

Malawi

Value Added Tax Act

Chapter 42:02

Legislation as at 31 December 2014

Note: There are **outstanding amendments** that have not yet been applied:
Act 27 of 2018, Act 15 of 2020, Act 7 of 2022, Act 18 of 2023, Act 15 of 2021.

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Value Added Tax Act (Chapter 42:02)

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Malawi

Value Added Tax Act

Chapter 42:02

Assented to on 9 August 2005

Commenced on 12 August 2005

[This is the version of this document as it was at 31 December 2014 to 30 June 2018.]

[Note: This version of the Act was revised and consolidated in the Fifth Revised Edition of the Laws of Malawi (L.R.O. 1/2018), by the Solicitor General and Secretary for Justice under the authority of the Revision of the Laws Act.]

An Act to provide for the imposition and collection of Value Added Tax; and to provide for matters relating to or incidental to Value Added Tax

[7 of 2005; 11 of 2006; 6 of 2007; 10 of 2008; 15 of 2009; 30 of 2010; 23 of 2011; 7 of 2012; 18 of 2012; 20 of 2013; 12 of 2014; G.N. 12/2006]

Part I – Preliminary

1. Short title

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

2. Interpretation

In this Act, unless the context otherwise requires—

“**appropriation 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;

“**Authority**” means the Malawi Revenue Authority established under section 3 of the Malawi Revenue Authority Act;

[Cap. 39: 07]

“**betting**” means risking money or other property in forecasting the outcome of some event;

“**business**” means the carrying on of any form of commercial activity, by a corporate body, individual, partnership or any organization;

“**Commissioner General**” means the Commissioner General of the Malawi Revenue Authority appointed under section 17 of the Malawi Revenue Authority Act;

[Cap. 39: 07]

“**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 Value Added Tax, reduced by any discounts or rebates allowed and accounted for at the time of the supply;

“**exempt import**” means goods to which [section 22](#) applies;

“**exempt supply**” means a supply of goods or services to which [section 20](#) applies;

“**finance lease**”, in relation to goods, includes the lease of goods where—

- (a) the lease term exceeds seventy-five per cent of the expected life of the goods;

- (b) the lessee has an option to purchase the goods for a fixed or determinable price at the expiration of the lease;
- (c) 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 twenty per cent of its fair market value at the commencement of the lease;

“gaming” has the same meaning as ascribed to that term in the Gaming Act;

[Cap. 47:03]

“gaming machine” has the same meaning as ascribed to that term in the Gaming Act;

[Cap. 47: 03]

“goods” includes all kinds of moveable and immoveable property, thermal and electrical energy, heating, gas, refrigeration, air conditioning and water, but does not include money;

“hire purchase agreement” means an agreement that is a hire purchase agreement within the meaning of the Hire Purchase Act;

[Cap. 48:05]

“importer”, in relation to import of goods, includes the person who owns the goods or any other person who is for the time being in possession of, or beneficially interested in, the goods;

“input tax” means tax payable by a taxable person in respect of taxable received goods and services or imports;

“lotteries” means a scheme whereby the right is purchased to take part in a draw by lot for a prize;

“officer” means any member of the staff of the Authority performing duties under this Act and regulations made under this Act or delegated to him by the Commissioner General or any senior officer of the Authority or any other person appointed or authorized by an officer to perform any official duty connected with Value Added Tax; and includes an officer performing any duty under this Act on behalf of the Commissioner General;

“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;

“rental agreement” means any agreement for the letting of goods other than a hire-purchase agreement or finance lease;

“return” means a return of Value Added Tax due, or claim for Value Added Tax return;

“tax invoice” means an invoice issued upon supply of taxable goods and services in accordance with this Act and regulations made under this Act;

“taxable person” means a person registered under [section 11](#), and includes an individual, partnership, group of persons, company or corporation registered by the Commissioner General under that section;

“tax period” means one calendar month;

“taxable transaction” means a taxable supply or an import of goods or services that is subject to Value Added Tax under this Act;

[23 of 2011]

[18 of 2012]

3. Application of this Act to partnerships

- (1) Where a firm consisting of two or more individuals in partnership is a registered supplier, the firm shall be taken for the purposes of this Act, to be the supplier of any goods and services supplied

in the course of the business of the firm; but in default of such registration, each partner shall be deemed to be the supplier of any such goods and services.

- (2) Without prejudice to any other written law providing for the sufficiency of any means of giving notice to a partnership, any notice of assessment or other notice given under this Act to a partnership may be addressed to the partnership in the name under which it is registered under this Act.
- (3) Subject to this section, in determining for the purposes of this Act whether any goods or services are supplied to, or by, a partnership, no account shall be taken of any change in the partnership.
- (4) Without prejudice to any written law providing for the imposition of liability of members of a partnership, until the date on which a change in the partnership is notified to the Commissioner General, a person who has ceased to be a member of a partnership shall be regarded as continuing to be a partner for the purposes of this Act and, in particular, for the purpose of any liability for Value Added Tax or interest due from the partnership under this Act—
 - (a) arising within or in connexion with the tax period during which he or she so ceased to be a member of the partnership; or
 - (b) arising within or in connexion with any earlier tax period during which, or during any part of which, he or she was for the purposes of this Act a member of the partnership.
- (5) Where a person ceases, for the purposes of this Act, to be a member of a partnership, any notice of assessment or other notice given to the partnership under this Act that relates to any matter—
 - (a) arising within or in connexion with the tax period during which he or she so ceased to be a member of the partnership; or
 - (b) arising within or in connexion with any earlier tax period during which, or during any part of which, he or she was for the purposes of this Act a member of the partnership,

shall be deemed to have been served on him or her.

4. Application of this Act to unincorporated organizations

- (1) Where a club, association or other unincorporated organization is a registered supplier, the organization shall be taken, for the purposes of this Act, to be the supplier of any goods and services supplied in the course of the business of the organization;

but in default of such registration, the management of the organization shall be deemed to be the supplier of such goods and services.
- (2) The names and other particulars of the members of the management of an unincorporated organization that is a registered supplier shall be recorded in the register, and such members shall bear the liabilities of the organization under this Act.
- (3) Until the date on which a change in the management of an unincorporated organization is notified to the Commissioner General, a person who has ceased to be a member of the management of an unincorporated organization that is a registered supplier shall be regarded as continuing to be such a member for the purposes of this Act and, in particular, for the purposes of any liability for Value Added Tax or interest due from the organization under this Act—
 - (a) arising within or in connexion with the tax period during which he or she so ceased to be a member of the management; or
 - (b) arising within or in connexion with any earlier tax period during which, or during any part of which, he or she was for the purposes of this Act a member of the management.

- (4) Where a person ceases, for the purposes of this Act, to be a member of the management of an unincorporated organization that is a registered supplier, any notice of assessment or other notice given to the organization under this Act that relates to any matter—
- (a) arising within or in connexion with the tax period during which he or she so ceased to be a member of the management; or
 - (b) arising within or in connexion with any earlier tax period during which, or during any part of which, he or she was for the purposes of this Act a member of the management,
- shall be deemed to have been served on him or her.
- (5) Where a person is a member of the management of an unincorporated organization during part only of a tax period, his or her liability for Value Added Tax on the supply by the organization of goods or services during that period, and any liability for payment of any interest or additional Value Added Tax as a consequence, shall be limited to such proportion of the organization's liability as may be just in the circumstances.

5. Application of this Act to groups of companies

- (1) For the purposes of this Act, two or more companies incorporated in Malawi are eligible to be treated as a recognized group if—
- (a) one of them controls each of the others;
 - (b) one person, whether a company or an individual, controls them all; or
 - (c) two or more individuals carrying on a business in partnership control them all.
- (2) On application made by a company naming itself and other companies in the application, or by the person or persons controlling the companies named in the application, the Commissioner General, if satisfied that the companies named in the application are eligible to be treated as a recognized group, may by notice in writing—
- (a) declare that, as from a date specified in the notice, the companies shall form a recognized group for the purposes of this Act; and
 - (b) designate the representative member for the group.
- (3) Where two or more companies form a recognized group, then, for the purposes of this Act, any business carried on by a member of the group shall be regarded as carried on by the representative member, and—
- (a) any supply of goods or services by a member of the group to another member of the group shall be disregarded;
 - (b) any other supply of goods or services by or to a member of the group shall be regarded as a supply by or to the representative member; and
 - (c) any Value Added Tax paid or payable by a member of the group on the importation of any goods shall be regarded as paid or payable by the representative member, by whom the goods shall be deemed to have been imported.
- (4) Notwithstanding subsection (3), all members of a recognized group shall be jointly and severally liable for any Value Added Tax due from the representative member.
- (5) The Commissioner General may, on application made on behalf of a recognized group by notice declare that, as from a date specified in the notice—
- (a) a further eligible company shall be included in the group;
 - (b) a specified member of the group shall be excluded from the group; or
 - (c) another member of the group shall be substituted as representative member; or

- (d) the group shall no longer be a recognized group for the purposes of this Act.
- (6) An application under this section shall not be refused unless the Commissioner General considers it necessary to refuse the application for the purposes of the protection of the revenue.
- (7) The Commissioner General may, of his or her own motion, by notice exclude from membership of a recognized group any company which has ceased to be a member.
- (8) For the purposes of this section—
 - (a) one company shall be taken to control another if it is empowered by any written law to control the other's activities or if it is the other's holding company within the meaning of the Companies Act; and
[Cap. 46: 03]
 - (b) one or more individuals shall be taken to control a company if, apart from being an individual, he or she or they satisfy the criteria for being its holding company under the Companies Act.
[Cap. 46: 03]

6. Application of this Act to Government agencies

- (1) Except to the extent to which provision is otherwise made by or under this Act, this Act applies to a Government agency as though a supply of goods or services to it for the purposes of the performance of its official functions were a supply of goods or services for the purposes of a business carried on by it.
- (2) The Minister may by Order published in the *Gazette*, provide for the modification of any provision of this Act, or of any regulation or rule made under this Act, in its application to a Government agency.

Part II – Imposition of Value Added Tax

7. Imposition of Value Added Tax

- (1) There is hereby imposed a tax to be known as Value Added Tax (in this Act otherwise called “Value Added Tax”) which shall in accordance with this Act be charged on—
 - (a) every supply of goods and services made in Malawi;
 - (b) every importation of goods; and
 - (c) the supply of any imported service, other than exempt goods and services.
- (2) Unless otherwise provided in this Act, Value Added Tax shall be charged on supply of goods and services where the supply is taxable supply and made by a taxable person in the course of his or her business.
- (3) Value Added Tax shall be charged and payable on the importation of goods and for that purpose any written law applicable to collection of customs duties and other taxes on importation of goods shall apply with such modifications as are necessary.

8. Persons liable to pay Value Added Tax

Except as otherwise provided in this Act, Value Added Tax shall be paid—

- (a) in the case of a taxable supply, by the taxable person making the supply;
- (b) in the case of imported goods, by the importer; and
- (c) in the case of imported services, by the receiver of the services.

9. Rate of Value Added Tax

Except as otherwise provided in this Act, the rate of Value Added Tax shall be 16.5 per cent, calculated on the value of the taxable supply of the goods, services or import.

[10 of 2008]

Part III – Taxable person

10. Taxable person

- (1) A taxable person is a person registered under [section 11](#).
- (2) The Commissioner General shall notify a taxable person when registered and shall issue a certificate of registration, in the prescribed form, which shall be exhibited at the principal place of business of the taxable person.
- (3) The effective date of registration as a taxable person shall be such date as shall be specified in the certificate of registration issued by the Commissioner General.

11. Registration as taxable person

- (1) A person is registrable as a taxable person if he or she is a person who makes taxable supply of goods or services and, whose business turnover is, or exceeds, K10,000,000 per annum.
- (2) The Minister may, by order published in the *Gazette*, revise the threshold amount specified in subsection (1).
- (3) For purposes of determining the threshold amount under subsection (1), separate businesses under the same ownership may be treated as owned by one person.
- (4) Any person who qualifies as a taxable person, or has grounds to believe that he or she will qualify as a taxable person, shall apply on such form as shall be prescribed for registration by the Commissioner General.
- (5) A person who is not registered, but who is liable to apply to be registered under this Act, is a taxable person from the beginning of the tax period immediately following the period in which the duty to apply for registration arose.
- (6) An applicant shall make the application for registration under this Act within thirty days of becoming qualified and upon acquisition of an electronic fiscal device or having reason to believe that he or she will so qualify.

[18 of 2012]

- (7) The Commissioner General may by notice in writing notify any person that the person has within a tax period specified in the notice made taxable supplies—
 - (a) in excess of the turnover figure; or
 - (b) below the turnover figure, specified in subsection (1), and is registrable as a taxable person or not registrable, and shall act accordingly by registering or cancelling the registration of a taxable person, as the case may be.
- (8) Any national, regional, local or other authority or body which carries on any business activity which make it registrable as a taxable person shall apply for registration.
- (9) A group of taxable persons may, with the approval of the Commissioner General be treated for the purposes of Value Added Tax as one designated taxable person:

Provided each member of the group undertakes to be jointly and severally liable for any contravention under this Act and regulations made under it.

- (10) A taxable person whose business is structured into distinct divisions may apply to the Commissioner General for each division to be registered for Value Added Tax.
- (11) Notwithstanding any provision of this section—
 - (a) any business with a turnover below the registrable threshold amount provided in subsection (1) may apply voluntarily to be registered by the Commissioner General; and
 - (b) the Commissioner General may by notice in writing notify the proprietor and register any class or category of businesses specified in the notice as registrable under this Act.
- (12) The Commissioner General shall register a person who qualifies under subsection (11) as a taxable person unless the Commissioner General—
 - (a) is satisfied that the person has no fixed place of abode or business; or
 - (b) has reasonable ground to believe that the person—
 - (i) will not keep proper accounting records relating to any business activity carried on by that person; or
 - (ii) will not submit regular and reliable returns as required by or under this Act; or
 - (iii) is not a fit and proper person to be registered.

[15 of 2009]

[23 of 2011]

[20 of 2013]

11A. Use of information technology

- (1) Subject to such conditions as the Commissioner General may prescribe, Value Added Tax formalities or procedures may be carried out by use of information technology.
- (2) For purposes of subsection (1), the Commissioner General may, by notice published in the *Gazette*, specify—
 - (a) the tax formalities or procedures; and
 - (b) the persons authorized to carry out such formalities or procedures.

[23 of 2011]

11B. Registration as user of Value Added Tax computerized system

- (1) A person who wishes to be registered as a user of a Value Added Tax computerized system may apply, in writing, to the Commissioner General for computerized registration, and the Commissioner General may—
 - (a) grant the application, subject to such conditions as he may deem necessary; or
 - (b) reject the application.
- (2) A person shall not access, transmit or receive information from a Value Added Tax computerized system unless that person is a registered user of the system.

[23 of 2011]

11C. Cancellation of registration

The Commissioner General may cancel the registration of a user of a Value Added Tax computerized system, or impose a penalty on the user, if the Commissioner General is satisfied that the user has—

- (a) failed to comply with any condition of registration imposed by the Commissioner General under [section 11B](#);
- (b) failed to comply with, or has acted in contravention of, any condition under the Value Added Tax (Electronic Fiscal Devices) Regulations; or
- (c) been convicted of an offence under this Act relating to improper access to, or interference with, a Value Added Tax computerized system.

[23 of 2011]

11D. Supply, operation and service of electronic fiscal devices

- (1) The Minister may, on the advice of the Authority, make regulations providing for the supply, operation and service of electronic fiscal devices.
- (2) The Authority may, on application, issue a licence for the supply, operation and service of electronic fiscal devices.
- (3) The Authority may issue any of the following types of electronic fiscal device licences—
 - (a) a Local Distributor's or Supplier's licence; or
 - (b) a Manufacturer's license.
- (4) The Authority may only issue a single licence at a particular time.
- (5) The Authority shall publish a list of approved electronic fiscal devices which may be supplied under any of the types of licences referred to in subsection (3).

[18 of 2012]

12. Register and particulars of taxable persons

The Commissioner General shall keep a register in the prescribed form in which shall be recorded the particulars of every taxable person.

13. Change in business

- (1) Every taxable person shall notify the Commissioner General in writing—
 - (a) if the business ceases to operate or is sold; or
 - (b) if there is a change in the location of the business; or
 - (c) if there is material change in the ownership of the business; or
 - (d) of any change—
 - (i) in the name or address of that person; or
 - (ii) in circumstances which makes that person no longer qualified for registration as a taxable person; or
 - (iii) of a material nature in the business activities or in the nature of taxable supplies being made.

- (2) Where a taxable person dies or becomes bankrupt or incapacitated, the Commissioner General may, from the date on which the taxable person died or became bankrupt or incapacitated treat as a taxable person any person carrying on that business until some other person is registered in respect of the taxable supplies made or intended to be made by that taxable person in the course of his business, and the provisions of this Act shall apply to the person so treated as though he were a registered person; and any person carrying on such business shall inform the Commissioner General in writing of the fact and the date of the death or bankruptcy, or of the nature of the incapacity and the date on which it began, as the case may be.
- (3) A notification under subsection (1) shall be made within thirty days of the cessation, sale, change of location, change in the business, or ownership or any other change, as the case may be.

[11 of 2006]

14. Cancellation of registration

- (1) The registration of a taxable person shall be cancelled by the Commissioner General where the Commissioner General is satisfied that the registered person no longer exists.
- (2) A taxable person shall, within thirty days of ceasing to carry on business in relation to which a registration is made, apply in writing for the cancellation of the registration.
- (3) Any cancellation under this section shall take effect from the end of the tax period in which the registration is cancelled.
- (4) 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 the person 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 under [section 30](#); the output tax payable being based on the open market value of the goods at the time his or her registration was cancelled.
- (5) The obligations and liabilities of a person under this Act and regulations made under this Act, including the submission of returns required under [section 34](#), 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 registration of that person.
- (6) The Commissioner General shall serve a notice in writing on a person of the decision to cancel or refuse to cancel any registration under this Part within thirty days of the making of the decision or of receipt of the application, as the case may be.

Part IV – Supply of goods and services

15. Supply of goods

Subject to this Act and regulations made under this Act, a supply of goods means any arrangement under which the owner of the goods parts with or will part with possession of the goods, including provision of goods by sale, barter, lease, transfer, exchange, gift or similar disposition, and appropriation to own use.

16. Supply of services

- (1) Subject to this Act and regulations made under this Act, supply of services means any supply which is not a supply of goods or money and includes—
 - (a) the performance of services for another person;
 - (b) the making available of any facility or advantage; or
 - (c) tolerating any situation or refraining from the doing of any activity.

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

[Please note: numbering as in original.]

17. Mixed supplies

- (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 the goods.

18. Supply by agent

A supply of goods or services made by a person as agent for another person who is the principal is a supply by the principal:

Provided that where a supply of goods or services is made by an agent, on behalf of a principal who is resident outside Malawi, the supply of goods for services shall be deemed to be made by the agent.

Part V – Taxable supplies

19. Taxable supply

- (1) Except as otherwise provided in this Act or regulations made under this Act, a taxable supply is a supply of goods or services made by a taxable person for consideration in the course of, or as apart of his or her business activities and includes—
 - (a) the processing of data or supply of information or similar service;
 - (b) the supply of staff;
 - (c) the making of gifts or loans of goods;
 - (d) the leasing or letting of goods on hire;
 - (e) the appropriation of goods for personal use or consumption by the taxable person or by any other person;
 - (f) the sale, transfer, assignment, or licensing of patents, copyrights, trade marks, computer software, and other proprietary information; and
 - (g) exports.
- (2) A supply is made as part of the business activities of a person if the supply is made by him or her as part of or incidental to any economic activity he or she conducts.
- (3) Where a person produces goods by processing or treating the goods of another person, the supply of the goods shall be regarded as supply of goods.
- (4) The supply of any form of power, heat, refrigeration or ventilation shall be regarded as supply of goods.
- (5) A supply is made for consideration, if the supplier, directly or indirectly, receives payment wholly or partly in money or in kind from the person supplied or any other person.

[10 of 2008]

20. Exempt supply

The supply of the goods and services specified in the First Schedule is exempt supply and not subject to Value Added Tax.

[First Schedule]

21. Zero-rated supply

Output tax shall be at zero on the supply of the goods and services specified in the Second Schedule.

[Second Schedule]

22. Exempt import

An import of goods is an exempt import if the goods are exempted under the First Schedule and classified in conformity with the Harmonized Commodity Description and Coding System also known as “the Harmonized System”.

[First Schedule]

23. Relief supply

There shall be relief from Value Added Tax on taxable supply to the individuals, organizations and businesses specified in the Third Schedule.

[Third Schedule]

Part VI – Time and place of supply**24. Time of supply**

- (1) Except otherwise provided in this Act or regulations made under this Act, a supply of goods or services occurs—
 - (a) where the goods or services are appropriated 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 services is completed, as the case may be;
 - (c) in any other case, the earliest of the date on which—
 - (i) the goods are removed from the premises, or from other premises of the taxable person where the goods are under the control of the taxable person; or
 - (ii) the goods are made available to the person to whom they are supplied; or
 - (iii) the services are supplied or rendered; or
 - (iv) payment is received for all or part of the supply; or
 - (v) a tax invoice is issued.
- (2) Where supplies are made on a continuous basis or by metered supplies, the time of supply shall be the determination of the supply or the first meter reading following the introduction of Value Added Tax and subsequently at the time of each determination or meter reading.
- (3) The supply of goods under a hire purchase agreement or finance lease occurs on the date the goods are made available under the hire purchase agreement or lease finance, as the case may be.

- (4) Where—
- (a) goods are supplied under a rental agreement; or
 - (b) goods or services are supplied under an agreement or written law which provides for periodic payment, the goods or services shall be 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.
- (5) 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 (3) or (4) 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.
- (6) Where the supply of goods or services is ancillary to another supply, the time of supply of the ancillary supply shall be deemed to be the same as the time of supply for the main goods or services.

25. Issue of an electronic fiscal device generated tax invoice or a tax invoice

- (1) Subject to the provisions of [section 11A](#), every taxable person shall, on making taxable supply of goods or services, issue to the customer or the person supplied, an electronic fiscal device generated tax invoice or a tax invoice in such form as shall be prescribed.
- (2) Every taxable person shall, upon issuing of the electronic fiscal device generated tax invoice, retain a copy of the electronic fiscal device generated tax invoice in a serial number order.
- (3) Notwithstanding the provisions of subsection (1), the Commissioner General may—
- (a) on application by a registered person; and
 - (b) if he is satisfied that owing to the nature of a business, it is impracticable for the registered person to issue an electronic fiscal device generated tax invoice,

allow the registered person to account for Value Added Tax in such other manner as the Commissioner General may authorize.

[23 of 2011]

[18 of 2012]

26. Place of supply

- (1) The place of supply of goods shall be the place from which the goods are supplied.
- (2) Unless otherwise provided in regulations made under this Act, the place of supply of a service shall be the place of business of the supplier or the place from which the service is supplied or rendered.

Part VII – Taxable value

27. Value of taxable supply

- (1) The value of a taxable supply is—
- (a) where the supply is for money consideration, the amount of the consideration with the addition of all duties and taxes but excluding Value Added Tax;
 - (b) where the supply is not for money consideration or is only partly for money consideration, the open market value of similar supply excluding Value Added Tax.

- (2) For the purposes of subsection (1) “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 component, reputation of, and materials comprising the goods or services which are the subject of the taxable supply.
- (3) For the purposes of this Act, the open market value of supply of goods or services is the value determined under subsection (1) (a), if the supplier, purchaser or any other person concerned in the transaction were completely independent of each other and did not in any way influence the transaction.
- (4) Where the open market value of a taxable supply cannot be determined under subsection (3), the open market value of the supply shall be the amount that, having regard to all the circumstances of the supply, in the opinion of the Commissioner General, is the fair market value of the supply.
- (5) The taxable value of—
 - (a) a taxable supply of goods under a hire purchase agreement or finance lease;
 - (b) a taxable supply of goods by way of an application to own use;
 - (c) a taxable supply for reduced consideration; or
 - (d) a taxable supply described in [section 14](#) (4), is the open market value of the goods or services at the time the supply is made, excluding, in the case of a hire purchase agreement or finance lease, any interest or finance charges.
- (6) Where a taxable supply is made without a separate amount of the consideration being identified as a payment of Value Added Tax, the taxable value of that supply shall be the amount of the consideration paid excluding Value Added Tax.

28. Taxable value for determining Value Added Tax on imported goods

The value for determining the tax chargeable on taxable imports shall be the import value calculated in accordance with the Customs and Excise Act with the addition of all import duties and taxes, but excluding Value Added Tax.

[Cap. 42:01]

29. Adjustments

- (1) This section shall apply where, in relation to a taxable supply by a taxable person—
 - (a) the supply is cancelled; or
 - (b) the nature of the supply has been fundamentally varied or altered; or
 - (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 thereof have been returned to the supplier.
- (2) Where the taxable person making the supply—
 - (a) in giving a tax invoice in relation to the supply, has shown an incorrect amount on the invoice as Value Added Tax charged on the supply because of the occurrence of any one or more of the events mentioned in subsection (1); or
 - (b) has filed a return for the period in which the supply occurred and has accounted for an incorrect amount of output tax on that supply because of the occurrence of any one or more of the events mentioned in subsection (1), the taxable person making the supply shall make an adjustment in accordance with subsections (3) and (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 Value Added Tax charged by the person in relation to a taxable supply made in the tax period in which the events referred to in subsections (1) and (2) 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 events referred to in subsections (1) and (2) occurred.
- (5) The credit allowed under subsection (4) shall for the purpose of this Act be treated as a reduction of output tax.
- (6) No credit shall be 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 Value Added Tax has been repaid by the taxable person to the recipient, whether in cash or as a credit against any amount owed to the taxable person by the recipient.

Part VIII – Deduction of input tax and refunds

30. Credit for deductible input tax

- (1) At the end of the tax period, a taxable person may deduct from the output tax deductible due for the period, Value Added Tax on goods and services purchased in Malawi or goods and services imported by him or her and used wholly, exclusively and necessarily in the course of his or her business:

Provided that—

- (a) the supply is a taxable supply;
 - (b) in respect of purchases made in Malawi, the taxable person is in possession of a tax invoice issued in accordance with [section 25](#); and
 - (c) in respect of importation or removal of goods from bonded warehouse, the taxable person is in possession of the relevant customs entries indicating that Value Added Tax was paid.
- (2) Value Added Tax deducted from the output tax under subsection (1) shall be known as input tax.
- (3) No input tax deduction shall be made on purchases or imports in respect of exempt supplies by the taxable person.
- (4) No input tax deduction shall be taken more than once nor shall it be taken after the expiration of a period of twelve months from the date the deduction accrued.
- (5) A taxable person does not qualify for input tax deduction in respect of taxable supply or import of motor vehicles or motor vehicle spare parts unless the taxable person is in the business of dealing in or hiring of motor vehicles or selling motor vehicle spare parts; but motor vehicles and motor vehicle spare parts used wholly, exclusively and necessarily for the business shall qualify for input tax deduction.
- (6) A taxable person does not qualify for input tax deduction in respect of taxable supply in respect of entertainment, including restaurant, meals and hotel expenses, unless the taxable person is in the business of providing entertainment.
- (7) Where a taxable supply to, or an import of goods by, a taxable person is partly for business use and partly for personal or other use, the amount of input tax allowed as a credit shall be restricted to that part of the supply that relates to the business use.
- (8) If goods for which a credit has been allowed under this Act cease to be applied to taxable transactions before the end of their life, the goods shall be treated as sold for the open market value at the time of the cessation.

- (9) In the case of a taxable person who regularly resells used goods purchased from consumers, the Commissioner General may determine the procedures for allowing such person input tax credit.
- (10) The Minister may, by Order published in the *Gazette*, prescribe other classes, types or description of goods and services on which input tax is non-deductible.

31. Refund or credit of excess tax paid

- (1) Where the amount of input tax which is deductible exceeds the amount of output tax due in respect of the accounting period, the excess amount shall be credited by the Commissioner General to the taxable person:

Provided that—

- (a) in the case of exports, the Commissioner General may refund the excess credit to the taxable person where his or her exports exceed 70 per cent of the total supplies within the accounting period; and
 - (b) a refund shall be made by the Commissioner General to the taxable person where the excess credit remains outstanding for a continuous period of three months or more.
- (2) A taxable person who is registered from a specified effective date and who has in stock on the effective date goods on which Value Added Tax has been paid may claim credit or refund of Value Added Tax in such form as shall be prescribed:

Provided that—

- (a) the supply or import occurred not more than four months prior to the date of his or her registration; or
 - (b) in the case of capital goods, the goods have been held for a period not exceeding six months from the date of his or her registration.
- (3) For the purpose of this section, a completed refund or credit claim form, in the prescribed form, together with the relevant tax invoices or, in the case of imported goods the relevant customs document for Value Added Tax paid, shall be submitted to the Commissioner General by the taxable person.
- (4) Where the Commissioner General subsequently rejects the claim under subsection (2), any Value Added Tax previously treated as a credit or a refund shall be recovered by the Commissioner General in accordance with this Act.
- (5) Where a taxable person has issued a tax invoice and has paid the appropriate tax for a supply, and—

- (a) the purchaser becomes insolvent; or
 - (b) the purchaser fails to pay all or part of the taxable amount of the supply in addition to the tax imposed and the debt is a bad debt proved to be such to the satisfaction of the Commissioner General,

the taxable person shall be allowed to take as credit the portion of the tax paid or imposed on the supply which is attributable to the debt that becomes irrecoverable.

- (6) Where a debt previously written off as a bad debt and for which credit has been given is later recovered, the tax due on amount recovered shall be paid to the Commissioner General in the tax period in which the recovery has been made.

[11 of 2006]

32. Deductible tax for mixed taxable and exempt supply

- (1) A taxable person who makes both taxable and exempt supplies may deduct the input tax on the taxable purchases and imports which are directly attributed only to the taxable supplies made.
- (2) Where a taxable person has made both taxable and exempt supplies, but cannot directly attribute the input tax to the taxable and exempt supplies under subsection (1), he or she may deduct as input tax an amount that bears the same ratio as the taxable supplies bear to the total supplies, applying the apportionment formula specified in the Fourth Schedule.

[Fourth Schedule]

- (3) Where the fraction in subsections (1) and (2) is less than 5 per cent, the taxable person may not take credit for any input tax for the tax period.
- (4) Where, in applying the formula referred to in subsection (2), the fraction under subsections (1) and (2) is less than 5 per cent, the taxable person may not take credit or any input tax for the tax period.
- (5) Where in applying the formula under subsections (1) and (2) the fraction is more than 95 per cent, the taxable person may take credit for all input tax for the tax period.
- (6) The Commissioner General may approve or direct alternative methods of apportioning input tax where he or she considers that the methods described in this section will result in an unreasonable calculation of the input tax which may be deducted.
- (7) *[deleted by 18 of 2012]*

[23 of 2011]

[18 of 2012]

33. Time for payment of refund

- (1) Subject to subsection (2), where a taxable person is entitled to a refund of Value Added Tax under this Act, the refund shall be paid by the Commissioner General on an application by the taxable person within thirty days of receipt of the application.
- (2) No refund shall be made pursuant to subsection (1) to a taxable person unless—
 - (a) all previous returns by the taxable person have been submitted by the due dates and no Value Added Tax for any period is outstanding; and
 - (b) Value Added Tax, penalties and interest from the previous tax period have been paid by the taxable person by the due dates.
- (3) Where the conditions specified in subsection (2) have not been fulfilled, the Commissioner General shall reject the claim for refund and shall inform the applicant accordingly in writing within thirty days of receipt of the application.

Part IX – Tax returns, records and assessment

34. Submission of tax return and date of payment of Value Added Tax

- (1) Unless otherwise directed in writing by the Commissioner General, a taxable person shall account for Value Added Tax each calendar month on a return.
- (2) The return shall be in the prescribed form and shall state—
 - (a) the amount of Value Added Tax payable for the tax period;
 - (b) the amount of input tax credit or refund claimed; and

- (c) such other matters as may be prescribed.
- (3) In addition to any return required under subsection (2), the Commissioner General may require any person, whether a taxable person or not, to submit, whether on that person's own behalf or as agent or trustee of another person, to 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) A return shall be submitted to the Commissioner General not later than the twenty-fifth day of the month immediately following the month to which the return relates.
- (5) Upon application in writing by a taxable person, the Commissioner General may, where good cause is shown by the taxable person, extend the period in which a return is to be submitted.
- (6) The payment of Value Added Tax due in the tax period shall be made to the Commissioner General not later than the twenty-fifth day of the month immediately following the tax period to which the return relates.
- (7) A taxable person directed to make his or her return other than in accordance with subsection (4) shall be informed of the date by which the return and payment shall be made to the Commissioner General.
- (8) A taxable person who, without lawful excuse or justification, fails to submit to the Commissioner General his or her return on the due date shall be liable to a pecuniary penalty of K20,000 and a further penalty of K1, 000 for each day that the return is not submitted.
- (9) Any refer to drawer cheque for payment of Value Added Tax shall attract a penalty of 30% of the value of the cheque, regardless of the reason for the bank dishonoring the cheque.

[30 of 2010]

35. Records to be kept for purposes of Value Added Tax

- (1) Every taxable person shall—
 - (a) keep such records and books of accounts as the Minister may prescribe or as the Commissioner General may direct; and
 - (b) produce such records and books of accounts at such place and time as the Commissioner General may by general notice publish in the *Gazette*, any newspaper in general circulation, or in writing to taxable person, require.
- (2) In respect of the records to be kept under subsection (1), a taxable person shall not destroy any book, document, account or record which is less than six years old without the written permission of the Commissioner General.
- (3) Any permission granted by the Commissioner General under subsection (2) shall specify the book, document, account or records to which the permission relates.

36. Assessment of Value Added Tax and correction of return

- (1) Where a taxable person fails to submit a tax return by the date required under [section 34](#) or the Commissioner General has grounds to believe that a return is incorrect or that any due Value Added Tax has not been paid, the Commissioner General—
 - (a) may based on any information available to him or her assess Value Added Tax due; and
 - (b) shall notify his or her assessment in writing to the taxable person stating that Value Added Tax shall be paid within twenty-one days of the date, of the notice:

Provided that the Commissioner General shall not raise an assessment after a period of six years after the Value Added Tax was due and payable unless fraud is a material element of the assessment.

- (2) Where a taxable person notified of Value Added Tax assessment under subsection (1) provides information which the Commissioner General accepts as justifying the withdrawal or amendment of the assessment, the Commissioner General may withdraw or amend the assessment.
- (3) Any Value Added Tax payable pursuant to an amended assessment under subsection (2) shall be paid within fourteen days of the date of the amendment.
- (4) A taxable person who is not satisfied with the return submitted by him or her may apply in writing to the Commissioner General to make any addition or alteration to the return; and any such application shall—
 - (a) state in detail the grounds, supported by documentary evidence, upon which the application is made; and
 - (b) be submitted not more than three months after the submission of the original return.

[6 of 2007]

Part X – Recovery of due Value Added Tax, interest and other liabilities

37. Recovery of Value Added Tax due

- (1) Any Value Added Tax due under this Act, and any penalty and interest which remains unpaid after the due date under this Act, or under any other written law in respect of Value Added Tax, may be recovered by the Commissioner General as a debt.
- (2) Any amount shown on an invoice as Value Added Tax on a supply of goods or services shall be recoverable as Value Added Tax due from the person issuing the invoice, whether or not—
 - (a) the invoice is a tax invoice issued under this Act or in accordance with regulations made under this Act; or
 - (b) an amount of Value Added Tax is chargeable on the supply; or
 - (c) the person issuing the invoice is a taxable person.
- (3) Where any body, corporate or unincorporated, liable for the payment of Value Added Tax, or of any penalties or interest arising under this Act, defaults in payment, in whole or in part, after written demand, the directors, partners, and the person in control of the body, shall be jointly and severally liable to pay the sum due.

38. Payment of interest on outstanding Value Added Tax

- (1) A taxable person who fails to pay any Value Added Tax payable by the due date shall be charged—
 - (a) an additional sum of 15% of the amount of tax which he shall have failed to pay; and
 - (b) a further additional sum of 5% per month or part thereof for the period during which the amount of the tax remains unpaid:

Provided that the Commissioner may reduce the amount of such additional sums if a satisfactory explanation for the delay is made.

- (2) Any interest charged under this section and any penalty payable that remains unpaid shall be recoverable as a civil debt by the Commissioner General.

[10 of 2008]

39. Garnishment

Where any Value Added Tax, penalty or interest is due and payable from a taxable person, the Commissioner General may order—

- (a) any individual or business from whom any money is due or is accruing or may become due to the taxable person; or
- (b) any individual or business who holds or who may subsequently hold money for or on account of the taxable person, to pay the Commissioner General that money, or so much of it as is sufficient to discharge the Value Added Tax, interest or penalty due and payable;
- (c) the Commissioner General shall, in respect of an individual or a business that fails to comply with paragraph (b), have the same remedies as he has against the property of any other person who is liable to pay Value Added Tax;
- (d) for purposes of paragraphs (b) and (c), the Commissioner General may require any person to give him information in respect of any money, funds, or other assets which may be held by that person for, or on account of, the taxable person.

[10 of 2008]

[23 of 2011]

40. Distraint for liability

- (1) The Commissioner General may in writing authorize the levying of distress in accordance with this section.
- (2) Where any Value Added Tax, penalty or interest due under this Act remains unpaid after the time by which this Act requires it to be paid, the Commissioner General may in writing and with notice to the taxable person authorize the levying of distress—
 - (a) upon the goods, chattels and effects of the taxable person; and
 - (b) upon—
 - (i) all assets, property, building, factory, machinery, plant, tools, means of transport and communication, accessories, animals, and all goods used in Malawi in the manufacture, production, sale or distribution of any taxable supplies;
 - (ii) any commodity or items found in any premises or any land owned by or in use or in possession of the taxable person or of any person on his or her behalf or in trust for him or her.
- (3) The written authority of the Commissioner General to distraint under this Act shall be a warrant as in Form A set out in the Fifth Schedule, and shall be the authority to levy by distress the amount of any Value Added Tax, penalty or interest due.

[Fifth Schedule]

- (4) The distress warrant so taken shall be executed on only the assets of the taxable person and the Authority shall take possession of the properties specified in subsection (2) exclusive of all liabilities.
- (5) For the purpose of levying the distress, any person authorized in writing by the Commissioner General may execute the warrant of distress on the goods and assets of the taxable person specified under subsection (2) wherever the property may be and where necessary break open any building or place in the day-time for the purpose.

- (6) Any authorized person who executes a warrant of distress under this section may call to his or her assistance any police officer, and it shall be the duty of the police officer when required to assist in the execution of the warrant of distress and in levying the distress to do so.
- (7) The distress taken under this section may at the cost of the taxable person, be kept for fourteen days, and if the amount due in respect of Value Added Tax, interest or penalty and the cost and charges of and incidental to the distress are not then paid, the property distrained may be sold.
- (8) There shall be paid out of the proceeds of the sale, under subsection (7), first the costs or charges of the distress and incidental to the sale and keeping of the distress, next the amount due in respect of Value Added Tax, interest and penalty, and the residue, if any, shall be paid to the owner of the property; and any payment to the owner shall be made subject to the prior interest of the Authority which shall have precedence over all other interests.
- (9) Where any property seized in the execution of the distress warrant under this section is under a mortgage, charged by way of security for any debt, or is in any way encumbered, the sale of the property shall be made subject to the prior interest of the Authority which shall have precedence over all other interests.

41. Recovery in respect of a person under liquidation

- (1) Where any tax, penalty or interest is due from a taxable or other person who is subject to liquidation or bankruptcy proceedings, the liquidator, receiver, or other person responsible for winding up the affairs of the debtor shall not distribute any assets until full payment has been made of Value Added Tax, penalty or interest due under this Act.
- (2) For the purpose of this section, the Commissioner General shall be deemed to be a creditor for purposes of the Companies Act.

[Cap. 46: 03]

42. Payment of Value Added Tax into Consolidated Fund

- (1) All Value Added Tax, interest and penalties collected under this Act shall be paid into the Consolidated Fund.
- (2) Notwithstanding subsection (1), the Minister may set aside a percentage of Value Added Tax, interest and penalties collected under this Act in an account designated as "Value Added Tax Refund Account" out of which refunds due under this Act proven overpayment of Value Added Tax, payment made by non-taxable persons and payments made on non taxable supply may be refunded.

Part XI – Appeals

43. Appeal to decision of an officer other than the Commissioner General

- (1) A person who is dissatisfied with any decision of an officer of the Authority other than the Commissioner General, may lodge an appeal with the Commissioner General within thirty days after notice of the decision has been served on him or her or upon his or her becoming aware of the decision.
- (2) The Commissioner General may for good cause, accept an appeal lodged out of the time stipulated under subsection (1).
- (3) Every appeal under subsection (1) shall be in writing, and shall specify in detail the grounds, supported by relevant documents, upon which it is made.

- (4) The Commissioner General shall make a decision on an appeal within thirty days after receipt of the appeal and, where necessary, after interviewing the objector.

[10 of 2008]

44. Appeal to court

- (1) A person dissatisfied with the decision of the Commissioner General may lodge an appeal with any court of a Resident Magistrate.
- (2) An appeal under this section shall be lodged by the aggrieved person within thirty days after being notified of the decision of the Commissioner General.
- (3) No appeal lodged with the court shall be heard unless all returns due under this Act have been submitted to the Commissioner General and all Value Added Tax assessed or due has been paid:
- Provided that the court may, for good cause, waive the requirement to pay all or part of the Value Added Tax due before hearing the appeal.
- (4) Where, after hearing the appeal the appellant is found to be entitled to any refund of Value Added Tax, interest shall be paid on the refund at the prevailing bank rate from the date of the judgment.

Part XII – Offences and penalties

45. Failure to register

- (1) A person who fails—
- (a) to apply for registration as required under [section 11](#); or
 - (b) to notify the Commissioner General of a change in his business as required under [section 13](#); or
 - (c) to apply for cancellation of registration as required under [section 14](#), commits an offence.
- (2) Where the failure under subsection (1)—
- (a) is deliberate or reckless, the person shall be liable to a penalty of K100, 000; and
 - (b) for any other reason, the person shall be liable to a penalty of K20, 000.

[30 of 2010]

45A. Unlawful use of Value Added Tax computerized system

- (1) A person who—
- (a) knowingly or recklessly and without lawful authority, gains access to or attempts to gain access to any Value Added Tax computerized system; or
 - (b) having lawful access to any Value Added Tax computerized system, knowingly uses or discloses information obtained from such system for a purpose that is not authorized; or
 - (c) knowing that he is not authorized to do so, receives information obtained from any Value Added tax computerized system, and uses, discloses, publishes, or otherwise disseminates such information,

commits an offence and shall be liable on conviction to—

- (i) in the case of a natural person, a fine of K500,000 and imprisonment for two years; and

- (ii) in the case of a body corporate, a fine of K1, 000, 000 and imprisonment for two years on the part of directors of such a body corporate.

[23 of 2011]

45B. Falsification, damage or impairment of record or information

Any person who—

- (a) falsifies any record or information stored in any Value Added Tax computerized system;
- (b) damages or impairs any Value Added Tax computerized system; or
- (c) damages or impairs any duplicate tape, disc or other medium on which information obtained from a Value Added Tax computerized system is held or stored, otherwise than with the permission of the Commissioner General,

commits an offence and shall be liable on conviction to imprisonment for ten years.

[23 of 2011]

46. Failure to issue tax invoice

A person who fails to issue a tax invoice or an electronic fiscal device generated tax invoice as required under [section 25](#) for goods supplied or services rendered shall be liable to a penalty of ten times the value of the Value Added Tax invoiced in the transaction or K500, 000, whichever is greater.

[30 of 2010]

[23 of 2011]

[18 of 2012]

47. False or misleading statement

- (1) A person who in any matter relating to Value Added Tax—

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

commits an offence.

- (2) Where a statement or omission under subsection (1)—

- (a) was made knowingly or recklessly, the person shall be liable on conviction to a fine of K100, 000 and to imprisonment for five years; and
- (b) in any other case, the person shall be liable on conviction to a fine of K20, 000 and, to imprisonment for twelve months.

- (3) For the purposes of this section a statement made to an officer of the Authority means a statement made in writing, orally or in any other form to the officer acting in the performance of his or her duties under this Act and regulations made thereunder and includes statements made—

- (a) in an application, certificate, declaration, notification, return, objection or other document made, prepared, given, filed or furnished under this Act and regulations made thereunder; or
- (b) in information required to be furnished under this Act and regulations made thereunder; or
- (c) in answers to a question asked by an officer of the Authority.

48. Falsification and alteration of documents

- (1) Any person who—
- (a) forges, falsifies or willfully uses a forged or falsified certificate or other document required by or under this Act, or by or under the directions of the Commissioner General or any instrument used in the transaction of any business or matter relating to Value Added Tax; or
 - (b) alters any document or instrument relating to Value Added Tax after it has been officially issued, or forges the seal, signature, initials or, other mark of or used by any officer for the verification of any document or instrument or for the security of the Value Added Tax relating to any other sum payable under this Act; or
 - (c) on any document or instrument required for the purposes of this Act, forges or imitates the seal, signature, initials or other mark of or made use of by any other person whatsoever, whether with or without the consent of that person,

commits an offence and shall be liable on conviction to a fine of K200, 000 and to imprisonment for ten years; and any goods involved in the commission of the offence shall be forfeited to the Government.

49. Evasion of Value Added Tax payment

- (1) A person who is knowingly concerned in or takes steps with a view to fraudulent evasion of Value Added Tax payable by him or her or any other person, commits an offence and is liable on conviction to a fine not exceeding twenty times the amount of Value Added Tax evaded and to imprisonment for five years.
- (2) A person who acquires possession of or deals with any goods, or accepts the supply of any goods or services having reason to believe that Value Added Tax on the supply of the goods or services has not been, or will not be paid or that Value Added Tax has been, or will be, falsely reclaimed, commits an offence and is liable on conviction to a fine not exceeding five times the amount of Value Added Tax involved and to imprisonment for two years.

50. Failure to maintain proper records

- (1) A person who fails to maintain proper records as required under this Act shall be liable—
- (a) where the failure was deliberate or reckless, a penalty of K500,000; and
 - (b) in any other case, a penalty of K200,000.

[30 of 2010]

[23 of 2011]

51. Obstruction etc., of officer of the Authority

A person who assaults, abuses, resists, obstructs, hinders or interferes with the Commissioner General or an officer authorized by the Commissioner General or any person aiding or assisting the Commissioner General, or any person authorized by the Commissioner General in the performance of his or her duties under this Act commits an offence and is liable on conviction to a fine of K20, 000 and to imprisonment for twelve months.

52. Offences relating to officers

- (1) An officer of the Authority who, in connexion with any of his or her duties, takes or seeks, directly or indirectly, any payment or other reward, pecuniary or otherwise, on account of anything relating to his or her office or employment, including the failure to carry out his or her proper duties,

commits an offence and is liable on conviction to a fine not exceeding three times value of the Value Added Tax involved and to imprisonment for three years; and further shall be dismissed from the employment of the Authority.

- (2) A person who, directly or indirectly, offers to any officer of the Authority any payment or other reward whatsoever, whether pecuniary or otherwise, in order to induce the officer not to perform his or her proper duties commits an offence and is liable on conviction to a fine not exceeding three times any Value Added Tax involved and to imprisonment for three years.
- (3) Any person who for the purposes of this Act or regulations made under this Act, impersonates an officer of the Authority in any way commits an offence and is liable on conviction to a fine of K100,000 and to imprisonment for five years.

53. Protection of officers

An officer of the Authority shall not be liable for any act or omission in respect of any matter or thing done by him or her in good faith in the performance of his or her duties under this Act and regulations made under this Act.

54. Relationship of the Authority and other public services

- (1) The Commissioner General may authorize the provision of any information about the taxes and duties on request of the Commissioner of another Department or Division of the Authority when the information requested will assist the Commissioner seeking the information to fulfill his or her statutory responsibilities; and the information shall be provided without undue delay.
- (2) The Commissioner General may require any officer in the public service or any local authority, other public body, or private institution to supply such particulars as may be required in respect of Value Added Tax and which may be in the possession of that officer or person.
- (3) Every person who under this section is required by the Commissioner General to provide information shall, orally or in writing, as may be required, give all such information as may be required of him or her by the Commissioner General for the purpose of enabling the Commissioner General to make an assessment or to collect Value Added Tax.

55. Taking of samples

- (1) An officer of the Authority may take samples of goods from the possession of any person where he or she considers it necessary to protect revenue against mistake or fraud.
- (2) The officer of the Authority who takes samples under subsection (1) shall provide a receipt for any samples taken, and the samples may, except where there is an offence, be returned to the owner or be disposed of by the Commissioner General with the consent of the owner.

56. Power of inspection and warrants

- (1) For the purpose of exercising any power given by or under this Act, an officer of the Authority may at any reasonable time enter premises used in any way for business purposes, including premises, where taxable goods are stored; and the officer may open any packaging and inspect and take stock of any goods and examine business records (including records stored in or on any computer system), accounts, and correspondence on the premises.
- (2) Where the Commissioner General is satisfied that there are reasonable grounds to suspect that any premises contain taxable goods on which Value Added Tax has been evaded or fraudulently over-claimed, or documents or other evidence of failure to pay Value Added Tax legally due, he or she may authorize an officer to seek a warrant to search the premises and things and persons therein.
- (3) No search of any business premises, persons or things therein shall be made by any officer under this section, except under a warrant issued by a judge or magistrate.

- (4) No person shall, pursuant to subsection (1), be searched by a person of the opposite sex.
- (5) An authorized officer may for the purpose of entering the premises use such reasonable force as may be necessary.
- (6) When exercising his or her powers under this section an authorized officer may remove any goods or documents or other evidence which he or she has reasonable grounds to believe will provide assistance in assessing Value Added Tax due, or have been, or will be, the subject of, or relevant to, the commission of an offence under this Act and regulations made under this Act.
- (7) An officer who exercises powers under subsection (6) shall provide a receipt for anything removed.

57. Power to seal off premises

- (1) The Commissioner General or an officer authorized in writing by the Commissioner General may apply to a court for an order to seal off, lock up, or in any physical manner prevent any person from entering or gaining access to the premises of any person or taxable person who, there are reasonable grounds to believe has not paid Value Added Tax due or has made a false claim for repayment to Value Added Tax.
- (2) In the performance of his or her duties under this section, an officer may seek the assistance of the police.

58. Provision of information

- (1) Where an officer of the Authority has reasonable grounds to believe that an offence has been or will be committed in relation to any supply of goods or services under this Act, the officer may require—
 - (a) any person concerned in whatever capacity in the supply of the goods or services; or
 - (b) any person to whom the supply is made, to provide all records and documents relating to the supply of goods or services.
- (2) Every person or taxable person shall, on request by an officer under subsection (1), provide the information and answer any question.

59. Penalty for unauthorized collection of Value Added Tax

Any person, whether a taxable person or not, who unlawfully charges and collects Value Added Tax on supply of goods or services commits an offence and is liable on conviction to a fine of ten times the amount of the Value Added Tax involved in the commission of the offence and to imprisonment for five years.

60. General penalty

Any person who does any act or makes an omission which constitutes a contravention of any provision of this Act for which no penalty is provided or is concerned in the doing or making of any such act or omission, or who does any such act or makes any such omission with intent to facilitate evasion of Value Added Tax by himself or herself or any person, commits an offence and is liable on conviction to a fine of five times the Value Added Tax or revenue involved in the commission of the offence and to imprisonment for two years.

61. Compounding of offences

- (1) Where any person commits an offence under this Act which amounts to failure to pay Value Added Tax or which results in loss of revenue to the Government, the Commissioner General may at any time before proceedings are commenced in court, compound the offence and order the person to pay a sum of money not exceeding three times the amount of Value Added Tax or revenue involved in the commission of the offence or K100, 000, whichever is the greater.

- (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) shall be—
 - (a) 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) served on the person who committed the offence; and
 - (c) enforced in the same manner as an order of a court for the payment of the amount stated in the order.
- (4) Where the Commissioner General compounds an offence under this section, the person shall not be liable for prosecution in respect of the offence.

[6 of 2007]

[23 of 2011]

Part XIII – Miscellaneous provisions

62. Evidence in proceedings

- (1) A certificate by the Commissioner General that—
 - (a) a person or taxable person was or was not registered on any date by or under this Act; or
 - (b) any return required by or under this Act has not been made or had not been made by any date; or
 - (c) Value Added Tax shown as due in any return or assessment made under this Act has not been paid, shall be sufficient evidence in civil or criminal proceedings of that fact unless the contrary is proved.
- (2) A photocopy of document furnished to the Commissioner General or any other member of the Authority under the requirements of this Act and certified to that effect by the Commissioner General, shall be admissible as evidence in civil or criminal proceedings to the same extent as would the original document.
- (3) A statement or other information contained in a document produced by a computer shall be admissible as evidence in civil or criminal proceedings provided it is certified as correct by the Commissioner General.

63. Regulations

- (1) The Minister may make regulations as he or she considers necessary for the carrying out of the purposes of this Act.
- (2) Without prejudice to the generality of subsection (1), the Minister may make regulations—
 - (a) prescribing anything that is required to be prescribed under this Act;
 - (b) relating to time of supply for such goods and services as may be prescribed in the regulations;
 - (c) relating to the form of return and payment of Value Added Tax;
 - (d) in respect of time and method of claiming refund of tax;
 - (e) in respect of issue of tax invoice and the production to officers;

- (f) for forms to be issued for the purposes of this Act;
- (g) in respect of records to be kept;
- (h) for the apportionment of input tax between taxable and exempt supplies, where applicable;
- (i) for the recovery, where applicable, of any tax paid on goods in stock at the start of business on the effective date of Value Added Tax; and
- (j) for the application of special schemes for the collection of Value Added Tax in specified cases.

64. Directives and other powers of the Commissioner General

- (1) Subject to this Act, the Commissioner General may in writing give such administrative directives as he or she considers necessary for the implementation of the provisions of this Act.
- (2) The Commissioner General may, where he or she considers it necessary for the protection of revenue, in writing request a taxable person to provide such security as the Commissioner General considers adequate.

65. Consequential amendments and savings

- (1) On the date that Value Added Tax becomes chargeable under this Act, the Customs and Excise Act shall be deemed to be amended—
 - (a) in section 2, by deleting the definition of the terms “manufacture”, “registered person”, “supply”, “taxable goods”, “tax period” “taxable person”; “taxable services”, and “turnover”; and
 - (b) by repealing Part XIIIA.
- (2) Notwithstanding the repeal of Part XIIIA of the Customs and Excise Act, repealed under subsection (1), any person liable to register for Value Added Tax under the Customs and Excise Act before the coming into force of this Act shall on the coming into force of this Act be deemed to be liable for registration under this Act.
- (3) Notwithstanding subsection (1), Part XIIIA of the Customs and Excise Act, repealed under subsection (1), shall remain in force for the purpose of—
 - (a) verifying any return filed or required to be filed thereunder;
 - (b) the assessment and recovery of any Value Added Tax or penalty payable thereunder; and
 - (c) prosecuting any offence committed thereunder;
 - (d) processing claims for refunds thereunder.

[Cap. 42:01]

66. Repeal and Savings

- (1) Subject to subsection (2), the Surtax Act is hereby repealed.
- (2) Anything done in accordance with the Surtax Act repealed by subsection (1), prior to the commencement of this Act and which may be done in accordance with the provisions of this Act, shall be deemed to have been done in accordance with this Act.
- (3) Any subsidiary legislation made or deemed to have been made under the Surtax Act, repealed by subsection (1), in force immediately before the commencement of this Act—
 - (a) shall remain in force, unless in conflict with this Act, and shall be deemed to be subsidiary legislation made under this Act;

(b) may be replaced, amended or repealed by subsidiary legislation made under this Act.

[Cap. 42:02]

First Schedule (Section 20)

Exempt Supplies

1. Live Animals

Exemption covers live animals under Customs Tariff Headings 0102.10.00 to 0106.00.00.

2. Animal Products

Exemption covers—

- (a) meat and edible meat offals in raw form under Customs Tariff Headings 0201.10.00 to 0210.90.00;
- (b) fish and crustaceans molluscs and other aquatic invertebrates under Customs Tariff Headings 0301.91.00 to 0307.99.00; and
- (c) dairy produce, birds eggs and natural honey under Customs Tariff Headings 0401.10.00, 0401.20.00, 0401.30.00, 0407.00.10, 0407.00.90, 0409.00.00 and 1901.10.10.

3. Vegetable Products in Raw State

Exemption covers—

- (a) live trees and other plants, bulbs, roots and the like under Customs Tariff Headings 0601.10.00 to 0602.40.00, but excluding cut flowers and ornamental foliage under Customs Tariff Headings 0603.10.00 to 0604.99.00;
- (b) edible vegetables and certain roots and tubers under Customs Tariff Headings 0701.10.00 to 0714.90.00;
- (c) edible fruit and nuts, peel of citrus fruits or melons under Customs Tariff Headings 0801.11.00 to 0805.90.00, 0807.11.00 to 0807.20.00, and 0809.10.00 to 0814.00.00;
- (d) coffee and tea under Customs Tariff Headings 0901.11.00, 0901.12.00, 0902.10.00 and 0902.20.00;
- (e) cereals under Customs Tariff Headings 1001.10.00 to 1008.90.00;
- (f) products of the milling industry, malt starches, inulin and wheat gluten under Customs Tariff Headings 1102.10.00 to 1107.20.00; and
- (g) oil seeds and oleaginous fruit, miscellaneous grains seeds and fruit, industrial or medicinal plants, straw and fodder under Customs Tariff Headings 1201.00.00 to 1214.90.00, but excluding products under Customs Tariff Headings 1208.10.00, 1208.90.00 and 1210.10.00 to 1210.20.00; and
- (h) unmanufactured tobacco refuse of Customs Tariff Heading 24.01.

4. Water

Exemption covers non-mineral or aerated water without additives (tap or well) under Customs Tariff Heading 2201.90.00.

5. Printed Matter—Books and Newspapers:

Exemption covers printed books and newspapers under Customs Tariff Headings 4801.00.00, 4901.10.00, 4901.91.00, 4901.99.00, 4902.10.00 and 4902.90.00.

6. Petroleum Products

Exemption covers petroleum oils under Customs Tariff Headings 2710.00.11 to 2710.00.20 and 2710.00.41 to 2710.00.50.

7. Vehicles other than railway and train way rolling-stock

Exemption covers ambulances under Customs Tariff Heading—8703.90.10.

8. Industrial Machinery and Construction Machinery Exemption covers—

- (a) nuclear reactors; fuel elements (cartridges), non-irradiated, for nuclear reactors; machinery and apparatus for isotopic separation under Customs Tariff Subheadings 8401.10.00, 8401.20.00 and 8401.30.00;
- (b) steam or other vapour generating boilers (other than central heating hot water boilers capable also of producing low pressure steam); super-heated water boilers under Customs Tariff Subheadings 8402.11.00, 8402.12.00, 8402.19.00 and 8402.20.00;
- (c) central heating boilers under Customs Tariff Subheading 8403.10.10;
- (d) auxiliary plant for use with boilers of Heading 84.02 or 84.03 (for example, economizers, super-heaters, soot removers, gas recovers); condensers for steam or other vapour power units under Customs Tariff Subheadings 8404.10.10 and 8404.20.00;
- (e) producer gas or water gas generators, with or without their purifiers; acetylene gas generators and similar water process gas generators, with or without their purifiers under Customs Tariff Subheading 8405.10.10;
- (f) steam turbines and other vapour turbines under Customs Tariff Subheadings 8406.10.00, 8406.81.00 and 8406.82.00;
- (g) hydraulic turbines, water wheels, and regulators therefor under Customs Tariff Subheadings 8410.11.00, 8410.12.00 and 8410.13.00;
- (h) pumps for liquids, whether or not fitted with a measuring device liquid elevators under Customs Tariff Subheadings 8413.20.10, 8413.50.10, 8413.50.20, 8413.60.10, 8413.60.20, 8413.70.10, 8413.81.20 and 8413.82.20;
- (i) air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters under Customs Tariff Subheadings 8414.10.10, 8414.30.10 and 8414.40.00;
- (j) furnace burners for liquid fuel, for pulverised solid fuel or for gas; mechanical stokers, including their mechanical grates, mechanical ash dischargers and similar appliances under Customs Tariff Subheadings 8416.10.00, 8416.20.00 and 8416.30.00;
- (k) industrial or laboratory furnaces and ovens, including incinerators, non-electric under Customs Tariff Subheadings 8417.10.00, 8417.20.00 and 8417.80.00;
- (l) machinery, plant or laboratory equipment, whether or not electrically heated (excluding furnaces, ovens and other equipment of Heading 85.14), for the treatment of materials by a process involving a change of temperature such as heating, cooking, roasting, distilling, rectifying, sterilising, pasteurising, steaming, drying, evaporating, vaporising, condensing or cooling, other than machinery or plant of a kind used for domestic purposes, instantaneous or storage water heaters, non-electric under Customs Tariff Subheadings 8419.31.00, 8419.32.00, 8419.39.00, 8419.40.00, 8419.50.00, 8419.60.00, 8419.81.00, 8419.89.00 and 8420.10.00;
- (m) centrifuges, including centrifugal dryers; filtering or purifying machinery and apparatus, for liquids or gases under Customs Tariff Subheadings 8421.11.10, 8421.12.10, 8421.19.10, 8421.21.10 and 8421.22.10;
- (n) dish washing machines, machinery for cleaning or drying bottles or other containers; machinery for filling, closing, sealing or labelling bottles; cans, boxes, bags or other containers, machinery for capsuling bottles, jars, tubes and similar containers; other packing or wrapping machinery (including heat-shrink wrapping machinery); machinery for aerating beverages under Customs Tariff Subheadings 8422.20.90, 8422.30.00 and 8422.40.00;

- (o) ships' derricks; cranes, including cable cranes; mobile lifting frames, straddle carriers and works trucks fitted with a crane under Customs Tariff Subheadings 8426.11.00, 8426.12.00, 8426.19.00, 8426.20.00, 8426.30.00, 8426.49.00, 8426.91.00 and 8426.99.00;
- (p) fork-lift trucks; other works trucks fitted with lifting or handling equipment under Customs Tariff Subheadings 8427.10.00, 8427.20.00 and 8427.90.00;
 - (pa) exemption covers other lifting, handling, loading, or unloading machinery (such as lifts, escalators, conveyors, teleferics) under Customs Tariff Headings 8428.10.00, 8428.20.00, 8428.31.00, 8428.32.00, 8428.33.00, 8428.39.00, 8428.40.00, 8428.60.00, 8428.90.00;
 - (pb) exemption covers self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers under Customs Tariff Heading 8429.19.00;
- (q) self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers under Customs Tariff Subheadings 8429.11.00, 8429.20.00, 8429.30.00, 8429.40.00, 8429.51.00, 8429.52.00 and 8429.59.00;
- (r) other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers under Customs Tariff Subheadings 8430.10.00, 8430.20.00, 8430.31.00, 8430.39.00, 8430.41.00, 8430.49.00, 8430.50.00, 8430.61.00 and 8430.69.00;
- (s) milking machines and dairy machinery under Customs Tariff Subheadings 8434.10.00 and 8434.20.00;
- (t) presses, crushers and similar machinery used in the manufacture of wine, cider, fruit juices or similar beverages under Customs Tariff Subheading 8435.10.00;
- (u) other agricultural, horticultural, forestry, poultry-keeping or bee-keeping machinery, including germination plant fitted with mechanical or thermal equipment; poultry incubators and brooders under Customs Tariff Subheadings 8436.10.00, 8436.21.00 and 8436.29.00;
- (v) machines for cleaning, sorting or grading seed, grain or dried leguminous vegetables; machinery used in the milling industry or for the working of cereals or dried leguminous vegetables, other than farm-type machinery under Customs Tariff Subheadings 8437.10.00 and 8437.80.00;
- (w) machinery, not specified or included elsewhere in the Chapter, for the industrial preparation or manufacture of food or drink, other than machinery for the extraction or preparation of animal or fixed vegetable fats or oils under Customs Tariff Subheadings 8438.10.00, 8438.20.00, 8438.30.00, 8438.40.00, 8438.50.00, 8438.60.00 and 8438.80.00;
- (x) machinery for making pulp of fibrous cellulosic material or for making or finishing paper or paperboard under Customs Tariff Subheadings 8439.10.00, 8439.20.00 and 8439.30.00;
- (y) book-binding machinery, including book-sewing machines under Customs Tariff Subheading 8440.10.00;
- (z) other machinery for making up paper pulp, paper or paperboard, including cutting machines of all kinds under Customs Tariff Subheadings 8441.10.00, 8441.20.00, 8441.30.00, 8441.40.00 and 8441.80.00;
- (aa) machinery, apparatus and equipment (other than the machine-tool of Headings 84.56 to 84.65), for preparing or making plates, cylinders and other printing components, plates, cylinders and other printing components, plates, cylinders and lithographic stones, prepared for printing purposes (for example, planed, grained or polished) under Customs Tariff Subheadings 8442.30.00 and 8442.50.00;
- (bb) printing machinery used for printing by means of plates cylinders and other printing components of Heading 84.42, other printers, copying machines and facsimile machines, whether or not

- combined, parts and accessories thereof under Customs Tariff Subheadings 8443.11.00, 8443.12.00, 8443.13.00, 8443.14.00, 8443.15.00, 8443.16.00, 8443.17.00 and 8443.19.00;
- (cc) machines for extruding, drawing, texturing or cutting man-made textile materials under Customs Tariff Subheading 8444.00.00;
- (dd) machines for preparing textile fibres; spinning, doubling or twisting machines and other machinery for producing textile yarns; textile reeling or winding (including weft-winding) machines and machines for preparing textile yarns for use on the machines of Heading 84.46 or 84.47 under Customs Tariff Subheadings 8445.11.00, 8445.12.00, 8445.13.00, 8445.19.00, 8445.20.00, 8445.30.00, 8445.40.00 and 8445.90.00;
- (ee) weaving machines (looms) under Customs Tariff Subheadings 8446.10.00, 8446.21.00, 8446.29.00 and 8446.30.00;
- (ff) knitting machines, stitch-bonding machines and machines for making gimped yarn, tulle, lace, embroidery, trimmings, braid or net and machines for tufting under Customs Tariff Subheadings 8447.11.00, 8447.12.00, 8447.20.00 and 8447.90.00;
- (gg) auxiliary machinery for use with machines of Heading 84.44, 84.45, 84.46 or 84.47 (for example, dobbies, Jacquards, automatic stop motions, shuttle changing mechanisms), parts and accessories suitable for use solely or principally with the machines of this Heading or of Headings 84.44, 84.45, 84.46 or 84.47 (for example, pindles and spindle flyers, card clothing, combs, extruding nipples, shuttles, healds and heald-frames, hosiery needles) under Customs Tariff Subheadings 8448.11.00 and 8448.19.00;
- (hh) machinery for the manufacture or finishing of felt or non-wovens in the piece or shapes, including machinery for making felt hats; blocks for making hats under Customs Tariff Subheading 8449.00.00;
- (ii) machinery for preparing, tanning or working hides, skins or leather or for making or repairing footwear or other articles of hides, skins or leather, other than sewing machines under Customs Tariff Subheadings 8453.10.00, 8453.20.00 and 8453.80.00;
- (jj) converters, ladles, ingot moulds and casting machines, of a kind used in metallurgy or in metal foundries under Customs Tariff Subheadings 8454.10.00, 8454.20.00 and 8454.30.00;
- (kk) metal-rolling mills and rolls therefor under Customs Tariff Subheadings 8455.10.00, 8455.21.00, 8455.22.00 and 8455.30.00;
- (ll) machine-tools for working any materials by removal of material, by laser or other light or photon beam, ultrasonic, electro-discharge, electrochemical, electron beam, ionic-beam or plasma are processes under Customs Tariff Subheadings 8456.10.00, 8456.20.00, 8456.30.00 and 8456.90.00;
- (mm) machining centres, unit construction machines (single station) and multi-station transfer machines, for working metal under Customs Tariff Subheadings 8457.10.00, 8457.20.00 and 8457.30.00;
- (nn) lathes (including turning centres) for removing metal under Customs Tariff Subheadings 8458.11.00, 8458.19.00, 8458.91.00 and 8458.99.00;
- (oo) machine-tools (including way-type unit head machines) for drilling, boring, milling, threading or tapping by removing metal, other than lathes (including turning centres) of Heading 84.58 under Customs Tariff Subheadings 8459.10.00, 8459.21.00, 8459.29.00, 8459.31.00, 8459.39.00, 8459.40.00, 8459.51.00, 8459.59.00, 8459.61.00, 8459.69.00 and 8459.70.00;
- (pp) machine-tools for deburring, sharpening, grinding, honing, lapping, polishing or otherwise finishing metal or cermets by means of grinding stones, abrasives or polishing products, other than gear cutting, gear grinding or gear finishing machines of Heading 84.61 under Customs Tariff Subheadings 8460.11.00, 8460.19.00, 8460.21.00, 8460.31.00, 8460.39.00, 8460.40.00 and 8460.90.00;

- (qq) machine-tools for planing, shaping, slotting, broaching, gear cutting, gear grinding or gear finishing, sawing, cutting-off and other machine tools working by removing metal or cermets, not elsewhere specified or included under Customs Tariff Subheadings 8461.20.00, 8461.30.00, 8461.40.00, 8461.50.00 and 8461.90.00;
- (rr) machine-tools (including presses) for working metal by forging, hammering or die-stamping; machine-tools (including presses) for working metal by bending, folding, straightening, flattening, shearing, punching or notching; presses for working metal or metal carbides, not specified above under Customs Tariff Subheadings 8462.10.00, 8462.21.00, 8462.29.00, 8462.31.00, 8462.39.00, 8462.41.00, 8462.49.00, 8462.91.00 and 8462.99.00;
- (ss) other machine-tools for working metal or cermets, without removing material under Customs Tariff Subheadings 8463.10.00, 8463.20.00, 8463.30.00 and 8463.90.00;
- (tt) machine-tools for working stone, ceramics, concrete, asbestos-cement or like mineral materials or for cold working glass under Customs Tariff Subheadings 8464.10.00, 8464.20.00 and 8464.90.00;
- (uu) machine-tools (including machines for nailing, stapling, glueing or otherwise assembling) for working wood, cork, bone, hard rubber, hard plastics or similar hard materials under Customs Tariff Subheadings 8465.10.00, 8465.91.00, 8465.92.00, 8465.93.00, 8465.94.00, 8465.95.00, 8465.96.00 and 8465.99.00;
- (vv) machinery for sorting, screening, separating, washing, crushing, grinding, mixing or kneading earth, stone, ores or other mineral substances, in solid (including powder or paste) form; machinery for agglomerating, shaping or moulding solid mineral fuels, ceramic paste, unhardened cements, plastering materials or other mineral products in powder or paste form; machines for forming foundry moulds of sand under Customs Tariff Subheadings 8474.10.00, 8474.20.00, 8474.31.00, 8474.32.00, 8474.39.00 and 8474.80.00;
- (ww) machines for assembling electric or electronic lamps, tubes or valves or flashbulbs, in glass envelopes; machines for manufacturing or hot working glass or glassware under Customs Tariff Subheadings 8475.10.00, 8475.21.00 and 8475.29.00;
- (xx) machinery for working rubber or plastics or for the manufacture of products from these materials, not specified or included elsewhere in this Chapter under Customs Tariff Subheadings 8477.10.00, 8477.20.00, 8477.30.00, 8477.40.00, 8477.51.00, 8477.59.00 and 8477.80.00;
- (yy) machinery for preparing or making up tobacco, not specified or included elsewhere in this Chapter under Customs Tariff Subheading 8478.10.00;
- (zz) machines and mechanical appliances having individual functions, not specified or included elsewhere in this Chapter under Customs Tariff Subheadings 8479.10.00, 8479.20.00, 8479.30.00, 8479.40.00, 8479.50.00, 8479.60.00, 8479.81.00, 8479.82.00, 8479.89.10 and 8479.89.70;
- (aaa) moulding boxes for metal foundry; mould bases; moulding patterns; moulds for metal (other than ingot moulds), metal carbides, glass, mineral materials, rubber or plastics under Customs Tariff Subheadings 8480.10.00, 8480.20.00, 8480.30.00, 8480.41.00, 8480.49.00, 8480.50.00, 8480.60.00, 8480.71.00 and 8480.79.00;
- (bbb) machines and apparatus of a kind used solely or principally for the manufacture of semiconductor boules or wafers, semiconductor devices, electronic integrated circuits or flat panel display machines and apparatus and specified in NOTE 9 (C) to this Chapter, parts and accessories under Customs Tariff Subheadings 8486.10.00, 8486.20.00, 8486.30.00 and 8486.40.00;
- (ccc) industrial or laboratory electric furnaces and ovens (including those functioning by induction or dielectric loss); other industrial or laboratory equipment for the heat treatment of materials by induction or dielectric loss under Customs Tariff Subheadings 8514.10.00, 8514.20.00, 8514.30.00 and, 8514.40.00.

9. Ordinary Bread and Other

Exemption covers bread under Customs Tariff Subheadings 1905.90.10 and 1905.90.90.

10. Coin

Exemption covers “Other coins” under Customs Tariff Heading 7118.90.00.

11. *[deleted by 20 of 2013]*12. *[deleted by 23 of 2011]*

13. Medical Equipment

Exemption covers optical, photographic, cinematographic, measuring, checking instruments and apparatus under Customs Tariff Headings 9001.10.00 to 9001.40.90, 9001.50.10, 9001.90.10 to 9001.90.20, 9002.19.10, 9004.90.10 and 9018.11.00 to 9023.00.00.

14. Educational Services

15. Banking and Life Insurance Services

16. Postal Services

17. Funeral Services

Exemption includes provision of vehicles, coffins, wreaths and tombstones.

18. Medical Services

Syringes with or without needles under Customs Tariff Heading—9018.31.00.

19. Transport of Exports

20. Rentals and sale of properties used for residential purposes

21. *[deleted by 23 of 2011]*22. *[deleted by 23 of 2011]*

23. Betting and gaming including lotteries

24. Rail locomotives and parts

Exemption covers rail locomotives and parts thereof under Chapter 86 of Customs and Excise (Tariffs) Order.

25. Medical surgical or laboratory sterilizers

Exemption covers medical, surgical or laboratory sterilizers under Customs Tariff Heading 8419.20.00.

26. *[deleted by 23 of 2011]*

[11 of 2006]

[10 of 2008]

[15 of 2009]

[23 of 2011]

[7 of 2012]

[18 of 2012]

[20 of 2013]

Second schedule (Section 21)**Zero-rated supplies**

1. Export of goods and services

2. Goods shipped as stores on aircraft and vessels leaving the territory of Malawi.

3. Fertilizers

Zero rating covers fertilizers under Customs Tariff Headings 3101. 00. 00 to 3105. 90. 00.

4. Sheath Contraceptives (Condoms)

Zero rating covers condoms under Customs Tariff Heading 4014.10.00.

5. Exercise Books

Zero-rating covers exercise books under Customs Tariff Subheading 4820.20.00.

6. Laundry Soap

Zero-rating covers laundry soap under Customs Tariff Subheading 3401.19.00.

7. Salt

Zero-rating covers salt under Customs Sub-heading 2501.00.00.

8. Motor Vehicles for transport of goods

(a) zero-rating covers motor vehicles under Customs Tariff Headings—

8704.22.90_GVW > 15 tonnes > 20 tonnes

8704.23.00_GVW > 20 tonnes

8704.32.30_GVW > 15 tonnes > 20 tonnes

8704.32.90_GVW > 20 tonnes

(b) zero-rating covers trailers, semi trailers under Customs Tariff Heading—

8716.31.30_GVW > 15 tonnes.

9. Zero-rating covers special purpose motor vehicles, other than those principally designed for the transport of persons or goods under Customs Tariff Headings 8705.10.00, 8705.20.00, and 8705.40.00.

10. Pharmaceutical Products

Zero-rating covers pharmaceutical products of Customs Tariff Subheadings 3001.10.00 to 3006.60.00.

11. Buses

Zero-rating covers buses with seating capacity of forty-five or more persons, including driver under Customs Tariff Subheadings 8702. 10. 30 and 8702.90.30.

[6 of 2007]

12. Military Equipment

Zero-rating covers military equipment including vehicles, armoured vehicles, uniforms and appointments for air force, military or naval personnel for use of the Malawi Defence Force, Malawi Police Service, Prisons and Immigration as specified in Customs Procedure Codes 4000.421 and 4071.421.

13. Building Materials for Factories and Warehouses

Zero-rating covers building materials for construction of factories and adjoining warehouses as specified in Customs Procedure Codes 4000.425 and 4071.425.

14. Goods for use in Tourism Industry

Zero-rating covers goods for use in the tourism industry as specified in Customs Procedure Codes 4000.442 and 4071.442 including the following—

- (a) building materials, industrial catering equipment, motor boats, scuba diving, jet skis, kayaks, wind surfers, pedallos and marked linen: and
- (b) glass, china porcelain, earthenware and stone articles of tableware; enamelware and hollowware for table use, electro plated nickel-silver and plated ware, knives, forks, spoons and similar articles for cutlery.
- (c) hotels, inns and lodges gym equipment, massage equipment, saunabaths, industrial washing machines, generators, bar refrigerators and air conditioners.
- (d) furniture and furnishings, public address systems, video conferencing equipment; television screens, amplifiers, LCD equipment, for use in hotels with room capacity of not less than 50 under Customs Procedure Code 4000.442 or 4071.442.

15. Miscellaneous Chemical Products

Zero-rating covers insecticides, fungicides and herbicides under Customs Tariff Subheadings 3008.50.00, 3808.91.00, 3808.92.00 and 3808.93.00.

16. Cycle Ambulances

Zero-rating covers cycle ambulances under Customs Tariff Subheading 8712.00.11.

17. Motorcycle Ambulances

Zero-rating covers motorcycle ambulances under Customs Tariff Subheadings 8711.10.10, 8711.20.01, 8711.30.01, 8711.40.01 and 8711.50.01.

18. Syringes with or without needles under customs tariff headings 9018.31.00.

19. *[deleted by 23 of 2011]*

20. *[deleted by 23 of 2011]*

21. *[deleted by 23 of 2011]*

22. *[deleted by 23 of 2011]*

23. *[deleted by 23 of 2011]*

24. *[deleted by 23 of 2011]*

25. Mosquito and sandfly nets

Zero-rating covers mosquito and sandfly nets under Customs Tariff Headings 6304. 91. 10, 6304. 92. 10, 6304. 93. 10 and 6304. 99. 10.

26. *[deleted by 23 of 2011]*

27. *[deleted by 23 of 2011]*

28. *[deleted by 23 of 2011]*

[11 of 2006]

[6 of 2007]

[10 of 2008]

[15 of 2009]

[23 of 2011]

[20 of 2013]

Third schedule (Section 23)

Relief supplies

1. Goods and services for official use of—
 - (a) the President of the Republic of Malawi; and
 - (b) the Vice-President of the Republic of Malawi.
2. Goods and services supplied to the organizations other than the Government of Malawi, individual and businesses covered under section XXII of the Customs and Excise (Tariffs) Order.
3. Goods and services for use of diplomatic staff in terms of the Immunities and Privileges Act.
4. Goods for use of International Agencies or Technical Assistance Schemes where the terms of the Agreement made with the Malawi Government include exemption from taxes.
5. Goods specified under Customs Procedure Code C403 of the Customs and Excise (Tariffs) Order.
6. Raw materials, as approved under Customs Procedure Code (CPC) 401, for the manufacturing of fertilizer, medicaments and pharmaceuticals.

[10 of 2008]

[15 of 2009]

[23 of 2011]

[12 of 2014]