

Commonwealth of New Vatopia

Value Added Tax Act

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Bill for an act to provide for the imposition and collection of value added tax.

Be it enacted by the Parliament of Vatiopia as follows:

PART I -- Preliminary

Short title and commencement

1. This Act may be cited as the Value Added Tax Act and shall come into operation on the date that the Minister may by Order prescribe.

Interpretation

2. In this Act, unless the context requires otherwise -
“association not for gain” means an institution of religious worship; or a society, association, or organization, whether incorporated or not, which -
 - (a) is carried on otherwise than for the purposes of profit or gain to any proprietor, member, or shareholder; and
 - (b) is, in terms of its memorandum, articles of association, written rules, or other document constituting or governing its activities -
 - (i) required to utilise any assets or income solely in the furtherance of its aims and objects; and
 - (ii) prohibited from transferring any portion of its assets or income directly or indirectly so as to profit any person other than by way of (1) the provision of charitable assistance, or (2) the payment in good faith of reasonable remuneration to any of its officers or employees for any services actually rendered to it; and
 - (iii) upon its winding-up or liquidation, obliged to give or transfer its assets remaining after the satisfaction of its liabilities to another society, association or organization with similar objects;

“auctioneer” means a person engaged in a taxable activity that includes the supply of goods by auction as an auctioneer or agent for or on behalf of another person;

“business” means any profession, trade, venture or undertaking and includes the provision of personal services or technical and managerial skills and any adventure or concern in the nature of trade but does not include the provision of services as an employee;

“capital goods” means an asset, or a component of an asset, which is of a character subject to an allowance for depreciation or comparable deduction for income tax purposes, and which is used in the course or furtherance of a taxable activity;

“cash value”, in relation to a supply of goods under a credit agreement, means-
- (a) where the seller or lessor is a bank or other financial institution, an amount equal to the sum of -
 - (i) the consideration paid by the bank or other financial institution for the goods or the fair market value of the supply of the goods to the bank or other financial institution, whichever is the greater; and
 - (ii) any consideration for erection, construction, assembly, or installation of the goods borne by the bank or other financial institution; or
- (b) where the seller or lessor is a dealer, an amount equal to the sum of
 - (i) the consideration at which the goods are normally sold by the dealer for cash; and
 - (ii) any consideration for erection, construction, assembly, or installation of the goods borne by the dealer;
- “Commissioner” means the Commissioner of Value Added Tax;

“company” means an association or body corporate or unincorporate, whether created or recognised under a law in force in Vatopia or elsewhere, and whether created for profit or non-profit purposes, but does not include a partnership or trust;

"consideration", in relation to a supply or import of goods or services, means the total amount in money or kind paid or payable (including a deposit on a returnable container) for the supply or import by any person, directly or indirectly, including any duties, levies, fees, and charges (other than VAT) paid or payable on, or by reason of, the supply or import, reduced by any price discounts or rebates allowed and accounted for at the time of the supply or import, but does not include:

- (a) a cash payment made by any person as an unconditional gift to an association not for gain; or
- (b) a deposit (other than a deposit on a returnable container), whether refundable or not, given in connection with a supply of goods or services unless and until the supplier applies the deposit as consideration for the supply or such deposit is forfeited;

“credit agreement” means a hire-purchase agreement or a finance lease;

“exempt import” has the meaning in section 17;

“exempt supply” means a supply of goods or services to which section 16 applies;

“fair market value” has the meaning in section 3;

"finance lease", in relation to goods, means a lease of goods where –

- (a) the lease term exceeds seventy-five percent of the expected life of the goods; or
- (b) the lease provides for transfer of ownership at the end of the lease term or the lessee has an option to purchase the goods for a fixed or determinable price at the expiration of the lease; or
- (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 percent of its fair market value at the commencement of the lease; or
- (d) the leased goods are custom-made for the lessee and at the end of the lease term will not be usable by anyone other than the lessee;

“game of chance” includes a raffle or lottery, or gaming by playing table games or gaming machines;

“goods” means all kinds of corporeal movable or immovable property,¹ thermal or electrical energy, heat, gas, refrigeration, air conditioning, and water, but does not include money;

"hire-purchase agreement" means an agreement that is a hire-purchase agreement for the purposes of the [Hire Purchase Act];²

“immovable property” includes -

- (a) any estate, right, interest, or servitude on or over any land, and things attached to land or permanently fastened to anything attached to land; or
- (b) any real right in any such property;

“import” means -

- (a) in the case of goods, to bring or cause to be brought into Vatopia; or
- (b) in the case of services, a supply of services to a resident -
 - (i) by a non-resident; or
 - (ii) by a resident from a business carried on by the resident outside Vatopia, to the extent that such services are utilised or consumed in Vatopia, other than to make taxable supplies;

“import declaration” means the declaration documents required for the entry of goods into

¹ In some countries, corporeal movable or immovable property is referred to as real or tangible personal property.

² Alternatively, a hire-purchase agreement can be defined in the Act, such as the following:

“hire-purchase agreement” means a transaction taking the form of a lease and intended to transfer ownership of goods at the end of a specified term under which the periodic payments are credited against the purchase price, but the ownership of goods remains with the seller (or financial institution acting as seller) until the purchase price has been paid;

Vatopia:

"importer", in relation to an import of goods, includes the person who owns the goods, or any other person for the time being possessed of or beneficially interested in the goods;³

"input tax" means VAT paid or payable in respect of a taxable supply to, or an import of goods by, a taxable person;

"invoice" means a document notifying an obligation to make a payment;

"local authority" means [a political subdivision of government, including a city, a town, township, or a district and, where appropriate, a village and town council];

"Minister" means the Minister responsible for Finance;

"money" means –

- (a) a coin or paper currency recognized in Vatopia as legal tender; or
- (b) a coin or paper currency of a foreign country that is used or circulated as currency; or
- (c) a bill of exchange, promissory note, bank draft, postal order, money order, or similar instrument,

other than an item of numismatic interest;

"non-resident" means a person who is not a resident and a person referred to in paragraph (d) of the definition of "resident" to the extent that the person is not a resident;

"output tax", in relation to a taxable person, means the tax charged under section 9(1)(a) on a taxable supply made by the person;

"person" includes the State, a local authority, board, natural person, trust, company, and partnership;

"promoter of public entertainment" means a person who arranges the staging of public entertainment, but does not include entertainment organized by:

- (a) an approved educational institution; or
- (b) the board of management or a parent teacher association of an approved educational institution; or
- (c) a person who provides entertainment on a daily or weekly basis; or
- (d) a church registered under [Act];

"public entertainment" means any musical entertainment, sporting event, theatrical performance, comedy show, dance performance, circus show, any show connected with a festival, or any similar show to which the public is invited;

"recipient", in relation to a supply or import, means the person to whom the supply or import is made or in the case of an import of goods, for whom the goods are intended;

"related persons" means -

- (a) a natural person and a relative of that natural person; or
- (b) a trust and a person who is or may be a beneficiary in respect of that trust or whose relative is or may be a beneficiary; or
- (c) a partnership or company (other than a stock company) and a member thereof who, together with shares or other membership interests held by persons who are related to such member under another clause of this definition, owns 25 percent or more of the rights to income or capital of the partnership or company; or
- (d) a shareholder in a stock company and the stock company if the shareholder, together with shares held by persons who are related to such shareholder under another clause of this definition -
 - (i) controls 25 percent or more of the voting power in the stock company; or
 - (ii) owns 25 percent or more of the rights to dividends or of the rights to capital;or
- (e) two companies, if a person, either alone or together with a person or persons who are related to such person under another clause of this definition,
 - (i) controls 25 percent or more of the voting power in both companies; or
 - (ii) owns 25 percent or more of the rights to dividends or of the rights to capital in both companies;

³ Alternatively, the definition of importer under the Customs Act can be incorporated in the VAT Act.

- (e) a taxable person and a branch or division of that taxable person which is separately registered under section 56(3) as a taxable person; or
- (f) any branches or divisions of a taxable person which are separately registered under section 56(3) as taxable persons;

and, for purposes of clauses (c), (d), and (e) of this definition, a person is treated as owning, on a pro rata basis, shares or other membership interests which are owned or controlled by such person indirectly through one or more interposed persons;

“relative”, in relation to a natural person, means -

- (a) the spouse of the person; or
- (b) an ancestor, lineal descendant of the person’s grandparents, stepfather, stepmother, or stepchild; or,
- (c) a spouse of a person referred to in paragraph (b),

and for the purposes of this definition, an adopted child is treated as a natural child of the adopter;

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

“resident” means -

- (a) the State or a local authority in Vatopia; or
- (b) a natural person resident in Vatopia; or
- (c) a company, partnership, board, or trust which is formed or created under the laws of Vatopia or which is managed and controlled in Vatopia; or
- (d) any other person to the extent that such person carries on in Vatopia a taxable or other activity and has a fixed place in Vatopia relating to such activity;

“sale” means an agreement of purchase and sale, and any other transaction or act whereby ownership of goods passes or is to pass from one person to another;

“second-hand goods” means goods which were previously owned and used when acquired, including immovable property, but not including livestock.

"services" means anything that is not goods or money;

“State” means Vatopia or the Republic of Vatopia;

“supplier”, in relation to a supply, means the person making the supply;

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

“tax” or “value added tax” (VAT) means the tax imposed under this Act, and includes any amount to the extent that it is treated as tax for the purposes of this Act;

“taxable activity” has the meaning assigned to it under section 5;

“taxable person” has the meaning assigned to it under section 6;

“taxable supply” means a supply of goods or services in Vatopia in the course or furtherance of a taxable activity, other than an exempt supply;

"taxation officer" means the Commissioner and any other person in the service of the Government who is appointed to an office in the [VAT Department], or is acting on behalf of the Commissioner;

“tax fraction” means the fraction calculated in accordance with the formula-

$$R/(1 + R)$$

where “R” is the rate of VAT (expressed as a percentage) applicable to the taxable supply;

“tax invoice” means a document provided as specified under section 32(1);

“tax period”, has the meaning assigned to it under section 23;

“trust” means a relationship where property is under the control or management of a trustee;

“trustee” means a person appointed or constituted trustee by act of parties, by order or declaration of a court, or by operation of law, and includes a person having or taking upon himself the administration or control of property subject to a trust;

“value of an import” has the meaning assigned to it in section 14; and

“value of a supply” as the meaning assigned to it in section 13.

Meaning of “fair market value”

- 3. (1) In this section -

- “similar import”, in relation to an import of goods or services, means any other import of goods or services that, in respect of the characteristics, quality, quantity, functional components, materials, and reputation of the first-mentioned goods or services, is the same as, or closely or substantially resembles, that import of goods or services; and “similar supply”, in relation to a supply of goods or services, means any other supply of goods or services that, in respect of the characteristics, quality, quantity, functional components, materials, and reputation of the first-mentioned goods or services, is the same as, or closely or substantially resembles, that supply of goods or services.
- (2) For the purposes of this Act, the fair market value of a supply or import of goods or services at a given date is the consideration in money which the supply or import, as the case may be, would generally fetch if supplied or imported in similar circumstances at that date in Vatopia, being a supply or import freely offered and made between persons who are not related persons.
 - (3) Where the fair market value of a supply or import of goods or services at a given date cannot be determined under subsection (2), the fair market value is the consideration in money which a similar supply or similar import, as the case may be, would generally fetch if supplied or imported in similar circumstances at that date in Vatopia, being a supply or import freely offered and made between persons who are not related persons.
 - (4) Where the fair market value of any supply or import of goods or services cannot be determined under subsection (2) or (3), the fair market value is determined in accordance with any method approved by the Commissioner which provides a sufficiently objective approximation of the consideration in money which could be obtained for that supply or import had the supply or import been freely offered and made between persons who are not related persons.
 - (5) The fair market value of a supply or import is determined at the time of the supply or import as determined under this Act.

Meaning of “supply”

4. (1) Subject to this Act -
 - (a) a supply of goods means -
 - (i) a sale of goods; or
 - (ii) a grant of the use or right to use goods, whether with or without a driver, pilot, crew, or operator, under a rental agreement, credit agreement, freight contract, agreement for charter, or other agreement under which such use or right to use is granted; or
 - (iii) a transfer or provision of thermal or electrical energy, heat, gas, refrigeration, air conditioning, or water; and
 - (b) a supply of services means anything done which is not a supply of goods or money, including -
 - (i) the granting, assignment, cessation, or surrender of a right; or
 - (ii) making available a facility or advantage; or
 - (iii) refraining from or tolerating an activity.
- (2) The disposition of a taxable activity as a going concern, or a part of a taxable activity that is capable of separate operation, is a supply of goods made in the course or furtherance of such taxable activity.
- (3) For the purposes of subsection (2), a taxable activity or a part of a taxable activity capable of separate operation is disposed of as a going concern where –
 - (a) all the goods and services necessary for the continued operation of that taxable activity or that part of a taxable activity are supplied to the transferee; and
 - (b) the transferor carries on, or is carrying on, that taxable activity or that part of a taxable activity up to the time of its transfer to the transferee.
- (4) A supply of goods for goods or services is a supply of goods.

- (5) A supply of services for goods or services is a supply of services.
- (6) Subject to subsections (17) and (21), the application by a taxable person of goods or services acquired for use in a taxable activity to a different use, including the provision of goods or services to an employee for personal use, is a supply of those goods or services by the taxable person in the course or furtherance of that taxable activity.
- (7) Where goods are repossessed under a credit agreement, the repossession is a supply of the goods by the debtor under the credit agreement to the person exercising the right of repossession, and where such debtor is a registered person the supply is made in the course or furtherance of the debtor's taxable activity unless such goods did not form part of the assets held or used by the debtor in connection with that activity.
- (8) Where a lay-by agreement is cancelled or terminates and the seller retains an amount paid by the purchaser or recovers an amount the purchaser owes under the agreement, the cancellation or termination is a supply of services by the seller in respect of the agreement.
- (9) The placing of a bet by a person with another person operating a game of chance is a supply of services by the person operating the game of chance to the first-mentioned person.
- (10) A supply of services incidental to a supply of goods is part of the supply of goods.
- (11) A supply of goods incidental to a supply of services is part of the supply of services.
- (12) A supply or import of services incidental to an import of goods is part of the import of goods.
- (13) Regulations made under section 87 may provide that a supply of goods and services is a supply of goods or a supply of services.
- (14) Where a supply consists both of a supply that is charged with tax at a positive rate and --
 - (a) a supply charged with tax at a zero rate; or
 - (b) an exempt supply,
 each part of the supply is treated as a separate supply if reasonably capable of being supplied separately.
- (15) A supply of services by an employee to an employer by reason of employment is not a supply.
- (16) The provision of goods on consignment and the transfer of goods to a person acting in a representative capacity to the transferor is not a supply.
- (17) Where a taxable person supplies goods or services and a deduction for input tax paid on the acquisition of such goods or services was denied, the supply by the taxable person is a supply of goods or services otherwise than in the course or furtherance of a taxable activity.
- (18) Where a supply described in subsection (2) was charged with tax at the rate of zero percent in terms of paragraph 2 (o) of Schedule I, the acquisition of the taxable activity is a supply by the recipient in the course or furtherance of a tax-able activity carried on by the recipient to the extent that the goods and services comprising the taxable activity were acquired for a purpose other than consumption, use, or supply in the course of making taxable supplies, unless this purpose relates to less than 10 percent of the total taxable activity.
- (19) Where a right to receive goods or services for a monetary value stated on a token, voucher, gift certificate, or stamp, other than a postage stamp authorized under [the Post Office Act], is granted for a consideration in money, the issue of such token, voucher, gift certificate, or stamp is not a supply, except to the extent (if any) that such consideration exceeds that monetary value.
- (20) Subsection (19) does not apply to a phone card, prepayment on a cellular phone, or a similar scheme of advance payment for the rendering of services.
- (21) A person whose registration is cancelled under section 22 is deemed to have made a taxable supply in Vatopia of any goods or services on hand, at the date the

registration is cancelled, but only if an input tax deduction was claimed with respect to the goods or services.

- (22) Notwithstanding subsection (10), a supply of immovable property does not include the supply of services incidental to that supply.
- (23) For a supply by an agent or at auction, see section 86.

Taxable activity

- 5. (1) For the purposes of this Act, “taxable activity” means an activity which is carried on continuously or regularly by a person -
 - (a) in Vatopia,
 - (b) or partly in Vatopia,whether or not for profit, that involves or is intended to involve, in whole or in part, the supply of taxable goods or services to any other person for consideration.
- (2) Taxable activity⁴ does not include -
 - (a) an activity carried on by a natural person essentially as a private recreational pursuit or hobby or an activity carried on by a person other than a natural person which would, if carried on by a natural person, be carried on essentially as a private recreational pursuit or hobby; or
 - (b) an activity to the extent that the activity involves the making of exempt supplies.
- (3) Anything done in connection with the commencement or termination of a taxable activity is treated as carried out in the course or furtherance of that taxable activity.
- (4) Subject to subsection (5), a supply is made for consideration if the supplier directly or indirectly receives a payment for the supply from the recipient or any other person, including a payment wholly or partly in money or kind.
- (5) A supply made for consideration includes —
 - (a) a supply made between related persons for no consideration; or
 - (b) a supply of goods for use only as trade samples; or
 - (c) a supply referred to in section 4(6) or (16).
- (6) Taxable activity includes a supply of public entertainment.

Meaning of “taxable person”

- 6. (1) A taxable person is a person who is registered or is required to register under section 20.
- (2) For purposes of subsection (1), a person is a taxable person –
 - (a) for a person required to register under section 20(1), 20(6), 20(7), or 20(8), from the date specified for that person under section 21(5)(a) and (b); and
 - (b) for a person who applies for registration under section 20(5) and is registered under section 21(2), from the date specified under section 21(5)(c).

PART II - Administration

Powers and duties of Commissioner

- 7. (1) The Commissioner has the responsibility for carrying out the provisions of this Act.
- (2) The powers conferred and the duties imposed upon the Commissioner by or under the provisions of this Act, may be exercised or performed by the Commissioner personally, or by a taxation officer engaged in carrying out the said provisions under

⁴ If not all activity conducted by the State or a local authority is considered a taxable activity, an additional paragraph can be added to exclude the activity of a State or local authority, except as specified in that paragraph.

- the control, direction, or supervision of the Commissioner.
- (3) Subject to subsection (4), a decision made and a notice or communication issued or signed by an officer referred to in subsection (2) may be withdrawn or amended by the Commissioner or by the officer concerned, and for the purposes of the said provisions, until it has been so withdrawn, is deemed to have been made, issued, or signed by the Commissioner.
 - (4) A written decision made by a taxation officer, other than the Commissioner, in the exercise of a discretionary power under the provisions of this Act shall not be withdrawn or amended after the expiration of [2 years] from the date of the written notification of such decision or of a notice of assessment giving effect thereto, if all the material facts were known to the officer when the decision was made.
 - (5) Subject to subsections (6) and (7), a decision made and a notice or communication issued or signed by the Commissioner or his delegate may be withdrawn or amended at any time.
 - (6) Where the Commissioner, knowing all the material facts at the time, makes a decision that a person is required or not required to register, and the person accepts the Commissioner's decision, and subsequently the Commissioner withdraws the decision, the Commissioner's decision governs the liability or non-liability of such person for payment of tax on any transaction concluded or event which occurred before the withdrawal of the decision.
 - (7) Where the Commissioner, knowing all the material facts at the time, makes a decision as to the nature of a transaction concluded by a person, and the person accepts the Commissioner's decision, and the Commissioner subsequently withdraws the decision, the Commissioner's decision governs the liability or non-liability of that person for payment of tax on any transaction concluded before the withdrawal of the decision..

Secrecy

8. (1) Subject to this section, a taxation officer carrying out the provisions of this Act must not -
 - (a) disclose to a person or that person's representative any matter in respect of any other person that may in the exercise of the officer's powers or the performance of the officer's duties under the said provisions come to the officer's knowledge; or
 - (b) permit any person to have access to any records in the possession or custody of the Commissioner,
 except in the exercise of the officer's powers or the performance of the officer's duties under this Act or by order of a court.
- (2) Nothing in this section prevents the Commissioner from disclosing -
 - (a) any documents or information to -
 - (i) a person where the disclosure is necessary for the purposes of this Act or any other fiscal law;
 - (ii) a person authorised by any enactment to receive such information;
 - (iii) the competent authority of the government of another country with which Vtopia has entered into an agreement for the avoidance of double taxation or for the exchange of information, to the extent permitted under the agreement;
 - (iv) a law enforcement agency not described above where the Minister issues written authorization to make disclosures necessary for the enforcement of the laws under the agency's authority; or
 - (b) any information which does not identify a specific person to a person in the service of the State in a revenue or statistical department where such disclosure is necessary for the performance of the person's official duties.
- (3) A person receiving documents and information under subsection (2) is required to

keep them secret under the provisions of this section, except to the minimum extent necessary to achieve the purpose for which the disclosure was made.

- (4) Documents or information obtained by the Commissioner in the performance of duties under this Act may be used by the Commissioner for the purposes of any other fiscal law administered by the Minister or Commissioner.
- (5) If a person consents in writing, information concerning that person may be disclosed to another person.
- (6) The Commissioner may disclose information concerning a taxpayer's affairs to a person claiming to be the taxpayer or the taxpayer's authorised representative only after obtaining reasonable assurance of the authenticity of the claim.
- (7) A person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding [...] or to imprisonment for a term not exceeding [2 years], or both.

PART III – Imposition of Tax

Imposition of tax and persons liable

9. (1) Subject to the provisions of this Act, there must be levied and paid a tax, to be known as the value added tax, at the rate of [10] percent of the value of -
 - (a) every taxable supply by a taxable person in Vatopia; and
 - (b) every import of goods or import of services, other than an exempt import.
- (2) Except as otherwise provided in this Act, the tax payable under subsection (1) must -
 - (a) in the case of a supply to which subsection (1)(a) applies, be accounted for by the taxable person making the supply; or
 - (b) in the case of an import of goods, be paid by the importer; or
 - (c) in the case of an import of services, be paid by the recipient of the services.
- (3) A transaction chargeable with tax under both subsections (1)(a) and (b) is treated as a supply chargeable under subsection (1)(a).

Time of supply

10. (1) Subject to this Act, a supply of goods or services occurs on the earliest of the date on which -
 - (a) the goods are delivered or made available or the performance of services is completed;
 - (b) an invoice for the supply is issued by the supplier; or
 - (c) any consideration for the supply is received.
- (2) A supply of goods under a credit agreement occurs on the date of commencement of the agreement.
- (3) A supply of goods pursuant to a lay-by agreement occurs when the goods are delivered to the purchaser.
- (4) A supply of goods or services under section 4(6) occurs when the goods or services are applied to a different use.
- (5) A supply of goods under section 4(7) occurs when the goods are repossessed, or where the debtor may under any law be reinstated in his rights and obligations under the credit agreement, the day after the last day of any period during which the debtor may under such law be so reinstated.
- (6) A supply of services under section 4(8) occurs when the seller obtains the right to retain any amount paid by the purchaser or when the seller recovers any amount owing by the purchaser under the agreement.
- (7) A supply for a consideration in money received by the supplier by means of a machine, meter, or other device operated by coin, note, or token occurs when the coin, note, or token is taken from that machine, meter, or other device by or on behalf

- of the supplier.
- (8) Goods supplied under a rental agreement or services supplied under an agreement that provides for periodic payments are treated as successively supplied for successive parts of the period of the agreement, and each of the successive supplies occurs when a payment becomes due or is received, whichever is the earlier.
 - (9) Where -
 - (a) goods described under section 4(1)(a)(iii) are supplied; or
 - (b) goods or services are supplied directly in the construction, major reconstruction, manufacture, or extension of a building or engineering work, and the consideration becomes due and payable in instalments or periodically, the goods or services are treated as successively supplied for each period to which a payment for the goods or services relates and each successive supply occurs when payment in respect of the supply becomes due, or is received, or any invoice relating only to that payment is issued, whichever is the earliest.
 - (10) A supply under section 4(18) occurs when the supply under section 4(2), to which it relates, occurs.
 - (11) To the extent that the issuance of a token, voucher, gift certificate, or stamp is a supply under section 4(19), the supply occurs when the token, voucher, gift certificate, or stamp is issued.
 - (12) The forfeit of a deposit (other than a deposit on a returnable container) is a supply of services when the deposit is forfeited.
 - (13) A supply under subsection 4(21) occurs at the time the registration is cancelled.

Time of import

11. (1) An import of goods occurs when the goods are entered for purposes of the [Customs Act].
- (2) An import of services occurs at the time determined by applying section 10 to the import on the basis that the import is a supply of services.

Place of supply

12. (1) Subject to this Act, a supply of goods takes place where the goods are delivered or made available by the supplier or, if the delivery or making available involves the goods being transported, the place where the goods are when the transportation commences.
- (2) A supply of thermal or electrical energy, heating, gas, refrigeration, air conditioning, or water takes place where the supply is received.
- (3) Subject to this section, a supply of services takes place at the location of the supplier's place of business from which the services are supplied.
- (4) The supply of the following goods or services takes place where the recipient uses or obtains the advantage of the goods or services –⁵
 - (a) a transfer or assignment of a copyright, patent, license, trademark, or similar right;
 - (b) the service of a consultant, engineer, lawyer, architect, or accountant, the processing of data or supplying information, or any similar service;
 - (c) an advertising service;
 - (d) the obligation to refrain from pursuing or exercising taxable activity, employment, or a right described in this subsection;
 - (e) the supply of personnel;

⁵ The European Union added to this category some services supplied to non-taxable persons that take place where the recipient uses the services. Foreign service providers that supply services to be used in the EU are required to register in at least one EU country, and charge and remit VAT on those services. The services are listed as paragraphs (h) and (i). See Council Directive 2002/38/EC of 7 May 2002. OJ L 128/41, 15 May 2002.

- (f) the service of an agent in procuring for the agent's principal a service described in this subsection;
 - (g) the leasing of movable property (other than transport property);
 - (h) radio and television broadcasting services; or
 - (i) electronically-supplied services.⁶
- (5) The supply of cultural, artistic, sporting, educational, or similar activities, or services connected with movable goods, takes place where the service is physically carried out, unless the service is described in subsection (4).
 - (6) The supply of services connected with immovable property takes place where the property is located, unless the service is described in subsection (4).
 - (7) A supply of services of, or incidental to, transport takes place where the transport occurs, unless the service is described in subsection (4).
 - (8) Services supplied from a place of business in Vatopia which would be treated as supplied outside Vatopia under subsections (4) – (7) are considered as supplied in Vatopia and are considered as exported from Vatopia for purposes of Schedule I.

Value of supply

- 13. (1) Subject to this Act, the value of a supply of goods or services is the amount of the consideration for the supply.
- (2) Where a portion of the price of a supply represents tax imposed by this Act that is not accounted for separately, the value of the supply is the price reduced by an amount equal to the tax fraction multiplied by that price.
- (3) Where -
 - (a) a supply is made by a taxable person for no consideration or for a consideration that is less than the fair market value of that supply; and
 - (b) (i) the supplier and the recipient are related persons; or
(ii) the recipient is a charitable organization, institution of religious worship, educational institution, old-age home, orphanage, children's home, or institution of a similar nature;
 the value of the supply is the fair market value of the supply.
- (4) Where a taxable person makes a supply of goods or services referred to in section 4(6), the value of the supply is the lesser of -
 - (a) the consideration paid or payable by the taxable person for those goods or services; or
 - (b) the fair market value of the supply.
- (5) The Minister may by regulation prescribe rules to determine the value of a supply governed by subsection (4) where the taxable person applies less than the entire goods or services to a different use.
- (6) The value of a supply of goods under a credit agreement is the cash value of the supply.
- (7) Where a debtor makes a supply of goods as a result of the repossession of those goods from the debtor under a credit agreement, the value of the supply is an amount equal to the balance of the cash value of the supply of those goods to the debtor that

⁶ In the EU, the electronically-supplied services include the following services:

“1. Website supply, web-hosting, distance maintenance of programmes and equipment.

2. Supply of software and updating thereof.

3. supply of images, text and information, and making databases available.

4. Supply of music films and games, including games of chance and gambling games, and of political, cultural, artistic, sporting, scientific and entertainment broadcasts and events.

5. Supply of distance teaching.”

Annex I to Council Directive 2002/38/EC. Communication between a supplier and a customer of services does not of itself constitute an electronically-supplied service.

- has not been recovered at the time of the supply.
- (8) For purposes of subsection (7), the balance of the cash value of the supply is the amount remaining after deducting from the cash value so much of the sum of the payments made by the debtor under the credit agreement as, on the basis of an apportionment in accordance with the rights and obligations of the parties to such agreement, may properly be regarded as having been made in respect of the cash value of the supply.
 - (9) The value of a supply of services under section 4(8) is an amount equal to the amount referred to in that subsection that is retained or recoverable.
 - (10) Where the grant of any right to receive goods or services for a monetary value stated on any token, voucher, gift certificate, or stamp is a supply under section 4(20), the value of the supply is an amount equal to the amount by which the consideration exceeds the monetary value of the token, voucher, gift certificate, or stamp.
 - (11) Where the holder of a token, voucher, gift certificate, or stamp issued by a taxable person (the issuer) for no consideration surrenders the token, voucher, gift certificate, or stamp to a supplier of goods or services (other than the issuer) in return for a price discount on a taxable supply, the supplier is required to include in the value of the supply of such goods or services the monetary value stated on the token, voucher, gift certificate, or stamp, less the tax fraction of the monetary value.
 - (12) For purposes of subsection (11), the monetary value is inclusive of tax.
 - (13) Where a taxable supply is not the only matter to which the consideration for the supply relates, the value of the supply is such part of the consideration as is properly attributable to it.
 - (14) Except as otherwise provided in this section, if a supply is made for no consideration the value of the supply is nil.
 - (15) The value of a supply of services under section 4(9) is the amount received in respect of the bet, reduced by an amount equal to the tax fraction multiplied by the amount received in respect of the bet.
 - (16) The value of a supply referred to in section 4(18) is the consideration for the acquisition of the taxable activity reduced by an amount which bears to the amount of such consideration the same ratio as the intended use or application of the taxable activity for making taxable supplies bears to the total intended use or application of the taxable activity.
 - (17) The value of a supply referred to in section 4(21) is equal to --
 - (a) except as provided in (b), the fair market value of the goods or services deemed to be supplied; and
 - (b) in the case of capital goods subject to the allowance for depreciation under the Income Tax Act, the undepreciated cost of the goods deemed to be supplied.

Value of import

14. (1) The value of an import of goods shall be an amount equal to the sum of -
 - (a) the value of the goods for the purposes of customs duty under the [Customs Law];
 - (b) the cost of insurance and freight which is not included in the customs value under paragraph (a); and
 - (c) the amount of any customs duty, excise tax, or any other fiscal charge (other than VAT) payable on the importation of such goods.
- (2) Subject to subsection (3), the value of an import of services is the amount of the consideration for the import.
- (3) Where -
 - (a) an import of services is made for no consideration or for a consideration that is less than the fair market value of that import; and
 - (b) the supplier and the recipient are related persons,

the value of the import is the fair market value of the import.

- (4) Where a portion of the price of an import of services represents tax imposed by this Act that is not accounted for separately, the value of the import is the price reduced by an amount equal to the tax fraction multiplied by that price.

Zero rating

15. (1) Where, but for this section, a supply of goods or services would be charged with tax under section 9(1)(a), the supply is charged with tax at the rate of zero percent if it is specified in paragraph 2 of Schedule I.
- (2) Where a taxable person has applied the rate of zero percent to a supply under this section, the taxable person is required to obtain and retain such documentary proof as is acceptable to the Commissioner substantiating the person's entitlement to apply the zero rate to the supply.

Exempt supply

16. (1) Subject to subsection (2), a supply of goods or services is an exempt supply if it is specified in paragraph 2 of Schedule II.
- (2) A supply of goods or services is not an exempt supply if, in the absence of subsection (1), the supply would be charged with tax at the rate of zero percent under section 15.

Exempt import

17. An import of goods or services is an exempt import where -
- (a) the import is specified in Schedule III; or
- (b) the import would be a zero-rated supply under section 15 and paragraph 2 of Schedule I, or an exempt supply under section 16 and paragraph 2 of Schedule II if it were a supply of goods or services in Vatopia.

Import declaration and payment of tax for importation of goods

18. (1) The Commissioner of Customs -
- (a) is required to collect, at the time of import and on behalf of the Commissioner of Value Added Tax, any tax due under this Act on an import of goods and, at that time, obtain the name and the VAT registration number, if any, of the importer, the import declaration, and the invoice values in respect of the import; and
- (b) may make arrangements with [Postal Services] to perform such functions on his behalf in respect of imports through the postal services.
- (2) Where tax is payable on an import of goods, the importer is required, upon such entry, to furnish the Commissioner with an import declaration and pay the tax due on the import in accordance with the arrangements referred to in subsection (5).
- (3) An import declaration under subsection (2) is required to -
- (a) be in the form prescribed by the Commissioner,
- (b) state the information necessary to calculate the tax payable in respect of the import, and
- (c) be furnished in the manner prescribed by the Commissioner.
- (4) Except where the contrary intention appears, the provisions of the [Customs Act], relating to the import, transit, coastwise carriage, clearance of goods, and payment and recovery of duty apply, so far as relevant, to the tax charged under this Act on the import of goods, with such exceptions, modifications, and adaptations as the Minister may by regulation prescribe.
- (5) The Commissioner of Customs may, by virtue of subsection (4), exercise any power conferred on the Commissioner of Customs by the customs legislation as if the

reference to duty in that legislation included a reference to tax charged on imported goods under this Act.

- (6) A person who fails to furnish any import declaration as required by this Act commits an offence and is liable on conviction to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [1 year], or both.
- (7) Where a person convicted of an offence under subsection (6) fails to furnish the import declaration within a further period specified by the Commissioner by notice in writing, that person commits an offence and is liable on conviction to a fine of [...vatopians] for each day during which the failure continues or to imprisonment for [3 months], or both.
- (8) A person who fails to furnish any import declaration within the time required under this Act is liable for a penalty which is the greater of:
 - (a) [...vatopians] per day for each day or part thereof that the import declaration remains outstanding; or
 - (b) an amount equal to [10] percent of the tax payable for the period of such import declaration, for each month or part thereof that the import declaration remains outstanding.
- (9) The penalty imposed under subsection (8) shall not exceed the amount of tax payable in respect of the import declaration.
- (10) A person who fails to pay tax payable on an import in accordance with this section on or before the due date, is liable for a penalty which is the greater of:
 - (a) [...vatopians] per day for each day or part thereof that the tax remains outstanding; or
 - (b) an amount equal to [10] percent of the tax outstanding, for each month or part thereof that the tax remains outstanding.
- (11) The penalty imposed under subsection (10) shall not exceed the amount of unpaid tax.
- (12) A penalty paid by a person under subsection (10) shall be refunded to the person to the extent that the tax to which it relates is subsequently determined not to have been due and payable.
- (13) A penalty imposed under subsection (10) is in addition to any interest payable under section 28.

Import declaration and payment of tax for importation of services.

19. (1) Where tax is payable on an import of services, other than where section 4(12) applies, the person liable for the tax under section 9(2)(c) is required to –
 - (a) furnish the Commissioner with an import declaration, and
 - (b) pay the tax due in respect of the import within [20] days after the tax period in which the services were imported.
- (2) An import declaration under subsection (1) is required to –
 - (a) be in the form prescribed by the Commissioner,
 - (b) state the information necessary to calculate the tax payable in respect of the import, and
 - (c) be furnished in the manner prescribed by the Commissioner.
- (3) A person who fails to furnish any import declaration as required by this Act commits an offence and is liable on conviction to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [1 year], or both.

PART IV – Registration

Registration

20. (1) Subject to this Act, every person who carries on a taxable activity and is not

registered, is required to apply for registration within 21 days of -

- (a) the end of any period of 12 or fewer months where during that period the person made taxable supplies the total value of which exceeded the amount specified in paragraph 1 of Schedule V to the Act; or
 - (b) the beginning of any period of 12 months where there are reasonable grounds to expect that the total value of taxable supplies to be made by the person during that period will exceed the amount specified in paragraph 1 of Schedule V to the Act.
- (2) In determining whether a person is required to apply for registration under subsection (1), the Commissioner may have regard to the value of taxable supplies made by another person where both persons are related persons.
 - (3) For purposes of subsection (1), the value of a person's supplies is determined under section 13.
 - (4) A person is not required to apply for registration under subsection (1) where the Commissioner is satisfied that the value of taxable supplies exceeded the amount specified under subsection (1) solely as a consequence of -
 - (a) the cessation, or substantial and permanent reduction in the size or scale, of a taxable activity carried on by the person; or
 - (b) the replacement of capital goods used in the taxable activity carried on by that person.
 - (5) A person who makes, or intends to make taxable supplies, but is not required to apply for registration under subsection (1), may apply to the Commissioner for registration under this Act.
 - (6) Notwithstanding subsection (1), the State, an agency of the State, or a local authority that carries on a taxable activity is required to apply for registration from the date of commencement of that activity.
 - (7) Notwithstanding subsection (1), a person who is an auctioneer is required to apply for registration on the date on which the person becomes an auctioneer.
 - (8) Notwithstanding subsection (1), a promoter of public entertainment and a licensee and proprietor of a place of public entertainment are required to apply for registration at least [forty-eight hours] before they begin making supplies in connection with the first public entertainment promoted by them.
 - (9) A person who fails to apply for registration as required by subsection (1), (7), or (8) commits an offence and is liable on conviction -
 - (a) where the failure was made knowingly or recklessly, to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [2 years], or both; or
 - (b) in any other case, to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [1 year], or both.
 - (10) A person who fails to apply for registration as required by subsection (1), (7), or (8) is liable for a penalty equal to [double] the amount of output tax payable from the time the person is required to apply for registration until the person files an application for registration with the Commissioner.

Registration procedure

21. (1) An application for registration under section 20 must be in the form approved by the Commissioner and the applicant must provide such further information as the Commissioner may require.
- (2) The Commissioner must register a person who applies for registration within [10] days of receipt of the application, unless the Commissioner is satisfied that the person is not eligible to apply for registration under section 20.
- (3) Notwithstanding subsection (2), where an application for registration is made under section 20(5), the decision to register is at the discretion of the Commissioner, except that no application under section 20(5) will be accepted where -

- (a) the person has no fixed place of abode or business; or
- (b) the Commissioner has reasonable grounds to believe that the person -
 - (i) will not keep proper records; or
 - (ii) will not submit regular and reliable tax returns, as required under this Act.
- (4) Where a person required to register under this Act fails to apply for registration as required under section 20, the Commissioner may register the person from the date prescribed by the Commissioner.
- (5) Registration takes effect, in the case of -
 - (a) a person referred to in section 20(1)(a), from the beginning of the tax period immediately following the end of the 12 or fewer months;
 - (b) a person referred to in section 20(1)(b), 20(6), or 20(7), or 20(8), from the beginning of the 12-month period, the commencement of the activities, the date the person becomes an auctioneer, or the date the promoter, licensee or proprietor begins making taxable supplies in connection with public entertainment, respectively; or
 - (c) an application under section 20(5), from the beginning of the tax period immediately following the period in which the person applied for registration.
- (6) The Commissioner, within [10] days of receipt of an application under subsection (2) or (3) must serve a notice in writing on an applicant for registration of the decision in respect of the application.
- (7) An applicant dissatisfied with a decision referred to under subsection (6) may challenge the decision only under Part IX of this Act.
- (8) The Commissioner must issue to each person registered a certificate of registration which states the name and other relevant details of the registered person, the date on which the registration takes effect, and the VAT registration number of the registered person.
- (9) The Commissioner must establish and maintain a register containing the relevant details of all registered persons, and make publicly available the names of registered persons, their VAT registration numbers, and contact details.
- (10) Every registrant must display the certificate of registration issued to him under subsection (8) in a conspicuous place at each location at which he engages in taxable activities.
- (11) A taxable person must notify the Commissioner, in writing, within [21] days of -
 - (a) any change in the name, address, place of business, constitution, or nature of the principal taxable activity or activities of the person; and
 - (b) any change of address from which, or name in which, any taxable activity is carried on by the taxable person, or
 - (c) any change in circumstances if the person ceases to operate or closes on a temporary basis in a situation not covered in section 22(1).
- (12) Subject to subsection (2), where the Commissioner fails to serve a notice required by subsection (6), the Commissioner is deemed to have made a decision to register the applicant.
- (13) A person who fails to notify the Commissioner of a change in circumstances as required by subsection (11) commits an offence and is liable on conviction -
 - (a) where the failure was made knowingly or recklessly, to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [2 years], or both; or
 - (b) in any other case, to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [1 year], or both.
- (14) A person who fails to display the certificate of registration as required under subsection (10) is liable for a penalty of [...vatopians] per day for each day or portion thereof that the failure continues.

Cancellation of registration

22. (1) Subject to subsection (2) and (14), a taxable person who ceases to carry on all taxable activities must notify the Commissioner of that fact within [21 days] of the date of such cessation, and the Commissioner must cancel the registration of that person with effect from the last day of the tax period during which all such taxable activities ceased, or from such other date as the Commissioner may determine.
- (2) The Commissioner is not required to cancel the registration of a taxable person under subsection (1) where the Commissioner has reasonable grounds to believe that the person will carry on any taxable activity at any time within 12 months from that date of cessation.
- (3) A notification pursuant to subsection (1) must be made in writing and to state the date upon which that person ceased to carry on all taxable activities, and whether or not that person intends to carry on any taxable activity within 12 months from that date.
- (4) Where the Commissioner is satisfied that a taxable person is not carrying on a taxable activity or is neither required nor entitled to apply for registration, the Commissioner may cancel that person's registration with effect from the last day of the tax period during which the Commissioner became so satisfied, or from such other date as the Commissioner may determine, and must notify that person in writing of the date on which the cancellation takes effect.
- (5) The Commissioner may cancel the registration of a person who is not required to apply for registration under section 20 if the person –
 - (a) has no fixed place of abode or business; or
 - (b) has not kept proper accounting records relating to any business activity carried on by that person; or
 - (c) has not submitted regular and reliable tax returns as required by section 24.
- (6) A date determined by the Commissioner for the cancellation of registration under subsection (4) or (5) may be retrospective to a date not earlier than –
 - (a) the last day of the tax period during which taxable activity carried on by the person ceased; or
 - (b) the date on which the person was registered under this Act, if the Commissioner is satisfied that the person did not, from that date, carry on any taxable activity.
- (7) Subject to subsections (8) or (9), a taxable person may apply in writing to the Commissioner to have the person's registration cancelled where, at any time, the value of that person's taxable supplies –
 - (a) in the past 12 months has not been, or
 - (b) in the period of 12 months then beginning will not be more than the amount specified under section 20(1).
- (8) A person –
 - (a) required to register under section 20(1) who ceases to satisfy the criteria thereunder, or
 - (b) registered as a result of an application under section 20(5),may apply for cancellation of the registration only after the expiration of 2 years from the date the registration took effect.
- (9) Subsection (7) does not apply to the State, an agency of the State, or a local authority under section 20(6), to an auctioneer under section 20(7), or to a promoter of public entertainment under section 20(8).
- (10) Where the Commissioner is satisfied that a taxable person who has made an application under subsection (7) or (8) is entitled to have a registration cancelled, the Commissioner is required to cancel the person's registration with effect from the end of the tax period in which the registration is cancelled unless the Commissioner orders the cancellation to take effect at an earlier date.
- (11) Any obligation or liability under this Act, including the obligation to pay tax and file

returns, of any person in respect of anything done or omitted to be done by that person while the person is a taxable person, is not affected by cancellation of the person's registration.

- (12) Where the registration of a person is cancelled, the Commissioner is required to remove the person's name and details from the register described in section 21(9).
- (13) A person dissatisfied with a decision of the Commissioner under this section to cancel or not to cancel the person's registration may challenge the decision only under Part IX of this Act.
- (14) A taxable person who sells a going concern must notify the Commissioner of that fact at least three days before the earliest of the date –
 - (a) the sale closes;
 - (b) the purchaser acquires any legal interest in the assets to be acquired; and
 - (c) some or all of the assets of the going concern are transferred.
- (15) A person who fails to notify the Commissioner as required by subsection (1) commits an offence and is liable on conviction –
 - (a) where the failure was made knowingly or recklessly, to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [2 years], or both; or
 - (b) in any other case, to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [1 year], or both.

PART V – Tax Period, Returns, and Calculation of Tax Payable

Tax period

23. (1) Subject to subsection (2), the tax period applicable to a taxable person under this Act is the calendar month.
- (2) The Minister may, by regulations, authorise a different tax period for specific categories or classes of taxable persons.

Returns

24. (1) Every taxable person is required to file a tax return for each tax period with the Commissioner within [21] days after the end of the period, whether or not tax is payable in respect of that period.
- (2) A tax return is required to –
 - (a) be in the form prescribed by the Commissioner,
 - (b) state the information necessary to calculate the tax payable in accordance with section 26 for the period, and
 - (c) be filed in the manner prescribed by the Commissioner.
- (3) In addition to or instead of any return required under this Act, the Commissioner may by notice in writing require a person, whether or not a taxable person, to file with the Commissioner, whether on that person's own behalf or as agent or trustee of another person, such fewer, additional, or other returns in the prescribed form as and when required by the Commissioner for the purposes of this Act.
- (4) A person dissatisfied with a decision of the Commissioner under subsection (3) may challenge the decision only under Part IX of this Act.
- (5) A person who fails to file a return as required by this Act commits an offence and is liable on conviction to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [1 year], or both.
- (6) Where a person convicted of an offence under subsection (5) fails to file the return within a further period specified by the Commissioner by notice in writing, that person commits an offence and is liable on conviction to a fine of [...vatopians] for each day during which the failure continues or to imprisonment for [three months], or

both.

- (7) A person who fails to file a return within the time required under this Act is liable for a penalty which is the greater of:
 - (a) [...vatopians] per day for each day or part thereof that the return remains outstanding; or
 - (b) an amount equal to [ten] percent of the tax payable for the period of such return, for each month or part thereof that the return remains outstanding.
- (8) The penalty imposed under subsection (7)(b) shall not exceed the amount of tax payable in respect of the return.

Extension of time

25. (1) Upon application in writing by a person, the Commissioner may, where good cause is shown by the person, extend the period within which a return required under section 24 is to be filed.
- (2) The granting of an extension of time under subsection (1) does not alter the due date for payment of tax under section 34.
- (3) A person dissatisfied with a decision of the Commissioner under subsection (1) may challenge the decision only under Part IX of this Act.

Calculation of tax payable for tax period

26. (1) The tax payable by a taxable person for a tax period in respect of taxable supplies is the total amount of output tax payable by the person in respect of taxable supplies made by the person during the period, less the total input tax deduction allowed to the person under section 27 for the period.
- (2) Where the total amount of input tax deduction allowed to a taxable person for a tax period under subsection (1) exceeds the total amount of output tax payable by the person for that period, the amount of the excess is dealt with in accordance with section 45.

Input tax deduction

27. (1) Subject to this section, the total amount of input tax allowed as a deduction for purposes of section 26 is the sum of –
 - (a) the input tax payable in respect of taxable supplies made to the person during the tax period, and paid in respect of any import of goods by the person during the tax period, where the supply or import is for use in a taxable activity carried on by the person;
 - (b) any input tax deduction allowed under sections 29 and 30 for the tax period;
 - (c) any input tax to which subsection (4) applies for the tax period;
 - (d) an amount equal to the tax fraction of any amount paid during the tax period by the taxable person as a prize or winnings to the recipient of services under section 4(9);
 - (e) an amount equal to the tax fraction of any amount paid during the tax period by the taxable person to a supplier in respect of the redemption of a token, voucher, gift certificate, or stamp referred to in section 13(11) by the supplier;
 - (f)⁷ subject to paragraphs (g) and (h), an amount equal to the tax fraction of the

⁷ An simplified alternative to subsections (1)(f)-(h) is to grant an input tax deduction based on a fixed percentage of the selling price: “an amount equal to [70] percent of the selling price of second-hand goods supplied in the taxable period in a supply taxable at a positive rate under this Act, if the goods were acquired in Vatopia in a transaction not subject to tax”

- lesser of –
- (i) the amount paid for, or
 - (ii) the fair market value, including tax, of second-hand goods acquired in Vatopia during the tax period by a taxable person from a person in a transaction not subject to tax if a supply of the goods is taxable at a positive rate under this Act and the goods are acquired for re-supply in a taxable transaction;
- (g) an amount equal to the tax fraction of the lesser of –
 - (i) the amount paid for, or
 - (ii) the fair market value, including tax, of second-hand goods acquired in Vatopia during the tax period by a taxable person from a related person in a transaction not subject to tax if a supply of the goods is taxable at a positive rate under this Act and the goods are acquired for re-supply in a taxable transaction, but the deduction shall not exceed the tax imposed on the earlier supply of the goods to the related person;
 - (h) an amount equal to the tax fraction of the fair market value, including tax, of second-hand goods that are repossessed in Vatopia during the tax period by a creditor who is a taxable person from a defaulting debtor in a transaction not subject to tax if a supply of the goods is taxable at a positive rate under this Act and goods are acquired for re-supply in a taxable transaction, but the deduction shall not exceed the tax imposed on the earlier supply of the goods to the defaulting debtor;
 - (i) an amount carried forward under section 45(2).
- (2) Subject to this section, no deduction of input tax is allowed in respect of a supply or import unless –
- (a) a tax invoice, or tax debit or tax credit note, as the case may be, in relation to the supply, has been provided in accordance with sections 32 or 35 and is held by the taxable person taking the deduction at the time a return in respect of the supply is filed, other than when a tax invoice is not required to be provided;
 - (b) a bill of entry or validating bill of entry under the [Customs Act], or a document issued by [Customs] or the Commissioner evidencing payment of tax in relation to an import that has been delivered in accordance with the [Customs Act] or this Act and is held by the taxable person taking the deduction at the time a return in respect of the import is filed; and
 - (c) for purposes of subsection (1)(f)-(h), with respect to the acquisition, the taxable person is in possession of documents required by the Commissioner.
- (3) Where a taxable person does not have a tax invoice evidencing the input tax paid, the Commissioner may allow an input tax deduction in the tax period in which the deduction arises where the Commissioner is satisfied –
- (a) that the taxable person took all reasonable steps to acquire a tax invoice; and
 - (b) that the failure to acquire a tax invoice was not the fault of the taxable person; and
 - (c) that the amount of input tax claimed by the taxable person is correct.
- (4) Subject to subsection (5), a taxable person, in the first tax period in which the person is registered, is allowed a deduction for input tax paid or payable by the person in respect of -
- (a) any taxable supplies of goods, including capital goods, made to the person; and
 - (b) any imports of goods, including capital goods, by the person, prior to becoming registered, to the extent that the goods are for use or re-supply in a

taxable activity carried on by the person after registration.⁸

- (5) Subsection (4) applies where -
 - (a) the supply or import occurred not more than [4 months] prior to the date the registration takes effect; and
 - (b) the goods are on hand at the date the registration takes effect.
- (6) Subsections (1)(f)-(h) do not apply to a transaction covered by section 4(17).

Input tax deduction allocation and disallowance rules

28. (1) In this section -
"entertainment" means the provision of food, beverages, tobacco, accommodation, amusement, recreation, or other hospitality by a taxable person whether directly or indirectly to any person; and
"passenger vehicle" means a road vehicle, including a double cab vehicle, designed or adapted for the transport of nine or fewer seated persons;
- (2) No amount may be deducted under section 27 by a taxable person for input tax paid or payable in respect of -
- (a) a taxable supply to, or import by, the person of a passenger vehicle, unless the person is in the business of dealing in, or hiring of, such vehicles, and the vehicle was acquired for the purposes of such business;
 - (b) a taxable supply to, or import by, the person of goods or services acquired for the purposes of entertainment, unless -
 - (i) the person is in the business of providing entertainment and the taxable supply or import relates to the provision of taxable supplies of entertainment in the ordinary course of that business; or
 - (ii) the person is in the business of providing taxable supplies of transportation services and the entertainment is provided to passengers as part of the transportation service; or
 - (c) any fees or subscriptions paid by the person in respect of membership of any person in a club, association, or society of a sporting, social, or recreational nature.
- (3) Subject to subsection (4), where only a part of the supplies made by a taxable person during a tax period are taxable supplies, the amount of the input tax allowed as a deduction under section 27(1)(a) for that period is determined as follows-
- (a) in respect of a supply or import received which is directly allocable to the making of taxable supplies, the full amount of input tax payable in respect of the supply or import shall be allowed as a deduction;
 - (b) in respect of a supply or import received which is directly allocable to the making of exempt supplies, no amount of input tax payable in respect of the supply or import shall be allowed as a deduction; or
 - (c) in respect of a supply or import received which is used for the making of both taxable and exempt supplies, the amount calculated according to the following formula -
$$A \times B/C$$

where -
 - A is the total amount of input tax payable in respect of supplies and imports received during the period for which a deduction is allowed under section 27(1)(a), less the input tax accounted for under paragraph (a) and (b);
 - B is the total amount of taxable supplies made by the taxable person during the preceding financial year of the taxable person; and
 - C is the total amount of all supplies made by the taxable person during

⁸ The amount of revenue lost and the ability of the tax authorities to verify the claimed deductions generally determines if a nation will include subsections (4) & (5) in the VAT Act.

the preceding financial year of the taxable person.

For purposes of the fraction **B/C**, for the first financial year during which the person is a taxable person, the period referred to in **B** and **C** shall be the total number of tax periods, including the current tax period, during which the person has been a taxable person.

- (4) Where the fraction B/C in subsection (3)(c) is more than 0.90, the taxable person may deduct the total amount of input tax on supplies and imports described in that paragraph.
- (5) Notwithstanding subsection (3), where a taxable person makes both taxable and exempt supplies during a tax period, the Commissioner may determine the amount of input tax allowed for the tax period on such other basis as the Commissioner considers reasonable.
- (6) A taxable person dissatisfied with a decision of the Commissioner under subsection (5) may challenge the decision only under Part IX of this Act.

Post-sale adjustments

29. (1) This section applies where, in relation to a supply by a registered person -
 - (a) the supply is cancelled;
 - (b) the taxation of the supply changes because the nature of the supply is fundamentally varied or altered;
 - (c) the previously agreed consideration for the supply is altered, whether due to an offer of a discount or for any other reason; or
 - (d) the goods or services or part thereof are returned to the supplier.
- (2) Subsection (1) applies only where the registered person making the supply has-
 - (a) provided a tax invoice in relation to the supply and the amount shown on the invoice as the tax charged on the supply is incorrect as a result of the occurrence of one or more of the events described under subsection (1)(a) - (d); or
 - (b) filed a return for the tax period in which the supply occurred and has accounted for an incorrect amount of output tax on that supply as a result of the occurrence of one or more of the events described under subsection (1)(a) - (d).
- (3) Where subsection (1) applies, the registered person making the supply is required to make an adjustment as specified under subsection (4) or (6).
- (4) Where the output tax properly chargeable in respect of the supply exceeds the output tax actually accounted for by the registered person (the supplier), the amount of the excess is deemed to be output tax charged by the supplier in relation to a taxable supply made in the tax period in which the event referred to in subsection (1) occurred.
- (5) For purposes of section 26, where a registered person issues a tax debit note to rectify the output tax charged to a registered recipient in the circumstances specified under subsection (4), the additional tax specified in the tax debit note is deemed to be input tax payable by the registered recipient in the tax period in which the tax debit note is received.
- (6) Subject to subsection (8), where the output tax actually accounted for by the registered person exceeds the output tax properly chargeable in relation to the supply, the registered person is allowed an input tax deduction under section 27 for the amount of the excess in the tax period in which the event referred to in subsection (1) occurred.
- (7) Where a supplier issues a tax credit note to rectify the output tax charged to a recipient who is a registered person in the circumstances specified under subsection (6), the additional tax specified in the tax credit note is treated as output tax payable by the recipient in respect of a taxable supply made by the recipient in the tax period in which the tax credit note is received.

- (8) Where the supply has been made to a person who is not a registered person, a deduction under subsection (6) is not allowed, unless the amount of the excess tax has been repaid to the recipient of the supply, whether in cash or as a credit against an amount owing to the registered person by the recipient.

Bad debt

30. (1) Subject to subsections (5), (6), and (7), a taxable person is allowed an input tax deduction under section 27 for tax paid in respect of a taxable supply made by the taxable person where the whole or part of the consideration for the supply is subsequently treated as a bad debt.
- (2) The amount of the deduction allowed under subsection (1) is the amount of the tax paid in respect of the taxable supply which corresponds to the amount of the debt treated as bad.
- (3) The deduction under subsection (1) arises on the date on which the bad debt was written off in the accounts of the taxable person.
- (4) Where any amount in respect of which a deduction has been allowed in accordance with subsection (1) is at any time wholly or partly recovered by the taxable person, the taxable person is treated as having charged tax in respect of a taxable supply made during the tax period in which the bad debt is wholly or partly recovered, being an amount of tax calculated according to the following formula --
- $$A \times B/C$$
- where,
- A is the amount allowed as a deduction under subsection (1);
- B is the amount of the bad debt recovered; and
- C is the amount of the bad debt previously written off.
- (5) A deduction is allowed under subsection (1) only if --
- (a) the taxable supply was made to a person other than a registered person; or
- (b) the taxable supply was made to a registered person and the person claiming the deduction under subsection (1) issued a tax credit note to the registered purchaser listing the amount claimed under the formula in subsection (2).
- (6) Where all or a portion of a bet referred to in section 4(9) and reported as part of tax payable by a taxable person operating a game of chance is a bad debt under this section, the taxable person shall treat the amount of any bet written off as a prize or winnings for purposes of section 27(1)(d).
- (7) Where an amount treated as a prize or winnings under subsection (6) is recovered in whole or in part, the taxable person operating a game of chance is treated as having made a supply under section 4(9) during the tax period in which the bad debt is wholly or partly recovered.

Interest on unpaid tax

31. (1) A person who fails to pay tax by the due date for payment under section 34 is liable for interest at the rate specified in paragraph 2 of Schedule V to the Act on the amount unpaid, calculated from the date on which the tax imposed was due until the date on which payment was made.
- (2) Interest under subsection (1) is calculated as simple interest for each month, or part of a month, during which it remains unpaid.
- (3) Interest paid by a person under subsection (1) must be refunded to the person to the extent that the tax to which it relates is subsequently determined not to have been due and payable.
- (4) The provisions of this Act relating to the payment, collection and recovery of tax apply to any interest charged under this section as if the interest were tax due under this Act.

Tax invoices and sales invoices

32. (1) Subject to subsection (2), a registered person, referred to as the “registered supplier”, making a taxable supply to a person, referred to as the “recipient”, is required to provide the recipient with an original tax invoice for the taxable supply containing such particulars as specified in paragraph 1 of Schedule IV.⁹
- (2) A registered supplier making a taxable supply is authorized to issue a sales invoice in lieu of a tax invoice if the total consideration for the taxable supply is in cash and does not exceed the amount specified in paragraph 3 of Schedule V.
- (3) A person is prohibited from providing a tax invoice in circumstances other than those specified under this section.
- (4) Subject to subsection (6), a registered supplier must issue only one tax invoice for each taxable supply.
- (5) Where, within 60 days after the date of a supply, a registered recipient who has not received a tax invoice as required by subsection (1) requests the registered supplier, in writing, to provide a tax invoice in respect of the taxable supply, the supplier is required to comply with the request within 14 days after receiving it.
- (6) Where a registered recipient claims to have lost the original tax invoice for a taxable supply, the registered supplier may provide a copy clearly marked “copy.”
- (7) A registered person who fails to provide a tax invoice as required by this section commits an offence and is liable on conviction to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [2] years, or both.
- (8) A person who provides a tax invoice otherwise than as provided for in this section commits an offence and is liable on conviction -
- (a) where the failure was made knowingly or recklessly, to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [2] years, or both; or
- (b) in any other case, to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [1] year, or both.

Tax credit and debit notes

33. (1) Where a tax invoice has been issued in the circumstances specified under section 29(2)(a) and the amount shown as tax charged in that tax invoice exceeds the tax properly chargeable in respect of the supply, the registered person making the supply is required to provide a registered recipient of the supply with a tax credit note containing the particulars specified in paragraph 2 of Schedule IV.
- (2) A person must not provide a tax credit note in any circumstances other than those specified under subsection (1).
- (3) Where a tax invoice has been issued in the circumstances specified under section 29(2)(a) and the tax properly chargeable in respect of the supply exceeds the amount shown as tax charged in that tax invoice, the registered person making the supply is required to provide a registered recipient of the supply with a tax debit note containing the particulars specified in paragraph 3 of Schedule IV.
- (4) A person must not provide a tax debit note in any circumstances other than those specified under subsection (3).
- (5) A registered person may issue only one tax credit note or tax debit note for the amount of the excess stated in subsection (1) or (3) respectively.
- (6) Notwithstanding the provisions of this section, where a registered person claims to have lost the original tax credit note or tax debit note, the registered person who made the supply may provide a copy clearly marked “copy”.
- (7) A registered person who fails to provide a tax credit note or tax debit note as required

⁹ To reduce the opportunity for registered persons to obtain tax invoices from unregistered buyers and use them to claim unwarranted input tax deductions, the Act could authorise registered persons to issue tax invoices only to registered recipients.

by this section commits an offence and is liable on conviction to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [2] years, or both.

- (8) A person who provides a tax credit note or tax debit note otherwise than as provided for in this section commits an offence and is liable on conviction -
- (a) where the failure was made knowingly or recklessly, to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [2] years, or both; or
 - (b) in any other case, to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [1] year, or both.

PART VI – Payment, Collection and Recovery

Due date for payment of tax

34. (1) Tax payable under this Act is due and payable -
- (a) by a taxable person for a tax period, by the due date for the return for the tax period;
 - (b) by a person assessed under an assessment issued under this Act, on the date specified in the notice of assessment;
 - (c) by an importer of goods or a recipient of an import of services, by the due date specified under section 18 and 19 in respect of the import; or
 - (d) by any other person, by the date the taxable transaction occurs as determined under the Act.
- (2) Subject to section 50(5), where an objection to, or a notice of appeal against, an assessment has been filed, the tax payable under the assessment is due and payable under subsection (1), and may be recovered, notwithstanding that objection or appeal.
- (3) Upon application in writing by a person liable for tax, the Commissioner may, where good cause is shown, extend the time for payment of tax by the person beyond the date on which it is due and payable under this section, or make such other arrangements as appropriate to ensure the payment of the tax due, and any such extension does not alter the due date for purposes of section 31.
- (4) A person dissatisfied with a decision of the Commissioner under subsection (3) may challenge the decision only under Part IX of this Act.

Allocation of payments among tax, interest, and penalties

35. Where, in addition to any amount of tax which is due and payable by a person under this Act, an amount of interest or penalty is payable, a payment made by the person in respect of such tax, interest, or penalty which is less than the total amount due is deemed to be made -
- (a) first in respect of such penalty;
 - (b) to the extent that such payment exceeds the amount of such penalty, then in respect of such interest; and
 - (c) to the extent that such payment exceeds the sum of such penalty and interest, then in respect of such tax.

Recovery of tax as debt due

36. (1) Tax that is due and payable under this Act is recoverable by the Commissioner as a debt due to the State from the person liable therefor in the manner provided in this section.
- (2) Where a person fails to pay tax when it is due and payable, referred to as the “defaulter”, the Commissioner may file, with the clerk or registrar of a court of competent jurisdiction, a statement certified by the Commissioner setting forth the

amount of the tax due and payable by that person, and that statement has the effect of a civil judgment lawfully given in that court in favour of the Commissioner for a debt in the amount specified in the statement; and the court is required to issue a writ of execution in respect thereof against the defaulter.

- (3) A writ of execution under subsection (2) shall not be issued until [14] days after service by the court on the defaulter of a notice informing the defaulter that a writ of execution will be issued by the court in respect of tax owed by the defaulter, and unpaid, unless before the expiration of that period of [14] days the defaulter produces proof of payment thereof satisfactory to the court.
- (4) The Commissioner may, without prejudice to re-instituting proceedings under subsection (2), by notice in writing addressed to the clerk or registrar of the court, withdraw the statement referred to in subsection (2) and such statement shall thereupon cease to have any effect.
- (5) Except where the contrary intention appears, the [customs legislation] on imported goods, with such exceptions, modifications, and adaptations as the Minister may by Order prescribe, applies (so far as relevant) in relation to any tax chargeable on the import of goods.
- (6) The [Commissioner of Customs] may, by virtue of subsection (5), exercise any power conferred on the [Commissioner of Customs] by the [customs legislation] as if the reference to customs duty or excise tax in that law included a reference to tax charged on imported goods under this Act.

Recovery of tax from persons leaving Vatopia

37. (1) Where the Commissioner has reasonable grounds to believe that a person may leave Vatopia without paying all tax due under this Act, the Commissioner may issue a certificate to the [Chief Immigration Officer] containing particulars of the tax due and request that the [Chief Immigration Officer] take the necessary steps to prevent the person from leaving Vatopia until the person makes -
 - (a) payment in full; or
 - (b) an arrangement satisfactory to the Commissioner for the payment of the tax.
- (2) The Commissioner is required to issue a copy of the certificate issued under subsection (1) on the person named in the certificate if it is practicable to do so.
- (3) If a certificate is issued under subsection (1), payment to a [customs or immigration officer] of the tax specified in the certificate or the production of the certificate signed by the Commissioner stating that the tax has been paid or satisfactory arrangements for payment have been made shall be sufficient authority for any immigration officer to allow the person to leave Vatopia.

Security

38. (1) Where it is reasonable to do so for the protection of the revenue or as provided for in this Act, the Commissioner, by notice in writing, may require a person to give security for the payment of tax that is or may become payable by the person under this Act.
- (2) Security required under subsection (1), including security required from a promoter of public entertainment, shall be for such amount, in such form, and furnished within such period as the Commissioner may specify in the notice.
- (3) Where security under subsection (1) is in cash and the Commissioner is satisfied that the security is no longer required, the Commissioner is required to apply the amount of the security as specified under section 45(4).
- (4) A person dissatisfied with a decision of the Commissioner under subsection (1) may challenge the decision only under Part IX of this Act.
- (5) A promoter of public entertainment must not allow the public entertainment to take place unless the promoter paid the amount required under subsection (2) and received

the Commissioner's written approval.

- (6) A person who fails to comply with subsection (5) commits an offence and is liable on conviction to a fine not exceeding [...] or to imprisonment for a term not exceeding [one] year, or both.

Preferential claim to assets

39. (1) From the date on which tax becomes due and payable under this Act and until the tax is paid, the Commissioner has a preferential claim as provided [in the Insolvency Act] upon the assets of the person liable to pay the tax.¹⁰
- (2) Where a person is in default of paying tax, the Commissioner may, by notice in writing, inform that person of the Commissioner's intention to apply to the [Registrar of] to register a security interest in an asset, which is owned by that person, to cover any unpaid tax in default, together with any expense incurred in recovery proceedings.
- (3) If the person on whom a notice has been served under subsection (2) fails to pay the amount specified in the notice within 30 days after the date of service of the notice, the Commissioner may, by notice in writing, direct the Registrar that the asset, to the extent of the defaulter's interest therein, shall be the subject of security for the total amount of unpaid tax.
- (4) Where the Commissioner has served a notice on the Registrar under subsection (3), the Registrar is required to register the notice of security without fee, as if the notice were an instrument of mortgage over or charge on, as the case may be, such asset, and such registration operates while it subsists, subject to any prior mortgage or charge, in all respects as a legal mortgage over or charge on the asset to secure the amount due.

Seizure of goods and vehicles

40. (1) Where the Commissioner has reasonable grounds to believe that tax on a supply or import of goods has not been or will not be paid, the Commissioner may seize the goods.
- (2) The Commissioner may seize a vehicle used in the removal or carriage of goods liable to be seized under subsection (1), unless it is shown that such vehicle was so used without the consent or knowledge of the owner of that vehicle or other person lawfully in possession or charge thereof; and at the discretion of the Commissioner, the vehicle may be sold by public auction or may be dealt with in such other manner as the Commissioner may direct.
- (3) Goods seized under subsection (1) must be stored in a place approved by the Commissioner for the storage of such goods.
- (4) Where goods are seized under subsection (1), the Commissioner is required to serve on the owner of the goods or the person who had custody or control of the goods immediately before seizure, a notice in writing as soon as practicable after the seizure -
 - (a) identifying the goods;
 - (b) stating that the goods have been seized under this section and the reason for seizure; and
 - (c) setting out the terms of subsections (7), (8), and (9).
- (5) The Commissioner is not required to serve notice under subsection (4) if, after making reasonable enquiries, the Commissioner does not have sufficient information

¹⁰ The lien can be extended to cover "any asset of a related person if the Commissioner reasonably believes that the person liable for tax is the lawful owner of the asset transferred to the related person in order to avoid the payment of tax."

- to identify the person on whom the notice should be served.
- (6) Where subsection (5) applies, the Commissioner may serve a notice under subsection (4) on a person claiming the goods, provided the person has given the Commissioner sufficient information to enable such a notice to be served.
 - (7) Subject to subsection (8), the Commissioner may authorise the delivery of goods seized under subsection (1) to the person on whom a notice under subsection (4) has been served, where that person pays or gives security, in accordance with section 35, for the payment of tax due and payable or that will become due and payable in respect of the supply or import of the goods.
 - (8) The Commissioner must detain the goods seized under subsection (1) -
 - (a) in the case of perishable goods, only for such period as the Commissioner considers reasonable having regard to the condition of the goods; or
 - (b) in any other case, until the later of -
 - (i) [10] working days after the seizure of the goods; or
 - (ii) [10] working days after the due date for payment of the tax on the supply or import of the goods.
 - (9) Where the detention period in subsection (8) has expired, the Commissioner may sell the goods in the manner specified under section 41(4) and apply the proceeds of sale as set out in section 41(5).
 - (10) Notwithstanding the provisions of this section, the Commissioner may proceed under section 36 with respect to any balance owed if the proceeds of sale are not sufficient to meet the costs thereof and the tax due.

Distress proceedings

41. (1) The Commissioner may recover unpaid tax by distress proceedings against the movable property of the person liable to pay the tax, referred to as the "person liable", by issuing an order in writing, specifying the person liable, the location of the property, and the tax liability to which the proceedings relate.
- (2) For the purposes of executing distress under subsection (1), the Commissioner may -
 - (a) at any time enter any house or premises described in the order authorising the distress proceedings; and
 - (b) require a police officer to be present while the distress is being executed.
- (3) Property upon which a distress is levied under this section, other than perishable goods, shall be kept for [10] working days either at the premises where the distress was levied or at such other place as the Commissioner may consider appropriate, at the cost of the person liable.
- (4) Where the person liable does not pay the tax due, together with the costs of the distress -
 - (a) in the case of perishable goods, within such period as the Commissioner considers reasonable having regard to the condition of the goods; or
 - (b) in any other case, within [10] working days after the [10]-day period referred to in subsection (3),
 the property distrained upon may be sold by public auction, or in such other manner as provided in regulations.
- (5) The proceeds of a disposal under subsection (4) is required to be applied by the Commissioner first towards the cost of taking, keeping, and selling the property distrained upon, then towards the tax due and payable, and the remainder of the proceeds, if any, must be restored to the person liable.
- (6) Nothing in this section precludes the Commissioner from proceeding under section 36 with respect to any balance owed if the proceeds of the distress are not sufficient to meet the costs thereof and the tax due.
- (7) All costs incurred by the Commissioner in respect of a distress may be recovered by the Commissioner from the person liable as tax due under this Act.

Recovery of tax from recipient of supply

42. (1) Where, in respect of a taxable supply by a taxable person, the taxable person has, in consequence of a fraudulent action or misrepresentation by the recipient of the supply, incorrectly treated the supply as an exempt or zero-rated supply, the Commissioner may raise an assessment upon the recipient for the amount of unpaid tax in respect of the supply together with any interest or penalty that has become payable under sections 31 and 36.
- (2) The Commissioner is required to serve notice of an assessment under subsection (1) on the recipient specifying -
- (a) the tax payable;
 - (b) the date the tax is due and payable; and
 - (c) the time, place, and manner of objecting to the assessment.
- (3) An assessment raised under subsection (1) is treated as an assessment for all purposes of the Act.
- (4) Subsection (1) does not preclude the Commissioner from recovering the tax, interest, or penalty from the taxable person making the supply.
- (5) For purposes of subsection (4),
- (a) any amount recovered from the recipient is to be credited against the liability of the taxable person; and
 - (b) any amount recovered from the taxable person is to be credited against the liability of the recipient.
- (6) Where an amount of tax, interest, or penalty referred to in subsection (1) is paid by the taxable person, the taxable person may recover the amount paid from the recipient.
- (7) An amount assessed under this section is treated, for all purposes of this Act, as tax charged under this Act.

Recovery of tax from third parties

43. (1) Where a person liable to pay tax under this Act, referred to as the “person liable”, fails to do so by the due date, the Commissioner may, by notice in writing, require any other person -
- (a) owing or who may owe money to the person liable;
 - (b) holding or who may subsequently hold money for, or on account of, the person liable; or
 - (c) having authority from some other person to pay money to the person liable,¹¹ to pay the money to the Commissioner on the date set out in the notice, up to the amount of the tax due.
- (2) The date specified in the notice under subsection (1) shall not be a date before the money becomes due to the person liable to pay tax, or held on the person's behalf.
- (3) A copy of a notice issued under subsection (1) is required to be served on the person liable.
- (4) A person making a payment pursuant to a notice under subsection (1) is deemed to have acted under the authority of the person liable and of all other persons concerned and is indemnified in respect of the payment.
- (5) The provisions of this Act relating to the payment, collection and recovery of tax apply to any amount due under this section as if the amount were tax due under this Act.
- (6) A person who fails to comply with a notice under this section commits an offence and is liable on conviction to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [1] year, or both.

¹¹ Subsection (1)(d) could be added to include the recovery of property in the hands of a third person that belongs to the person liable.

- (7) Where a person is convicted of an offence under subsection (6), the Court may, in addition to imposing a fine or prison sentence, order the convicted person to pay to the Commissioner an amount not exceeding the amount which the person failed to pay as required under this section.

Duties of receivers

44. (1) In this section, "receiver" means a person who, with respect to an asset in Vatopia is -
- (a) a liquidator of a company;
 - (b) a receiver appointed out of court or by a court;
 - (c) a trustee for a [bankrupt person];
 - (d) a mortgagee in possession;
 - (e) an executor of the estate of a deceased person; or
 - (f) any other person conducting business on behalf of a person legally incapacitated.
- (2) A receiver is required to notify the Commissioner in writing within [14] days after being appointed to the position or taking possession of an asset in Vatopia of the person liable to tax, whichever first occurs.
- (3) The Commissioner may in writing notify a receiver of the amount which appears to the Commissioner to be sufficient to provide for any tax which is or will become payable by the person whose assets are in the possession of the receiver.
- (4) A receiver -
- (a) is required to set aside, out of the proceeds of sale of an asset, the amount notified by the Commissioner under subsection (3), or such lesser amount as is subsequently agreed on by the Commissioner;
 - (b) is liable to the extent of the amount set aside for the tax of the person who owned the asset; and
 - (c) may pay any debt that has priority over the tax referred to in this section notwithstanding any provision of this section.
- (5) A receiver is personally liable to the extent of any amount required to be set aside under subsection (4) for the tax referred to in subsection (3) if, and to the extent that, the receiver fails to comply with the requirements of this section.
- (6) A person who fails to comply the requirements of subsection (4) commits an offence and is liable on conviction to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [1] year, or both.
- (7) Where a person is convicted of an offence under subsection (6) for failing to set aside an amount as required under subsection (4), the Court may, in addition to imposing a fine or prison sentence, order the convicted person to pay to the Commissioner an amount not exceeding the amount which the person failed to set aside as required under subsection (4).

PART VII – Refund of Tax and Tax Relief

Carry forward of excess deductions and refund of tax

45. (1) Where -
- (a) the total amount of input tax deductible by a taxable person under section 27 for a tax period exceeds the person's output tax for that period; or
 - (b) the amount of tax paid by a person, other than in circumstances specified under paragraph (a), exceeds the amount properly charged to tax under this Act,
- the amount of the excess is treated in the manner provided in this section.

- (2) Except as provided in subsection (5), the excess described in subsection (1)(a) is carried forward to the next tax period and treated as input tax deductible in that period.
- (3) Subject to this section, if any of the excess referred to in subsection (1)(a) for a tax period remains after being carried forward and used as an input tax deductible in [three] consecutive tax periods, the taxable person may file with the Commissioner a claim for refund for the amount remaining, in the form and with the documentation specified in regulations.
- (4) By the end of the [second] calendar month following the date the claim for refund described in subsection (3) is filed or, where the Commissioner orders an audit of the claim for refund described in subsection (3), within 10 days after conclusion of the audit, if later, the Commissioner, to the extent satisfied that the taxpayer is entitled to the amount of the refund claimed—
- (a) may apply the amount of the refund claimed under subsection (3) in reduction of any tax, levy, interest, or penalty payable by the person in terms of this Act, other taxes collected by the Commissioner, and any unpaid amounts under the repealed [Sales Tax Act]; and
- (b) is required to refund any excess remaining to the taxable person.
- (5) Where at least 50 percent of the amount of the taxable supplies of a taxable person for the taxable period is taxed at a zero rate, and the person reports an excess described in subsection (1)(a) for the taxable period, the person may file with the Commissioner a claim for refund for the excess deductions attributable to the zero-rated supplies in the form and with the documentation specified in regulations.
- (6) By the end of the first calendar month following the date the claim for refund described in subsection (5) is filed or, where the Commissioner orders an audit of the claim for refund described in subsection (5), within 10 days after conclusion of the audit, if later, the Commissioner, to the extent satisfied that the taxpayer is entitled to the amount of the refund claimed—
- (a) may apply the amount of the refund claimed under subsection (5) in reduction of any tax, levy, interest, or penalty payable by the person in terms of this Act, other taxes collected by the Commissioner, and any unpaid amounts under the repealed [Sales Tax Act]; and
- (b) is required to refund any excess remaining to the taxable person.
- (7) Notwithstanding subsections (4)(b) or (6)(b), if the amount of the excess to be refunded is not more than the amount specified in paragraph 4 of Schedule V, the excess must be carried forward to the next succeeding tax period and be accounted for as provided in section 27(1)(i).
- (8) Where a person has overpaid tax in the circumstances specified under subsection (1)(b), the person may file with the Commissioner a claim for a refund of the excess, accompanied by documentary proof of payment of the excess amount.
- (9) For purposes of subsection (8), if the claim for refund is filed by a taxable person,
- (a) the Commissioner is required to deal with the claim as if it were a claim under subsection (3); and
- (b) to the extent that any output tax claimed to be refundable is an amount borne by a recipient who is not a registered person, the output tax is refundable only to the extent that it will be repaid by the taxable person to that recipient, whether in cash or as a credit against an amount owing to the taxable person by the recipient.
- (10) Where a taxable person has failed to file a return for any tax period as required under this Act, the Commissioner may withhold payment of any amount refundable under this section until the taxable person files such return as required.
- (11) A claim for a refund specified in subsection (3), (5), or (8) must be made within 3 years after the date the person has the right to apply for the refund under this section.
- (12) The Commissioner is required to serve on a person claiming a refund, a notice in writing of the decision in respect of the claim within [thirty] days of receiving the claim.

- (13) A person claiming a refund under this section who is dissatisfied with a decision referred to in subsection (12) may challenge the decision only under Part IX of this Act.
- (14) For purposes of subsection (3), the unused excess deductions carried forward from the earliest period are considered used before excess deductions carried forward from more recent tax periods.
- (15) A person who improperly claims a refund under this section to that person or another person commits an offence and is liable on conviction to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [3] years, or both.

Interest on overpayment

- 46. (1) Where the Commissioner fails to pay a refund of tax relating to an excess under section 45 by the date specified under that section,¹² the Commissioner is required to pay the taxable person entitled to the refund an additional amount as interest at the rate specified in paragraph 5 of Schedule V to the Act, commencing from the date on which the refund was due and ending on the date the payment of the refund is made.
- (2) Where the Commissioner is required to refund an amount of tax to a person as a result of –
 - (a) an objection decision under section 50; or
 - (b) a decision of the [Commissioner of Appeals] under section 51; or
 - (c) a decision of the High Court under section 52,
 the Commissioner is required to pay interest at the rate specified in paragraph 5 of Schedule V to the Act on the amount of the refund for the period commencing from the date the person paid the tax refunded and ending on the date the refund is made.

Others eligible for tax refund

- 47. (1) The Minister, in consultation with the [Minister of Foreign Affairs], may issue regulations that authorise the grant of a refund of tax paid or borne on a supply to or import by -
 - (a) a person to the extent provided under the [Diplomatic Immunities and Privileges Act], an international convention having force of law in Vatopia, or the recognised principles of international law; or
 - (b) a diplomatic or consular mission of a foreign country established in Vatopia, relating to transactions concluded for the official purposes of such mission; or
 - (c) an organisation or government to the extent provided under a technical assistance or humanitarian assistance agreement entered into with the Government of Vatopia; or
 - (d) a non-resident individual on goods specified in the regulations that are exported from Vatopia as accompanied baggage, but only if the total tax on such goods exceeds the amount specified in paragraph 6 of Schedule V to the Act.
- (2) The refund provided for in subsection (1)(a) and (d) is not available to a citizen or a permanent resident of Vatopia as prescribed under [the Immigration Act].
- (3) The Minister may authorise any relief under this section on such conditions and subject to such restrictions as the Minister may deem fit.
- (4) A claim for a refund of tax under this section is to be made in such form and at such time as the Minister may prescribe and shall be accompanied by proof of payment of tax.
- (5) The Minister may by notice apply the terms of this section to a public international

¹² Alternatively, this subsection can give the Commissioner an additional period, such as one month, to issue the refund before interest starts accruing.

organisation and its officials and employees.

- (6) For purposes of this section, a “technical assistance agreement” includes an agreement that provides assistance by grant, loan, direct payment by the Government, or a combination of funding options.
- (7) A claim for refund under this section must be made within the time specified by the Minister after the date the person has the right to apply for the refund.

PART VIII – Assessments

Assessments

48. (1) Where -
- (a) a person fails to file a return as required by section 24 or fails to furnish an import declaration as required by section 18(2) or 19(1);
 - (b) the Commissioner is not satisfied with a return or import declaration furnished by a person;
 - (c) the Commissioner has reason to believe that a person will become liable for the payment of an amount of tax but is unlikely to pay such amount;
 - (d) a person, other than a taxable person, supplies goods or services and represents that tax is charged on the supply;
 - (e) a taxable person supplies goods or services and the supply is not a taxable supply or is a taxable supply charged with tax at the rate of zero percent and, in either case, the taxable person represents that a positive rate of tax is charged on the supply; or
 - (f) the Commissioner has determined the liability of any person in terms of section 82(2),
- the Commissioner may make an assessment of the amount of tax payable by the person or of the amount of tax represented by the person as payable in respect of a supply.
- (2) The person assessed under subsection (1) -
- (a) in the case of an assessment under subsection (1)(d) or (e), is the person making the supply; or
 - (b) in the case of an assessment under subsection (1)(f), is the person whose liability has been determined under section 82(2); or
 - (c) in any other case, is the person required to account for the tax under this Act.
- (3) An assessment under subsection (1)(a), (c), (d), (e), or (f) may be made at any time.
- (4) An assessment under subsection (1)(b) -
- (a) where the default was due to fraud, or wilful neglect committed by, or on behalf of, the person who furnished the return or import declaration, may be made at any time; or
 - (b) in any other case, may be made within [3] years after the date the return or import declaration was furnished.
- (5) The Commissioner may, based on the information available, estimate the tax payable by a person for the purposes of making an assessment under subsection (1).
- (6) Where a taxable person is not satisfied with a return filed by that person under this Act, that person may apply to the Commissioner to make an addition or alteration to that return.
- (7) An application under subsection (6) must be in writing and specify in detail the grounds upon which it is made and must be made within [3] years after the date the return was filed by the taxable person or, in the event an assessment is made by the Commissioner after such [3-year] period, may be made within [60] days after the date that notice of such assessment is served on the taxpayer.
- (8) After considering an application under subsection (6), the Commissioner may make an assessment of the amount that, in the Commissioner’s opinion, is the amount of

- tax payable under this Act.
- (9) Where an assessment has been made under this section, the Commissioner is required to serve a notice of the assessment on the person assessed, which notice must state -
 - (a) the tax payable;
 - (b) the date the tax is due and payable; and
 - (c) the time, place, and manner of objecting to the assessment.
 - (10) The Commissioner may, within [3] years after service of the notice of assessment, or in the case of assessments described in subsection (4), within the deadline specified therein, amend an assessment by making such alterations or additions to the assessment as the Commissioner considers necessary, in which case, the Commissioner is required to serve notice of the amended assessment on the person assessed.
 - (11) An amended assessment is treated in all respects as an assessment under this Act.
 - (12) An amount assessed under subsection (1)(d), (e) or (f) is treated, for all purposes of this Act, as tax charged under this Act.

General provisions relating to assessments

- 49. (1) The original or a certified copy of a notice of assessment is receivable in any proceedings as conclusive evidence that the assessment has been duly made and, except in proceedings under Part VIII of this Act relating to the assessment, that the amount and all particulars of the assessment are correct.
- (2) No assessment or other document purporting to be made, issued, or executed under this Act shall be -
 - (a) quashed or deemed to be void or voidable for want of form; or
 - (b) affected by reason of mistake, defect, or omission therein,
 if it is, in substance and effect, in conformity with this Act and the person assessed, or intended to be assessed or affected by the document is identified in it.

PART IX – Objections and Appeals

Objections

- 50. (1) For purposes of this section, an "appealable decision" means an assessment or a decision described in sections 21(7), 22(17), 24(4), 25(3), 28(6), 34(4), 38(4), 45(9), 50(8), 51(8), 55(2), and 76(4);
- (2) A person dissatisfied with an appealable decision may file an objection to the decision with the Commissioner within [30] days after the service of the notice of the decision.
- (3) Where the Commissioner is satisfied that owing to absence from Vatopia, sickness, or other reasonable cause, the person was prevented from lodging an objection within the time specified under subsection (2) and there has been no unreasonable delay by the person in lodging the objection, the Commissioner may accept an objection filed after the time specified under subsection (2).
- (4) An objection to an appealable decision must be in writing and specify in detail the grounds upon which it is made.
- (5) In the case of an objection to an assessment, the Commissioner may consider the objection only if -
 - (a) the person assessed has paid the tax due under the assessment; or
 - (b) the Commissioner is satisfied that the person objecting is unable to pay the full amount of tax due and has given sufficient security, to the extent in a position to do so, for the amount of tax unpaid and any penalty that may become payable.
- (6) After considering the objection, the Commissioner may allow the objection in whole or part and amend the assessment or the decision objected to accordingly, or disallow

the objection.

- (7) The Commissioner is required to serve the person objecting with notice in writing of the decision on the objection.
- (8) A person dissatisfied with a decision of the Commissioner under subsection (3) may challenge the decision only under Part IX of this Act.

Appeal to Commissioner of Appeals

51. (1) In this section --
“Commissioner of Appeals” means the Commissioner of Appeals as appointed by the Minister pursuant to the [Finance Act] to hear and decide any matter in dispute between the Commissioner and any person in respect of the person’s liability or assessment for tax.
- (2) A person dissatisfied with an objection decision under section 50(6) may, within [30] days after being served with notice of the decision,
 - (a) file a notice of appeal with the Commissioner of Appeals and, if filed;
 - (b) must serve a copy of the notice of appeal on the Commissioner.
 - (3) Upon application in writing by a person dissatisfied with a decision under section 50(6), the Commissioner of Appeals may, where satisfied that owing to absence from Vatopia, sickness, or other reasonable cause, the person was prevented from lodging a notice of appeal within the time specified under subsection (2) and there has been no unreasonable delay by the person in lodging the notice, accept a notice of appeal filed after the time specified under subsection (2).
 - (4) In an appeal to the Commissioner of Appeals against an objection decision the Commissioner of Appeals may consider the objection only if the Comptroller certifies that
 - (a) the person assessed has paid the full amount of the tax due under the assessment;
 - or
 - (b) the Comptroller is satisfied that the person objecting is unable to pay the full amount of tax due and has given sufficient security, for the amount of tax unpaid and any penalty and interest that may become payable.
 - (5) If the Commissioner has not made a decision on the objection, and [60] days have passed since the objection was filed, an appeal may be made under subsection (2) at any time, as if the Commissioner had made a decision to disallow the objection.
 - (6) In an appeal to the Commissioner of Appeals against a decision on the objection, the person is limited to the grounds set out in the person’s objection, unless the Commissioner of Appeals grants the person leave to add new grounds.
 - (7) In deciding an appeal, the Commissioner of Appeals may make an order –
 - (a) affirming, reducing, increasing, or otherwise varying the assessment under appeal; or
 - (b) remitting the assessment for reconsideration by the Commissioner in accordance with the directions of the Commissioner of Appeals.
 - (8) A person dissatisfied with a decision of the Commissioner of Appeals under subsection (3) may challenge the decision only under Part IX of this Act.
 - (9) The [Income Tax Act, sections] apply to appeals under this Act to the extent not inconsistent with the provisions of this Act.

Appeal to High Court¹³

52. (1) A party who is dissatisfied with the decision of the Commissioner of Appeals may, within [30] days after being notified of the decision, file a notice of appeal with the [Registrar] of the High Court; and the party so appealing must serve a copy of the notice of appeal on the other party to the proceeding before the Commissioner of

¹³ If appeals beyond the trial court are included in the VAT Act, they should be inserted here.

- Appeals.
- (2) An appeal to the [High Court] may be made only on questions of law, including questions of mixed fact and law, and the notice of the appeal must state the questions of law that will be raised on the appeal.
 - (3) On an appeal under this section, the High Court may –
 - (a) confirm, increase or order the reduction of any assessment;
 - (b) make such other order as it thinks fit; and
 - (c) make such order as to costs as it thinks fit.

Burden of proof

53. The burden of proving that an assessment is excessive or that a decision of the Commissioner is wrong is on the person objecting to the assessment or decision.

PART X – Special Cases

Persons acting in a representative capacity

54. (1) In this section, “representative”, in relation to a taxable person, means -
 - (a) in the case of a company (other than a company in liquidation) -
 - (i) in the case of a [corporation], the [treasurer or other designated officer or officers]; or
 - (ii) in the case of an unincorporated association or body, any member of the committee of management; or
 - (iii) in any other case, any person who is responsible for accounting for the receipt and payment of moneys or funds on behalf of the company;
 - (b) in the case of a company in liquidation, the liquidator;
 - (c) in the case of the State, any person responsible for accounting for the receipt and payment of money under the provisions of any law or for the receipt and payment of public funds or of funds voted by Parliament;
 - (d) in the case of a local authority or board, any person who is responsible for accounting for the receipt and payment of money or funds on behalf of the local authority or board;
 - (e) in the case of a partnership, any partner in the partnership;
 - (f) in the case of a trust, any trustee; or
 - (g) in the case of a non-resident or a person referred to in paragraph (d) of the definition of “resident” in section 2, any person controlling the non-resident’s affairs in Vatopia, including any manager of a taxable activity of the non-resident in Vatopia.
- (2) Every representative of a taxable person is responsible for performing any duties, including the payment of tax, imposed by this Act on the taxable person.
- (3) Every representative who in that capacity pays any tax payable under this Act by a taxable person is entitled to recover the amount so paid from the taxable person or to retain the amount so paid out of any money of the taxable person that is in the representative’s possession or under the representative’s control.
- (4) Every representative is personally liable for the payment of any tax payable by the representative in his representative capacity if, while the amount remains unpaid, the representative -
 - (a) alienates, charges, or disposes of any money received or accrued in respect of which the tax is payable; or
 - (b) disposes of or parts with any fund or money belonging to the taxable person which is in the possession of the representative or which comes to the

representative after the tax is payable if such tax could legally have been paid from or out of such fund or money.

- (5) Nothing in this section shall be construed as relieving a taxable person from performing any duties imposed by this Act on the taxable person which the representative of the person has failed to perform.

Power to appoint representatives

55. (1) The Commissioner may, if the Commissioner considers it necessary to do so, declare a person to be a representative of the taxable person for the purposes of section 54.
(2) A person dissatisfied with a decision referred to in subsection (1) may challenge the decision only under Part IX of this Act.

Branches

56. (1) Where a taxable activity is conducted by a taxable person in branches or divisions, the taxable person is deemed to be a single person conducting the taxable activity for purposes of this Act.
(2) Subject to subsection (3), a taxable person who conducts a taxable activity in branches or divisions is required to register in the name of the taxable person and not also in the names of its branches and divisions.
(3) Upon application in writing, the Commissioner may authorise a taxable person to register one or more of its branches or divisions as separate taxable persons if the Commissioner is satisfied that the branch or division maintains an independent system of accounting and can be separately identified by the nature of its activities or its location.¹⁴
(4) The registration of a branch or division under subsection (3) is subject to such conditions and restrictions as the Minister may deem fit.

Bodies of persons (other than incorporated companies)

57. (1) This Act applies to a partnership as if the partnership were a person separate from the partners of the partnership, except that -
(a) obligations that would be imposed on the partnership are instead imposed on each partner, but may be discharged by any of the partners; and
(b) the partners are jointly and severally liable to pay any amount due under this Act that would be payable by the partnership; and
(c) any offence under this Act that would otherwise be committed by the partnership is taken to have been committed by each of the partners.
(2) This Act applies to an unincorporated association or body as if it were a person separate from the members of the association or body, but the obligations that would be imposed on the association or body are instead imposed on each member of the committee of management of the association or body, but may be discharged by any of those members.
(3) Where -
(a) a partnership, or unincorporated association or body is dissolved, referred to as the “dissolved entity”, in consequence of -
(i) the retirement or withdrawal of one or more, but not all, of its partners or members; or
(ii) the admission of a new partner or member;
(b) a new partnership, or association or body comes into existence, referred to as the “new entity”, consisting of the remaining members and one or more new

¹⁴ An alternative is to deny registration by branch or division if the record-keeping and communication among branches or divisions is adequate to require a single registration.

- members; and
 - (c) the new entity continues to carry on the taxable activity of the dissolved entity as a going concern,
- the dissolved entity and the new entity, for the purposes of this Act, are deemed to be one and the same, unless the Commissioner, having regard to the circumstances of the case, otherwise directs.

Death or insolvency of taxable person; mortgagee in possession

58. (1) Where, after the death of a taxable person or the sequestration of a taxable person's estate, any taxable activity previously carried on by the taxable person is carried on by or on behalf of the executor or trustee of the person's estate or anything is done in connection with the termination of the taxable activity, the estate of the taxable person, as represented by the executor or trustee, is deemed for the purposes of this Act to be the taxable person in respect of the taxable activity.
- (2) Where a mortgagee is in possession of any land or other property previously mortgaged by a mortgagor who is a taxable person, and the mortgagee carries on a taxable activity in relation to the land or other property, the mortgagee is deemed, from the date the mortgagee took possession of that land or property until such time as the mortgagee ceases to be in possession of the land or property, to be the taxable person carrying on the taxable activity.

Trustee

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

PART XI – Records and Investigation Powers

Meaning of “records”

60. In this Part, “records” means accounting records, accounts, books, computer-stored information, or any other documents.

Record-keeping

61. (1) Every taxable person or any other person liable for tax under this Act is required to maintain in Vatopia -
- (a) original tax invoices, tax credit notes, and tax debit notes received by the person;
 - (b) a copy of all tax invoices, tax credit notes, and tax debit notes issued by the person;
 - (c) customs documentation relating to imports and exports by the person;
 - (d) accounting records relating to taxable activities carried on in Vatopia; and
 - (e) any other records as may be prescribed by regulations.
- (2) Records required to be maintained under subsection (1) are required to be retained for [6] years after the end of the tax period to which they relate.¹⁵
- (3) A person who fails to maintain proper records in accordance with this section commits an offence and is liable on conviction -

¹⁵ An alternative is to add the following: “A taxpayer may apply in writing to the Commissioner for permission to dispose of records required to be maintained under this Act prior to the expiration of the period up to which records are required to be kept and the Commissioner may grant permission in writing if satisfied that the records may not be required for any tax purposes.

- (a) where the failure was made knowingly or recklessly, to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [2 years], or both;
 - (b) in any other case, to a fine not exceeding [...vatopians] to imprisonment for a term not exceeding [1 year], or both.
- (4) A person who fails to maintain proper records in a tax period in accordance with the requirements of this section is liable for a penalty of [...vatopians] per day for each day or portion thereof that the failure continues.

Access to records, computers, goods, and vehicles

62. (1) For the purpose of the administration of this Act, a taxation officer who has been authorised by the Commissioner in writing may -
- (a) without prior notice and at any time,¹⁶ enter any premises or place where records are kept and on such premises search for any records;
 - (b) in carrying out a search referred to in paragraph (a) and in any manner, open or cause to be opened or removed and opened, any article in which the officer suspects that any records are kept;
 - (c) seize any records which in the officer's opinion may afford evidence that may be material in determining the liability of any person for tax payable under this Act;
 - (d) retain any records seized under paragraph (c) for as long as they may be required for determining a person's liability under this Act or for any proceeding under this Act;
 - (e) examine and make extracts from, and copies of, any records, and require from any person an explanation of any entry therein;
 - (f) where a hard copy or computer disk of computer-stored information is not provided, seize and retain the computer in which the information is stored for as long as is necessary to copy the information required; and
 - (g) stop and board a vehicle which the officer has reasonable cause to believe is importing goods into Vatopia, search any such vehicle or any person found in the vehicle and question the person with respect to any matter dealt with in this Act.
- (2) A taxation officer who attempts to exercise a power under subsection (1) is not entitled to enter or remain on any premises or at any place if, upon being requested by the occupier of the premises or place, the officer does not produce an authorisation in writing from the Commissioner to the effect that the officer is authorised to exercise that power under this section.
- (3) The owner, manager, or any other person lawfully on the premises or at the place entered or proposed to be entered under this section is required to provide all reasonable facilities and assistance for the effective exercise of power under this section.
- (4) A person whose records or computer have been removed and retained under subsection (1) may examine them and make copies or extracts from them during regular office hours under such supervision as the Commissioner may determine.
- (5) A taxation officer exercising a power under subsection (1) may request the assistance of a Customs officer or police officer as the taxation officer may consider reasonably necessary and any such Customs officer or police officer is required to render such assistance as may be required by the taxation officer.
- (6) This section has effect notwithstanding any rule of law relating to privilege or the public interest in relation to the production of, or access to records.
- (7) A person who fails to provide a taxation officer with reasonable facilities and assistance as required by subsection (3) commits an offence and is liable on

¹⁶ An alternative is to require a warrant from a magistrate or judge before a taxation officer is authorised to enter premises and open and remove items found there that are relevant for the tax inquiry.

conviction to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [1 year], or both.

Records not in Vatopian language

63. Where a record referred to in section 61 or 62 is not in the Vatopian language, the Commissioner may, by notice in writing, require the person keeping the record to provide at that person's expense a translation into the Vatopian language by a translator approved by the Commissioner for this purpose.

Notice to obtain information or evidence

64. (1) The Commissioner may, by notice in writing, require a person, whether or not liable for tax under this Act -
- (a) to furnish such information concerning that person or any other person as may be required by the notice; or
 - (b) to attend at the time and place designated in the notice for the purpose of being examined on oath before the Commissioner or a taxation officer authorised by the Commissioner for this purpose concerning the tax affairs of that person or any other person, and for that purpose the Commissioner or the authorised officer may require the person examined to produce any record or computer in the control of the person.
- (2) Where the notice requires the production of any record or computer, it is sufficient if such record or computer is described in the notice with reasonable certainty.
- (3) A notice issued under this section is required to be served by or at the direction of the Commissioner by a signed copy delivered -
- (a) by registered post;
 - (b) by hand to the person to whom it is directed; or
 - (c) left at the person's last and usual place of abode,
- and the certificate of service signed by the person serving the notice is evidence of the facts stated therein.
- (4) This section has effect notwithstanding any rule of law relating to privilege or the public interest in relation to the furnishing of information or the production of records or documents.
- (5) A person who fails to comply with a notice issued under this section commits an offence and is liable on conviction to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [1 year], or both.

PART XII - Offences and Penalties

Division I: Criminal Offences

Power to bring criminal charges

65. (1) Subject to the powers of the [] under the Constitution no criminal proceedings in respect of any offence under this Act shall be commenced except where the Commissioner determines to bring charges and seek prosecution.
- (2) Criminal proceedings under this Act shall be commenced in the name of the Commissioner.
- (3) If the Commissioner resolves to bring charges or to seek prosecution under this Act, the matter shall be referred to the Attorney-General.

Time limits for proceedings to be taken

66. Proceedings under this Division may be commenced—

- (a) where the offence alleged has involved the doing of an act, within three years after the discovery of the act;
- (b) where the offence alleged has involved the failure to do an act, within three years after the Commissioner has become aware of such failure;
- (c) where the offence alleged has involved the non-disclosure or incorrect disclosure by a person of information relating to that person's liability to tax for a tax period, within one year after his correct liability to tax has become final for that tax period.

Tax evasion

67. A person who wilfully evades, or attempts to evade the assessment, payment, or collection of tax commits an offence and is liable on conviction to a fine of up to [...vatopians], or to imprisonment for a term of [two] years, or both.

False or misleading statements

68. (1) A person who -
- (a) makes a statement to a taxation officer that is false or misleading in a material particular; or
 - (b) omits from a statement made to a taxation officer any matter or thing without which the statement is misleading in a material particular,
- commits an offence and is liable on conviction -
- (c) where the statement or omission was made knowingly or recklessly, to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [2 years], or both; or
 - (d) in any other case, a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [1 year], or both.
- (2) A reference in this section to a statement made to a taxation officer is a reference to a statement made orally, in writing, or in any other form to that officer acting in the performance of the officer's duties under this Act, and includes a statement made -
- (a) in an application, certificate, declaration, notification, return, objection, or other document made, prepared, given, filed, filed, or furnished under this Act;
 - (b) in any information required to be furnished under this Act;
 - (c) in a document furnished to a taxation officer otherwise than pursuant to this Act;
 - (d) in an answer to a question asked of a person by a taxation officer; or
 - (e) to another person with the knowledge or reasonable expectation that the statement would be conveyed to a taxation officer.
- (3) It is a defence to a prosecution under subsection (1) that the person did not know and could not reasonably be expected to have known that the statement to which the prosecution relates was false or misleading.

Obstructing taxation officers

69. A person who obstructs a taxation officer in the performance of the officer's duties under this Act commits an offence and is liable on conviction to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [2 years], or both.

Offences by taxation officers

70. A taxation officer in carrying out the provisions of this Act who -
- (a) directly or indirectly asks for, or takes in connection with any of the officer's duties a payment or reward, whether pecuniary or otherwise, or any promise or security for

- any such payment or reward, not being a payment or reward which the officer was lawfully entitled to receive; or
- (b) enters into or acquiesces in an agreement to do, abstain from doing, permit, conceal, or connive at an act or thing whereby the tax revenue is or may be defrauded or which is contrary to the provisions of this Act or to the proper execution of the officer's duty,
- commits an offence and is liable on conviction to a fine not exceeding [...vatopians] or to imprisonment for a term not exceeding [5 years], or both, and the Court may, in addition to imposing a fine, order the convicted person to pay to the Commissioner an amount of tax that has not been paid as a result of the officer's wrongdoing and which cannot be recovered from the person liable for the tax.

Offences by companies, aiders and abettors

71. (1) Where an offence under this Act has been committed by a company, every person who at the time of the commission of the offence -
- (a) was a representative officer, director, general manager, secretary, or other similar officer of the company; or
- (b) was acting or purporting to act in such capacity,
- is deemed to have committed the offence.
- (2) Subsection (1) does not apply where -
- (a) the offence was committed without such person's consent or knowledge; and
- (b) the person exercised all such diligence to prevent the commission of the offence as ought to have been exercised having regard to the nature of the person's functions and all the circumstances.
- (3) A person aiding and abetting the commission of an offence under this Act shall also be guilty of that offence and liable to the same penalties as the person committing the offence.

General penalty

72. A person who commits an offence under this Act for which no penalty is prescribed is liable on conviction to a fine not exceeding [...vatopians], or to imprisonment for a term of [six] months, or both.

Compounding of offences

73. (1) Where a person has committed an offence under this Act other than an offence under sections 8 or 70, the Commissioner may, with the approval of the Minister, at any time prior to the commencement of the court proceedings relating thereto, compound such offence and order the person to pay such sum of money as specified by the Commissioner, not exceeding the maximum amount of the fine prescribed for the offence.
- (2) The Commissioner may compound an offence under this section only if the person concerned admits in writing that the person has committed the offence.¹⁷
- (3) Where the Commissioner compounds an offence under this section, the order referred to in subsection (1) -
- (a) must be in writing and shall have attached the written admission;
- (b) must specify -
- (i) the offence committed;
- (ii) the sum of money to be paid; and
- (iii) the due date for the payment;

¹⁷ An alternative is to require the person to request in writing that the Commissioner deal with the offence in this manner.

- (c) is required to be served on the person who committed the offence; and
 - (d) must be final and not subject to any appeal.
- (4) When the Commissioner compounds an offence under this section, the person concerned shall not be liable for prosecution in respect of such offence or for penalty under section 20(10), 61(4), or 75.
- (5) The amount ordered to be paid under subsection (1) is recoverable as if it were tax due and payable.

Division II: Civil Penalties

General provisions

- 74. (1) No penalty is payable under this Division where, in respect of the same act or omission, the person has been convicted of an offence under Division I, or an offence has been compounded under section 73.
- (2) If a penalty under this Division has been paid and the Commissioner institutes a prosecution proceeding under Division I in respect of the same act or omission, the Commissioner must refund the amount of the penalty paid; and that penalty is not payable unless the prosecution is withdrawn.
- (3) Where good cause is shown, in writing, by the person liable for a penalty, the Commissioner may mitigate in whole or in part any penalty payable.

Penalty for making false or misleading statements

- 75. (1) Where a person knowingly or recklessly -
 - (a) makes a statement to a taxation officer that is false or misleading in a material particular; or
 - (b) omits from a statement made to a taxation officer any matter or thing without which the statement is misleading in a material particular,
 and the tax properly payable by the person exceeds the tax that would be payable if the person were assessed on the basis that the statement is true, the person is liable for a penalty equal to the greater of [...] and
 - (a) in a case where an amount of tax payable by the person would be reduced if it were determined on the basis of the information provided in the statement, the amount by which that tax would have been so reduced; and
 - (b) in a case where the amount of a refund that the person applied for would be increased if it were determined on the basis of the information provided in the statement, the amount by which that amount would have been so increased.
- (2) Section 68(2) applies in determining whether a person has made a statement to a taxation officer.
- (3) It is a defence to a prosecution under subsection (1) that the person did not know and could not reasonably be expected to have known that the statement to which the prosecution relates was false or misleading.

Recovery or remission of penalties

- 76. (1) Where good cause is shown, in writing, by the person liable for a penalty, the Commissioner may remit in whole or part any penalty payable.
- (2) Except as otherwise provided in this Act, the imposition of a penalty is in addition to any fine or prison sentence imposed as a result of a conviction for an offence under sections 8(7), 18(6) or (7), 20(9), 21(13), 22(15), 24(5) or (6), 32(7) or (8), 33(7) or (8), 43(6), 44(6), 45(14), 61(3), 62(7), 64(5), 78(2), or under Division I of Part XII of this Act.
- (3) Penalties may be assessed and collected as if the amount of penalty is tax due under

- this Act.
- (4) A person dissatisfied with a decision of the Commissioner under subsection (1) may challenge the decision only under Part IX of this Act.

Temporary closure of business premises¹⁸

77. (1) Where a person repeatedly violates --
- (a) section 18 or 34 by failing to pay tax when due;
 - (b) section 24 by failing to file returns;
 - (c) section 32 in relation to tax invoices,
 - (d) section 33 in relation to tax debit notes or tax credit notes;
 - (e) section 45 by improperly claiming tax refunds; or
 - (f) section 69 by obstructing taxation officers;
- after obtaining an order of a court having jurisdiction in respect of the person, the Commissioner may forcibly close one or more business premises of the person for a period of between [3 and 30 days].
- (2) For purposes of subsection (1), the Commissioner may use reasonable force and police assistance necessary to close all or any premises of the person, barring access with locks, fencing, boarding, or other appropriate methods.
- (3) For purposes of this section, a repeated violation means a violation that is committed within one year of receipt by the person of a written warning –
- (a) that a violation of such kind has been committed more than once within the year preceding the year of the warning, and
 - (b) that repetition may result in closure under this section.

PART XIII – Miscellaneous

VAT registration number¹⁹

78. (1) The Commissioner may require a person to include the VAT registration number issued by the Commissioner to that person in any return, notice, or other document prescribed or used for the purposes of this Act.
- (2) A person who knowingly uses a false VAT registration number, including the VAT registration number of another person, on a return, notice, or other document prescribed or used for the purposes of this Act commits an offence and is liable on conviction to a fine not exceeding [...] or to imprisonment for a term not exceeding [2 years], or both.
- (3) Subsection (2) does not apply to a person who uses the VAT registration number of another person with the permission of that other person on a return, notice, or other document relating to the tax affairs of that other person.

Forms and notices; authentication of documents

79. (1) Forms, notices, returns, and other documents prescribed or published by the Commissioner may be in such form as the Commissioner determines for the efficient administration of this Act, and publication of such documents in the [Gazette] is not required.
- (2) The Commissioner is required to make the documents referred to in subsection (1) available to the public at the Vatopia [Revenue Authority] and any other locations, or

¹⁸ In addition, the Act could provide that the Commissioner may publish the names of persons who repeatedly violate the Act in a newspaper of general circulation in the State or local community.

¹⁹ For tax administration reasons, it is desirable to issue each taxpayer a taxpayer identification number that must be used for all taxes collected (e.g., VAT, customs, income, and payroll taxes).

by mail, as the Commissioner determines.

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

Service of notices

80. (1) Unless otherwise provided in this Act, a notice required by this Act to be in writing must be served on the recipient of the notice.
- (2) A notice described in subsection (1) is considered sufficiently served on a person if it is -
 - (a) personally served on that person;
 - (b) personally served on the representative of that person under section 54;
 - (c) left at the person's usual or last known place of abode, office, or place of business in Vatopia; or
 - (d) sent by registered post to such place of abode, office, or place of business, or to the person's usual or last known address in Vatopia.

Tax-inclusive pricing

81. (1) A price charged by a taxable person in respect of a taxable supply is deemed to include, for the purposes of this Act, the tax charged on the supply under section 9(1)(a), whether or not the taxable person has included tax in such price.
- (2) Subject to subsection (3), a price advertised or quoted by a taxable person in respect of a taxable supply is required to include tax and this must be stated in the advertisement or quotation.
- (3) A taxable person may advertise or quote a price in respect of a taxable supply as exclusive of tax provided -
 - (a) the advertisement or quotation also states the amount of tax charged on the supply and the price inclusive of tax; and
 - (b) the price inclusive of tax and the price exclusive of tax are advertised or quoted with equal prominence or impact.
- (4) Subject to subsection (5), price tickets on goods supplied by a taxable person need not state that the price includes tax if this is stated by way of a notice prominently displayed at the premises in which the taxable person carries on a taxable activity, including the places in such premises where payments are effected.
- (5) The Commissioner may in the case of a taxable person or class of taxable person approve any other method of displaying prices of goods or services by such persons.

Schemes for obtaining tax benefits

82. (1) In this section -
"scheme" includes an agreement, arrangement, promise, or undertaking whether express or implied and whether or not legally enforceable, and a plan, proposal, course of action, or course of conduct; and
"tax benefit" includes -
 - (a) a reduction in the liability of a person to pay value added tax;
 - (b) an increase in the entitlement of a person to a deduction or refund;
 - (c) a postponement of liability for the payment of value added tax;
 - (d) an acceleration of entitlement to a deduction for input tax; or
 - (e) any other avoidance or postponement of liability for the payment of value added tax.
- (2) Notwithstanding anything in this Act, if the Commissioner is satisfied that a scheme has been entered into or carried out where -
 - (a) a person has obtained a tax benefit in connection with the scheme in a

- manner that constitutes a misuse of the provisions of this Act; and
- (b) having regard to the substance of the scheme, it would be concluded that the person, or one of the persons, who entered into or carried out the scheme did so for the sole or dominant purpose of enabling the person to obtain the tax benefit,

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

Currency conversion

83. (1) For the purposes of this Act, all amounts of money are to be expressed in Vatopians.
- (2) Where an amount is expressed in a currency other than vatopians -
- (a) in the case of imports, the amount must be converted at the exchange rate as determined in terms of the [Customs Act]; or
- (b) in all other cases, the amount must be converted at the exchange rate applying between the currency and the vatopian at the time the amount is taken into account under this Act.

International agreements

84. (1) In this section, “international agreement” means an agreement between Vatopia and a foreign government or a public international organisation.
- (2) To the extent that the terms of a treaty or other international agreement to which Vatopia is a party are inconsistent with the provisions of this Act (apart from section 82), the terms of the treaty or international agreement prevail over the provisions of this Act.

Registration of certain goods prohibited in certain circumstances

85. (1) For purposes of this section, “registering authority” means a person appointed under a law to issue a licence, permit, certificate, concession, or other authorization.
- (2) Where a form of registration is required under a law in respect of goods consisting of an aircraft, boat, fishing vessel, ship, yacht, motor cycle, motor vehicle, tractor, caravan, or trailer, hereinafter referred to as “registrable goods”, no registering authority responsible for such registration under such law may effect such registration upon a change of ownership or importation into Vatopia of registrable goods unless the person applying for registration produces to such registering authority -
- (a) in the case of registrable goods -
- (i) which form the subject of any supply, or
- (ii) which are imported into Vatopia,
- a receipt or customs document issued by the [Commissioner of Customs] or a document issued by the Commissioner showing that tax which is payable under this Act has been paid in respect of such supply or importation into Vatopia, or a receipt or certificate showing that no tax is payable under the Act in respect of such supply or importation, as the case may be, of the registrable goods in consequence of which the registration is required;
- (b) a declaration, in such form as the Commissioner may prescribe, issued by a registered person who, in carrying on a taxable activity in the ordinary course of which registrable goods are dealt in, supplied such goods in consequence of which the registration is required, certifying that the tax payable under this Act has been, or will be, paid by such person; or
- (c) a certificate issued by the Commissioner, or other documentation acceptable

to the Commissioner, to the effect that the supply or import of the registrable goods was an exempt supply or exempt import, as the case may be.

Auctioneer and agent

86. (1) Subject to this section, a supply of goods or services
- (a) made by a person as agent for another person (“the principal”) is a supply by the principal; or
 - (b) made to a person as agent for a principal is a supply to the principal.
- (2) Subsection (1) does not apply to services supplied by an agent to the agent’s principal.
- (3) Except for an exempt supply, a supply of goods by auction is treated as a supply of goods for consideration by the auctioneer as supplier made in the course or furtherance of a taxable activity carried on by the auctioneer.
- (4) Subsection (1) does not apply where the principal is a non-resident.
- (5) Where a taxable supply has been made in circumstances specified under subsection (1)(a), the agent may issue a tax invoice in accordance with this Act in relation to the supply as if the agent had made the supply, in which case the principal may not also issue a tax invoice in relation to the supply.
- (6) Where a taxable supply has been made in the circumstances specified under subsection (1)(b), at the request of the agent, a tax invoice in relation to the supply may be issued to the agent, in which case the supplier may not issue a tax invoice to the principal in relation to the supply.
- (7) Where tax is payable by an auctioneer in respect of the supply of goods specified under subsection (3), the auctioneer is required to charge the purchaser the amount of tax payable in respect of the sale by adding the tax to the amount of a successful bid or, in the case of sales out-of-hand, to the purchase price, and is required to recover that tax from the purchaser.

Regulations

87. (1) The Minister may make regulations for the better carrying into effect of the purposes of this Act, any for any matter which under this Act is to be prescribed by regulations, and without prejudice to the generality of the foregoing, such regulations may provide for –
- (a) provisions of a saving or transitional nature consequent on the coming into force of this Act;
 - (b) specific offences and penalties for breach of the regulations; or
 - (c) the application of terms used in this Act and ancillary rules that facilitate the application of provisions in the Act, including the determination of the value, time, and place of transactions for purposes of applying the Act to those transactions.
- (2) If the regulations so provide, they may take effect from the date on which this Act comes into effect or a later date, regardless of the date when they are published in the Gazette.

Variation of consideration on a change in rate

88. (1) Where -
- (a) an agreement for a supply of goods or services by a registered person has been entered into; and
 - (b) subsequent to entering into the agreement, tax is imposed on the supply or the rate of tax applicable to the supply is increased,
- the supplier, unless explicitly provided to the contrary in the agreement, may recover

from the recipient, in addition to the amounts payable by the recipient, an amount equal to the amount of tax imposed or the amount by which tax was increased, as the case may be.

- (2) Where -
 - (a) an agreement for a supply of goods or services by a registered person has been entered into; and
 - (b) subsequent to entering into the agreement, tax on the supply is withdrawn or the rate of tax applicable to the supply is decreased,the supplier, unless explicitly provided to the contrary in the agreement, is required to reduce the amount payable by the recipient by an amount equal to the amount of tax withdrawn or the amount by which tax was decreased, as the case may be.
- (3) Subject to subsections (4) and (5), where subsection (1) or (2) applies in respect of a supply of goods or services subject to any fee, charge, or other amount, whether a fixed, maximum, or minimum fee, charge, or other amount, prescribed by, or determined pursuant to, any Act, regulation, or measure having force of law, that fee, charge, or other amount may be increased or must be decreased, as the case may be, by the amount of tax or additional tax chargeable, or the amount of tax no longer chargeable.
- (4) Subsection (3) does not apply where the fee, charge, or other amount has been altered in an Act, regulation, or measure having force of law to take account of an imposition, increase, decrease, or withdrawal of tax.
- (5) Nothing in subsection (3) shall be construed so as to permit any further increase or require any further decrease, as the case may be, in a fee, charge, or other amount where the fee, charge, or other amount is calculated as a percentage or fraction of another amount which represents the consideration in money for a taxable supply.

Application of increased or reduced rate

89. (1) Where -
 - (a) services are performed; or
 - (b) goods are provided in respect of a successive supply contemplated in section 10(8) or (9),during a period beginning before and ending on or after the date on which a change in the rate of tax levied under section 9(1)(a) becomes effective in respect of the supply of the goods or the date on which the tax is imposed or withdrawn in respect of the supply, and the supply is deemed under section 10 to have been made on or after the said date, the value of the supply shall, on the basis of a fair and reasonable apportionment, be deemed to consist of a part, referred to as the "first part", relating to the performance of services or provision of goods before the said date and a part, referred to as the "second part", relating to the performance of services or provision of goods on or after the said date.
- (2) For purposes of subsection (1), in the case of -
 - (a) a change in the rate on the said date, the tax payable in respect of the first part shall be determined at the rate applicable before the said date and the tax payable in respect of the second part shall be determined at the rate applicable on the said date;
 - (b) the imposition of tax on the said date, the first part shall not be subject to tax; or
 - (c) the withdrawal of the tax, the first part shall be subject to tax as if the tax had not been withdrawn.
- (3) For the purposes of subsection (1), goods are deemed to be provided by the supplier of the goods when the goods are delivered to the recipient and goods supplied under a rental agreement are deemed to be provided to the recipient when the recipient takes possession or occupation of the goods.

Orders to amend Schedules or change amounts or tax rate

90. (1) The Minister may by order published in the Gazette--
- (a) amend the Schedules to this Act; or
 - (b) increase or decrease any monetary amount set out in this Act; or
 - (c) increase or decrease a rate of tax under section 9(1).
- (2) An order under subsection (1) must be approved by an affirmative resolution of Parliament.

Repeal of laws and interpretation

91. (1) The Acts specified in Schedule VI to this Act [and any regulations made thereunder] are hereby repealed.
- (2) No reference to sales tax in any Act, other than this Act, shall be treated as a reference to tax under this Act.

Transitional

**[Subsections (1)-(11), (15)-(16), and (20) of this section
depend upon the existence of a sales tax
that will be replaced by the value added tax]**

92. (1) In this section -
- “qualifying goods” means any stock held for sale in the ordinary course of business;
 - “repealed legislation” means the legislation referred to in section 91(1); and
 - “sales tax” means the tax imposed under the [Sales Tax Act].
- (2) The repealed legislation, including the rules governing the levy, payment, assessment, reporting, and recovery of those taxes, continue to apply to a supply or import taking place prior to the date on which this Act comes into operation pursuant to section 1.
- (3) All appointments made under the repealed legislation and subsisting at the date of commencement of this Act are treated as appointments made under this Act; and an oath of secrecy taken under the repealed legislation is treated as having been taken under this Act.
- (4) All forms and documents used in relation to the repealed legislation may continue to be used under this Act, and all references in those forms and documents to provisions of and expressions appropriate to the repealed legislation are taken to refer to the corresponding provisions and expressions of this Act.
- (5) Notwithstanding section 27(4), in calculating the amount of tax payable by a taxable person in respect of the first tax period after the tax becomes effective, the taxable person may claim as an amount deductible under section 27, an amount equal to the sales tax deduction calculated in accordance with subsection (6) and deductible as provided under subsection (7).
- (6) For the purposes of subsection (5), where a taxable person held, at the end of the last business day prior to the beginning of the first tax period after the tax becomes effective, qualifying goods being goods acquired not more than [4 months] before the tax becomes effective, and the Commissioner is satisfied that sales tax has been paid on the acquisition or import of those goods, the amount of the sales tax deduction is the amount of such taxes paid on such goods, but with respect to each item qualifying for the deduction, the sales tax shall not exceed the amount of tax which would have been payable had the goods been subject to tax chargeable under this Act.
- (7) If, in any tax period, a taxable person has sales tax deductible under subsection (5), the amount deductible is deemed to be input tax deductible under section 27.
- (8) No deduction is allowed under subsection (5) for any sales tax paid in respect of the acquisition of any goods if VAT imposed on a supply in acquisition of those goods

after the effective date of this Act would not qualify for the section 27 input tax deduction.

- (9) A person wishing to claim a deduction under subsection (5) for sales tax paid on qualifying goods on hand on the date of the entry into operation of this Act is required to register as of such date.
- (10) A person claiming a deduction under subsection (5) is required to submit with that return an inventory of all qualifying goods on hand at the beginning of the first day on which this Act comes into operation, supported by documentary evidence of the payment of sales tax.
- (11) A disallowance of a deduction for sales tax imposed before the effective date of this Act shall not be treated as a disallowance for purposes of section 4(17).
- (12) Where a contract was concluded between two or more parties before the entry into operation of this Act, and no provision relating to tax was made in the contract, the supplier may recover from the recipient tax due on any taxable supplies made under the contract after the date on which this Act came into operation.
- (13) Where a contract concluded after the date on which this Act came into operation does not include a provision relating to tax, the contract price is deemed to include tax and the supplier under the contract is required to account for the tax due.
- (14) Subject to subsection (16), if, in connection with a supply of goods or services,
 - (a) title to goods passes, delivery of goods is made, or services are rendered after the date on which this Act came into operation, and
 - (b) payment is received or an invoice is issued within [9 months] before that date,for purposes of determining the tax period in which the supply occurs or an input tax deduction is allowable, the payment is treated as having been made or the invoice is treated as having been issued on the date on which this Act comes into operation.
- (15) If services subject to sales tax were rendered before the date on which this Act came into effect and payment is made within [4] months after this Act came into effect, VAT is not imposed on the supply of the services.
- (16) If
 - (a) successive supplies described in section 14(8) or (9) were provided, or
 - (b) services subject to sales tax were rendered,during a period that began before this Act came into effect and ended after this Act came into effect, VAT is imposed on the consideration for the goods or services rendered after this Act came into effect, except that to the extent the consideration for the goods or services rendered before this Act came into effect is paid more than [4] months after this Act came into effect, the consideration shall be treated as consideration for the supply of goods or services rendered on the day after the end of that [4-month] period.
- (17) Notwithstanding the application of subsection 16(a) to supplies under section 16(b), if construction, reconstruction, manufacture or extension of a building or civil engineering work is performed under a written agreement executed before this Act came into effect and the property is made available to the recipient after that date, VAT is imposed only on the value of the work performed after that date if the value of the work on the day before this Act came into effect is determined in a manner approved by the Commissioner and is submitted to the Commissioner by the end of the supplier's first VAT period after VAT becomes effective.
- (18) If immovable property is provided under a rental agreement for a period that commences before and ends after the effective date of this Act, the consideration for the rental shall not include the amount attributable to the portion of the period that ends before the effective date.
- (19) For purposes of section 27(1)(d), an amount paid as a prize or winnings does not include an amount attributable to obligations or contingent obligations that exist immediately before this Act comes into effect.
- (20) The Minister may issue regulations for other transitional measures relating to the end

of sales tax, the start of value added tax, or the transition from sales tax to value added tax.

SCHEDULE I

Zero-rated Supplies for Purposes of Section 15

1. In this Schedule -
 - “ancillary transport services” means stevedoring services, lashing and securing services, cargo inspection services, preparation of customs documentation, container handling services, and storage of transported goods or goods to be transported;
 - “export country” means any country other than Vatopia and includes a place which is not situated in Vatopia, but does not include a specific country or territory that the President by proclamation in the Gazette designates as one that is not an export country;
 - “exported from Vatopia”, in relation to any movable goods supplied by a registered person under a sale or a credit agreement, means -
 - (a) consigned or delivered by the registered person to the recipient at an address in an export country as evidenced by documentary proof acceptable to the Commissioner; or
 - (b) delivered by the registered person to the owner or charterer of a foreign-going aircraft or foreign-going vessel when such aircraft or vessel is going to a destination in an export country and such goods are for use or consumption in such aircraft or vessel, as the case may be;
 - “foreign-going aircraft” means an aircraft engaged in the transportation for reward of passengers or goods wholly or mainly on flights between airports in Vatopia and airports in export countries or between airports in export countries;
 - “foreign-going vessel” means a vessel engaged in the transportation for reward of passengers or goods wholly or mainly on voyages between seaports in Vatopia and seaports in export countries or between seaports in export countries;
 - “intellectual property rights” means a patent, design, trade mark, copyright, know-how, confidential information, trade secret, or similar rights;
 - “international transport services” means -
 - (a) the services, other than ancillary transport services, of transporting passengers or goods by road, rail, water, or air -
 - (i) from a place outside Vatopia to another place outside Vatopia where the transport or part of the transport is across the territory of Vatopia;
 - (ii) from a place outside Vatopia to a place in Vatopia; or
 - (iii) from a place in Vatopia to a place outside Vatopia;
 - (b) the services of transporting passengers from a place in Vatopia to another place in Vatopia to the extent that transport is by aircraft and constitutes “international carriage” as defined in Article 3 of the Convention on International Civil Aviation;
 - (c) the services, including any ancillary transport services, of transporting goods from a place in Vatopia to another place in Vatopia to the extent that those services are supplied by the same supplier as part of the supply of services to which paragraph (a) applies; or
 - (d) the services of insuring or the arranging of the insurance or the arranging of the transport of passengers or goods to which paragraphs (a) to (c) applies.
2. Subject to paragraph 3, the following supplies are specified for the purposes of section 15²⁰ -
 - (a) a supply of goods where the supplier has entered the goods for export, pursuant to the [Customs Act], and the goods have been exported from Vatopia by the supplier;
 - (b) a supply of goods where the Commissioner is satisfied that the goods have been exported from Vatopia by the supplier;
 - (c) a supply of goods where the goods are not situated in Vatopia at the time of supply and are not to be entered into Vatopia for home consumption pursuant to the [Customs Act]

²⁰ Alternatively, this paragraph can provide that the zero-rated items in this paragraph are zero-rated to the extent provided in regulations. Regulations then can define the scope of the zero-rated items. This alternative may be selected if the Ministry wants the flexibility to adjust the scope of the zero-rated items without going back to Parliament to amend the Act, especially if the Regulations must be put before Parliament.

by the supplier of the goods;

- (d) a supply of goods under a rental agreement, charter party, or agreement for chartering, where the goods are used exclusively in an export country;
- (e) a supply of goods in the course of repairing, renovating, modifying, or treating goods to which sub-paragraph (h)(ii) or (iv) applies and the goods supplied -
 - (i) are wrought into, affixed to, attached to, or otherwise form part of those other goods; or
 - (ii) being consumable goods, become unusable or worthless as a direct result of being used in that repair, renovation, modification, or treatment process;
- (f) a supply of international transport services;
- (g) a supply of services directly in connection with land, or any improvement thereto, situated outside Vatopia;
- (h) a supply of services directly in respect of -
 - (i) movable property situated outside Vatopia at the time the services are rendered;
 - (ii) goods temporarily imported into Vatopia under [the exemptions in the Customs Act];
 - (iii) a supply of goods referred to in paragraphs (a) or (b) of the definition of “exported from Vatopia”; or
 - (iv) the repair, maintenance, cleaning, or reconditioning of a foreign-going aircraft;
- (i) a supply of services directly to a non-resident who is not a taxable person, otherwise than through an agent or other person -
 - (i) comprising the handling, pilotage, salvage, or towage of a foreign-going aircraft while situated in Vatopia;
 - (ii) provided in connection with the operation or management of a foreign-going aircraft; or
 - (iii) comprising the storage, repair, maintenance, cleaning, management, or arranging the provision of a container temporarily imported under [..... of the Customs Act], or the arranging of such services;
- (j) a supply of services to a non-resident who is not a taxable person comprising the arranging for the person of -
 - (i) a supply of goods referred to in paragraphs (a) and (b) of the definition of “exported from Vatopia”;
 - (ii) a supply of services to which sub-paragraph (h)(iv) or (i) applies; or
 - (iii) the transport of goods, including ancillary transport services, within Vatopia;
- (k) a supply of services comprising the repair, maintenance, cleaning, or reconditioning of a railway train operated by a non-resident who is not a taxable person;
- (l) a supply of services physically rendered elsewhere than in Vatopia;
- (m) a supply of services to a non-resident who is outside Vatopia at the time the services are supplied, other than a supply of services -
 - (i) directly in connection with immovable property situated in Vatopia;
 - (ii) directly in connection with movable property situated in Vatopia at the time the services are supplied unless the movable property is exported from Vatopia subsequent to the supply of services;
 - (iii) comprising the refraining from undertaking any taxable activity in Vatopia; or
 - (iv) comprising the tolerating of another person undertaking any taxable activity in Vatopia;
- (n) a supply of services comprising -
 - (i) the filing, prosecution, granting, maintenance, transfer, assignment, licensing, or enforcement of any intellectual property rights for use outside Vatopia;
 - (ii) incidental services necessary for the supply of services referred to in sub-paragraph (i); or
 - (iii) the acceptance by a person of an obligation to refrain from pursuing or exercising in whole or part any intellectual property rights for use outside Vatopia; or
- (o) a supply by a registered person to another registered person of a taxable activity, or part of a taxable activity, as a going concern, provided –

- (i) sections 4(2) and 13(14) are satisfied; and
 - (ii) a notice in writing signed by the transferor and transferee is furnished to the Commissioner within [21] days after the supply takes place and such notice includes the details of the supply.
- 3. Paragraph 2 shall not apply in respect of any supply of goods which have been or will be re-imported into Vatopia by the supplier.

Schedule II

Exempt Supplies for Purposes of Section 16

1. In this Schedule -

“commercial rental establishment” means —

- (a) accommodation in a hotel, motel, inn, boarding house, hostel, or similar establishment in which lodging is regularly or normally provided to five or more persons at a daily, weekly, monthly, or other periodic charge;
- (b) accommodation in a house, flat, apartment, or room, other than accommodation in respect of which the provisions of paragraph (a) or (c) of this definition apply, which is regularly or systematically leased or held for lease as residential accommodation for continuous periods not exceeding [45] days in the case of each occupant of such house, flat, apartment, or room, if the total annual receipts and accruals from the lease thereof exceeded the amount specified in paragraph 7 of Schedule V to the Act or there are reasonable grounds for believing that such total annual receipts and accruals will exceed that amount;
- (c) accommodation in a house, flat, apartment, room, caravan, houseboat, tent, or caravan or camping site which constitutes an asset, including a leased asset, of a business undertaking or a separately identifiable part of a business undertaking carried on by a person who -
 - (i) leases or holds for leasing as residential accommodation five or more houses, flats, apartments, rooms, caravans, houseboats, or caravan or camping sites in the course of such business undertaking;
 - (ii) derives total annual receipts and accruals from the leasing of all such houses, flats, apartments, rooms, caravans, houseboats, and caravan and camping sites which exceed the amount specified in paragraph 7 of Schedule V to the Act or there are reasonable grounds for believing that such total annual receipts and accruals will exceed that amount; and
 - (iii) regularly or normally leases or holds for lease as residential accommodation such houses, flats, apartments, rooms, caravans, houseboats, or caravan or camping sites for continuous periods not exceeding [45] days in the case of each occupant; or
- (d) any other accommodation designated by the Minister by regulation to be a commercial rental establishment,

but does not include, unless within paragraph (d) —

- (e) accommodation in a boarding establishment or hostel operated by an employer solely or mainly for the benefit of the employees of such employer or of a related person of such employer or their dependents, provided such establishment or hostel is not operated for the purpose of making profits from such establishment or hostel for the employer or such related person;
- (f) accommodation in a boarding establishment or hostel operated by a local authority otherwise than for the purpose of making profits from such establishment or hostel; or
- (g) accommodation in a registered hospital, maternity home, nursing home, convalescent home, hospice, or clinic;

“dwelling” means a building, premises, structure, or any other place, or any part thereof, used predominantly as a place of residence or abode of a natural person or which is intended for use as a place of residence or abode of a natural person, together with any appurtenances belonging thereto and enjoyed therewith, but does not include a commercial rental establishment;

"education services" means education and hostel facilities for students and scholars provided by -

- (a) a pre-primary, primary, or secondary school;
- (b) a technical college, community college, or university; or

- (c) an educational institution established for the promotion of adult education, vocational training, technical education, or the education or training of physically or mentally handicapped persons.
2. The following supplies are specified as exempt supplies for the purposes of section 16²¹ -
- (a) a supply of financial services to the extent provided in regulations issued by the Minister;²²
 - (b) a supply of prescription drugs and medical services to the extent provided in regulations issued by the Minister;
 - (c) a supply of education services;
 - (d) a supply of —
 - (i) accommodation in a dwelling —
 - (aa) under a lease or rental of the accommodation; or
 - (bb) where the supplier is the employer of the recipient, the recipient is entitled to occupy the accommodation as a benefit of his office or employment and his right thereto is limited to the period of his employment or the term of his or her office or a period agreed upon by the supplier and the recipient; or
 - (ii) leasehold land by way of lease (not being a grant or sale of the lease of that land) to the extent that the subject land is used or is to be used for the principal purpose of accommodation in a dwelling erected or to be erected on that land;
 - (e) a supply of any goods or services by the State, a local authority, or an association not for gain where the consideration for the goods or services is nominal in amount or not intended to recover the cost of such goods or services.

²¹ Alternatively, this paragraph can provide that the exempt items in this paragraph are exempt to the extent provided in regulations. Regulations then can define the scope of the exempt items. This alternative may be selected if the Ministry wants the flexibility to adjust the scope of the exempt items without going back to Parliament to amend the Act, especially if the Regulations must be put before Parliament.

²² The scope of the exemption for financial services may vary widely. It may exempt a broad definition of financial intermediation services that includes credit card transactions, services to depositors and borrowers, services of brokers and dealers in securities, and life and casualty insurance, whether the services are provided for explicit or implicit fees. Alternatively, the exemption may be limited to financial intermediation services rendered for implicit fees, and tax all fee-based financial services (even if financial services are broadly defined). South Africa, Namibia, and Botswana tax all fee-based services. New Zealand was the pioneer in taxing casualty insurance.

Schedule III

Exempt Imports for Purposes of Section 17

1. An import of goods is an exempt import under section 17(a) if the goods are exempt from customs duty under the [Customs Act], unless the Minister provides otherwise by notice in the Gazette.

Schedule IV

Tax Invoices, Tax Credit Notes, and Tax Debit Notes for Purposes of Sections 32 and 33

1. Except as the Commissioner may otherwise allow, a tax invoice as required by section 32(1) shall contain the following particulars -
 - (a) the words "tax invoice" in a prominent place;
 - (b) the name, address, and VAT registration number of the registered person making the supply;
 - (c) for a supply to a registered recipient, the name, address, and VAT registration number of the recipient of the supply;
 - (d) the individualised serial number and the date on which the tax invoice is issued;
 - (e) a description of the goods or services supplied;
 - (f) the quantity or volume of the goods or services supplied; and
 - (g) the total amount of the tax charged, the consideration for the supply, and the consideration including tax.
2. Except as the Commissioner may otherwise allow, a tax credit note as required by section 33(1) shall contain the following particulars -
 - (a) the words "tax credit note" in a prominent place;
 - (b) the name, address, and VAT registration number of the registered person making the supply;
 - (c) the name, address, and VAT registration number of the recipient of the supply;
 - (d) the date on which the tax credit note was issued;
 - (e) the value of the supply shown on the tax invoice, the correct amount of the value of the supply, the difference between those two amounts, and the tax charged that relates to that difference;
 - (f) a brief explanation of the circumstances giving rise to the issuing of the tax credit note; and
 - (g) information sufficient to identify the taxable supply to which the tax credit note relates.
3. Except as the Commissioner may otherwise allow, a tax debit note as required by section 33(3) shall contain the following particulars -
 - (a) the words "tax debit note" in a prominent place;
 - (b) the name, address, and VAT registration number of the registered person making the supply;
 - (c) the name, address, and VAT registration number of the recipient of the supply;
 - (d) the date on which the tax debit note was issued;
 - (e) the value of the supply shown on the tax invoice, the correct amount of the value of the supply, the difference between those two amounts, and the tax that relates to that difference;
 - (f) a brief explanation of the circumstances giving rise to the issuing of the tax debit note; and
 - (g) information sufficient to identify the taxable supply to which the tax debit note relates.

Schedule V

Registration Threshold, Interest Rates, and Other Amounts for Purposes of Various Sections of the Act

1. For purposes of section 20(1)(a) and (b), the amount is [...] vatopians.
2. For purposes of section 31(1), the interest rate is [2 percent] per month or part thereof.
3. For purposes of section 32(2), the amount is [...] vatopians.
4. For purposes of section 45(7), the amount is [...] vatopians.
5. For purposes of section 46(1), the interest rate is [1 percent] simple interest per month or part thereof.
6. For purposes of section 47(1)(d), the amount of tax is [...] vatopians.
7. For purposes of Schedule II, sub-paragraphs (b) and (c)(ii) of the paragraph 1 definition of commercial rental establishment, the amount is [...] vatopians.

Schedule VI

Repeal of Laws and Interpretation for Purposes of Section 91

1. The [Sales Tax Act].