



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
No. 1216 of 31st July 2001
LEGISLATION

ORDINANCE 10 OF 2001

AN ORDINANCE
TO PROVIDE FOR THE IMPOSITION AND
COLLECTION OF VALUE ADDED TAX

T.W. RIMMER
ADMINISTRATOR

26th July 2001.

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

PART I

PRELIMINARY

1. This Ordinance may be cited as the Value Added Tax Ordinance 2001. Short title.
2. - (1) In this Ordinance, unless the context otherwise requires - Interpretation.
 - “authorised person” means any person acting under the authority of the Commissioner;
 - “Commissioner” or “Commissioner of Value Added Tax” means the Fiscal Officer of the Sovereign Base Areas;
 - “Court” means the Judge’s Court of the Areas;
 - “export”, “exportation” or “exporting” means export, exportation or exporting to countries other than to the Republic;
 - “immovable property” has the meaning assigned to it by section 2 of the Immovable Property (Tenure, Registration and Valuation) Ordinance; Cap. 224 (Laws of Cyprus).
 - “import”, “importation” or “importing” means import, importation or importing into the Areas from countries other than from the Republic;
 - “input tax” has the meaning given by section 19;
 - “invoice” includes any document similar to an invoice;

“local administration authority” means a municipal corporation, improvement board, village authority or community council;

“officer” means an officer of the Customs Department of the Sovereign Base Areas;

“prescribed” (except in the expression “prescribed tax period”) means prescribed by regulations;

“prescribed tax period” has the meaning given by section 20(1);

“output tax” has the meaning given by section 19;

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

“regulations” means regulations made by the Administrator under this Ordinance;

“supplier” means a person who supplies goods or services or both;

“supply” has the meaning given by section 8;

“taxable person” means a person who is a taxable person under section 6;

“taxable supply” has the meaning given by section 7(2);

“tax” means VAT;

“the 1992 Ordinance” means the Value Added Tax Ordinance 1992 as amended from time to time;

“VAT” means value added tax charged in accordance with this Ordinance or, where the context so requires, with the law of another country;

“VAT invoice” has the meaning given by section 9(13);

“VAT credit” has the meaning given by section 20(3);

“VAT Register” has the meaning given by section 6(3);

“VAT representative” has the meaning given by section 37.

(2) Any reference in this Ordinance to being registered shall be construed in accordance with section 6(3).

(3) Subject to paragraph 2(2) of the Tenth Schedule, in any provision contained in or having effect under this Ordinance, the terms “document”, “copy” and “computer” shall have the same meanings respectively as they have in the Evidence Ordinance.

(4) The question whether, in relation to any supply of services the supplier or the recipient of the supply is in one country or another, shall be determined in accordance with section 12.

(5) References in this Ordinance to the term “in the Areas” shall include the territorial waters of the Areas and except where the context otherwise requires, any reference to anything done in or outside the Areas or to and from the Areas shall include anything done in or outside the Republic or to or from the Republic.

3. - (1) In this Ordinance “business” means any of the economic activities specified in subsection (2) below, which are carried on independently in any place, whatever the purpose or results of those activities.

Ordinances 3/92,
12/92,3/93, 16/93,
4/94, 4/2000 and
11/2000.

Tenth Schedule.

Cap. 9 (Laws of
Cyprus) and
Ordinances 8/61,
9/65, 5/78, 4/82,
6/85 and 18/2000.

Meaning of term
“business”.

(2) The economic activities, referred to in subsection (1) above, shall comprise all activities of producers, traders or persons supplying services, including mining and agricultural activities and the activities of the professions; the exploitation of tangible or intangible property for the purpose of obtaining income therefrom on a continuing basis shall also be considered an economic activity.

(3) Employed and other persons, in so far as they are bound to an employer or by other legal ties creating the relationship of employer and employee as regards working conditions, remuneration and employer's liability, do not carry out an economic activity "independently", as referred to in subsection (1) above.

(4) Without prejudice to the generality of anything else in this Ordinance, the following are deemed to be the carrying on of a business -

- (a) the provision by a club, association, or organisation (for a subscription or other consideration) of the facilities or advantages available to its members; and
- (b) the admission, for a consideration, of persons to any premises.

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

4. - (1) The Commissioner of Value Added Tax shall be responsible for the correct and effective application of the provisions of this Ordinance.

(2) Any act or thing required or authorised by or under any enactment to be done by any officer may be done by any other person acting under the authority of the Commissioner; and any statement signed by the Commissioner certifying that a person specified in the statement was, at a time or for a purpose so specified, acting under the authority of the Commissioner shall be admissible in evidence.

(3) Any person, whether an officer or not, engaged by the orders or with the concurrence of the Commissioner (whether previously or subsequently expressed) in the performance of any act or duty which is by law required or authorised to be performed by or with an officer, shall be deemed to be the proper officer by or with whom that act or duty is to be performed.

(4) Any person deemed by virtue of subsection (3) above to be the proper officer, shall have all the powers of an officer in relation to the act or duty performed or to be performed by him as mentioned in that subsection.

Commissioner of
VAT, exercise of
powers and
performance of
duties.

PART II**THE CHARGE TO VALUE ADDED TAX (VAT)****Imposition of VAT**

Value added tax
(VAT).

5. - (1) Value added tax shall be charged in accordance with the provisions of this Ordinance -

- (a) on the supply of goods and services in the Areas (including anything treated as such a supply), and
- (b) on the importation of goods into the Areas,

and references in this Ordinance to VAT shall be references to value added tax.

(2) VAT on any supply of goods or services shall be a liability of the person making the supply and (subject to provisions regarding accounting and payment) shall become due at the time of the supply.

(3) VAT due on the importation of goods shall be charged and payable as if it were a duty of customs.

Persons liable to
registration.

6. - (1) A person is a taxable person for the purposes of this Ordinance while he is or is required to be, registered under this Ordinance.

First Schedule.

(2) With respect to registration the provisions of the First Schedule shall have effect.

(3) Persons registered under the provisions of the First Schedule shall be registered in a VAT Register kept by the Commissioner for the purposes of this Ordinance; and, accordingly, references in this Ordinance to being registered under this Ordinance are references to being registered under the provisions of the First Schedule.

(4) Regulations made by the Administrator may make provisions as to the inclusion and correction of information in the VAT Register.

Supply of goods or services within the Areas

Scope of VAT on
taxable supplies.

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

(2) A taxable supply is any supply of goods or services made within the Areas, other than an exempt supply.

Meaning of supply.
Second Schedule.

8. - (1) The Second Schedule shall apply for determining what is, or is to be treated as, a supply of goods or a supply of services.

(2) Subject to any provision made by the Second Schedule and to regulations made under subsections (3) to (6) below -

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

(3) Regulations made by the Administrator may provide with respect to any description of transaction -

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

and without prejudice to the foregoing, such regulations may provide that paragraph 4(4) of the Second Schedule is not to apply in relation to goods of any prescribed description used or made available for use in prescribed circumstances, so as to make that a supply of services under that paragraph.

Second Schedule.

(4) Subject to the provisions of subsection (3) above, the Administrator may by regulations 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 described by the regulations if done for a consideration, and
- (b) provided any other conditions prescribed in the regulations are satisfied,

such services shall be deemed, for the purposes of this Ordinance, to have been supplied by him in the course or furtherance of the business.

(5) The Administrator may by regulations 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, 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.

(6) The Administrator may by regulations 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 if done for a consideration, and
- (b) provided that all other conditions which may be 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.

(7) For the purposes of this section, where goods are manufactured or produced from any other goods, those other goods shall be treated as incorporated in the first-mentioned goods.

(8) Any regulations under subsection (4) or (6) above may provide for the method of determining the value of any supply of services which is treated as taking place by virtue of the regulations.

Time of supply.

9. - (1) The 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 VAT.

(2) Subject to subsections (4) to (12) below, 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 taken on approval or sale or return or similar terms) are removed before it is 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 subsections (4) to (12) below, a supply of services shall be treated as taking place at the time when the services are performed.

(4) If, before the time applicable under subsection (2) or (3) above, the person making the supply issues a VAT invoice in respect of it, or if before the time applicable under subsection (2)(a) or (b) or (3) above, he receives a payment in respect of it, then the supply shall, to the extent covered by the invoice or the payment effected, be deemed to be made at the time when the invoice is issued or the payment is received.

(5) If within 14 days after the time applicable under subsection (2) or (3) above the person making the supply issues a VAT invoice in respect of it then, unless he has notified the Commissioner in writing that he elects not to avail himself of this subsection, the supply shall (to the extent that it is not treated as taking place at the time mentioned in subsection (4) above), be treated as taking place at the time the invoice is issued.

(6) The Commissioner may, at the request of a taxable person, direct that subsection (5) above shall apply in relation to supplies made by him (or such supplies made by him as may be specified in the direction) as if for the period of 14 days there were substituted such longer period as may be specified in the direction.

(7) Where a taxable person provides a document to himself which –

- (a) purports to be a VAT invoice in respect of a supply of goods or services to him by another taxable person; and
- (b) is in accordance with regulations under paragraph 1 of the Tenth Schedule treated as the VAT invoice required by the regulations to be provided by the supplier,

Tenth Schedule.

subsections (5) and (6) above shall have effect in relation to that supply as if –

- (i) the provision of the document to himself by the first-mentioned taxable person were the issue of a VAT invoice by the supplier in respect of the supply; and

- (ii) any notice of election or request made by the first-mentioned taxable person for the purposes of those provisions had been given or made by the supplier.

(8) The Commissioner may, at the request of a taxable person, by direction alter the time at which supplies made by him (or such supplies made by him as may be specified in the direction) are to be treated as taking place, either –

(a) by directing those supplies to be treated as taking place –

(i) at times or on dates determined by or by reference to the occurrence of some event described in the direction; or

(ii) at times or on dates determined by or by reference to the time when some event so described would in the ordinary course of events occur,

the resulting times or dates being in every case earlier than would otherwise apply; or

(b) by directing that, notwithstanding subsections (5) and (6) above, those supplies shall (to the extent that they are not treated as taking place at the time mentioned in subsection (4) above), be treated as taking place –

(i) at the beginning of the relevant working period (as defined in his case in and for the purposes of the direction); or

(ii) at the end of the relevant working period (as so defined).

(9) Where by regulations made under section 8(5), goods are treated as supplied, the supply is treated as taking place when they are appropriated to the use mentioned in that section.

(10) Where there is a supply of goods by virtue only of paragraph 4(1) of the Second Schedule, the supply is treated as taking place when the goods are transferred or disposed of as mentioned in that paragraph.

Second Schedule.

(11) Where there is a supply of services by virtue only of paragraph 4(4) of the Second Schedule, the supply is treated as taking place when the goods are appropriated to the use mentioned in that paragraph.

(12) Regulations made by the Administrator may make provision with respect to the time at which (notwithstanding subsections (2) to (6) and (9) to (11) above) a supply is to be treated as taking place in cases where –

(a) it is a supply of goods or services for a consideration the whole or part of which is determined or payable periodically, or from time to time, or at the end of any period; or

(b) it is a supply of goods for a consideration the whole or part of which is determined at the time when the goods are appropriated for any purpose; or

(c) there is a supply of services by virtue of paragraph 4(4) of the Second Schedule or regulations under section 8(4),

Second Schedule.

and for any such case as is mentioned in this subsection the regulations may provide for goods or services to be treated as separately and successively supplied at prescribed times or intervals.

Tenth Schedule.

(13) In this Ordinance "VAT invoice" means an invoice such as is required under paragraph 1(1) of the Tenth Schedule, or would be so required if the person to whom the supply is made were a person to which such an invoice should be issued.

Place of supply.

10. - (1) This section shall apply for determining, for the purposes of this Ordinance, whether goods or services are supplied within the Areas.

(2) Subject to the following provisions of this section, if the supply of any goods does not involve their removal from or to the Areas, they shall be treated as supplied within the Areas, if they are in the Areas and otherwise shall be treated as supplied outside the Areas.

(3) Goods shall be treated –

(a) as supplied within the Areas where their supply involves their installation or assembly at a place in the Areas to which they are removed; and

(b) as supplied outside the Areas where their supply involves their installation or assembly at a place outside the Areas to which they are removed.

(4) Goods whose place of supply is not determined under any of the preceding provisions of this section but whose supply involves their removal to or from the Areas shall be treated –

(a) as supplied within the Areas if they are in the Areas at the time when their removal begins; and

(b) as supplied outside the Areas in any other case.

(5) A supply of services shall be treated as made –

(a) within the Areas if the supplier is in the Areas; and

(b) in another country if the supplier is in that other country.

(6) The Administrator may by regulations provide, in relation to goods or services generally or to particular goods or services specified in the regulations, for varying the provisions of this section for determining where a supply of goods or services is made.

Reverse charge on services received from abroad.

11. - (1) Subject to subsection (3) below, where relevant services are –

(a) supplied by a person who is in a country other than the Areas, and

(b) are received by a person ("the recipient") who is in the Areas for the purposes of any business carried on by him,

then the provisions of this Ordinance and in particular those concerning the imposition of VAT for the supply of services and of the right of the taxable person to be credited for input tax, shall be applied as though the recipient had himself supplied the services within the Areas in the course or furtherance of his business and as if that supply were a taxable supply.

(2) In this section "relevant services" means services of any of the descriptions specified in the Third Schedule, not being services within any of the descriptions specified in the Seventh Schedule.

Third Schedule.
Seventh Schedule.

(3) Supplies which are treated as made by the recipient under subsection (1) above are not to be taken into account as supplies made by him when determining any allowance of input tax in his case under section 21(1).

(4) In applying subsection (1) above, the supply of services treated as made by the recipient shall be assumed to have been made at a time to be determined in accordance with the regulations prescribing rules for attributing a time of supply in cases within that subsection.

(5) Subsection (1) above shall have effect in relation to any services –

- (a) which are of a description specified in paragraph 10 of the Third Schedule; and
- (b) whose place of supply is determined by regulations made under section 10(6) to be in the Areas,

as if the recipient is in the Areas for the purposes of subsection (1)(b) above.

(6) The Administrator may by an order published in the Gazette vary the Third Schedule.

Third Schedule.

12. - (1) The following provisions of this section shall apply for determining whether a person supplying services or a person to whom services are supplied, is in the Areas or elsewhere.

Place where a
supplier or a
recipient of
services is.

(2) A person who supplies services shall be treated as being in the Areas if -

- (a) his business establishment or some other fixed establishment belonging to him is in the Areas, and he has no such establishment elsewhere; or
- (b) his business establishment is not 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 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 services are supplied is an individual and the services were received for purposes other than the purposes of his business, he shall be considered to be in the country where he has his usual place of residence.

(4) Where subsection (3) above does not apply, the person to whom a supply of services is made, shall be treated as being in a country if –

- (a) either of the conditions mentioned in paragraphs (a) and (b) of subsection (2) above is satisfied; or
- (b) he has such establishments as are mentioned in subsection (2) above both in that country and elsewhere and the establishment of his at which, or for the purposes of which, the services are most directly used or to be used is in that country.

(5) For the purposes of this section but not for any other purposes –

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

Importation of Goods

Application of customs enactments.

Ordinances 12/69, 9/71, 2/75, 4/77, 8/77, 20/87, 19/89, 9/91 and 19/99.

13. - (1) Subject to such exceptions and adaptations as the Administrator may by regulations prescribe, and except where the contrary intention appears, the Customs and Excise Ordinance and any other Ordinances or Regulations and Orders for the time being having effect generally in relation to customs and excise duties charged on the importation of goods into the Areas shall apply so far as relevant in relation to any VAT chargeable on the importation of goods as they apply in relation to any such customs or excise duty.

(2) The following provisions shall be excepted from those which are to have effect as mentioned in subsection (1) above, that is to say –

- (a) any provisions of the Customs and Excise Ordinance which provide for relief or return of customs and excise duties;
- (b) any provision of any Ordinance affording relief from payment of duties or taxes on the importation of goods to organisations governed by public law, public corporations and organisations or holders of licences under the Cement Industry (Encouragement and Control) Ordinance;

Cap. 130 (Laws of Cyprus).

Cap. 303 (Laws of Cyprus) and Ordinance 12/71.

(3) Regulations made under section 19 of the Post Office Ordinance (which provides for the application of customs and excise enactment to postal packets) may make special provision in relation to VAT.

Determination of Value

Value of supply of goods or services.

Fourth Schedule.

14. - (1) For the purposes of this Ordinance the value of any supply of goods or services shall, except as otherwise provided by or under this Ordinance, be determined in accordance with this section and the Fourth Schedule, and for those purposes subsections (2) to (4) below shall have effect subject to that Schedule.

(2) If the supply is made for a consideration in money, its value shall be taken to be such amount as, with the addition of the VAT chargeable, is equal to the consideration, including any subsidies directly linked to the price of the supply.

(3) If the supply is for a consideration not consisting or not wholly consisting of money, its value shall be taken to be such amount in money as, with the addition of the VAT chargeable, is equivalent to the consideration.

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

(5) For the purposes of this Ordinance the open market value of a supply of goods or services shall be taken to be the amount which would fall to be taken as its value under subsection (2) above if the supply were for such consideration in money as would be payable by a person standing in no such relationship with any person as would affect that consideration.

15. - (1) For the purposes of this Ordinance the value of goods imported into the Areas shall, subject to subsection (2) below and section 16, be determined in accordance with the rules applicable in the case of customs duties whether or not the goods in question are subject to any such duties.

Value of imported goods.

(2) For the purposes of this Ordinance the value of goods imported into the Areas shall be taken to include the following, so far as they are not already included in that value in accordance with the rules mentioned in subsection (1) above, that is to say –

- (a) all duties, taxes and other charges levied either outside the Areas or, by reason of importation, within the Areas (except VAT); and
- (b) all incidental costs, by way of commission, packing, transportation and insurance up to the port or place of importation.

16. - (1) Without prejudice to subsection (2) of section 15, where goods imported into the Areas are supplied before their clearance for home use, their value for the purposes of imposition of VAT on their importation is determined in accordance with the value of the supply to the person who delivers the relevant entry for home use to the proper customs officer.

Value of supply of goods made before customs clearance of goods.

(2) The value of the supply which is taken into account in accordance with subsection (1) above cannot be less than the value which is determined in accordance with subsection (1) of section 15.

Rates of VAT

17. Subject to section 18 and any orders made thereunder, VAT shall be charged at the rate of ten percent (10%) and shall be charged –

Standard rate of VAT.

- (a) on the supply of goods or services by reference to the value of the supply as determined under this Ordinance; and
- (b) on the importation of goods into the Areas by reference to the value of the goods as determined under this Ordinance.

18. - (1) VAT charged on –

- (a) any supply for the time being falling under the Fifth Schedule; or
- (b) any equivalent importation,

Reduced rate of VAT,
Fifth Schedule.

shall be charged at the rate of five percent (5%).

(2) The reference in subsection (1) above to an equivalent importation, in relation to any supply for the time being falling under the Fifth Schedule, is a reference to any importation of goods the supply of which would be such a supply.

(3) The Administrator may, by order published in the Gazette, vary the Fifth Schedule by adding to or deleting from it any description or by varying any description for the time being specified in it.

Payment of VAT by taxable persons

Input tax and
output tax.

19. - (1) Subject to the following provisions of this section, "input tax", in relation to a taxable person, means the following tax, that is to say -

- (a) VAT on the supply to him of any goods or services; and
- (b) VAT paid or payable by him on the importation of any goods into the Areas,

being (in each case) goods or services used or to be used for the purpose of any business carried on or to be carried on by him.

(2) Subject to the following provisions of this section, "output tax", in relation to a taxable person, means VAT on supplies which he makes.

(3) For the purposes of subsections (1) and (2) above, where goods or services are supplied to a company, or goods are imported by a company into the Areas, and the goods or services in question are used or to be used in connection with the provision of accommodation by the company, they shall not be treated as used or to be used for the purposes of any business carried on by the company to the extent that the accommodation is used or to be used for domestic purposes by -

- (a) a director of the company, or
- (b) a person connected with a director of the company.

(4) Regulations made by the Administrator may provide with respect to any description of goods or services that, where goods or services of that description are supplied to a person who is not a taxable person, they shall, in such circumstances as may be specified in the regulations, be treated for the purposes of subsections (1) and (2) above, as supplied to such other person as may be determined in accordance with the regulations.

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

(6) Regulations may provide -

- (a) for VAT on the supply of goods or services to a taxable person and VAT paid or payable by a taxable person on the importation of goods into the Areas to be treated as his input tax only if and to the extent that the charge to VAT is evidenced and quantified by reference to such documents as may be specified in the regulations or the Commissioner may direct either generally or in particular cases or classes of cases;
- (b) for a taxable person to count as his input tax, in such

circumstances, to such extent and subject to such conditions as may be prescribed, VAT on the supply to him of goods or services or paid by him on the importation of goods into the Areas notwithstanding that he was not a taxable person at the time of the supply or payment;

- (c) for a taxable person that is a body corporate to count as its input tax, in such circumstances, to such extent and subject to such conditions as may be prescribed, VAT on the supply or importation of goods before the company's incorporation for appropriation to the company or its business or on the supply of services before that time for its benefit or in connection with its incorporation;
 - (d) in the case of a person who has been, but is no longer, a taxable person, for him to be paid by the Commissioner the amount of any VAT on a supply of services made to him for the purposes of the business carried on by him when he was a taxable person.
- (7) For the purposes of this section "director" means –
- (a) in relation to a company whose affairs are managed by a board of directors or similar body, a member of that board or similar body;
 - (b) in relation to a company whose affairs are managed by a single director or similar person, that director or person;
 - (c) in relation to a company whose affairs are managed by the members themselves, a member of the company,

and a person is connected with a director if that person is the director's wife or husband, or is a relative, or the wife or husband of a relative, of the director or of the director's wife or husband.

20. - (1) A taxable person shall, in respect of supplies made by him, account for and pay VAT by reference to such periods (in this Ordinance referred to as "prescribed tax periods") at such time and in such manner as may be determined by or under regulations and regulations may make different provision for different circumstances.

Payment by
reference to tax
periods and credit
for input tax
against output tax.

(2) Subject to the provisions of this section, a taxable person is entitled at the end of each prescribed tax period to credit for so much of his input tax as is allowable under section 21, and then to deduct that amount from any output tax that is due from him.

(3) If either no output tax is due at the end of the period, or the amount of the credit exceeds that of the output tax then, subject to subsections (4) and (5) below, the amount of the credit or, as the case may be, the amount of the excess, shall be paid to the taxable person by the Commissioner; and an amount which is due under this subsection is referred to in this Ordinance as a "VAT credit".

(4) The whole or any part of the credit may, subject to and in accordance with directions given by the Commissioner, be held over to be credited in and for a subsequent period.

(5) Where at the end of any period a VAT credit is due to a taxable person who has failed to submit returns for any earlier period as required by this Ordinance, the Commissioner may withhold payment of the credit until he has complied with that requirement.

(6) A deduction under subsection (2) above and payment of a VAT credit shall not be made or paid except on a claim made in such manner and at such time as may be determined by or under regulations; and, in the case of a person who has made no taxable supplies in the period concerned or any previous period, payment of a VAT credit shall be made subject to such conditions (if any) as the Commissioner thinks fit to impose, including conditions as to repayment in specified circumstances.

(7) Regulations made by the Administrator may provide, in relation to such supplies and importations as the regulations may specify, that the VAT charged on them is to be excluded from any credit under this section; and any such provision may be framed by reference to the description of goods or services supplied or goods imported, the person by whom they are supplied or imported or to whom they are supplied, the purposes for which they are supplied or imported, or any circumstances whatsoever.

Input tax allowable
under section 20.

21. - (1) The amount of input tax for which a taxable person is entitled to credit at the end of any period shall be so much of the input tax for the period (that is input tax on supplies and importations in the period) as is allowable by or under regulations as being attributable to supplies within subsection (2) below.

(2) The supplies within this subsection are the following supplies made or to be made by the taxable person in the course or furtherance of his business –

- (a) taxable supplies;
- (b) supplies outside the Areas which would be taxable supplies if made within the Areas.

(3) Regulations made by the Administrator may provide for securing a fair and reasonable attribution of input tax to supplies within subsection (2) above, and any such regulations may provide for –

- (a) determining a proportion by reference to which input tax for any prescribed tax period is to be provisionally attributed to those supplies;
- (b) adjusting, in accordance with a proportion determined in like manner for any longer period comprising two or more prescribed tax periods or parts thereof, the provisional attribution for any of those periods;
- (c) the making of payments in respect of input tax, by the Commissioner to a taxable person (or a person who has been a taxable person) or by a taxable person (or a person who has been a taxable person) to the Commissioner, in cases where events prove inaccurate an estimate on the basis of which an attribution was made; and
- (d) preventing input tax on a supply which, under or by virtue of any provision of this Ordinance, a person makes to himself from being allowable as attributable to that supply.

(4) Regulations made under subsection (3) above may make different provision for different circumstances and, in particular (but without prejudice to the generality of that subsection) for different descriptions of goods or services; and may contain such incidental

and supplementary provisions as appear to the Administrator necessary or expedient.

22. - (1) Where goods are imported by a taxable person into the Areas and -

Goods imported for private purposes.

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

VAT paid or payable by the taxable person on the importation of the goods shall not be regarded as input tax to be deducted or credited under section 20; but he may make a separate claim to the Commissioner for it to be repaid.

(2) The Commissioner shall allow the claim if he is satisfied that to disallow it would result, in effect, in a double charge to VAT; and where he allows it he shall do so only to the extent necessary to avoid the double charge.

(3) In considering a claim under this section, the Commissioner shall have regard to the circumstances of the importation and, so far as appearing to him to be relevant, things done with, or occurring in relation to, the goods at any subsequent time.

(4) Any amount allowed by the Commissioner on the claim shall be paid by him to the taxable person.

(5) The reference above to a person's private purposes is to purposes which are not those of any business carried on by him.

23. - (1) The Administrator may by an order published in the Gazette provide that a taxable person of a description specified in the order shall be under a duty -

Payments on account of VAT.

- (a) to pay, on account of any VAT he may become liable to pay in respect of a prescribed tax period, amounts determined in accordance with the order, and
- (b) to do so at such times as are so determined.

(2) Where an order is made under this section, the Commissioner may issue notices containing such supplementary, incidental or consequential provisions as appear to the Commissioner to be necessary or expedient.

(3) An order or notice under this section may make different provision for different circumstances.

24. Where -

Invoices provided by recipient of goods or services.

- (a) a taxable person ("the recipient") provides a document to himself which purports to be an invoice in respect of a taxable supply of goods or services to him by another taxable person; and
- (b) that document understates the VAT chargeable on the supply,

the Commissioner may by notice served on the recipient and on the supplier, elect that the amount of VAT understated by the document shall be regarded for all purposes as VAT due from the recipient and not from the supplier.

PART III

RELIEFS, EXEMPTIONS AND REFUNDS OF VAT

Zero rate.

25. - (1) Where a taxable person supplies goods or services and the supply is zero-rated, then, whether or not VAT would be chargeable on the supply apart from this section, no VAT 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 VAT is charged on the supply shall be nil.

Sixth Schedule.

(2) A supply of goods or services shall be zero-rated, if the goods or services are of a description specified in the Sixth Schedule.

(3) Where goods of a description specified in the Sixth Schedule are imported into the Areas, no VAT shall be chargeable on their importation, unless it is otherwise provided in that Schedule.

(4) The Administrator may by order published in the Gazette vary the Sixth Schedule by adding to or deleting from it any description or by varying any description for the time being specified in it.

(5) Regulations made by the Administrator may make provision for the zero-rating of, or the refund of the whole or part of the VAT chargeable on the supply of goods or services to certain bodies or persons, subject to such conditions (including conditions prohibiting or restricting the disposal of or dealing with the goods) as may be imposed by or under the regulations, if and so far as zero-rating or repayment appears to the Administrator to be necessary or expedient, having regard to any international agreement or agreements.

(6) 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 as merchandise for sale by retail to persons carried on a ship or aircraft, for such a voyage or flight;

and in either case if such other conditions, if any, as may be specified in regulations or the Commissioner may impose are fulfilled.

(7) Subsection (6)(b) above shall not apply in the case of goods shipped for use as stores on a voyage or flight to be made by the person to whom the goods were supplied and to be made for a purpose which is private.

(8) Regulations may provide for the zero-rating of supplies of goods, or of such goods as may be specified in the regulations, in cases where –

- (a) the Commissioner is satisfied that the goods have been or are to be exported to a place outside the Areas; and
- (b) such other conditions, if any, as may be specified in the regulations or the Commissioner may impose are fulfilled.

(9) Regulations may provide for the zero-rating of a supply of services which is made where goods are let on hire and the Commissioner is satisfied that the goods have been or are to be removed from the Areas during the period of the letting, and

provided that such other conditions, if any, as may be specified in the regulations or the Commissioner may impose are fulfilled.

(10) Where the supply of any goods has been zero-rated by virtue of subsection (6) above or in pursuance of regulations made under subsection (8) or (9) above and –

- (a) the goods are found in the Areas after the date on which they were alleged to have been or were to be exported or shipped; or
- (b) any condition specified in the relevant regulations under subsection (6), (8) or (9) above, or imposed by the Commissioner, is not complied with,

and the presence of the goods in the Areas after that date or the non-observance of the condition has not been authorised for the purposes of this subsection by the Commissioner, the goods shall be liable to forfeiture under the Customs and Excise Ordinance and the VAT 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; but the Commissioner may, if he thinks fit, waive payment of the whole or part of that VAT.

12/69, 9/71, 2/75,
4/77, 8/77, 20/87,
19/89, 9/91 and
19/99.

26. - (1) A supply of goods or services is an exempt supply if it is of a description for the time being specified in the Seventh Schedule and an importation of goods into the Areas is an exempt importation if the supply of the goods within the Areas is exempt.

Exempt supplies
and importations.

(2) The Administrator may by order published in the Gazette vary the Seventh Schedule by adding to or deleting from it any description of supply or by varying any description of supply for the time being specified in it, and the Schedule may be varied so as to describe a supply of goods by reference to the use which has been made of them or to other matters unrelated to the characteristics of the goods themselves.

Seventh Schedule

27. - (1) Subsection (2) below applies where –

Bad debt relief.

- (a) a person has supplied goods or services for a consideration in money and has accounted for and paid VAT on the supply,
- (b) the whole or any part of the consideration for the supply has been written off in his accounts as a bad debt,
- (c) the person has taken all necessary steps to recover the consideration, and
- (d) a period of twelve months (beginning with the date of the supply) has elapsed.

(2) Subject to the following provisions of this section and to regulations made under it the person shall be entitled, on making a claim to the Commissioner, to a refund of the amount of VAT chargeable by reference to the outstanding amount.

(3) In subsection (2) above “the outstanding amount” means –

- (a) if at the time of the claim the person has received no payment by way of the consideration written off in his accounts as a bad debt, an amount equal to the amount of the consideration so written off;

- (b) if at that time he has received a payment or payments by way of the consideration so written off, an amount by which the payment (or the aggregate of the payments) is exceeded by the amount of the consideration so written off.

(4) A person shall not be entitled to a refund under subsection (2) above unless the value of the supply is equal to or less than its open market value.

(5) Where –

- (a) a person is entitled under subsection (2) above to be refunded an amount of VAT, and
- (b) that VAT has at any time been included in the input tax of another person,

that other person shall be taken, as from the time when the claim for the refund is made, not to have been entitled to any credit for input tax in respect of the VAT that has to be refunded on that claim.

(6) Regulations made under this section may –

- (a) require a claim to be made at such time and in such form and manner as may be specified by or under such regulations;
- (b) require a claim to be evidenced and quantified by reference to such records and other documents as may be so specified;
- (c) require the claimant to keep, for such period and in such form and manner as may be so specified, those records and documents and a record of such information relating to the claim and to subsequent payments by way of consideration as may be so specified;
- (d) require the repayment of a refund allowed under this section where any requirement of the regulations is not complied with;
- (e) require the repayment of the whole or, as the case may be, an appropriate part of a refund allowed under this section where the claimant subsequently receives any payment (or further payment) by way of the consideration written off in his accounts as a bad debt;
- (f) include such supplementary, incidental, consequential or transitional provisions as appear to the Administrator to be necessary or expedient for the purposes of this section;
- (g) make different provision for different circumstances.

(7) The provisions which may be included in regulations by virtue of subsection (6)(f) above may include rules for ascertaining –

- (a) whether, when and to what extent consideration is to be taken to have been written off in accounts as a bad debt;
- (b) whether a payment is to be taken as received by way of consideration for a particular supply;
- (c) whether, and to what extent, a payment is to be taken as received by way of consideration written off in accounts as a bad debt.

(8) The provisions which may be included in regulations by virtue of subsection (6)(f) above may include rules dealing with particular cases, such as those involving part payment or mutual debts; and in particular such rules may vary the way in which the following amounts are to be calculated –

- (a) the outstanding amount mentioned in subsection (2) above, and
- (b) the amount of any repayment where a refund has been allowed under this section.

(9) Section 9 shall apply for determining the time when a supply is to be treated as taking place for the purposes of construing this section.

28. - (1) Regulations made by the Administrator may make provision for giving relief from the whole or part of the VAT chargeable on the importation of goods in the Areas, subject to such conditions (including conditions prohibiting or restricting the disposal of or dealing with the goods) as may be imposed by or under the regulations, if and so far as the relief appears to the Administrator to be necessary or expedient, having regard to any international agreement or arrangements.

Relief from VAT on importation of goods.

(2) In any case where –

- (a) it is proposed that goods which have been imported into the Areas by any person (“the original importer”) with the benefit of relief under subsection (1) above shall be transferred to another person (“the transferee”), and
- (b) on an application made by the transferee, the Commissioner decides that this subsection shall apply,

this Ordinance shall have effect as if, on the date of the transfer of the goods (and in place of the transfer), the goods were exported by the original importer and imported by the transferee and, accordingly, where appropriate, provision made under subsection (1) above shall have effect in relation to the VAT chargeable on the importation of the goods by the transferee.

(3) Regulations made by the Administrator may make provision for remitting or repaying the whole or part of the VAT chargeable on the importation of any goods into the Areas which are shown to the satisfaction of the Commissioner to have been previously exported from the Areas.

(4) Regulations made by the Administrator may make provision for remitting or repaying the whole or part of the VAT chargeable on the importation of any goods into the Areas if the Commissioner is satisfied that the goods have been or are to be re-exported from the Areas and he thinks fit to do so in all the circumstances and having regard to the VAT chargeable on the supply of like goods within the Areas.

29. Regulations made by the Administrator may make provision for enabling goods imported into the Areas by a taxable person in the course or furtherance of any business carried on by him to be delivered or removed, subject to such conditions and restrictions as the Commissioner may impose for the protection of the revenue, without payment of the VAT chargeable on the importation, and for that VAT to be accounted for together with the VAT chargeable on the supply of goods or services by him.

Importation of goods by taxable persons.

Repayment of
VAT to persons in
business overseas.

30. - (1) Regulations made by the Administrator may provide a scheme for the repayment to persons to whom this section applies, of VAT on supplies to them within the Areas or on the importation of goods by them into the Areas which would be input tax of theirs if they were taxable persons in the Areas.

(2) This section –

- (a) applies to persons carrying on business in any member State of the European Union, and
- (b) shall apply also to persons carrying on business in other countries under the condition of reciprocity,

but does not apply to persons carrying on business in the Areas.

(3) Repayment shall be made in such cases only, and subject to such conditions as the scheme may prescribe (being conditions specified in regulations or imposed by the Commissioner either generally or in particular cases); and the scheme may provide –

- (a) for claims and repayments to be made only through agents in the Areas;
- (b) either generally or for specified purposes –
 - (i) for the agents to be treated under this Ordinance as if they were taxable persons; and
 - (ii) for treating claims as if they were returns under this Ordinance and repayments as if they were repayments of input tax; and
- (c) for generally regulating the methods by which the amount of any repayment is to be determined and the repayment is to be made.

PART IV

APPLICATION OF THE ORDINANCE IN PARTICULAR CASES

31. - (1) Subject to subsections (2) and (3) below authorities, local authorities and organisations governed by Ordinances are not considered to be taxable persons for their acts or the supplies they make when exercising public power, even if they collect dues, contributions or other levies in relation to these acts or transactions.

(2) The Commissioner may consider any authority, local authority or organisation so governed by Ordinances as a taxable person if the supplies made by such an authority or organisation may cause the possibility of distortion of competition.

(3) Notwithstanding any other provision of this Ordinance or any other Ordinance, authorities, local authorities and other organisations so governed by Ordinances are considered to be taxable persons in relation to any supplies that they make of a description falling within the Ninth Schedule, unless the scale on which any particular authority, local authority or other organisation makes such supplies is negligible.

(4) The Administrator may by order published in the Gazette vary the Ninth Schedule by adding to or deleting from it any description of supply or by varying any description of supply for the time being specified in it.

Public authorities
etc.

Ninth Schedule.

32. - (1) Where under the following provisions of this section any bodies corporate are treated as members of a group, any business carried on by a member of the group shall be treated as carried on by the representative member, and –

- (a) any supply of goods or services by a member of the group to another member of the group shall be disregarded; and
- (b) any supply which is a supply to which paragraph (a) above does not apply and is a supply of goods or services by or to a member of the group shall be treated as a supply by or to the representative member; and
- (c) any VAT paid or payable by a member of the group on the importation of goods into the Areas shall be treated as paid or payable by the representative member and the goods shall be treated for the purposes of sections 49(6) and 29, as imported by the representative member;

and all members of the group shall be liable jointly and severally for any VAT due from the representative member.

(2) Paragraph (a) of subsection (1) above shall not apply in relation to any supply of goods or services by one member of a group to another member of the group unless both the body making the supply and the body supplied continue to be members of that group until –

- (a) in the case of a supply of goods which are to be removed in pursuance of the supply, a time after the removal;
- (b) in the case of any other supply of goods, a time after the goods have been made available, in pursuance of the supply, to the body supplied; or
- (c) in the case of a supply of services, a time after the services have been performed.

(3) Any regulations made under section 8(5) or (6) may make provision for securing that any goods or services which, if all the members of the group were one person, would fall to be treated under that section as supplied to and by that person, are treated as supplied to and by the representative member.

(4) Two or more bodies corporate are eligible to be treated as members of a group if each has an established place of business in the Areas and –

- (a) one of them controls each of the others; or
- (b) one person (whether a body corporate or an individual) controls all of them; or
- (c) two or more individuals carrying on a business in partnership control all of them.

(5) Where an application to that effect is made to the Commissioner with respect to two or more bodies corporate eligible to be treated as members of a group, then, from the beginning of a prescribed tax period they shall be so treated, and one of them shall be the representative member, unless the Commissioner refuses the application but he shall not refuse it unless it appears to him necessary to do so for the protection of the revenue.

(6) Where any bodies corporate are treated as members of a group and an application to that effect is made to the Commissioner, then, from the beginning of a prescribed tax period –

- (a) a further body eligible to be so treated shall be included among the bodies so treated; or
- (b) a body corporate shall be excluded from the bodies so treated; or
- (c) another member of the group shall be substituted as the representative member; or
- (d) the bodies corporate shall no longer be treated as members of a group,

unless the Commissioner refuses the application under subsection (7) below.

(7) If it appears to the Commissioner necessary for the protection of the revenue, he may –

- (a) refuse any application made to that effect mentioned in paragraph (a) or (c) of subsection (6) above; or
- (b) refuse any application made to that effect mentioned in paragraph (b) or (d) of that subsection in any case that does not appear to him to fall under subsection (8) below.

(8) Where a body corporate is treated as a member of a group as being controlled by any person and it appears to the Commissioner that it has ceased to be so controlled, he shall, by notice given to that person, terminate that treatment from such date as may be specified in the notice.

(9) An application under this section with respect to any bodies corporate must be made by one of those bodies or by the person controlling them and must be made not less than 90 days before the date from which it is to take effect, or at such later time as the Commissioner may allow.

(10) For the purposes of this section a body corporate shall be taken to control another body corporate if it is empowered by Ordinance to control that body's activities or if it is that body's holding company within the meaning of section 148 of the Companies Ordinance; and an individual or individuals shall be taken to control a body corporate if he or they, were he or they a company, would be that body's holding company within the meaning of that Ordinance.

Cap. 113 (Laws of Cyprus) and Ordinances 11/68, 10/87, 9/90 and 7/95.

Company carrying on business in divisions.

33. The registration under this Ordinance of a body corporate carrying on a business in several divisions may, if the body corporate so requests and the Commissioner sees fit, be in the names of those divisions.

Partnerships.

34. - (1) The registration under this Ordinance of persons carrying on a business in partnership may be in the name of the firm; and no account shall be taken, in determining for any purpose of this Ordinance whether goods or services are supplied to or by such persons, of any change in the partnership.

Cap. 116 (Laws of Cyprus).

(2) Without prejudice to section 38 of the Partnership and Business Names Ordinance (rights of persons dealing with a firm against apparent members of the firm), until the date on which a

change in the partnership is notified to the Commissioner a person who has ceased to be a member of the partnership shall be regarded as continuing to be a partner for the purposes of this Ordinance and, in particular, for the purposes of any liability for VAT on the supply of goods or services by the partnership.

(3) Where a person ceases to be a member of a partnership during a prescribed tax period (or is treated as so doing by virtue of subsection (2) above) any notice, whether of assessment or otherwise, which is served on the partnership and relates to, or to any matter arising in, that period or any earlier period during the whole or part of which he was a member of the partnership shall be treated as served also on him.

(4) Without prejudice to section 19 of the Partnership and Business Names Ordinance (notice to acting partner to be notice to the firm) any notice, whether of assessment or otherwise, which is addressed to a partnership by the name in which it is registered by virtue of subsection (1) above and is served in accordance with this Ordinance shall be treated for the purposes of this Ordinance as served on the partnership and, accordingly, where subsection (3) above applies, as served also on the former partner.

Cap. 116 (Laws of Cyprus).

(5) Subsections (1) and (3) above shall not affect the extent to which, under section 9 of the Partnership and Business Names Ordinance, a partner is liable for VAT owed by the firm; but where a person is a partner in a firm during part only of a prescribed tax period, his liability for VAT on the supply by the firm of goods or services during that tax period shall be such proportion of the firm's liability as may be just.

Cap. 116 (Laws of Cyprus).

35. - (1) Regulations made by the Administrator may make provision for determining by what persons anything required by or under this Ordinance to be done by a person carrying on a business is to be done where a business is carried on in partnership or by a club or any other unincorporated association the affairs of which are managed by its members or a committee or committees of its members.

Business carried on by unincorporated bodies, personal representatives etc.

(2) The registration under this Ordinance of any such club or other unincorporated association may be in the name of the club or association; and in determining whether goods or services are supplied to or by such a club or association, no account shall be taken of any change in its members.

(3) Regulations made by the Administrator may make provision for persons who carry on the business of a taxable person who has died or become bankrupt or has had his estate sequestrated or has become incapacitated to be treated for a limited time as taxable persons, and for securing continuity in the application of this Ordinance in cases where persons are so treated.

(4) In relation to a company which is a taxable person, the reference in subsection (3) above to the taxable person having become bankrupt or having had his estate sequestrated or having become incapacitated shall be construed as a reference to its being in liquidation or receivership.

36. - (1) Where goods are imported into the Areas by a taxable person who supplies them as agent for a person who is not a taxable person, then, if the taxable person acts in relation to the supply in

Agents etc.

his own name, the goods shall be treated for the purposes of this Ordinance as imported and supplied by the taxable person as principal.

(2) For the purposes of subsection (1) above a person who is not resident in the Areas and whose place or principal place of business is outside the Areas may be treated as not being a taxable person if as a result he will not be required to be registered under this Ordinance.

(3) Where, in the case of any supply of goods to which subsection (1) above does not apply, goods are supplied through an agent who acts in his own name, the supply shall be treated both as a supply to the agent and as a supply by the agent.

(4) Where services are supplied through an agent who acts in his own name the Commissioner may, if he thinks fit, treat the supply both as a supply to the agent and as a supply by the agent.

37. - (1) Where any person –

- (a) is a taxable person for the purposes of this Ordinance or, without being a taxable person, is a person who makes taxable supplies;
- (b) does not have any business establishment or other fixed establishment in the Areas; and
- (c) in the case of an individual, does not have his usual place of residence in the Areas,

the Commissioner may direct that person to appoint another person (in this Ordinance referred to as a “VAT representative”) to act on his behalf in relation to VAT.

(2) With the agreement of the Commissioner, any person who has not been required to appoint a VAT representative under subsection (1) above may do so if he is a person in relation to whom the conditions specified in paragraphs (a) to (c) of that subsection are satisfied.

(3) Where any person is appointed by virtue of this section to be the VAT representative of another (“his principal”), then, subject to subsections (4) to (6) below, the VAT representative –

- (a) shall be entitled to act on his principal’s behalf for any of the purposes of this Ordinance or any other Ordinance (whenever enacted) relating to VAT or of any subordinate legislation made under this Ordinance (or any other such Ordinance);
- (b) shall, subject to such provisions as may be made by the Administrator by regulations, secure (where appropriate by acting on his principal’s behalf) his principal’s compliance with and discharge of the obligations and liabilities to which his principal is subject by virtue of this Ordinance, any such other Ordinance or any such subordinate legislation; and
- (c) shall be personally liable in respect of –
 - (i) any failure to secure his principal’s compliance with or discharge of any such obligation or liability; and

- (ii) anything done for purposes connected with acting on his principal's behalf,

as if the obligations and liabilities imposed on his principal were imposed jointly and severally on the VAT representative and his principal.

(4) A VAT representative shall not be liable by virtue of subsection (3) above himself to be registered under this Ordinance, but regulations made by the Administrator may –

- (a) require the registration of the names of VAT representatives against the names of their principals in any register kept for the purposes of this Ordinance;
- (b) make it the duty of a VAT representative, for the purposes of registration, to notify the Commissioner, within such period as may be prescribed, that his appointment has taken effect or has ceased to have effect.

(5) A VAT representative shall not by virtue of subsection (3) above be guilty of any offence except in so far as –

- (a) the VAT representative has consented to, or connived in, the commission of the offence by his principal;
- (b) the commission of the offence by his principal is attributable to any neglect on the part of the VAT representative; or
- (c) the offence involves a contravention by the VAT representative of an obligation which, by virtue of that subsection, is imposed both on the VAT representative and on his principal.

(6) Regulations made by the Administrator may make provision as to the manner and circumstances in which a person is to be appointed, or is to be treated as having ceased to be, another's VAT representative; and regulations under this subsection may include such provision as the Administrator thinks fit for the purposes of subsection (4) above with respect to the making or deletion of any entries in any register.

(7) Where a person fails to appoint a VAT representative in accordance with any direction under subsection (1) above, the Commissioner may require him to provide such security, or further security, as he may think appropriate for the payment of any VAT which is or may become due from him.

(8) For the purposes of this Ordinance a person shall not be treated as having been directed to appoint a VAT representative, or as having been required to provide security under subsection (7) above, unless the Commissioner has either –

- (a) served notice of the direction or requirement on him; or
- (b) taken all such other steps as appear to him to be reasonable for bringing the direction or requirement to his attention.

38. - (1) Where a business carried on by a taxable person is transferred to another person as a going concern, then –

- (a) for the purpose of determining whether the transferee is liable to be registered under this Ordinance he shall be treated as having carried on the business before as well as

after the transfer and supplies by the transferor shall be treated accordingly; and

- (b) any records relating to the business which under paragraph 5 of the Tenth Schedule, are required to be preserved for any period after the transfer, shall be preserved by the transferee instead of by the transferor, unless the Commissioner, at the request of the transferor, otherwise directs.

Tenth Schedule.

(2) Without prejudice to subsection (1) above, regulations made by the Administrator may make provision for securing continuity in the application of this Ordinance in cases where a business carried on by a taxable person is transferred to another person as a going concern and the transferee is registered under this Ordinance in substitution for the transferor.

(3) Regulations made under subsection (2) above may, in particular, provide –

- (a) for liabilities and duties under this Ordinance (excluding section 45) of the transferor to become, to such extent as may be provided by the regulations, liabilities and duties of the transferee; and
- (b) for any right of either of them to repayment or credit in respect of VAT to be satisfied by making a repayment or allowing a credit to the other,

but no such provision as is mentioned in paragraph (a) or (b) of this subsection shall have effect in relation to any transferor and transferee unless an application in that behalf has been made by them under the regulations.

Immovable property.
Eighth Schedule.

39. - (1) The Eighth Schedule shall have effect with respect to immovable property.

(2) The Administrator may by order published in the Gazette amend the Eighth Schedule.

Profit margin schemes.

40. - (1) Regulations made by the Administrator may provide, in relation to any such description of supplies to which this section applies as may be specified in the regulations, for a taxable person to be entitled to opt that, where he makes supplies of that description, VAT is to be charged by reference to the profit margin on the supplies, instead of by reference to their value.

(2) This section applies to the following supplies, that is to say –

- (a) supplies of works of art, antiques or collectors' items;
- (b) supplies of motor vehicles;
- (c) supplies of second-hand goods; and
- (d) any supply of goods through a person who acts as an agent, but in his own name, in relation to the supply.

(3) An option for the purposes of the regulations under this section shall be exercisable, and may be withdrawn, in such manner as may be required by the regulations.

(4) Subject to subsection (7) below, the profit margin on a supply to which this section applies shall be taken, for the purposes of the regulations under this section, to be equal to the amount (if

any) by which the price at which the person making the supply obtained the goods in question is exceeded by the price at which he supplies them.

(5) For the purposes of this section the price at which a person has obtained any goods and the price at which he supplies them shall each be calculated in accordance with the provisions contained in the regulations under this section; and such regulations may, in particular, make provision stipulating the extent to which any VAT charged on a supply or importation of any goods is to be treated as included in the price at which those goods have been obtained or are supplied.

(6) Regulations made under this section may provide that the consideration for any services supplied in connection with a supply of goods by a person who acts as an agent, but in his own name, in relation to the supply of the goods is to be treated for the purposes of any such regulations as an amount to be taken into account in computing the profit margin on the supply of the goods, instead of being separately chargeable to VAT as comprised in the value of the services supplied.

(7) Regulations made under this section may provide for the total profit margin on all the goods of a particular description supplied by a person in any prescribed tax period to be calculated by –

- (a) aggregating all the prices at which that person obtained goods of that description in that period together with any amount carried forward to that period in pursuance of paragraph (d) below;
- (b) aggregating all the prices at which he supplies goods of that description in that period;
- (c) treating the total profit margin on goods supplied in that period as being equal to the amount (if any) by which, for that period, the aggregate calculated in pursuance of paragraph (a) above is exceeded by the aggregate calculated in pursuance of paragraph (b) above; and
- (d) treating any amount by which, for that period, the aggregate calculated in pursuance of paragraph (b) above is exceeded by the aggregate calculated in pursuance of paragraph (a) above as an amount to be carried forward to the following prescribed tax period so as to be included, for the period to which it is carried forward, in any aggregate falling to be calculated in pursuance of paragraph (a) above.

(8) Regulations made under this section may –

- (a) make different provision for different cases; and
- (b) make provisions that the Commissioner may give such general or special directions with respect to any matter to which the regulations relate.

41. - (1) Regulations made by the Administrator may modify the application of this Ordinance in relation to supplies of goods or services by tour operators or in relation to such of those supplies as may be determined by or under the regulations.

Tour operators.

(2) Without prejudice to the generality of subsection (1) above, regulations under this section may make provision –

- (a) for two or more supplies of goods or services by a tour operator to be treated as a single supply of services;
- (b) for the value of that supply to be ascertained, in such manner as may be determined by or under the regulations, by reference to the difference between sums paid or payable to and sums paid or payable by the tour operator;
- (c) for account to be taken, in determining the VAT chargeable on that supply, of the different rates of VAT that would have been applicable apart from this section;
- (d) excluding any body corporate from the application of section 32;
- (e) as to the time when a supply is to be treated as taking place.

(3) In this section “tour operator” includes a travel agent acting as principal and any other person providing for the benefit of travellers services of any kind commonly provided by tour operators or travel agents.

42. - (1) Notwithstanding any other provision of this Ordinance, persons certified by the Commissioner for the purposes of this section who carry on a business involving one or more designated activities, are not considered taxable persons in respect of their acts or the supplies they make in the course of such activities:

Provided that a person carrying on a designated activity may become a taxable person, if he applies in writing to the Commissioner to become registered voluntarily in the VAT Register in respect of such an activity.

(2) Persons who carry on a designated activity and supply goods of their produce from a shop of their own, are deemed to carry on two economic activities making a supply of goods from the designated activity to the commercial activity.

(3) In this section “designated activities” means activities carried on by a farmer which may be designated in regulations made by the Administrator.

PART V

ADMINISTRATION, COLLECTION AND ENFORCEMENT OF OBLIGATIONS

General administrative provisions

43. The Tenth Schedule shall have effect with respect to the administration, collection and enforcement of VAT.

44. - (1) Any interest payable by the Commissioner to a person on a sum due to him under the provisions of this Ordinance, shall be treated as an amount due to him by way of credit under section 20(3).

(2) Subsection (1) above shall be disregarded for the purpose of determining a person’s entitlement to interest or the amount of interest to which he is entitled.

Farmers’ special regime.

General provisions relating to the administration and collection of VAT. Tenth Schedule.

Set-off of credits.

- (3) Subject to subsection (1) above, in any case where –
- (a) an amount is due from the Commissioner to any person under any provision of this Ordinance, and
 - (b) that person is liable to pay a sum by way of VAT, penalty, interest or surcharge,

the amount referred to in paragraph (a) above shall be set against the sum referred to in paragraph (b) above and, accordingly, to the extent of the set-off, the obligations of the Commissioner and the person concerned shall be discharged.

(4) Subsection (3) above shall not have effect where an amount such as is mentioned in paragraph (a) of that subsection is due to that person at a time when –

- (a) an insolvency procedure has been applied to that person;
- (b) a winding-up order is made in relation to that person;
- (c) that person is put into administrative receivership; or
- (d) any compounding procedure or other scheme of arrangement has been approved in relation to that person.

Administrative and criminal penalties

45. - (1) Any person who fails to comply with the provisions of paragraph 5, 6 or 7 of the First Schedule shall be liable to a penalty of fifty pounds (£50) for each month during which the failure continues.

Defaults.
First Schedule.

(2) If by the last day on which a taxable person is required in accordance with regulations made under this Ordinance to furnish a tax return for a prescribed tax period the Commissioner has not received that tax return, then that person shall be liable to a penalty of thirty pounds (£30).

(3) If –

- (a) by the last day on which a taxable person is required in accordance with regulations made under this Ordinance to furnish a tax return for a prescribed tax period the Commissioner has received that tax return but has not received, either directly or through an authorised representative of the taxable person, the amount of VAT shown on the tax return as payable by the taxable person in respect of that tax period; or
- (b) by the last day on which a taxable person is required in accordance with regulations made under this Ordinance to furnish a tax return for a prescribed tax period the Commissioner has received neither the tax return either directly or through the taxable person's authorised representative nor the amount of VAT due, but the Commissioner admits a tax return submitted after the said day which shows the amount of VAT payable by that taxable person in relation to that tax period; or
- (c) the Commissioner assesses an amount of VAT as due by any person,

then the taxable person shall be liable to a surcharge equal to ten percent (10%) of the VAT due.

(4) Every person on whom a surcharge has been imposed under subsection (3) above, shall pay to the Commissioner interest at nine percent (9%) annually on the amount of VAT which has not been paid.

(5) Any person who fails to comply with –

First Schedule.

- (a) the provisions of paragraph 11 or 12 of the First Schedule; or
- (b) any regulations made under section 37 requiring a VAT representative, for the purposes of registration, to notify the Commissioner that his appointment has taken effect or has ceased to have effect; or

Tenth Schedule.

(c) paragraph 5(1) or 6 of the Tenth Schedule, shall be liable to a penalty of fifty pounds (£50).

(6) Any person who fails to comply with the provisions of paragraph 5(3) of the Tenth Schedule shall be liable to a fine of two hundred pounds (£200).

(7) Any person who issues one or more invoices showing an amount as being VAT or as including an amount attributable to VAT without being –

- (a) a person registered under this Ordinance; or
- (b) a body corporate treated for the purposes of section 32 as a member of a group; or
- (c) a person treated as a taxable person under regulations made under section 35(3); or
- (d) a person authorised to issue an invoice under regulations made under paragraph 1(8) of the Tenth Schedule; or
- (e) a person acting on behalf of the Areas,

Tenth Schedule.

shall be liable to a penalty of fifty pounds (£50).

(8) Amounts by way of penalties or surcharges provided for by the provisions of this Ordinance shall be imposed by the Commissioner without examining whether the person liable to such amounts was fraudulent, reckless or negligent and they shall be collected as if they were VAT.

VAT offences.

46. - (1) Any person knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of VAT by him or any other person, shall be guilty of an offence and liable to imprisonment not exceeding three years or to a fine not exceeding fifty thousand pounds (£50,000) or to both such penalties.

(2) The reference in subsection (1) above or in subsection (7) below to the evasion of VAT includes a reference to the obtaining of –

- (a) the payment of a VAT credit; or
- (b) a refund under section 27 of this Ordinance or under section 31 of the 1992 Ordinance; or
- (c) a repayment under section 30,

and any reference in those subsections to the amount of the VAT shall be construed –

- (i) in relation to VAT itself or a VAT credit, as a reference to the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax was falsely understated, and
- (ii) in relation to a refund or repayment falling within paragraph (b) or (c) above, as a reference to the amount falsely claimed by way of refund or repayment.

(3) Any person who –

- (a) with intent to deceive produces, furnishes or sends for the purposes of this Ordinance or otherwise makes use for those purposes of any document which is false in a material particular; or
- (b) in furnishing any information for the purposes of this Ordinance makes any statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular,

shall be guilty of an offence and liable to imprisonment not exceeding three years or to a fine not exceeding fifty thousand pounds (£50.000) or to both such penalties.

(4) The reference in subsection (3)(a) above to producing, furnishing, sending or otherwise making use of a document which is false in a material particular, with intent to deceive, includes a reference to producing, furnishing, sending or otherwise making use of such a document, with intent to secure that a machine will respond to the document as if it were a true document.

(5) Any reference in subsection (3)(a) or (4) above to producing, furnishing or sending a document includes a reference to causing a document to be produced, furnished or sent.

(6) Where a person's conduct during any specified period must have involved the commission by him of one or more offences under the preceding provisions of this section, then, whether or not the particulars of that offence or those offences are known, he shall be guilty of an offence and liable to imprisonment not exceeding three years or to a fine not exceeding fifty thousand pounds (£50.000) or to both such penalties.

(7) Any person who acquires possession of or deals with any goods, or accepts the supply of any services, having reason to believe that VAT on the supply of the goods or services or on the importation of the goods into the Areas has been or will be evaded, he shall be guilty of an offence and liable to imprisonment not exceeding twelve months or to a fine not exceeding five thousand pounds (£5.000) or to both such penalties.

(8) Any person who supplies goods or services in contravention of paragraph 3(2) of the Tenth Schedule, shall be guilty of an offence and liable to imprisonment not exceeding twelve months or to a fine not exceeding five thousand pounds (£5.000) or to both such penalties.

Tenth Schedule

(9) Any person who fails to pay the VAT shown on a tax return of his as payable in respect of any period within the time limit provided for by regulations made under section 20(1), shall be guilty of an offence and liable to imprisonment not exceeding twelve months or to a fine not exceeding five thousand pounds (£5.000) or to both such penalties.

(10) Any person who fails to submit a tax return for the prescribed tax period within the due date provided by regulations made under section 20(1), shall be guilty of an offence and liable to imprisonment not exceeding twelve months or to a fine not exceeding five thousand (£5.000) or to both such penalties.

(11) Any person who fails to pay to the Commissioner, within fourteen days from receipt of the relevant notice any amount specified therein in accordance with section 49, shall be guilty of an offence and liable to imprisonment not exceeding twelve months or to a fine not exceeding five thousand pounds (£5.000) or to both such penalties.

(12) Notwithstanding any provisions contained in any other Ordinance, the court which finds a person guilty of an offence of failure to pay to the Commissioner any amount due under the provisions of this Ordinance, including monetary penalties, interest and surcharges, shall have jurisdiction to order the person convicted to pay to the Commissioner the amount in question, in addition to imposing penalties for the offence.

(13) Notwithstanding any provisions contained in any other Ordinance, an order made under subsection (12) above shall be deemed to be a decision of a civil court and may be drawn up, signed and executed in like manner as a decision in a civil action in accordance with the Civil Procedure Ordinance.

Cap. 6 (Laws of Cyprus) and Ordinances 18/66, 9/70, 3/83 and 22/89.

Ordinances 12/69, 9/71, 2/75, 4/77, 8/77, 20/87, 19/89, 9/91 and 19/99.

(14) Sections 176 to 178 of the Customs and Excise Ordinance (Customs prosecutions, proof of certain matters and power to compound offences) shall apply in relation to offences under this Ordinance as they apply in relation to offences under that Ordinance but subject to any appropriate modifications, and any reference in those sections to duty or tax shall be construed as a reference to VAT and any reference therein to the Fiscal Officer shall be construed as a reference to the Commissioner.

Offences in connection with Commissioner, officers etc.

47. - (1) Any person who, for the purpose of gaining admission to any dwelling or place or of causing the commission of any act without having such right or for any other unlawful purpose assumes the name, designation or character of the Commissioner, or an authorised person, shall be guilty of an offence and, in addition to any other criminal liability for which he may be liable, shall be liable to imprisonment not exceeding two years or to a fine not exceeding five thousand pounds (£5.000) or to both such penalties.

(2) If any person to whom a commission or other written authority has been issued by the Commissioner, is required by the Commissioner to deliver-up or account to his satisfaction for that commission or authority and fails to comply within such period as may be specified in the requirement, he shall be guilty of an offence and shall be liable to a fine not exceeding one hundred pounds (£100); and if the failure continues after he is convicted thereof he shall be guilty of a further offence and be liable to a fine not exceeding ten pounds (£10) for every day on which the failure so continues.

(3) If the Commissioner or an authorised person –

- (a) directly or indirectly asks for or takes in connection with any of his duties any payment or other reward whatsoever, whether pecuniary or otherwise, or any promise or security for any such payment or reward, not being a payment or reward which he is lawfully entitled to claim or receive; or
- (b) enters into or acquiesces in any agreement to do, abstain from doing, permit, conceal or connive at any act or thing which concerns the application of this Ordinance or which is otherwise unlawful,

he shall be guilty of an offence and liable to imprisonment not exceeding three years or to a fine not exceeding two thousand pounds (£2.000) or to both such penalties.

(4) If any person –

- (a) directly or indirectly offers or gives to the Commissioner or an authorised person any payment or other reward whatsoever, whether pecuniary or otherwise, or any promise or security for any such payment or reward; or
- (b) proposes or enters into any agreement with the Commissioner, or an authorised person,

in order to induce him to do, abstain from doing, permit, conceal or connive at any act or thing which concerns the application of this Ordinance and whereby the Administration is or may be defrauded or which is otherwise unlawful, or otherwise to take any course contrary to his duty, he shall be guilty of an offence and liable to imprisonment not exceeding three years or to a fine not exceeding two thousand pounds (£2.000) or to both such penalties.

(5) Any person who –

- (a) obstructs, hinders, molests or assaults any person -
 - (i) duly engaged in the performance of any duty or the exercise of any power imposed or conferred on him by or under any enactment concerning the application of this Ordinance, or
 - (ii) acting in aid of any person such as is described in subparagraph (i) above, or
- (b) does anything which impedes or is calculated to impede the removal of records and documents, the carrying out of an inspection for anything liable to forfeiture, or the carrying out of a search for evidence of the commission of an offence, or the detention, seizure or transfer of the records, documents, goods or evidence by the Commissioner or an authorised person; or
- (c) rescues, damages or destroys any such records, documents, goods or evidence, or does anything calculated to prevent the procuring or giving of evidence as to the legality of such a removal, inspection, search or seizure; or
- (d) prevents the detention of any person who is or has been engaged in any conduct such as is described in paragraphs (a) to (c) above, or who rescues any person who has been detained for having been engaged in any such conduct,

or who attempts to do any of the aforesaid things, shall be guilty of an offence and liable to imprisonment not exceeding twelve months or to a fine not exceeding two thousand pounds (£2,000) or to both such penalties.

Criminal liability
of directors etc.

48. - (1) Where an offence provided for in this Ordinance is committed by a body corporate every director or managing officer of the body is deemed to have taken part in committing the offence and to be guilty of the offence and may be charged with actually committing it.

(2) For the purposes of this section "managing officer", in relation to a body corporate, means any manager, secretary or similar officer of the body corporate or any person purporting to act in any such capacity or as director.

Assessments of VAT

Failure to make
returns etc.

49. - (1) Where a person has failed to make any returns required under this Ordinance (or under any provision repealed by this Ordinance) or to keep any documents and afford the facilities necessary to verify such returns or where it appears to the Commissioner that such returns are incomplete or incorrect, the Commissioner may assess the amount of VAT due from that person to the best of the Commissioner's judgement and notify it to that person.

(2) In any case where, for any prescribed tax period, there has been paid or credited to any person –

- (a) as being a repayment or refund of VAT, or
- (b) as being due to him as a VAT credit,

an amount which ought not to have been so paid or credited or which would not have been so paid or credited had the facts been known or been as they later turn out to be, the Commissioner may assess the amount as being VAT due from that person for that period and notify it to that person accordingly.

(3) An amount –

- (a) which has been paid to any person as being due to him as a VAT credit, and
- (b) which, by reason of the cancellation of that person's registration under paragraph 13(2) or (3) of the First Schedule ought not to have been so paid,

First Schedule.

may be assessed under subsection (2) above notwithstanding that cancellation.

(4) Where a person is assessed under subsections (1) and (2) above in respect of the same prescribed tax period the assessments may be combined and notified to him as one assessment.

(5) Where the person failing to make a return, or making a return which appears to the Commissioner to be incomplete or incorrect, was required to make the return as a personal representative, trustee in bankruptcy, receiver, manager, liquidator or person otherwise acting in a representative capacity in relation to another person, subsection (1) above shall apply as if the reference to VAT due from that person included a reference to VAT due from that other person.

(6) Where a taxable person –

- (a) has in the course or furtherance of a business carried on by him, been supplied with any goods or has otherwise obtained possession or control of any goods, or
- (b) has, in the course or furtherance of such a business, imported any goods into the Areas,

the Commissioner may require him from time to time to account for the goods; and if the taxable person fails to prove that the goods have been, or are available to be, supplied by him or have been exported from the Areas or have been lost or destroyed, the Commissioner may assess to the best of his judgement and notify the taxable person the amount of VAT that would have been chargeable in respect of the supply of the goods if they had been supplied by him.

(7) In any case where –

- (a) as a result of a person's failure to make a return for a prescribed tax period, the Commissioner has made an assessment under subsection (1) above for that period,
- (b) the VAT assessed has been paid but no proper return has been made for the period to which the assessment related, and
- (c) as a result of a failure to make a return for a later prescribed tax period, being a failure by a person referred to in paragraph (a) above or a person acting in a representative capacity in relation to him, as mentioned in subsection (5) above, the Commissioner finds it necessary to make another assessment under subsection (1) above,

then, if the Commissioner thinks fit, having regard to the failure referred to in paragraph (a) above, he may specify in the assessment referred to in paragraph (c) above an amount of VAT greater than that which he would otherwise have considered to be appropriate.

(8) Where an amount has been assessed and notified to any person under subsection (1), (2), (3) or (6) above it shall, subject to the provisions of this Ordinance as to objections, be deemed to be an amount of VAT due from him and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.

(9) For the purposes of this section notification to a personal representative, trustee in bankruptcy, receiver, manager, liquidator or person otherwise acting as aforesaid shall be treated as notification to the person in relation to whom he so acts.

50. - (1) Subject to the following provisions of this section, an assessment under section 49 shall not be made more than six years after the end of the prescribed tax period concerned.

(2) Subject to subsection (3) below, if VAT has been lost as a result of a fraud or an intentional failure of the person liable to VAT, an assessment may be made as if, in subsection (1) above, the reference to six years were a reference to twelve years.

(3) If it appears to the Commissioner that the amount which ought to have been assessed in an assessment under section 49

Write-offs and
supplementary
assessments.

exceeds the amount which was so assessed, then, by no later than the last day on which the assessment could have been made, the Commissioner may make a supplementary assessment in respect of the amount of the excess and shall notify the person concerned accordingly.

- (4) Notwithstanding the preceding provisions of this section, if -
- (a) an assessment made under section 49; or
 - (b) a decision of the Chief Officer concerning an objection for an assessment made under section 49,

is declared wholly or partly void by the Court and a need for re-examination arises, the Commissioner may make a new assessment within six months from the date when the decision of the Court was issued.

Amounts overpaid by way of VAT

51. - (1) Where a person has (whether before or after the commencement of this Ordinance) paid an amount to the Commissioner by way of VAT which was not VAT due to him, he shall be liable to repay the amount to that person.

(2) The Commissioner shall only be liable to repay an amount under this section on a claim being made for the purpose.

(3) The Commissioner may refuse a claim under this section if the repayment of any amount would unjustly enrich the claimant.

(4) No amount may be claimed under this section after the expiry of three years from the date on which it was paid, except where subsection (5) below applies.

(5) Where an amount has been paid to the Commissioner by reason of a mistake, a claim for the repayment of the amount under this section may be made at any time before the expiry of three years from the date on which the claimant discovered the mistake or could with reasonable diligence have discovered it.

(6) A claim under this section shall be made in such form and manner and shall be supported by such documentary evidence as the Administrator may prescribe by regulations; and regulations made under this subsection may make different provision for different cases.

(7) Except as provided by this section, the Commissioner shall not be liable to repay an amount paid to him by way of VAT by virtue of the fact that it was not VAT due to him.

PART VI

OBJECTIONS AND RECOURSES

52. Subject to section 53, an objection shall lie to the Chief Officer with respect to any of the following matters -

- (a) the registration or cancellation of registration of any person under this Ordinance;
- (b) the VAT chargeable on the supply of any goods or services or on the importation of goods into the Areas or the Republic;

Recovery of
amounts not owed.

Objections.

- (c) the amount of any input tax which may be credited to a person;
- (d) the proportion of input tax allowable under section 21;
- (e) a claim by a taxable person under section 22;
- (f) a claim for a refund under section 27 of this Ordinance or under section 31 of the 1992 Ordinance;
- (g) any refusal of an application under section 32;
- (h) the requirement of any security under section 37(7) or paragraph 3(2) of the Tenth Schedule;
- (i) any liability to a penalty, interest or surcharge by virtue of section 45;
- (j) an assessment of VAT under section 49;
- (k) the making of an assessment on the basis set out in section 50(2);
- (l) a claim for the repayment of an amount under section 51;
- (m) any direction or supplementary direction made under paragraph 2 of the First Schedule;
- (n) any decision taken under paragraph 1 of the Fourth Schedule or under section 23(6) of the 1992 Ordinance;
- (o) any refusal to permit the value of supplies to be determined by a method described in a notice published under paragraph 1(3) of the Tenth Schedule;
- (p) any refusal of authorisation or termination of authorisation in connection with the scheme made under paragraph 1(4) of the Tenth Schedule;
- (q) any requirements imposed by the Commissioner in a particular case under paragraph 2(2)(b) of the Tenth Schedule.

Ordinances 3/92,
12/92, 3/93, 16/93,
4/94, 4/2000 and
11/2000.

Tenth Schedule.

First Schedule.

Fourth Schedule.

Tenth Schedule.

53. - (1) An objection under section 52 shall be submitted within sixty days from the date of notification of the relevant decision or act of the Commissioner to the person concerned.

Further provisions
relating to
objections.

(2) An objection shall not be entertained unless the appellant has made all the tax returns which he was required to make under paragraph 1(1) of the Tenth Schedule and, except in the case of an objection against a decision with respect to the matter mentioned in section 52(h) above, has paid the amounts shown in those returns as payable by him.

(3) Where the objection is against a decision with respect to a matter mentioned in section 52(b), (i) or (j) it shall not be entertained unless the amount which the Commissioner has determined to be payable as VAT has been paid or an equivalent security has been given to him.

(4) When dealing with an objection the Chief Officer shall examine the legality and the expediency of the decision or act of the Commissioner against which the objection was submitted and shall decide within 60 days from its submission whether to admit it or reject it wholly or partly.

(5) Where the Chief Officer examines an objection with respect to a matter mentioned in section 52(j) and finds that the amount

specified in the assessment of VAT is less than it ought to have been, he may give a decision specifying the correct amount.

(6) Where, after examining an objection, the Chief Officer decides –

- (a) that the whole or part of any amount paid under subsection (3) above is not due; or
- (b) that the whole or part of any VAT credit due to the appellant has not been paid,

so much of that amount as is found not to be due or not to have been paid shall be repaid or, as the case may be, paid with interest at nine percent (9%) annually.

(7) Regulations made by the Administrator may provide for the effective application of the provisions of this section and in particular for the determination of the procedure of submission and examination of any objection.

Recourses.

54. Where as a result of an annulling decision of the Court –

- (a) the whole or part of any amount paid under section 53(3) was not due; or
- (b) any VAT credit which had not been paid to the applicant or appellant was due to him,

then so much of that amount which was not due or VAT credit which had not been paid shall be repaid or, as the case may be, paid with interest at nine percent (9%) annually.

PART VII

SUPPLEMENTARY PROVISIONS

Supplies extending after change of rate etc.

55. - (1) This section applies where there is a change in the rate of VAT, in force under section 17 or 18; or in the descriptions of exempt or zero-rated supplies.

(2) Where –

- (a) a supply affected by the change would, apart from section 9(4), (5), (6) or (8), be treated under section 9(2) or (3) as made wholly or partly at a time when it would not have been affected by the change; or
- (b) a supply not so affected would apart from section 9(4), (5), (6) or (8) be treated under section 9(2) or (3) as made wholly or partly at a time when it would have been so affected,

the rate at which VAT is chargeable on the supply, or any question whether it is zero-rated or exempt, shall if the person making it so elects be determined without regard to section 9(4), (5), (6) or (8).

(3) Regulations made under this Ordinance with respect to the time when a supply is treated as taking place may provide for this section to apply as if the references in subsection (2) above to section 9(4), (5), (6) or (8) included references to specified provisions of the regulations.

Tenth Schedule.

(4) Regulations under paragraph 1 of the Tenth Schedule may make provision for the replacement or correction of any VAT invoice which –

- (a) relates to a supply in respect of which an election is made under this section, but
- (b) was issued before the election was made.

(5) No election may be made under this section in respect of a supply to which section 9(7) or paragraph 5 of the Second Schedule applies.

Second Schedule.

56. - (1) Where, after the making of a contract for the supply of goods or services and before the goods or services are supplied, there is a change in the VAT charged on the supply, then, unless the contract otherwise provides, there shall be added to or deducted from the consideration for the transaction an amount equal to the change.

Adjustment of contracts.

(2) References in this section to a change in the VAT charged on a supply include references to a change to or from no VAT being charged on the supply.

57. Any notice, requirement, decision, direction or other act which has to be given to any person for the purposes of this Ordinance may be served by letter addressed to that person or his VAT representative sent by post at the last or usual residence or place of business of that person or VAT representative.

Service of notices.

58. - (1) Any regulations made by the Administrator under this Ordinance may include provisions for the imposition of a surcharge of fifty pounds (£50) on any person contravening the provisions of the regulations.

Monetary penalties under the regulations.

(2) Without prejudice to any other provisions of this Ordinance relating to the making of regulations, any regulations made under this Ordinance may make different provisions for different cases or classes of cases and may contain such incidental, transitional and supplementary provisions as appear to the Administrator to be necessary or expedient for the purposes of this Ordinance or the regulations.

59. - (1) Subject to subsection (2) below this Ordinance or, as the case may be, sections thereof shall come into force on such date or dates specified by the Administrator in a notice or notices published in the Gazette.

Commencement, repeals, savings and transitional provisions.

(2) Notwithstanding the provisions of subsection (1) above, subsection (1) above and the provisions of this Ordinance providing for the making of regulations shall come into force on the date of publication of this Ordinance in the Gazette, save that the provisions providing for the making of regulations shall come into force on that date only for the purposes of enabling regulations to be made thereunder.

(3) Without prejudice to anything done or left undone thereunder, the 1992 Ordinance, or, as the case may be, sections thereof shall be repealed on such date or dates specified by the Administrator by notice or notices published in the Gazette.

Ordinances 3/92, 12/92, 3/93, 16/93, 4/94, 4/2000 and 11/2000.

(4) Any person who immediately before the coming into force of this Ordinance or any section thereof was, or was treated as being a taxable person shall continue to be so treated and shall be treated as registered in the VAT Register under the provisions of this Ordinance.

(5) Where a taxable person's prescribed tax period commences before and is completed after the date of coming into force of this

Ordinance or the relevant section or sections thereof, then any matter with regard to the said prescribed tax period, shall be determined under the provisions of the Ordinance repealed with regard to that part of the prescribed tax period which precedes the said date.

(6) Without prejudice to the operation of sections 8 to 10 of the Interpretation Ordinance (which relate to the effect of repeals) or to the preceding provisions of this section, the continuity of the law relating to VAT shall not be affected by the substitution of sections of this Ordinance for sections of the 1992 Ordinance which are repealed in accordance with subsection (3) above, whether or not the sections of this Ordinance modify the corresponding repealed sections.

Cap. 1 (Laws of
Cyprus).

Ordinances 3/92,
12/92, 3/93, 16/93,
4/94, 4/2000 and
11/2000.

SCHEDULES**FIRST SCHEDULE****(Section 6(2))****REGISTRATION IN THE VAT REGISTER****Liability to be registered**

1. - (1) Subject to sub-paragraphs (3) to (5) below, a person who makes taxable supplies but is not registered under this Ordinance becomes liable to be registered –

- (a) at the end of any month, if the value of his taxable supplies in the period of one year then ending has exceeded £9.000; or
- (b) at any time, if there are reasonable grounds for believing that the value of his taxable supplies in the period of 30 days then beginning will exceed £9.000.

(2) Where a business carried on by a taxable person is transferred to another person as a going concern and the transferee is not registered under this Ordinance at the time of the transfer, then, subject to sub-paragraphs (3) to (5) below, the transferee becomes liable to be registered under this Schedule at that time if –

- (a) the value of his taxable supplies in the period of one year ending at the time of the transfer has exceeded £9.000; or
- (b) there are reasonable grounds for believing that the value of his taxable supplies in the period of 30 days beginning at the time of the transfer will exceed £9.000.

(3) A person does not become liable to be registered by virtue of sub-paragraph (1)(a) or (2)(a) above if the Commissioner is satisfied that the value of his taxable supplies in the period of one year beginning at the time at which, apart from this sub-paragraph, he would become liable to be registered will not exceed £8.000.

(4) A person shall not cease to be liable to be registered under this Schedule except in accordance with paragraph 2(5), 3 or 4 below.

(5) In determining the value of a person's supplies for the purposes of sub-paragraph (1) or (2) above, supplies of goods or services that are capital assets of the business in the course or furtherance of which they are supplied shall be disregarded.

2. - (1) Without prejudice to paragraph 1 above, and for the purpose of preventing the maintenance or creation of any artificial separation of business activities carried on by two or more persons resulting in an avoidance of VAT, if the Commissioner makes a direction under this paragraph, the persons named in the direction shall be treated as a single taxable person carrying on the activities of a business described in the direction and that taxable person shall be liable to be registered under this Schedule with effect from the date of the direction or, if the direction so provides, from such later date as may be specified therein.

(2) The Commissioner shall not make a direction under this paragraph naming any person unless satisfied –

- (a) that he is making or has made taxable supplies; and
- (b) that the activities in the course of which he makes or made those taxable supplies form only part of certain activities which should properly be regarded as those of the business described in the direction, the other activities being carried on concurrently or previously (or both) by one or more other persons; and
- (c) that, if all the taxable supplies of that business were taken into account, a person carrying on that business would at the time of the direction be liable to be registered by virtue of paragraph 1 above; and
- (d) that the main reason or one of the main reasons for the person concerned carrying on the activities first referred to in paragraph (b) above in the way he does is the avoidance of a liability to be registered (whether that liability would be his, another person's or that of two or more persons jointly).

(3) A direction made under this paragraph shall be served on each of the persons named in it.

(4) Where the Commissioner ascertains that a person who is not named in a direction issued under this paragraph makes taxable supplies in the course of activities which should properly have been treated as part of the activities of the business described in the direction, the Commissioner may make and serve on that person a supplementary direction referring to the earlier direction and the description of business specified therein and adding that person's name to those of the persons named in the earlier direction with effect from –

- (a) the date on which he began to make those taxable supplies, or
- (b) if it was later, the date with effect from which the single taxable person referred to in the earlier direction became liable to be registered under this Schedule.

(5) If, immediately before a direction (including a supplementary direction) is made under this paragraph, any person named in the direction is registered in respect of the taxable supplies made by him as mentioned in sub-paragraph (2) or (4) above, he shall cease to be liable to be so registered with effect from whichever of the following dates is the later –

- (a) the date with effect from which the single taxable person concerned became liable to be registered; and
- (b) the date of the direction.

(6) In relation to a business specified in a direction under this paragraph, the persons named in the direction, together with any person named in a supplementary direction relating to that business (being the persons who together are to be treated as the taxable person), are in sub-paragraphs (7) and (8) below referred to as "the constituent members".

(7) Where a direction is made under this paragraph then, for the purposes of this Ordinance –

- (a) the taxable person carrying on the business specified in the direction shall be registrable in such name as the persons named in the direction may jointly nominate by notice in writing given to the Commissioner not later than 14 days after the date of the direction or, in default of such a nomination, in such name as may be specified in the direction;
- (b) any supply of goods or services by or to one of the constituent members in the course of the activities of the taxable person shall be treated as a supply by or to that person;
- (c) each of the constituent members shall be jointly and severally liable for any VAT due from the taxable person;
- (d) without prejudice to paragraph (c) above, any failure by the taxable person to comply with any requirement imposed by or under this Ordinance shall be treated as a failure by each of the constituent members severally; and
- (e) subject to paragraphs (a) and (d) above, the constituent members shall be treated as a partnership carrying on the business of the taxable person and any question as to the scope of the activities of that business at any time shall be determined accordingly.

(8) If it appears to the Commissioner that any person who is one of the constituent members should no longer be regarded as such for the purposes of paragraphs (c) and (d) of sub-paragraph (7) above and the Commissioner gives notice to that effect, the person concerned shall not have any liability by virtue of those paragraphs for anything done after the date specified in that notice and, accordingly, on that date he shall be treated as having ceased to be a member of the partnership referred to in sub-paragraph (7)(e) above.

(9) In determining for the purposes of sub-paragraph (1) above whether any separation of business activities is artificial, regard shall be had to the extent to which the different persons carrying on those activities are closely bound to one another by financial, economic and organisational links.

3. A person who has become liable to be registered under this Schedule shall cease to be so liable at any time if the Commissioner is satisfied in relation to that time that he –

- (a) has ceased to make taxable supplies; or
- (b) is not at that time a person in relation to whom any of the conditions specified in paragraphs 1(1)(a) and (b) and (2)(a) and (b) above is satisfied.

4. - (1) Subject to sub-paragraph (2) below, a person who has become liable to be registered under this Schedule shall cease to be so liable at any time after being registered if the Commissioner is satisfied that the value of his taxable supplies in the period of one year then beginning will not exceed £8,000.

(2) A person shall not cease to be liable to be registered under this Schedule by virtue of sub-paragraph (1) above if the Commissioner is satisfied that the reason the value of his taxable supplies will not exceed £8.000 is that in the period in question he will cease making taxable transactions or will suspend making them for a period of thirty days or more.

(3) In determining the value of a person's supplies for the purposes of sub-paragraph (1) above, supplies of goods or services that are capital assets of the business in the course or furtherance of which they are supplied shall be disregarded.

Notification of liability and registration

5. - (1) A person who becomes liable to be registered by virtue of paragraph 1(1)(a) above shall notify the Commissioner of the liability within thirty days of the end of the relevant month.

(2) The Commissioner shall register any such person (whether or not the person concerned so notifies the Commissioner) with effect from the end of the month following the relevant month or from such earlier date as may be agreed between the Commissioner and that person.

(3) In this paragraph "the relevant month", in relation to a person who becomes liable to be registered by virtue of paragraph 1(1)(a) above, means the month at the end of which he becomes liable to be so registered.

6. - (1) A person who becomes liable to be registered by virtue of paragraph 1(1)(b) above shall notify the Commissioner of the liability before the end of the period by reference to which the liability arises.

(2) The Commissioner shall register any such person (whether or not the person concerned so notifies the Commissioner) with effect from the beginning of the period by reference to which the liability arises.

7. - (1) A person who becomes liable to be registered by virtue of paragraph 1(2) above shall notify the Commissioner of the liability within thirty days of the time when the business is transferred.

(2) The Commissioner shall register any such person (whether or not the person concerned so notifies the Commissioner) with effect from the time when the business is transferred.

8. Where a person becomes liable to be registered by virtue of paragraph 1(1)(a) above and by virtue of paragraph 1(1)(b) above at the same time, the Commissioner shall register him in accordance with paragraph 6(2) or 7(2) above, as the case may be, rather than paragraph 5(2) above.

Entitlement to be registered

9. Where a person who is not liable to be registered under this Ordinance and is not already registered, satisfies the Commissioner that he -

- (a) makes taxable supplies; or
- (b) is carrying on a business and intends to make such supplies in the course or furtherance of that business,

the Commissioner shall, if that person so requests in writing, register him with effect from the day on which the request is made or from such earlier date as may be agreed between the Commissioner and him.

10. - (1) Where a person who is not liable to be registered under this Ordinance and is not already so registered, satisfies the Commissioner that he –

- (a) makes supplies within sub-paragraph (2) below; or
- (b) is carrying on a business and intends to make such supplies in the course or furtherance of that business,

and (in either case) is within sub-paragraph (3) below, the Commissioner shall, if that person so requests in writing, register him with effect from the day on which the request is made or from such earlier date as may be agreed between the Commissioner and him.

(2) A supply is within this sub-paragraph if it is made outside the Areas but would be a taxable supply if made within the Areas.

(3) A person is within this sub-paragraph if –

- (a) he has a business establishment in the Areas or his usual place of residence is in the Areas; and
- (b) he does not make and does not intend to make taxable supplies.

(4) For the purposes of this paragraph –

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

Notification of end of liability or entitlement etc.

11. A person registered under paragraph 5, 6 or 9 above who ceases to make or have the intention of making taxable supplies shall notify the Commissioner of that fact within sixty days of the day on which he does so.

12. A person registered under paragraph 10 above who –

- (a) ceases to make or have the intention of making supplies within sub-paragraph (2) of that paragraph; or
- (b) makes or forms the intention of making taxable supplies,

shall notify the Commissioner of that fact within sixty days of the day on which he does so.

Cancellation of registration

13. - (1) Where a registered person satisfies the Commissioner that he is not liable to be registered under this Schedule, the Commissioner shall, if that person so requests in writing, cancel his registration with effect from the day on which the request is made or from such later day as may be agreed between the Commissioner and him.

(2) Where the Commissioner is satisfied that a registered person has ceased to be registrable, he may cancel his registration with effect from the date on which he so ceased or from such later date as may be agreed between the Commissioner and him.

(3) Where the Commissioner is satisfied that on the day on which a registered person was registered he was not registrable, the Commissioner may cancel that person's registration with effect from that day.

Exemption from registration

14. - (1) Notwithstanding the foregoing provisions of this Schedule, where a person who makes or intends to make taxable supplies 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.

(2) Where there is a material change in the nature of the supplies made by a person exempted from registration under this paragraph, 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.

Power to vary specified sums by order

15. The Administrator may, by an order published in the Gazette, substitute for any of the sums for the time being specified in this Schedule such other sums as he thinks fit.

Supplementary provisions

16. The value of a supply of goods or services shall be determined for the purposes of this Schedule on the basis that no VAT is chargeable on the supply.

17. Any notice required under this Schedule to be given to the Commissioner shall be made in such form and shall contain such particulars as regulations made by the Administrator may prescribe.

18. In this Schedule "registrable" means liable or entitled to be registered under this Schedule.

19. References in this Schedule to supplies are references to supplies made in the course or furtherance of a business.

SECOND SCHEDULE**(Section 8)****MATTERS TO BE TREATED AS SUPPLY OF GOODS OR SERVICES**

1. - (1) Any transfer of the whole property in goods is a supply of goods; but, subject to sub-paragraph (2) below, the transfer –

- (a) of any undivided share of the property, or
- (b) of the possession of goods,

is a supply of services.

(2) If the possession of goods is transferred –

- (a) under an agreement for sale of the goods, or
- (b) under agreements which expressly contemplate that the property also will pass at some time in the future (determined by, or ascertained from, the agreements but in any case not later than when the goods are fully paid for),

it is then in either case a supply of goods.

2. The supply of any form of power, heat, refrigeration or ventilation is a supply of goods.

3. The following constitute a supply of goods -

- (a) the transfer of immovable property;
- (b) the transfer of an undivided share in an immovable property;
- (c) the transfer of the possession of an immovable property –
 - (i) under a contract or an agreement for its sale, or
 - (ii) under agreements which expressly contemplate that the immovable property will also be transferred at some time in the future;
- (d) the grant or assignment of rights in rem on immovable property.

4. - (1) Subject to sub-paragraph (2) below, where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, that is a supply by him of goods.

(2) Sub-paragraph (1) above does not apply where the transfer or disposal is –

- (a) a gift of goods made in the course or furtherance of the business (otherwise than as one forming part of a series or succession of gifts made to the same person from time to time) where the cost to the donor does not exceed ten pounds (£10); or
- (b) subject to sub-paragraph (3) below, a gift to any person of a sample of any goods.

(3) Where –

- (a) a person is given a number of samples by the same person (whether all on one occasion or on different occasions), and
- (b) those samples are identical or do not differ in any material respect from each other,

sub-paragraph (1) above shall apply to all except one of those samples or, as the case may be, to all except the first to be given.

(4) Where by or under the directions of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the transaction shall constitute a supply of services.

(5) Neither sub-paragraph (1) nor sub-paragraph (3) above require anything which a person carrying on a business does otherwise than for a consideration in relation to any goods to be treated as a supply except in a case where that person is entitled under sections 20 and 21 to credit for the whole or any part of the VAT on the supply or importation of those goods or of anything comprised in them.

(6) Anything which is a supply of goods or services by virtue of sub-paragraph (1) or (4) above is to be treated as made in the course or furtherance of the business (if it would not otherwise be so treated); and in the case of a business carried on by an individual –

- (a) sub-paragraph (1) above applies to any transfer or disposition of goods in favour of himself personally; and
- (b) sub-paragraph (4) above applies to goods used, or made available for use, by himself personally.

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

6. - (1) Where a person ceases to be a taxable person, any goods then forming part of the assets of a business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless –

- (a) the business is transferred as a going concern to another taxable person; or
- (b) the business is carried on by another person who, under regulations made under section 35(3) is treated as a taxable person; or
- (c) the VAT on the deemed supply would not be more than two hundred pounds (£200).

(2) This paragraph does not apply to any goods in the case of which the taxable person can show to the satisfaction of the Commissioner –

- (a) that no credit for input tax has been allowed to him in respect of the supply of the goods or their importation; and
- (b) that the goods did not become his as part of the assets of a business which was transferred to him as a going concern by another taxable person.

(3) This paragraph does not apply where a person ceases to be a taxable person in consequence of having been certified for the purposes of section 42.

(4) The Administrator may by an order published in the Gazette increase or further increase the sum specified in sub-paragraph (1)(c) above.

THIRD SCHEDULE**(Section 11)****SERVICES SUPPLIED WHERE RECEIVED**

1. Transfers and assignments of copyright, patents, licences, trademarks and similar rights.
2. Advertising services.
3. Services of consultants, engineers, consultancy bureaux, lawyers, accountants and other similar services; data processing and provision of information (but excluding from this head any services relating to land).
4. Acceptance of any obligation to refrain from pursuing or exercising, in whole or part, any business activity or any such rights as are referred to in paragraph 1 above.
5. Banking, financial and insurance services (including reinsurance, but not including the provision of safe deposit facilities).
6. The supply of staff.
7. The letting on hire of movable goods other than means of transport.
8. Telecommunications services, that is to say services relating to the transmission, emission, or reception of signals, writing, images and sounds or information of any nature by wire, radio, optical or other electromagnetic systems, including the transfer or assignment of the right to use capacity for such transmission, emission or reception.
9. The services rendered by an agent to his principal in procuring for the principal any of the services mentioned in paragraphs 1 to 8 of this Schedule.
10. Any services not described in paragraphs 1 to 9 above, when the recipient is registered under this Ordinance.

FOURTH SCHEDULE

(Section 14)

VALUATION – SPECIAL CASES

1. - (1) Where –

- (a) the value of a supply made by a taxable person for a consideration in money is (apart from this paragraph) less than its open market value, and
- (b) the person making the supply and the person to whom it is made are connected, and
- (c) if the supply is a taxable supply, the person to whom the supply is made is not entitled under sections 20 and 21 to credit for all the VAT on the supply,

the Commissioner may decide that the value of the supply shall be taken to be its open market value.

(2) A decision under this paragraph shall be notified in writing to the person making the supply, but no decision may be notified in relation to any supply more than three years after the time of the supply.

(3) A decision notified to a person under this paragraph in respect of a supply made by him may include a decision that the value of any supply –

- (a) which is made by him after the notification to him, or after such later date as may be specified in the notification, and
- (b) as to which the conditions in paragraphs (a) to (c) of subparagraph (1) above are satisfied,

shall be taken to be its open market value.

(4) For the purposes of this paragraph any question whether a person is connected with another shall be determined in accordance with the following provisions -

- (a) a person is connected with an individual if that person is the individual's wife or husband or is a relative, or the wife or husband of a relative of the individual or of the individual's wife or husband;
- (b) a person is connected with any person with whom he is in partnership, and with the wife or husband or relative of any individual with whom he is in partnership;
- (c) a company is connected with another company –
 - (i) if the same person has control of both, or a person has control of one and persons connected with him, or he and persons connected with him, have control of the other; or
 - (ii) if a group of two or more persons has control of each company, and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person with whom he is connected;

- (d) a company is connected with another person if that person has control of it or if that person and persons connected with him together have control of it;
 - (e) any two or more persons acting together to secure or exercise control of a company shall be treated in relation to that company as connected with one another and with any person acting on the directions of any of them to secure or exercise control of the company;
- (5) In this paragraph –

“company” includes any body corporate or unincorporated association, but does not include a partnership;

“control”, in relation to a body corporate, means the power of a person to secure –

- (i) by means of the holding of shares or the possession of voting power in or with relation to that or any other body corporate, or
- (ii) by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate,

that the affairs of the first-mentioned body corporate are conducted in accordance with the wishes of that person, and, in relation to a partnership, means the right to a share of more than one-half of the assets, or of more than one-half of the income of the partnership;

“relative” means brother, sister, ancestor or lineal descendant or their spouses.

(6) This paragraph does not apply to a supply to which paragraph 7 below applies.

2. - (1) 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 for the purposes of section 14 as reduced by the discount, whether or not payment is made in accordance with those terms.

(2) This paragraph does not apply where the terms include any provision for payment by instalments.

3. Where a right to receive goods or services for an amount stated on any token, stamp or voucher is granted for a consideration, the consideration shall be disregarded for the purposes of this Ordinance except to the extent (if any) that it exceeds that amount.

4. - (1) Where there is a supply of goods by virtue of –

- (a) regulations made under section 8(5); or
- (b) paragraph 4(1) of the Second Schedule (but otherwise than for a consideration); or
- (c) paragraph 6 of that Schedule,

then, except where paragraph 7 below applies, the value of the supply shall be determined in accordance with sub-paragraphs (2) and (3) below.

(2) The value of the supply shall be taken to be –

- (a) such consideration in money as would be payable by the person making the supply if he were, at the time of the supply, to purchase goods identical in every respect (including age and condition) to the goods concerned; or
- (b) where the value cannot be ascertained in accordance with paragraph (a) above, such consideration in money as would be payable by that person if he were, at that time, to purchase goods similar to, and of the same age and condition as, the goods concerned; or
- (c) where the value can be ascertained in accordance with neither paragraph (a) nor paragraph (b) above, the cost of producing the goods concerned if they are produced at that time.

(3) For the purposes of sub-paragraph (2) above, the amount of consideration in money that would be payable by any person if he were to purchase any goods shall be taken to be the amount that would be so payable after the deduction of any amount included in the purchase price in respect of VAT on the supply of the goods to that person.

5. Where there is a supply of services by virtue of –

- (a) regulations made under section 8(4); or
- (b) paragraph 4(4) of the Second Schedule (but otherwise than for a consideration),

Second Schedule.

the value of the supply shall be taken to be the full cost to the taxable person who provides the services except where paragraph 7 below applies.

6. Where any supply of services is treated by virtue of section 11 as made by the person by whom they are received, the value of the supply shall be taken –

- (a) in a case where the consideration for which the services were in fact supplied to him was a consideration in money, to be such amount as is equal to that consideration; and
- (b) in a case where the consideration did not consist or did not wholly consist of money, to be such amount in money as is equivalent to that consideration.

7. - (1) This paragraph applies to a supply of goods or services, whether or not for a consideration, which is made by an employer and consists of –

- (a) the provision in the course of catering of food or beverages to his employees, or
- (b) the provision of accommodation for his employees in an hotel, inn, boarding house or similar establishment.

(2) The value of a supply to which this paragraph applies shall be taken to be nil unless the supply is for a consideration consisting wholly or partly of money, and in that case its value shall be determined without regard to any consideration other than money.

8. - (1) Subject to the following provisions of this paragraph, where –

- (a) there is a supply of goods or services; and

- (b) any sum relevant for determining the value of the transaction is expressed in a currency other than Cyprus pounds,

then, for the purpose of valuing the supply, that sum is to be converted into Cyprus pounds at the market rate which, on the relevant day, would apply in the Republic to a purchase with Cyprus pounds by the person to whom they are supplied of that sum in the currency in question.

(2) Where the Commissioner has published a notice which specifies rates of exchange for customs purposes, a rate specified in the notice, as for the time being in force, shall apply (instead of the rate for which sub-paragraph (1) above provides) in the case of any supply by a person who opts for use of that rate in relation to that supply.

(3) The time by reference to which the appropriate rate of exchange is to be determined for the purpose of valuing any supply is the time when the supply takes place; and, accordingly, the day on which it takes place is the relevant day for the purposes of sub-paragraph (1) above.

9. A decision under paragraph 1 above may be varied or withdrawn by the Commissioner by a further decision notified in writing to the person concerned.

FIFTH SCHEDULE
(Section 18)

SUPPLIES SUBJECT TO REDUCED RATE

A. GOODS

1. Supply of coffins.

B. SERVICES

1. Restaurant services and other similar catering services for food, but excluding the supply of alcoholic beverages.

2. Accommodation provided by hotels and other similar establishments, including the provision of holiday accommodation and the letting of camping sites and of places on caravan parks.

3. Services supplied by undertakers.

4. Services of road cleaning, refuse collection and waste treatment, other than services provided by local administration authorities and organisations subject to public law.

5. Services of writers, composers and artists.

SIXTH SCHEDULE**(Section 25)****ZERO-RATED SUPPLIES OF GOODS AND SERVICES**

1. The supply of services relating to the importation of goods into the Areas, where the value of such services is included in the taxable value at importation.

2. The supply of services consisting of work on movable property acquired or imported for the purpose of undergoing such work within the Areas and dispatched or transported out of the Areas –

- (a) by the person providing the services or on his behalf; or
- (b) by the customer if established outside the Areas, or on his behalf.

3. The –

(a) supply, modification, repair, maintenance, chartering and hiring of sea-going vessels, which fall in the following categories –

(i) ships of a gross tonnage of not less than 15 tons, used for navigation on the high seas and carrying passengers for reward or used for the purpose of commercial, industrial or fishing activities,

(ii) ships used for rescue or assistance at sea, or for inshore fishing;

(b) supply, hiring, repair and maintenance of articles – including fishing equipment – incorporated or used for the exploitation of any ship of a description falling within sub-paragraph (a) above.

4. The –

(a) supply, modification, repair, maintenance, chartering and hiring of aircraft of a weight not less than 8.000 kilogrammes, used by airlines operating for reward mainly on international routes;

(b) supply, hiring, repair and maintenance of articles incorporated or used for the exploitation of any aircraft of a description falling within sub-paragraph (a) above.

5. The –

(a) supply of services to meet the direct needs of sea-going vessels referred to in paragraph 3(a) above and of aircraft referred to in paragraph 4(a) above, in any port, airport or outside the Areas – excluding the hire of goods;

(b) supply of services consisting of the handling or storage of cargo carried by sea-going vessels referred to in paragraph 3(a) above and of aircraft referred to in paragraph 4(a) above, in a port or airport – excluding the hire of goods;

(c) supply of pilotage, salvage or towage services;

(d) supply of services in connection with the surveying of any ship or aircraft or the classification of any ship or aircraft

for the purposes of any register provided it is a ship or aircraft falling within paragraph 3(a) or 4(a) above;

- (e) transportation of passengers or goods from the Areas to a place outside the Areas and vice versa to the extent that the transportation is supplied within the Areas.

6. The supply of services including transport and ancillary supplies, but excluding the supply of services exempt pursuant to section 26 and the Seventh Schedule, when they are directly linked to -

Seventh Schedule.

- (a) the exportation of goods; or
- (b) the importation of goods which are intended -
 - (i) to be placed in any of the customs warehouses, bonded warehouses or free-zones, and to be subjected to the relevant customs regime,
 - (ii) to be subjected to a temporary importation, transit or transshipment regime, or
 - (iii) to be admitted into territorial waters in order to be incorporated into drilling or production platforms.

7. Supplies of gold to the Central Bank of the Republic.

8. Goods supplied to non-profit making organisations which export them as part of their humanitarian, charitable or teaching activities outside the Areas or the Republic.

9. Services supplied by brokers and other intermediaries, acting in the name and for the account of another person, where the services form part of supplies specified in the previous paragraphs of this Schedule or in any regulations made under section 25(5) and of supplies made outside the Areas or the Republic.

10. Supplies of -

- (a) goods, subject to import duty or tax, made after their importation but before their clearance for home use in the Areas;
- (b) goods which are intended -
 - (i) to be placed in customs warehouses, bonded warehouses or free - zones and be subjected to the relevant customs regime, or
 - (ii) to be subjected to a temporary importation, transit or transshipment regime;
- (c) goods which are intended to be admitted into territorial waters -
 - (i) in order to be incorporated into drilling or production platforms, for the purposes of construction, repair, maintenance, alteration or linking of such platforms to the mainland, or
 - (ii) for the fuelling and provisioning of drilling or production platforms;
- (d) services relating to the supplies of goods referred to in sub-paragraphs (a), (b) and (c) of this paragraph.

11. The supply of a designated travel service to be enjoyed outside the Areas, to the extent to which the supply is so enjoyed.

12. Supplies of –

- (a) animal feeding stuffs, including food for birds and fish, but excluding –
 - (i) canned, packaged or prepared pet foods,
 - (ii) packaged foods (not being pet foods) for birds other than poultry or game;
- (b) products normally used to supplement animal feeding stuffs;
- (c) seeds or other means of propagation of plants for the production of food and animal feeding stuffs;
- (d) live animals of a kind generally used for the production of food.

13. Supplies of non-bottled water.

14. Supplies of –

Second Schedule.

- (a) fertilizers classified in Chapter 31 of the Second Schedule to the the Customs and Excise Duties Tariff;
- (b) insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant-growth regulators, disinfectants and similar products, put up in forms or packings for retail sale or as preparations. Insectifuge and disinfectants for domestic purposes, insecticides and pesticides in aerosol or powder form for domestic use are excluded.

15. Supplies of agricultural machines, excluding lawn mowers.

16. Supplies of food for consumption by humans, excluding supplies made in the course of catering.

For the purposes of this paragraph the term “food” does not include –

- (a) any kind of confectionery, other than biscuits and cakes, but it includes chocolates and biscuits partly or wholly covered in chocolate;
- (b) alcoholic beverages and made up drinks, including refreshment drinks and juices, but excluding the following-
 - (i) tea,
 - (ii) herbal tea or tea made of dried flower leaves or fruits and parts of plants,
 - (iii) preparations of the above,
 - (iv) cocoa, coffee and their substitutes,
 - (v) fruit juices, and
 - (vi) milk and its substitutes;
- (c) syrups, concentrations, extracts, powders or other products used in the making of drinks, other than powders, crystals, beans or other products in another form used for preparing tea, coffee, cocoa, milk and their substitutes;

- (d) smoked salmon, smoked oxyrhynchus, caviar (eggs of oxyrhynchus), preparations and canned salmon and oxyrhynchus, lobsters, crayfish, shrimps and shellfish (oysters, mussels and similar shellfish).

The expression "supplies made in the course of catering" in this Schedule means the sale of meals and drinks in restaurants, bars, canteens and similar establishments and includes -

- (i) the provision of foods,
- (ii) supply of foods in relation to and during any sports, commercial or other social activity,
- (iii) supply of foods for the purpose of consumption in the premises at which they are supplied, and
- (iv) supply of hot foods for the purpose of consumption outside the premises at which they are supplied.

For the purpose of this paragraph, the term "hot foods" means foods or part thereof which -

- (a) have been heated in order to enable them to be consumed at a temperature higher than that of the environment, and
- (b) at the time of their supply their temperature is higher than that of the environment:

Provided that the term "foods" where their supply is made in the course of catering includes anything used for human consumption including liquids other than alcoholic beverages.

17. Supplies of medicaments falling within codes C.N. 30.03 and C.N. 30.04 of the Customs and Excise Tariff.

18. Supplies of vaccines for medical and veterinary use falling within the Code C.N. 30.02 of the Customs and Excise Tariff.

19. Books, pamphlets and similar printed matter (whether or not in loose leaves), newspapers and magazines (whether or not with illustrations or advertisements), albums or picture books and albums for drawing or colouring by children. Music in manuscript or printed (whether or not containing illustrations or bound). Maps of every kind, including wall maps, topography drawings and globes. The matters referred to in this paragraph are classified in Codes C.N. 49.01 and C.N. 49.05 of the Customs and Excise Tariff.

20. Transportation of passengers and their accompanying luggage in urban buses for consideration.

21. Supplies of gas in cylinders.

22. Supplies of children's wear including items which the Administrator by order published in the Gazette may specify as articles to be treated as children's wear.

23. Supplies of the following goods -

- (a) special lifting appliances (escalators and elevators for the disabled and similar appliances) used for assisting the disabled falling within Code C.N. ex84.28 of the Customs and Excise Tariff;
- (b) typewriters and Braille characters and special electronic typewriters (electronic pocket communication devices) for the use of the disabled;

- (c) wheeled and other vehicles for the disabled, including motorised vehicles falling within Code C.N. 87.13 of the Customs and Excise Tariff;
- (d) orthopaedic appliances, including surgical belts and trusses and crutches, splints and other kinds of appliances for fractures. Artificial limbs, hearing aids and other aids which are hand held, worn or implanted in the human body to compensate for or cure a defect or disability other than parts and accessories as classified in Code C.N. ex90.21 of the Customs and Excise Tariff;
- (e) breathing devices for the treatment of asthma (air chamber equipment with dose measuring inhalers, nebulisers of inhaled liquid medicine falling within Code C.N. ex90.19 of the Customs and Excise Tariff and spirometers for measuring the breathing capacity of patients falling within Code C.N. ex90.18 of the Customs and Excise Tariff).

SEVENTH SCHEDULE
(Sections 11 and 26)
EXEMPT SUPPLIES

Table A: Exemptions for certain activities in the public interest

1. The supply of services by the public postal services and the supply of goods incidental thereto.
2. Hospital and medical care and closely related supplies of goods and services undertaken by hospitals or private hospitals duly registered under the Private Hospitals (Control) Ordinance. Cap. 255 (Laws of Cyprus).
3. Medical care provided by –
 - (a) doctors registered in “The Medical Register” kept under the Medical Registration Law of the Republic as amended from time to time; Cap. 250 (Laws of Cyprus).
 - (b) dentists registered in “The Dental Register” kept under the Dentists Registration Law of the Republic as amended from time to time; Cap. 249 (Laws of Cyprus).
 - (c) nurses and midwives registered in the register kept according to the Nursing and Midwifery Registration Law of the Republic as amended from time to time; Cap. 253 (Laws of Cyprus).
 - (d) chiropractors registered in the register kept according to the Registration of Chiropractors Law of the Republic; Law No. 62 of 1991 (Republic).
 - (e) physiotherapists registered in the register kept according to the Registration of Physiotherapists Law of the Republic; Laws Nos. 140 of 1989 and 36(I) of 1998 (Republic).
 - (f) clinical laboratories registered according to the Registration and functioning of Clinical Laboratories Law of the Republic; Law No. 132 of 1988 (Republic).
 - (g) chiropodists.
4. Supply of human organs, blood and human milk.
5. Services supplied by dental technicians registered in the register kept under the Regulating and Practising the Profession of Dental Technicians Law of the Republic, in their professional capacity and dental prostheses supplied by dentists and dental technicians. Law No. 9(I) of 1996 (Republic).
6. Services supplied by groups of persons whose activities are exempt from or are not subject to VAT, for the purpose of rendering their members the services directly necessary for the exercise of their activity, where these groups merely claim from their members exact reimbursement of their share of the joint expenses.
7. The supply of services and of goods closely linked thereto for welfare and social security work, including those supplied by old people’s homes, by non-profit making organisations.
8. The supply of services and of goods closely linked thereto for the protection of children and young people by non-profit

making organisations or by nurseries registered in the register kept according to the Children Ordinance.

9. Educational services at all levels of education, vocational training and retraining including the supply of services and of goods closely related thereto provided by –

- (a) public schools;
- (b) private schools and private tuition schools registered in the register kept according to the Private Schools and Tutorial Centres Law of the Republic;
- (c) private schools of higher education registered in the register kept according to the Schools of Higher Education Law of the Republic;
- (d) private schools of artistic dance registered in the register kept according to the Private Schools of Artistic Dance Law of the Republic;
- (e) conservatories and music schools;
- (f) examination centres.

10. Tuition given privately by teachers and covering school or university education.

11. Supplies of staff by religious or philosophical institutions for the purpose of paragraphs 2, 7, 8 and 9 of this Schedule and with a view to spiritual welfare.

12. Supplies of services and goods closely linked thereto for the benefit of their members in return for a subscription fixed in accordance with their rules by non-profit making organisations with aims of a political, trade union, religious, patriotic, philosophical, philanthropic or civil nature provided that this exemption is not likely to cause distortion of competition.

13. Services closely linked to sport or physical education supplied by non-profit making organisations to persons taking part in sport or physical education.

14. Cultural services and goods closely linked thereto supplied by –

- (a) bodies governed by public law;
- (b) other cultural bodies of a non-profit making nature, controlled and managed by persons who receive no salary in return and have no direct or indirect interest in their activities,

provided that such exemption is not likely to cause distortion of competition.

For the purposes of this paragraph the term “cultural services” includes –

- (a) services rendered to the public by libraries, records offices and documentation centres;
- (b) the granting of admission to museums, galleries, picture galleries, monuments, historic sites, botanical gardens and zoos;

Cap. 352 (Laws of Cyprus) and Ordinance 23/99.

Laws Nos. 5 of 1971, 56 of 1983 and 123 of 1985 (Republic).

Law No. 67(I) of 1996 (Republic).

Law No. 65(I) of 1997 (Republic).

(c) theatrical, musical, choreographic and cinematography performances; and

(d) the organisation of exhibitions and lectures.

15. The supply of services and goods by persons such as are described in paragraphs 2, 7, 8, 9, 12, 13 and 14 of this Schedule in connection with fund raising events organised exclusively for their own benefit, provided that such exemption is not likely to cause distortion of competition.

16. The supply of transport services for sick or injured persons in vehicles specially designed for this purpose.

17. Activities of the broadcasting services of the Areas excluding those of a commercial nature.

Table B: Other exemptions

1. Insurance and reinsurance transactions, including related services, performed by insurance agents, brokers and brokers' agents registered according to the Insurance Companies Law of the Republic.

Law No. 72 of
1984 (Republic).

2. Supplies of goods –

(a) used wholly for an exempted activity, when these goods have not given rise to the right of deduction;

(b) the acquisition or importation of which has not given rise to the right of deduction of input tax under regulations made under section 20(7).

3. The following financial transactions -

(a) the granting and the negotiation of the following credit facilities and their management by the person granting them -

(i) granting of any loan;

(ii) advance for a bill of lading;

(iii) discounting on any promissory note or on any bill of exchange;

(iv) the granting of any credit, including the supply of credit by a person, in connection with a supply of goods or services by him, for which a separate charge is made and disclosed to the recipient of the supply of goods or services;

(iv) the provision of the facility of instalment credit finance in a hire purchase, conditional sale or credit sale agreement for which facility a separate charge is made and disclosed to the recipient of the supply of goods;

(b) the granting of any financial guarantee or the undertaking of any other financial responsibility or obligation and the negotiation of the undertaking of these transactions, as well as the management of any credit by the person who grants them;

- (c) transactions, including negotiation, concerning deposit, current accounts, transfer of money, issue and management of methods of payment (including credit cards, travellers' cheques and bankers' drafts) and other negotiable instruments, but excluding -
 - (i) debt collection, and
 - (ii) factoring;
 - (d) transactions, including negotiation, concerning currency, bank notes and coins used as legal tender, with the exception of collectors' items: "collectors' items" shall be taken to mean gold, silver or other metal coins or bank notes which are not normally used as legal tender, and coins of numismatic interest;
 - (e) transactions, including negotiation, excluding management and safekeeping, in shares, securities, bonds, founder's and other shares in companies and rights over them, public securities, interests and other securities including -
 - (i) documents establishing title to goods, and
 - (ii) titles of registration of immovable property;
 - (f) the management of unit trusts.
4. The supply at face value of postage stamps valid for use for postal services, fiscal stamps and other similar stamps.
5. The supply of legal lotteries, the placing of legal bets for horse racing and football games, acceptance of legal bets and other legal games of chance.

EIGHTH SCHEDULE**(Section 39)****IMMOVABLE PROPERTY**

The following supplies are exempt -

(a) the leasing or letting and granting of a licence to occupy immovable property, excluding -

(i) the provision of accommodation provided by hotels and similar establishments including the provision of holiday accommodation and the letting of camping sites and of places on caravan sites,

(ii) the letting of premises or sites for parking vehicles,

(iii) the letting of equipment and machinery permanently installed, and

(iv) the hire of safes;

(b) the supply of immovable property.

NINTH SCHEDULE**(Section 31)****SUPPLIES FOR WHICH PUBLIC AUTHORITIES
ARE CONSIDERED TO BE TAXABLE PERSONS**

1. Telecommunications.
2. Supply of water, gas, electricity and thermal energy.
3. Transport of goods.
4. Supply of port and airport services.
5. Transport of persons.
6. Supply of new goods manufactured for sale.
7. Supplies by agricultural organisations, including marketing boards and committees, in respect of agricultural products.
8. The running of trade fairs and exhibitions.
9. Warehousing.
10. Supplies by commercial advertising agencies.
11. Supplies by travel agencies.
12. The running of staff shops, co-operatives, canteens and similar shops.
13. Supplies by radio and television organisations of a commercial character.

TENTH SCHEDULE**(Section 43)****ADMINISTRATION, COLLECTION AND ENFORCEMENT****Accounting for VAT, VAT invoices and payment of VAT**

1. - (1) Regulations under this paragraph may require the keeping of accounts and the making of returns in such form and manner as may be specified in the regulations and may require taxable persons supplying goods or services in such cases, or to persons of such descriptions, as may be specified in the regulations to provide the persons supplied with invoices (to be known as "VAT invoices") containing statements of such particulars of the supply as may be specified in the regulations, and of the persons by and to whom the goods or services are supplied and containing such an indication as may be required by the regulations of whether VAT is chargeable on the supply under this Ordinance and such particulars of any VAT which is so chargeable as may be specified in the regulations:

Provided that regulations under this paragraph may confer power on the Commissioner to allow the requirements of any regulations as to the statements and other matters to be contained in a VAT invoice to be relaxed or dispensed with.

(2) The regulations may, where they require a VAT invoice to be provided in connection with any description of supply, require it to be provided within a prescribed time after the supply is treated as taking place, or such time before the supply is treated as taking place as may be required by the regulations, and may allow for an invoice to be issued later than required by the regulations where it is issued in accordance with general or special directions given by the Commissioner.

(3) Regulations under this paragraph may make special provision for such taxable supplies by retailers of any goods or services as may be determined by or under the regulations and, in particular –

- (a) for permitting the value which is to be taken as the value of the supply in any prescribed tax period or part thereof to be determined, subject to any limitations or restrictions, by such method or one of such methods as may have been described in any notice published by the Commissioner in pursuance of the regulations or as may be agreed with the Commissioner; and
- (b) for determining the proportion of the value of the supplies which is to be attributed to any description of supply; and
- (c) for adjusting that value and proportion for periods comprising two or more prescribed tax periods or parts thereof.

(4) Regulations under this paragraph may make provision whereby, in such cases and subject to such conditions as may be determined by or under the regulations, VAT in respect of a supply may be accounted for and paid by reference to the time when consideration for the supply is received; and any such regulations may make such modifications of the provisions of this Ordinance (including in particular, but without prejudice to the generality of

the power, the provisions as to the time when, and the circumstances in which, credit for input tax is to be allowed) as appear to the Administrator necessary or expedient.

(5) Regulations under this paragraph may make provision whereby, in such cases and subject to such conditions as may be determined by or under the regulations, VAT in respect of any supply by a taxable person of dutiable goods may be accounted for and paid by reference to the time of their clearance or by reference to such later time as the Commissioner may allow.

(6) Regulations under this paragraph may make provision –

- (a) for treating VAT chargeable in one prescribed tax period as chargeable in another such period; and
- (b) with respect to the making of entries in accounts for the purpose of making adjustments, whether for the correction of errors or otherwise; and
- (c) for the making of financial adjustments in connection with the making of entries in accounts for the purpose mentioned in paragraph (b) above.

(7) Regulations under this paragraph may make different provision for different circumstances and may provide for different dates as to the commencement of prescribed tax periods applicable to different persons.

(8) The provisions made by regulations under this paragraph for cases where goods are treated as supplied by a taxable person by virtue of paragraph 5 of the Second Schedule may require VAT chargeable on the supply to be accounted for and paid, and particulars thereof to be provided, by such other person and in such manner as may be specified by the regulations.

Second Schedule.

(9) Where, at the end of a prescribed tax period, the amount of VAT due from any person or the amount of any VAT credit would be less than one pound (£1), the amount shall be treated as nil.

Production of VAT invoices by computer

2. - (1) For the purposes of any provision contained in or having effect under this Ordinance which relates to VAT invoices a person shall be treated as issuing, or as providing another person with, a VAT invoice if the requisite particulars are recorded in a computer and transmitted by electronic means and without the delivery of any document.

(2) No provision relating to VAT invoices shall be treated as complying with by the production by means of a computer of any material other than a document in writing, by delivering any such material so produced or by making any such transmission as is mentioned in sub-paragraph (1) above unless the person producing or delivering the material or making the transmission and, in the case of delivered material or a transmission, the person receiving it –

- (a) has given the Commissioner at least one month's notice in writing that he proposes to produce or deliver such material or make such transmissions or, as the case may be, receive such material or transmissions; and

- (b) complies with such requirements as may be specified in regulations or as the Commissioner may from time to time impose in his case.

Power to require security and production of evidence

3. - (1) The Commissioner may, as a condition of allowing or repaying any input tax to any person, require the production of such documents relating to VAT as may have been supplied to that person and if the Commissioner thinks it necessary for the protection of the revenue, he may require, as a condition of allowing or giving any VAT credit, the giving of such security for the amount of the payment as appears to him appropriate.

(2) Without prejudice to his powers under section 37(7), where it appears to the Commissioner requisite to do so for the protection of the revenue, he may require a taxable person, as a condition of his supplying goods or services under a taxable supply, to give security, or further security, of such amount and in such manner as the Commissioner may determine, for the payment of any VAT which is or may become due from that person.

Recovery of VAT

4. - (1) VAT due from any person shall be recoverable as a debt due to the Administration.

(2) Where an invoice shows a supply of goods or services as taking place with VAT chargeable on it, there shall be recoverable from the person who issued the invoice an amount equal to that which is shown on the invoice as VAT or, if VAT is not separately shown, to so much of the total amount shown as payable as is to be taken as representing VAT on the supply.

(3) Sub-paragraph (2) above applies whether or not –

- (a) the invoice is a VAT invoice issued in pursuance of paragraph 1(1) above; or
- (b) the supply shown on the invoice actually takes or has taken place, or the amount shown as VAT, or any amount of VAT, is or was chargeable;

(c) the person issuing the invoice is a taxable person,

and any sum recoverable from a person under the sub-paragraph shall, if it is in any case VAT, be recoverable as such and shall otherwise be recoverable as a debt due to the Administration.

(4) If a person neglects or refuses to pay VAT which he is required to pay or to pay any amount recoverable as if it were VAT then movable goods and immovable property of such person are liable to forfeiture for the satisfaction of any debt due to the Administration.

(5) Regulations made by the Administrator may make provision for the procedure for the forfeiture of goods and immovable property of any person which are liable to forfeiture under sub-paragraph (4) above and for the imposition and recovery of expenses, charges and fees in connection with anything done under the regulations:

Provided that in the procedure for the forfeiture of immovable property there shall be included the procedure of encumbrance by

way of registration of the Commissioner's claim at the appropriate District Lands Office.

(6) The preceding provisions of this paragraph shall have effect as if any sum required by way of security under section 37(7) were recoverable as if it were VAT due from the person who is required to provide it.

Duty to keep records

5. - (1) Every taxable person shall keep such records as regulations made by the Administrator may require.

(2) Regulations under sub-paragraph (1) above may make different provision for different cases and may be framed by reference to such records as may be specified in any notice published by the Commissioner in the Gazette in pursuance of the regulations and not withdrawn by a further notice.

(3) The Commissioner may require any records kept in pursuance of this paragraph to be preserved for such period not exceeding seven years as he may require.

(4) The duty under this paragraph to preserve records may be discharged by the preservation of the information contained therein by such means as the Commissioner may approve; and where that information is so preserved a copy of any document forming part of the records shall, subject to the following provisions of this paragraph, be admissible in evidence in any proceedings, whether civil or criminal, to the same extent as the records themselves.

(5) The Commissioner may, as a condition of approving under sub-paragraph (4) above any means of preserving information contained in any records, impose such reasonable requirements as appear to him necessary for securing that the information will be as readily available to him as if the records themselves had been preserved.

(6) A statement contained in a document produced by a computer shall not be admissible in evidence in any civil or criminal proceedings, except in accordance with sections 5A and 5B of the Evidence Ordinance.

(7) A person who is not a taxable person but who supplies goods or services in the course or furtherance of any business carried on by him, shall preserve for a period of seven years –

- (a) any invoices or receipts issued to him in relation to supplies to him for the purposes of his business; and
- (b) any invoices or receipts issued by him in relation to supplies that he makes.

Furnishing of information and production of documents

6. - (1) Regulations made by the Administrator may make provision for requiring taxable persons to notify the Commissioner of such particulars of changes in circumstances relating to those persons or any business carried on by them as appear to the Commissioner required for the purpose of keeping the VAT Register up to date.

(2) Every person who is concerned (in whatever capacity) in the supply of goods and services in the course or furtherance of a business or to whom such a supply is made, and every person who is concerned (in whatever capacity) in the importation of goods into the Areas 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 require, such information relating to the goods or services or to the supply or importation as the Commissioner may reasonably specify; and
- (b) upon demand made by an authorised person, produce or cause to be produced for inspection by that person –
 - (i) at the principal place of business of the person upon whom the demand is made or at such other place as the authorised person may reasonably require, and
 - (ii) at such time as the authorised person may reasonably require,

any documents relating to the goods or services or to the supply or importation.

(3) Where, by virtue of sub-paragraph (2) above, an authorised person has power to require the production of any documents from any such person as is referred to in that sub-paragraph he shall have the like power to require production of the documents concerned from any other person who appears to the authorised person to be in possession of them; but where any such other person claims a lien on any document produced by him, the production shall be without prejudice to the lien.

(4) For the purposes of this paragraph, the documents relating to the supply of goods or services or to the importation of goods into the Areas shall be taken to include any profit and loss account and balance sheet relating to the business in the course of which the goods or services are supplied or the goods are imported.

(5) An authorised person may take copies of, or make extracts from, any document produced under sub-paragraph (2) or (3) above.

(6) If it appears to him necessary to do so, an authorised person may, at a reasonable time and for a reasonable period, remove any document produced under sub-paragraph (2) or (3) above and shall, on request, provide a receipt for any document so removed; and where a lien is claimed on a document produced under sub-paragraph (3) above the removal of the document under this sub-paragraph shall not be regarded as breaking the lien.

(7) Where a document removed by an authorised person under sub-paragraph (6) above is reasonably required for the proper conduct of a business he shall, as soon as practicable, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.

(8) Where any documents removed under the powers conferred by this paragraph are lost or damaged the Commissioner shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents in question.

(9) The Commissioner may require from any authority or local authority or organisation governed by Ordinances to furnish him with information which may be necessary for the purposes of this Ordinance.

(10) Every employee of an authority, local authority or an organisation governed by Ordinances who has in his possession registers, books, records or other documents, the examination of which may assist in the administration of this Ordinance, is bound to allow any authorised person to examine them and make copies of, or take extracts from, them without payment of any dues or fees.

Power to take samples

7. - (1) An authorised person, if it appears to him necessary for the protection of the revenue against 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 determining how the goods or the materials of which they are made ought to be or to have been treated for the purposes of VAT.

(2) Any sample taken under this paragraph shall be disposed of and accounted for in such manner as the Commissioner may direct.

(3) Where a sample is taken under this paragraph from the goods in any person's possession and is not returned to him within a reasonable time and in good condition the Commissioner shall pay to him by way of compensation a sum equal to the cost of the sample to him.

Entry and search of premises and persons

8. - (1) For the purposes of exercising any powers under this Ordinance an authorised person may at any reasonable time enter premises, other than a dwelling house, used in connection with the carrying on of a business.

(2) Where an authorised person has reasonable cause to believe that any premises are used in connection with taxable supplies of goods or services, he may at any reasonable time enter and inspect those premises, other than a dwelling house, and inspect any goods or documents found therein.

(3) Without prejudice to any other power conferred by this Ordinance, where there are reasonable grounds to suspect that an offence relating to VAT is being, has been or is about to be committed on any premises or that evidence of the commission of such an offence is to be found there, any authorised person may enter those premises, other than a dwelling house, and search them.

(4) Without prejudice to the foregoing sub-paragraphs of this paragraph or to any other power conferred by this Ordinance, where the Court is satisfied by written information on oath given by an authorised person that there are reasonable grounds for believing that an offence relating to VAT is being, has been or is about to be committed in any premises or that evidence of the commission of that offence is to be found there, the Court may issue a warrant authorising that person or any other person named in the warrant to enter and search the premises named in the search warrant.

(5) Every search warrant shall bear the signature of the judge issuing it, the date and the time of its issuance, as well as a confirmation by the judge that he is reasonably satisfied as to the existence of the necessity for the issuance of the warrant.

(6) Any person who enters any premises by virtue of subsection (3) or (4) above may –

- (a) seize or remove any documents or other things found on the premises which he has 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 whom he has reasonable cause to believe to be in possession of any such documents or other things:

Provided that the search of any woman or girl shall be carried out only by a woman.

(7) Any person who has power under this section to enter premises may use such force as is reasonably necessary for the exercise of this power.

Order for access to recorded information etc.

9. - (1) Where on application by an authorised person, a judge is satisfied that there are reasonable grounds for believing –

- (a) that an offence in connection with VAT is being, has been or is about to be committed, and
- (b) that any recorded information (including any document of any nature whatsoever) which may be required as evidence for the purpose of any proceedings in respect of such an offence is in the possession of any person,

he may issue an order under this paragraph.

(2) An order under this paragraph is an order that the person who appears to the judge to be in possession of the recorded information to which the application relates shall –

- (a) give an authorised person access to it, and
- (b) permit an authorised person to remove and take away any of it which he reasonably considers necessary,

not later than by the end of the period of seven days beginning on the date of the order or by the end of such longer period as the order may specify.

(3) The reference in sub-paragraph 2(a) above to giving an authorised person access to the recorded information to which the application relates includes a reference to permitting the authorised person to make copies of it or to take extracts from it.

(4) Where the recorded information consists of information contained in a computer, an order under this paragraph shall have effect as an order to produce the information in a form which is visible and legible and, if the authorised person wishes to remove it, in a form in which it can be removed.

(5) This paragraph is without prejudice to paragraphs 6 and 8 above.

(6) Without prejudice to the preceding provisions of this paragraph every authorised person may, if he has reasonable grounds to believe that an offence provided by section 46 or 47 is being committed or is about to be committed, require any person, whom he reasonably believes to be acquainted with such commission, to attend at his office or at any other reasonable place for the purposes of examining him and taking a statement from him in relation to such commission and thereupon the provisions of subsection (2) of section 5 of the Criminal Procedure Ordinance shall apply, subject to any appropriate modifications.

Cap. 155 (Laws of Cyprus) and Ordinances 4/60, 19/63, 1/66, 2/72, 2/73, 10/85, 4/78, 11/79, 22/87, 4/92, 8/96, 1/97 and 27/99.

Evidence by certificate etc.

10. - (1) A certificate of the Commissioner –

- (a) that a person was or was not, at any date, registered under this Ordinance; or
- (b) that any tax return required by or under this Ordinance has not been made or had not been made at any date; or
- (c) that any VAT shown as due in any tax return or assessment made in pursuance of this Ordinance has not been paid; or
- (d) that any penalty, interest or surcharge imposed by the Commissioner under this Ordinance has not been paid;

shall be sufficient evidence of that fact until the contrary is proved.

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

(3) Any document purporting to be a certificate under sub-paragraph (1) or (2) above, shall be deemed to be such a certificate until the contrary is proved.

Cancellation of debts

11. The Administrator may make regulations prescribing the conditions under which the Commissioner may write off debts due to the Administration incurred by reason of the application of this Ordinance which, due to the circumstances of the debtors, are impossible to collect.

26th July 2001

(118/9/2)

D.J. BONNER,

Chief Officer.



