

CHAPTER 87

VALUE ADDED TAX

1996-15

This Act came into operation on 1st October, 1996 by Proclamation (S.I. 1996 No. 103).

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Guide to symbols in historical notes:

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument

CHAPTER 87

VALUE ADDED TAX 1996-15

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BARBADOS

**VALUE ADDED TAX
1996-15**

An Act to provide for the imposition and collection of a value added tax and for related matters.

[Commencement: 1st October, 1996]

[Commencement: 1st January, 1997]

PART I

PRELIMINARY

[Came into operation on 1st October, 1996.]

Citation

Short title

- 1.** This Act may be cited as the *Value Added Tax Act*.

*Interpretation***Definitions**

2.(1) In this Act,

“appointed day” means the day on which Part V of this Act comes into operation;

“approved educational institution” means

(a) within the meaning of the *Education Act*, Cap. 41

(i) a public school;

(ii) a private school;

(iii) a tertiary institution;

(b) the University of the West Indies;

(c) the Barbados Community College,

and such other educational institution as the Minister responsible for Education by order approves under subsection (2) for the purposes of this Act;

“business” includes a profession, vocation, trade, manufacture or undertaking, adventure or concern in the nature of trade, but does not include an office or employment;

“charity” means a charity registered under section 5 of the *Charities Act*, Cap. 243, and includes an exempt charity within the meaning of subsection (4) of section 5 thereof;

“Comptroller” means the Comptroller of Customs;

“consideration”, in relation to a supply of goods or services to a person, includes any payment made or any act or forbearance in respect of, in response to, or for the inducement of, the supply, whether by the person to whom the

goods or services are supplied or by any other person and, where the consideration is money, includes an amount paid as tax;

[1997-2]

“contract of insurance” includes a policy of insurance and the renewal of such a policy;

“employee” means an individual in the service of some other person, and “employment” shall be construed accordingly;

“entered” has the meaning assigned to it by the *Customs Act*, Cap. 66;

“exempt supply” means a supply that is exempt from tax under section 10;

“export” has the meaning assigned to it by the *Customs Act*, Cap. 66;

“game of chance” and “gaming machine” have the meanings assigned thereto by section 2 of the *Betting and Gaming Duties Act*, Cap. 60;

“hire-purchase agreement”, in respect of goods, has the meaning assigned thereto by section 2 of the *Hire-Purchase Act*, Cap. 328 and includes a lease of the goods with an option to purchase the goods;

“import” and “importer” have the meanings assigned to them by the *Customs Act*, Cap. 66;

“insurance” means insurance or re-insurance provided by an insurer within the meaning of the *Insurance Act*, Cap. 310;

“joint venture” means an association of 2 or more persons, without actual partnership or corporate designation, to carry out a single business enterprise in some specific venture for profit;

“money” includes

- (a) a coin, bank note or other negotiable instrument used or circulated or intended for use or circulation as currency,
- (b) any postal note, money order, letter of credit, traveller’s cheque, promissory note or bill of exchange, and

(c) a gift certificate,

whether issued or given in Barbados or any other country, but does not include a collector's piece, investment article or item of numismatic interest;

“office” means the position of an individual entitling him to a fixed or ascertained stipend or remuneration and includes a director of a corporation and any office the incumbent of which is elected by popular vote or is elected or appointed in a representative capacity;

“officer” means a person holding an office;

“person” includes an individual, corporation and an unincorporated body;

“promoter of public entertainment” means a person who arranges the staging of entertainment to which the general public is invited but does not include entertainment organised by

(i) an approved educational institution; or

(ii) the board of management or a parent teacher association of an approved educational institution;

(iii) a person that provides entertainment on a daily or weekly basis; or

(iv) a church registered under the *Charities Act*, Cap. 243;

[1997-2]

“proprietor”, in relation to goods, has the meaning assigned to it by section 2 of the *Customs Act*, Cap. 66;

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

[1997-2]

“real property” includes land, messuages, tenements and hereditaments and any estate or interest therein, whether legal or equitable;

“recipient”, in relation to a supply of goods or services, means the person to whom the goods or services are supplied;

“registrant” means a person who is registered or who qualifies for registration under this Act;

[1999-25]

“residential condominium unit” means a building registered under the *Condominium Act*, Cap. 224A, but does not include a building or part of a building where units in the building are occupied for periods of continuous possession or use of less than 60 days;

[1999-25]

“second-hand goods” means used goods acquired by a registrant on which no value added tax was chargeable on the value of the supply to the registrant at the time of the supply and which were acquired by the registrant for purposes of resale;

[1999-25]

“small supplier” has the meaning assigned to it by section 33;

“supplier”, in relation to a supply of goods or services, means the person by whom the goods or services are supplied;

“supply” means the provisions of goods, services, real property or any other thing in any manner and includes a sale, transfer, barter, exchange, gift, lease, rental, hiring, letting, licensing or disposition;

“tax” means the value added tax imposed under section 7;

“tax invoice” means a tax invoice issued under sections 7(7), 56(2), 57(3), 58(4) and 59(4);

[1997-2]

“taxable activity”

(a) means

(i) an activity carried on in the form of a business,

- (ii) an activity that is carried on continuously or regularly by a person, whether or not for a pecuniary profit, and involves or is intended to involve, in whole or in part, the supply of goods or services for a consideration,
 - (iii) an activity engaged in by an association, club, society, commission, union or other organisation in providing, for a subscription or other consideration, facilities or advantages to its members, and
 - (iv) an activity that involves the admission, for a consideration, of persons to any place or premises,
- (b) but does not include
- (i) an activity carried on essentially as a private recreational pursuit or hobby, or
 - (ii) an engagement, occupation or employment as an officer or employee;

“taxable period”, in relation to a person, means the period determined under section 44 to be the period in respect of which the person is required to make a return of tax under this Act;

“taxable supply” means a supply of goods or services made in the course or furtherance of a taxable activity and includes a zero-rated supply but does not include an exempt supply;

“tertiary institution” means any tertiary institution, technical institution, training centre or teachers college within the meaning of the *Education Act*, Cap. 41, that is approved for the purposes of this Act by the Minister responsible for Education;

“unincorporated body” means an unincorporated body of any kind and includes

- (a) a partnership,

- (b) joint venture,
- (c) a trust,
- (d) an association, club, society, commission, union or other organisation;

“zero-rated supply” means a taxable supply on which tax is imposed at the rate of zero per cent under section 8.

(2) The Minister may, by order, approve educational institutions for the purposes of this Act.

Taxable activities

3.(1) For the purposes of this Act, a taxable activity includes anything done in connection with the commencement or termination of that activity.

(2) For the purposes of this Act, a supplier shall be deemed to have acquired goods or services for the purpose of making taxable supplies if the supplier acquired, imported or produced the goods or services

- (a) for supply or re-supply as a taxable supply;
- (b) for consumption or use, whether directly or indirectly or wholly or partly, in producing goods or services for supply as a taxable supply;
or
- (c) for consumption or use, whether directly or indirectly or wholly or partly, in making taxable supplies.

Place of residence

4. For the purposes of this Act, a person shall be deemed to be resident in Barbados if

- (a) in the case of an unincorporated body, the person is, or the majority of the persons, having management and control of the body are, resident in Barbados; or

- (b) in any case, the person is, for the purposes of the *Income Tax Act*, Cap. 73, resident in Barbados.

Connected persons

5.(1) For the purposes of this Act, a supplier who supplies goods or services and the recipient of the supply of such goods or services are connected to each other if

- (a) they do not deal with each other at arm's length in respect of the supply;
or
 - (b) the amount of the consideration for the supply is influenced because
 - (i) they are members of the same family,
 - (ii) one is an officer or employee of the other,
 - (iii) they are legally recognised partners in any business,
 - (iv) any person directly or indirectly owns, holds or controls 15% or more of the outstanding voting stock or shares of both the supplier and the recipient,
 - (v) one directly or indirectly controls the other,
 - (vi) both are directly or indirectly controlled by a third person,
 - (vii) together, they directly or indirectly control a third person, or
 - (viii) they are associated or related in business in any other way, other than an association or relationship that arises solely because one is the sole agent, distributor or concessionaire, however described, of the other.
- (2) For the purposes of subsection (1), one person shall be deemed to control another person where he is legally or operationally in a position to exercise restraint or direction over that other person.

Extended meaning of “import” and “enter”

6.(1) For the purposes of this Act, a person who purchases goods out of a bonded warehouse shall be deemed to import the goods at the time they are so purchased.

(2) For the purposes of this Act

- (a) a passenger who imports baggage for which no entry is required shall be deemed to have entered the baggage for use within Barbados at the time the baggage is delivered to the passenger in Barbados; and
- (b) the addressee of goods imported by post for which no entry is required shall be deemed to have entered the goods for use within Barbados at the time the goods are delivered to the addressee.

PART II

VALUE ADDED TAX

*Imposition of Value Added Tax***Imposition of tax**

7.(1) Subject to this Act, a tax to be known as “value added tax” shall be imposed in accordance with this Act

- (a) on the taxable supply in Barbados of goods or services by a registrant; and
- (b) on goods imported into Barbados.

(2) The tax imposed by subsection (1) on a taxable supply of goods or services by a registrant is equal to 15 percent of the value of the supply and is payable by the registrant at the time the supply is made.

(3) The tax imposed by subsection (1) on goods imported into Barbados is equal to 15 percent of the value of the goods and is payable, at the time the goods

are entered for use within Barbados, by the importer, proprietor or other person who is liable under the *Customs Act*, Cap. 66 to pay duties on the goods.

(4) Subject to subsections (5) to (7), where a registrant who offers to supply goods or services in Barbados or invites offers to purchase or otherwise acquire goods or services from him in Barbados

(a) in the case of services, advertises or quotes a price for the services; or

(b) in the case of goods, advertises or quotes a price for the goods or marks the goods with a price,

the price that is so advertised, quoted or marked shall include the amount of tax payable in respect of a supply of those goods or services.

(5) A registrant may advertise or quote a price for goods or services, or mark goods with a price, that excludes tax where the advertisement, quotation or mark separately states the amount of tax payable in respect of a supply of those goods or services and the total price, including tax, for the goods or services.

(6) The Comptroller may exempt a registrant, a class of registrants or registrants generally from the requirements of subsection (4) in respect of a supply or class of supplies specified by the Comptroller.

(7) A registrant who makes a taxable supply in Barbados to another registrant shall, forthwith upon the request of the other registrant, issue a tax invoice to the other registrant containing such particulars as may be prescribed.

(8) A registrant who fails to issue a tax invoice as required under this Act is liable to pay a penalty of such amount not exceeding \$1 000 as the Comptroller may determine.

[1999-25]

(9) Where a registrant issues a tax invoice that incorrectly indicates that an amount is payable by the registrant as tax in respect of a supply when tax is not payable or a lesser amount of tax is payable, the amount indicated in the tax invoice shall be deemed to be the tax payable by the registrant in respect of the supply.

(10) For the purposes of this Act, a tax invoice shall, in the absence of any evidence to the contrary, be deemed to have been issued on the date appearing on the tax invoice.

(11) Notwithstanding anything in this section, the tax imposed by subsection (1) on the supply of accommodation by guest houses, hotels, inns or any other similar place, including a dwellinghouse normally let or rented to persons for use as a vacation or holiday home is 7½ percent of the value of the supply and is payable by the registrant at the time the supply is made.

Zero-rated supplies

8. Notwithstanding section 7, a taxable supply of goods or services that is specified in the *First Schedule* and is not specified in the *Second Schedule* is taxable at the rate of zero percent.

Issue of receipt to consumer

9.(1) Every registrant who makes a supply of goods or services to a consumer shall, where the value of the goods or services, as the case may be, is \$20 or more, issue a receipt to the consumer containing such particulars as may be prescribed.

(2) A registrant who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$5 000 or imprisonment for one year or both.

(3) A consumer referred to in subsection (1) shall forthwith report to the Comptroller any contravention of that subsection; and where such a consumer fails to report such a contravention he is guilty of an offence and is liable on summary conviction to a fine of \$2 500 or imprisonment for 6 months or both.

(4) For the purposes of this Act, a receipt shall, in the absence of evidence to the contrary, be deemed to have been issued on the date appearing on the receipt.

(5) This section does not apply where a ticket is issued which entitles the holder to admission to a place of public entertainment.

[1999-25]

Exempt supplies

10. A supply of goods or services specified in the *Second Schedule* is exempt from the tax imposed by this Act on the supply of goods and services.

Zero-rated importations

11. The tax imposed by this Act on goods imported into Barbados shall be at the rate of zero percent on goods specified in the *Third Schedule*.

Minister may amend rate and schedules

12.(1) The Minister may, by order, amend

- (a) the rates of tax specified in section 7;
- (b) the *First, Second* or *Third Schedule*.

(2) An order made under subsection (1) is subject to negative resolution.

PART III

RULES RESPECTING TAX ON SUPPLIES

Classification of Supply

Supplies regarded as services

13.(1) For the purposes of this Act, where a supplier provides goods or the use thereof to a person by hiring, letting, renting or leasing the goods to the person or by licensing the person to use the goods, the provision of the goods or the use thereof shall be deemed to be a supply of services.

(2) Subsection (1) does not apply where a supplier provides goods to a person under a hire purchase agreement.

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- (3) For the purposes of this Act, where a supplier provides computer software or a right or licence to use computer software to a person, the provision of the computer software or the right or licence to use it shall be deemed to be a supply of services.
- (4) For the purposes of this Act, where a supplier provides real property or the use thereof to a person by hiring, letting, renting or leasing the real property to the person or by licensing the person to use the real property, whether or not the agreement for the supply includes an option to purchase the real property, the provision of the real property or the use thereof shall be deemed to be a supply of services.
- (5) For the purposes of subsection (4) the exercise of the option to purchase referred to in that subsection shall be deemed to be a supply of the real property.
- (6) For the purposes of this Act, where a supplier produces goods for another person by applying a treatment or process to goods belonging to the other person, the supplier shall be deemed to have supplied a service to the other person.
- (7) For the purposes of this Act, the provision of water, natural gas, electricity, steam or any other goods to a person by means of a pipeline, wire or other conduit shall be deemed to be a supply of a service to the person.
- (8) For the purposes of this Act, the acceptance of a bet, whether by means of a gaming machine or in any other manner, on a game of chance, a race, or the outcome of any other occurrence or event shall be deemed to be a supply of a service for consideration equal to the amount of the bet.
- (9) Subject to sections 14, 17(4)(b) and 27(1)(a) and (b), where the supply of anything for consideration is not a supply of goods it shall be regarded as a supply of services.
- (10) The Minister may, by order, provide with respect to any transaction
- (a) that a supply of goods is to be treated as a supply of services; or
 - (b) that a supply of services is to be treated as a supply of goods.

(11) Subsection (4) applies to any structure made of wood, stone, metal or any other substance that is used for commercial purposes.

Transactions not regarded as supplies

14. Where a person, in the course of the person's business, gives a customer or intended customer

- (a) a gift of goods or services valued at not more than \$20 that is generally available to the person's customers or intended customers; or
- (b) a trade sample of goods in a form that the person does not ordinarily supply to customers for consideration

the person shall be deemed not to have made a supply of the goods or services; and to the extent that it may reasonably be assumed that the person gave a gift of the goods or services or the trade sample to promote the making of taxable supplies by the person, the person shall be deemed to have used the goods or services for the purposes of making such taxable supplies.

Place of Supply

Place of supply

15.(1) For the purposes of this Act, a supply shall, subject to subsections (3) and (4), be deemed to have taken place in Barbados if

- (a) the supplier is resident in Barbados; or
- (b) the supplier is not resident in Barbados but
 - (i) in the case of goods, the goods are located in Barbados at the time of the supply, or
 - (ii) in the case of services, the services are physically performed or utilised in Barbados.

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- (2) For the purposes of this Act, a supply of goods or services shall, subject to paragraph (b) of subsection (1) and subsection (5), be deemed to take place outside Barbados if the supplier is not resident in Barbados.
- (3) Where a supplier who is not resident in Barbados and is not registered or liable to be registered for the purpose of this Act makes a supply to a registrant in the circumstances referred to in paragraph (b) of subsection (1), and the registrant is acquiring the goods or services exclusively for the purpose of making taxable supplies, the supply shall be deemed to have taken place outside Barbados unless the supplier and the recipient agree that the supply is to be regarded as having taken place in Barbados.
- (4) Where goods that have been imported into Barbados are supplied to a person before the goods are entered for use within Barbados, the supply shall be deemed to have taken place outside Barbados.
- (5) A supply of international travel or international package tour shall be deemed to take place in Barbados if
- (a) the journey begins in Barbados;
 - (b) the consideration for the travel or package tour is paid in Barbados; or
 - (c) the ticket for the travel or package tour is issued in Barbados.
- (6) Notwithstanding subsection (5), where a person pays in Barbados for international travel or international package tour, but the journey begins outside Barbados and the ticket for the journey or tour is issued outside Barbados in the name of another person who is outside Barbados at the time payment is made, the supply of the international travel or the international package tour shall be deemed to have taken place outside Barbados.
- (7) For the purposes of this section “ticket” means any written instrument issued within or outside Barbados whereby a person on a journey is entitled to be provided with transportation either from Barbados or from a place outside Barbados, or any re-written or re-issued document thereof, to the like effect.

*Time of Supply***Time of supply**

16.(1) Except as otherwise provided in this Act, a supply of goods or services takes place for the purposes of this Act when

- (a) an invoice for the supply is issued by the supplier;
- (b) payment is received for the supply; or
- (c) the goods are made available to the recipient or the services are performed, as the case may be,

whichever is the earliest.

(2) For the purposes of this Act, where the goods are supplied under

- (a) a hire purchase agreement, the supply of goods takes place when the goods are made available to the recipient;
- (b) an agreement for the sale of the goods on approval, on sale or return or on other similar terms, the supply of goods takes place when the goods are sold.

[1999-25]

[1998-5]

(3) Where services are supplied under an agreement that expressly provides for the consideration to be paid periodically, whether the services are provided periodically or not, the services to which a particular periodic payment relates shall be deemed to be supplied at the time when

- (a) the particular periodic payment is made,
- (b) the particular periodic payment becomes due, or
- (c) an invoice for the particular periodic payment is issued,

whichever is the earliest.

(4) Except where subsection (3) applies to a supply, where services are supplied on a continuous basis and an invoice is issued for some but not all of the services, the services for which the invoice is issued shall be deemed to be supplied at the time when the invoice for those services is issued.

(5) Where goods are supplied progressively or periodically under an agreement that provides for the consideration to be paid from time to time upon the supplier issuing invoices, the goods shall be regarded as being supplied at the time when

- (a) an invoice for the supply is issued by the supplier,
- (b) payment for the supply is made, or
- (c) payment for the supply becomes due,

whichever is the earliest.

(6) Where a building, structure or other works is constructed under an agreement that expressly provides for the consideration to be paid at specific stages of the construction, the supply of goods and services involved in the construction of the works to each stage shall be regarded as taking place when

- (a) an invoice in respect of the construction of the works to that stage is issued,
- (b) payment in respect of the construction of the works to that stage is made, or
- (c) payment in respect of the construction of the works to that stage becomes due,

whichever is earliest, except that the proportion of the supply to which the deposit, if any, relates shall be regarded as taking place at the time the deposit is paid.

(7) Where a written agreement for a supply provides for the retention by the recipient of the whole or part of the consideration for the supply pending satisfactory performance of the agreement or a part of the agreement, the proportion of the supply to which the part so retained relates shall be regarded as

taking place when that part becomes due or is paid to the supplier, whichever is earlier.

(8) Where goods or services are supplied by means of a machine, meter or other device that is operated by inserting the consideration for the supply in the form of coins or banknotes, the supply shall be deemed to have taken place when the coins or banknotes are removed from the machine, meter or device by or on behalf of the person who made the supply.

Value of Supply

Value of supply

17.(1) Except as otherwise provided in this Act, where a supply of goods or services is made for consideration, the value of the supply is, for the purposes of this Act, equal to

- (a) the amount of money remaining after deducting the tax payable in respect of the supply, where the consideration consists wholly of money; and
 - (b) the open market value of the consideration after deducting the tax payable in respect of the supply, where the consideration consists wholly or partly of consideration other than money.
- (2) Where consideration is payable for
- (a) a particular supply, and
 - (b) any other supply or matter,

the value of the particular supply is, for the purposes of this Act, equal to that part of the consideration that may reasonably be attributed to the particular supply after deducting the tax payable in respect of the supply.

- (3) Subject to section 18, where a person other than a charity makes a supply of goods or services for no consideration or for nominal consideration, the value of the supply is, for the purposes of this Act, equal to the lesser of
- (a) the cost of the goods or services to the person, excluding tax, and
 - (b) the open market value of the supply after deducting the tax payable in respect of the supply.
- (4) Where a supplier makes a supply in a returnable container that the recipient of the supply may return empty to the supplier for a refund or credit equal to an amount that is ascertained when the supply is made
- (a) the consideration for the supply shall not include the amount of the refund or credit that the recipient may receive upon returning the empty container to the supplier; and
 - (b) the return of the container shall be deemed not to be a supply where a person returns the empty container to another person for a refund or credit.

Supplies to connected persons

18.(1) Where a supply is made to a person who is connected to the supplier, other than as an officer or employee of the supplier, the value of the supply is, for the purposes of this Act, equal to its open market value after deducting the tax payable in respect of the supply.

(2) Subject to subsection (1), where a person makes a supply of goods or services to an officer or employee of the person, the value of the supply is, for the purposes of this Act, equal to

- (a) in the case of
 - (i) a supply of goods or services having a cost to the person of \$20 or less, or
 - (ii) a meal;

the amount of the consideration in money payable by the officer or employee for the supply after deducting the tax payable in respect of the supply, or, if no consideration in money is payable by the employee for the supply, nil; and

- (b) in any other case, the greater of
 - (i) the consideration in money payable for the supply by the officer or employee after deducting the tax payable in respect of the supply, and
 - (ii) the lesser of the cost of the goods or services to the person, excluding tax, and the open market value of the supply after deducting the tax payable in respect of the supply.

Tickets, discounts and penalties

19.(1) In this section, “ticket” includes a voucher, receipt, card token coupon or other device, but does not include money.

- (2) Where a person, for consideration
 - (a) sells or issues a ticket that may be exchanged for goods or services or entitles the recipient of the ticket to a reduction of, or a discount on, the price of goods or services, or
 - (b) grants an option, or assigns or otherwise transfers an agreement or option, to purchase or otherwise receive a supply of goods or services, other than a grant or assignment of an option or future contract through a recognised commodities or futures exchange,

the person shall be deemed to have made a supply of goods or services for that consideration at the time the consideration is paid or becomes due, whichever is the earlier.

- (3) Where at the time a supply of goods or services is made, the supplier accepts in full or as partial consideration for the supply, a ticket that may be exchanged for the goods or services or that entitles the recipient of the ticket to

a reduction of, or a discount on, the price of the goods or services, the value of the supply is, for the purposes of this Act

- (a) where the ticket is accepted in full consideration for the supply, nil; and
- (b) in any other case, the amount by which the value of the supply otherwise determined in accordance with this Act exceeds the amount of the reduction or discount.

(4) Where the amount of consideration for a supply shown in an invoice relating to the supply may, after the supply is made, be

- (a) reduced if the consideration is paid within a time specified in the invoice, or
- (b) increased if the consideration is not paid within a time specified in the invoice,

and the amount of consideration for the supply shall be deemed to be the amount of consideration shown in the invoice before the reduction or increase, as the case may be.

(5) Notwithstanding subsection (4), where a supplier is a public utility the amount of consideration for a supply shown in an invoice relating to the supply may, after the supply is made, be reduced if the consideration is paid within a time specified in the invoice, and the amount of the consideration for the supply shall be deemed to be the amount of the consideration shown in the invoice after the reduction.

(6) Notwithstanding any other provision of this Act, where a person makes a supply of goods or services in exchange for trading stamps, the value of the supply is, for the purposes of this Act, the open market value of the goods or services after deducting the tax payable in respect of the supply.

Open market value

20. For the purposes of this Act, the open market value of goods, services or real property is equal to the amount of consideration in money, including tax, that the goods, services or real property, as the case may be, would reasonably be expected to fetch on a supply in the open market to a recipient who is not connected to the supplier.

Consideration in foreign currency

21. Where the consideration for a supply is a foreign currency or other money, denominated or expressed in a foreign currency, for the purposes of determining the value of the supply, the consideration shall be valued in Barbados currency at the rate of exchange at which the Central Bank of Barbados would, at the time of the supply, have purchased that currency in the form of notes.

*Special Cases***Agent of undisclosed principal**

22. Where a registrant (in this section referred to as the “agent”), acting in the course of a taxable activity of the registrant, makes a supply of goods or services on behalf of a person (in this section referred to as the “principal”) and, in a case where the principal is also a registrant, the agent does not disclose in writing to the recipient of the supply the name and registration number of the principal

- (a) the principal shall be deemed not to have made the supply of the goods or services to the recipient;
- (b) the agent shall be deemed to have made the supply of the goods or services to the recipient; and
- (c) the principal shall be deemed to have made a supply of the goods or services to the agent, and the agent shall be deemed to have received

that supply, on the same terms and conditions and for the same consideration as the supply to the recipient.

Appropriation for non-taxable use

23. Where a registrant has acquired goods or services for the purpose of making taxable supplies in the course or furtherance of taxable activities of the registrant and the registrant appropriates the goods or services for consumption or use otherwise than in the course of taxable activities of the registrant, the registrant shall be deemed to have made a taxable supply of the goods or services at the time the goods or services were so appropriated for consideration equal to the lesser of

- (a) the cost of the goods or services to the registrant, included tax, and
- (b) the open market value of the goods or services at that time.

Sale of assets

24.(1) Where a registrant sells, transfers or otherwise disposes of goods or services that were acquired by the registrant exclusively for the purpose of making taxable supplies or for the purpose of making taxable and exempt supplies, the sale, transfer or disposition of those goods or services shall be deemed to be a taxable supply.

(2) Where a registrant sells, transfers or otherwise disposes of goods or services that were acquired by the registrant exclusively for purposes other than making taxable supplies, the sale, transfer or disposition of those goods or services shall be deemed not to be a taxable supply.

Cessation of Registration

25.(1) Where a person at any time ceases to be registered for the purposes of this Act, the person shall be deemed

- (a) to have made, immediately before that time, a taxable supply of all goods and services forming part of his assets at the time he ceased to

be registered that he previously acquired for the purpose of making taxable supplies for consideration equal to the lesser of

- (i) the cost of the goods or services to the person, including tax, and
 - (ii) the open market value of the goods or services at that time; and
- (b) to have received, immediately after that time, the supply referred to in paragraph (a).

(2) Subsection (1) does not apply to capital equipment acquired before the commencement of Parts II to IV and Parts VI to XII.

Sale of taxable activity

26. Where a registrant sells, transfers or otherwise disposes of a taxable activity as a going concern to another registrant

- (a) the sale, transfer or other disposition of any stock-in-trade held by the registrant for taxable supply in the course of the taxable activity shall be deemed to be a taxable supply made for consideration equal to that part of the consideration for the sale, transfer or disposition of the taxable activity that can reasonably be attributed to the stock-in-trade;
- (b) notwithstanding sections 17 and 18, the sale, transfer or other disposition of any other goods or services that were acquired by the registrant for the purpose of making taxable supplies shall be deemed to be a taxable supply having a value of nil; and
[1997-2]
- (c) the sale, transfer or other disposition of any goods or services that were acquired by the registrant exclusively for purposes other than making taxable supplies shall be deemed not to be a taxable supply.

Dealings with collateral

27.(1) Where a person (in this section referred to as the “debtor”) transfers property or an interest in property to another person (in this subsection referred

to as the “creditor”) for the purpose of securing the payment of a debt or the performance of an obligation

- (a) the transfer of the property or interest by the debtor to the creditor shall be deemed not to be a supply;
- (b) a re-transfer of the property or interest to the debtor upon payment of the debt, performance of the obligation, or discharge of the debt or obligation shall be deemed not to be a supply; and
- (c) a seizure by, or forfeiture to, the creditor of the property or interest for the purpose of satisfying the debt or obligation shall be deemed to be a supply of the property or interest by the debtor to the creditor for consideration equal to
 - (i) the cost of the property or interest to the registrant, including tax, or
 - (ii) the open market value of the property,

whichever is lesser.

(2) Section 69 applies to any action taken by a receiver (within the meaning of subsection (1) of that section) in relation to the property of a debtor, but subsection (1)(c) does not apply to any such action.

Settlement of insurance claim

28.(1) Where a registrant is paid an amount under a contract of insurance for or as a result of a loss, incurred after the commencement of Parts II to IV and Parts VI to XII, relating to goods or services that were acquired by the registrant for the purpose of making taxable supplies

- (a) the registrant shall be deemed to have made, at the time the amount is paid, a taxable supply of the goods or services in relation to which the loss was incurred; and

- (b) the consideration for the supply shall be deemed to be equal to
- (i) the amount of the payment, where the amount is paid in full or partial satisfaction for the loss, or
 - (ii) the open market value of the goods immediately before the time the loss was incurred, where the amount exceeds the amount that would be full satisfaction for the loss.
- (2) Where a person pays an amount to a registrant under a contract of insurance for or as a result of a loss described in subsection (1), the person shall
- (a) withhold from the payment the tax payable by the registrant in respect of that supply;
[1997-2]
 - (b) remit that tax to the Comptroller within 15 days after the end of the month in which the payment was made to the registrant; and
[1997-2]
 - (c) submit to the Comptroller, within 15 days after the end of the month in which payment was made to the registrant, a statement containing
 - (i) the name of the registrant,
 - (ii) the amount paid to the registrant,
 - (iii) the date on which the loss in respect of which the payment is made occurred, and
 - (iv) the date on which the payment was made to the registrant and a list of the goods or services in respect of which the payment was made.
[1997-2]
- (3) Where a person fails, in the time specified by subsection (2)(b), to remit to the Comptroller any tax that the person is required to withhold under

paragraph (a) of that subsection, the person shall forthwith pay to the Comptroller

- (a) the tax that he failed to remit (in this subsection referred to as the “tax in default”);
- (b) a penalty equal to the greater of
 - (i) \$100, and
 - (ii) the total of
 - (A) 10 percent of the tax in default, and
 - (B) 10 percent of the tax, if any, that the person so withheld but failed to remit; and
- (c) interest at the prescribed rate for each month or part thereof during which the tax in default or any part thereof remains unpaid.

(3A) Where a person fails in the time specified by subsection (2)(c) to submit to the Comptroller, the statement referred to in that subsection he is liable to pay such penalty not exceeding \$1 000, as the Comptroller determines.

[1997-2]

(4) Where a person withholds any tax from a registrant in accordance with subsection (2)(a) or pays any tax (other than tax that he is deemed by subsection (6) to have paid) in accordance with subsection (3) that he failed to withhold from the registrant

- (a) the person shall issue a receipt to the registrant in the form approved by the Comptroller containing such information as the Comptroller requires, and such receipt is good and sufficient discharge of the person’s original liability to the registrant to the extent of the amount of tax set out in the receipt as having been withheld or paid; and
- (b) the registrant may deduct from his payment of output tax, for the taxable period in which the receipt is issued, the amount of tax set out in the receipt as having been withheld or paid.

(5) For the purposes of paragraph (b) of subsection (4), a receipt referred to in that subsection shall, in the absence of any evidence to the contrary, be deemed to have been issued on the date appearing on the receipt.

(6) Where

- (a) a person who is required to withhold tax from a registrant under paragraph (a) of subsection (2) is in default in remitting any of that tax or in paying any tax under subsection (3) that he failed to withhold, and
- (b) the registrant files a return for the taxable period of the registrant during which the person was required to withhold that tax and the registrant pays all of the tax payable by the registrant for that taxable period,

the person shall be deemed to have paid on account of the tax that he is in default of paying under subsection (3) at the particular time, an amount equal to the amount, if any, by which the tax that the person was required to withhold exceeds the total of all amounts, if any, set out in receipts issued by the person to the registrant as having been so withheld or so paid by the person.

(7) This section does not apply to zero-rated goods or services.

PART IV

RULES RESPECTING TAX ON IMPORTS

Interpretation

29. In this Part, “duty” and “duty of customs” have the meanings assigned to them by the *Customs Act*.

Application of Customs Act

30.(1) Where tax is imposed by this Act on the importation of goods into Barbados

- (a) the tax shall be paid in accordance with the *Customs Act*; and

- (b) subject to this Part, for the purposes of collecting and enforcing the payment of the tax and, generally, for the purposes of administering and enforcing the provisions of this Act, the *Customs Act* and any other enactment relating to the importation of goods shall apply as if the tax were a duty.
- (2) Sections 111 to 113, 116, 124 to 127 and 130 of the *Customs Act* apply for the purposes of this Act as if the tax were a duty of customs.
- (3) Sections 133 to 140 of the *Customs Act* apply for the purposes of this Act as if the tax were a duty of customs, in the following cases
- (a) for the purposes of paying to a person a drawback of tax paid by the person on goods imported into Barbados where the person complies with paragraph (c), (g) or (h) of regulation 149 of the *Customs Regulations, 1963*; or
- (b) as otherwise specifically provided in this Act.
- (4) Sections 131 and 132 of the *Customs Act* (Act 1997-2) do not apply to this Act.

Value of imported goods

31.(1) For the purposes of this Act, the value of goods imported into Barbados is equal to the total of

- (a) the value of the goods as it would be determined under the *Customs Act* for the purpose of assessing *ad valorem* duty of customs on the goods, whether *ad valorem* duty of customs is payable on the goods or not; and
- (b) the amount of any duties (other than tax imposed under this Act), fees or other charges that are payable upon the entry of the goods into Barbados.

(2) Where

- (a) an amount of duty (other than tax imposed under this Act) that is payable upon the entry of goods into Barbados is remitted, refunded, drawn back or reduced under the *Customs Act* or any regulations or order made thereunder, and
- (b) a remission, refund, drawback or reduction of the tax payable in respect of the importation is not otherwise provided for in this Act, the *Customs Act* or the regulations or order referred to in paragraph (a),

the provisions of the *Customs Act*, regulations or order under which the remission, refund, drawback or reduction of the duty is granted shall be deemed to provide for a remission, refund, drawback or reduction, as the case may require, of the amount of tax calculated on that duty.

(3) Notwithstanding subsections (1) and (2), the value of goods imported in prescribed circumstances shall be determined in the manner prescribed in section 117 of the *Customs Act*.

Re-importation of goods

32.(1) No tax is payable in respect of goods imported into Barbados for or by a person at any time where

- (a) at a previous time
 - (i) the person received a taxable supply of the goods in Barbados, other than a supply that was zero-rated under paragraph 1 of the *First Schedule*,
 - (ii) the person entered the goods for use within Barbados, or
 - (iii) the person manufactured or produced the goods in Barbados;
- (b) the tax, if any, that was payable in respect of the goods at that previous time has not been remitted, refunded or reduced because of the exportation of the goods, other than a remission, refund, drawback or

reduction in tax that was calculated in accordance with section 31(2);
and

- (c) the goods have not been subjected to a process of repair, renovation or improvement abroad.

(2) Where goods are imported into Barbados in the circumstances described in subsection (1), but the goods have been subjected to a process or repair, renovation or improvement abroad that has not changed the form or character of the goods, the value of the goods shall be determined as if the increase in value of the goods determined in accordance with section 31 were the actual value of the goods.

PART V REGISTRATION

Small supplier

33.(1) A person is a small supplier throughout a month

- (a) where the person began to carry on taxable activities at least 12 months before the beginning of the month, the total value of all taxable supplies, other than sales of goods that are capital property of the person, made by the person and his associates in the twelve-month period ending immediately before the beginning of the particular month is less than \$60 000; and
- (b) where the person began to carry on taxable activities less than 12 months before the beginning of the month referred to in paragraph (a), the average monthly value, for the period beginning with the month in which the person began to carry on taxable activities and ending with the month immediately before that month, of all taxable supplies, other than sales of goods that are capital property of the person, made by the person and his associates is less than \$5 000.

- (2) For the purposes of this section
- (a) a corporation and another person are associates of each other if the other person and his other associates, if any, directly or indirectly own, hold or control more than 50 percent of the outstanding voting stock or shares of the corporation.
 - (b) a partnership and a partner thereof are associates of each other if the partner and his other associates, if any, are entitled to share in more than 50 percent of the total profits of the partnership;
 - (c) a joint venture and a member thereof are associates of each other if the member and his other associates, if any, are entitled to share in more than 50 percent of the total profits of the joint venture;
 - (d) a trust and a beneficiary of the trust are associates of each other if the total value of interests in the trust of the beneficiary and his other associates, if any, is more than 50 percent of the total value of all interests in the trust; and
 - (e) two persons are associates of each other if each is an associate of the same third person.

Application for registration

34.(1) A person who, before the appointed day, makes a taxable supply in Barbados, other than a person who is a small supplier at the time the supply is made, shall, within 60 days after the appointed day, apply to the Comptroller to be registered for the purposes of this Act.

(2) A person who, after the appointed day but before the commencement of Parts II to IV and Parts VI to XII of this Act, makes a taxable supply in Barbados, other than a person who is a small supplier at the time the supply is made, shall, within 21 days after making the supply, apply to the Comptroller to be registered for the purposes of this Act.

(3) A person who makes a taxable supply in Barbados after the commencement of Parts II to IV and Parts VI to XII of this Act, other than a person who is a small

supplier at the time the supply is made, shall, within 21 days after making the supply, apply to the Comptroller to be registered for the purposes of this Act.

(4) A person who fails to comply with subsection (1), (2) or (3) of this section shall

- (a) be compulsorily registered from such date as is applicable under this Act or such other date as the Comptroller determines is applicable; and
- (b) pay to the Comptroller a penalty not exceeding \$1 000 as the Comptroller determines.

[1999-25]

(4A) Notwithstanding any other provisions of this Act any person who intends to commence a business or any other form of taxable activity by a specified date, and has satisfied the Comptroller to this effect, may apply to be registered in accordance with this Act.

(4B) On receipt of an application under subsection (4A), the Comptroller

- (a) shall, if the applicant intends to carry on taxable activities to the value of \$60 000 or more annually; or
- (b) may, if the applicant intends only to carry on taxable activities to the value of less than \$60 000 annually,

cause the applicant to be registered.

[1999-25]

(4C) Where a person, who is registered under subsection (2), fails to commence the taxable activity, the Comptroller may, subject to subsections (4D), (4E) and (4F) cancel the registration of that person, and that person shall be required to pay to the Comptroller within 21 days of cancellation of the registration or such further period as the Comptroller may allow, an amount equivalent to the total tax that the registrant is deemed by section 46(2) to have paid on account of the output tax payable by him and which had been refunded to him during the period of his registration.

[1999-25]

(4D) Before the Comptroller cancels a registration under subsection (4C) the Comptroller shall serve a notice on the registered person requiring that person to show cause why the Comptroller should not exercise his powers under that subsection.

[1999-25]

(4E) Where a person served with a notice under subsection (4D) satisfies the Comptroller that he

- (a) intends to make taxable supplies; and
- (b) is taking steps to commence making those supplies,

the Comptroller shall not cancel his registration.

[1999-25]

(4F) Where a person who was served with a notice under subsection (4D) has satisfied the Comptroller that he

- (a) at the time of his registration, intended to make taxable supplies;
- (b) made reasonable efforts to make those supplies;
- (c) no longer intends to make those supplies; and
- (d) has reasonable grounds for his change of intentions,

and the Comptroller cancels that registration, that person shall be required to pay to the Comptroller an amount equivalent to all the input tax refunded to him after the date of the notice referred to in subsection (4D) or, if it appears to the Comptroller that he ceased his intention to make taxable supplies on a date earlier than the date of that notice, after that earlier date.

[1999-25]

(4G) A registered person aggrieved by a cancellation under subsection (4C) may appeal to the VAT Appeal Tribunal.

[1999-25]

(5) A small supplier may at any time apply to the Comptroller to be registered under this Act.

(6) Promoters of public entertainment and licensees and proprietors of places of public entertainment shall be registered for the purposes of this Act notwithstanding that the taxable supplies of such promoters, licensees and proprietors for the period specified in paragraph (a) or (b), as the case may be, of subsection (1) of section 33 are less than the amount specified in those paragraphs.

(7) An application for registration under this section must be in such form as the Comptroller approves.

(8) A promoter who is registered under this Act and is not a resident of Barbados shall, at least 48 hours prior to the commencement of any public entertainment promoted by him, pay to the Comptroller

(a) an amount equal to 5 per cent of the value of the tickets printed for that entertainment; or

(b) such other amount as the Comptroller may determine.

[2004-22]

(8A) A promoter who is registered under this Act and is resident in Barbados shall, within 7 days of the staging of any public entertainment promoted by him, pay to the Comptroller

(a) an amount equal to 5 per cent of the value of the tickets printed for that entertainment; or

(b) such other amount as the Comptroller may determine.

[2004-22]

(9) A promoter shall not stage any public entertainment promoted by him unless he has

(a) received the written permission of the Comptroller for the staging of that entertainment; and

(b) in the case of a non-resident promoter, paid the amount referred to in subsection (8).

[2004-22]

(10) A promoter who contravenes subsection (8), (8A) or (9) is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or imprisonment for 2 years or both; and, in addition, is liable to pay the Comptroller forthwith an amount equal to 15 per centum of the value of the tickets printed for the entertainment.

[2004-22; 1999-25]

Registration

35.(1) Where the Comptroller is satisfied

- (a) that a person qualifies for registration under section 34 of this Act; and
- (b) in the case of a small supplier who has applied for registration, that the person maintains adequate books and records for the purposes of this Act and is otherwise capable of complying with requirements of this Act,

the Comptroller shall register that person.

(2) Where the Comptroller decides not to register a person who has applied for registration, the Comptroller shall, in writing, notify the person of the Comptroller's decision.

[1999-25]

Certificate of registration

36.(1) Where the Comptroller registers a person under section 35, he shall issue to that person a certificate of registration, in such form as the Comptroller approves bearing the person's registration number and the effective date of the registration, for each location at which the person engages in taxable activities.

(2) Every registrant shall display the certificate of registration issued to him under subsection (1) in a conspicuous place at each location at which he engages in taxable activities.

- (3) Any registrant who contravenes subsection (2) is liable to pay such penalty not exceeding \$1 000 as the Comptroller determines.
- (4) Any person who, not being a registrant, displays at his place of business any document purporting to be a certificate of registration is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for one year or both.

37. *[Repealed by 1999-25.]*

Cancellation of registration

38.(1) A registrant may apply in writing to the Comptroller to have his registration cancelled.

(2) The Comptroller may cancel the registration of a person who has applied therefor under subsection (1) if

- (a) the Comptroller is satisfied that
- (i) the person has been a small supplier throughout the two-year period immediately preceding the time at which he cancels the person's registration;
 - (ii) the person no longer carries on taxable activities; or
 - (iii) the person no longer intends to make taxable supplies in Barbados; and
- (b) it is reasonable to expect that the total value of all taxable supplies (other than sales of goods that are capital property of the person) that will be made by the person in the twelve-month period beginning immediately after the time at which he cancels the person's registration will be less than \$60 000.

(3) The Comptroller may at any time cancel the registration of a person who has not applied to have his registration cancelled if

- (a) the Comptroller is satisfied that the person no longer carries on taxable activities or no longer intends to make taxable supplies in Barbados, and it is reasonable to expect that the total value of all taxable supplies (other than sales of goods that are capital property of the person) that will be made by the person in the twelve-month period beginning immediately after that time will be less than \$60 000;
- (b) the Comptroller is satisfied that the person's registration is, for any other reason, no longer required for the purposes of this Act; or
[1997-2]
- (c) the person has been registered for a period of at least one year and has not, since so becoming registered, made any taxable supplies in the course of furtherance of taxable activities engaged in by the person in Barbados.

(4) Before the Comptroller cancels a person's registration under subsection (3), the Comptroller shall send a notice to the person informing him of the intention to cancel his registration and giving him 15 days to show cause why the registration should not be cancelled.

(5) Where the Comptroller

- (a) decides under subsection (2) not to cancel the registration of a person who has applied for its cancellation, or
- (b) decides under subsection (3) to cancel the registration of a person who has not applied for its cancellation,

the Comptroller shall send notice in writing of his decision to the person.

(6) Subject to section 39, the cancellation of a person's registration shall take effect

- (a) where the person applied to have his registration cancelled, on the day requested by the person in his application for cancellation or on such

later day as the Comptroller considers appropriate in the circumstances;
and

- (b) in any other case
 - (i) where notice of the cancellation is given personally to the person, on the day on which the notice is given to the person; and
 - (ii) where the notice of cancellation is sent to the person by registered post, on the earlier of the day on which the notice is received by the person and the day that is 7 days after the day on which the notice was posted to the person.

(7) A person who receives notice of the cancellation of his registration under subsection (5) shall, except where the person objects to the cancellation of his registration in accordance with section 39, return to the Comptroller within 15 days after the cancellation takes effect all certificates of registration that were issued to him by the Comptroller under section 36(1).

(8) The obligations and liabilities of a person under this Act in respect of anything done or omitted to be done by the person while the person was registered or required to be registered are not affected by the cancellation of the person's registration.

(9) Any person who has received notice of the cancellation of his registration and who fails to return his certificate of registration to the Comptroller within the time required by subsection (7) or paragraph (b) of section 39(4) is liable to pay such penalty, not exceeding \$1 000, as the Comptroller determines.

Objection to Comptroller's decision

39.(1) Where the Comptroller

- (a) under section 35(2) notifies a person who has applied for registration that he has decided not to register the person,

- (b) under section 38(5)(a) notifies a person who has applied to have his registration cancelled that he has decided not to cancel the person's registration, or
- (c) under section 38(5)(b) notifies a person who has not applied to have his registration cancelled that he has decided to cancel the person's registration,

the person may object to the Comptroller's decision by filing a notice of objection with the Comptroller within 15 days or such further period as the Comptroller in any special case determines after the notice is sent to the person.

(2) A notice of objection shall be in writing and shall state the precise grounds for the objection.

(3) The Comptroller shall give a person who has objected under subsection (1) an opportunity to support his objection by a written or oral submission to the Comptroller.

(4) After considering an objection made under subsection (1), the Comptroller shall, in writing, notify the person who objected to the Comptroller's decision and, where the Comptroller decides to cancel the person's registration or confirms a decision to cancel the person's registration

- (a) the cancellation of the person's registration shall take effect on the day referred to in section 38(6) or on such later day as the Comptroller considers appropriate in the circumstances; and
- (b) the person shall, within 15 days after the cancellation takes effect or within 7 days after the notice is so sent to him, whichever is the later, return to the Comptroller all certificates of registration that were issued to him by the Comptroller under section 36(1).

Change of registrant's status

- 40.(1)** Every registrant shall notify the Comptroller in writing of
- (a) any transfer of the ownership of any of the registrant's taxable activities or a part thereof, including the date on which ownership of the taxable activity or part was transferred and the name and address of the new owner;
[1997-2]
 - (b) any change in the name, address, constitution or nature of any of his taxable activities;
 - (c) any change in the address from which, or the name in which, any of his taxable activities are carried on;
 - (d) the date on which he ceased to carry on any of his taxable activities; and
 - (e) in the case of an unincorporated body, any change in the officers of the unincorporated body,

within 21 days after occurrence of such transfer, change or cessation, as the case may be.

(2) Where a registrant dies, becomes bankrupt, goes into liquidation or receivership or becomes a party to an amalgamation or is wound up, the registrant or the person responsible for the affairs of the registrant shall, within 21 days, give the Comptroller notice in writing thereof.

(3) Any person who acquires a taxable activity or any part thereof from a registrant shall inform the Comptroller in writing of the acquisition within 21 days after the date of the acquisition.

(4) Where any person fails to give the Comptroller such notice as is required by this section of any matter relating to a registrant, the Comptroller may assess the registrant or exercise any of his other powers under this Act as if the matter of which the registrant ought to have notified the Comptroller had not taken place,

and the registrant, or the estate of the registrant, as the case may be, is liable accordingly.

(5) Any person who contravenes subsection (1), (2) or (3) is liable to pay such penalty, not exceeding \$1 000, as the Comptroller determines.

Branch registration

41.(1) In this section, “legal entity” means a person.

(2) Where a registrant carries on taxable activities in more than one branch or division, the legal entity may apply to the Comptroller in such form as the Comptroller approves for a separate registration in respect of taxable activities carried on at each particular branch or division identified in the application.

(3) Where the Comptroller receives an application from a legal entity under subsection (2) for a separate registration in respect of taxable activities engaged in at a particular branch or division of the legal entity and the Comptroller is satisfied that

- (a) the legal entity maintains an independent system of accounting in respect of taxable activities engaged in through the branch or division, and
- (b) the branch or division can be separately identified by reference to its location or the nature of activities engaged in at the branch or division,

the Comptroller may issue a separate registration to the legal entity in respect of taxable activities engaged in at the branch or division.

(4) Where pursuant to subsection (3) the Comptroller issues a separate registration to a legal entity in respect of taxable activities engaged in at a branch or division of the legal entity

- (a) except for the purposes of determining whether the legal entity or a branch or division of the legal entity is a small supplier
 - (i) the branch or division shall be deemed to be a person separate from the legal entity, and

- (ii) the branch or division shall be deemed to be engaged in the taxable activities at the branch or division; and
 - (b) the legal entity is liable for all liabilities and obligations imposed by this Act in respect of the branch or division or in respect of activities engaged in at the branch or division, but nothing in this paragraph prevents the application of this Act to or in relation to supplies made to or by the branch or division.
- (5) The Comptroller may in writing cancel the separate registration of a branch or division of a legal entity issued in accordance with subsection (3) where
- (a) the legal entity fails to comply with any requirement of this Act;
 - (b) the Comptroller is satisfied that the requirements of paragraphs (a) and (b) of subsection (3) are no longer met; or
 - (c) the legal entity has, in writing, requested such revocation.

Second hand goods

42.(1) A registrant may if he is a supplier of second-hand goods apply to the Comptroller for approval to use the second-hand goods scheme.

(2) An application under subsection (1) shall be in such form and contain such information as the Comptroller approves.

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(3) The Comptroller may, in writing, approve the application referred to in subsection (2).

(4) The Comptroller may at any time by notice in writing revoke the approval referred to in subsection (3).

(5) The supplier of second-hand goods shall apply the tax fraction to the difference between the cost price of the goods and the selling price of the same in determining the tax payable on a supply of those goods.

[1999-25]

(6) Where a supplier sells second-hand goods for the same price that, or a lesser price than, he paid for the goods no output tax is due on the sale.

(7) The Minister may make regulations respecting the sale of second-hand goods by a registrant and such regulations may provide for the keeping of registers by the registrant and the content of those registers.

(8) For the purposes of this section “tax fraction” has the meaning assigned to it by section 53(5), except that ‘A’ represents the rate of tax referred to in section 7(2).

PART VI

RETURNS AND PAYMENT OF TAX

DIVISION I

Interpretation

Definitions

43. In this Part

“input tax” means in relation to a registrant for a taxable period in respect of goods or services supplied to or imported by the registrant

- (a) the tax that is payable by another registrant on a taxable supply of the goods or services made to the registrant and is evidenced in a tax invoice issued during the taxable period to the first mentioned registrant by the other registrant; or
- (b) the tax that is paid during the taxable period on the importation of the goods by the registrant;

“output tax” means in relation to tax payable by a registrant for a taxable period an amount of tax that became payable by the registrant during the taxable period on a taxable supply made by the registrant.

*DIVISION II**Taxable Periods***Taxable periods**

44.(1) For the purposes of this section, a person is a large taxpayer throughout a period of 12 calendar months if the total value of all taxable supplies (other than sales of goods that are capital property of the person) made by the person in taxable periods ending in the immediately preceding period of 12 calendar months is \$25 000 000 or more.

(2) Except as otherwise provided in this section, the taxable periods of a person are either

- (a) each of the two-month periods beginning on the first day of January, March, May, July, September and November in each year, or
- (b) each of the two-month periods beginning on the first day of February, April, June, August, October and December in each year,

as the Comptroller may determine.

(3) Where the Comptroller registers a person for the purpose of this Act, the Comptroller shall notify the person in writing of his taxable periods.

(4) The Comptroller may, in writing, notify any person whose taxable periods are the two-month periods referred to in paragraph (a) or (b) of subsection (2) that his taxable periods are those referred to in the other paragraph with effect from the day specified in the notice, and such notice shall also specify a one-month period ending immediately before that day as a taxable period of the person.

(5) The Comptroller may, in writing, notify

- (a) any person who has applied in writing to the Comptroller to have taxable periods that are calendar months, and
- (b) any large taxpayer,

that his taxable periods are calendar months with effect from the day specified in the notice.

(6) Where a person other than a large taxpayer applies in writing to the Comptroller to have taxable periods that are longer than 2 months, the Comptroller may, in writing, notify the person that his taxable periods in each year, with effect from the day specified in the notice, are such periods, not exceeding one year, as the Comptroller considers appropriate in the circumstances.

(7) Where a person applies to the Comptroller in writing to have taxable periods that are two-month periods and the person's taxable periods have been calendar months for at least 2 years the Comptroller may, in writing, notify the person that his taxable periods are, with effect from the day specified in the notice, the two-month periods referred to in paragraph (a) or (b) of subsection (2), as the case may be.

(8) The Comptroller may, in writing, notify any person who has taxable periods referred to in subsection (6) that his taxable periods are, with effect from the day specified in the notice, one-month periods or the two-month periods referred to in paragraph (a) or (b) of subsection (2), as the case may be, where

- (a) the person has applied to the Comptroller in writing to have one-month or two-month taxable periods; or
- (b) the Comptroller is satisfied that the person should no longer have taxable periods that are longer than 2 months.

(9) Notwithstanding any other subsection

- (a) where a person is liable to be registered on or after the appointed day but before the commencement of Parts II to IV and Parts VI to XII of this Act his taxable period shall begin on the day those Parts commence and end at the end of that taxable period as otherwise determined under that subsection;
- (b) where a person becomes liable to be registered under this Act after the commencement of Parts II to IV and Parts VI to XII, his first taxable

period shall begin on the effective day of his registration and end at the end of the calendar month otherwise determined under this section; and

- (c) where a person ceases to be a registrant under this Act, his last taxable period shall begin at the beginning of the calendar month otherwise determined under this section and end on the day he ceases to be registered.

(10) The taxable periods of a person who is required to be registered for the purposes of this Act but is not so registered are such periods of such duration as the Comptroller may at any time determine.

DIVISION III

Returns

Returns required from registrant

45.(1) Every registrant shall, within 21 days after the end of each taxable period, whether or not he makes a taxable supply during the taxable period, file with the Comptroller in such manner as the Comptroller determines an accurate return for the taxable period in such form, containing such information, as the Comptroller approves.

(2) A person who ceases to be a registrant shall, within 21 days after the end of the last taxable period during which he was registered, whether or not he made a taxable supply during that taxable period, file with the Comptroller in such manner as the Comptroller determines an accurate return for the taxable period in such form, containing such information, as the Comptroller approves.

(3) A person who, being required by subsection (1) or (2) to file a return, fails to do so within the time prescribed by that subsection shall pay to the Comptroller a penalty of \$100.

(4) The Comptroller may at any time, in writing, extend the time for filing a return under this Act, and where the Comptroller does so, the return shall be filed

within the time so extended and the penalty under subsection (3) is payable only if the return is not filed within the extended time.

(5) The Comptroller may require a registrant to furnish the Comptroller with such information relating to a return filed by the registrant as the Comptroller considers necessary.

DIVISION IV

Output Tax

Payment of output tax

46.(1) Every registrant shall, within 21 days after the end of each taxable period, pay to the Comptroller all of the output tax payable by him for the taxable period.

(2) A registrant shall be deemed to have paid, on account of the output tax payable by him for a taxable period and by the day specified in subsection (1), an amount equal to the total of all of the following amounts

- (a) each amount of allowable input tax of the registrant for the taxable period; and
- (b) each amount that the registrant is permitted to deduct from his payment of output tax for the taxable period under section 28(4)(b), 52(5), 53(2) and (3) or 56(1)(b).

(3) Where the total amount of output tax payable by a registrant for a taxable period exceeds, by less than \$1, the total amount that the registrant is deemed by subsection (2) to have paid on account of that output tax the registrant shall not be required to pay the amount of that excess.

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- (4) A registrant who defaults in paying the total amount of output tax payable by him for a taxable period by the day prescribed by subsection (1) shall in addition to the amount of output tax in default, pay to the Comptroller
- (a) a penalty equal to 10 per cent of the amount of output tax in default; and
 - (b) interest at the prescribed rate calculated for each month or part of a month during which any amount of tax and penalty remained unpaid on the largest amount of tax and penalty that was due and unpaid at any time in that month.
- (5) No penalty or interest is payable by a registrant under subsection (4) if the registrant pays all outstanding amounts of output tax payable by the registrant under this Act and, at the time of the payment, the total of all penalty and interest payable by the registrant under this Act is less than \$1.
- (6) Where, under section 45(4), the Comptroller extends the time within which a person shall file a return,
- (a) any output tax that the person is required to report in the return shall be paid within the extended time;
 - (b) interest is payable under subsection (4) as if the time for filing the return had not been extended; and
 - (c) penalty under subsection (4) on any output tax that the person is required to report in the return is payable only if the output tax is not paid within the extended time and shall be calculated only on the amount of output tax that is not paid within the extended time.

*DIVISION V**Input Tax***Refund of net input tax**

47.(1) Subject to this section, where the total amount that a registrant is deemed by section 46(2) to have paid on account of the output tax payable by him for a taxable period exceeds the total amount of output tax payable by him for the taxable period,

- (a) the amount of the excess is payable to the registrant as a refund for the taxable period; and
- (b) the Comptroller shall apply the amount of the excess against any outstanding tax, penalty, interest or other amount payable under this Act by the registrant and pay the balance, if any, to the registrant.

(2) A refund for a taxable period of a registrant shall not be paid to the registrant or applied under subsection (1) unless

- (a) the registrant claims the refund in a return for the taxable period filed with the Comptroller within 5 years after the end of that taxable period; and
- (b) the registrant has filed all returns that the registrant was required to file for previous taxable periods of the registrant.

(3) Where the amount of a refund calculated in accordance with subsection (1) as being payable to a registrant for a taxable period is less than \$1, the amount of that refund shall be deemed to be nil.

(3A) Where a registrant is entitled to a refund under subsection (1)(a) in respect of a particular taxable period and

- (a) the registrant has filed a return for the subsequent taxable period; and
- (b) the refund or any part thereof has not been paid or applied as required by subsection (1)(b),

the registrant may carry forward the refund or the unpaid part of the refund to the taxable period immediately following the period for which he is entitled to the refund, to be applied on account of output tax payable.

[2004-22]

(4) Where

- (a) a registrant, within 21 days after the end of a taxable period, files a return for the taxable period in which he claims a refund that is payable to him for the taxable period under subsection (1);
- (b) the registrant has filed all returns that he was required to file for his previous taxable periods; and
- (c) the refund for the taxable period is not paid or applied as required by subsection (1)(b) within 6 months after the month in which the return for the taxable period was filed,

interest is payable to the registrant on the refund at the prescribed rate for each month or part thereof during which any amount of the refund remained unpaid on the largest amount of the refund that was due and unpaid at any time after the 6 months referred to in paragraph (c); and the Comptroller shall apply that interest against any outstanding tax, penalty, interest or other amount payable under this Act by the registrant and pay the balance, if any, to the registrant.

(5) Where the Comptroller has paid an amount to a registrant, or has applied it against an outstanding liability of the registrant, as a refund under this section or as interest thereon and that amount was not payable to the registrant or exceeded the amount that was payable to the registrant, the registrant shall pay the amount or the excess, as the case may be, to the Comptroller forthwith after receiving it, together with interest thereon at the prescribed rate for each month or part thereof between the end of the month in which the Comptroller so paid or applied the amount and the day on which the person pays the amount or excess, as the case may be, to the Comptroller, calculated on the amount outstanding at the beginning of that month.

(6) Interest of less than \$1 shall not be payable under subsection (4) or (5).

General rules for allowable input tax

48.(1) Subject to the provisions of this Division, each of the following amounts is an amount of allowable input tax of a registrant for a taxable period

- (a) where all of the supplies made by the registrant during the taxable period are taxable supplies, such proportion of the input tax of the registrant for the taxable period in respect of goods or services acquired or imported by the registrant as may reasonably be regarded as relating to the making of taxable supplies;
- (b) where some but not all, of the supplies made by the registrant during the taxable period are taxable supplies
 - (i) where the registrant acquired or imported goods or services solely for the purpose of making taxable supplies, all of the input tax of the registrant for the taxable period in respect of those goods or services,
 - (ii) where the registrant acquired or imported goods or services solely for purposes other than making taxable supplies, none of the input tax of the registrant for the taxable period in respect of those goods or services, and
 - (iii) where the registrant acquired or imported goods or services partly for the purpose of making taxable supplies and partly for other purposes, such proportion of the input tax of the registrant for the taxable period in respect of those goods or services that
 - (A) the total value of all taxable supplies made by the registrant during the taxable period,bears to
 - (B) the total value of all supplies made by the registrant during the taxable period; and

- (c) where none of the supplies made by the registrant during the taxable period are taxable supplies, such proportion, if any, of the input tax of the registrant for the taxable period in respect of the goods or services as the Comptroller considers fair and reasonable in the circumstances.
- (2) Where a registrant acquires or imports goods or services for consumption, use or supply otherwise than in the course or furtherance of taxable activities of the registrant, the allowable input tax of the registrant in respect of those goods or services shall be reduced to the extent that the goods or services were so acquired or imported for consumption, use or supply otherwise than in the course or furtherance of those taxable activities.
- (3) Notwithstanding subsection (1) or (2), and section 10 and paragraph 2 of the *Second Schedule*
- (a) where input tax was previously allowed under section 46(2) for the construction, alteration or renovation of a building other than a dwelling house; and
- (b) where, within 10 years, after the construction, alteration or renovation of such a building, the registrant leases the building for a period of 25 years or more, or sells, transfers or otherwise disposes of the building, the lease, sale, transfer or other disposition of the building shall be deemed to be a taxable supply.
- (4) The output tax payable on the supply of the building deemed to be a taxable supply under subsection (3) shall be equal to the input tax allowed under section 46(2) for the construction, alteration or renovation of the building multiplied by a proportion that is equal to a proportion computed by dividing the number of months required to complete the period of 10 years from the month after the construction, alteration or renovation of the building was completed by 120 months.

[1997-2]

[1997-2]

(5) For the purposes of subsection (1), a registrant shall be deemed to have made no exempt supplies if the total of all exempt supplies of the registrant represents less than 2% of the value of total supplies during the taxable period.

[1998-5]

(6) Subject to this section, where a registrant during a taxable period acquires or imports goods or services for the purpose of making taxable supplies but no taxable supply is made during the taxable period in which the goods or services are purchased, the allowable input tax may be claimed in respect of the taxable period during which a supply of the goods or services is made to the registrant.

[1997-2]

Input tax for motor cars

49.(1) In this section, “improvement” in respect of a motor car of a registrant means goods or services acquired or imported by the registrant for the purpose of making an improvement to the motor car.

(2) Where a motor car or an improvement to a motor car is supplied to or imported by a registrant during a taxable period of the registrant and, at the time the motor car or improvement, as the case may be, is so supplied or imported, the registrant uses, or intends to use, the motor car as capital property of the registrant, the input tax of the registrant in respect of the motor car or improvement, as the case may be, for the taxable period is equal to the lesser of

- (a) the amount, if any, by which the result obtained when the rate of tax imposed by section 7(2) or (3) is multiplied by \$125 000 exceeds the total of all input tax of the registrant in respect of the motor car and improvements thereto for all previous taxable periods; and
- (b) the input tax of the registrant in respect of the motor car or improvement, as the case may be, for the taxable period as otherwise determined under this Act.

- (3) Subsection (2) does not apply to
- (a) a motor car that a registrant acquires or imports exclusively for the purpose of leasing or hiring to others for consideration; or
 - (b) an improvement to a motor car that a registrant uses exclusively for the purpose of leasing or hiring to others for consideration.

Stock-in-trade upon registration

50.(1) In this section, “qualified auditor” means a chartered accountant or any other person who is qualified for appointment as an auditor of a company under section 153 of the *Companies Act*, Cap. 308.

(2) Where a person becomes a registrant and, at the time his registration becomes effective, he has items of stock-in-trade on hand that

- (a) were supplied to or imported by the person on or after the commencement of Parts II to IV and Parts VI to XII of this Act; and
- (b) are included in an inventory audited by a qualified auditor, as being on hand at the time his registration becomes effective,

[1997-2]

for the purpose of determining an amount of allowable input tax of the registrant for his first taxable period, those items shall be deemed to have been supplied to or imported by the person at the time that his registration becomes effective.

[1997-2]

Cancellation of registration by Comptroller

51.(1) Where the Comptroller cancels the registration of a person under section 38(3) because the person had been registered for a period of at least one year and had not, since being registered, made any taxable supplies in the course of furtherance of taxable activities engaged in by the person in Barbados

- (a) section 25 does not apply to the person; and

- (b) an amount of output tax equal to the total of all allowable input tax that the person was deemed by subsection 46(2) to have paid on account of output tax payable by the person for taxable periods that ended while he was registered shall be deemed to be payable by the person for the last taxable period during which he was registered.
- (2) Section 25 applies where the Comptroller cancels the registration of a person for the reason referred to in subsection (1) and the Comptroller is satisfied that
- (a) at the time the person became registered, the person intended to make taxable supplies in the course or furtherance of taxable activities engaged in by the person in Barbados;
- (b) the person made reasonable efforts to make such taxable supplies;
- (c) the person no longer intends to make such taxable supplies; and
- (d) the person had reasonable cause for changing his intentions.
- (3) Subsection (1) does not apply to a person whose registration is cancelled for the reason referred to in that subsection in respect of goods and services supplied to, or entered for use within Barbados by, the person before the day on which notice that his registration was being cancelled was sent to him under section 38(4), or, where it appears to the Comptroller that the person's intention to make taxable supplies ceased on an earlier day, before that earlier day.

[1997-2]

Credit and debit notes

- 52.(1)** Where a registrant has made a supply of goods or services and, at any time after the supply is made, the consideration for the supply is altered
- (a) because the supply was cancelled;
- (b) because the goods or services, or any part thereof, were returned to the supplier;

- (c) because the amount shown or indicated in a tax invoice issued in respect of the supply as tax payable in respect of the supply was incorrect; or
- (d) because of any other reason, other than a reduction or increase in the consideration referred to in section 19(4),

the supplier shall, at that time, issue to the recipient of the supply a credit note or a debit note, as the case may require, in respect of the supply setting out the amount by which the tax payable in respect of the supply is reduced or increased, as the case may be, and containing such other information as may be prescribed.

(2) A supplier shall not issue more than one credit note or debit note in respect of the same adjustment in the tax payable in respect of a supply, other than a copy, clearly marked as such, to replace an original credit note or debit note that has been lost.

(3) For the purposes of this Act, a credit note or debit note shall, in the absence of any evidence to the contrary, be deemed to have been issued on the date appearing on the credit note or debit note.

(4) Where a registrant is required by subsection (1) to issue a debit note during a taxable period in respect of an adjustment in the tax payable in respect of a supply, an amount of output tax shall be deemed to be payable by the registrant for the taxable period equal to the amount that he was required to set out in the debit note as the increase in tax payable in respect of the supply.

(5) Where a registrant is required by subsection (1) to issue a credit note during a taxable period in respect of an adjustment in the tax payable in respect of a supply, the registrant may deduct, from his payment of output tax for the taxable period, the amount that he was required to set out in the credit note as the decrease in tax payable in respect of the supply.

(6) Where, during a taxable period, in this subsection referred to as the “current taxable period”, of a registrant, the registrant receives a credit note issued to him under subsection (1) in respect of a supply of goods or services, and all or part of the input tax of the registrant in respect of the supply was an amount of

allowable input tax of the registrant for a previous taxable period, an amount of output tax shall be deemed to be payable by the registrant for the current taxable period equal to the amount determined by the formula

$$A \times (B/C)$$

where

A is the amount set out in the credit note as the increase in tax payable in respect of the supply;

B is the allowable input tax of the registrant for the previous taxable period in respect of the goods or services; and

C is the amount set out as tax payable in respect of the supply of goods or services to the registrant in the tax invoice issued to the registrant in respect of the supply during the previous taxable period.

(7) Where, during a taxable period in this subsection referred to as the “current taxable period”, a registrant receives a debit not issued to him under subsection (1) in respect of a supply of goods or services and the registrant was entitled to include input tax in respect of the supply of goods or services in determining his allowable input tax in respect of the goods or services for a previous taxable period, the amount set out in the debit note as the increase in tax payable in respect of the supply shall be deemed to be an amount of input tax of the registrant for the current taxable period in respect of the supply.

(8) Any person who contravenes subsection (1), (2) or (6) is liable to pay a penalty of such amount not exceeding \$1 000 as the Comptroller may determine.

Bad debts

53.(1) Subsections (2) and (3) apply to a registrant who

- (a) has made a taxable supply, other than a zero-rated supply, for consideration in money to a person with whom the registrant is not connected,

-
- (b) has filed a return and paid the total amount of output tax, if any, payable by him for the taxable period in which the supply was made, and
- (c) has written off as a bad debt all or part of the consideration for the supply.
- (2) The registrant referred to in subsection (1) may deduct from his payment of output tax for the later of the taxable period in which the bad debt is written off and the first taxable period that ends at least one year after the consideration became due and payable to the registrant
- (a) in the case of a supply of goods under a hire-purchase agreement or an agreement whereby the recipient has an option to return the goods, an amount equal to the tax fraction of the amount by which the amount of the consideration that was written off as a bad debt, exceeds the portion, if any, of the consideration that was so written off that may reasonably be regarded as relating to financing or interest costs to the registrant in respect of the goods; and
- (b) in any other case, an amount equal to the tax fraction of the amount of the consideration that was written off as a bad debt.
- (3) Notwithstanding subsection (2), where the person to whom a supply is made, is declared bankrupt the registrant may deduct from his payment of output tax for the later of the taxable period in which the bad debt is written off and the time at which the person is declared bankrupt after the consideration became due and payable to the registrant
- (a) in the case of a supply of goods under a hire-purchase agreement or an agreement whereby the recipient has an option to return the goods, an amount equal to the tax fraction of the amount by which the amount of the consideration that was written off as a bad debt, exceeds the portion, if any, of the consideration that was so written off that may reasonably be regarded as relating to financing or interest costs to the registrant in respect of the goods; and

- (b) in any other case, an amount equal to the tax fraction of the amount of the consideration that was written off as a bad debt.
- (4) Where a registrant is entitled to deduct, from a payment of output tax for a taxable period, an amount in respect of a bad debt written off by him and he recovers all or part of the bad debt in a subsequent taxable period, the registrant shall, in determining the total output tax payable by him for that subsequent taxable period, include an amount equal to the tax fraction of the bad debt or part thereof so recovered.
- (5) In this section, “tax fraction” means the fraction determined by the formula

$$A/(100\%+A)$$

where

A is the rate of tax referred to in subsection (2), (3) or (11) of section 7, as the case requires, expressed as a percentage.

[1997-2]

Input tax paid in error

54. An amount shall not be disallowed as an amount of allowable input tax of a registrant for a taxable period only because

- (a) in the case of a supply of goods or services to the registrant in respect of which the registrant in good faith accepted a tax invoice issued under section 7(7), the amount appearing on the tax invoice as tax exceeds the amount that was payable as tax in respect of the supply; or
- (b) in the case of goods imported into Barbados by the registrant, the amount paid by the registrant as or on account of tax in respect of the goods exceeded the amount that was payable as tax in respect of the goods.

PART VII
RELIEF FROM TAX

Refund of tax paid in error

55. Where a person, other than a registrant, has paid an amount as or on account of tax on goods that were entered by him and that amount exceeds the amount that was payable by him under this Act, the Comptroller shall, subject to this Part, pay a refund to that person equal to the amount of the excess if that person applies therefor within 2 years after the amount was paid.

Refund for approved educational institutions

56.(1) Where goods or services have been supplied to an approved educational institution other than a public primary school for use exclusively for the purposes and objects of the institution and the institution obtained a tax invoice in respect of the supply from the supplier of the goods or services then

- (a) if the institution was not a registrant at the time the supply was made, the Comptroller shall, subject to this Part, pay an amount to the institution, equal to the tax payable in respect of the supply if the institution applies therefor within 2 years after the supply was made; and
- (b) if the institution was a registrant at the time the supply was made, it may deduct, from its payment of output tax for the taxable period in which the supply was made, an amount equal to the tax payable in respect of the supply.

(2) Where a registrant makes a taxable supply to an approved educational institution, other than a public primary school the registrant shall, forthwith upon the request of the institution, issue a tax invoice to the institution under section 7(7) as if the institution were a registrant.

Exported goods**57.(1)** Where

- (a) a registrant makes a taxable supply of goods to a person who is not a registrant and the person obtains a tax invoice in respect of the supply from the registrant;
- (b) the person enters the goods for export; and
- (c) the goods are exported in compliance with the *Customs Act*, Cap. 66 and the *Customs Regulations, 1963* without having been used in Barbados after the supply was made, except as necessary for or incidental to the export of the goods,

the Comptroller shall, subject to this Part, pay an amount to the person equal to the tax payable in respect of the supply if the person applies therefor within 2 years after the supply was made.

(2) A payment in respect of goods shall not be made under subsection (1), and a supply of goods shall be deemed not to be a zero-rated supply under subparagraph (1) or (4) of paragraph 1 of the *First Schedule*, unless

- (a) immediately before being put on board the exporting ship or aircraft, as the case may be, and upon demand at any time thereafter, the goods are produced to the proper officer of the Customs and Excise Department for examination;
- (b) upon demand by the proper officer, such samples of the goods as he may require for testing or any other purpose are presented to him;
- (c) the master or commander of the exporting ship or aircraft, or such other person as the master or commander may authorise for the purpose, certifies on the document on which the goods are entered that the goods have been received on board; and
- (d) particulars of the goods are included in the content of the ship or aircraft.

(3) Where a registrant makes a taxable supply of goods to an unregistered person who intends to enter the goods for export, the registrant shall, forthwith upon the request of the person, issue a tax invoice to the person in accordance with section 7(7) as if the person were a registrant.

Refund to diplomatic missions

58.(1) Where goods or services are supplied to a diplomatic mission, consulate or international organisation, or a member of the diplomatic or consular service or a member of his family forming part of his household, such mission, consulate, organisation or member, as the case may be, may, in accordance with subsection (2), apply to the Comptroller within 2 years after the supply was made for a refund of the tax paid in respect of the goods or services, as the case may be.

(2) An application made under subsection (1) must be in such form as the Comptroller approves and must be accompanied by a tax invoice and such other information as the Comptroller requires.

(3) Notwithstanding subsection (1), the Minister may, by order published in the *Gazette*, specify the missions, consulates, organisations and members referred to in that subsection who are entitled to a refund under this section and the categories of supplies and services in respect of which a refund is payable.

(4) Where a registrant makes a taxable supply of goods or services in accordance with subsection (1), the registrant shall forthwith upon the request of the person to whom the goods or services are supplied issue a tax invoice to the person in accordance with section 7(7) as if the person were a registrant.

[1997-2]

[1997-2; 1999-25]

Refund to international financial sector

59.(1) Where goods or services are supplied to a body to which paragraphs 6 and 14 of the *Third Schedule* apply, such body may, in accordance with

subsection (2), apply to the Comptroller within 2 years after the supply was made for a refund of the tax paid in respect of the goods or services, as the case may be.

[1997-2; 1999-25; 2006-13]

(2) An application made under subsection (1) must be in such form as the Comptroller approves and must be accompanied by a tax invoice and such other information as the Comptroller requires.

(3) Notwithstanding subsection (1), the Minister may, by order published in the *Gazette*, specify the bodies referred to in that subsection which are entitled to a refund under this section and the categories of supplies and services in respect of which a refund is payable.

[1997-2]

(4) Where a registrant makes a taxable supply of goods or services in accordance with subsection (1), the registrant shall forthwith upon the request of the person to whom the goods or services are supplied issue a tax invoice to the person in accordance with section 7(7) as if the person were a registrant.

[1997-2]

Remissions

60.(1) The Tribunal shall, in addition to its duties under section 87, hear and determine applications for remissions or refunds under this section.

(2) The Minister may, on the recommendation of the Tribunal by order published in the *Gazette*, remit or refund, in whole or in part, any tax, penalty, interest or other amount payable under this Act where he is satisfied that it is just and equitable to do so, or in order to give effect to the terms of any agreement or arrangement to which Barbados is a party.

(3) An order made under subsection (2) may contain such terms and conditions as the Minister considers appropriate.

[1998-5]

Applications

61.(1) An application under this Part must be made in such form as the Comptroller approves, contain such information as the Comptroller requires and be filed with the Comptroller in such manner as the Comptroller determines.

(2) Notwithstanding any other provision of this Part, where a refund or other payment is payable to a person under this Part, the Comptroller may apply the amount against any outstanding tax, penalty, interest or other amount payable under this Act by the person.

(3) Notwithstanding any other provision of this Part, where the amount of a refund or other payment calculated in accordance with this Part as being payable to a person is less than \$10, the amount of that refund shall be deemed to be nil.

(4) Where a person files an application for a refund or other payment under this Part and the amount of the refund or other payment that is payable under this Part is not paid or set-off as required by this Part by the end of the sixth month following the month in which the application was filed

(a) interest is payable to the person on that amount or any part thereof at the prescribed rate for each month or part thereof during which the amount or part remains unpaid or is not set-off, as the case requires; and

(b) the Comptroller shall pay that interest to the registrant or apply the interest against any outstanding tax, penalty, interest or other amount payable under this Act by the person.

(5) Where the Comptroller pays an amount to a person, or applies the amount against an outstanding liability of the person, as a refund or other payment under this Part or as interest thereon and that amount was not payable to the person or exceeds the amount that was payable to the person, the person shall repay the amount or excess, as the case may be, to the Comptroller forthwith after receiving it, together with interest thereon at the prescribed rate for each month or part

thereof between the end of the month in which the Comptroller so paid or applied the amount and the day on which the person repays the amount or excess, as the case may be, to the Comptroller.

(6) Interest of less than \$1 shall not be payable under subsection (4) or (5).

Multiple recoveries prohibited

62. Notwithstanding any other enactment, where a person eligible under any provision of any enactment has taken, been granted or otherwise received a remission, refund, abatement, drawback, deduction, payment or other waiver or recovery of, an amount paid or payable as or on account of tax or any part thereof, such amount or part, as the case may be, shall not be remitted, refunded, abated, drawn back, deducted, paid or otherwise waived or recovered in any manner under any other such provision and under this Act.

[1997-2; 1999-25]

Charge on Consolidated Fund

63. A charge or other payment under section 47 or this Part shall be a charge on the Consolidated Fund.

PART VIII

PERSONS ACTING IN REPRESENTATIVE CAPACITY

Officers, Trustees and Personal Representatives

Directions of corporations

64.(1) Where a corporation fails to pay an amount of tax required to be paid by this Act, the persons who were directors of the corporation at the time the corporation was required to pay the amount are jointly and severally liable, together with the corporation, to pay that amount and any interest thereon and penalties relating thereto.

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- (2) A director of a corporation is not liable under subsection (1) unless
- (a) a certificate for the amount of the corporation's liability referred to in that subsection has been registered in the High Court under section 90 and execution for that amount has been returned unsatisfied in whole or in part.
 - (b) the corporation has commenced liquidation or dissolution proceedings or has been dissolved and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved; or
 - (c) the corporation has made an assignment or a receiving order has been made against it under the *Bankruptcy Act*, Cap. 303 and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved.
- (3) A director of a corporation is not liable for a failure under subsection (1) where the director exercised the degree of care, diligence and skill to prevent the failure that a reasonably prudent person would have exercised in comparable circumstances.
- (4) A director of a corporation shall not be assessed for an amount payable by him under this section more than 5 years after the filing of the tax return relating to that amount.
- (5) A director who satisfied a claim under this section is entitled to contribution from the other directors who were liable for the claim.

Officers of unincorporated bodies

- 65.(1)** In this section, "officer" of an unincorporated body means
- (a) in the case of a partnership, a partner of the partnership, other than a limited partner within the meaning of the *Limited Partnerships Act*, Cap. 312;
 - (b) in the case of a joint venture, a participant in the joint venture, other than a participant who contributes to the capital of the joint venture but

who is not otherwise concerned in the management and day to day operations of the joint venture;

- (c) in the case of a trust, a trustee of the trust; and
- (d) in the case of any unincorporated body, other than a body referred to in paragraph (a), (b) or (c)
 - (i) a person who holds office as chairman, president, treasurer or secretary of the body or any similar office,
 - (ii) where there is no such officer of the body, a member of any committee that has management of the affairs of the body, or
 - (iii) where there is no such officer as referred to in sub-paragraph (i) or (ii) or committee referred to in subparagraph (ii), a member of the body.

(2) An officer is not liable under subsection (3) unless

- (a) a certificate for the amount of the body's liability referred to in that subsection had been registered in the High Court under section 90 and execution for that amount has been returned unsatisfied in whole or in part;
- (b) the body has commenced liquidation or dissolution proceedings or has been dissolved and a claim for the amount of the body's liability referred to in subsection (3) has been proved;
[1997-2]
- (c) the body has made an assignment or a receiving order has been made against it under the *Bankruptcy Act* (Act 1997-2) and a claim for the amount of the body's liability referred to in subsection (3) has been proved.

[1997-2]

(3) Where any liability or obligation is imposed by or under this Act or the regulations on an unincorporated body, the body and each of the persons who are

officers of the body at the time the liability or obligation is imposed are jointly and severally liable and responsible to satisfy the liability or obligation.

(4) A person who ceases to be an officer of an unincorporated body shall be deemed, for the purposes of this Act, not to cease being an officer thereof until the Comptroller receives notification in writing of such cessation.

(5) A supply of goods or services made or received in the course or furtherance of a taxable activity carried on by an unincorporated body shall be regarded as being made or received by the body and not by any member or officer thereof, and any such activity engaged in by a person in his capacity as a member or officer of the body shall be deemed to be an activity of the body and not an activity of the person.

(6) Where an unincorporated body is required to register for the purposes of this Act, the application for registration shall be made and the registration shall be issued in the name under which the body carries on its taxable activities, and the individual members and officers of the body are not liable to be registered under this Act in relation to taxable activities carried on by the body.

(7) For the purposes of this Act, the existence of an unincorporated body and any taxable activity of an unincorporated body shall be deemed not to be affected by any change in the members or officers thereof.

(8) Any document which is served on an unincorporated body pursuant to this Act or the regulations shall be deemed to have also been served on the officers thereof.

Trustees

66.(1) Where a person settles property on a trust, other than a testamentary trust, the person shall be deemed to have made, and the trust shall be deemed to have received, a supply of the property for consideration equal to the lesser of the cost of the property to the person, including tax and the open market value of the property at the time of the settlement.

(2) Where the trustee of a trust, other than a testamentary trust, distributes property of the trust to a beneficiary of the trust, the trustee shall be deemed to have made, and the beneficiary shall be deemed to have received, a supply of the property for consideration equal to the lesser of the cost of the property to the trust, including tax, and the open market value of the property at the time of the distribution.

Executors and administrators

67.(1) For the purposes of this Act, where an individual dies

- (a) the individual's estate shall be deemed to be the same person as the individual and not to be a trust;
- (b) the individual's executors or administrators, as the case may be, shall be deemed to be agents of the individual's estate for the purpose of making and receiving supplies in the course or furtherance of any of the estate's activities, and any supply made or other act performed by them shall be deemed to have been made, received or performed, as the case may be, by them as agent on behalf of the individual;
- (c) where any liability or obligation is imposed by this Act on the individual or his estate, the executors or administrators, as the case may be, are, subject to this section, responsible to satisfy the obligation; and
- (d) the estate and the executors or administrators, as the case may be, are jointly and severally liable for the payment of all amounts that are payable by the estate under this Act, except that the executors or administrators are liable for the payment of amounts that become payable before the individual died only to the extent of the assets of the estate after satisfying the claims of creditors whose claims rank in priority to the claim of the Crown.

(2) Where an individual dies, the Comptroller may, where he considers it appropriate to do so, waive in writing the requirement that the individual's executors or administrators, as the case may be, file a return for a taxable period of the individual that ended before the individual's death.

*Trustees in Bankruptcy and Receivers***Trustees in bankruptcy**

- 68.** For the purposes of this Part, where a person is adjudged a bankrupt
- (a) the trustee in bankruptcy shall be deemed to be an agent of the person for the purpose of making and receiving supplies in the course or furtherance of any of the person's taxable activities to which the bankruptcy relates, and any supply made or other act performed by the trustee in relation to the person's taxable activities to which the bankruptcy relates shall be deemed to have been made, received or performed, as the case may be, by the trustee as agent on behalf of the person;
 - (b) the person's estate shall be deemed not to be an estate or trust;
 - (c) the property held by the person immediately before he was adjudged a bankrupt shall be deemed not to pass to and be vested in the trustee in bankruptcy upon the receiving order being made or the assignment in bankruptcy being filed but to remain vested in the person;
 - (d) the property held by the trustee in bankruptcy for the person on the day the person is discharged from bankruptcy shall be deemed not to pass to the person on the order of discharge being granted but to have been held by and vested in the person continuously since the day it was acquired by the person or the trustee, as the case may be;
 - (e) where the person is a registrant on the day he is adjudged a bankrupt, the registration continues in relation to the taxable activities of the person to which the bankruptcy relates as though the trustee in bankruptcy were the registrant;
 - (f) where any liability or obligation is imposed by this Act on the person in relation to assets or taxable activities to which the bankruptcy relates, the trustee in bankruptcy is, subject to this section, responsible to satisfy the liability or obligation;

- (g) the trustee in bankruptcy, and not the person, is liable for the payment of all amounts that become payable by the person under this Act before the person is discharged from bankruptcy, except that
- (i) the trustee is liable for the payment of amounts that become payable by the person before the person became a bankrupt only to the extent of the person's property in the possession of the trustee that is available to satisfy the liability, and
 - (ii) the trustee is not liable for the payment of any amount which a receiver, within the meaning of section 69(1), is liable to pay under section 69(2)(d) or any amount that relates to activities which the person engages in on or after the person is adjudged a bankrupt and to which the bankruptcy does not relate; and
[1997-2]
- (h) the trustee in bankruptcy shall file with the Comptroller in accordance with this Act all returns in respect of taxable activities of the person to which the bankruptcy relates, other than activities over which a receiver, within the meaning of section 69(1), has authority, for all taxable periods of the person including periods that began before the person was adjudged a bankrupt, except that the Comptroller may, where he considers it appropriate to do so, waive in writing the requirement that the trustee file a return for a taxable period that ended before the person was adjudged a bankrupt.

Receivers

69.(1) In this section

“asset” includes any property, affair and taxable activity of the person;

“receiver” includes

- (a) a person who is appointed to manage or operate an asset of another person under the authority of a court order, an Act of Parliament or a bond, debenture or other debt security;

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- (b) a liquidator appointed to liquidate the assets or wind up the affairs of a corporation; and
- (c) a committee, guardian or curator who has authority to manage and care for the affairs and other assets of an individual who is incapable of managing his own affairs and assets.
- (2) For the purposes of this Act, where a receiver is vested with authority to manage, operate, liquidate, or wind up any assets of a person or to manage and care for the affairs and other assets of a person
- (a) the receiver shall be deemed to be an agent of the person for the purpose of making and receiving supplies in the course or furtherance of any of the person's activities over which the receiver has authority, and any supply made or received and any act performed by the receiver in relation to the person's assets over which the receiver has authority shall be deemed to have been made, received or performed, as the case may be, by the receiver as agent on behalf of the person;
- (b) the receiver shall be deemed not to be trustee of the estate of the person or any part thereof;
- (c) where the assets of a person over which the receiver has authority are not all of the person's assets, throughout the period during which the receiver acts as receiver of the person
- (i) the assets over which the receiver has authority shall be deemed to be separate from the other assets of the person as if they were assets of a separate person, and
- (ii) where the person is registered or required to be registered for the purposes of this Act and the assets of the person over which the receiver has control include taxable activities of the person, those taxable activities shall be deemed to be a separate branch of the person in respect of which the receiver shall apply for a separate registration with effect from the day the receiver was vested with

authority over the assets of the person, and the Comptroller shall grant such registration;

- (d) where any liability or obligation is imposed by this Act on the person in relation to assets over which the receiver has authority the receiver is, subject to this section, responsible to satisfy the obligation;
- (e) the person and the receiver are jointly and severally liable for the payment of all amounts that become payable by the person under this Act before the receiver was appointed, except that the receiver is liable for the payment of those amounts only to the extent of the person's assets under the control and management of the receiver after satisfying the claims of creditors whose claims rank in priority to the claim of the Crown and after paying any amounts that the receiver is required to pay to a trustee in bankruptcy of the person;
- (f) the receiver, and not the person, is liable for the payment of all amounts that become payable by the person under this Act during the period which the receiver acts as receiver of the person to the extent that the amounts can reasonably be considered to relate to the person's assets over which the receiver has authority; and
- (g) the receiver shall file with the Comptroller in accordance with this Act all returns in respect of assets under the authority of the receiver for all taxable periods of the person, including periods that began before the receiver was vested with authority, except that the Comptroller may, where he considers it appropriate to do so, waive in writing the requirement that the receiver file a return for a taxable period that ended before the time the receiver was vested with authority over the assets of the person.

*Agents***Agents of registrants**

70.(1) A return, certificate or other document made by a person, other than an individual, under this Act or under a regulation made under this Act shall be signed on behalf of the person by an individual duly authorised to do so by the person or the governing body of the person and, where the person is a corporation or an association or organisation that has duly elected or appointed officers, the president, vice-president, secretary and treasurer thereof, or other equivalent officers, shall be deemed to be so duly authorised.

(2) Where a registrant or other person who is required by this Act to pay an amount, file a return, notice or other document or carry out any other requirement is not resident in Barbados or is absent from Barbados at a time that would prevent the payment of the amount or carrying out that requirement, the person shall appoint an agent who is resident in Barbados to pay the amount or carry out the requirement of this Act and notify the Comptroller of the name, status and address of such agent.

(3) Where a person fails to appoint an agent in accordance with subsection (2), the Comptroller may designate any person who is resident in Barbados and is the manager, principal officer, factor, agent or other representative of the registrant in charge of taxable activities of the registrant in Barbados as such an agent.

(4) A person who is appointed or designated as the agent of a registrant or other person under subsection (2) or (3) shall

(a) perform every obligation and discharge every liability incurred by the registrant or other person under this Act; and

(b) keep in a separate account any tax or other amount payable or remittable by the registrant and pay or remit such tax or other amount to the Comptroller in accordance with the provisions of this Act.

(5) Any person who, having been appointed or designated as the agent of a registrant or other person under subsection (2) or (3), contravenes subsection (4)

is guilty of an offence and is liable on summary conviction to a fine of \$5 000 or to imprisonment for a term of 6 months or both.

PART IX
AVOIDANCE TRANSACTIONS

Anti-avoidance

71.(1) In this section

“transaction” means a transaction, arrangement or event or a series of transactions, arrangements or events;

“tax advantage” means

- (a) the avoidance, reduction or deferral of tax, penalty, interest or other amount payable by the person under this Act;
- (b) the creation of or an increase in
 - (i) a refund of, or payment equal to, tax or other amount to the person under this Act,
 - (ii) an amount of allowable input tax of the person for a taxable period,
 - (iii) an amount that may be deducted from the person’s payment of output tax for a taxable period under section 28(4)(b), 52(5), 53(2) and (3) or 56(1)(b), or
 - (iv) a remission, abatement or drawback of tax or other amount in the person’s favour; and
- (c) any similar benefit to the person.

(2) Where a transaction would, but for this subsection, directly or indirectly result in a tax advantage to a person and the transaction may not reasonably be regarded as having been undertaken or arranged primarily for *bona fide* purposes other than to obtain the tax advantage, the obligations and entitlements of the

person under this Act and any other enactment relating to value added tax shall be determined as is reasonable in the circumstances in order to deny that tax advantage.

PART X
ADMINISTRATION AND ENFORCEMENT

DIVISION I
Interpretation

Definitions

72. In this Part

“assessment” includes a reassessment;

“constable” means a member of the Police Force;

“determination” includes a redetermination;

“document” includes a record, a security, money, any electronic data, computer programmes, computer tapes, computer discs and microfilms;

“officer” means the Comptroller and any person in the public service who is employed or engaged, whether on a whole-time or part-time basis, to assist the Comptroller in the administration and enforcement of this Act;

“output tax” has the meaning assigned to it by section 43;

“record” includes a document, book, an account, a statement, a voucher, an invoice, a receipt, a letter, a facsimile, a telegram and a memorandum, whether recorded in writing or in any other manner and whether or not a process must be applied to it to make it readily intelligible;

“refund” includes any allowable input tax, deduction, remission, abatement, drawback or other payment of, or equal to, tax.

*DIVISION II**Administration***Comptroller and staff**

73.(1) The Comptroller shall administer and enforce this Act and shall control and supervise all persons employed or engaged to assist him in the administration and enforcement of this Act.

(2) Any function, power or duty conferred or imposed by this Act on the Comptroller is exercisable by any officer or class of officers authorised by the Comptroller for the purpose.

(3) The Comptroller and any officer who is specifically designated by the Comptroller for the purpose may, for a purpose connected with the administration or enforcement of this Act, administer oaths and take and receive affidavits, declarations and affirmations, and such oaths, affidavits, declarations and affirmations shall be of the same force and effect as if administered, taken or received by a Justice of the Peace.

(4) Sections 4(1) and (2) and 9 to 12 of the *Customs Act*, Cap. 66, apply, *mutatis mutandis*, to this Act.

Confidential information

74.(1) In this section, “confidential information” means information of any kind and in any form that relates to one or more persons and that is obtained by or on behalf of the Comptroller for the purpose of administering or enforcing this Act or is prepared from such information, but does not include information that does not directly or indirectly reveal the identity of the person to whom it relates.

(2) An officer shall maintain and assist in maintaining the secrecy of all confidential information which comes to his knowledge and shall not communicate any such confidential information to any person, except as authorised under this section, and, before he begins to perform any duty in relation

to his office or employment, shall take and subscribe the prescribed oath of secrecy.

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- (3) An officer may communicate confidential information
- (a) to any person solely for the purposes of the administration or enforcement of this Act or any other enactment that provides for the imposition or collection of a tax or duty or for the purpose of legal proceedings under any such enactment;
 - (b) to a public officer of the Ministry of Finance solely for the purpose of the formulation, evaluation or implementation of fiscal policy;
 - (c) to any person who is otherwise legally entitled thereto under this Act or any other enactment; or
 - (d) to any person with the consent of the person to whom the confidential information relates.
- (4) Where confidential information is communicated pursuant to subsection (3) to a person who is not an officer, that person shall not communicate or use that information for any purpose other than the purpose for which it was communicated to him.
- (5) An officer shall not be compelled to give or produce evidence relating to any confidential information in connection with any legal proceedings other than legal proceedings arising under this Act or any other enactment that provides for the imposition or collection of a tax or duty.
- (6) Any person who contravenes subsection (2) or (4) is guilty of an offence and is liable on summary conviction to a fine of \$5 000 or to imprisonment for a term of 6 months or both.

*DIVISION III**Audit and Investigation***Accounts and records**

75.(1) Every person who

- (a) carries on a taxable activity;
- (b) is required by this Act to pay, withhold or remit tax or other amounts;
or
- (c) claims, applies for or in any other manner requests a refund of tax,

shall keep records and books of account in Barbados, expressed in the English language and the currency of Barbados, in such form and containing such information as will enable the taxes and other amounts payable or remittable by the person under this Act, or the amount of any refund of tax to which the person is entitled, to be determined.

(2) Where a person fails to keep adequate records and books of account for the purposes of this Act, the Comptroller may require him to keep such records and books of account as the Comptroller specifies and that person shall thereafter keep records and books of account as so required.

(3) Subject to subsections (4) to (6), every person required by this section to keep records and books of account shall retain every such record and book of account until the expiration of 7 years after the end of the year to which the records and books of account relate or for such other period as may be prescribed.

(4) Where a person who is required by this section to keep records and books of account serves a notice of objection or is a party to an appeal under this Act, the person shall retain every record and book of account that pertains to the subject matter of the objection or appeal until the objection or appeal and any appeal therefrom is finally disposed of.

(5) Where the Comptroller is of the opinion that it is necessary for the administration or enforcement of this Act, the Comptroller may, by a demand served personally or by registered mail, require any person required under this section to keep records and books of account to retain them for such period as is specified in the demand.

(6) Subject to subsection (4), a person who is required by this section to keep records and books of account may dispose of them before the expiration of the time referred to in subsection (4) if written permission for their disposal is given by the Comptroller.

(7) Any person who fails to keep adequate records and books of account in accordance with this section is guilty of an offence and is liable on summary conviction to a fine of not less than \$1 000 and not more than \$5 000.

Audit powers

76.(1) An officer may, at any reasonable time, enter any premises or place where any taxable activity is carried on or anything is done in connection with any taxable activity or any property is kept or any records or books of account are or should be kept pursuant to this Act and

- (a) inspect, audit or examine the records and books of account of a person, any property or process of that person and any other matter that may be relevant in determining
 - (i) the amount of tax or other amounts payable or remittable under this Act by that or any other person or any other obligation of that or any other person under this Act, or
 - (ii) the amount of a refund that is payable to that or any other person under this Act;
- (b) require the owner or manager of the property or taxable activity and any other person on the premises or in the place to give him all reasonable assistance with his inspection, audit or examination and to answer all questions relating to the administration or enforcement of

this Act either orally or in writing and, for that purpose, require the owner or manager to attend at the premises or place with him.

(2) Where, during the course of an audit or examination referred to in subsection (1), it appears to the officer referred to in that subsection that there has been a violation of this Act or the regulations, the officer may seize and take away any of the records and books of account which may afford evidence of the violation.

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(3) The Comptroller may, for any purpose related to the administration of this Act, by registered letter or by a demand served personally, require any person

- (a) to provide any information or additional information in the form of a return or otherwise, and
- (b) to produce any records or books of account,

within such time as the Comptroller specifies.

Investigation of offences

77.(1) Where a magistrate is satisfied by information on oath that there is reasonable ground for believing that

- (a) an offence under this Act has been committed, and
- (b) a document or thing that may afford evidence of the commission of the offence is likely to be found in any building, thing, receptacle or place,

the magistrate may at any time issue a warrant under his hand authorising any officer, constable or other person named in the warrant to enter and search, by day or by night and if necessary by force, such building, thing, receptacle or place for any document or thing that may afford evidence of the commission of the offence and to seize and take away such document or thing.

(2) Where an officer, constable or other person has seized a document or other thing under subsection (1) or section 76(2), he shall take it to the Comptroller, who may retain the document or thing, taking reasonable care to ensure that it is

preserved, until the conclusion of any investigation into the offence in relation to which the document or thing was seized and any trial or appeal relating to the offence.

(3) Where a document or other thing has been seized under subsection (1) or section 76(2), a magistrate may, on application of an interested party, order that the document or thing be returned to the person from whom it was seized or the person who is otherwise legally entitled thereto if the magistrate is satisfied that the document or thing will not be required for the purposes of an investigation, trial or appeal relating to an offence under this Act.

(4) The person from whom any document or thing is seized under subsection (1) or section 76(2) is entitled, at all reasonable times and subject to such reasonable conditions as may be imposed by the Comptroller, to inspect the document or thing and, in the case of a document, to obtain a copy thereof.

(5) The Comptroller shall be given at least 7 days notice of an application made under subsection (3).

Interference with officers

78. Any person who

- (a) fails to comply with paragraph (b) of subsection (1) of section 76 or subsection (3) of that section, or
- (b) hinders, molests or interferes with any officer, constable or other person who is doing anything that he is authorised by or pursuant to section 76 or 77 to do or prevents any such officer, constable or other person from doing any such thing,

is guilty of an offence and is liable on summary conviction to a fine of \$5 000 or to imprisonment for a term of 6 months or both.

Application of audit and investigation powers

79. Without restricting the generality of sections 76 to 78, those sections apply to banks and attorneys-at-law, their employees and offices as they apply to any other business, persons and premises.

Copies of documents

80. Where a document or book of account has been seized, inspected, examined by an officer under section 76 or 77 or produced to an officer under section 76, the officer may make, or cause to be made, one or more copies thereof, and a document purporting to be certified by the officer to be a copy made pursuant to this subsection is admissible in evidence and has the same probative value as the original document.

Attorney-client privilege

81.(1) Where an attorney-at-law is prosecuted for failure to comply with a requirement under section 76 to give information or to produce a document, he shall be acquitted if he establishes to the satisfaction of the court that he

- (a) believed, on reasonable grounds, that a named client of his had an attorney-client privilege in respect of the information or document; and
- (b) that he informed the Comptroller, within 7 days after receiving notice of the requirement, that a named client of his had, in the opinion of the attorney-at-law, an attorney-client privilege in respect of the information or document.

(2) Where a person is about to examine or seize a document in the possession of an attorney-at-law and the attorney-at-law claims that a named client of his has an attorney-client privilege in respect of that document, the person shall, without inspecting, examining or making a copy of the document

- (a) seize the document and place it in a package together with any other document with respect to which the attorney-at-law at the same time

makes a similar claim of attorney-client privilege with respect to the same named client; and

(b) seal and identify the package and place it in the custody of the Registrar of the Supreme Court.

(3) Where a document has been placed in the custody of the Registrar under subsection (2), the attorney-at-law or the named client in respect of whom the claim of attorney-client privilege was made in respect of that document may apply to a Judge in chambers, upon at least 3 days notice to the Comptroller, for an order determining the question of whether that named client has an attorney-client privilege in respect of that document, and on the hearing of that application the Judge may inspect the document.

(4) Where no application under subsection (3) is made within 30 days after a document was placed in the custody of the Registrar under subsection (2), the attorney-client privilege shall be deemed to have been waived by the named client in respect of that document and the document shall be delivered up by the Registrar of the Supreme Court to the Comptroller.

(5) Where an order is made by a Judge under subsection (3) to the effect that an attorney-client privilege attaches to that document, the Registrar of the Supreme Court shall deliver up that document to the attorney-at-law from whom it was seized, but if an order is made to the effect that no attorney-client privilege attaches to that document, the Registrar of the Supreme Court shall deliver up that document to the Comptroller.

(6) While a package is in the custody of the Registrar of the Supreme Court under this section

(a) the attorney-at-law in respect of whom the claim of attorney-client privilege is made may request the Registrar to open the package and permit the attorney-at-law to make a copy of the document contained therein in the presence of the Registrar, and the Registrar shall comply with that request; and

- (b) the Registrar may open the package and separate the documents contained therein into 2 or more separate groups of documents, and thereafter the Registrar shall reseal the package or packages.
- (7) No person shall inspect, examine or seize a document in the possession of an attorney-at-law without giving the attorney-at-law an opportunity to make a claim of attorney-client privilege in respect of that document under this section.
- (8) For the purposes of this Act, an attorney-client privilege may be waived at any time by the client.
- (9) For the purposes of this Act, an accounting record of an attorney-at-law, including any supporting voucher or cheque, shall be deemed not to be within the scope of attorney-client privilege.

DIVISION IV

Assessments and Determinations

Assessment

- 82.(1)** The Comptroller may assess
- (a) any tax, penalty, interest or other amount payable or remittable by a person under this Act; and
- (b) any penalty under section 7(8), 34(4), 36(3), 38(9), 40(5), 45(3), 46(4), 52(8), 94 or 95,

and may reassess or make an additional assessment of such tax, penalty, interest or other amount.

- (1A) The interest on the reassessment of output tax shall accrue from the date of reassessment under subsection (1).

[2005-21]

(2) Where, in assessing the output tax payable by a registrant for a taxable period, the Comptroller determines that

- (a) an amount of allowable input tax of the registrant for the taxable period was not claimed by the registrant in a return filed for the taxable period; or
- (b) an amount that the registrant could have deducted from his payment of output tax for the taxable period under paragraph (b) of section 28(4), 52(5) or 53(2) and (3), 56(1)(b) was not deducted by the registrant in a return filed for the taxable period,

the Comptroller may take the amount into account in making the assessment.

(3) Where, in assessing the output tax payable by a person for a taxable period, the Comptroller determines that

- (a) the person paid, during the taxable period, an amount as or on account of tax on goods that were entered by him that exceeds the amount that was payable by him under this Act on the goods; and
- (b) the person has not
 - (i) applied for a refund of the excess under section 55,
 - (ii) claimed the amount referred to in paragraph (a) as an amount of allowable input tax in a return filed for the taxable period, or
 - (iii) recovered it in any other manner,

the Comptroller may take the amount into account in making the assessment as if it were an amount of allowable input tax.

[1997-2]

(4) Where, in assessing the output tax payable by a person for a taxable period, the Comptroller determines that there is an overpayment of output tax for the period, except where the assessment for that period is made under section 83(3) after the time otherwise limited therefor by paragraph (a) of section 83(1), the Comptroller shall apply the overpayment against any

outstanding tax, penalty, interest or other amount payable under this Act by the person and pay the balance, if any, to the person.

(4A) Where under subsection (4) the Comptroller has determined that the registrant has made an overpayment in respect of a particular taxable period and

- (a) the registrant has filed a return for the subsequent taxable period; and
- (b) the overpayment or any part thereof has not been paid or applied as required by that subsection,

the registrant may carry forward the overpayment or the unpaid part of the overpayment to the taxable period immediately following the period for which he is entitled to the refund, to be applied on account of the output tax payable.

[2004-22]

(5) Where a person has paid an amount on account of tax, net tax, penalty, interest or other amount assessed under this section and the amount paid exceeds the amount determined on reassessment to have been payable or remittable by the person,

- (a) the amount of the excess is payable to the person as a refund;
- (b) interest is payable to the person on the amount of the excess at the prescribed rate for each month or part thereof following the reassessment by the Comptroller during which the excess or any part thereof remains unpaid; and

[1997-2]

- (c) the Comptroller shall apply the amount of the excess and the interest thereon against any outstanding tax, penalty, interest or other amount payable under this Act by the person and pay the balance, if any, to the person.

(5A) Where a registrant is entitled to a refund under subsection (5)(a) in respect of a particular taxable period and

- (a) the registrant had filed a return for the subsequent taxable period; and

- (b) the refund or any part thereof or the interest payable thereon under subsection (5)(b) or any part thereof has not been paid or applied as required by subsection (5)(c),

the registrant may carry forward the refund or the unpaid part thereof or the interest payable on that refund or any part thereof on account of output tax payable to the taxable period immediately following the period for which he is entitled to the refund.

[2004-22]

- (6) Interest of less than \$1 shall not be paid or applied under subsection (5).
- (7) After making an assessment, the Comptroller shall send to the person assessed a notice of the assessment.
- (8) A notice of assessment may include assessments for more than one taxable period or transaction.
- (9) A person who has been assessed shall pay the tax, penalty, interest or other amount assessed forthwith after the notice of assessment is delivered to him.
- (10) In this section, “overpayment” in relation to output tax by a person for a taxable period means the amount, if any, by which the total of all amounts that the person paid or is deemed by section 46(2) to have paid as or on account of output tax payable by him for the period, exceeds the sum of
- (a) the total amount of output tax payable by the person for the period, and
 - (b) all amounts paid to the person, or applied against a liability of the person, under section 47(1) or 82(5) as or on account of a refund payable to him for the period under that section.

Period for assessment

83.(1) Subject to subsections (2) to (4), an assessment of a person shall not be made under section 82

- (a) in the case of an assessment of
 - (i) output tax payable by the person for a taxable period, or

- (ii) a penalty under section 45 or 46 for failing to file a return for a taxable period or pay output tax payable for a taxable period within the time prescribed by that section, more than 5 years after the later of
 - (A) the day on or before which the person was required under section 45 to file a return for the period, and
 - (B) the day on which the return was filed;
 - (b) in the case of any other penalty, more than 5 years after the contravention of the Act to which the penalty relates; and
 - (c) in any other case, more than 5 years after the amount became payable or remittable by the person.
- (2) Subsection (1) does not apply in respect of
- (a) a re-assessment made to give effect to a decision on an objection or appeal;
 - (b) an assessment of an amount that has been reported as an amount payable under this Act in a return filed under this Act or in an entry made under the *Customs Act*;
 - (c) an assessment of interest, where the amount on which the interest is calculated has been assessed in accordance with this section or has been reported as an amount payable under this Act in a return filed under this Act or in an entry made under the *Customs Act*; or
 - (d) an assessment of a penalty under section 95.
- (3) An assessment in respect of any matter may be made at any time where the person to be assessed has, in respect of that matter
- (a) made a misrepresentation that is attributable to the person's neglect, carelessness or wilful default; or

- (b) committed fraud in making or filing, or in failing to make or file, a return or application for refund under this Act or in supplying, or in failing to supply, any information under this Act.
- (4) Where, in assessing the output tax payable by a person for a taxable period, the Comptroller determines that
 - (a) the person has reported in the return filed by the person for the taxable period an amount of output tax that was payable by the person for another taxable period, or
 - (b) the person has reported in the return filed by the person for the taxable period, in this paragraph referred to as the “taxable period being assessed”
 - (i) an amount of allowable input tax of the registrant for another taxable period, or
 - (ii) an amount that the registrant should have deducted from his payment of output tax for another taxable period under section 28(4)(b), 52(5), 53(2) or (3) or 56(1), and the taxable period being assessed ended before, or within 5 years after the end of the other taxable period,

the Comptroller may at any time make an assessment for that other period in respect of that matter.

Comptroller not bound

84.(1) In making an assessment, the Comptroller is not bound by any return or information provided by or on behalf of any person and may make an assessment, notwithstanding that a return has been made or information has been provided or that no return has been made or no information has been provided.

(2) A person’s liability under this Act to pay or remit any tax, penalty, interest or other amount is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

(3) An assessment, subject to a decision on an objection or appeal under this Act relating to the assessment and subject to a reassessment, shall be deemed to be valid and binding.

(4) An appeal from an assessment shall not be allowed by reason only of an irregularity, informality, omission or error on the part of any person in the observation of any directory provision of this Act.

Determination of refund

85.(1) Where an application for a refund is filed by a person under sections 55 to 59, the Comptroller shall consider the application and determine the amount of the refund, if any, payable to the person.

(2) In considering an application, the Comptroller is not bound by any application or information provided by or on behalf of any person and the Comptroller may make a determination notwithstanding any application or information so provided.

(3) A determination, subject to a decision on an objection or appeal under this Act relating to the determination and subject to an assessment, shall be deemed to be valid and binding.

(4) An appeal from a determination shall not be allowed by reason only of an irregularity, informality, omission or error on the part of any person in the observation of any directory provision of this Act.

(5) After making a determination, the Comptroller shall send to the person assessed a notice of the determination.

DIVISION V
Objections and Appeals

Objections

- 86.(1)** Subject to this section, a person who
- (a) having been assessed, otherwise than to give effect to a decision on an objection or appeal, disagrees with the assessment; or
 - (b) having made an application for a refund of tax, disagrees with the Comptroller's determination respecting the application, other than a determination made to give effect to a decision on an objection or appeal,

may object to the assessment or determination by filing a notice of objection with the Comptroller within 21 days after the date of the notice of assessment or notice of determination, as the case may be, or such longer period as the Comptroller allows.

- (2) Except with leave of the Comptroller, a person may not object to an assessment unless the person has either paid the amount that was so assessed or given security, in an amount and form satisfactory to the Comptroller, for the payment thereof.
- (3) A notice of objection shall be in writing and shall state the precise grounds for the objection.
- (4) The Comptroller shall give a person who has objected to an assessment or determination an opportunity to support his objection by a written or oral submission to the Comptroller.

(5) The Comptroller shall, after receiving a notice of objection in respect of an assessment or determination and after giving the person who objected an opportunity to support his objection

- (a) review the assessment or determination and either confirm it or make a reassessment or redetermination, as the case may require;
- (b) deliver to the person who objected a notice of confirmation, a notice of reassessment or a notice of redetermination, as the case may require.

Appeal to Tribunal

87.(1) For the purposes of this Act, the Value Added Tax Appeal Tribunal, in this Act referred to as the “Tribunal” is established.

(2) The *Tribunal* shall comprise 5 members who shall be appointed by the Minister.

(3) An appeal to the *Tribunal* shall be heard and determined by the Chairman and not less than 2 members of the *Tribunal* selected by the Chairman and the Chairman and the members so selected shall have all the powers of the *Tribunal* in relation to that appeal.

[1999-25]

(4) At least one of the members of the *Tribunal* shall be an attorney-at-law of at least 10 years standing, and he shall be the Chairman of the *Tribunal*.

(5) Any person who has objected to an assessment or determination and who received a notice of confirmation, reassessment or redetermination may appeal from the decision of the Comptroller to the *Tribunal*, within 30 days after the day on which the notice of confirmation, reassessment or redetermination, as the case may be, was delivered to him.

(6) Where a person has filed a notice of objection under section 86 and the Comptroller has not, within 6 months thereafter, delivered to the person a notice of confirmation, reassessment or redetermination, the person may appeal the assessment or determination to which the notice of objection relates to the *Tribunal*.

(7) Where the Comptroller delivers to the person referred to in paragraph (b) of subsection (5) of section 86 a notice of confirmation, reassessment or redetermination respecting the objection referred to in that subsection after the expiration of the period of 6 months, the person may appeal to the *Tribunal* within 30 days after the delivery of the notice.

[1999-25]

(8) An appeal under this section shall be instituted by filing a notice of appeal with the *Tribunal* together with such copies thereof as the *Tribunal* may require, and such notice shall, as far as possible, state the precise grounds of appeal.

(9) Where the *Tribunal* is satisfied that there is good reason for the objector's failure to object or appeal within the time specified in subsection (5), (6) or (7), as the case may be, the *Tribunal* may allow the objector such further time as the *Tribunal* thinks fit.

[1997-2]

(10) Subject to this section, the *Administrative Appeal Tribunal Act*, Cap. 109A shall apply for the purpose of giving effect to this section notwithstanding that that Act is not in force.

(11) In an appeal to the *Tribunal* under this Act

- (a) the hearing shall be *in camera*;
- (b) the onus of proof is on the appellant; and
- (c) the *Tribunal* has no power to award costs.

(12) In an appeal under this section, the *Tribunal* may review any finding of fact made by the Comptroller, any exercise of discretion by the Comptroller or any opinion formed by the Comptroller.

(13) In disposing of an appeal under this section in respect of an assessment or determination, the *Tribunal* may

- (a) confirm or vacate the assessment or determination;

- (b) make an order referring the assessment or determination back to the Comptroller for reassessment or redetermination in accordance with the directions of the *Tribunal*; or
 - (c) make such order as the *Tribunal* thinks fit.
- (14) Where the *Tribunal* has referred an assessment or determination back to the Comptroller with directions for reassessment or redetermination by him
- (a) the Comptroller shall make a reassessment or redetermination in accordance with those directions and shall deliver to the appellant a notice of reassessment or notice of redetermination, as the case may be; and
 - (b) if the appellant believes that such notice of reassessment or notice of redetermination is not in accordance with the directions of the *Tribunal*, he may apply to the *Tribunal* for an order determining the content of the notice of reassessment or notice of redetermination, as the case may be, which shall then be delivered by the Comptroller to the appellant.
- (15) In the event of an appeal arising under this section before the establishment of the *Tribunal*
- (a) the appeal shall be heard by the *Income Tax Appeal Board* established by the *Income Tax Act*, Cap. 73; and
 - (b) the provisions of this Act relating to the *Tribunal* and sections 58(7) and 59(3) to (7) of the *Income Tax Act* apply, with such modifications as circumstances require, in respect of the appeal.

Appeal to High Court

88.(1) Any party to an appeal to the *Tribunal* may appeal from the decision of the *Tribunal* to the High Court on a point of law.

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- (2) In disposing of an appeal under this section in respect of an assessment or determination, the High Court may
- (a) confirm or vacate the assessment or determination;
 - (b) make an order referring the assessment or determination back to the Comptroller for reassessment or redetermination in accordance with the directions of the Court; or
 - (c) make such other order as it thinks fit.

DIVISION VI

Collection

Recovery of taxes

89.(1) All taxes, interest, penalties and other amounts payable or remittable under this Act are debts due to the Crown and are recoverable in civil proceedings in the High Court or in the Magistrate's Court for District "A".

(2) No proceedings for the recovery of any tax, interest, penalty or other amount payable or remittable by a person under this Act may be commenced in a court unless, at the time the proceedings are commenced, the person has been assessed for that amount or may under section 82 be assessed for that amount.

- (3) Where a judgment
- (a) exists by virtue of section 90; or
 - (b) is obtained in any court,

against a person in respect of any tax or other amount owed by that person, the provisions of this Act relating to the payment of interest in respect of amounts payable under this Act apply notwithstanding any rule of court.

- (4) Where a judgment
- (a) exists by virtue of section 90; or

(b) is obtained in any court,

against a person in respect of any tax or other amount owed by that person, the Comptroller may proceed to execute and enforce that judgment and exercise all the remedies attached thereto for the satisfaction of the judgment notwithstanding any enactment or rule of law to the contrary relating to any matter set out in subsection (5).

(5) The matters referred to in subsection (4) are

(a) the powers and duties of a receiver;

(b) the effect of a winding-up order under the *Companies Act*, Cap. 308; or

(c) the effect of a receiving order under the *Bankruptcy Act*, Cap. 303.

(6) Subject to section 95, the Comptroller may not take any action under any of sections 90 to 93 in respect of any amount payable or remittable by a person that may be assessed under this Part, other than interest, unless the amount has been assessed or the person has reported that amount as an amount payable by him under this Act in a return filed under this Act or in an entry made under the *Customs Act*.

(7) The Comptroller may, if he considers it advisable in a particular case, accept security in an amount and a form satisfactory to the Comptroller for payment of any amount that is or may become remittable or payable under this Act.

Unpaid tax Certificates

90.(1) Where an amount payable or remittable under this Act by a person, in this Act referred to as the “tax debtor”, has not been paid or remitted as required by this Act, the Comptroller may certify, in a certificate called an “unpaid tax certificate”, that the amount is an amount payable by the tax debtor under this Act.

(2) An unpaid tax certificate may be filed by the Comptroller in the High Court or the Magistrate's Court for District "A" and shall be registered in the court in which it is filed and after the expiry of 7 days after it is filed and registered has the same force and effect as a judgment of the court in which it is registered in favour of the Crown against the tax debtor for the amount specified in the certificate, plus

- (a) interest thereon as provided in this Act until the date of payment; and
- (b) the reasonable costs and charges attendant upon the registration of the certificate,

and all proceedings may be taken upon the certificate and it may be enforced as if it were a judgment of the court in which it is registered.

Garnishment

91.(1) Where the Comptroller knows or suspects that a person, in this section referred to as the "third party", is indebted to or is liable to make a payment to the tax debtor who is liable to pay or remit an amount under this Act, the Comptroller may, deliver to the third party, a demand for payment stating the name of the tax debtor and the amount payable or remittable by the tax debtor, including the rate of interest thereon and requiring the third party to make the payment forthwith if the payment is then due and owing; and if the payment from the third party to the tax debtor is not then due and owing, as it becomes due and owing.

(2) Where the Comptroller delivers a demand to a third party under subsection (1), the third party shall pay to the Comptroller, on account of a tax debtor's liability under this Act, moneys otherwise payable by the third party to the tax debtor as interest, rent, dividends, annuity, salary, wages, or other payment until the tax debtor's liability under this Act is satisfied or such amount as is due from the third party to the tax debtor, whichever is sooner.

(3) Where the Comptroller delivers a demand to a third party under subsection (1) the third party shall pay to the Comptroller, on account of the liability under this Act of a tax debtor who is an officer or employee of the third

party, moneys otherwise payable by the third party to the tax debtor as salary, wages or other remuneration, and the third party shall continue to do so until the amount due to the tax debtor is satisfied or until the amount demanded by the Comptroller is satisfied, whichever is the lesser.

(4) A receipt issued by the Comptroller for moneys paid as required under this section is a good and sufficient discharge of the third party's original liability to the tax debtor to the extent of the payment.

(5) A third party who fails to comply with a requirement under subsection (1), (2) or (3) is liable to pay to the Comptroller an amount equal to the amount that the third party was required to pay to the Comptroller under subsection (1).

(6) Where an amount that would otherwise have been payable by a third party to a tax debtor is paid by the third party to the Comptroller pursuant to a letter served on the person under subsection (1) or pursuant to an assessment of an amount payable by the third party under subsection (5), the person shall be deemed for all purposes to have paid the amount to the Comptroller on behalf of the tax debtor.

(7) The application of this section is subject to the *Protection of Wages Act*, Cap. 351.

Set-off or deduction

92. Where a person is indebted to the Crown under this Act, the Comptroller may require the retention by the way of deduction or setoff of such amount as the Comptroller may specify out of any amount that may be or may become payable to that person by the Crown.

Person leaving Barbados or defaulting

93.(1) Where the Comptroller suspects that a person is about to leave Barbados or in any other circumstances considers it appropriate for the protection of the revenue to do so, the Comptroller may, before the day otherwise fixed for payment, deliver to that person a notice for immediate payment stating the amount that the Comptroller believes that person is liable to pay as taxes, interest

or penalties, under this Act or would be liable to pay if the time for payment had arrived, and that person shall forthwith pay the amount specified in the notice for immediate payment.

(2) Where a person who has received a notice for immediate payment fails, within 24 hours after the notice was served on him under subsection (1), to pay forthwith the amount specified in the notice the Comptroller may certify the amounts under section 90 in an unpaid tax certificate and require its registration in the High Court or the Magistrate's Court for District "A" under that section, and section 90(2) thereupon applies with such modifications as the circumstances require.

DIVISION VII

Penalties and Offences

Penalties

False representations to recipients

94. Where a person knowingly, or recklessly represents to the recipient of a supply that an amount of tax is payable by the person in respect of the supply when no tax is payable or that an amount of tax is payable by the person in respect of the supply which exceeds the amount of tax that is actually payable, the person who makes the representation is liable to pay to the Comptroller a penalty equal to the amount or excess, as the case may be, that was so represented by him to be tax payable in respect of the supply.

False statements or omissions

95. Where a person knowingly, or recklessly makes or participates in, assents to or acquiesces in the making of a false statement or omission in a record, a book of account, a return, an application, a form or a tax invoice or in any answer or other information provided to an officer in writing under section 76(1)(b),

(2) or (3), in this section referred to as a “document”, the person is liable to pay to the Comptroller a penalty equal to the greater of \$250 and

- (a) in a case where an amount of tax payable by the person would be reduced if it were determined on the basis of the information provided in the document, the amount by which that tax would have been so reduced;
- (b) in a case where the amount that the person is deemed by section 46(2) to have paid on account of the output tax payable by him for a taxable period would be increased if it were determined on the basis of the information provided in the document, the amount by which that amount would have been so increased; and
- (c) in a case where the amount of a refund that the person applied for would be increased if it were determined on the basis of the information provided in the document, the amount by which that amount would have been so increased.

Offences

Issuing false tax invoice

96. Any person who knowingly issues a tax invoice to another person in circumstances where

- (a) the person has not and does not intend to make a taxable supply described in the tax invoice,
- (b) tax is not payable in respect of a supply described in the tax invoice as a taxable supply,
- (c) an amount shown in the tax invoice as tax payable in respect of a supply described in the tax invoice exceeds the tax that is payable in respect of that supply, or
- (d) the tax invoice is incorrect in any other material particular,

is guilty of an offence and is liable on summary conviction to a fine of \$5 000 or to imprisonment for a term of 6 months or both.

False representations to recipients

97.(1) Any person who falsely represents to the recipient of a supply that an amount of tax is payable by the person in respect of the supply when no tax is payable, or that an amount of tax is payable by that person in respect of the supply which exceeds the amount of tax that is actually payable, is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or imprisonment for a term of one year or both.

(2) A person who is convicted of an offence under this section in respect of a representation to a recipient of a supply is not liable to pay a penalty imposed under section 94 in respect of the same representation, unless a notice of assessment for the penalty was issued before the information giving rise to the conviction was laid.

Evasion

98.(1) A person is guilty of an offence who

- (a) has made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a record, a book of account, a return, an application, a form or a tax invoice or in any answer or other information provided to an officer in writing under section 76(1)(b), (2) or (3), in this section referred to as a “document”;
- (b) has, for the purpose of evading the payment or remittance of any tax or other amount payable or remittable under this Act or obtaining a refund to which the person is not entitled under this Act or in excess of the refund to which the person is entitled under this Act,
 - (i) destroyed, altered, mutilated, secreted or otherwise disposed of any document belonging to a person; or

- (ii) made, or assented to or acquiesced in the making of, false or deceptive entries, or omitted, or assented to or acquiesced in the omission, to enter a material particular in the document belonging to a person;
 - (c) wilfully, in any manner, evaded or attempted to evade compliance with this Act or the payment or remittance of tax or other amount payable or remittable under this Act;
 - (d) wilfully, in any manner, obtained or attempted to obtain a refund to which the person is not entitled under this Act or in excess of the refund to which the person is entitled under this Act; or
 - (e) conspired with any person to commit an offence described in paragraphs (a) to (d).
- (2) A person guilty of an offence under subsection (1) is, in addition to any other penalty that he is liable to pay, liable on summary conviction
- (a) to a fine of not less than 50% of the tax or other amount that he sought to evade or of the refund or excess refund he sought and not more than the greater of
 - (i) \$25 000, and
 - (ii) 200% of the tax or other amount that he sought to evade or of the refund or excess refund he sought; or
 - (b) to imprisonment for 2 years,
- or to both such fine and imprisonment.
- (3) A person who is convicted of an offence under this section is not liable to pay a penalty imposed under section 95 for the same cause, unless a notice of assessment for that penalty was issued before the information giving rise to the conviction was laid.

Failure to display VAT prices on goods or services

98A. Any person who contravenes subsection (4) of section 7 and has not complied with subsection (5) of that section is liable to pay to the Comptroller a penalty of \$5 000 and a further penalty of \$2 500 for each day or part thereof that the breach continues or 3 times the value of the goods or services, whichever is greater.

[1998-5]

General offence

99.(1) Any person who contravenes any provision of this Act or the regulations for which no other fine or term of imprisonment is provided under this Act is guilty of an offence and, in addition to any penalty he is otherwise liable to pay, is liable on summary conviction to a fine of \$2 500.

(2) A person who is convicted of an offence under this section is not liable to pay a penalty under this Act for the same contravention of this Act or the regulations unless a notice of assessment for that penalty was issued before the information giving rise to the conviction was laid.

Prosecutions

100.(1) An information in respect of an offence under this Act or the regulations may be heard, tried or determined before the Magistrate for District "A" and may be laid within 7 years after the matter of the information occurred or within one year after the day on which evidence, sufficient in the opinion of the Comptroller to justify a prosecution for the offence, came to his knowledge, whichever is the later; and the Comptroller's certificate as to the day on which such evidence came to his knowledge is conclusive.

(2) An information under this Act may be laid by an officer, any constable or any person specifically authorised by the Comptroller for the purpose and, where an information has been laid under this Act, no proceedings thereon shall be dismissed by reason only of the failure of the informant to appear in person or

by an attorney-at-law if the informant is represented by an officer or employee of the Crown assisting the Comptroller in the administration and enforcement of this Act and, where the informant is the Comptroller, no proceedings thereon shall lapse or be dismissed by reason of any change as to the holder of the office of Comptroller.

(3) An information or complaint in respect of an offence under this Act may be for one or more offences and no information, warrant, conviction or other proceedings in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to 2 or more offences.

(4) Where a person has been convicted by a court of an offence under this Act for failure to comply with a provision of this Act or the regulations, the court may make such order as it thinks fit to enforce compliance with the provision.

DIVISION VIII

Service and Evidence

Service of documents

101.(1) Where the Comptroller is authorised or required by this Act or the regulations to serve on, or issue, deliver or send to, a person a notice, request for information, demand or other document, the service, issuance, delivery or sending of the document may be effected

- (a) by personal service on the person;
- (b) by registered post addressed to the person at his usual or latest known place of abode or business and containing such document; or
- (c) by leaving the document for him with an adult person at his usual or latest known place of abode or business.

(2) Where the Comptroller is authorised or required by this Act or the regulations to send a notice to a person, the sending of the notice may be effected

- (a) by any method described in subsection (1); or
- (b) by posting an envelope addressed to the person at his usual or latest known place of abode or business and containing such notice.

(3) For the purposes of subsections (1)(b) and (2)(b), a document or envelope shall be deemed to be addressed to a person if

- (a) the person is a corporation, it is addressed to the secretary or any officer of the corporation; or
- (b) the person is an unincorporated body, it is addressed to any officer thereof by name.

(4) In the absence of evidence to the contrary, a notice, request, demand or other document that is sent to a person by mail in accordance with subsection (1)(b) or (2)(b) shall be deemed to have been delivered to or served on the person at the time at which the envelope in which the document was sent would have been delivered in the ordinary course of post.

(5) An affidavit of an officer setting out that

- (a) the officer has knowledge of the facts in the particular case;
- (b) a notice, request, demand or other document was on a named day
 - (i) sent by prepaid mail or prepaid registered mail to the person to whom it was addressed,
 - (ii) served personally on the person to whom it was directed or left for the person to whom it was directed, or
 - (iii) left for the person to whom it was directed with an adult person at his usual or latest known place of abode or business, as the case may be;

- (c) the officer identifies as an exhibit attached to the affidavit a true copy of the notice, request, demand or document; and
- (d) in the case of a notice, request, demand or other document that was sent by prepaid registered mail, the officer identifies as an exhibit attached to the affidavit the post office certificate of registration relating thereto or a true copy of the relevant portion thereof,

is *prima facie* evidence of the request, notice, demand or other document and the service, issuance, sending or delivery thereof.

Evidence

102.(1) Where, under this Act or the regulations, a person is permitted or required to make, file or provide a return, an application, a form, an answer or any other document or information in writing, an affidavit of an officer setting out that

- (a) the officer has knowledge of the practices of the Customs and Excise Department and has carefully examined the appropriate records maintained by the Department; and
- (b) the officer has been unable to find in a given case that the return, application, form, answer, document or information, as the case may be, has been made, filed or provided by that person,

is *prima facie* evidence that in that case the person did not make, file or provide the return, application, form, answer, document or information, as the case may be.

(2) Where, under this Act or the regulations, a person is permitted or required to make, file or provide a return, an application, a form, an answer or any other document or information in writing, an affidavit of an officer setting out that

- (a) the officer has knowledge of the practices of the Customs and Excise Department and has carefully examined the appropriate records maintained by the Department; and

- (b) the officer has found that those records show that the return, application, form, answer, document or information, as the case may be, was made, filed or provided on a particular day,

is *prima facie* evidence that it was made, filed or provided on that day and not before.

(3) In any proceedings under this Act, the production of a return, an application, a form, an answer or any other document or information in writing, which purports to have been filed with or provided to the Comptroller or an officer by or on behalf of a person or to have been made or signed by or on behalf of that person, is *prima facie* evidence that the return, application, form, answer or information, as the case may be, was filed or provided by or on behalf of that person or was made or signed by or on behalf of that person.

(4) An affidavit of an officer setting out that

- (a) the officer has knowledge of the practices of the Customs and Excise Department and has carefully examined the appropriate records maintained by the Department; and
- (b) the officer has found that those records show that the return, application, form, answer, document or information, as the case may be, was made, filed or provided on a particular day,

is *prima facie* evidence of the statements contained therein.

(5) Where evidence is offered under section 101(5) or this section by an affidavit from which it appears that the person making the affidavit is an officer, it is not necessary to prove the signature of the person or that the person is such an officer, nor is it necessary to prove the signature or official character of the person before whom the affidavit was sworn.

(6) Every document purporting to have been executed under or in the course of the administration or enforcement of this Act over the name in writing of the Comptroller or an officer authorised to exercise the powers or perform the duties of the Comptroller under this Act shall be deemed to be a document signed, made

and issued by the Comptroller or the officer, unless it has been called into question by the Comptroller or a person acting for the Comptroller.

DIVISION IX

Regulations

Regulations

- 103.** The Minister may make regulations
- (a) prescribing anything that is authorised or required to be prescribed by this Act;
 - (b) requiring any class of persons to make returns respecting any class of information required in connection with the administration of this Act;
 - (c) requiring any person to provide any information, including the person's name, address and registration number, to any class of persons required to make a return or application containing that information;
 - (d) providing for a second hand goods scheme;
 - (e) requiring a person who is, by a regulation made under paragraph (b), required to make a return to supply a copy of the return or of a prescribed part thereof to the person to whom the return or part relates; and
 - (f) generally for the purposes of giving effect to this Act.

PART XI
EFFECT OF TAX CHANGE ON CONTRACTS

Effect of tax change

104.(1) For the purposes of this section, “alteration of the law” means the coming into force of this Act or a regulation made under this Act, and any amendment to this Act or such a regulation, by which

- (a) a supply is charged with tax or ceases to be charged with tax; or
- (b) the rate of tax in respect of a supply is increased or reduced.

(2) Where an alteration in the law is made and a supplier has at any time entered into a contract with a recipient in respect of a supply, unless express provision for the exclusion of any such alteration in law is contained in the contract or the alteration in the law has been taken into account in entering into the contract, every such contract shall be deemed to be modified so that

- (a) where the alteration in the law renders the supply liable to be charged with tax or an increased amount of tax, the supplier may add to the amount agreed to be paid to him by the recipient the amount of that tax or increase in tax, as the case may be; and
- (b) where the alteration in law renders the taxable supply no longer liable to be charged with tax or liable to be charged with a reduced amount of tax, the supplier or the recipient may deduct from the amount agreed to be paid under the contract the amount of tax or reduction of tax, as the case may be.

PART XII
MISCELLANEOUS
Transitional

Transitional rules for goods

105.(1) Where a supplier makes a supply of goods and is to make the goods available to the recipient of the supply on or after the commencement of Parts II to IV and Parts VI to XII of this Act, but

- (a) an invoice for the supply was issued before that day, or
- (b) payment for the supply was received by the supplier before that day or became due before that day,

the supply shall be deemed to have been made on that day.

(2) Where a supplier makes a supply of goods under an agreement for the sale of the goods on approval, on sale or return or on other similar terms and the goods are made available to the recipient of the supply before Parts II to IV and Parts VI to XII of this Act commence but ownership of the goods is not transferred to the recipient before that day, the supply shall be deemed to have taken place on that day.

Transitional rules for services

106.(1) Subject to subsection (2), where a supplier makes a supply of services and is to perform the services, in whole or in part, on or after the day on which Parts II to IV and Parts VI to XII of this Act commence, but

- (a) an invoice for the supply was issued before that day; or
- (b) payment for the supply was received by the supplier before that day or became due before that day,

the supply shall be deemed to have taken place on that day.

(2) Where a supplier makes a supply of services on or after the day that Parts II to IV and Parts VI to XII of this Act commence but some of the services were performed before that day, tax is not payable in respect of the supply to the extent of the value of the supply that can reasonably be attributed to the services that were performed before that day.

(3) For the purposes of subsection (2), where services are supplied or performed on a continuous basis during a period, the services shall be deemed to be performed continuously and uniformly during that period.

Transitional rules for holdbacks

107. Where a written agreement for a supply provides for the retention by the recipient of part of the consideration for the supply pending satisfactory performance of the agreement or a part of the agreement, no tax is payable in respect of the supply to the extent of the value of the part of the consideration so retained that can reasonably be attributed to services that were performed before the day that Parts II to IV and Parts VI to XII commence or to goods that were made available to the recipient of the supply before that day.

Transitional rules for tickets

108. Where a person, before the commencement of this Part

- (a) sells or issues, for consideration a ticket (within the meaning assigned by section 19(1)) that is, on or after that date, exchanged for goods or services or used to obtain a reduction of, or a discount in, the price of goods or services; or
- (b) grants, for consideration, an option which is exercised, on or after the commencement of this Part, to purchase or otherwise receive a supply of goods or services, the consideration for the ticket or option shall be deemed to have become due and to have been paid at the time the ticket was sold or issued, as the case may be.

Application of anti-avoidance rule to former taxes

109. Section 71 applies, with such modifications as the circumstances require, for the purposes of the Acts referred to in the *Fourth Schedule** and any regulations or orders made under those Acts with respect to transactions undertaken, arranged or effected, in whole or in part, on or after the day that is 3 months before the commencement of this Act.

**[The amendments made to Acts referred to in the Fourth Schedule have been incorporated in those Acts. Spent.]*

*Amendments and Repeals***Repeals and Transitional**

110.(1) *[Spent.]*

(2) *[Spent.]*

(3) An enactment that is amended or repealed by subsection (1)* shall continue to have effect in respect of every right, privilege, obligation or liability that accrued or was acquired or incurred under that enactment or would have, but for the repeal or amendment of that enactment, accrued or been acquired or incurred under that enactment as a consequence of the imposition of a tax, duty or surcharge under that enactment or as a consequence of the payment of an amount as or on account of such a tax, duty or surcharge as if that enactment had not been so amended or repealed.

**[The text of subsection (1) is to be found in the annual volume of Laws published in 1997.]*

Act binds Crown

111. This Act binds the Crown.

[1997-2]

FIRST SCHEDULE*(Section 8)**Zero-Rated Supplies*

- 1.(1) Goods
- (a) entered by a supplier for export that are exported in compliance with the *Customs Act*, Cap. 66 and the *Customs Regulations, 1963* (L.N. 1963 No. 61) without having been used in Barbados after the supply was made except as necessary for or incidental to the export of the goods, and
 - (b) if the conditions referred to in section 57(2) of the Act have been complied with.
- (2) A supply of goods where the supplier delivers the goods to the Post Office or a courier for export and delivery at a place outside Barbados and obtains
- (a) in the case of goods exported by post, a certificate issued under the *Customs Regulations, 1963* by the Post Office as to the examination of the goods at the time of posting,
 - (b) in the case of goods exported by courier, a certificate issued by the proper officer of the Customs and Excise Department as to the examination of the goods at the time of delivery to the exporting ship or aircraft, and
 - (c) in any case, such other evidence of the exportation of the goods as the Comptroller may require.
- (3) A supply of goods where the supplier delivers the goods or makes them available to the recipient of the supply outside Barbados.

(4) A supply of a service rendered to an unregistered, non-resident person which does not relate to a service pertaining to real property situated in Barbados that

- (a) is not for consumption, use or enjoyment in Barbados by any person, or
- (b) is of an advisory or consultative nature where the beneficiary of the service, whether directly or indirectly, is outside Barbados at the time the service is performed, and

that is for consideration payable in a currency other than that of Barbados to a registrant as a fee, commission or income for performing the service.

(5) A supply of scheduled goods by an authorised person to a tourist, where the authorised person obtains evidence satisfactory to the Comptroller that the conditions specified in the *Customs (Drawback of Duties on Sale of Goods to Tourists) Regulations, 1958* (S.I. 1985 No. 86) for the payment of a drawback of duties in respect of the goods have been complied with.

(6) In sub-paragraph (5)

“authorised person” means a registrant who is an authorised person within the meaning of the *Customs (Drawback of Duties on Sale of Goods to Tourists) Regulations, 1958*;

“scheduled goods” means goods of the kind specified in the First and Fifth Schedules to the *Customs (Drawback of Duties on Sale of Goods to Tourists) Regulations, 1958*; and

“tourist” has the meaning assigned to it by the *Customs Regulations, 1963* (L.N. 1963 No. 61) .

2. A supply of an international freight transportation service, other than a service of transporting a passenger’s baggage in connection with the transportation of that passenger.

3.(1) A supply made to an unregistered non-resident person of a service of repairing, maintaining, cleaning, outfitting, refurbishing or improving a ship, aircraft or cargo container used by the person in international commercial service.

(2) A supply of services

(a) by the Barbados Port Authority to a ship, or

(b) by the Civil Aviation Division of the Ministry of International Transport to an aircraft,

to an unregistered non-resident person who is the owner or operator of the ship or aircraft, as the case may be, used by that person in international commercial service, for consumption or use in connection with that ship or aircraft.

(3) A charter of a ship or aircraft for use in international commercial service.

4.(1) A supply of a service to

(a) an unregistered non-resident person, other than an individual, or

(b) a non-resident individual who is outside Barbados when the service is performed,

for consideration that is payable in a currency other than that of Barbados to a registrant as a fee, commission or income for performing the service.

(2) A supply of a service of repairing, altering or improving an article that was imported into Barbados, where the supplier obtains evidence satisfactory to the Comptroller that the conditions specified in paragraph (c) of regulation 149 of the *Customs Regulations, 1963* for the payment of a drawback of duties in respect of the article have been complied with.

5. A supply of a telephone, telegraph or other telecommunication service, where the service is acquired for the purpose of supply by a telecommunications carrier that carries on business solely outside Barbados.

5A. A supply of water or sewerage services by the Barbados Water Authority.

[2008/70]

6.(1) A supply of

- (a) live mammals, birds, bees, fish, crustacean, molluscs or other animals or insects of a kind that are ordinarily raised or kept to produce or be used as food for human consumption,
- (b) a draught animal, or
- (c) poultry or fish eggs that are produced for hatching purposes,

to a person who carries on a business of agriculture or aquaculture for use or supply in that business.

(2) A supply of grains, seeds, hay, fodder, silage or any other animal feeding stuff that is suitable for feeding animals referred to in subparagraph (1)(a) or (b) and is not for human consumption.

(3) A supply of seeds, seedlings, cuttings or any other part of a plant that is for use in propagating plants that are used to produce food for human consumption or as animal feed stuffs included in subparagraph (2), or to produce such food or animal feed stuffs or cotton.

(4) A supply of fertilizer, insecticide, pesticide, herbicide, fungicide or other preparation formulated for agricultural use.

(5) A supply by a duly qualified veterinary practitioner of a veterinary service in respect of an animal referred to in subparagraph (1)(a) or (b).

7.(1) A supply of approved goods set out in paragraphs 39A and 39B of Part II of section B of the *Customs Tariff* to an approved fishery enterprise for use exclusively by the enterprise in commercial fisheries where the enterprise is

certified by the Minister responsible for Fisheries to be an approved fishery enterprise.

(2) In this paragraph, “approved goods” means goods approved for the purposes of this paragraph by the Minister responsible for Fisheries.

[1999/89]

8. A supply of a drug or other related item within the meaning of the *Drug Service Act*, Cap. 40A to

- (a) an individual on the written prescription of a medical doctor or dentist,
- (b) a medical doctor or dentist for use in his practice,
- (c) a hospital, or
- (d) a person who operates a pharmacy business and has entered into an agreement with the Director of the Drug Service relating to the provision of qualifying formulary drugs for the purposes of the Drug Service, where the person is acquiring the drug or related item for the purposes of the Drug Service in accordance with that agreement and under a certificate to that effect issued by or on behalf of the Director,

where the drug or related item is approved for the purposes of the Drug Service by the Minister responsible for Health or by any other person authorised for that purpose.

9. A supply of a prescribed medical device.

10. An unconditional gift of goods or services to a charity.

11. A supply of literature of an educational or scientific nature recorded on electronic or printed medium.

[1998/15]

12. A supply of crude oil.

13. That portion of international travel and international package tour that does not relate to travel to a foreign country by sea or air.

14. The supply of sugar cane by sugar cane farmers to Barbados Agricultural Management Company Limited.

[1997-2]

15. The supply of international cruises.

16. The supply of electricity, telecommunication services, accounting services and legal services, the supply of tickets as defined in section 15(7) and rental of office space to a person specified in section 58(1) and to a body to which paragraph 6 of the *Third Schedule* applies.

17. The payment known as service charge payable to hotels, guest houses and restaurants.

18. The supply of meals, drinks and snacks to students and staff of an approved educational institution (other than a tertiary institution) at a canteen on the compound of the institution.

19. A supply by hoteliers of a service of providing hotel rooms free of consideration to foreign travel agents or other foreign persons in the travel trade and certified by the Barbados Tourism Authority as part of the hotel industry's marketing strategy.

[2001/27]

20. A supply of the following food items

02.01 **Meat of bovine animals, fresh or chilled**

0201.10 Carcasses and half-carcasses

0201.201	Brisket with bone in
0201.209	Other cuts with bone in
0201.301	Tenderloin
0201.302	Sirloin
0201.303	Minced (ground) meat
0201.309	Other cuts boneless
02.02	Meat of bovine animals, frozen
0202.10	Carcasses and half-carcasses
0202.201	Brisket with bone in
0202.209	Other cuts with bone in
0202.301	Tenderloin
0202.302	Sirloin
0202.303	Minced (ground) meat
0202.309	Other cuts boneless
02.03	Meat of swine, fresh, chilled or frozen
0203.11	Carcasses and half-carcasses, fresh or chilled
0203.12	Shoulders and cuts thereof with bone in
0203.19	Other cuts with bone in
0203.21	Carcasses and half-carcasses, frozen
0203.22	Shoulders and cuts thereof with bone in
0203.29	Other cuts

02.04	Meat of sheep or goats, fresh, chilled or frozen
0204.10	Carcasses and half-carcasses of lamb, fresh or chilled
0204.20	Other meat of sheep, fresh or chilled
0204.30	Carcasses and half-carcasses of lamb, frozen
0204.40	Other meat of sheep, frozen
0204.50	Meat of goats, fresh, chilled or frozen
02.06	Edible offal of bovine animals, swine, sheep, goats, horses, asses, mules or hinnies, fresh, chilled or frozen
0206.10	Offal of bovine animals, fresh or chilled
0206.21	Tongues of bovine animals, frozen
0206.22	Livers of bovine animals frozen
0206.29	Other offal of bovine animals, frozen
0206.30	Offal of swine, fresh or chilled
0206.41	Livers of swine, frozen
0206.491	Pig trotters, frozen
0206.49	Other offal of swine, frozen
0206.80	Offal of other animals, fresh or chilled
0206.90	Offal of other animals, frozen
02.07	Meat and edible offal of chicken, fresh, chilled or frozen

0207.21	Fowls of the species Gallus Domesticus
0207.27.00.1 0	Turkey wings
0207.39	Chicken cuts and offal (including livers) fresh or chilled
0207.411	Backs and necks of the fowls of the species Gallus Domesticus, frozen
0207.412	Wings of the fowls of the species Gallus Domesticus, frozen
0207.419	Other cuts of the meat of the species Gallus Domesticus
0207.50	Chicken, livers, frozen
02.10	Meat and edible meat offal, salted or in brine, dried or smoked; edible flours and meals of meat or meat offal
0210.103	Other swine, salted or in brine
0210.201	Meat of bovine animals, salted or in brine
0210.901	Other meat, salted
0210.902	Edible meat offal, salted
0210.903	Edible flours and meals of meat or meat offal
03.02	Fish, fresh or chilled, excluding fish fillets and other fish meat of Heading No: 03.04
0302.10	Salmonidae, excluding livers and roes (including trout and salmon)

0302.20	Flat fish, excluding livers and roes (including halibut, plaice and sole)
0302.309	Tunas, skipjack or stripe bellied bonito, excluding livers and roes
0302.409	Other herrings, excluding livers and roes
0302.509	Other cod, excluding livers and roes
0302.602	Snapper, shark, croaker, grouper, dolphin, bangamary and sea trout, excluding livers and roes
0302.603	Flying fish, excluding livers and roes
0302.609	Other fish, excluding livers and roes
0302.70	Livers and roes
03.03	Fish, frozen, excluding fish fillets and other fish meat of Heading No: 03.04
0303.10	Pacific salmon, excluding livers and roes
0303.20	Other salmonidae, excluding livers and roes (including trout and other salmon)
0303.30	Flat fish, excluding livers and roes (including halibut, plaice and sole)
0303.409	Tunas, skipjack or stripe-bellied bonito, excluding livers and roes
0303.509	Other herring, excluding livers and roes
0303.609	Other cod, excluding livers and roes

0303.702	Snapper, shark, croaker, grouper, dolphin, bangamary and sea trout, excluding livers and roes
0303.703	Flying fish, excluding livers and roes
0303.709	Other fish, excluding livers and roes
0303.801	Livers
0303.802	Roes
03.04	Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen
0304.101	Fillet of flying fish, fresh or chilled
0304.109	Fillet or other fish, fresh or chilled
0304.201	Fillet of flying fish, frozen
0304.209	Fillet of other fish, frozen
0304.90	Other fish meat, fresh, chilled or frozen
03.05	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; fish meat fit for human consumption
0305.50	Dried fish, salted
0305.51	Dried cod, salted but not smoked
0305.591	Dried mackerel, herrings, alewives, saithe, pollock, haddock and hake, salted but not smoked
0305.599	Other dried fish, salted but not smoked

04.01 **Milk, not concentrated not containing
added sugar or other sweetening matter,
e.g. fresh milk including UHT milk and
Pasteurised milk**

- 0401.001 Fresh milk
0402.91 Evaporated milk
0402.991 Condensed milk
0406.00 Cheese
0407.003 Fresh eggs, other than hatching eggs

FRESH, CHILLED OR FROZEN VEGETABLES

07.01 **Potatoes, fresh or chilled**

- 0701.90 Other potatoes
0702.00 Tomatoes, fresh or chilled

07.03 **Onions, shallots, garlic, leeks and other
alliaceous vegetables, fresh or chilled**

- 0703.101 Onions
0703.102 Shallots (eschallots)
0703.20 Garlic
0703.90 Leeks and other alliaceous vegetables

07.04 **Cabbages, cauliflowers, kohlrabi, kale and
similar edible brassicas, fresh or chilled**

- 0704.001 Cabbages
0704.002 Cauliflowers

0704.009	Other
07.05	Lettuce (<i>latuca sativa</i>) and chicory (<i>Chichorium spp</i>), fresh or chilled
0705.10	Lettuce
0705.20	Chicory
07.06	Carrots, turnips, salad beetroot, salsify, celeriac, radishes and similar edible roots, fresh or chilled
0706.001	Carrots
0706.002	Beets
0706.009	Other
07.07	Cucumbers and gherkins, fresh or chilled
0707.001	Cucumbers
0707.002	Gherkins
07.08	Leguminous vegetables, shelled or unshelled, fresh or chilled
0708.001	Pigeon peas
0708.002	Blackeye peas
0708.003	String beans
0708.004	Bora (bodi) beans (<i>Vigna spp.</i>)
0708.009	Other
07.09	Other vegetables, fresh or chilled
0709.001	Aubergines (egg-plants)

0709.002	Zucchini
0709.003	Ochroes
0709.004	Pumpkins
0709.005	Sweet corn (corn on the cob)
0709.006	Sweet peppers
0709.007	Mushrooms and Truffles
0709.008	Other fruits of the genus Capsicum or of the genus Pimenta
0709.009	Other
07.10	Vegetables (uncooked or cooked by steaming or boiling in water), frozen
0710.10	Potatoes
0710.202	Garden peas (Pisum Sativum) shelled or unshelled, other
0710.204	String beans shelled or unshelled, other
0710.209	Other leguminous vegetables shelled or unshelled
0710.309	Spinach, other
0710.409	Sweet corn, other
0710.802	Beets, other
0710.804	Carrots, other
0710.809	Other vegetables, other than for use in industry

0710.909 Mixtures of vegetables, other than for use in industry

07.13 Dried leguminous vegetables, shelled whether or not skinned or split

0713.001 Red kidney beans

0713.002 Other beans

0713.003 Pigeon peas

0713.004 Split peas

0713.005 Blackeye peas

0713.006 Chickpeas (garbanzos)

0713.007 Other peas

0713.009 Other

GROUND PROVISIONS

07.14 Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content, fresh or dried, whether or not sliced or in the form of pellets; sago pith

0714.10 Manioc (cassava)

0714.20 Sweet potatoes

0714.901 Arrowroot

0714.902 Dasheens

0714.903 Eddoes

0714.904 Tannias

0714.905 Yams

0714.909 Other

FRESH FRUITS

**08.01 Coconuts, Brazil nuts and cashew nuts,
fresh or dried, whether or not shelled or
peeled**

0801.101 Coconuts, not shelled (fresh)

0801.109 Coconuts, other (fresh)

0801.20 Brazil nuts (fresh)

0801.30 Cashew nuts (fresh)

**08.02 Other nuts fresh or dried, whether or not
shelled or peeled**

0802.10 Almonds (fresh)

0802.20 Hazelnuts or filberts (fresh)

0802.30 Walnuts (fresh)

0802.40 Chestnuts (fresh)

0802.50 Pistachios (fresh)

0802.901 Kolo nuts (fresh)

0802.909 Other nuts (fresh)

08.03 Bananas, including plantains, fresh

0803.001 Bananas (fresh)

0803.002	Plantains (fresh)
08.04	Dates, figs, pineapples, avocados, guavas, mangoes and mangosteens, fresh
0804.10	Dates (fresh)
0804.20	Figs (fresh)
0804.30	Pineapples (fresh)
0804.40	Avocados (fresh)
0804.501	Guavas (fresh)
0804.502	Mangoes (fresh)
0804.503	Mangosteens (fresh)
08.05	Citrus Fruit, fresh
0805.10	Oranges (fresh)
0805.201	Ugli fruit (fresh)
0805.202	Ortaniques (fresh)
0805.209	Mandarins, (including tangerines and sasutmas); clementines, wilkings and similar citrus hybrids (fresh)
0805.301	Lemons (fresh)
0805.302	Limes (fresh)
0805.40	Grapefruit (fresh)
0805.90	Other citrus fruit (fresh)
08.06	Grapes, fresh

0806.10	Grapes (fresh)
08.07	Melons (including watermelons) and pawpaws (papayas) fresh
0807.101	Canteloupes (fresh)
0807.102	Watermelons (fresh)
0807.103	Muskmelons (fresh)
0807.109	Other melons (fresh)
0807.20	Pawpaws (papayas) (fresh)
08.08	Apples, Pears and Quinces, fresh
0808.10	Apples (fresh)
0808.20	Pears and quinces (fresh)
0809.00	Apricots, cherries, peaches (including nectarines), plums and sloes, fresh
08.10	Other fruit, fresh
0810.001	Berries (fresh)
0810.002	Sapodillas (fresh)
0810.003	Golden apples (fresh)
0810.004	Passion fruit (fresh)
0810.005	Soursop (fresh)
0810.006	Breadfruit (fresh)
0810.007	Carambolas (fresh)
0810.009	Other fruit (fresh)

10.06	Rice
1006.109	Rice in the hush (paddy or rough)
1006.20	Husked (Brown) Rice
1006.201	White Rice, in Packages for Retail Sale
1006.202	Other White Rice
1006.203	Parboiled Rice, in Packages for Retail Sale
1006.204	Other Parboiled Rice
1006.30	Semi-milled or wholly milled rice, whether or not polished or glazed
1006.301	Semi-milled White Rice in Packages of not more than 10 kg
1006.302	Other Semi-milled White Rice
1006.303	Semi-milled Parboiled Rice in Packages of not more than 10 kg
1006.304	Other Semi-milled Parboiled Rice
1006.305	Wholly Milled White Rice, in Packages of not more than 10 kg
1006.306	Other Wholly Milled White Rice
1006.307	Wholly Milled Parboiled Rice, in Packages of not more than 10 kg
1006.308	Other Wholly Milled Parboiled Rice
1006.40	Broken Rice
1006.401	In Packages for Retail Sale

1006.409	Other Broken Rice
11.01	Wheat or Meslin Flour
1101.001	Of Durum Wheat
1101.009	Other
1102.20	Maize (Corn) flour
1103.13	Maize (Corn) meal
	Cooking Oil
1507.90	Soya-Bean Oil
1515.29	Maize (Corn) Oil
1517.10	MARGARINE EXCLUDING LIQUID MARGARINE
	Luncheon Meat
1602.39	(i) of Chicken
1602.403	(ii) of Swine
1602.509	(iii) of Bovine
1602.501	Canned Corned Beef
1604.131	Sardines
1604.141	Tunas
1604.15	Mackerel
1701.11	Cane Sugar
1806.001	Cocoa powder containing added sugar or other sweetening matter

1806.009	Other chocolate and other food preparations containing cocoa except Confectionery
1901.10	Preparations for infant use, put up for retail sale (milk, and soya bean flour base)
1901.902	Preparations of malt extract used for making beverages
1902.001	Uncooked pasta, not stuffed or otherwise prepared
1902.001	Uncooked pasta, not stuffed or otherwise prepared (e.g. spaghetti, macaroni, noodles, lasagne, chow-mein)
1905.001	Biscuits unsweetened
1905.009	Bread unsweetened (e.g. sandwich loaves, hot dog rolls and hamburger buns)
2501.001	Table salt in retail packages of not more than 2.5 kg
2501.002	Other table salt

[2007/121]

[1998/15]

21. A supply of a computer system.

[2004-22]

22. A supply of computer peripherals and accessories.

[2004-22]

23. The supply of kerosene.

[2008/108]

[1998/15; 1999/89; 1999/25; 2001/27; 2004-22; 2007/121; 2008/70; 2008/108]

SECOND SCHEDULE*(Section 10)**Exempt Supplies*

1.(1) A supply of a financial service.

(2) In this paragraph

“financial instrument” means

- (a) money,
- (b) indebtedness of any kind, including a deposit of money,
- (c) a share in the capital stock of a corporation or any interest in or right to such a share,
- (d) an interest in, or a right to participate in, the capital, assets, earnings or property of a person or trust, and any right in respect of such an interest or right,
- (e) an option or a futures contract where the option or contract
 - (i) is for the provision of anything described in any other paragraph of this definition, or
 - (ii) is traded on a recognised commodity or futures exchange, and
- (f) a contract of insurance;

“financial service”

- (a) means
 - (i) the exchange of money, whether effected by the exchange of banknotes or coins, by crediting or debiting accounts or otherwise,
 - (ii) the operation or maintenance of a savings, chequing, deposit, loans, charge or other account,

- (iii) the provision of credit,
 - (iv) the issuance of a credit or debit and any service provided to the holder of the card under an agreement relating to the use of the card or to another person under an agreement relating to payments arising from the use of the card,
 - (v) the lending or borrowing of a financial instrument,
 - (vi) the issuance, granting, allotment, sale, underwriting, acceptance, endorsement, purchase, renewal, variation, receipt, payment, clearing, settlement or transfer of ownership of a financial instrument,
 - (vii) the payment or collection of interest, principal, dividends, an indemnity or any other amounts of any kind whatsoever in respect of a financial instrument,
 - (viii) the provision of credit or financing under a hire-purchase agreement or the assignment of, or the receipt of an assignment of, any such agreement,
 - (ix) the provision, variation, release or receipt of a guarantee, indemnity, security or bond in respect of the performance of obligations under a financial instrument,
 - (x) the provision, or transfer of ownership, of an interest in a superannuation or pension scheme, investment fund or unit trust,
 - (xi) managing or administering a scheme, fund or trust referred to in paragraph (x), and
 - (xii) the agreeing to do, or arranging for, anything referred to in any of paragraphs (i) to (xi), but
[1997-2]
- (b) does not include
- (i) the payment or receipt of money as consideration for a taxable supply,

- (ii) the provision of advice, or
- (iii) a professional service provided by an accountant, lawyer or actuary in the course of a professional practice.

[1997-2]

2.(1) A sale of real property.

(2) A lease of real property for a term of at least 25 years under which the lessee is given continuous exclusive possession of the real property throughout the term of the lease.

(3) A lease or licence of farmland where the recipient of the supply uses the farmland in the business of farming.

(4) A supply of a dwellinghouse (whether real property or a chattel house).

(5) A supply of goods or services made by a condominium corporation to the owner or occupant of a residential condominium unit located on the land operated by the condominium corporation where the goods or services are supplied in relation to or in connection with the occupancy or use of the unit.

3.(1) The provision of transportation services to passengers in a motor omnibus, minibus, taxi, maxi-taxi, tour coach, limousine or route-taxi chartered or otherwise.

(2) Words in subparagraph (1) have the meaning assigned to them by the *Road Traffic Act*, Cap. 295.

[1998/15]

4. [Repealed by 2008/70.]

5. A supply of a service by the Post Office, where the Postmaster-General has the exclusive privilege of providing that service under section 4 of the *Post Office Act*, Cap. 27A.

6. A supply of goods or services by a charity where the goods or services are not supplied in the course or furtherance of a business.

[1998/15]

7. A supply of a medical, dental, nursing, midwifery, paramedical or other service, where the service is performed by, or under the supervision and control of, a person who is registered as being qualified to perform that service under the *Medical Registration Act, Cap. 371, the Dental Registration Act, Cap. 367, the Nurses Act, Cap. 372, or the Paramedical Professions Act, Cap. 372C.*

8. A supply by a hospital.

[1997-2]

9. A supply of an ambulance service.

10. The provision of education or instruction by an approved educational institution.

11. A supply by a trade union within the meaning assigned by the *Trade Unions Act, Cap. 361*, to a member of the trade union or to another trade union, where the supply is made in the ordinary course of fulfilling the objects and purposes of the trade union.

12.(1) A supply of

- (a) lottery, sweepstake or instant money tickets,
- (b) a bingo card, or
- (c) any other ticket, card or other licence, right or device,

that permits or entitles the recipient of the supply to participate in a game of chance.

(2) A supply of a service of accepting a bet.

13. Services provided in hospitals, nursing homes or similar institutions for the following persons who need permanent care

- (a) aged persons,
- (b) indigent persons,
- (c) infirm persons,
- (d) disabled persons.

14. Membership subscriptions and other fees payable to a non-profit-making sports club engaged in a sporting activity, if the club is a member of an association registered with the National Sports Council.

[1997-2]

15. A supply of goods or services by the Pom Marine Hotel.

[1998/15]

[1997-2; 1998/15; 2008/70]

THIRD SCHEDULE*(Section 11)**Zero-rated Importations*

1.(1) Goods enumerated in paragraphs 3 to 8, 14, 19 to 23, 26, 28, 29, 32, 36, 37, 69, 80 and 81 of Part II-B of the *Customs Tariff*, subject to such conditions as may be prescribed by regulations or order made under the *Customs Act*, Cap. 66.

(2) For the purpose of applying subparagraph (1), references in paragraphs 7, 14, 28, 32 and 69 of Part II-B of the *Customs Tariff* to goods “imported by or on behalf of” a person shall be construed as references to goods “imported by” that person.

[2004/147]

2. Goods imported by an approved educational institution exclusively for the purposes and objects of that institution and not for sale.

3. Goods imported by a person where a supply of the goods to the person in Barbados would be zero-rated under paragraphs 6 to 12, 20 and 21 of the *First Schedule*.

[1998/15; 2004-22]

4. Goods imported by a company enjoying incentives under the *Fiscal Incentives Act*, Cap. 71A.

5. Machinery, equipment and spare parts for the exclusive use of Cable and Wireless (Barbados) Limited, Barbados Light and Power Company Limited, the Barbados Water Authority, Digicel (Barbados) Limited, Sunbeach

Communications Inc., Cellular Communications (Barbados) SRL and WAMCO Technology Group Limited.

[2004/84; 2005/155]

5A. Machinery, equipment, and spare parts imported by a company exclusively for the construction and operation of a desalination plant, the purpose of which is to supply water solely to the Barbados Water Authority.

[2000/52]

5B. Plant and machinery, equipment and spare parts imported by or on behalf of Antilles Crossing, LP and Tele (Barbados) Inc. for their exclusive use in the operation of a domestic public data communications network service.

[2006/25]

6. Goods imported by

- (a) a foreign sales corporation within the meaning assigned by the *Barbados Foreign Sales Corporation Act*, Cap. 59C,
- (b) an international business company within the meaning assigned by the *International Business Companies Act*, Cap. 77,
- (c) a company that is licensed to engage in exempt insurance business under the *Exempt Insurance Act*, Cap. 308A,
- (d) a company that is registered as a management company under the *Exempt Insurance Act*, Cap. 308A,
[1997-2]
- (e) an approved shipping company that qualifies for concessions under the provisions of the *Shipping (Incentives) Act*, Cap. 90A,
[2005/36]
- (f) a body corporate that is licensed to carry on international financial services under the *International Financial Services Act*, Cap. 325,
[2004-22]

- (g) an exempt society within the meaning of section 48 of the *Societies With Restricted Liability Act*, Cap. 318B,
[1997-2]
- (h) an international trust within the meaning of the *International Trusts Act*, Cap. 245,
[1997-2]
- (i) a qualifying insurance company within the meaning of section 2(1) of the *Insurance Act*, Cap. 310, or
[1998-31]
- (j) any other body established under or pursuant to any other enactment granting exemptions similar to those granted by the enactments mentioned in paragraphs (a) to (i).
[1997-2; 1998-31]

7. Goods imported for the purposes of a tourism product or a tourism project approved under the *Tourism Development Act*, Cap. 341

- (a) in respect of which relief from tax may be claimed pursuant to the provisions of that Act;
- (b) for the purpose of the refurbishment of that tourism product or tourism project and where the goods are contained in a list of goods approved by the Minister for such purposes.

[2002-7]

8. [Repealed by 1998/15.]

9. Goods approved by the Comptroller and deemed for the purposes of the *Customs Act*, Cap. 66 as being in bond, imported by an “authorised person” within the meaning of the *Drawback of Duties on Sale of Goods to Tourist Regulations, 1958*, for sale to tourists.

[1997-2]

10. Goods imported by a charity to be used exclusively for the purposes of the charity and not for sale, on the certificate to that effect of the Manager or Secretary of the charity.

[1998/15]

11. Currency notes and coins imported under the *Central Bank of Barbados Act*, Cap. 323C.

[1998/58]

12. Materials, equipment, vehicles, furniture and fixtures imported or purchased locally by non-resident contractors for the construction, outfitting and maintenance of the Kensington Oval Re-development Project.

[2006/24]

13. Articles and equipment imported or purchased locally and used exclusively for the purpose of the creation of a cricket museum to be located at Kensington Oval.

[2006/24]

14. Goods and services approved by the Comptroller and supplied to World Cup Barbados Inc. in connection with the hosting of Cricket World Cup 2007.

[2006/24]

15. Articles, supplies, equipment and vehicles imported by the Board of the Queen Elizabeth Hospital on the certificate to that effect of the Chief Executive Officer of the Hospital.

[2006/86]

[1997-2; 1998/15; 1998-31; 1998/58; 2000/52; 2001/35; 2002-7; 2003/92; 2004/84; 2004-22; 2004/147; 2005/36; 2005/155; 2006/24; 2006/25; 2006/86]