



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
No. 959 of 1st April, 1992
LEGISLATION

ORDINANCE 3 OF 1992.

AN ORDINANCE

TO PROVIDE FOR THE IMPOSITION AND COLLECTION
OF VALUE ADDED TAX.

A.F.C. HUNTER
ADMINISTRATOR

31st March, 1992.

BE it enacted by the Administrator of the Sovereign Base Areas of Akrotiri and Dhekelia as follows :—

Short title.

1. This Ordinance may be cited as the Value Added Tax Ordinance, 1992.

Interpretation.

2.—(1) In this Ordinance unless the context otherwise requires—

“business” has the meaning assigned to this term by subsections (2) to (7) of this Section;

“Commissioner” or “Commissioner of Value Added Tax” means the Fiscal Officer of the Sovereign Base Areas;

“food” has the meaning assigned to this term by Schedule VI;

“immovable property” has the meaning attributed to this term by the Immovable Property (Tenure, Registration and Valuation) Ordinance;

“input tax” has the meaning assigned to this term by Section 25 (4);

“Legal Person” includes a company, partnership, association, club, society, union, organisation or any other union of persons irrespective of whether such has been constituted or not according to the provisions of any Ordinance or Regulation;

“output tax” has the meaning assigned to this term by Section 25 (4);

“registration” means the registration in the V.A.T. Register;

Cap. 224 – (Laws of Cyprus) and Ordinances 12/66, 11/84, 12/85, 5/87, 18/87, 21/88, 8/90 and 14/90.

“supply of goods” has the meaning assigned to this term by section 5;

“supply of services” has the meaning assigned to this term by section 5;

“the tax” means value added tax;

“tax declaration” means a declaration which is submitted to the Commissioner in accordance with section 25 (1) and (2);

“tax invoice” means the invoice mentioned in section 33;

“tax period” has the meaning assigned to this term by section 25 (12);

“taxable person” has the meaning assigned to this term by section 4 (2);

“V.A.T. Register” means the Register kept by the Commissioner under the provisions of section 20.

(2) In this Ordinance—

- (a) the term “business” means an economic activity carried on in an independent way (regardless of the purpose or results of such activity) and includes any trade, profession or vocation; but,
- (b) a person is not considered to be carrying on an economic activity in an independent way, if he is an employee or other natural person who is bound to any employer by a contract of employment or by other legal relation which creates a relationship of employer and employee as regards the terms of employment, compensation and an employer’s responsibility.

(3) Without prejudice to the generality of anything else provided in this Ordinance, the following are treated to be the carrying on of a business:—

- (a) the production, manufacture, assembly or trading of any goods or the supply of any services;
- (b) the economic exploitation of any goods, rights of intellectual property, patent, the right to the use of a trade mark or similar rights, with intent to profit;
- (c) the provision by a club, corporation, association, organisation or other union of persons, of the facilities or advantages available to its members for a subscription or other consideration;
- (d) the admission, for a consideration of any form, of persons to any premises;
- (e) agricultural exploitation;
- (f) the mining of any goods; and
- (g) the supply of immovable property.

(4) Where any union of persons has objects which are in the public domain and are of a political, religious, philanthropic, philosophical, patriotic or trade union nature, it is not to be treated as carrying on a business only because its members subscribe to it.

(5) Where any person, in the course or furtherance of a trade, profession, vocation or handicraft, accepts any office, services supplied by him as the holder of that office shall be treated as supplied in the course or furtherance of the trade, profession, vocation or handicraft.

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

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

PART II IMPOSITION AND EXTENT OF TAX.

Subject to tax.

3. Subject to Value Added Tax, according to the provisions of this Ordinance, shall be—

- (a) every supply of goods or services made in the Areas by a taxable person in the course or furtherance of any business carried on by him, and
- (b) the importation of goods into the Areas.

Imposition of tax and taxable persons.

4.—(1) Tax is charged on every taxable supply of goods or services.

(2) A taxable person is any person who carries on a business, according to paragraph (2) of Section 2 of this Ordinance provided that he is registered as such in the VAT Register or he is liable to be registered according to the provisions of this Ordinance.

(3) A taxable supply of goods or a taxable supply of services is any supply of goods or services subject to VAT, other than any supply exempted under the provisions of this Ordinance.

(4) Tax chargeable on any supply of goods or services shall be a liability of the person making the supply and subject to provisions regarding accounting, submission of declarations and the payment of tax, shall become due at the time of supply or at the time treated as the time of supply according to the provisions of this Ordinance.

(5) Tax due on the importation of goods shall be charged and paid as if it were customs duty.

Definition of the terms "supply of goods" and supply of services".

5.—(1) The following provisions of this Section shall apply in determining what is, or is to be treated as, a supply of goods or a supply of services in accordance with this Ordinance.

(2) Without prejudice to any other provisions of this Section the terms "supply of goods" or "supply of services" shall include all forms of supply, but not anything done otherwise than for a consideration.

(3) (a) The transfer—

- (i) of the whole proprietorship of goods; or
- (ii) the possession of goods under an agreement providing for the sale of the goods or under other agreements which expressly contemplate the proprietorship of same shall also be transferred at some time in the future (determined by, or ascertainable from, the said agreements but in any case not later than when the goods are fully paid for), shall constitute a supply of goods;

(b) The transfer of any undivided share in the proprietorship of goods or of the possession of goods shall constitute a supply of services if they do not fall within the provisions of paragraph (a) of subsection (3).

(c) The supply of immovable property shall constitute a supply of goods .

(d) The provision of accommodation in hotels, furnished rooms and houses, camps and similar installations, parking places, also the letting of permanently installed equipment and machinery and of safes shall constitute a supply of services.

(e) The carrying out of works on immovable property under a contract, whether or not the materials are provided by the contractor, shall constitute a supply of goods. Works in the above sense are excavations, demolitions, construction of buildings, roads, bridges, aqueducts, plumbing and sewage constructions, electrical and mechanical installations and technical works in general, as well as completions, expansions, rearrangements and repairs, for any work required for the normal maintenance of such works.

(4) In any case where a person produces goods which are the result of treatment, process, assembly or conversion of other goods which belong to another person then the first mentioned person shall be deemed to be the supplier of the goods produced.

(5) The supply of any form of natural power or energy, heat, refrigeration or ventilation is a supply of goods.

(6) Where goods forming part of the assets of a business are transferred or disposed of, whether or not for a consideration, by or under the directions of the person carrying on the business so as no longer to form part of the business assets, then this shall constitute a supply of goods by the person carrying on the business.

(7) Subsection (6) above shall not apply when the goods :-

- (a) are given as a gift in the course or furtherance of the business and the total value does not exceed 0.75% of the business gross turnover in that calendar year; or
- (b) are given free, to an actual or potential customer of the business, as an industrial sample in a quantity which the Commissioner shall consider reasonable and in a form not available for sale to the public.

(8) Where any goods or assets of a business which are in the possession of or are used for the purposes of the business, are, either on the direction, by omission or with the consent of the person carrying on the business, are made available for any private purposes or are used or are offered for use by a person for purposes other than those of the business, whether or not for a consideration, it shall constitute a supply of services.

(9) Anything which constitutes a supply of goods or a supply of services according to subsections (6) and (8) of this Section, shall be considered to be supplied in the course or furtherance of the business and in the case where any natural person is engaged in a business -

- (a) subsection (6) of this Section shall also apply in respect of any transfer or disposal of goods made in the interest of this person; and
- (b) subsection (8) of this Section shall also apply in respect of goods which are used or offered to be used by this person.

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

(11) Where any person ceases to be a taxable person, then any goods which at the time of cessation constituted all or part of the assets of the business carried on by such person, shall be deemed to be supplied by him, immediately before he ceased to be a taxable person, in the course or furtherance of his business activities, unless-

- (a) the business is transferred as a going concern to another taxable person; or
- (b) the business is continued by another person who shall under the provisions of Section 46 (5) of this Ordinance be treated as a taxable person; or
- (c) the tax due on the deemed supply would not exceed the sum of £200 or such other amount as may be determined in an Order made by the Administrator.

(12) The provisions of subsection (11) of this Section shall not apply in connection with any goods if the taxable person can satisfy the Commissioner that –

- (a) no credit for input tax in respect of the supply or importation of the goods had been allowed to him; and
- (b) the goods were not acquired by him in the form of assets (or part thereof) of a business which was transferred to him as a going concern by another taxable person.

(13) Anything which does not constitute a supply of goods in accordance with the above mentioned provisions of this Section, but is done for a consideration, shall be treated as a supply of services, even if this constitutes the granting or cession of any right.

(14) The Administrator may by Regulations published in the Gazette provide with regard to any description of transactions which for the purposes of this Ordinance –

- (a) are to be treated as supplies of goods and not as supplies of services; or
- (b) are to be treated as supplies of services and not as supplies of goods; or
- (b) are to be treated as neither supplies of goods nor as supplies of services,

and without prejudice to the above provisions, the Regulations in question may provide that subsection (8) of this Section of this Ordinance shall not apply in respect of goods defined in the Regulations which are used or offered for use in circumstances which are prescribed in the said Regulations.

(15) Subject to the provisions of subsection (14) of this Section, the Administrator may by Regulations published in the Gazette prescribe that:

- (a) in any case where any person who is engaged in business does anything which is not a supply of services but would have been a supply of services of the type prescribed by the Regulations if done for a consideration, and
- (b) provided any other conditions prescribed in the Regulations are satisfied, these services shall be deemed, for the purposes of this Ordinance, to have been supplied by him in the course or furtherance of the business.

(16) The Administrator may by Regulations published in the Gazette prescribe that certain kinds of goods which are acquired or produced by a person in the course or furtherance of a business carried on by him and which–

- (a) are neither supplied to another person nor incorporated in other goods produced in the course or furtherance of that business; but

- (b) are used by him for the purpose of the business carried on by him or of any other business in which he is engaged,

shall be treated for the purposes of this Ordinance and under specified preconditions contained in the said Regulations, as being goods both supplied to him for the purposes of his business and as goods which he himself supplied in the course or furtherance of his business.

(17) The Administrator may by Regulations published in the Gazette prescribe that:

- (a) in any case where any person, in the course or furtherance of the business he is carrying on, does anything for the purposes of that business which is not a supply of services but, would have been a supply of services of the type prescribed in the Regulations if done for a consideration, and
- (b) provided that all other conditions which are prescribed in the Regulations are satisfied,

such services shall be considered for the purposes of this Ordinance, to have been supplied to him for the purposes of his business and at the same time to have been supplied by him in the course or furtherance of his business activities.

(18) For the purposes of this Section, when goods are manufactured or produced from any other goods, those other goods shall be treated as being incorporated in the goods manufactured or produced.

(19) Any Regulations issued by virtue of subsection (15) or (17) of this Section may specify the method of determining the value of any supply of services considered to have taken place by virtue of the said Regulations.

Place of supply
of goods.

6. The following provisions of this Section shall apply for determining, for the purposes of this Ordinance, whether a supply of goods is carried out in the Areas:—

- (a) if such supply does not involve their removal to the Areas or their removal from the Areas, it shall be deemed to have been carried out in the Areas, so far as such goods are in the Areas; if they are not in the Areas, then such supply of goods shall be treated as having been carried out outside the Areas;
- (b) if the supply of any goods involves their removal from the Areas, they shall be treated as supplied in the Areas; however if it involves their removal to the Areas they shall be treated as supplied outside the Areas.

Place of supply
of services.

7. The supply of services shall be treated for the purposes of this Ordinance, as made:

- (a) in the Areas, if the person supplying the services is in the Areas; or
- (b) in another country, if the person supplying the services is in another country.

8.-(1) Where any of the services referred to in Schedule I to this Ordinance except for those services referred to in Schedule III –

- (a) are supplied by a person who belongs in a country other than the Areas; and
- (b) are received by a taxable person who is in the Areas for the purposes of any business carried on by him,

Supply of services by a person belonging abroad. Schedule I Schedule III.

then the provisions of this Ordinance and in particular those concerning the imposition of tax for the supply of services and of the right of the taxable person to be credited for input tax, shall be applied, as though he had supplied these services in the Areas in the course or furtherance of his business activities.

(2) Supplies of services which are treated as made by a taxable person under subsection (1) above, are not to be taken into account as supplies of services made by him when determining any allowance for input tax to which he is entitled under Section 25 of this Ordinance.

(3) For the purposes of applying subsection (1) of this Section, the supply of services shall be treated as made –

- (a) for a consideration which has in fact been paid for them, and
- (b) at a time to be determined in accordance with measures specified in Regulations made by the Administrator.

(4) The Administrator may by Regulations published in the Gazette, add to or deduct from Schedule I to this Ordinance, any services whenever this is considered appropriate.

9.-(1) The following provisions of this Section shall apply in every case for the purpose of determining whether the person supplying the services or the person to whom the services are supplied, is in the Areas or elsewhere.

Place where a supplier or a recipient of services belongs.

(2) The person who supplies services shall be treated as being in the Areas–

- (a) if his business establishment or some other fixed establishment belonging to him is in the Areas, and no such establishment exists elsewhere;
- (b) if his business establishment is not in the Areas or elsewhere but his usual place of residence is in the Areas.
- (c) if he has a business establishment both in the Areas and in another country, but his business establishment which is most directly concerned with the supply of services, is in the Areas.

(3) If the person to whom the services are supplied is a natural person and the services were received for purposes other than the purposes of the business he is engaged in, then this person shall be considered to be in the country where he has his usual place of residence.

(4) Subject to the provisions of subsection (3) of this Section, the person to whom the services are supplied, shall be treated as being in the Areas if—

- (a) he has his business establishment or some other fixed establishment belonging to him in the Areas and has no other fixed establishment elsewhere, or
- (b) he has no fixed business establishment in the Areas or elsewhere, but his usual place of residence is in the Areas, or
- (c) he has a business establishment both in the Areas and elsewhere, but his business establishment most directly concerned with the receipt of services, is in the Areas.

(5) For the purposes of this Section but not for any other purposes—

- (a) any person carrying on a business through a branch-establishment or agency, shall be treated as having a business establishment in the Areas, if the branch-establishment or agency is situated in the Areas;
- (b) “usual place of residence” in relation to a body corporate, means the place where such body corporate has been legally constituted.

Time of supply
of goods or
services.

10—(1) The following provisions of this Section shall apply for determining the time when a supply of goods or services is to be treated as taking place for the purposes of charging tax.

(2) Subject to the provisions of subsections (4) and (5) of this Section, a supply of goods shall be treated as taking place—

- (a) if the goods are to be removed, at the time of removal;
- (b) if the goods are not to be removed, at the time when they are made available to the person to whom they are supplied;
- (c) if the goods (being sent or received under approval or on a “sale or return” basis or on other similar terms) are removed before it is yet known whether a supply will take place, at the time when it becomes certain that the supply has taken place or, if sooner twelve months after their removal.

(3) Subject to the following provisions of this Section, a supply of services shall be treated as taking place at the time when such services are performed.

(4) If before the time specified in subsection (2) or (3) of this Section, the person making the supply of the goods or, as the case may be, the services, issues an invoice in relation to the said transaction, or if such person is paid for such transaction before the time prescribed in paragraph (a) or (b) of subsection (2) or in subsection (3) of this Section, then the supply of the goods or

services, as the case may be, shall, to the extent covered by the invoice or the payment effected, be deemed to be made at the time when the invoice was issued or the payment of the relevant sum was effected.

(5) If within 14 days after the time specified in subsection (2) or (3) of this Section the person making the supply of the goods or the services as the case may be, issues an invoice in respect of the transaction, then, (unless he has notified the Commissioner in writing that he elects not to avail himself of the provisions of this subsection), the supply of the goods or of the services shall (to the extent that such supply is not treated as taking place at the time mentioned in subsection (4) of this Section) be treated as taking place at the time the invoice is issued. The Commissioner may, at the request of a taxable person, direct for any other period longer than 14 days as specified above, which shall not in any case exceed the period of four months.

(6) Where goods are supplied in accordance with the provisions of subsection (6) of Section 5 of this Ordinance, the supply shall be treated as having been made at the time of transfer or disposition of the goods as referred to in the said subsection.

(7) Where there is a supply of services according to the provisions of subsection (8) of Section 5 of this Ordinance, the supply shall be treated as being made at the time when the goods of the business are either made available for use, used or offered for use, as provided by the said subsection.

(8) In the case where goods are deemed to have been supplied in accordance with Regulations made by the Administrator by virtue of subsection (16) of Section 5 of this Ordinance, such supply shall be deemed to be made when the goods are used as provided in the said subsection.

(9) In the case, where the supplier of goods undertakes the responsibility of assembly or installation of the goods, the supply shall be treated as being effected at the time of completion of these tasks.

(10) Notwithstanding the provisions of the above subsections of this Section, the Administrator may by Regulations determine the time when a supply of either goods or services shall be treated as taking place, in cases where :

- (a) goods or services are supplied for a consideration, the whole or any part of which is determined or payable periodically or on a year to year basis or at the end of any period, or
- (b) goods are supplied for a consideration, the whole or any part of which is determined at the time when the goods are appropriated for any purpose or in the case where there is a supply of services in accordance with subsection (8) of Section 5 of this Ordinance or in accordance with Regulations made under subsection (15) of Section 5 of this Ordinance :

Provided that for any of the above cases of this subsection, the Regulations may provide that goods or services shall be treated as supplied separately and successively at prescribed times or intervals.

(11) In this Section "tax invoice" means an invoice as described in Section 33 (1) (a) of this Ordinance or one that would be required if the person to whom the supply of goods or services is made, were a taxable person.

Time of importation
of goods.

11.--(1) On the importation of goods tax shall become chargeable at the time which is taken into consideration for the payment of customs duties and other levies of equivalent effect according to the provisions of the Customs Legislation.

(2) The above customs provisions shall apply in the case of any importation of goods which are cleared for home use after their removal from a special customs establishment in which they had previously been placed.

PART III

REGISTRATION.

Liability to be
registered.

12.--(1) By virtue of the provisions of subsections (2) to (5) of this Section, any person making any taxable supplies of goods or services shall be liable to be registered –

- (a) after the end of any tax period if the value of his taxable supplies, whether of goods or of services –
 - (i) in that period has exceeded £3,000 or
 - (ii) in that period and in the immediately preceding three tax periods, has exceeded £12,000 ;
- (b) at any time, if there are reasonable grounds for believing that the value of his intended taxable supplies in the period of one year beginning as from that time, will exceed £12,000.

(2) The liability of any person to be registered after the end of any tax period by virtue of sub-paragraph (i) of paragraph (a) of subsection (1) of this Section shall cease to exist in cases where the Commissioner is satisfied that the value of the taxable supplies of either goods or of services which the said taxable person has made during the period referred to in the said paragraph and those which he is expected to make during the next three tax periods will not exceed £12,000.

(3) The liability of any person to be registered after the end of any tax period by virtue of sub-paragraph (ii) of paragraph (a) of subsection (1) of this Section shall cease to exist in cases where the Commissioner is satisfied that the value of taxable supplies of goods or services which the taxable person is expected to make during the next four tax periods, will not exceed the amount of £11,000.

(4) In determining the value of the supply of goods or services made by any person as mentioned in paragraph (a) of subsection (1) of this Section, any supplies of goods or services made whilst a previous registration of this person was valid, shall not be taken into consideration if –

- (a) his registration has been cancelled for any reason, other than the reason mentioned in subsection (3) of Section 16 of this Ordinance; and
- (b) the Commissioner is satisfied that before the cancellation of the previous registration, the Commissioner had been given all the necessary information regarding the said cancellation.

(5) In determining the value of supplies of either goods or services for the purposes of subsection (1) of this Section, supplies of goods or services that constitute capital assets of the business including “Goodwill” of the business in the course or furtherance of which they are supplied, shall be disregarded.

(6) Subject to the provisions of subsection (7) of this Section, any registered person who makes taxable supplies of goods or services shall cease to be liable to be registered at any time if the Commissioner is satisfied that the value of his taxable supplies in the period of one year beginning then, will not exceed £11,000.

(7) If the reason that the value of any taxable supplies of goods or services made by any person will not exceed the amount of £11,000 during the period referred to in subsection (6) of this Section, is that the said person will cease to make taxable supplies of goods or services during that period or that he will suspend the making of such supplies for a period longer than that of thirty days, then the said person shall continue to be liable to be registered.

(8) In determining the value of supplies of either goods or services for the purposes of subsection (6) of this Section, supplies of goods or services that constitute “capital assets of the business” including “Goodwill” of the business in the course or furtherance of which they are supplied, shall be disregarded.

(9) Any person who by virtue of the above mentioned provisions of this Part of the Ordinance will be liable to be registered from the day this Ordinance is put into effect, shall notify the Commissioner in writing to that effect at the time and in the method provided, by an Order issued by virtue of Section 58 of this Ordinance, whereby the Commissioner shall register him as from the date this Ordinance is put into effect.

13.–(1) Any person who by virtue of paragraph (a) of subsection (1) of Section 12 of this Ordinance is liable to be registered after the end of any tax period, shall notify the Commissioner of his liability no later than 30 days after the end of the said tax period and the Commissioner shall register any such person whether he has been notified or not by such person and the registration will

Notification of liability for registration and registration.

have effect as from the end of the month in which the thirtieth day falls or as from any other earlier date which shall be agreed between the Commissioner and the said person.

(2) Any person who by virtue of paragraph (b) of subsection (1) of Section 12 of this Ordinance is liable to be registered by reason of the value of the taxable supplies of either goods or services which he may realize in any future period, shall notify the Commissioner of his liability not later than 30 days after the beginning of that period and subject to the provisions of subsection (3) of this Section, the Commissioner shall register any such person whether he has been notified or not by such person, and the registration will have effect after the end of the period of thirty days, or as from any earlier date which shall be agreed between the Commissioner and the said person.

(3) Where there are reasonable grounds to believe that the value of a person's taxable supplies of either goods or services expected to be made in the first thirty days of a tax period will exceed £12,000, the Commissioner may, if he thinks fit, register him with effect from the beginning of the said period.

Right of voluntary registration.

14.—(1) Where any person not liable to be registered, satisfies the Commissioner that:

- (a) he makes taxable supplies of either goods or services; or
- (b) he operates a business and intends to make such taxable supplies of either goods or services in the course or furtherance of his business,

then, if a relevant application is submitted by that person the Commissioner shall register him as from the date of the application or as from any other earlier date as may be agreed between the Commissioner and the said person.

(2) Without prejudice to the provisions of Sections 15 and 16 of this Ordinance, any person registered according to the provisions of subsection (1) of this Section, shall be liable to remain registered for a period of at least three years after the date of his registration.

Notification of cessation of liability for registration or of the right of voluntary registration.

15. Any person registered according to the provisions of Section 13 or 14 of this Ordinance, who ceases to make taxable supplies or ceases to have the intention to make taxable supplies, shall notify the Commissioner of this fact within thirty days of the date of such cessation.

Cancellation of registration.

16.—(1) Where any registered person notifies the Commissioner that he is not liable to be registered and satisfies the Commissioner of this fact, the Commissioner shall cancel his registration and the cancellation shall have effect as from the date of the notification or as from any later date which may be agreed between the Commissioner and the said person.

(2) Where the Commissioner is satisfied that any registered person ceases to be liable or entitled to be registered, he shall cancel the registration and the cancellation shall take effect as from

the date on which that person ceased to be so liable or entitled, or as from any later date which may be agreed between the Commissioner and the said person.

(3) Where the Commissioner is satisfied that on the date from which his registration had effect a registered person was neither entitled nor liable to be registered, he shall cancel the registration and the cancellation shall take effect as from that date.

17.-(1) Notwithstanding the foregoing provisions of this Part of the Ordinance, where a person who either makes or intends to make taxable supplies of either goods or services and is liable to be registered under the provisions of subsection (1) of Section 12 of this Ordinance, satisfies the Commissioner that the whole or the greater part of such supplies, is zero-rated or would be zero-rated if he were a taxable person, the Commissioner may, if he deems fit and so long as the said person makes an appropriate application, exempt him from the liability to be registered and such exemption shall be valid until the Commissioner decides that he should no longer act on the basis of the application, or that such application has been withdrawn.

Exemption from registration.

(2) Where there is a material change in the nature of the supplies made by a person exempted from registration under subsection (1) of this Section, he must notify the Commissioner of the change –

- (a) no later than thirty days after the day on which such change occurred, or
- (b) if no particular day is identifiable as the day on which such change occurred, within thirty days of the end of the tax period in which the change occurred.

(3) When there is a material change in any tax period as regards the proportion of taxable supplies of such a person that are zero-rated, he must notify the Commissioner of such change within thirty days of the end of the tax period in which the change occurred.

18.– The Administrator may, when he deems fit, by Regulations published in the Gazette amend any of the amounts referred to in the provisions of this Part of this Ordinance.

Power of the Administrator to amend any of the amounts referred to in Part III.

19.– Any notification required under the provisions of this Part of this Ordinance shall be made in a specific form which shall be prescribed by Order made by the Administrator to be published in the Gazette.

Form of notification.

20.– The Commissioner shall keep a Register to be titled “V.A.T. Register”, in which the names and addresses of taxable persons as well as any other information which the Commissioner shall deem necessary to include for the purposes of this Ordinance shall be registered. The Register may be kept in any form the Commissioner may determine for the better application of this Ordinance, including the computerised form.

V.A.T. Register.

Monetary Levy.

21. Any person who either refuses, omits or delays to comply with the provisions of Part III of this Ordinance or of any Regulations or Orders made thereunder, shall be liable to a levy of £50.00 payable to the Commissioner for each day during which such delay, or omission continues.

PART IV

RATES OF TAX AND DETERMINATION OF VALUE

Rates of tax.

22.—(1) Tax on every supply of goods or supply of services or on the importation of goods shall be charged at the rate of five percent (5%)

(2) The calculation of tax shall be made –

- (a) in the case of the supply of goods or the supply of services by reference to the value of the supply as determined under the provisions of Section 23; and
- (b) in the case of the importation of goods by reference to the value of the goods as determined under the provisions of Section 24.

Value of supply of goods or services.

23.—(1) For the purposes of this Ordinance, the value of any supply of either goods or services shall be determined in accordance with the following provisions of this Section.

(2) If the supply is made for a consideration in money, its value shall be taken to be such an amount as, with the addition of the tax chargeable, shall be equal to the consideration:

Provided that the above consideration for the purposes of this Section shall be increased by the amount of any subsidy in respect of the goods or services or any other grant directly related to it.

(3) If the supply is not made for a consideration or is made for a consideration which is not consisting or is not wholly consisting of money, the value of the supply shall be taken to be its open market value.

(4) If a specific consideration in money was received –

- (a) partly for the supply of any goods or services; and
- (b) partly for any other reason,

then the supply of either goods or services shall be deemed to be for such part of the consideration as is properly attributable to such supply.

(5) For the purposes of this Ordinance the open market value of any supply of either goods or services shall be taken to be the amount which, with the tax added thereto, could reasonably be paid as the consideration for the said supply, by any person the relationship of whom with any other person, would not be of such a nature that would affect the said consideration.

(6) In the case where,

- (a) the value of any supply of either goods or services carried out by a taxable person for a consideration in money, is lower than the value of the above supply in the open market, and
- (b) the person making the supply of either goods or services is connected with the person to whom the goods or services are supplied, and
- (c) if the supply of goods or services is taxable and the person to whom they are supplied is not entitled by virtue of Sections 25 and 26 of this Ordinance to be credited with the whole amount of tax paid,

then the Commissioner may issue a direction according to which the value of the above supply shall be taken to be its open market value.

(7) Any direction issued according to subsection (6) of this Section shall be notified in writing to the person making the supply and in any case such direction must be issued within 4 years of the date when either the goods or the services were supplied.

(8) Subject to the provisions of subsection (11) of this Section any direction notified to any person according to the provisions of subsections (6) and (7) of this Section in respect of any supply of goods or services supplied by him, may provide for an additional condition that the value of any supply of goods or services –

- (a) made by the said person after the notification of the direction or after any later date specified in the notification, and
- (b) so long as the conditions in paragraphs (a), (b) and (c) of subsection (6) are satisfied,

shall be taken to be its open market value.

Provided that for the purposes of subsection (6) of this Section of the Ordinance a person shall be considered to be connected with another person only if –

- (a) he holds an office or is a member of the Administrative Board of the other person's business; or
- (b) they are both legally recognised partners in business; or
- (c) they are employer and employee; or
- (d) one person directly or indirectly owns, controls or holds 5% or more of the voting stock or shares of the other, either of them having the right to vote; or
- (e) one of them directly or indirectly controls the other; or
- (f) both of them are directly or indirectly controlled by a third person; or
- (g) together, they directly or indirectly control a third person; or
- (h) they are members of the same family.

Provided further that for the purposes of this subsection, persons are members of the same family if they are in any of the following relationships :-

- (i) husband and wife,
- (ii) parent and child,
- (iii) brother and sister (whether of the whole or of the half blood),
- (iv) grand parent and grand child,
- (v) uncles or aunts and nephews or nieces,
- (vi) parent in law and son in law or daughter in law,
- (vii) brothers in law and sisters in law.

(9) In the case where -

- (a) the whole or part of a business carried on by a taxable person consists in supplying to a number of persons goods to be sold, whether by them or others, by retail, and
- (b) those persons are not taxable persons,

the Commissioner may, by an appropriate notification to the taxable person prescribe that, as from the date of the notification or as from any subsequent date which shall be fixed in the notification, the value of the said goods shall be deemed to be their open market value when sold by retail.

(10) This subsection shall apply as regards the supply of services in a hotel, inn, boarding house or similar establishments of sleeping accommodation or of accommodation in rooms which are provided for this purpose or for the purpose of a supply of catering and -

- (a) the supply is made to an individual for a continuous period exceeding four weeks; and
- (b) throughout this period the accommodation is provided for the use of the above individual either alone or together with one or more other individuals who occupy the accommodation with him, without having to account for any expenses incurred by them (whether directly or indirectly) to the supplier.

Where this subsection applies -

- (a) The value of any part of the supply which exceeds a period of four weeks, shall be taken to be reduced to such a degree that the remaining value shall be that which is attributed to facilities other than those relating to the right of stay, and
- (b) the remaining value shall be taken to be not less than 20% of the total value of the supply in excess of 4 weeks.

In the case where an employer supplies goods or services to his employees, whether or not for a consideration and the provision is in the course of -

- (a) catering for food or beverages, or
- (b) accommodation in hotels or similar establishments, then
 - (i) if the supply is not for a consideration, the value of the supply shall be taken to be nil, and
 - (ii) if the supplies are for a consideration consisting wholly or partly of money, the value shall be determined without regard to any consideration other than money.

(12) Where goods or services are supplied for a consideration in money and on terms allowing a discount for "prompt payment", the consideration shall be taken to be for the purposes of this Ordinance, as reduced by the discount, irrespective of whether payment was made in accordance with those terms or not.

Provided that the above provisions shall not apply if the terms include an arrangement for payment by instalments.

(13) Where a supply of goods is deemed taxable by virtue of—

- (a) the provisions of Regulations by the Administrator issued in accordance with the provisions of subsection (16) of Section 5 of this Ordinance, or
- (b) subsection (6) of Section 5 of this Ordinance (but otherwise than for a consideration), or
- (c) subsection (11) of Section 5 of this Ordinance,

the value of the supply shall be taken to be the full cost incurred to the person who makes the supply, except where subsection (11) of this Section applies.

(14) In case where a supply of services is deemed taxable by virtue of :

- (a) the provisions of Regulations by the Administrator made in accordance with the provisions of subsection (15) of Section 5 of this Ordinance, or
- (b) subsection (8) of Section 5 of this Ordinance (but otherwise than for a consideration),

the value of the supply shall be taken to be the full cost borne by the person who supplies the services, except where subsection (11) of this Section applies.

(15) Where any sum relevant for determining the value is expressed in a foreign currency, this shall be converted into Cyprus Pounds in accordance with the provisions of the Customs and Excise Ordinance, and in relation to the supply of either goods or services, the material time for valuation and for determining the exchange rate, shall be the time of supply.

Ordinances 12/69,
9/71, 2/75, 4/77,
8/77, 20/87, 19/89
and 9/91.

(16) In the supply of newspapers, journals and periodicals carried on by publishing and importing businesses, the taxable value shall be taken to be the price of the delivery thereof without value added tax, after having deducted the commission allowed to the distribution agencies.

(17) Notwithstanding the provisions of this Section, the Administrator may make Regulations the provisions of which shall regulate matters relating to the value, the method and procedure for determining the value in special cases of supply of either goods or services.

Value of imported goods.

Ordinances 12/69, 9/71, 2/75, 4/77, 8/77, 20/87, 19/89 and 9/91.

24.- On the importation of goods, taxable value shall include: –

- (a) the dutiable (Customs) value of imported goods as determined in the Customs and Excise Ordinance ;
- (b) import duties, levies, contributions or other charges which are collected on importation, either for the Areas or the Republic or for any third persons, other than value added tax ;
- (c) all costs incurred by way of the importation of goods, such as commission, brokerage, packing, loading, unloading, insurance and transportation to the first place of destination within the Areas or the Republic so long as and to the extent that, these charges have not been included in the dutiable value ;
- (d) the costs referred to in paragraph (c) of this Section where such costs result from transporting the goods from their initial place of destination to another place which is known at the time of Customs clearance :

Provided that the initial place of destination is the place shown on the Bill of Lading or on any other document by means of which goods are imported into the Areas or the Republic, but in the absence of such an indication, the initial place of destination shall be deemed to be the place of the first unloading of goods into either the Areas or the Republic.

PART V

SETTLEMENT OF TAX AND CREDITS.

Tax declarations
payment of tax and
credit of input tax.

25.-(1) All taxable persons must, within thirty days from the end of every tax period or at any other time provided by Regulations made by the Administrator for special circumstances –

- (a) submit to the Commissioner written tax declarations; and
- (b) pay the tax due,

in respect of all supplies of either goods or services made during that period.

(2) The contents of the form and way of submission of the tax declarations referred to in subsection (1) of this Section as well as the manner of payment of tax shall be prescribed in Regulations which shall be made by the Administrator; in these Regulations there may be contained different provisions for the treatment of different circumstances.

(3) Subject to the provisions of this Section of this Ordinance, any taxable person shall, at the end of each tax period, be entitled

to be credited, to the extent prescribed in Section 26 of the Ordinance, with the input tax paid by him, whereafter he shall have that amount deducted from the output tax which he himself owes.

(4) Subject to subsection (5) of this Section, "input tax", in relation to a taxable person, means –:

- (a) the tax payable on the supply to him of any goods or services; and
- (b) the tax paid by him on the importation of any goods, being (in either case) goods or services used or to be used for the purposes of any business carried on or to be carried on by him, and "output tax" means tax chargeable on supplies which he makes.

(5) Where goods or services supplied to a taxable person, or goods imported by him, are used or are to be used partly for the purposes of a business carried on or to be carried on by him and partly for other purposes, tax on supplies and importations shall be apportioned so that only so much as is referable to his business purposes shall count as his input tax.

(6) Subject to the provisions of subsection (7) of this Section, if no output tax is due at the end of a tax period or if the amount of the credit exceeds the amount of output tax, the amount of the credit or, depending on the case, the amount exceeding the amount of output tax, shall be carried forward as a credit in the subsequent tax period.

(7) Notwithstanding the provisions of the previous subsection, the amount of credit due as referred therein or, depending on the case, the amount exceeding the amount of output tax shall be refunded to the taxable person by the Commissioner, so long as and to the extent that such credit –

- (a) had been overpaid to the Commissioner, when it was not due; or
- (b) under the circumstances, it is not possible to be carried over for credit and offsetting until and including the last tax period of the year which follows the year in which the tax period in question falls; or
- (c) concerns supplies of goods or services charged with zero rate of tax; or
- (d) concerns the acquisition of elements of capital assets of the business. As elements of capital assets of the business shall be considered –
 - (i) the tangible goods which belong to the business and are put by such business in continuous use (without taking into account costs of repair or maintenance); and
 - (ii) royalties and rights to use patents, designs, specimens, commercial or industrial trade marks and other similar rights, if these serve more than one use;

- (e) is still pending after the lapse of three years from the end of the tax period in which it accrued.

The Administrator may make Regulations for the proper application of the provisions of this subsection as well as for the determination of the procedure and method of computing the amount due for refund.

(8) Where at the end of any taxable period an amount is due under subsection (7) to a taxable person who has failed either to submit returns or to pay tax in respect of any earlier tax period as required by this Ordinance, the Commissioner may refuse payment of that amount until the taxable person has complied with the requirements of this Ordinance.

(9) No deduction shall be made under subsection (3) of this Section, nor shall any payment be made under subsection (7) of this Section, unless a claim is made in such a manner and at such time as may be determined by, or under regulations made, by the Administrator; and, in the case of any person who has made no taxable supplies in the period concerned or in any previous tax period, payment under subsection (7) may be made in accordance with any conditions which the Commissioner may deem fit to impose for the protection of the Public Revenue, including conditions regarding repayment under specified circumstances.

(10) Regulations made by the Administrator may provide –

- (a) for tax on the supply of either goods or services to a taxable person, or tax paid to him on the importation of goods, to be treated as his input tax only if and to the extent that the charge to tax is evidenced and quantified by reference to such documents as may be specified in the regulations or as the Commissioner may impose, either generally or in specific cases or classes of cases ;
- (b) for a taxable person, to count as his input tax in such circumstances, to the extent and subject to such conditions as may be prescribed in Regulations, the tax attributable to any supply to him of either goods or services or tax paid by him on the importation of goods, notwithstanding that at the time of either the supply to him or the payment by him, he was not a taxable person ;
- (c) for a taxable body corporate, to count as its input tax in such circumstances, to the extent and subject to such conditions as may be prescribed in Regulations, the tax attributable to any supply or importation of goods which were acquired on behalf of the said body corporate or the tax attributable to any service supplied in its own interest, before its constitution or in relation to the constitution of the said body corporate ;
- (d) in the case of a person who had been, but is no longer a taxable person, for him to be paid by the Commissioner the amount of any tax paid by him on a supply of services

made to him for the purposes of the business carried on by him when he was a taxable person.

(11) Regulations made by the Administrator may prescribe that the tax which was paid in respect of specified supplies of either goods or services or in respect of goods imported, shall not be credited as provided in this Section of this Ordinance, where certain prerequisites which are prescribed in the Regulations concur, such prerequisites concerning –

- (a) the type of goods or services supplied or goods imported;
- (b) the person by whom they are either supplied or imported or the person to whom they are supplied or for whom they are imported;
- (c) the purposes for which they are supplied or imported; or
- (d) any other circumstances or conditions :

Provided that any Regulations made under this subsection may contain provisions for effecting consequential reliefs from the output tax.

(12) For the purposes of this Ordinance, “tax period” means the period of time between 1st January and 31st March, 1st April and 30th June, 1st July and 30th September and 1st October and 31st December in any year :

Provided that the Administrator may by Regulations prescribe as a tax period, for any purposes other than the purposes of Part III of this Ordinance, any other time period; these Regulations may prescribe for different provisions for regulating different circumstances.

(13) No right for crediting of tax charged on expenditure shall be allowed –

- (a) for any supply of materials or services used for the execution of works on immovable property or which concern the compensation of contractors for the execution of works on immovable property undertaken by them under a contract, irrespective of whether the materials or services are made available by the contractor or not, provided that the provisions of this Section shall not apply in respect of contractors who –
 - (b) purchase or import products;
 - (c) purchase or import alcoholic drinks;
 - (d) organise receptions, entertainment and hospitality in general;
 - (e) arrange for accommodation, food, beverages, transportation and entertainment for the company's personnel or representatives;
 - (f) purchase or import –
 - (i) of passenger vehicles for private use not exceeding 9 seats, including the driver,

- (ii) of vessels and aircrafts for private use which are intended for entertainment or sports,
- (iii) expenditure for fuel, repair, maintenance and circulation in general of the goods mentioned in sub-paragraphs (i) and (ii) above :

Provided further that the terms of this Section do not apply in cases where goods mentioned in paragraphs (b), (c) and (f) of this subsection have been acquired for resale in the course or furtherance of a business.

(14) Any person who either fails, refuses or delays to submit a tax declaration in the form and at the time prescribed in subsection (1) of this Section and according to the Regulations issued by virtue of subsections (1) and (2) thereof, shall pay the Commissioner a fine in the sum of fifty pounds for every day, during which such failure, refusal or delay continues.

Allowable credit
of input tax.

26.-(1) The amount of input tax to which a taxable person shall be entitled to credit at the end of any tax period, shall be determined as follows –

- (a) if his business is such that all his supplies are taxable supplies, then the whole of the input tax for the period concerned shall be allowable (that is, input tax on supplies and importations realized during that period);
- (b) if his business is such that some but not all of his supplies are taxable supplies, there shall be allowable for credit such proportion of the input tax for the specific period as, in accordance with Regulations provided in subsection (3) of this Section, shall be attributable to the taxable supplies; and
- (c) if he has made no taxable supplies in that or any previous period, there shall be allowable for credit such proportion of the input tax for that period, as the Commissioner shall consider to be fair and reasonable under the circumstances.

(2) Regulations made by the Administrator may provide that the amount of input tax attributable to exempt supplies shall be taken to be attributable to taxable supplies so long as –

- (a) the input tax attributable to the exempt supplies does not exceed a specific sum of money or does not exceed a specific proportion of the total input tax, as shall be prescribed, or
- (b) any circumstances which are prescribed in the Regulations happen to coincide.

(3) Regulations made by the Administrator may also provide for securing a fair and reasonable attribution of input tax in relation to taxable supplies made by a taxable person.

(4) Regulations made under the preceding subsections may make different provisions for regulating different circumstances and, in particular (but without prejudice to the generality of those subsections) as regards the specifying of goods and services.

PART VI

RELIEFS EXEMPTIONS AND REFUNDS OF TAX.

27.-(1) Where any taxable person supplies either goods or services and the supply is zero-rated, whether or not tax would be chargeable on the supply in accordance with any other provisions of this Ordinance, no tax shall be charged on the supply; but it shall in all other respects be treated as a taxable supply, and accordingly the rate at which tax is charged on the supply shall be zero. Zero rate.

(2) The supply of either goods or services shall be taxed a zero rate, if the said goods or services are within a description in Schedule II to this Ordinance. Schedule II.

(3) Where goods of any description included in Schedule II to this Ordinance are imported into the Areas or the Republic, no tax shall be chargeable on their importation, unless it is otherwise provided in the above Schedule. Schedule II.

(4) Where any description referred to in Schedule II to this Ordinance concerns a transaction which would not otherwise be deemed to be a supply of goods or services, the transaction shall, for the purposes of this Ordinance be treated as a supply of goods or services made in the Areas. Schedule II.

(5) A supply of any goods shall be zero-rated if the Commissioner is satisfied that the person supplying the goods—

(a) has either exported the goods in question; or

(b) has shipped them for use as stores on a voyage or flight to an eventual destination outside the Areas or the Republic, or as merchandise for sale by retail to persons carried on a ship or aircraft, for such a voyage or flight;

and if any other conditions which the Commissioner may deem fit to impose, are satisfied.

(6) The Administrator may make Regulations providing that certain supplies of goods or any goods which may be specified in the Regulations shall be zero rated, where the Commissioner is satisfied that the goods have been exported or are to be exported and that any other conditions or prerequisites which may be specified in the Regulations, are satisfied.

(7) Where the supply of any goods is zero rated by virtue of the provisions of subsection (5) of this Section or of the Regulations made by virtue of subsection (6) of this Section, and

(a) the goods are found to be in the Areas or the Republic after the date on which they were alleged to have been or were to be exported or shipped, or

(b) any conditions which the Commissioner had prescribed by virtue of subsection (5) of this Section or any of the prerequisites or criteria specified in the Regulations made by virtue of subsection (6) of this Section, were not complied with,

and the presence of the goods in the Areas after the above mentioned date or the non-observance of the terms and conditions had not been authorised by the Commissioner, the goods shall be liable to forfeiture under the provisions of Section 38 of this Ordinance and the tax that would have been chargeable on the supply but for the zero rating, shall become payable forthwith by the person to whom the goods were supplied or by any person in whose possession the goods are found in the Areas. Nevertheless the Commissioner may, if he thinks fit, waive payment of the whole or part of that tax, if the goods are finally exported and all the prerequisites, terms and conditions are satisfied.

Exemptions
Schedule III.

28.-(1) All the supplies of goods or services referred to in the First part of Schedule III to this Ordinance shall be exempt from the tax in accordance with the terms and conditions contained in that Part of the Schedule.

Importation of
goods.

(2) There shall be exempt from the tax, all permanent importations of goods for which the supply in the Areas by a taxable person, is in all cases exempt.

Schedule III.

(3) All importations of goods into the Areas or the Republic referred to in the Second Part of Schedule III to this Ordinance, shall be wholly or partly exempted from the tax if the terms and conditions referred to in that Part of the Schedule or in Regulations made by the Administrator, are fulfilled.

Power of the
Administrator to
provide for
reduction of tax for
certain second-hand
goods.

29.-(1) The Administrator may make Regulations, the provisions of which may give reduction of tax in respect of any supply of second-hand goods as defined by the Regulations, in cases where no tax was chargeable on any previous supply of those goods and provided that any other terms prescribed in the Regulations or imposed by the Commissioner by virtue of the Regulations, are satisfied.

(2) The amount of the reduction of tax which may be secured by the above Regulations, shall not exceed the amount of tax that would be chargeable on the previous supply, had tax been charged at the same rate at which the supply which will be subject to the reduction shall be charged, not taking into account the above reduction.

(3) The Regulations made under this Section, which provide for securing a reduced tax chargeable on any supply of goods of the description specified in the said Regulations, may also provide for—

- (a) the exemption from the tax chargeable on the importation of goods of the above description; and
- (b) securing a like reduction as where no tax was chargeable on the importation of the goods of the said description as where no tax was chargeable on any previous supply of the goods; they may also provide for different treatment for different circumstances.

30.— The Administrator may make Regulations –

Relief from tax or
refund of tax.

- (a) regulating the imposition of zero rate, the exemption or relief from, or refund of part or the whole of the chargeable tax in respect of certain supplies of goods or services to persons, organizations or other bodies which shall be specified in the Regulations;
- (b) providing for the relief of part or the whole of the tax chargeable on the importation of any goods for which there is proof that they had previously been exported from the Areas or the Republic;
- (c) providing for the imposition of any conditions (including conditions in respect of any subsequent disposal of the goods), where any benefit is afforded by virtue of the previous paragraphs of this Section.

31.—(1) Where any person has supplied goods or services for a consideration in money and has accounted for and paid tax on that supply and he cannot obtain payment of the consideration due to him because the person liable has become either bankrupt or insolvent or had issued against him an order of receivership, then the former person, on making a claim to the Commissioner, shall be entitled to a refund of the amount of tax determined by reference to the consideration due to him.

Refund of tax in
case of bankruptcy.

(2) The Administrator shall make Regulations for the better application of the provisions of subsection (1) of this Section and in particular to specify –

- (a) the necessary documentary evidence to be produced for the satisfaction of the Commissioner in respect of the allegations of the claimant; and
- (b) the procedure to be followed for the submission and examination of the claim.

32.—(1) Where goods are imported by a taxable person and –

Goods imported for
private purposes.

- (a) at the time of their importation they belong wholly or partly to another person; and
- (b) the purposes for which they are to be used include private purposes of either the taxable person or of the other person,

then tax paid by the taxable person on the importation of the goods, shall not be regarded as input tax to be credited under Section 25 but may be refunded, after a separate claim is made to the Commissioner.

(2) The Commissioner shall accept the claim under subsection (1) of this Section if he is satisfied that to disallow it, would result to a double charge of the tax but where he allows it, he shall do so only to the extent necessary to avoid the incidence of double taxation.

(3) In considering any claim under this Section, the Commissioner shall have regard to the circumstances of the

importation and so far as it appears to him to be relevant, things done with, or having occurred in relation to, the goods at any subsequent time.

(4) Any amount allowed in respect of such a claim shall be refunded by the Commissioner to the taxable person.

(5) In this Section the term "private purposes" means purposes other than those of any business carried on by any person.

PART VII

ADMINISTRATIVE APPLICATION AND POWERS OF THE COMMISSIONER

33.-(1) The Administrator may make Regulations under which—

- (a) the keeping of accounts shall be required, in such form and manner as may be specified in the Regulations and may require of taxable persons who make supplies of goods or services to other taxable persons, to furnish them with invoices (which will be known as "tax invoices"), in such form and manner and to contain such details and declarations in respect of the supplies, the tax chargeable on them, also the persons by whom and to whom the supplies of goods or services are made, as shall be prescribed in the said Regulations;
- (b) where the issue of a tax invoice is deemed necessary in respect of any type of supply of goods or services, such invoice shall be issued within a prescribed period of time beginning from the time when the supply of goods or services shall be considered to have taken place; it may though be possible to allow extension of that time after and in accordance with general or specific directions of the Commissioner;
- (c) special arrangements shall be provided with regard to such taxable supplies of goods or services made by retailers of any goods or services, as shall be prescribed by or under the Regulations and in particular —
 - (i) providing for the determination of the value of these supplies in any tax period or part thereof under certain restrictions or conditions or by such a method as shall be decided by the Commissioner by a notification which shall be published in the Gazette in accordance with the Regulations;
 - (ii) providing for the determination of the proportion of the value of the supplies attributable to any type of supply of either goods or services; and
 - (iii) providing for the re-adjustment of the above value or of the above proportion thereof for periods of time consisting of two or more tax periods or parts thereof;

Keeping of
accounts and issue
of invoice.

- (d) provisions shall be made for certain cases and under specific conditions and prerequisites, as shall be specified in the said Regulations, that the tax in respect of a particular supply shall be declared and paid, correlative to the time of collection of the consideration in respect of such a supply. In these cases, the Regulations may provide for the time and the circumstances under which credit of input tax shall be allowed;
- (e) provisions shall be made to the effect that –
- (i) tax chargeable in one tax period shall be declared as tax charged in another tax period ;
 - (ii) the method of settlement of the accounts in cases where tax has been charged in correlation with the consideration and the amount of the consideration, is either reduced or the consideration is not paid, and
 - (iii) a different date for the beginning of the tax period which shall be applicable for different persons or classes of persons;
- (f) a provision shall be made to the effect that in the cases mentioned in subsection (10) of Section 5 of this Ordinance, the tax chargeable on the supply of goods shall be declared and paid by a person other than the taxable person deemed to be making the supply and under such terms and conditions as may be specified in the Regulations.

(2) Regulations made under subsection (1) of this Section may make provisions for treating different circumstances as well as provisions for the correction of errors.

34.-(1) Where any person has failed to submit any declaration as required under this Ordinance or to keep the necessary documents or afford the facilities necessary to verify such tax declaration or where it appears to the Commissioner that such declaration is incomplete or incorrect, then the Commissioner may assess the amount of tax due from such person to the best of his judgment and notify him accordingly.

Assessment of tax due in case of default of taxable person.

(2) If in any case and for any tax period, any amount which was paid or credited in favour of any person in the form of –

- (a) a payment or a refund of tax; or
- (b) any amount due to him under subsection (6) of Section 25 and such amount should not have been paid or credited, the Commissioner may verify this amount as being tax due from the above person, for the tax period in which payment or credit was made, and notify the interested person accordingly.

(3) Any amount which :–

- (a) was paid to any person as being due in accordance with the provisions of subsection (7) of Section 25 of this Ordinance, but
- (b) ought not to have been paid, because at the time of payment, the registration of the person had been cancelled or the person had failed to give any notification required under subsection (2) or (3) of Section 17,

then such amount may be verified in accordance with the provisions of subsection (1) of this Section, notwithstanding the cancellation of the registration of the said person.

(4) If any person who is required to furnish a tax declaration acting either as a representative, a trustee in bankruptcy, a receiver, a liquidator or as a person otherwise acting in a representative capacity in relation to a third person, fails to submit any tax declaration or submits a tax declaration which in the opinion of the Commissioner is incomplete or incorrect, then subsection (1) of this Section shall apply as if reference to the tax due from this person includes a reference to tax due from the said third person.

(5) Any assessment made under subsections (1), (2) or (3) of this Section in respect of any amount of tax due with regard to any prescribed tax period shall be made no later than –

- (a) two years after the end of the prescribed tax period, or
- (b) one year after satisfactory evidence of facts has been obtained by the Commissioner, sufficient to justify the act of issuing a notice of assessment; nevertheless the Commissioner may, if additional elements of evidence are obtained by him, proceed to issue a further notice of assessment, no later than one year after the date when such additional information is received.

(6) Where any taxable person either acquires or imports any goods in the course or furtherance of any business carried on by him, the Commissioner shall have power to require of him from time to time, to account for these goods; if he fails to prove that such goods have been supplied or are available to be supplied by him or have been either lost or destroyed (or have been exported otherwise than by a way constituting a supply), the Commissioner may assess to the best of his judgment the amount of tax that would have been chargeable had the goods been supplied by the said person and this person shall be informed accordingly of the amount of tax due.

(7) Where any amount of tax has been assessed by the Commissioner and notified to any person under subsections (1), (2), (3) and (6) of this Section, such amount shall, without prejudice to any other provisions of this Ordinance, be deemed to be an amount of tax due from him and may be recovered accordingly under this Ordinance unless the assessment has subsequently been either withdrawn or reconsidered by the Commissioner.

35.—(1) Where the Commissioner intends to allow that a specific amount shall be deemed to be input tax or that such amount shall be paid to the taxable person in accordance with subsection (7) of Section 25 of the Ordinance, he shall be empowered to require of the said person, the production to him of any documents relating to the tax, which documents may have been either given to him or which should be in his possession and so long as the Commissioner deems it necessary for the protection of Public revenue, require the giving of any form of security which in his judgment shall be satisfactory, before proceeding to refunding the input tax to the taxable person.

Power to require security and production of documents.

(2) Where it appears to the Commissioner necessary so to do for the protection of Public revenue, he may require of a taxable person, as a condition for his supplying taxable goods or services, not to make such supplies unless he furnishes the Commissioner with any form of security acceptable by the Commissioner for safeguarding payment of the tax concerned.

36. Any amount of tax due, which has not been paid in accordance with the provisions of this Ordinance, shall be recoverable as a debt due to the Administration.

Recovery of tax as a debt to the Republic.

37.—(1) Where the contents of an invoice indicate that a supply of either goods or services has been made and the tax attributable to such supply is shown separately thereon, the person who has issued the invoice must pay to the Commissioner an amount equal to the one shown thereon or, if the amount of tax is not shown separately, he must pay an amount equal to the amount of tax attributable to the said supply of either goods or services.

Obligation to pay tax according to invoice.

(2) The provisions of the foregoing subsection (1) shall apply even if :

- (a) the said invoice is not the tax invoice issued in pursuance of paragraph (a) of subsection (1) of Section 33 of the Ordinance, or
- (b) the supply shown on the invoice has not actually taken nor will take place; or
- (c) the supply shown on the invoice neither was nor is chargeable with the amount of the tax shown thereon or with any other amount of tax; or

(d) the person issuing the invoice is not a taxable person, and any sum due by any person by virtue of this subsection, if it is in fact tax, shall be recoverable as tax, otherwise it shall be recoverable as a debt owing to the Administration.

38.—(1) If any taxable person either neglects or refuses to pay to the Commissioner any amount of tax or any other amount demanded by the Commissioner in accordance with the provisions of this Ordinance or any regulations or orders made thereunder, the taxable person shall be liable to the payment of an additional levy equal to 10% of the amount which he has either neglected or refused to pay. In case where the negligence or refusal to pay such

Additional levy and forfeiture of goods.

amount continues after 30 days from the date on which such amount became chargeable by virtue of the provisions of this Ordinance or any regulations or orders made thereunder, then a simple interest at a rate of nine percent (9%) per annum shall be charged on the whole amount due, including the additional levy.

(2) Subject to the provisions of the foregoing subsection, if any taxable person continues to either neglect or refuse to pay to the Commissioner any sum which under this Ordinance or any regulations or orders made thereunder the Commissioner may demand of him, including the additional levy and interest chargeable by virtue of the foregoing subsection, and such refusal or failure continues for any period in excess of sixty (60) days from the date when such amount became chargeable, then goods of a value equal to three (3) times the amount owed, such goods being either in the possession or custody of the taxable person or his agent or any other person acting on his behalf, shall be liable to forfeiture by virtue of this subsection and shall be forfeited after a decision by the Judge's Court. Anything which shall be liable to forfeiture by virtue of this Section, may be seized either by the Commissioner or by any person authorised in that behalf by the Commissioner :

Provided that after thirty days from the date when the Commissioner has seized the goods as being liable to forfeiture, the goods shall be deemed to be declared as forfeited, unless within the above period of thirty days such action is called in question by a relevant letter addressed to the Commissioner.

(3) The Administrator may make Regulations for the determination of the procedure, the terms and conditions regarding the forfeiture of the goods referred to in the preceding subsection as well as for determining the powers and duties of the Commissioner concerning the application of the above subsections.

Keeping of books
and records.

39.-(1) All taxable persons shall keep books and records for the purposes of verifying the supply of goods or services which they make or receive and such taxable persons shall provide every facility that may be required by the Commissioner for the purpose of examination by any person authorised by the Commissioner of any books in either a computerized or any other form in which they may be kept.

(2) The above books and records shall be retained by the taxable person for at least seven years after the completion of the entries or transactions contained therein, unless the Commissioner by a relevant notification to the person concerned, determines otherwise.

(3) The place of keeping, the form, the way of maintenance and the period of up-dating of the books and records provided under subsection (1) of this Section, as well as any other particulars concerning the content and inspection thereof, shall be prescribed by order of the Administrator published in the Gazette.

40.—(1) Regulations which shall be made by the Administrator under the provisions of this Section of the Ordinance may prescribe that taxable persons are obliged to notify the Commissioner, as he shall deem necessary for the purposes of updating the Register which is kept in accordance with the provisions of Section 20 of the Ordinance, of such particulars and information as relate to any change or alteration of the circumstances and conditions which may concern either the said persons or their businesses.

Power of
Commissioner to
require the
production of
documents etc.

(2) Any person who, in any capacity, is concerned with any supply of either goods or services made in the course or furtherance of a business or any person to whom such a supply is made and any person who, in any capacity, is concerned with the importation of goods effected in the course or furtherance of a business, shall —

- (a) furnish to the Commissioner within such time and in such form as he may reasonably specify, such information relating to the goods or services or to the supply or importation as the Commissioner may prescribe; and
- (b) produce for inspection and search upon a demand made by any person authorised in that behalf by the Commissioner, at such a time and place as the authorised person may reasonably require, any documents relating to the goods or services or to the supplies or importations, including books and records kept by virtue of subsection (1) of Section 39 of this Ordinance.

(3) In the cases referred to in the foregoing subsection (2), the person authorised by the Commissioner shall be empowered to demand the production of the documents referred to therein from any other person, if he believes that such documents may be in the possession of the other person and where that other person claims to have a lien on the documents, the production of such documents shall be effected without prejudice to the lien.

(4) For the purposes of this Section, the term “documents” includes any profit and loss account and balance sheets relating to the business.

(5) Any authorised person shall have the power to take copies or make extracts from any documents produced by virtue of subsections (2) and (3) of this Section of this Ordinance.

(6) Any authorised person may, if it appears to him necessary so to do, at a reasonable time and for a reasonable period, remove any document produced under subsection (2) and (3) above, and where a lien is claimed on a document, the removal of the document shall not be regarded as breaking the lien. The authorised person shall, on request issue a receipt for any documents removed and withheld.

(7) Where documents have been removed by virtue of subsection (6) of this Section and such documents are reasonably required for the proper running of the business, the authorised person shall within a reasonable period, provide copies of the documents free of charge to the person by whom they were produced.

Power to take samples.

41.-(1) The Commissioner or any person authorised by him in that behalf, if he considers such action necessary for the protection of Public revenue against any mistake or fraud, may at any time take from the goods in the possession of any person who supplies goods, such samples as the authorised person may require with a view to examining and determining what should be or should have been, in as far as tax is concerned, the correct treatment of these goods.

(2) Where a sample is taken by virtue of the foregoing subsection (1) and is not returned within a reasonable time of its receipt, the Commissioner shall pay as compensation a sum equal to the wholesale price of the sample.

Power to search.

42.-(1) For the purpose of exercising any powers under this Ordinance, the Commissioner or any person authorised by him in that behalf, may at any reasonable time enter any premises or any place – excluding dwelling houses – which are used in connection with the carrying on of a business.

(2) Where the Commissioner or any person authorised by him in that behalf has reasonable cause to believe that any premises or any place – excluding dwelling houses – are used in connection with taxable supplies of goods or services and that taxable goods are on those premises, he may at any reasonable time enter and inspect those premises or place and inspect any goods or documents found therein.

(3) Notwithstanding any other power conferred under this Ordinance, so long as there is any reasonable cause to believe that an offence is being committed, has been committed or is to be committed in relation to the tax, in any premises, or in any place – excluding dwelling houses – or that there is evidence of such an offence thereat, any authorised person may enter the premises or the place at any reasonable time and inspect such premises or that place.

(4) Without prejudice to the provisions of the foregoing subsection or of any other power vested under this Ordinance, if the Judge is satisfied on information on oath by any person authorised by the Commissioner, that there is reasonable cause to believe as referred to in subsection (3) of this Section, he may on any day issue a warrant bearing his signature, authorising that person or any other person named on the warrant to enter and search the premises or the place mentioned on the warrant.

(5) The Commissioner or any other authorised person who shall enter any premises or any place by virtue of subsections (3) or (4) above, may –

- (a) seize or remove any documents or any other things whatsoever found on the premises or the said place, which he shall have reasonable cause to believe may be required as evidence for the purposes of any legal proceedings, and
- (b) search or cause to be searched any person found on the premises or place, whom he shall have reasonable cause to believe to be in possession of any such documents or other such things; the search of any woman by virtue of this paragraph shall be carried out only by a woman.

(6) Any person who shall have power under this Section to enter premises, may use such force as is reasonably necessary for the exercise of this power.

43.–(1) Without prejudice to the provisions of this Ordinance or to the Regulations or orders issued thereunder, the Customs and Excise Ordinance, 1969 and any other Ordinance or regulations or orders which generally relate to the imposition of customs and excise duties on imported goods, shall apply with such exemptions or adaptations as the Administrator may by Regulations prescribe, as though all the goods imported into the Areas or the Republic are charged with customs or excise duties and as though in such duties the value added tax shall be included, as shall be chargeable on the importation of the goods.

Application
of Customs
enactments.
Ordinances 12/69,
9/71, 2/75, 4/77,
8/77, 20/87, 19/89
and 9/91.

(2) For the purposes of this Ordinance, the provisions of Sections 8 and 9 of the Customs and Excise Duties Ordinance as well as the provisions of the Fourth and Fifth Schedules thereto, shall not apply.

Ordinances 10/89,
23/89, 16/90
and 11/91.

44.–(1) Governmental or local authorities shall not be considered to be taxable persons in respect of any supplies of either goods or services carried out by such authorities in the exercise of their duties irrespective of the fact that levies, fees or contributions are collected by them.

Government
authorities and
local authorities
Schedule IV

(2) Notwithstanding the provisions of Section 13 of this Ordinance, the persons referred to in subsection (1) of this Section, shall in any event be taxable persons only in respect of the supply of goods or services enumerated in Schedule IV to this Ordinance and such supplies shall be chargeable to tax in the same way as they would be if made by other taxable persons.

Schedule IV.

(3) The Administrator may make Regulations under which –

- (a) the procedures of collection and payment of any tax which shall be chargeable under the provisions of this Section shall be regulated;

- (b) the Table of Schedule IV may be amended by adding thereto or deducting therefrom any form of supplies of either goods or services when the Administrator deems such action necessary, in order to avoid any unfair competition with other taxable persons; and
- (c) any other particulars relating to the application of this Ordinance, shall be regulated.

(4) In this Section –

“local authority” means any improvement board or village committee and includes any department, service, foundation, school or other organisation controlled thereby.

Public
Corporations.

45.–(1) Public corporations shall not be deemed to be taxable persons for any supplies of goods or services made by them in carrying out their mission, even though they collect charges, fees or contributions.

(2) Notwithstanding the provisions of the foregoing Section 13 of this Ordinance, the persons mentioned in subsection (1) above shall have the capacity of taxable persons in respect of the supply of goods or services referred to in Schedule V to this Ordinance.

(3) The Administrator may make Regulations:–

- (a) for determining the procedures of collection and payment of tax chargeable in accordance with the provisions of this Section ;
- (b) for amending Schedule V by adding thereto or deducting therefrom any form of supplies of goods or services where the Administrator shall deem this necessary for the purpose of avoiding unfair competition with other taxable persons; and
- (c) for regulating any other peculiarities relating to the application of this Section.

(4) In this Section –

“Public Corporation” means any legal person or any other public corporate body created in the public interest by an Ordinance, the funds of which are either provided or guaranteed by the Crown.

Agents etc.

46.–(1) Where any person who is accountable for any tax, or on whom any obligations have been imposed by virtue of this Ordinance, is not a permanent resident of the Areas, the Commissioner may by a notice in writing served on any representative, director or agent, who is himself a permanent resident of the Areas and has acted on behalf of the former person in relation to matters for which that person is accountable or in respect of whom certain obligations had been imposed, direct that the said permanent resident of the Areas undertake the responsibilities relating to the payment of the tax or to executing any of the obligations imposed.

(2) For the purposes of this Ordinance, goods imported by a taxable person and supplied by him as an agent for any person who is not himself a taxable person, may be treated as imported and supplied by the taxable person in his capacity as being the representative.

(3) For the purposes of subsection (2) of this Section, any person who is not a permanent resident of the Areas and whose principal place of business is outside the Areas, may be treated as not being a taxable person so long as he is not required to be registered under this Ordinance.

(4) In cases where goods or services are supplied through an agent who acts in his own name without using the name of the person he represents, the Commissioner may if he deems fit, allow the supplies to be treated as having been made both to and by the said agent.

(5) Notwithstanding the foregoing provisions of this Section, the Commissioner may for a limited period of time, consider as a taxable person, any person who is engaged in the business of another taxable person who has either gone bankrupt or has died or has been rendered incapable of making any transactions.

(6) The reference in subsection (5) above to a taxable person that has gone bankrupt or has become incapable of making transactions shall be interpreted, in relation to any company as a reference to the conditions of the business when such business is in liquidation or when a receiving order has been issued against it.

PART VIII

SPECIAL ARRANGEMENTS

47.—(1) Notwithstanding the provisions of Section 13 of the Ordinance, farmers shall not be subject to the provisions thereof, so long as supplies of goods made by them consist of agricultural products of their own produce or any supply by them of any services consist of agricultural services :

Farmers.

Provided that any farmer may, if he so wishes, be registered in the V.A.T. Register according to the provisions of Part III of this Ordinance and be subject therefore, as from the date of registration, to all the provisions of this Ordinance.

(2) Any farmer who, in addition to the supply of agricultural products of his own produce and of agricultural services, also makes other taxable supplies of goods or services in the course of any other business, shall be liable to be registered in the V.A.T. Register and shall be a taxable person in respect of the supplies made in the course of his other business.

48. For the purposes of Section 47 –

“farmers” shall be considered to be natural and legal persons who carry on any agricultural exploitation or agricultural services as these are prescribed in this Section.

Meaning of the terms “farmers”, “agricultural products”, “agricultural exploitations” and “agricultural services.”

“agricultural products” shall be considered to be the goods produced by the farmers in the course of their agricultural activities and which have not undergone any processing that may have transformed them into industrial or handcrafted products.

“agricultural exploitation” shall be considered to be every activity of agricultural or stockbreeding nature and this term includes –

- (a) the cultivation of cereals, gardening, tobacco, cotton, fruit bearing trees, aromatic and ornamental plants, viticulture, floriculture, the production of mushrooms, spices, seeds and plants;
- (b) stock farming in general, including cattle raising, poultry farming, rabbit farming, beekeeping, silkworm farming and snail farming;
- (c) forestry in general;
- (d) fresh water fishing, fishing in the territorial waters of the Areas, sponge-fishing, fish farming, frog farming, the breeding of mussels, oysters and other mollusca and crustaceans.

“agricultural services” shall be considered to be any service supplied by a farmer using manual labour or by means of the equipment normally available for undertaking the producing of agricultural products and this term shall include –

- (a) any work relating to sowing and planting, cultivating, reaping, threshing, baling, gathering up and harvesting;
- (b) any preparatory work required for selling goods such as, sorting, drying, cleaning, grinding, extracting and disinfecting, packing and storage;
- (c) stock minding or fattening and/or rearing of animals;
- (d) hiring out of mechanical means and equipment in general, used in agricultural exploitation;
- (e) technical assistance;
- (f) destruction of weeds and pests, as well as spraying of crops and land;
- (g) use of irrigation and drainage means and equipment, and
- (h) wood cutting, tree felling and other forestry services.

Travel agencies and
tour operators.

49.–(1) Travel agencies including tour operators who act in their name in the interest of travellers, shall be treated under the special scheme of accounting for tax provided for by the provisions of this Section, where and to the extent required for the materialization of the travel or touring facilities they use for the prompt service of the travellers, supplies of goods or services made by other persons in the course of the business of those other persons.

(2) The transactions made in respect of either a travel or a tour, shall be treated as a unified service supplied by the travel agent to the traveller. This supply shall be taxable in the Areas if the travel agent has his main offices of the business or a fixed establishment from which he provides the services for the travel, in the Areas.

(3) As taxable value shall be taken to be the travel agent's gross remuneration resulting after the deduction from the total amount paid by the customer, (exclusive of tax), of the actual cost to the travel agent of supplies of goods and services (together with tax if any) provided to him by other persons in the course of their business for providing prompt service to the travellers.

(4) The amounts of tax charged to the travel agent by other taxable persons on the transactions described in the foregoing subsections (2) and (3) shall not be credited or refunded as input tax.

(5) The provisions of this Section shall not apply for the travel agent compensation which is received from services they supply exclusively as intermediaries on commission, as well as for transportation services supplied with transportation means operated by the travel agency. In these cases the provisions contained in the other Parts of this Ordinance, shall apply.

(6) The Administrator may by an order published in the Gazette –

- (a) prescribe for another method of determining the taxable value provided under subsection (3) of this Section, and
- (b) impose on travel agencies the obligation to keep special books, accounts or records for the verification of the transactions they make.

50. The Administrator may make Regulations providing for a special procedure of charging tax on supplies of goods which are chargeable with excise duties by virtue of the Customs and Excise Duties Ordinance as well as for the method of determining the value of such supplies, the time when liability to tax commences as well as for any other details concerning the obligations of taxable persons in relation to the submission of tax declarations, keeping of special books of account or any records relating to the supply of such goods.

Procedure as regards goods chargeable with excise duties. Ordinances 10/89, 23/89, 16/90 and 11/91.

PART IX

GENERAL PROVISIONS

51.–(1) Any certificate by the Commissioner under which it is certified –

- (a) that any person was or was not on any specific date registered in the V.A.T. Register, or

Evidence by certificate, etc.

- (b) that any tax declaration required by or under this Ordinance had not been submitted by any specific date, or
- (c) that any tax shown as due in any tax declaration or in any notice of assessment made in pursuance of this Ordinance has not been paid,

shall be sufficient evidence of the fact being certified unless the contrary is proved.

(2) Any photograph of any document furnished to the Commissioner for the purposes of this Ordinance and certified by him to be a true copy thereof, shall be admissible in any proceedings whether civil or criminal, to the same extent as the document itself.

Appeals.

52.-(1) Any person may appeal to the Chief Officer against any decision, order, notice or any other act of the Commissioner as regards the matters prescribed in the Regulations made by the Administrator by virtue of subsection (3) of this Section. The appeal shall be submitted within thirty days of the date of notification to the above person of the relevant decision, order, notice or other act of the Commissioner :

Provided that the Chief Officer shall not deal with any appeal, unless the Commissioner confirms that the person submitting the appeal has sent all tax returns required by virtue of this Ordinance and has paid all amounts mentioned in the returns as payable by him or any other amount which the Commissioner directed as payable tax or that the person concerned has lodged a relevant money deposit with the Commissioner.

(2) The Chief Officer shall examine the appeal and shall decide, at the latest within sixty days of the date of the appeal, whether such appeal may be either accepted or rejected or whether the decision, order, notice or other act of the Commissioner against which the appeal was made must be, and if so, the extent to which it may require to be, amended.

(3) The Administrator may make Regulations for the proper application of the provisions of this Section and in particular for specifying the procedure of submission and examination of the appeal as well as for specifying the matters for which an appeal may be made.

Offences and penalties.

53.-(1) Any person who may be involved in the fraudulent evasion of tax or who may proceed to doing any act with the intention of fraudulent evasion of tax by him or any other person, shall be liable to a fine not exceeding three times the amount of the tax due or to imprisonment not exceeding five years or to both such imprisonment and fine.

(2) Any reference in the foregoing subsection (1) to evasion of tax also includes a reference to the securing of -

- (a) any payment under Section 25 of this Ordinance;
- (b) any refund of tax under Section 31 of this Ordinance, and any reference made in the foregoing subsection (1) to the amount of tax shall be construed –
 - (i) in relation to the tax itself or to any payment falling under the foregoing paragraph (a) as a reference to the aggregate amount (if any) falsely claimed as a credit for input tax and the amount (if any) by which output tax was falsely under-declared, and
 - (ii) in relation to a refund falling under the foregoing paragraph (b) as a reference to the amount falsely claimed by way of a refund.

(3) Any person who –

- (a) with the intent to deceive either issues, furnishes or sends for the purposes of this Ordinance or in any other manner makes use for those same purposes, of any documents which may be false in any material element, or
- (b) in furnishing any information for the purposes of this Ordinance makes any statement which he knows to be false in any material element, or recklessly makes a statement which is false in a material element,

shall be liable to a fine not exceeding two thousand pounds or to imprisonment not exceeding three years or to both such fine and imprisonment.

(4) Any reference made in the foregoing subsection (3) to the issuing, furnishing or sending of any documents shall also include a reference to causing a document to be produced, furnished or sent.

(5) Where the conduct of any person during any specified period must have involved the commission by him of one or more offences by virtue of the provisions of the foregoing subsections of this Section, whether the particulars of such offence or offences are known or not, such person shall be guilty of an offence under this subsection and shall be liable to a fine not exceeding two thousand pounds or to imprisonment not exceeding three years or to both such penalties.

(6) If any person acquires possession of, or deals with any goods or accepts the supply of any services or has reason to believe that tax on the supply of the goods or services or on the importation of the goods has been or will be evaded, he shall be liable to a fine not exceeding one thousand pounds or to imprisonment for a term not exceeding 12 (twelve) months or to both such fine and imprisonment.

(7) Any person who fails to comply with the obligations provided by Sections 13 up to and including Section 21 of this Ordinance or who supplies goods or services in contravention of

the provisions of subsection (2) of Section 35 of this Ordinance shall be liable to a fine not exceeding one thousand pounds or to imprisonment for a term not exceeding 12 (twelve) months or to both such imprisonment and fine.

(8) Any person who either omits, refuses or delays to pay the tax due or to submit a tax declaration in the form and manner or within the time prescribed in subsection (1) of Section 25 of this Ordinance or breaches any regulations made by virtue of subsections (1), (2) and (12) of the same Section, shall be liable to a fine not exceeding one thousand pounds or to imprisonment for a term not exceeding 12 (twelve) months or to both such fine and imprisonment :

Provided that for the purposes of this Section any reference made to "tax due" shall also include a reference to a fine imposed or to interest charged by virtue of subsection (14) of Section 25 and Section 38 respectively, of this Ordinance.

- (9) Any person, who shall issue an invoice without being –
- (a) registered in the V.A.T. register under this Ordinance, or
 - (b) a taxable person under the provisions of subsections (5) and (6) of Section 46, or
 - (c) a person acting in accordance with the provisions of the Regulations made by virtue of paragraph (f) of subsection (1) of Section 33, or
 - (d) a person acting on behalf of the Administration,

such invoice showing any amount as being tax or any amount which shall be attributed as tax, shall be guilty of an offence and shall be liable to fine not exceeding one thousand pounds or to imprisonment for a term not exceeding 12 (months) or to both such fine and imprisonment.

(10) Subject to the provisions of the foregoing subsections of this Section any person who fails to comply with the obligations imposed by Section 39 or 40 of this Ordinance or any orders made under Section 39 or Regulations made under Section 40, shall be guilty of an offence and shall be liable to a fine not exceeding one thousand pounds, or to imprisonment not exceeding 12 (twelve) months or to both such fine and imprisonment.

(11) Subsections (1), (2) and (4) of Sections 176, 177 and 178 of the Customs and Excise Ordinance, (Customs prosecutions, proof of certain matters, and power to compound offences) shall apply mutatis mutandis, in respect of any act or omission which shall constitute an offence for which a penalty may be imposed under this Ordinance and any reference to duty or tax made in the above provisions shall be construed, for the purposes of this Ordinance, as a reference to the tax and any reference made to the Fiscal Officer shall be taken to be a reference made to the Fiscal Officer in his capacity as Commissioner of Value Added Tax in the Areas.

54. In case where any of the offences referred to in this Ordinance is committed by a legal person, liability for the offence shall lie, apart from on the legal persons themselves, also upon –

Criminal liability
of legal persons.

- (a) each of the members of the board of directors or managers, or of the committee which administers the affairs of the legal person ;
- (b) the general manager or the manager or the managing consultant of the legal person,

and the criminal action in respect of the offence may be instituted against the company and against all or any of the above mentioned persons.

55. Any amount which, according to the provisions of this Ordinance, may be due to the Administration as tax, may be claimed by an action brought in the Judge's Court.

Civil action.

56. Any notice issued by the Commissioner for the purposes of this Ordinance, may be served personally on the person to whom it is addressed or may be sent to him by registered letter at his usual residence or place of business.

Service of notices.

57.—(1) In addition to the cases where the making of Regulations is provided for in this Ordinance, the Administrator may make any other Regulations or orders for specifying or regulating any matter which may or must be specified or regulated according to the provisions of this Ordinance and generally for the purposes of achieving the proper application of the provisions thereof.

Regulations.

(2) Regulations made under this Ordinance may also provide for the imposition of penalties in case of contravention thereof, but in no case shall they provide for a heavier penalty than the heaviest penalty provided by this Ordinance.

58.—(1) Paragraph (b) of subsection (1) of Section 12, subsection (2) of Section 13, subsections (1) and (2) of Section 17 also Section 20 of the Ordinance shall come into force on the 1st April, 1992.

Date Ordinance
comes into force.

(2) Section 21 and subsection (7) of Section 53 of the Ordinance shall commence effect on the 1st May, 1992.

(3) All other Sections of the Ordinance shall commence effect on the 1st July, 1992.

SCHEDULE I
(Section 8)

Services supplied by a person not resident in the Areas and
received by a person resident in the Areas.

1. Transfers and assignments of copyright, patents, licences, trademarks and other similar rights.
2. Advertising services.
3. Services of consultants, engineers, architects, real-estate agents, consultancy bureaux, lawyers, accountants and other similar services as well as data processing and provision of information.
4. Acceptance of any obligation to refrain from pursuing or exercising, in whole or in part, any business activity or any rights such as are referred to in paragraph 1 of this Schedule.
5. Banking, financial and insurance services including reinsurance (but not including the provision of safe deposit facilities).
6. The supply of staff.
7. The hire of any movable items but excluding means of transport.

SCHEDULE II

(Section 27)

**SUPPLY OF GOODS AND SERVICES CHARGED
WITH A RATE OF TAX ZERO PER CENT (0%).**

- (i) The supply of such services as docking, towing, handling of freight directly connected with the importation or exportation of goods or the embarkation or disembarkation of passengers. Services to vessels or aircrafts privately owned shall be excepted from this treatment ;
- (ii) the supply of services regarding transportation of goods within the Areas in executing a contract for transporting such goods to the Areas or to any place outside the Areas for that part of the overall course, which falls within the Areas;
- (iii) the transportation of passengers by air or sea from the Areas to any place outside the Areas and vice versa as well as any auxiliary services directly connected with such transportation services;
- (iv) the supply of services consisting of processing portable goods which have been acquired or imported for the purpose of undergoing such process in the territory of the Areas and which are thereafter exported by the person supplying the services or by his customer who is not resident in the Areas or by any other person acting on his behalf;
- (v) the supplies, modifications, repairs, maintenance, chartering and hiring of sea going vessels used for navigation on the high seas for carrying passengers for reward or for the purpose of commercial, industrial or fishing activities;
- (vi) the supplies, modifications, repairs, maintenance, chartering and hiring of aircraft used by airlines operating for reward chiefly on international routes, and the supply, hiring, repair and maintenance of equipment incorporated or used therein;
- (vii) water not in bottles;
- (viii) food-stuffs, except for food-stuffs supplied in the course of catering. Food-stuffs supplied in the course of catering shall also include :-
 - (a) Food-stuffs supplied in relation to and during either an athletic, a commercial or other social event ;
 - (b) food-stuffs supplied for consumption on the premises on which such are supplied;
 - (c) heated food-stuffs supplied for consumption off the premises on which they are supplied (take-away food);

For the purposes of this paragraph the term "heated food-stuffs means food which, or any part of which –

- (i) has been heated for the purpose of enabling it to be consumed at a temperature above the ambient air temperature; and
 - (ii) which is, at the time of supply, above that temperature.
- (ix) The supply of medicines –
For the purposes of this Schedule, the term "medicines" shall only include products or preparations which by virtue of the Customs and Excise Duties Ordinance are classified as medicines.
- (x) the supply of newspapers, periodicals and books;
 - (xi) the supply of services offered by urban and rural buses;
 - (xii) the supply of gas in cylinders;
 - (xiii) the supply of fertilizers, medicaments for plants, also agricultural machinery except for grass mowers;
 - (xiv) the supply of children's wear and footwear.

SCHEDULE III

(Section 28)

PART I

**SUPPLY OF GOODS OR SERVICES WHICH
SHALL BE EXEMPT FROM THE TAX.**

- (i) Leasing or letting of immovable property with the exception of:
 - (a) the provision of accommodation in the hotel sector or in sectors with a similar character, including the provision of accommodation in holiday camps or on sites developed for use as camping sites;
 - (b) the letting of premises and sites for parking vehicles;
 - (c) the letting of permanently installed equipment and machinery;
 - (d) the hiring of safes.
- (ii) Financial services including the following transactions:
 - (a) the granting and the negotiation of credits and the management of same by the person granting such credits;
 - (b) the negotiation and undertaking of obligations of personal or money guarantees and other securities as well as the management of credit guarantees by the person who has granted same;
 - (c) transactions, including negotiations concerning deposit and current accounts, payments, transfers, remittances, claims, cheques and other negotiable instruments but excluding the collection of third party claims;
 - (d) transactions, including negotiations concerning currency, bank notes and coins used as legal tender, with the exception of bank notes and coins being collectors' items; collectors' items shall be taken also to include gold, silver or other metal coins as well as bank notes which are not normally used as legal tender or which may be of interest to a collector.
 - (e) transactions, including negotiations excluding management and safekeeping regarding shares, interests in companies or associations, debentures and other securities, excluding documents establishing titles of goods.
- (iii) supply of government lotteries, and provision for the placing of bets on horse racing or football games.
- (iv) supply of food by hospitals to patients or by schools or other educational, institutions to students.

- (v) Hospital and medical care and closely related thereto activities undertaken by bodies governed by public law, institutions and organizations recognized by the Commissioner, by hospitals, Nursing Centres, Centres for Medical Treatment and Diagnosis and other establishments of a similar nature recognized as such by the Commissioner.
- (vi) The provision of medical care in the exercise of the medical and paramedical professions.
- (vii) Supplies of human organs, blood and human milk.
- (viii) Services supplied by dental technicians in their professional capacity and dental prostheses supplied by dentists and dental technicians.
- (ix) The supply of services by the Cyprus Postal Services and the supply of goods incidental thereto.
- (x) The supply of services and goods closely linked to the protection of children and young people by charitable persons or organizations recognized as such by the Commissioner.
- (xi) The supply of services and of goods closely linked to welfare and social security, including those supplied by old people's homes, and by other organizations or institutions, provided they are recognized by the Commissioner.
- (xii) Educational services undertaken by organizations or other persons, provided that they are recognized as such by the Commissioner.
- (xiii) Certain services closely linked to sport or physical training supplied by non-profit-making organizations to persons engaged in sports or physical training, provided such organizations are recognized as such by the Commissioner.
- (xiv) Certain cultural services and goods closely linked thereto supplied by cultural bodies recognized as such by the Commissioner.
- (xv) The supply at face value of postage stamps valid for use for postal services within the Areas, fiscal stamps and other similar stamps.
- (xvi) Insurance and reinsurance transactions, including related services performed by insurance brokers and insurance agents.
- (xvii) The supply of immovable property.
- (xviii) The supply of services referred to in Schedule I to the Ordinance if supplied by any taxable person in the Areas, to a person outside the Areas.

PART 2

**IMPORTATION OF GOODS WHICH
ARE EXEMPT FROM THE TAX.**

- (i) The importation of gold by the Central Bank.
- (ii) Goods imported under a declaration for transit arrangements or temporary importation arrangements.
- (iii) The importation of goods entered into the following Customs regimes:—
 - (a) temporary retention in Customs areas;
 - (b) free zone;
 - (c) Customs warehousing.
- (iv) The supply of goods which are either in transit or under temporary importation arrangements on condition that the goods remain within these regimes.

SCHEDULE I V
(Section 44)

Taxable supplies of goods or services which may be made by government or local authorities.

1. Sale and resale of seeds.
2. Sale of plants and agricultural products.
3. Sale of animals and animal products.
4. Sale of wood.
5. Sale of water.
6. Sale of publications or photographs.
7. Letting of machinery.
8. Services rendered by the Electrical and Mechanical Services.
9. Services of the Government Analyst.
10. Sale of medicines.
11. Veterinary services.
12. Construction and repair of roads on the account of private individuals.
13. Cultural events by Local Authorities.
14. Slaughter services and transport of meat.
15. Parking services (parking sites, parking-meters).

SCHEDULE V
(Section 45)

Supply of goods or services provided for
by subsection (2) of Section 45.

1. Telecommunications.
2. The supply of electric and thermic energy.
3. Any transportation of persons or goods.
4. Any supply of goods manufactured or imported for sale.
5. Any exploitation at local fairs and other trade fairs.
6. Any activities of advertising agencies.
7. Any activities of travel agencies.
8. Any activities of clubs and canteens, businesses, sale-rooms and similar establishments.
9. Any commerce activities carried out by radio and television organisations.

SCHEDULE VI
(Section 2)

The term "food" shall include:-

1. Anything used for human consumption including liquids.
2. Animal feed, including food for birds, fish, crustaceans and mollusca.
3. Seeds or other means of propagation of plants for the production of the items referred to in paragraph 1 or 2 above, of this Schedule.
4. Live animals of a kind generally used or yielding or producing food for human consumption.

The term "food" shall not include the following:-

1. Confectionery products, excluding biscuits and cakes but including chocolate and biscuits covered in whole or partly with chocolate.
2. Alcoholic drinks, beer, wine, manufactured beverages including fruit juices, aerated soft drinks and bottled water; syrups, concentrates, essences, powders or other products used for the preparation of beverages or other drinks.
3. Canned or packaged or prepared food for pets; packaged food for birds other than poultry or game; biscuits and meals for cats and dogs.
4. Smoked salmon and sturgeon, caviar (eggs of sturgeon), preparations and cans of salmon and sturgeon, lobsters, crawfish, prawns and crustaceans (oysters, mussels and the like).

31st April, 1992.

(119/8/2)

A.J.H. ADAMS,
Chief Officer.



