signal or service, or where a supply involves an agent or any other person of whatever description, the supply takes place at that persons place of business.

Imports

17. An import of goods takes place -

- (a) where customs duty is payable, on the date on which the duty is payable;
- or
- (b) in any other case, on the date the goods are brought into Uganda.

PART V - TAXABLE SUPPLIES Taxable Supply

18. (1) A taxable supply is a supply of goods or services, other than an exempt supply, made by a taxable person for consideration as part of his or her business activities.

(2) A supply is made as part of a person's business activities if the supply is made by him or her as part of, or incidental to, any independent economic activity he or she conducts, whatever the purposes or results of that activity.

(3) The business activities of an individual do not include activities carried on by him or her only as part of his or her hobby or leisure activities.

(4) A supply is made for consideration if the supplier directly or indirectly receives payment for the supply, whether from the person supplied or any other person, including any payment wholly or partly in money or kind.

(5) The application to own use by a taxable person of goods supplied to him or her for the purposes of his or her business activities shall be regarded as a supply of those goods for consideration as part of his or her business activities.

(5a) For the purposes of subsection (5), a supply of business goods for no consideration is an application to own use.

(6) Where goods have been supplied to a taxable person for the purposes of his or her business activities, the supply of those goods for reduced consideration shall be regarded as a supply for consideration unless the goods are supplied or used only as trade samples.

(7) A supply is made for reduced consideration if the supply is made between associates for no consideration or between associates for a consideration that is less than the fair market value of the supply.

(8) Notwithstanding sub-section(1) a supply of services by a foreign person for consideration as part of the persons business activities is treated as a taxable supply if the services are considered as taking place in Uganda under section 16.

(9) Subject to section 19 and the Second Schedule, the sale or disposal of a business asset is a taxable supply.

Exempt Supply

19. (1) A supply of goods or services is an exempt supply if it is specified in the Second Schedule.

(2) Where a supply is an exempt supply under paragraph 1(k) of the Second Schedule, both the transferor and transferee shall, within 21 days of the transfer, notify the Commissioner General in writing of the details of the transfer.

Exempt Import

20. An import of goods is an exempt import if the goods -
- (a) are exempt from customs duty under the Fifth Schedule of the East African Community Customs management Act, 2004 (Act No.1 of 2005 of the East African Community); or
 - (b) would be exempt had they been supplied in Uganda.

PART VI - TAXABLE VALUE Taxable Value of a Taxable Supply

21. (1) Except as otherwise provided under this Act, the taxable value of a taxable supply is the total consideration paid in money or in kind by all persons for that supply.

(2) The taxable value of -

(a) a taxable supply of goods by way of an application to own use;

(b) a taxable supply for reduced consideration; or

(c) a taxable supply described in section 9(9),

is the fair market value of the goods and services at the time the supply is made.

(3) Where a taxable supply is made without a separate amount of the consideration being identified as a payment of tax, the taxable value of that supply is the total amount of the consideration paid excluding tax.

(4) The taxable value of a taxable supply of goods under a rental agreement, as defined in section 14, is the amount of the rental payments due or received.

Adjustments

22. (1) This section applies where, in relation to a taxable supply by a taxable person -

(a) the supply is cancelled;

(b) the nature of the supply has been fundamentally varied or altered;

(c) the previously agreed consideration for the supply has been altered by agreement with the recipient of the supply, whether due to an offer of a discount or for any other reason; or

(d) the goods or services or part of the goods or services have been returned to the supplier,

and the taxable person making the supply has -

(e) provided a tax invoice in relation to the supply and the amount shown in the tax invoice as the tax charged on the supply is incorrect as a result of the occurrence of any one or more of the above-mentioned events; or

(f) filed a return for the tax period in which the supply occurred and has accounted for an incorrect amount of output tax on that supply as a result of the occurrence of any one or more of the above-mentioned events.

(2) Where subsection (1) applies, the taxable person making the supply shall make an adjustment as specified in subsection (3) or (4).

(3) Where the output tax properly chargeable in respect of the supply exceeds the output tax actually accounted for by the taxable person making the supply, the amount of the excess shall be regarded as tax charged by the person in relation to a taxable supply made in the tax period in which the event

referred to in subsection (1) occurred.

(4) Subject to subsection (6), where the output tax actually accounted for exceeds the output tax properly chargeable in relation to that supply, the taxable person making the supply shall be allowed a credit for the amount of the excess in the tax period in which the event referred to in subsection (1) occurred.

(5) The credit allowed under subsection (4) shall, for the purposes of this Act, be treated as a reduction of output tax.

(6) No credit is allowed under subsection (4) where the supply has been made to a person who is not a taxable person, unless the amount of the excess tax has been repaid by the taxable person to the recipient, whether in cash or as a credit against any amount owing to the taxable person by the recipient.

Taxable Value of an Import of Goods

23. The taxable value of an import of goods is the sum of –

(a) the value of the goods ascertained for the purposes of customs duty under the laws relating to customs;

(b) the amount of customs duty, excise tax, and any other fiscal charge other than tax payable on those goods; and

(c) the value of any services to which section 12(3) applies which is not otherwise included in the customs value under paragraph (a).

PART VII –CALCULATION OF TAX PAYABLECalculation of Tax Payable on a Taxable Transaction

24. (1) Subject to subsection (2), the tax payable on a taxable transaction is calculated by applying the rate of tax to the taxable value of the transaction.

(2) Where the taxable value is determined under section 21(2) or (3), the tax payable is calculated by the formula specified in section 1(a) of the Fourth Schedule.

(3) Subject to subsection (4), the rate of tax shall be as specified in section 78(2).

(4) The rate of tax imposed on taxable supplies specified in the Third Schedule is zero.

Calculation of Tax Payable by a Taxable Person for a Tax Period

25. Subject to section 26, the tax payable by a taxable person for a tax period is calculated according to the formula specified in section 1(b) of the Fourth Schedule.

Cash Basis Accounting

26. (1) This section applies to a taxable person, the annual value of whose taxable supplies does not exceed two hundred million shillings.

(2) A taxable person to whom this section applies may elect to account for tax purposes on a cash basis.

(3) An election under subsection (2) shall be made in writing to the Commissioner General by the due date for the first return in which the taxable person seeks to use the method of accounting specified in subsection (2).

(4) Where a taxable person makes an election under subsection (2), that person must account for both the output tax payable and the input tax credited on a cash basis.

(5) A taxable person who has made an election under subsection (2) shall determine the tax payable for a tax period according to the formula specified in section 1(c) of the Fourth Schedule.

(6) An election made under subsection (2) remains in force until –

(a) withdrawn by the taxable person by notice in writing to the Commissioner General; or

(b) the Commissioner General, by notice in writing to the taxable person, requires the person to determine the tax payable for a tax period in accordance with section 25.

(7) A taxable person who has made an election under subsection (2) may not withdraw the election within two years after making the election unless the person is no longer a person to whom this section applies.

Consequences of a Change in Accounting Basis

27. (1) Every taxable person whose accounting basis is changed is liable for tax, if any, as determined under this section in the tax period in which the change occurred.

(2) Where a taxable person changes from the method of accounting provided under section 25 (referred to as the "invoice basis") to the method of accounting provided under section 26 (referred to as the "cash basis"), the tax payable under subsection (1) is determined in accordance with the formula specified in section 1(d) of the Fourth Schedule.

(3) Where a taxable person changes from a cash basis to an invoice basis of accounting, the tax payable under subsection (1) is determined in accordance with the formula specified in section 1(e) of the Fourth Schedule.

(4) If the amount determined in accordance with subsection (2) or (3) is negative, it shall be refunded to the taxable person in accordance with section 42(1).

Credit for Input Tax

28. (1) Where section 25 applies for the purposes of calculating the tax payable by a taxable person for a tax period, a credit is allowed to the taxable person for the tax payable in respect of –

(a) all taxable supplies made to that person during the tax period; or

(b) all imports of goods made by that person during the tax period, if the supply or import is for use in the business of the taxable person.

(2) Where section 26 applies for the purposes of calculating the tax payable by a taxable person for a tax period, a credit is allowed to the taxable person for any tax paid in respect of taxable supplies to, or imports by, the taxable person where the supply or import is for use in the business of the taxable person.

(3) A credit is allowed to a taxable person on becoming registered for input tax paid or payable in respect of –

(a) all taxable supplies of goods, including capital assets, made to the

person prior to the person becoming registered; or

(b) all imports of goods, including capital assets, made by the person prior to becoming registered,

where the supply or import was for use in the business of the taxable person, provided the goods are on hand at the date of registration and provided that the supply or import occurred not more than six months prior to the date of registration. or, in the case of capital goods, not more than six months before the date of registration.

(4) An input tax credit -

(a) under subsection (1) arises on the date the goods or services are supplied to, or imported by, the taxable person;

(b) under subsection (2) arises on the date the tax is paid; or

(c) under subsection (3) arises on the date of registration.

(5) A taxable person under this section shall not qualify for input tax credit in respect of a taxable supply or import of -

(a) a passenger automobile, and the repair and maintenance of the automobile, including spare parts, unless the automobile is acquired by the taxable person exclusively for the purpose of making a taxable supply of that automobile in the ordinary course of a continuous and regular business of selling or dealing in or hiring of passenger automobiles;

(b) entertainment unless the taxable person -

(i) is in the business of providing entertainment; or

(ii) supplies meals or refreshments to his or her employees in premises operated by him or her, or on his or her behalf, solely for the benefit of his or her employees: or

(c) telephone services, to the extent of 10 percent of the input tax on those services.

(6) Subject to subsection (7), where a taxable supply to, or an import of goods by, a taxable person is partly for a business use as set out in subsection (1), (2), or (3) and partly for another use, the amount of the input tax allowed as a credit is that part of the input tax that relates to the business use.

(7) Subject to subsections (9) and (10), the input tax that may be credited by a taxable person for a tax period is -

(a) where all of the taxable person's supplies for that period are taxable supplies, the whole of the input tax specified in subsection (1) or (2); or

(b) where only part of the taxable person's supplies for that period are taxable supplies, the amount calculated according to the formula specified in section 1(f) of the Fourth Schedule.

(8) Where the fraction B/C in section 1(f) of the Fourth Schedule is less than 0.05, the taxable person may not credit any input tax for the period.

(9) Where the fraction B/C in subsection 1(f) of the Fourth Schedule is more than 0.95, the taxable person may credit all input tax for the period.

(10) Notwithstanding subsection (7) (b), the Commissioner General may approve a

proposal by a taxable person for the apportionment of input tax credit where the taxable person makes both taxable and exempt supplies.

(11) Subject to subsection (13), an input tax credit allowed under this section may not be claimed by the taxable person until the tax period in which the taxable person has -

- (a) an original tax invoice for the taxable supply; or
- (b) a bill of entry or other document prescribed under the East African Customs and Transfer Tax Management Act, 1970, evidencing the amount of input tax.

(12) Where a taxable person does not have a tax invoice evidencing the input tax paid, the Commissioner General may allow an input tax credit in the tax period in which the credit arises where the Commissioner General is satisfied that -

- (a) the taxable person took all reasonable steps to acquire a tax invoice;
- (b) the failure to acquire a tax invoice was not the fault of the taxable person; and
- (c) the amount of input tax claimed by the taxable person is correct.

(13) Where a taxable person has made a calculation under subsection (7) for any tax period of a calendar year, he or she shall, in the first tax period of the following year, make a calculation based on the annual value of taxable and exempt supplies.

(14) Where -

- (a) the calendar year credit exceeds the return credit, the excess shall be claimed as a credit in the first tax period of the following calendar year; or
- (b) the return credit exceeds the calendar year credit, the excess shall be regarded as tax charged by the taxable person in relation to a taxable supply made in the first tax period of the following calendar year.

(15) In this section -

- (a) "calendar year credit" means the total input tax payable, where section 25 applies, or paid, where section 26 applies for the calendar year;
- (b) "entertainment" means the provision of food, beverages, tobacco, accommodation, amusement, recreation, or hospitality of any kind;
- (c) "passenger automobile" means a road vehicle designed solely for the transport of sitting persons;
- (d) "return credit" means the total of the input tax claimed as a credit in each tax period of the calendar year; and
- (e) telephone services does not include telephone call services supplied to a hotel, lodge or similar establishment where output tax has been accounted for by the establishment on the supply of that service to their customers.

Tax Invoices

29. (1) A taxable person making a taxable supply to any person shall provide that other person, at the time of supply, with an original tax invoice for the supply.

(2) A taxable person making a taxable supply shall retain one copy of the tax invoice referred to in subsection (1).

(3) Where a supplied person loses the original tax invoice, the supplier may provide a duplicate copy clearly marked COPY.

(4) An original tax invoice shall not be provided in any circumstance other than that specified in subsection (1).

(5) A person –

(a) who has not received a tax invoice as required by sub-section (1); or

(b) to whom section 28(3) applies,

may request a person, who has supplied goods or services to him or her, to provide a tax invoice in respect of the supply.

(6) A request for a tax invoice under subsection (5) shall be made –

(a) in the case of a request under subsection (5) (a), within thirty days after the date of the supply;

(b) in the case of a request under subsection (5) (b), within thirty days after the date of registration.

(7) A taxable person who receives a request under subsection (5) shall comply with the request within fourteen days after receiving that request.

(8) A tax invoice is an invoice containing the particulars specified in section 2 of the Fourth Schedule.

Credit and Debit Notes

30. (1) Where a tax invoice has been issued in the circumstances specified in section 22(1) (e) and the amount shown as tax charged in that tax invoice exceeds the tax properly chargeable in respect of the supply, the taxable person making the supply shall provide the recipient of the supply with a credit note containing the particulars specified in section 3 of the Fourth Schedule.

(2) Where a tax invoice has been issued in the circumstances specified in section 22(1) (e) and the tax properly chargeable in respect of the supply exceeds the amount shown as tax charged in that tax invoice, the taxable person making the supply shall provide the recipient of the supply with a debit note containing the particulars specified in Section 4 of the Fourth Schedule.

PART VIII – PROCEDURE AND ADMINISTRATION OF TAX Returns and Assessments

Returns

31. (1) A taxable person shall lodge a tax return for each tax period with the Commissioner General within fifteen days after the end of the period;

(2) A tax return shall be in the form prescribed by the Commissioner General and shall state the amount of tax payable for the period, the amount of input tax credit refund claimed, and such other matters as may be prescribed.

(3) In addition to any return required under subsection (1), the Commissioner General may require any person, whether a taxable person or not, to lodge (whether on that person's own behalf or as agent or trustee of another person) with the Commissioner General such further or other return in the prescribed form as and when required by the Commissioner General for the purposes of this Act.

(4) Upon application in writing by a taxable person, the Commissioner General may, where the taxable person shows good cause, extend the period in which a tax return is to be lodged.

Assessments

32. (1) Where -

- (a) a person fails to lodge a return as required by section 31;
- (b) the Commissioner General is not satisfied with a return lodged by a person; or
- (c) the Commissioner General has reasonable grounds to believe that a person will become liable to pay tax but is unlikely to pay the amount due, the Commissioner General may make an assessment of the amount of tax payable by that person.

(2) An assessment under subsection (1) -

- (a) where fraud, or gross or wilful neglect has been committed by, or on behalf of, the person, may be made at any time; or
- (b) in any other case, shall be made within 5 years after the date on which the return was lodged by the person.

(3) The Commissioner General may, based on the best information available, estimate the tax payable by a person for the purposes of making an assessment under subsection (1).

(4) Where a person is not satisfied with a return lodged by that person under this Act, that person may apply to the Commissioner General to make any addition or alteration to the return.

(5) An application under subsection (4) shall be in writing and specify in detail the grounds upon which it is made and shall be made within three years after the date on which the return was lodged by the person.

(6) After considering an application under subsection (4), the Commissioner General shall make an assessment of the amount that, in the Commissioner General's opinion, is the amount of tax payable under this Act.

(7) Where an assessment has been made under this section, the Commissioner General shall serve notice of the assessment on the person assessed, which notice shall state -

- (a) the tax payable;
- (b) the date the tax is due and payable;
- (c) an explanation of the assessment; and
- (d) the time, place, and manner of objecting to the assessment.

(8) The Commissioner General may, within the time limits set out in subsection (9), amend an assessment as the Commissioner General considers necessary, and the Commissioner General shall serve notice of the amended assessment on the person assessed.

(9) The time limit for amending an assessment is -

- (a) where fraud, or gross or wilful neglect has been committed by, or on behalf of, the person assessed in respect of the period of assessment, any time; and

(b) in any other case, within 3 years after service of the notice of assessment.

(10) An amended assessment is treated in all respects as an assessment under this Act.

General Provisions relating to Assessments

33. (1) The production of a notice of assessment or a certified copy of a notice of assessment shall be received in any proceedings as conclusive evidence of the due making of the assessment, and except in proceedings relating to objections and appeals relating to the assessment, that the amount and all particulars of the assessment are correct.

(2) No assessment or other document purporting to be made, issued, or executed under this Act shall be -

(a) quashed or deemed to be void or voidable for want of form; or

(b) affected by reason of mistake, defect, or omission in it, if it is, in substance and effect, in conformity with this Act and the person assessed, or intended to be assessed, or affected by the document is designated in it according to common understanding.

Objections and Appeals

Interpretation

33A. In this Part -

(i) Tax Appeals Tribunal means the Tax Appeals Tribunal established by the Tax Appeals Tribunals Act 1997;

(ii) objection decision means a decision made by the Commissioner General under section 33B(4) or (6).

Objections to Assessments

33B. (1) A person who is dissatisfied with an assessment may, within thirty days after receipt of the notice of the assessment decision, lodge an objection with the Commissioner General.

(2) The objection referred to in subsection (1) shall be in writing and shall specify in detail the grounds upon which it is made.

(3) Where the Commissioner General is satisfied that a person was prevented from lodging an objection within the time specified in subsection (1) owing to-

(a) absence from Uganda,

(b) sickness; or

(c) other reasonable cause; and

there has not been any unreasonable delay by the person in lodging the objection after the expiration of the time specified in sub-section (1), the Commissioner General may accept the objection.

(4) The Commissioner General may, within thirty days after receiving the objection, consider it and allow the objection in whole or in part and amend the assessment accordingly.

(5) The Commissioner General shall serve the person objecting with notice in writing of the objection decision within thirty days after receiving the objection.

(6) If the Commissioner General has not made a decision within thirty days after the lodging of the objection, the Commissioner General shall be deemed to have made the decision to allow the objection.

Appeals to Tax Appeals Tribunal

33C. (1) A person dissatisfied with an objection decision may, within thirty days after being served with notice of the objection decision, lodge an application with the Tax Appeals Tribunal for review of the objection decision and shall serve a copy of the application on the Commissioner General.

(2) An appeal lodged under subsection (1) shall be conducted in accordance with the Tax Appeals Tribunal Act 1997 and rules and regulations made under it.

(3) A person shall, before lodging an application with the Tribunal, pay to the Commissioner General, thirty percent of the tax in dispute or that part of the tax assessed not in dispute, whichever is the greater.

Appeals to High Court

33D. (1) A party who is dissatisfied with the decision of the Tax Appeals Tribunal may, within thirty days after being notified of the decision, lodge a notice of appeal with the Registrar of the High Court and the party so appealing shall serve a copy of the notice of appeal on the other party to the proceedings before the Tribunal.

(2) An appeal to the High Court shall be made on a question of law only and the notice of the appeal shall state the question or questions of law that are to be raised on the appeal.

Burden of Proof

33E. The burden of proving that an assessment is excessive is on the person objecting.

Collection and Recovery of Tax

Due Date for Payment of Tax

34. (1) Tax payable under this Act is due and payable -

(a) in the case of a taxable supply by a taxable person in respect of a tax period, on the date the return for the tax period must be lodged;

(b) in the case of an assessment issued under this Act, on the date specified in the notice of assessment; or

(c) in any other case, on the date the taxable transaction occurs as determined under this Act.

(2) The tax payable by a taxable person under subsection (1) shall be determined in accordance with Part VII of the Act.

(3) Where an objection to or a notice of appeal against an assessment has been lodged, the tax payable under the assessment is due and payable, and may be recovered, notwithstanding that objection or appeal.

(4) Upon written application by a person liable for tax, the Commissioner General may, where good cause is shown, extend the time for payment of tax by the person beyond the date on which it is due and payable, or make such other arrangements as appropriate to ensure the payment of the tax due.

(5) Where the Commissioner General has reasonable grounds to believe that a person may leave Uganda permanently without paying all tax due under this Act, the Commissioner General may issue a certificate containing particulars of the tax to the Commissioner of Immigration and he or she may request the Commissioner of Immigration to prevent that person from leaving Uganda until that person makes -

(a) payment in full; or

(b) an arrangement satisfactory to the Commissioner General for the payment of the tax.

(6) A copy of a certificate issued under subsection (5) shall be served on the person named in the certificate if it is practicable in the circumstances to do so.

(7) Payment of the tax specified in the certificate to a customs or immigration officer or the production of a certificate signed by the Commissioner General stating that the tax has been paid or secured shall be sufficient authority for allowing that person to leave Uganda.

(8) Notwithstanding subsection (1), the Minister may, by regulations, prescribe the terms and conditions of payment of tax on plant and machinery.

Tax as a Debt Due to the Government of Uganda

35. (1) Tax due and payable under this Act is a debt due to the Government of Uganda and is payable to the Commissioner General by the person specified in section 5.

(2) Except where the contrary intention appears, the customs and excise law applicable in Uganda in relation to imported goods shall, with the exceptions, modifications, and adaptations as the Minister may by Regulations prescribe, apply, so far as relevant, in relation to any tax chargeable on the import of goods.

(3) The Commissioner General may, under subsection (2), exercise any power conferred on him or her by the customs and excise laws applicable in Uganda as if the reference to customs duty or excise tax in those laws included a reference to tax charged on imported goods under this Act.

(4) If a person fails to pay tax when it is due and payable, the Commissioner General may file, with a court of competent jurisdiction, a statement certified by the Commissioner General setting forth the amount of the tax due, and that statement shall be treated for all purposes as a civil judgment lawfully given in that court in favour of the Commissioner General for a debt in the amount set forth.

(5) The statement under subsection (4) may be filed with the court having jurisdiction over that person, notwithstanding any provision of the legislation establishing that court to the contrary.

Security

36. Where it appears to the Commissioner General as necessary to do so for the protection of the revenue, the Commissioner General may require any taxable person, as a condition of the person making a taxable supply, to give security of such amount and in a manner that the Commissioner General may determine for

the payment of tax which is or may become due by the person.

Preferential Claim to Assets

37. From the date on which tax is due and payable, the Commissioner General has a preferential claim against other claimants upon the assets of the person liable to pay the tax until the tax is paid.

Seizure of Goods

38. (1) The Commissioner General may seize any goods in respect of which he or she has reasonable grounds to believe that the tax that is due and payable in respect of the supply or import of those goods has not been, or will not be, paid.

(2) Goods seized under subsection (1) shall be stored in a place approved by the Commissioner General.

(3) Immediately after the seizure of the goods, a written statement should be obtained from the owner of the goods or the person who has custody or control stating the quantity and quality of the goods.

(4) Where goods have been seized under subsection (1), the Commissioner General shall, within 10 days after the seizure, serve on the owner of the goods or the person who had custody or control of the goods immediately before seizure, a notice in writing -

(a) identifying the goods;

(b) stating that the goods have been seized under this section and the reason for seizure; and

(c) setting out the terms for the release or disposal of the goods.

(5) The Commissioner General is not required to serve a notice under subsection (4) if, after making reasonable enquiries, he or she does not have sufficient information to identify the person on whom the notice should be served.

(6) Where subsection (5) applies, the Commissioner General may serve a notice under subsection (4) on a person claiming the goods, provided that person has given sufficient information to enable the notice to be served.

(7) The Commissioner General may authorize any goods seized under subsection (1) to be delivered to the person on whom a notice under subsection (4) has been served where that person has paid, or gives security for the payment of, the tax due and payable or that will become due and payable in respect of the goods.

(8) Where subsection (7) does not apply, the Commissioner General shall detain the goods seized under subsection (1) -

(a) In the case of perishable goods, for a period that he or she considers reasonable having regard to the condition of the goods; or

(b) in any other case, for at least -

(i) twenty days after the seizure of the goods; or

(ii) twenty days after the due date for payment of the tax.

(9) Where the detention period in subsection (8) has expired, the Commissioner General may sell the goods in the manner specified in section 39(6) and apply

the proceeds of sale as set out in that section.

Temporary Closure of Business and Distress Proceedings

39. (1) Where a person liable for tax has failed to remit the amount payable by him or her within the prescribed time, the Commissioner General may lock up and seal the business premises of that person; and thereafter the goods in those business premises shall be deemed to be attached and at the disposal of the Commissioner General.

(2) The Commissioner General may recover unpaid tax by distress proceedings against the movable property of the person liable to pay the tax, by issuing an order in writing, specifying the person against whose property the proceedings are authorized, the location of the property, and the tax liability to which the proceedings relate; and he or she may require a police officer to be present while the distress is being executed.

(3) For the purposes of executing distress under subsection (2), the Commissioner General may at any time enter any house or premises described in the order authorizing the distress proceedings.

(4) Property upon which a distress is levied under this section, other than perishable goods, shall be kept for ten days either at the premises where the distress was levied or at any other place that the Commissioner General may consider appropriate, at the cost of the person liable.

(5) Where the person liable does not pay the tax due, together with the costs of the distress -

(a) in the case of perishable goods, within a period that the Commissioner General considers reasonable having regard to the condition of the goods; or

(b) in any other case, within ten days after the distress is levied, the property distrained upon may be sold by public auction, or in such other manner as the Commissioner General may direct.

(6) The proceeds of a disposal under subsection (5) shall be applied by the auctioneer or seller first towards the cost of taking, keeping, and selling the property distrained upon, then towards the tax due and payable, and the remainder of the proceeds, if any, shall be given to the person liable.

(7) Nothing in this section shall preclude the Commissioner General from proceeding under section 35 with respect to any balance owed if the proceeds of the distress are not sufficient to meet the costs of the distress and the tax due.

(8) All costs incurred by the Commissioner General in respect of any distress may be recovered by him or her from the person liable as tax due under this Act.

Recovery of Tax from Third Parties

40. (1) Where a person liable fails to pay tax on the due date, the Commissioner General may by notice in writing require any person -

(a) owing or who may owe money to the person liable;

(b) holding or who may subsequently hold money for, or on account of, the person liable; or

(c) having authority from some other person to pay money to the person liable,

to pay the money to the Commissioner General on the date set out in the notice, up to the amount of the tax due.

(2) The date specified in the notice under subsection (1) shall not be a date before the money becomes due to the person liable to pay tax, or held on the person's behalf.

(3) A copy of a notice issued under subsection (1) shall be forwarded to the person liable.

(4) A person making a payment pursuant to a notice under subsection (1) is deemed to have been acting under the authority of the person liable and of all other persons concerned and is hereby indemnified in respect of the payment.

Duties of Receivers

41. (1) A receiver shall in writing notify the Commissioner General within fourteen days after being appointed to the position of receiver or taking possession of an asset in Uganda, whichever first occurs.

(2) The Commissioner General may in writing notify a receiver of the amount which appears to the Commissioner General to be sufficient to provide for any tax which is or will become payable by the person whose assets are in the possession of the receiver.

(3) A receiver shall not part with any asset in Uganda, which is held by the receiver in his or her capacity as receiver without the prior written permission of the Commissioner General.

(4) A receiver –

(a) shall set aside, out of the proceeds of sale of an asset, the amount notified by the Commissioner General under subsection (2), or such lesser amount as is subsequently agreed on by the Commissioner General;

(b) is liable to the extent of the amount set aside for the tax of the person who owned the asset; and

(c) may pay any debt that has priority over the tax referred to in this section notwithstanding any provision of this section.

(5) A receiver is personally liable to the extent of any amount required to be set aside under subsection (4) for the tax referred to in subsection (2) if, and to the extent that, the receiver fails to comply with the requirements of this section.

(6) In this section, "receiver" includes a person who, with respect to an asset in Uganda, is –

(a) a liquidator of a company;

(b) a receiver appointed out of court or by a court;

(c) a trustee for a bankrupt person;

(d) a mortgagee in possession;

(e) an executor of a deceased estate;

(f) any other person conducting the business of a person legally incapacitated.

Refund of Tax

Refund of Tax

42. (1) If, for any tax period, a taxable person's input tax credit exceeds his or her liability for tax for that period, the Commissioner General shall refund him or her the excess within one month of the due date for the return for the tax period to which the excess relates, or within one month of the date when the return was made if the return was not made by the due date.

(2) Notwithstanding subsection (1), the Commissioner General—

(a) shall, where the taxable person's input tax credit exceeds his or her liability for tax for that period by less than five million shillings, except in the case of an investment trader or person providing mainly zero rated supplies, offset that amount against the future liability of the taxable person; and

(b) may, with consent of the taxable person, where the taxable person's input tax credit exceeds his or her liability for tax for that period by five million shillings or more, offset that amount against the future liability of the taxable person, or apply the excess in reduction of any other tax not in dispute due from the taxpayer.

(2a) Where goods in stock are lost due to theft or fire and input tax has been paid on those goods, the Commissioner General may grant a refund or allow credit for the input tax paid on those goods if there is evidence that the goods are lost and cannot be recovered.

(3) A person may claim a refund of any output tax paid in excess of the amount of tax due under this Act for a tax period.

(4) A claim for a refund under subsection (3) shall be made in a return within three years after the end of the tax period in which tax was overpaid.

(5) Where a person has claimed a refund under subsection (3) and the Commissioner General is satisfied that the person has paid an amount of tax in excess of the amount of tax due, the Commissioner General shall refund immediately the excess to the taxable person.

(6) Where a person claiming a refund is required by the Commissioner General to provide accounts or records to substantiate the claim and fails to do so in a manner satisfactory to the Commissioner General within seven days of being requested, the time period specified in subsection (1) for making the refund shall not be binding on the Commissioner General.

(7) The Commissioner General shall serve on a person claiming a refund a notice in writing of a decision in respect of the claim.

(8) A person dissatisfied with a decision under subsection (6) may only challenge the decision under Part IV of the Tax Appeals Tribunals Act.

(9) No refund shall be made under subsection (5) in relation to a taxable supply that has been made to a person who is not a taxable person, unless the Commissioner General is satisfied that the amount of the excess tax has been repaid by the taxable person to the recipient, whether in cash or as a credit against an amount owing to the taxable person by the recipient.

Refund of Tax for Bad Debts

43. (1) Where a taxable person has supplied goods or services for a consideration in money, and has —

(a) paid the full tax on the supply to the Commissioner General, but has not within two years after the supply received payment, in whole or in part from the person to whom the goods or services are supplied; and
(b) taken all reasonable steps to the satisfaction of the Commissioner General, to pursue payment and he or she reasonably believes that he or she will not be paid,
that person may seek a refund of that portion of the tax paid for which he or she has not received payment.

(2) If a refund is taken under subsection (1) and the taxable person later receives payment in whole or in part, in respect of the debt, he or she shall remit to the Commissioner General, with his or her next tax return, a sum equal to the portion of the payment that represents the tax refunded.

(3) A registered supplier who fails to remit the tax in accordance with subsection (2) with his or her next return, commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings, in addition to the payment of the full amount of the undeclared tax plus a penal tax on that outstanding tax calculated at the rate specified in the Fifth Schedule.

Interest on Overpayments and Late Refunds

44. (1) Where the Commissioner General is required to refund an amount of tax to a person as a result of -

(a) a decision under section 33B;
(b) a decision of the Tax Appeals Tribunal; or
(c) a decision of the High Court, the Court of Appeal or the Supreme Court,
he or she shall pay interest at a rate of 2% per month compounded on the tax to be refunded.

(2) Where the Commissioner General fails to make a refund required under section 42(1) within the time specified in that section, he or she shall pay interest at a rate of 2% per month compounded on the amount of refund for the period.

(3) Where the Commissioner General finds, after conducting an investigation of any amount shown as an excess in terms of section 42(1), that the excess amount of input tax credit is greater than the true amount due in excess of not less than fifty thousand shillings, no interest shall be payable under subsection (2) where there has been a delay in making the refund.

(4) Notwithstanding subsection (1), a taxpayer who causes delay in determining a correct refund payable to him or her, and leading to a belated refund process, is only entitled to interest with effect from sixty days from the date on which he or she filed his or her delayed return, lodged an application with the Tax Appeals Tribunal or the High Court, or submitted to the Commissioner General all necessary and satisfactory information required in relation to the refund in question, whichever is the later.

Refund of Tax to Diplomats and Diplomatic and Consular Missions and International organisations

45. (1) The Minister may, with the concurrence of the Minister responsible for Foreign Affairs, authorise the granting of a refund in respect of tax paid or borne by –

(a) any person enjoying full or limited immunity, rights or privileges under any local or international laws applicable in Uganda or under recognised principles of international law; or

(b) any diplomatic or consular mission of a foreign country or any public international organisation established in Uganda or listed in the First Schedule to this Act relating to transactions concluded for its official purposes.

(2) The refund provided for in subsection (1) (a) shall not be available to any citizen or permanent resident of Uganda.

(3) Any claim for a refund of tax under this section shall be made in such form and at such time as the Commissioner General may prescribe and shall be accompanied by proof of payment of tax.

(4) The Minister may make regulations specifying conditions to be met or restrictions to apply for claiming or granting of tax refunds under this Section.

Records and Investigation Powers

Records

46. (1) A person liable for tax under this Act shall maintain in Uganda in the English language –

(a) original tax invoices, copy tax invoices, credit notes, and debit notes received by the person;

(b) a copy of all tax invoices, credit notes, and debit notes issued by the person;

(c) customs documentation relating to imports and exports by the person; and

(d) such other accounts and records as may be prescribed by the Commissioner General.

(2) Records required to be maintained under subsection (1) shall be retained for at least six years after the end of the tax period to which they relate.

Access to Books, Records and Computers

47. (1) In order to enforce a provision of this Act, the Commissioner General, or an officer authorised in writing by the Commissioner General –

(a) shall have at all times during normal working hours and without any prior notice to any person full and free access to any premises, place, book, record, or computer;

(b) may make an extract or copy from any book, record, or computer-stored information to which access is obtained under paragraph (a);

(c) may seize any book or record that, in his or her opinion, affords evidence that may be material in determining the liability of any person under this Act;

(d) may retain any such book or record for as long as is required for determining a person's liability or for any proceeding under this Act; and

(e) may, where a hard copy or computer disk of information stored on a

computer is not provided, seize and retain the computer for as long as is necessary to copy the information required.

(2) No officer shall exercise the powers under subsection (1) without authorisation in writing from the Commissioner General, and the officer shall produce the authorisation on request by the occupier of the premises or place.

(3) The owner, manager, or any other person on the premises or at the place entered or proposed to be entered under this section shall provide all reasonable facilities and assistance for the effective exercise by the Commissioner General or Officer of the powers under this section.

(4) A person whose books, records, or computer have been removed and retained under subsection (1) may examine them and make copies or extracts from them during regular office hours under such supervision as the Commissioner General may determine.

Notice to Obtain Information or Evidence

48. (1) The Commissioner General may, by notice in writing, require any person, whether or not liable for tax under this Act -

(a) to furnish any information that may be required by the notice; or
(b) to attend at the time and place designated in the notice for the purpose of being examined on oath by the Commissioner General or by an officer authorised by the Commissioner General, concerning the tax affairs of that person or any other person, and for that purpose the Commissioner General or an authorised officer may require the person examined to produce any book, record, or computer-stored information in the control of the person.

(2) Where the notice requires the production of a book or record, it is sufficient if that book or record is described in the notice with reasonable certainty.

(3) A notice issued under this section shall be served by or at the direction of the Commissioner General by a signed copy delivered by hand to the person to whom it is directed, or left at the person's last and usual place of business or abode, and the certificate of service signed by the person serving the notice shall be evidence of the facts stated in the certificate.

Books and Records not in English Language

49. Where any book or record referred to in section 47 or 48 is not in English, the Commissioner General may, by notice in writing, require the person keeping the book or record to provide at that person's expense a translation into English by a translator approved by the Commissioner General.

Tax Identification Number

Tax Identification Number

50. (1) For purposes of identification of taxpayers, the Commissioner General shall issue a number to be known as a Tax Identification Number to every tax payer.

(2) The Commissioner General may require a person to show his Tax Identification Number in any return, notice or other document used for the purposes of this Act.

Offences and Penal Tax

Offences related to Registration

51. (1) A person who fails -

- (a) to apply for registration as required under section 7;
- (b) to notify the Commissioner General of a change in circumstances as required under section 8(10);
- (c) to apply for cancellation of registration as required by section 9(1), commits an offence and liable on conviction.

(2) A person who commits an offence under subsection (1) is liable on conviction -

(a) where the failure is deliberate or reckless, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both; or

(b) in any other case, to a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

Offences related to Tax Invoices, Credit Notes, and Debit Notes

52. (1) A taxable person who fails to provide a tax invoice under section 29(1) or (6), or a credit or debit note under section 30 commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both.

(2) A person who provides a tax invoice otherwise than as provided under section 29(1) or (6), or a credit or debit note otherwise than as provided for in section 30 commits an offence and is liable on conviction to -

(a) where the act is deliberate or reckless, a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both; or

(b) in any other case, a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

Failure to Lodge a Return

53. (1) A person who fails to lodge a return or any other document under this Act within 15 days of being so required commits an offence and is liable on conviction to a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

(2) If a person convicted of an offence under subsection (1) fails to lodge the return or document within the period specified by the Commissioner General, that person commits an offence and is liable on conviction to a fine of fifty thousand shillings for each day during which the failure continues and imprisonment for three months without the option of a fine in lieu of imprisonment.

Failure to Comply with Recovery Provision

54. (1) A person who fails to comply with -

(a) a notice under section 40; or

(b) the requirements of section 41,

commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two

years, or to both.

(2) Where a person is convicted of an offence under sub-section (1) (a), the Court may, in addition to imposing a penalty, order that person to pay to the Commissioner General an amount not exceeding the amount that person failed to pay as required by section 40.

Failure to Maintain Proper Records

55. A person who fails to maintain proper records under this Act commits an offence and is liable on conviction to -

(a) where the failure was deliberate or reckless, a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both; or

(b) in any other case, a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

Failure to Provide Reasonable Assistance

56. A person who fails to provide the Commissioner General or authorised officer with all reasonable facilities and assistance as required under section 47(3) commits an offence and is liable on conviction to a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

Failure to Comply with Section 48 or 49 Notice

57. A person who fails to comply with a notice issued under section 48 or 49 commits an offence and is liable on conviction to a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

Improper Use of Tax Identification Number

58. (1) A person who knowingly uses a false tax identification number, including the tax identification number of another person, on a return or document prescribed or used for the purposes of this Act commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both.

(2) Subsection (1) does not apply to a person who has used the tax identification number of another person with the permission of that other person on a return or document relating to the tax affairs of that other person.

False or Misleading Statements

59. (1) A person who -

(a) makes a statement to an officer of the Uganda Revenue Authority that is false or misleading in a material particular; or

(b) omits from a statement made to an officer of the Uganda Revenue Authority any matter or thing without which the statement is misleading in a material particular,
commits an offence.

(2) A person who commits an offence under subsection (1) is liable on conviction to -

(a) where the statement or omission was made knowingly or recklessly, a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years, or to both; or

(b) in any other case, a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

(3) It is a defence to the accused person to prove that he or she did not know and could not reasonably be expected to have known that the statement to which the prosecution relates was false or misleading.

(4) A reference in this section to a statement made to an officer of the Uganda Revenue Authority is a reference to a statement made orally, in writing, or in any other form to that officer acting in the performance of his or her duties under this Act, and includes a statement made -

(a) in an application, certificate, declaration, notification, return, objection, or other document made, prepared, given, filed, or furnished under this Act;

(b) in information required to be furnished under this Act;

(c) in a document furnished to an officer of the Uganda Revenue Authority otherwise than under this Act;

(d) in answer to a question asked of a person by an officer of the Uganda Revenue Authority; or

(e) to another person with the knowledge or reasonable expectation that the statement would be conveyed to an officer of the Uganda Revenue Authority.

Obstructing an Officer of the Authority

60. A person who obstructs the Commissioner General or an authorised officer in the performance of his or her duties under this Act commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both.

Offences by Officers and other Persons

61. (1) Any officer or any other person employed in carrying out the provisions of this Act who -

(a) directly or indirectly asks for, or takes in connection with any of the officer's duties, any payment or reward whatsoever, whether pecuniary or otherwise, or any promise or security for any such payment or reward, not being a payment or reward which the officer was lawfully entitled to receive; or

(b) enters into or acquiesces in any agreement to do, abstain from doing, permit, conceal, or connive at any act or thing whereby the tax revenue is or may be defrauded or which is contrary to this Act or to the proper execution of the officer's duty,

commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years, or to both.

(2) Any person who -

(a) directly or indirectly offers or gives to any officer payment or reward, whether pecuniary or otherwise, or any promise or security for such payment or

reward; or

(b) proposes or enters into any agreement with any officer in order to induce him to do or to abstain from doing, permit, conceal, connive at any act or thing whereby tax revenue is or may be defrauded or which is contrary to this Act or the proper execution of the duty of that officer, commits an offence and is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years or to both.

Offences by Companies

62. (1) Where an offence is committed by a company, every person who at the time of the commission of the offence -

(a) was a nominated officer, director, general manager, secretary, or other similar officer of the company; or

(b) was acting or purporting to act in that capacity, is deemed to have committed the offence.

(2) Subsection (1) does not apply where -

(a) the offence was committed without that person's consent or knowledge; and

(b) the person exercised all diligence to prevent the commission of the offence as ought to have been exercised having regard to the nature of the person's functions and all the circumstances.

Officer may appear on Behalf of Commissioner General

63. Notwithstanding anything contained in any written law, any officer duly authorised in writing by the Commissioner General may appear in any Court on his or her behalf in any proceedings in which he or she is a party and subject to the directions of the Attorney-General, that officer may conduct any prosecution for an offence under this Act and for that purpose shall have all the powers of a public prosecutor appointed under the Magistrates Courts Act, 1970.

Compounding of Offences

64. (1) Where any person commits an offence under this Act other than an offence under section 62, the Commissioner General may at any time prior to the commencement of the court proceedings, compound the offence and order the person to pay a sum of money specified by the Commissioner General, not exceeding the amount of the fine prescribed for the offence.

(2) The Commissioner General shall only compound an offence under this section if the person concerned admits in writing that the person has committed the offence.

(3) Where the Commissioner General compounds an offence under this section, the order referred to in subsection (1) -

(a) shall be in writing and specify the offence committed, the sum of money to be paid, and the due date for the payment, and shall have attached the written admission referred to in subsection (2);

(b) shall be served on the person who committed the offence;

(c) shall be final and not subject to any appeal; and

(d) may be enforced in the same manner as a decree of a court for the payment

of the amount stated in the order.

(4) When the Commissioner General compounds an offence under this section, the person concerned shall not be liable for prosecution in respect of such offence or for penal tax under section 65.

Penal Tax

65. (1) A person who fails to apply for registration as required by section 7(1) or (5) is liable for a penal tax equal to double the amount of tax payable during the period commencing on the last day of the application period in section 7(1) until either the person files an application for registration with the Commissioner General or the Commissioner General registers the person under section 8(6).

(2) A person who fails to lodge a return within the required time under this Act is liable to pay a penal tax amounting to whichever is the greater of the following:

(a) Shs.200, 000; or

(b) an interest charge for the period the return is outstanding calculated according to the formula specified in the Fifth Schedule.

(3) A person who fails to pay tax imposed under this Act on or before the due date is liable for a penal tax on the unpaid tax at a rate specified in the Fifth Schedule for the tax which is outstanding.

(4) If a person pays a penal tax under subsection (3) and the tax to which it relates is found not to have been due and payable by the person and is refunded, then the penal tax, or so much of the penal tax as relates to the amount of the refund, shall also be refunded to that person.

(5) A person who fails to maintain proper records in a tax period in accordance with the requirements of this Act is liable for a penal tax equal to double the amount of tax payable by the person for the tax period.

(6) Where a person knowingly or recklessly –

(a) makes a statement to an officer of the Uganda Revenue Authority that is false or misleading in a material particular; or

(b) omits from a statement made to an officer of the Uganda Revenue Authority any matter or thing without which the statement is misleading in a material particular,

and the tax properly payable by the person exceeds the tax that was assessed as payable based on the false or misleading information, the person is liable to pay penal tax equal to double the amount of the excess.

(7) Section 59(4) applies in determining whether a person has made a statement to an officer of the Uganda Revenue Authority.

Recovery of Penal Tax

66. (1) Where good cause is shown, in writing, by the person liable to pay penal tax, the Commissioner General may remit in whole or part any penal tax payable other than the penal tax imposed or payable under section 65 for late payment.

(2) Subject to subsection (3), the imposition of a penal tax is in addition to any penalty imposed as a result of a conviction for an offence under sections

51 to 64.

(3) No penal tax is payable under section 65 where the person has been convicted of an offence under section 51, 55, or 59 in respect of the same act or omission.

(4) If a penal tax under section 65 has been paid and the Commissioner General institutes a prosecution proceeding under section 51, 55 or 59 in respect of the same act or omission, the Commissioner General shall refund the amount of penal tax paid; and that penal tax is not payable unless the prosecution is withdrawn.

(5) Penal tax shall for all purposes of this Act be treated as tax of the same nature as the output tax to which it relates and shall be payable in and for the same tax period as that output tax.

(6) Penal tax shall be assessed by the Commissioner General in the same manner as the output tax to which it relates and an assessment of penal tax shall be treated for all purposes as an assessment under this Act.

Remission of Tax

67. (1) Where the Commissioner General is of the opinion that the whole or any part of the tax due under this Act from a taxpayer cannot be effectively recovered by reason of -

- (a) considerations of hardships; or
 - (b) impossibility, undue difficulty, or the excessive cost of recovery,
- the Commissioner General may refer the taxpayers case to the Minister.

(2) Where the taxpayers case has been referred to the Minister under subsection (1) and the Minister is satisfied that the tax due cannot be effectively recovered, the Minister may remit or write off, in whole or in part, the tax due from the taxpayer.

PART IX – GENERAL PROVISIONS

Forms, Authentication and Availability of Documents

68. (1) Forms, notices, returns, statements, tables, and other documents prescribed or published by the Commissioner General may be in such form as the Commissioner General determines for the efficient administration of this Act and publication of such documents in the Gazette is not required.

(2) The Commissioner General shall make the documents referred to in subsection (1) available to the public at the Uganda Revenue Authority and at any other locations, or by mail, as the Commissioner General may determine.

(3) A notice or other document issued, served, or given by the Commissioner General under this Act is sufficiently authenticated if the name or title of the Commissioner General, or authorised officer, is printed, stamped, or written on the document.

Service of Notices and Other Documents

69. Unless otherwise provided in this Act, a notice or other document required or authorised under this Act to be served -

- (a) on a person being an individual other than in a representative capacity, is considered sufficiently served if -

- (i) personally served on that person;
 - (ii) left at the person's usual or last known place of abode, office or place of business in Uganda; or
 - (iii) sent by registered post to such place of abode, office or place of business, or to the person's usual or last known address in Uganda; or
- (b) on any other person, is considered sufficiently served if –
- (i) personally served on the nominated officer of the person;
 - (ii) left at the registered office of the person or the person's address for service of notices under this Act; or
 - (iii) left at or sent by registered post to any office or place of business of the person in Uganda.

Nominated Person

70. (1) Every taxable person being a partnership, trust, company, non-resident individual or resident individual who is outside Uganda for more than one tax period shall have a nominated person for tax purposes who is a resident individual.

(2) The name of the nominated person shall be notified to the Commissioner General –

(a) in the case of a partnership, trust, company or non-resident individual, in the first tax period in which the partnership, trust, company or individual becomes a taxable person; or

(b) in the case of a resident individual who is outside Uganda, in the first tax period in which the individual is outside Uganda.

(3) Where a taxable person fails to comply with subsection (2), the Commissioner General shall specify a nominated person for that taxable person.

(4) A taxable person may, by notice in writing to the Commissioner General, change the nominated person.

(5) Subject to section 71, the nominated person is responsible for any obligation imposed on the partnership, trust, company or individual under this Act.

Application of Act to Partnerships and Unincorporated Associations

71. (1) This Act applies to a partnership as if the partnership were a person, but with the following changes –

(a) obligations that would be imposed on the partnership are instead imposed on each partner, but may be discharged by any of the partners;

(b) the partners are jointly and severally liable to pay any amount that would be payable by the partnership; and

(c) any offence under this Act that would otherwise be committed by the partnership is taken to have been committed by each of the partners.

(2) This Act applies to an unincorporated association as if it were a person, but the obligations that would be imposed on the association are imposed instead on each member of the committee of management of the association, but may be discharged by any of those members.

(3) In a prosecution of a person for an offence that the person is taken to

have committed under subsection (1) (c), it is a defence if the person proves that he or she –

- (a) did not aid, abet, counsel, or procure the relevant act or omission; and
- (b) was not in any way knowingly concerned in, or party to, the relevant act or omission.

Trustee

72. A person who is a trustee in more than one capacity is treated for the purposes of this Act as a separate person in relation to each of those capacities.

Currency Conversion

73. (1) For the purposes of this Act, all amounts of money are to be expressed in Uganda shillings.

(2) Where an amount is expressed in a currency other than Uganda shillings, the amount shall be converted into the Uganda shillings using the weighted selling rates of the previous month for the currency concerned.

Prices Quoted to include Tax

74. Any price advertised or quoted for a taxable supply shall include tax and the advertisement or quotation shall state that the price includes the tax.

Schemes for obtaining Undue Tax Benefits

75. (1) Notwithstanding anything in this Act, if the Commissioner General is satisfied that a scheme has been entered into or carried out where –

- (a) a person has obtained a tax benefit in connection with the scheme; and
- (b) having regard to the substance of the scheme, it would be concluded that the person, or one of the persons, who entered into or carried out the scheme did so for the sole or dominant purpose of enabling the person to obtain the tax benefit,

the Commissioner General may determine the liability of the person who has obtained the tax benefit as if the scheme had not been entered into or carried out, or in such manner as in the circumstances the Commissioner General considers appropriate for the prevention or reduction of the tax benefit.

(2) In this section –

- (a) "scheme" includes any agreement, arrangement, promise, or undertaking whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings, and any plan, proposal, course of action, or course of conduct;
- (b) "tax benefit" includes –
 - (i) a reduction in the liability of any person to pay tax;
 - (ii) an increase in the entitlement of a person to a credit or refund; or
 - (iii) any other avoidance or postponement of liability for the payment of tax.

International Agreements

76. (1) To the extent that the terms of a treaty or other international agreement to which Uganda is a party are inconsistent with the provisions of this Act, apart from section 75, the terms of the treaty or international agreement prevail over the provisions of this Act.

(2) In this section, "international agreement" means an agreement between

Uganda and a foreign government or a public international organisation.

Priority of Schedules

77. Where a supply of goods or services may be covered by both the Second Schedule and the Third Schedule, the supply shall be treated as being within the Third Schedule.

Regulations and Amendment of Schedules

78. (1) The Minister may make regulations for the better carrying into effect of the provisions and purposes of this Act.

(2) The Minister may by Statutory Order specify the rates of tax payable under this Act; and the Order shall cease to have effect unless it is introduced into Parliament within three months from the date of its publication and the legislature approves a resolution confirming that Order.

(3) The Minister may, with the approval of Cabinet, make regulations amending the First, Second and Third Schedules.

Supremacy of the Act

78A Where there is any inconsistency between this Act and any other law prescribing a rate of tax, this Act shall prevail.

Practice Notes

79. (1) To achieve consistency in the administration of this Act and to provide guidance to taxpayers and officers of the Uganda Revenue Authority, the Commissioner General may issue practice notes setting out the Commissioner Generals interpretation of this Act.

(2) A practice note is binding on the Commissioner General until revoked.

(3) A practice note is not binding on a taxpayer.

Private Rulings

80. (1) The Commissioner General may, upon application in writing by a taxpayer, issue to the taxpayer a private ruling setting out the Commissioner Generals position regarding the application of this Act to a transaction proposed or entered into by the taxpayer.

(2) Where the taxpayer has made a full and true disclosure of the nature of all aspects of the transaction relevant to the ruling and the transaction has proceeded in all material respects as described in the taxpayers application for the ruling, the ruling shall be binding on the Commissioner General with respect to the application to the transaction of the law as it stood at the time the ruling was issued.

(3) Where there is any inconsistency between a practice note and a private ruling, priority shall be given to the terms of the private ruling.

International Agreements

81. Where an international agreement entered into between the Government of Uganda and the government of a foreign country or an international organisation, provides tax reliefs or benefits to a foreign government or an international organisation, the provisions relating to tax reliefs or benefits shall have effect –

(a) on the ratification of the agreement by Cabinet; and

(b) upon approval by Parliament.

SCHEDULES

FIRST SCHEDULE

Sec.1 & 45

Public International Organisations

African Development Bank (ADB)

African Development Foundation (ADF)

Aga Khan Development Network, Uganda, and the following agencies -

(i) Aga Khan Foundation, Uganda;

(ii) Aga Khan Education Service, Uganda;

(iii) Aga Khan Health Service, Uganda;

(iv) Aga Khan Trust for Culture; and

(v) Aga Khan University, Uganda.

Danish International Development Agency (DANIDA)

Desert Locust Control Organisation for Eastern Africa (DLCOEA)

Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ)

Common Market for East and Southern Africa (COMESA)

East African Community (EAC) and its agencies

East African Development Bank (EADB)

Eastern and Southern Africa Management Institute (ESAMI)

European Union (EU)

Food and Agricultural Organisation (FAO)

Icelandic International Development Agency (ICEIDA)

International Atomic Agency (IAA)

International Civil Aviation Organisation (ICAO)

International Committee of the Red Cross (ICRC)

International Labour Organisation (ILO)

International Monetary Fund (IMF)

International Organisation for Migration (IOM)

International Telecommunications Union (ITU)

Japan International Development Agency (JICA)

Medical Research Council

Netherlands Development Organisation (SNV)

Nile Basin Initiative

Norwegian Agency for Development (NORAD)

Organisation of African Unity (OAU)

Union of National Radio and Television Organisations of Africa
(UNRTNA -PEC)

United Nations African Institute for the Prevention of Crime and the
Treatment of Offenders (UNAFRI)

United Nations Children's Fund (UNICEF)

United Nations Development Programme (UNDP)

United Nations Fund for Population Activities (UNFPA)

United Nations High Commission for Refugees (UNHCR)

United States Agency for International Development (USAID)

Universal Postal Union (UPU)

World Bank

World Food Programme (WFP)

World Health Organisation (WHO)

World Meteorological Organisation (WMO)

SECOND SCHEDULE

Sec. 19

Exempt Supplies

1. The following supplies are specified as exempt supplies for the purposes of section 19 -

(a) the supply of unprocessed foodstuffs, unprocessed agricultural products and livestock;

(b) the supply of postage stamps;

(c) the supply of financial services;

(d) the supply of insurance services;

(e) the supply of unimproved land;

(f) a supply by way of lease or letting of immovable property, other than -

(i) a lease or letting of commercial premises;

(ii) a lease or letting of hotel or holiday accommodation;

(iii) a lease or letting for periods not exceeding three months;

(iv) a lease or letting for parking or storing cars or other vehicles; or

(v) a lease or letting of service apartments;

(g) the supply of education services;

(h) the supply of medical, dental, and nursing services;

(i) the supply of social welfare services;

(j) the supply of betting, lotteries, and games of chance;

(k) the supply of goods as part of the transfer of a business as a going concern by one taxable person to another taxable person;

(l) the supply of burial and cremation services;

(m) the supply of precious metals and other valuables to the Bank of Uganda for the State Treasury;

(n) the supply of passenger transportation services (other than Tour and Travel operators);

(o) the supply of petroleum fuels, subject to excise duty, (motor spirit, kerosene and gas oil), spirit type jet fuel and kerosene type jet fuel;

(p) the supply of milk, including milk treated in any way to preserve it;

(q) the supply of dental, medical and veterinary equipment;

(r) the supply of feeds for poultry and livestock;

(s) the supply of machinery used for the processing of agricultural or dairy products;

(t) the supply of photosensitive semiconductor devices, including photovoltaic devices, whether or not assembled in modules or made into panels; light

emitting diodes; solar water heaters and solar cookers.

(u) the supply of accommodation in tourist lodges and hotels outside Kampala and Entebbe;

(v) the supply of computers, printers, parts and accessories falling under headings 84.71 and 84.73 of the harmonised coding system of the customs law;

(w) the supply of computer software;

(x) the supply of lifejackets, life saving gear, headgear and speed governors.;

(y) the supply of Mobile toilets and Ekoloo toilets made form polyethylene;

(z) the supply of insecticides;

(aa) the supply of feasibility studies, engineering designs and consultancy services and civil works related to roads and bridges construction.

2. In this Schedule -

(a) "education services" means education provided by -

(i) a pre-primary, primary, or secondary school;

(ii) a technical college or university;

(iii) an institution established for the promotion of adult education, vocational training, technical education, or the education or training of physically or mentally handicapped persons;

(b) "financial services" means -

(i) granting, negotiating, and dealing with loans, credit, credit guarantees, and any security for money, including management of loans, credit, or credit guarantees by the grantor;

(ii) transactions concerning deposit and current accounts, payments, transfers, debts, cheques, and negotiable instruments, other than debt collection and factoring;

(iii) transactions relating to shares, stocks, bonds, and other securities, other than custody services;

(iv) management of investment funds; but does not include provision of credit facilities under a hire-purchase or finance lease agreement;

(c) "passenger transportation services" means the transportation of fare-paying passengers, and their personal effects by road, rail, water, or air, but does not include passenger transport services provided by a registered tour operator; and

(d) "social welfare services" means -

(i) care for the elderly, sick, and disabled, including care in a hospital, aged person's home, and similar establishments; or

(ii) care and welfare services provided for the benefit of minors.

(e) transfer of a going concern includes the disposal of any part of a business which is capable of separate operation.

3. For the purposes of paragraph 1(a) of this Schedule, the term unprocessed shall include low value added activity such as sorting, drying, salting, filleting, deboning, freezing, chilling, or bulk packaging, provided the value added does not exceed 5% of the total value of the supply.

THIRD SCHEDULE Sec. 24 (4)

Zero-Rated Supplies

1. The following supplies are specified for the purposes of section 24(4) -

- (a) a supply of goods or services where the goods or services are exported from Uganda as part of the supply;
- (b) the supply of international transport of goods or passengers and tickets for their transport;
- (c) the supply of drugs and medicines;
- (d) the supply of educational materials and the supply of printing services for educational materials;
- (e) the supply of seeds, fertilisers, pesticides, and hoes;
- (f) the supply of cereals, where the cereals are grown, milled or produced in Uganda;
- (g) the supply of machinery, tools and implements suitable for use only in agriculture; and
- (h) the supply of milk, including milk treated in any way to preserve it.

2. For purposes of paragraph 1(a), goods or services are treated as exported from Uganda if -

- (a) in case of goods, the goods are delivered to, or made available at, an address outside Uganda as evidenced by documentary proof acceptable to the Commissioner General; or
- (b) in the case of services, the services were supplied for use or consumption outside Uganda as evidenced by documentary proof acceptable to the Commissioner General.

3. For the purposes of paragraph (1) (b), international transport occurs where goods or passengers are transported by road, rail, water, or air -

- (a) from a place outside Uganda to another place outside Uganda where the transport or part of the transport is across the territory of Uganda; or
- (b) from a place outside Uganda to a place in Uganda; or
- (c) from a place in Uganda to a place outside Uganda.

4. In this Schedule -

- (a) educational materials means materials suitable for use only in public libraries and educational establishments specified in paragraph 2 of the Second Schedule to this Act;
- (b) pesticides means insecticides, rodenticides, fungicides and herbicides but does not include pesticides packaged for personal or domestic use.

FOURTH SCHEDULE Secs. 24 to 30

Formulae, Tax Invoices, Credit Notes and debit Notes

1. (a) For the purposes of section 24(2), the following formula shall apply :

A x B

where,

A is the taxable value as determined under section 21(2) or

(3); and

B is the tax fraction.

(b) For the purposes of section 25, the following formula shall apply:

$X - Y$

where,

X is the total of the tax payable in respect of taxable supplies made by the taxable person during the tax period; and

Y is the total credit allowed to the taxable person in the tax period under the Act.

(c) For the purposes of section 26(5), the following formula shall apply :

$S - T$

where,

S is the total output tax received by the taxable person during the tax period in respect of taxable supplies made by the person and

T is the total input tax credit allowed to the taxable person in the tax period under the Act.

(d) For the purposes of section 27(2), the following formula shall apply:

$M - N$

where,

M is the total amount of input tax credited in relation to amounts due by the taxable person at the time of change in accounting basis; and

N is the total amount of output tax accounted for in relation to amounts due to the taxable person at the time of change in accounting basis.

(e) For the purposes of section 27(3), the following formula shall apply;

$O - P$

where,

O is the total amount of output tax that would have been accounted for on amounts due to the taxable person at the time of change in accounting basis if the taxable person had been accounting for tax on an invoice basis: and

P is the total amount of input tax that would have been credited on amounts due by a taxable person at the time of change in accounting basis if the taxable person had been accounting for tax on an invoice basis.

(f) For the purposes of section 28(7) (b), the following formula shall apply :

$A \times B/C$

where,

A is the total amount of input tax for the period; and

B is the total amount of taxable supplies made by the taxable person during the period; and

C is the total amount of all supplies made by the taxable person during the period other than an exempt supply under paragraph 1(k) of the Second Schedule.

2. A tax invoice as required by section 29 shall, unless the Commissioner General provides otherwise, contain the following particulars -

(a) the words "tax invoice" written in a prominent place;

(b) the commercial name, address, place of business, and the tax

- identification number of the taxable person making the supply;
- (c) the commercial name, address, place of business, and the tax identification number of the recipient of the taxable supply;
- (d) the individualised serial number and the date on which the tax invoice is issued;
- (e) a description of the goods or services supplied and the date on which the supply is made;
- (f) the quantity or volume of the goods or services supplied;
- (g) the rate of tax for each category of goods and services described in the invoice; and
- (h) either -
 - (i) the total amount of the tax charged, the consideration for the supply exclusive of tax and the consideration inclusive of tax; or
 - (ii) where the amount of tax charged is calculated under section 24(2), the consideration for the supply, a statement that it includes a charge in respect of the tax and the rate at which the tax was charged.

3. A credit note as required by section 30(1) shall, unless the Commissioner General provides otherwise, contain the following particulars -

- (a) the words "credit note" in a prominent place;
- (b) the commercial name, address, place of business, and the tax identification and VAT registration numbers of the taxable person making the supply;
- (c) the commercial name, address, place of business, and the tax identification and VAT registration numbers of the recipient of the taxable supply;
- (d) the date on which the credit note was issued;
- (e) the rate of tax; and
- (f) either -
 - (i) the taxable value of the supply shown on the tax invoice, the correct amount of the taxable value of the supply, the difference between those two amounts, and the tax charged that relates to that difference; or
 - (ii) where the tax charged is calculated under section 24(2), the amount of the difference between the taxable value shown on the tax invoice and the correct amount of the taxable value and a statement that the difference includes a charge in respect of the tax;
- (g) a brief explanation of the circumstances giving rise to the issuing of the credit note; and
- (h) information sufficient to identify the taxable supply to which the credit note relates.

4. A debit note as required by section 30(2) shall, unless the Commissioner General provides otherwise, contain the following particulars -

- (a) the words "debit note" in a prominent place;
- (b) the commercial name, address, place of business, and the tax identification and VAT registration numbers of the taxable person making the

supply;

(c) the commercial name, address, place of business, and the tax identification and VAT registration numbers of the recipient of the taxable supply;

(d) the date on which the debit note was issued;

(e) the rate of tax; and

(f) either -

(i) the taxable value of the supply shown on the tax invoice, the correct amount of the taxable value of the supply, the difference between those two amounts, and the tax charged that relates to that difference; or

(ii) where the tax charged is calculated under section 24(2), the amount of the difference between the taxable value shown on the tax invoice and the correct amount of the taxable value and a statement that the difference includes a charge in respect of the tax; and

(g) a brief explanation of the circumstances giving rise to the issuing of the debit note; and

(h) information sufficient to identify the taxable supply to which the debit note relates.

FIFTH SCHEDULE Secs. 43 & 65

Calculation of Interest Penalty

The rate of interest chargeable as penalty shall be 2% per month, compounded.

STATUTORY INSTRUMENTS Value Added Tax Regulations, 1996

(Under Section 78 of the ACT)

Citation and Commencement

1. These Regulations may be cited as the Value Added Tax Regulations, 1996, and shall be deemed to have come into force on the 1st day of July, 1996.

Contracts entered into Before and After 1st July 1996.

2. (1) Where a contract was concluded between two or more parties before the 1st July 1996, and no provision relating to tax was made in the contract, the supplier shall recover tax due on any taxable supplies made under the contract after 1st July 1996.

(2) Where a contract concluded after 1st July 1996 does not include a provision relating to tax, the contract price shall be deemed to include the tax and the supplier under the contract shall account for the tax due.

Tax paid on Capital Goods and Stock on Hand

3. Where after the 1st July 1996, a person being registered has in stock plant and machinery and other goods on which tax was paid prior to being registered, that person shall be entitled to claim a credit of the tax on the goods which were purchased within four months before the date of registration, and in the case of plant and machinery, within six months before the date of registration.

4. Credit for Sales Tax paid before 1st July 1996

Display of Registration Certificate

5. A registered taxpayer shall display the registration certificate issued under the Act at his or her principal place of business.

New Investors/Investment Traders

6. (1) A person who is approved by the Uganda Investment Authority as an investor and who plans to make taxable supplies in due course, may apply to the Commissioner General to be registered as an Investment Trader for a period of four years, renewable for another period of four years. [Effective 1st July 2002]

(2) A person shall not be registered as an Investment Trader unless that person gives the Commissioner General an undertaking and security that the Commissioner General may require, guaranteeing the repayment of any tax refunded to that person, if that person does not make any taxable supply within the period during which that person was registered as an Investment trader.

(3) An Investment Trader may claim input tax deduction in respect of expenditure on inputs, whether imported or locally procured, relating to the planned taxable business activities and that trader shall be entitled to a refund of the input tax on those purchases.

(4) An Investment Trader shall abide by all the duties and obligations of a registered person, including the keeping of proper books of accounts and the filing of regular returns.

(5) A person shall cease to be an Investment Trader immediately after making a taxable supply in the course of business.

Tax on Construction Services

7. (1) Where a taxable supply is building and construction services, tax shall be collected at each stage of the work when an invoice is issued or when payment is received or becomes due, whichever is the earliest, in respect of each stage completed.

(2) Where an invoice or a claim for payment by a contractor requires certification by an architect, building consultant or other person, the invoice or claim shall not be effective for tax purposes until it is certified as required, and the time of supply shall be the time of certification, and for purposes of the tax any claim or invoice under this regulation shall be certified within 30 days of the date of the invoice or claim.

(3) Where a contractor varies the cost of a contract during the course of execution, the variations to the original contract shall be deemed to include tax, and the tax shall become due and payable at the time payment is made for each stage completed.

Relief for Diplomats, etc

8. (1) The relief provided for under section 45 of the Act relating to diplomatic missions and accredited personnel shall be administered as follows

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(a) in the case of imported goods and services, the diplomatic mission or

accredited personnel shall be exempted from tax;

(b) in the case of services provided by the Uganda Electricity Board, National Water and sewerage Corporation and Uganda Posts and telecommunications Corporation, the diplomatic mission or accredited personnel shall be exempted from tax;

(c) in the case of other procurements, the tax shall be payable and the diplomatic missions or accredited personnel entitled to relief may claim a refund of the tax paid on the following conditions -

(i) the diplomatic mission or accredited personnel shall produce evidence of procurement and of payment of the tax;

(ii) individual transactions of less than 50,000/=, excluding tax, shall not be eligible for a refund;

(iii) the total value of transactions for any claim period shall not be less than 200,000/=, excluding tax;

(iv) diplomatic missions or accredited personnel may be required to provide evidence of entitlement to relief by producing the official card issued by the Ministry responsible for Foreign Affairs.

(2) The relief provided under section 76 relating to Public International Organisations in the First Schedule of the Act shall be administered as follows -

(a) the organisation may be required to provide evidence of entitlement to relief in terms of a valid agreement with the Government of Uganda;

(b) the organisation shall be exempted from tax in the case of imported goods and services;

(c) in the case of locally procured goods and services, tax shall be payable and the organisation entitled to relief may claim a refund of the tax on the following conditions -

(i) the organisation shall produce evidence of procurement and of payment of the tax;

(ii) individual transactions of less than 50,000/=, excluding tax, shall not be eligible for a refund;

(iii) the total value of transactions for any claim period shall not be less than 200,000/=, excluding tax;

(3) The Commissioner General may prescribe the forms to be used for refund claims and may specify the frequency of submitting and processing claims in any individual case, which frequency shall not be less than a month.

Records to be kept by a Registered Person

9. (1) A registered person shall keep records and accounts of all supplies received or made by that person in the course of business, including zero-rated and exempt supplies.

(2) For the purpose of accounting for input tax and output tax, the following records shall be kept by a registered person -

(a) tax accounts and records, which shall include total output tax and input tax in each period and net tax payable or the excess credit of tax refundable at the end of the tax period;

- (b) purchase records, showing details of all local purchases on which tax has been paid, on all imports on which tax has been paid, and of all purchases made without payment of tax, including original tax invoices for all local purchases from registered suppliers, invoices for local purchases from unregistered suppliers and certified customs entries of all imports;
 - (c) sales records showing exempt and taxable sales and, where tax is chargeable, the rates of tax applicable for each sale, including copies of tax invoices and receipts issued in respect of sales;
 - (d) exports records showing details of goods and services exported from Uganda, including, in the case of goods, certified copies of customs export documents and evidence of exportation;
 - (e) debit and credit notes issued and received;
 - (f) cash records including cash books, petty cash vouchers and other accounts records showing daily takings such as till rolls or copy receipts;
 - (g) computer records;
 - (h) in the case of a person making exempt and taxable supplies, details of input tax calculations;
 - (i) transitional relief claims and all related documents and records;
 - (j) stock records showing movements of goods into or out of stock including, in the case of a manufacturer, manufacturing stock records.
- (3) In addition to the records kept under paragraph (2), a registered person with a taxable turnover exceeding 100 million shillings per annum shall keep the following records -
- (a) orders and delivery notes;
 - (b) relevant business correspondence;
 - (c) appointment and job books;
 - (d) annual accounts including trading, profit and loss accounts and balance sheet; and
 - (e) bank statements and pay-in-slips.
- (4) All records shall be kept by the taxpayer for a period of six years and shall be available to the Commissioner General for audit or inspection if required.

Simplified Tax Invoices

10. (1) Notwithstanding the basic requirements in respect of tax invoices, as specified in the Fifth Schedule to the Act, registered persons with a taxable turnover below 100 million shillings per annum may issue a simplified tax invoice for taxable supplies made to another registered person, provided the value of any individual item on the invoice does not exceed 50,000/= and the total invoice does not exceed 100,000/=.
- (2) A simplified tax invoice shall contain the following particulars -
- (a) the commercial name, address, tax identification number and registration number of the person making the supply;
 - (b) the date the invoice is issued;
 - (c) the description of the goods;

(d) the quantity of the goods; and

(e) the value of the supply inclusive of tax and a statement that tax is included in the price.

(3) Zero-rated supplies and exempt supplies shall not be included on a simplified tax invoice.

Treatment of Cash-Basis Accounting Taxpayer

11. (1) This section shall apply to registered persons whose annual taxable supplies do not exceed 200 million shillings.

(2) Where a registered person sells only goods liable at the positive rate of tax, sales may be calculated on the basis of the daily gross takings recorded from the cash register or cash box and a sales day book record and any cash removed from the cash register or box must be recorded and included in the daily gross takings total; then the output tax is calculated by applying the tax fraction to the total of the daily gross takings for the tax period.

(3) Where a registered person makes zero-rated or exempt supplies, in addition to supplies at the positive rate, sales may be recorded on the basis of daily gross takings at each tax rate, and the different tax categories shall be separately identified at the point of sale either by means of a cash register or by keeping separate cash boxes for each category, together with a sales day book record, or in some other manner acceptable to the Commissioner General; then the output tax is calculated by applying the tax fraction to the total gross takings at the positive rate for the tax period.

Export of Goods

12. (1) Where goods are supplied by a registered taxpayer to a person in another country and the goods are delivered by a registered taxpayer to a port of exit for export, the goods may be invoiced at the zero rate, provided the registered taxpayer obtains documentary proof set out in this section and the goods are removed from Uganda within 30 days of delivery to a port of exit.

(2) For an export transaction to qualify for zero-rating, a registered taxpayer shall obtain and be able to show as proof of export for every export transaction the following -

(a) a copy of the bill of entry or export certified by the Customs authorities;

(b) a copy of the invoice issued to the foreign purchaser with tax shown at the zero rate;

(c) evidence sufficient to satisfy the Commissioner General that the goods have been exported, in the form of an order from, or signed contract with, a foreign purchaser, or transport documentation which identify the goods such as -

(i) transit order or consignment note issued by the Uganda Railways Corporation for goods exported by rail;

(ii) copy of a bill of lading for goods exported by water;

(iii) copy of an airway bill for goods exported by air; or

(iv) copy of a transport document for goods exported by road.

Export of Service

13. Where services are supplied by a registered taxpayer to a person outside Uganda, the services shall qualify for zero rating only if the taxpayer can show evidence that the services are used or consumed outside Uganda, which evidence can be in the form of a contract with a foreign purchaser and shall clearly specify the place of use or consumption of the service to be outside Uganda or that the service is provided for a building or premises outside Uganda.

Imported Services

14. (1) A registered taxpayer who receives a supply of services from a foreign supplier shall account for the tax due on the supply, and the taxpayer shall account for that tax when performance of the service is completed, or when payment for the service is made, or when the invoice is received from the foreign supplier, whichever is the earliest.

(2) The value for calculating the amount of tax payable under paragraph (1) shall be the total consideration paid to the foreign supplier and the registered person receiving the services shall apply the tax rate to the total consideration to calculate the tax due and he shall enter both the value and the tax calculated in his Tax Return.

(3) Tax accounted for on imported services may be claimed as a credit under the provision of section 28 of the Act, provided the recipient of the service prepares a self-billed tax invoice to account for tax due on the supply; the claim for credit is subject to the conditions specified in section 28 of the Act.

Credit for Input Tax for Persons making Taxable and Exempt Supplies

15. (1) Where a registered taxpayer who is making taxable and exempt supplies is disadvantaged by the provisions of section 28(7) (b) of the Act, the Commissioner General may approve an alternative method for calculating the input tax to be credited, as described in paragraphs (2) and (3), which shall be known as the Standard Alternative Method.

(2) The registered taxpayer may directly attribute input tax separately to the exempt and taxable supplies in so far as this is possible and may claim credit for all the input tax related to taxable supplies and for none of the input tax related to exempt supplies.

(3) The balance of input tax which cannot be attributed to taxable or exempt supplies shall be apportioned under the provisions of section 28(7) (b) of the Act; however, the provisions of section 28(13) and (14) of the Act shall be complied with in respect of the non attributable input tax.

(4) Where a registered taxpayer wishes to use the Standard Alternative Method, or any other method which is not provided for in section 28(7) (b) of the Act, that taxpayer must seek the written approval of the Commissioner General.