
ARRANGEMENT OF CLAUSES**PART I****PRELIMINARY**

1. Short title and commencement
2. Interpretation
3. Consideration
4. Fair market value
5. Related persons
6. Supplies
7. Taxable activity

PART II**IMPOSITION OF VALUE ADDED TAX**

8. Imposition of Value Added Tax and persons liable

PART III**REGISTRATION**

9. Persons exceeding threshold required to be registered
10. Suppliers of public entertainment required to be registered
11. Government entities and local authorities required to be registered
12. Registration of persons wishing to carry on investment
13. Voluntary registration
14. Registration
15. Cancellation of registration
16. Register of persons registered for VAT

PART IV

BASIC RULES RELATING TO SUPPLIES

17. Time of supply
18. Place of supply
19. Value of supply
20. Post-supply adjustments for VAT adjustment events
21. Post-supply adjustments for bad debts
22. Reverse charge on imported services

PART V

SPECIAL RULES RELATING TO SUPPLIES

23. Rights, options, and vouchers
24. Gambling supplies
25. Lay-away agreement
26. Vending machines
27. Supply as part of the transfer of a going concern
28. Travel agents and tour operators acting as principal
29. Value of employee fringe benefits

PART VI

BASIC RULES RELATING TO IMPORTS

30. Time of import.
31. Value of import.

PART VII

CALCULATION AND PAYMENT OF VAT NET AMOUNT

32. Net amount of VAT to be remitted in a tax period

PART VIII

INPUT TAX CREDITS

33. Goods or services for which no input tax credits are allowable
34. Input tax credits for acquisitions and imports
35. Acquisitions or imports by resident agent
36. Regulations relating to input tax credit entitlements

PART IX

VAT DOCUMENTATION

37. VAT invoices
38. Sales receipts
39. VAT credit and debit notes
40. Documentation issued by or to agents
41. Requests for VAT documentation
42. Prohibitions
43. Retention of records

PART X

VAT RETURNS & PAYMENTS

Division 1: VAT Payable on returns

44. VAT returns
45. Amended returns
46. Due date for payment of VAT for a tax period

Division 2: VAT Payable on imports

47. Due date for payment of VAT on imports
48. VAT payable on imports

PART XI
REFUNDS

49. Refund of negative net amount of VAT for a tax period
50. Refunds of VAT erroneously overpaid
51. Refunds to diplomats, non-profit bodies, and other international bodies
52. Application and payment of refunds

PART XII
ASSESSMENTS

53. Assessments
54. Assessment of recipient
55. Negation of tax benefit from a scheme
56. General provisions relating to assessments

PART XIII
POWERS AND DUTIES OF THE COMPTROLLER

57. Powers and duties of the Comptroller and the Comptroller of Customs
58. Co-operation and information exchange
59. Secrecy
60. Power to require security
61. Power to seize goods
62. Delegation

PART XIV
MISCELLANEOUS

63. Branches and divisions
64. Actions of partners, trustees, and members of unincorporated persons
65. Currency
66. VAT-inclusive pricing
67. Regulations

PART XV
INTEREST, PENALTIES, AND OFFENCES

Division 1: Interest

68. Interest on late payments
69. Penalties or offences for acts or omissions by companies
70. Aiding and abetting
71. Independent application of penalties and offences
72. Fines and penalties are in addition to tax payable

Division 2: Penalties and Offences

73. Failure to apply for registration
74. Failure to display registration certificate
75. Failure to notify changes affecting registration, or to apply for cancellation of registration
76. Failure to comply with requirements after cancellation of registration
77. Public entertainment supplies by unregistered persons
78. False Documentation or TIN
79. Failure to file return or pay net amount due
80. Failure to comply with notice for recovery of VAT
81. Failure to keep records
82. Failure to comply with notice to give information
83. Non-compliance with VAT-inclusive price quotation requirements
84. False or misleading statements
85. Understatement of tax payable or improper claim for refund
86. Failure to pay security
87. Impeding tax administration
88. VAT evasion

- 89. Failure to preserve secrecy
- 90. Offences by taxation officers
- 91. General penalties and offences

PART XVI

FIXED PENALTY

- 92. Interpretation
- 93. Fixed penalty notices
- 94. Particulars to be specified in fixed penalty notice
- 95. Payment of fixed penalty precludes prosecution
- 96. Amount of fixed penalty payable
- 97. Payment of fixed penalty
- 98. Certificate of payment or non payment of fixed penalty
- 99. Consequence of failure to pay or to appear
- 100. Amendment and replacement of sixth schedule
- 101. Special regulations

PART XVII

COLLECTION AND RECOVERY

- 102. Recovery of VAT
- 103. Allocation of payments
- 104. Recovery of VAT from persons leaving Grenada

PART XVIII

OBJECTIONS AND APPEALS

- 105. Reviewable decisions
- 106. Objections to the Comptroller
- 107. Appeals to the Appeal Commissioners
- 108. Right of further appeal
- 109. Payment not suspended by objection or appeal

PART XIX

RECORD-KEEPING AND INFORMATION COLLECTION

- 110. Maintenance of accounts and records
- 111. Power to require provision of information
- 112. Power to enter and search
- 113. Translation of records

PART XX

TAXPAYER IDENTIFICATION NUMBER

- 114. Taxpayer identification number

PART XXI

REPRESENTATIVES

- 115. Power to appoint representatives
- 116. Liabilities and obligations of representatives
- 117. Duties of Receivers
- 118. Directors of companies
- 119. Officers of unincorporated bodies
- 120. Continuity of partnerships or unincorporated associations
- 121. Death or insolvency of taxable person; mortgagee in possession
- 122. Trustee

PART XXII

FORMS AND NOTICES

- 123. Forms, notices, and authentication of documents
- 124. Service of notices
- 125. Validity of documents

PART XXIII

PRINCIPLES OF INTERPRETATION

126. Purposive interpretation and extrinsic materials.

SCHEDULES

- Schedule I Zero-rated supplies: Exported goods and other supplies of goods for consumption outside Grenada
- Schedule II Zero-rated supplies: Exported services and other supplies of services for consumption outside Grenada
- Schedule III Zero-rated supplies and imports: Other
- Schedule IV Exempt supplies
- Schedule V Exempt imports
- Schedule VI List of offences
- Schedule VII Notice of opportunity to pay fixed penalty



GRENADA

ACT NO. 23 OF 2009



I assent,

CARLYLE A. GLEAN
Governor-General.

21st July, 2009.

AN ACT to introduce a broad based tax on the consumption of goods and services in Grenada, by providing for the imposition and collection of a value added tax, and for related matters.

[By Order].

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives and by the authority of the same as follows:

PART I

PRELIMINARY

1.—(1) This Act may be cited as the

VALUE ADDED TAX ACT, 2009.

(2) Subject to subsection (3), this Act comes into force on such day as the Minister may by Order appoint.

Short title and commencement

(3) To the extent necessary to give effect to the Value Added Tax (Transitional Provisions) Act 2009 and to prepare for the implementation of VAT, this Act comes into force on the day the Act receives Royal assent.

Interpretation.

2.—(1) In this Act—

“acquisition,” in relation to the recipient of a supply, means:

- (a) the receipt of goods or services supplied to the recipient by the supplier;
- (b) the receipt of goods or services by another person at the instigation of the recipient or under an agreement between the supplier and the recipient; and
- (c) if another person is treated as making a supply to the person under this Act or the Regulations, a corresponding receipt of that supply;

“address” in relation to a supply of telecommunication services, has the meaning given in section 18(9);

“aircraft’s stores” means stores for the use of the passengers or crew of an aircraft, or for the service of an aircraft;

“ancillary transport services” means stevedoring services, lashing and securing services, cargo inspection services, preparation of customs documentation, container handling services, and the storage of transported goods or goods to be transported;

“Appeal Commissioners” means the Appeal Commissioners appointed under section 88 of the Income Tax Act 1994;

“approved form” means a form approved under this Act or under any Act dealing with the administration of this Act;

“approved non-profit body” means a person designated as such in the Regulations;

“body of persons” means:

- (a) a body politic, corporate, or collegiate; and
- (b) a company, fraternity, fellowship, partnership, or society of persons, whether corporate or unincorporated, and includes a joint venture and a trust;

“business” includes any profession, vocation, trade, manufacture, venture or undertaking, any provision of personal services or technical and managerial skills, and any adventure or concern in the nature of trade;

“capital asset” means an asset, whether tangible or intangible, acquired by a person for use in the person’s taxable activity but does not include:

- (a) consumables or raw materials; or
- (b) an asset acquired for the principal purpose of resale in the ordinary course of carrying on the person’s taxable activity, whether or not the asset is to be sold in the form or state in which it was acquired;

“Common External Tariff” means the CARICOM Common External Tariff (SRO 37/99) as set out in the Fifth Schedule to the Customs Act;

“company” means a company registered under the Companies Act;

“Comptroller” has the meaning given in the Income Tax Act 1994;

“Comptroller of Customs” has the meaning given in the Customs Act;

“condominium corporation” means a corporation created under section 13 of the Condominium Act, Cap. 60;

“consideration” has the meaning given in section 3;

“Customs Act” means the Customs Act 1960;

“customs laws” means the Customs Act and any other law relating to customs, and includes a proclamation, rule, regulation, resolution, or order made under the authority of a law relating to customs;

“entertainment” has the meaning given in section 33(1);

“exempt” in relation to a supply or import, means—

- (a) a supply or import that is specified as exempt under this Act, in a Schedule to this Act, or under the Regulations; or

- (b) a supply of a right or option to receive a supply that will be exempt;

“exempt use” means the use of goods or services to make an exempt supply including where:

- (a) goods or services initially acquired for the purpose of making supplies other than exempt supplies, or purposes including such purposes, are in fact used or consumed wholly in making exempt supplies; or
- (b) goods or services are initially used wholly or partly for making non-exempt supplies, but at a later point in time (the time of the exempt use) an intention is formed to use them thereafter wholly in making exempt supplies,

and for this purpose, a wholly exempt use includes a use predominantly to make exempt supplies, if any use for other purposes of the taxable activity will constitute less than 10 per cent of the use of the goods or services;

“exporter” has the meaning given to it under the Customs Act;

“export” in relation to a supply of goods, means the goods are delivered to, or made available at, an address outside Grenada, and for this purpose evidence of—

- (a) the consignment or delivery of goods to an address outside Grenada; or
- (b) the delivery of the goods to the owner, charterer, or operator of a ship or aircraft engaged in international transport for the purpose of carrying the goods outside

Grenada is considered sufficient evidence that the goods have been exported, in the absence of proof to the contrary;

“face value,” in relation to a voucher, means a monetary amount stated on the voucher (whether visibly, electronically, or otherwise) or associated with the voucher, (whether by means of a unique identification number or some other means of linking the voucher with the amount), including an amount added by recharging the voucher, where the amount represents the value of supplies of goods or services for which the voucher is redeemable;

“face value voucher” means a voucher which entitles the holder to receive a supply or supplies of goods or services up to the face value of the voucher;

“fair market value” has the meaning given in section 4;

“finance lease” means—

- (a) a hire purchase agreement; or
- (b) a lease, other than a lease of land, that is treated as a finance lease under international financial reporting standards;

“gambling event” means:

- (a) the conduct of a lottery or raffle, or similar undertaking; or
- (b) a race, game, sporting event, or any other event which has or is intended to have an outcome;

“gambling supply” means:

- (a) a supply of a ticket (however described) in a lottery, raffle or similar undertaking; or
- (b) the acceptance of a bet (however described) relating to the outcome of a gambling event;

“goods” means real property or tangible personal property, but does not include money;

“government entity” means—

- (a) the Government of Grenada or a department, division, or agency of Government;
- (b) a body, agency, or authority owned or operated by the Government of Grenada; or
- (c) a local authority, council, or similar body, whether or not that department, division, agency, body, authority, or council would otherwise be treated as a separate person;

“holiday or hotel accommodation” means:

- (a) a supply of accommodation in a building, part of a building, or a group of buildings (including all structures within the curtilage thereof) that constitute a hotel, motel, boarding house, guest house, hostel, an inn, a villa, or similar establishment in which lodging is regularly or normally provided to four or more persons at a daily, weekly, monthly, or other periodic charge; or

- (b) a supply of accommodation not covered by paragraph (a), if the accommodation is held out for use for short term occupation by individuals other than as their main residence;

“home use” means that goods have completed the required customs clearance formalities, are no longer subject to customs control and are therefore available for free circulation in Grenada;

“import” has the meaning given in the Customs Act;

“importer” has the meaning given in the Customs Act;

“individual” means a natural person;

“input tax” means—

- (a) in relation to an acquisition by a person, the VAT chargeable on the supply to the person, of the goods or services acquired;
- (b) in relation to an import of goods by a person, the VAT chargeable on that import; and
- (c) any amount that is treated as input tax under this Act or the Regulations;

“input tax credit” means a credit for input tax allowed under section 34 or under any other provision of this Act or the Regulations;

“international assistance agreement” means an agreement between the Government and a foreign government or public international organisation for

the provision of financial, technical, humanitarian, or administrative assistance to the Government;

“international transport” means—

- (a) the services, other than ancillary transport services, of transporting passengers or goods by road, water, or air—
- (i) from a place outside Grenada to another place outside Grenada;
- (ii) from a place outside Grenada to a place in Grenada; or
- (iii) from a place in Grenada to a place outside Grenada;
- (b) the services of transporting passengers from a place in Grenada to another place in Grenada to the extent that those services are supplied, as part of the supply of services to which paragraph (a) applies and by the same supplier;
- (c) the services, including ancillary transport services, of transporting goods from a place in Grenada to another place in Grenada to the extent that those services are supplied as part of the supply of services to which paragraph (a) applies and by the same supplier; or

“invoice” means a document notifying an obligation to make a payment;

“lay-away agreement” has the meaning given in section 25(1);

“Minister” means the Minister with responsibility for Finance;

“money” means—

- (a) any coin or paper currency (whether of Grenada or of another country);
- (b) a negotiable instrument used or circulated, or intended for use or circulation, as currency (whether of Grenada or of another country);
- (c) a bill of exchange, promissory note, bank draft, postal order, money order, or similar instrument; or
- (d) whatever is supplied as payment by way of:
 - (i) credit card or debit card; or
 - (ii) crediting or debiting an account,

but does not include a collector's piece or an item of numismatic interest;

“non-resident” means—

- (a) a person who is not resident in Grenada; and
- (b) a person referred to in paragraph (d) of the definition of resident, to the extent that the person is not treated as a resident by that paragraph;

“officer” of an unincorporated body means—

- (a) in the case of a partnership, a partner of the partnership;
- (b) in the case of a trust, a trustee of the trust; and
- (c) in the case of any other unincorporated body—
 - (i) a person who holds office as chairperson, president, treasurer, secretary, or similar office of the body; or
 - (ii) if there is no such officer, a member of a committee that has management of the affairs of the body; or
 - (iii) if no person can be identified under sub-paragraph (i) or (ii), a member of the body.

“output tax,” in relation to a person, means:

- (a) the VAT chargeable in respect of a taxable supply made or treated as having been made by the person; and
- (b) any amount that is required, under this Act or the Regulations, to be treated as output tax of the person;

“partnership” means two or more persons carrying on a taxable activity jointly;

“passenger vehicle” has the meaning given in section 33(1);

“person” means an individual, a company or other body of persons, a government entity, a foreign government;

“phone card” means a card or other item in whatever form it is issued, including electronically, which entitles the holder to receive telecommunications services, whether or not it also entitles the holder to receive other goods or services, and includes a pre-paid mobile phone card, a rechargeable card or similar item, and a unique identification number or other identifier that represents a payment or prepayment for airtime;

“prepaid telecommunications account” means a prepaid mobile phone account or any other account with a telecommunications supplier that records amounts that have been prepaid by a customer and can be used by the customer to pay for telecommunication services, including an account that can also be used to pay for supplies of goods or services other than telecommunications services;

“progressive or periodic supply” means—

- (a) a supply of goods or services made progressively or periodically under an agreement or law that provides for progressive or periodic payments; or
- (b) a supply of goods by way of a lease, hire, or licence (including a finance lease);

“real property” includes an estate, interest, easement, or right, whether equitable or legal, in, to, or out of land, including anything attached to land or things permanently fastened to anything attached to land;

“recipient” means the person to whom a supply is made;

“registered,” in relation to a person, means that the person is registered for VAT;

“registration threshold” means the threshold set out in section 9(2);

“Regulations” means regulations made under this Act;

“related persons” has the meaning given in section 5;

“repealed taxes” has the meaning given in the Value Added Tax (Transitional Provisions) Act 2009;

“representative” means, in the case of:

- (a) an individual under a legal disability—a guardian or manager who receives or is entitled to receive income on behalf of, or for the benefit of, the individual;
- (b) a company, other than a company in liquidation—the chief executive officer of the company;
- (c) an unincorporated association or body—a member of the committee of management of the association or body;
- (d) a government entity—an individual responsible for accounting for the receipt or payment of moneys or funds on behalf of the entity;

- (e) a local authority, council, or similar body—an individual responsible for accounting for the receipt or payment of moneys or funds on behalf of the authority, council, or body;
- (f) a partnership—a partner in the partnership;
- (g) a trust, including an estate of a deceased person—a trustee of the trust or an executor or administrator of the estate;
- (h) a foreign government or a political subdivision of a foreign government—an individual responsible for accounting for the receipt or payment of moneys or funds in Grenada on behalf of that government or political subdivision of government;
- (i) any other body of persons not mentioned above—a person who is responsible for accounting for the receipt or payment of moneys or funds on behalf of the body;
- (j) a non-resident person—a person controlling the person's affairs in Grenada, including a manager of a business of such person in Grenada;
- (k) any person—a receiver or agent of the person; and
- (l) any person—a person that the Comptroller has, by notice in writing, declared to be a representative of the person for the purposes of this Act;

“resident” means:

- (a) a government entity or a Grenadian local government authority, council, or similar body;
- (b) a person resident in Grenada for the year in question for the purposes of the Income Tax Act 1994;
- (c) a person, other than an individual, formed or created under a law of Grenada or managed and controlled in Grenada (whether or not that person is resident in Grenada for the year in question, for the purposes of the Income Tax Act 1994); or
- (d) any other person to the extent that the person carries on a taxable activity through a fixed place in Grenada;

“residential premises” means land or a building that is occupied or capable of being occupied as a residence, but a supply of hotel or holiday accommodation is not a supply of residential premises;

“reverse charge,” in relation to an acquisition of services, means that the recipient of the supply is liable for VAT on the supply of the services under section 22;

“reviewable decision” means a decision that may be objected to or appealed under Part XVII;

“sales receipt” means a document that a supplier is required to issue under section 38;

“services,” in the context of a supply, has the meaning given in section 6(2);

“ship’s stores” means stores for the use of the passengers or crew of a ship, or for the service of a ship;

“stores” in the definitions of “aircraft’s stores” and “ship’s stores,” includes goods (for use in the aircraft or ship), fuel, and spare parts, and other articles or equipment, whether or not for immediate fitting;

“supplier,” in relation to a supply, means the person or persons who make the supply;

“supply” means a supply of goods or services as defined in section 6;

“tax fraction” has the meaning given in section 19(1);

“tax period” means a calendar month;

“taxable acquisition” means the acquisition of a taxable supply;

“taxable activity” has the meaning given in section 7;

“taxable import” means an import of goods other than an exempt import;

“taxable person” means:

- (a) a person who is registered; and
- (b) subject to the limitations set out in section 9(7), 10(3), or 11(3), whichever is applicable, a person who is required to be registered;

“taxable supply” means:

- (a) a supply made in Grenada by a taxable person in the course or furtherance of a taxable activity, except to the extent that the supply is an exempt supply; and
- (b) a supply on which VAT is required to be reverse charged under section 22;

“taxation officer” means a person acting on the behalf of the Comptroller or the Comptroller of Customs;

“taxpayer identification number” or “TIN” means the number issued by the Comptroller to a person for the purposes of the person’s registration under this Act;

“telecommunications supplier” means a supplier of telecommunications services;

“telecommunications services” means the transmission, emission, or reception of signals, writing, images, sounds or information of any kind by wire, radio, optical, or other electromagnetic systems, and includes:

- (a) the related transfer or assignment of the right to use capacity for such transmission, emission, or reception; and
- (b) the provision of access to global or local information networks, but does not include the supply of the underlying writing, images, sounds, or information;

“thing,”—

- (a) in the context of a supply, means the goods or services that are the subject matter of the supply; and
- (b) in the context of an import, means the goods imported.

“total amounts wagered” has the meaning given in section 24(1);

“total monetary prizes” has the meaning given in section 24(1);

“travel agent” means an agent, tour operator, hotel operator, or person acting in a similar capacity, who makes supplies of rights to receive accommodation, meals, tours, entertainment, or similar goods or services commonly provided to tourists or international visitors (whether alone or as part of a holiday or tour package);

“trust,” in the context of the definition of a person, means the person or persons acting from time to time in the capacity of trustee of a particular trust estate;

“trust estate,” means property held by a person or persons acting as trustee;

“value,”—

- (a) in relation to a supply, has the meaning given in section 19; and
- (b) in relation to an import, has the meaning given in section 31;

“VAT” or “Value Added Tax” means the tax imposed under this Act, and includes any amount to the extent that it is treated as VAT for the purposes of this Act;

“VAT adjustment event” has the meaning given in section 20(1), including as affected by section 21;

“VAT commencement day” means the day on which the Act comes into force under section 1(2);

“VAT credit note” or “credit note” means a document that a supplier is required to issue under section 39(1);

“VAT debit note” or “debit note” means a document that a supplier is required to issue under section 39(2);

“VAT-exclusive fair market value” means the fair market value of a supply or thing, reduced, if it were worked out on the basis that the transaction price would include VAT, by an amount equal to the tax fraction of that value;

“VAT invoice” means a document that a supplier is required to issue under section 37(1);

“VAT properly chargeable” in the context of a VAT adjustment event, means the VAT that would have been chargeable:

- (a) where the VAT adjustment event has the effect of cancelling the supply, if the goods or services returned had not been supplied; or
- (b) in any other case, if the VAT adjustment event had taken place before the value of the supply was calculated for the purposes of issuing the tax invoice or receipt that was, or should have been, issued for the supply.

“VAT return” means a return, including an amended return, that a taxable person is required to lodge under Division 1 of Part X or under any other provision of this Act or any Act dealing with the administration of this Act;

“voucher” means a voucher, stamp, token, coupon, or similar article, including an article issued electronically, that can be redeemed by the holder for supplies of goods or services, and includes a phone card and a prepaid telecommunications account but does not include a postage stamp;

“zero-rated,” in relation to a supply or import, means—

- (a) a supply or import that is specified as zero-rated under this Act, in a Schedule to this Act, or under the Regulations; or

- (b) a supply of a right or option to receive a zero-rated supply.

(2) In the Schedules to this Act, the classification and description of goods which bear heading numbers designated in the Common External Tariff, as set out in the Fifth Schedule to the Customs Act, are to be interpreted in accordance with the General Rules for Interpretation of the Harmonised System set out in that Schedule.

3.—(1) Consideration, in relation to a supply or an acquisition, means the total of the following amounts: Consideration.

- (a) the amount in money paid or payable by any person, whether directly or indirectly, in respect of, in response to, or for the inducement of the supply; and
- (b) the fair market value of anything paid or payable in kind, whether directly or indirectly, by any person in respect of, in response to, or for the inducement of the supply,

reduced by any price discounts or rebates allowed and accounted for at the time of the supply.

(2) Examples of amounts included in consideration under subsection (1) are amounts paid to reimburse the supplier for duties, levies, fees, charges, and taxes (including VAT), paid or payable by the supplier on, or by reason of, the supply.

(3) For the avoidance of doubt, consideration does not include anything given by a person as an unconditional gift to an approved non-profit body.

(4) The Minister may prescribe that a payment made to a government entity in relation to a particular class of transactions, is not to be treated as consideration for a supply by the government entity.

Fair market value.

4.—(1) The fair market value of a supply of goods or services, including anything provided as in-kind consideration for another supply, is:

- (a) the consideration the supply would fetch in an open market transaction freely made between unrelated persons; or
- (b) if it is not possible to determine an amount under paragraph (a), the consideration a similar supply would fetch in an open market transaction freely made between unrelated persons, adjusted to take account of the differences between such supply and the actual supply,

determined on the basis of the market conditions, including the registration status of the supplier, prevailing at the time and place of the actual supply.

(2) For the purpose of paragraph (b) of subsection (1), one supply is similar to another if it is the same as, or closely resembles, the other supply in character, quality, quantity, functionality, materials, and reputation.

(3) If the fair market value of a supply cannot be determined under subsection (1), it may be determined using any method approved by the Comptroller, for calculating an

objective approximation of the consideration the supply would fetch in an open market transaction freely made between unrelated persons.

(4) If a provision of this Act requires the fair market value to be determined for particular goods or services, or for a particular asset, that value is worked out under this section by reference to the value that a supply of those goods or services, or that asset, would fetch in a transaction freely made under appropriate market conditions.

5.—(1) Persons are “related persons” if—

Related persons

- (a) they are officers or directors of one another’s business;
- (b) in the case of a partnership, they are a partner and that partnership, and the partner, either alone or together with persons who are related to the partner under another paragraph of this definition, owns 25 per cent or more of the rights to income or capital of the partnership;
- (c) they are a shareholder and a company limited by shares in which the shareholder, either alone or together with persons who are related to the shareholder under another paragraph of this definition:
 - (i) controls 25 per cent or more of the voting power in the company; or
 - (ii) owns 25 per cent or more of the rights to distributions of income or capital by the company;

- (d) in the case of two companies, a person directly or indirectly, either alone or together with persons who are related to the person under another paragraph of this definition, owns, controls, or holds 25 per cent or more of the voting power or the rights to distributions of income or capital in both of them;
- (e) one of them directly or indirectly controls the other;
- (f) both of them are directly or indirectly controlled by a third person;
- (g) together they directly or indirectly control a third person;
- (h) they are members of the same family; or
- (i) in the case of a trust, they are the trust and a person who is or may be a beneficiary of that trust or, in the case of an individual, whose relative is or may be a beneficiary of the trust.

(2) Persons who are associated in business with one another in that one is the sole agent, sole distributor, or sole concessionaire, however described, of the other, are related persons only if they fall within the criteria of subsection (1).

(3) For the purposes of this section, one person controls another if the former is legally or operationally in a position to exercise direction over the latter.

Supplies.

6.—(1) A supply of goods means:

- (a) a sale, exchange, or other transfer of the right to dispose of goods as owner;

- (b) a lease, hire, or other right of use granted in relation to goods, including a supply of goods under a finance lease; or
- (c) anything that is deemed to be a supply of goods by this Act or by the Regulations.

(2) Anything that is not a supply of goods or money is a supply of services, including—

- (a) the grant, assignment, termination, or surrender of a right;
- (b) the making available of a facility, opportunity, or advantage;
- (c) refraining from or tolerating an activity, a situation, or the doing of an act;
- (d) the issue of a licence, permit, certificate, concession, authorisation, or similar document; or
- (e) anything that is deemed to be a supply of services by this Act or by the Regulations.

(3) A progressive or periodic supply is treated as a series of separate supplies as follows: *

- (a) if the supply is made progressively or periodically under an agreement or law that provides for progressive or periodic payments—

- (i) each progressive or periodic part of the supply is treated as a separate supply; or
 - (ii) if the progressive or periodic parts of such a supply are not readily identifiable, each separate supply corresponds to the proportion of the supply to which each separate part of the consideration relates;
- (b) if the supply involves a lease or hire of goods—
- (i) if payment is made progressively or periodically, each separate supply corresponds to the proportion of the supply to which each separate part of the consideration relates; or
 - (ii) in any other case, each separate supply corresponds to each tax period, to the extent that the period of the lease or hire occurs during that tax period.
- (4) If a taxable person is or has been allowed an input tax credit in respect of part or all of the input tax incurred on the acquisition or importation of the goods or services, and the person—
- (a) applies goods or services wholly to a private or exempt use; or

- (b) having used goods wholly or partly in its taxable activity, applies them in the manner described in paragraph (a) from a particular time onwards,

the application is treated as a supply of the goods or services.

(5) A supply of a particular kind ("the incidental supply") that is ancillary or incidental to a supply of another kind ("the principal supply"), is treated as part of the principal supply.

(6) A supply that is ancillary or incidental to an import of goods is treated as part of the import of goods.

(7) Subject to subsections (5) and (6), the Minister may prescribe that a supply of goods and services is treated as a supply of goods or a supply of services, or that a supply of more than one kind is treated as a supply of one of those kinds.

(8) The Minister may prescribe that something that would otherwise be a supply is not a supply, or vice versa, for the purposes of this Act.

7.—(1) Taxable activity means an activity carried on Taxable activity. continuously or regularly by a person, whether or not for profit, if the activity involves or is intended to involve the supply of goods or services to another person, and includes the carrying on of any business, but does not include:

- (a) the activities of an employee providing services in that capacity to an employer;

- (b) activities performed as a director of a company except where, in carrying on any business, the person accepts an office and supplies services as the holder of that office, in which case those services are regarded as being supplied in the course or furtherance of the business;
- (c) an activity carried on by an individual as a private recreational pursuit or hobby;
- (d) an activity carried on by a person other than an individual which, if carried on by an individual, would fall within paragraph (c);
- (e) an activity carried on by a government entity, except to the extent that the activity involves making supplies of goods or services that are also supplied, or likely to be supplied, in Grenada by at least one person who is not a government entity.

(2) A taxable activity includes anything done or undertaken during the commencement or termination of a taxable activity.

PART II

IMPOSITION OF VALUE ADDED TAX

8.—(1) Value Added Tax is levied on—

- (a) a taxable supply; and

Imposition of
Value Added
Tax and persons
liable.

- (b) a taxable import.

(2) The amount of VAT chargeable on a taxable supply or import is computed by applying the rate specified in subsection (3) to the value of the taxable supply or import.

(3) The rate of VAT applicable to a taxable supply or import is—

- (a) if the supply or import is zero-rated, zero per cent;
- (b) if the supply is a supply of hotel or holiday accommodation, or is a taxable supply, however, in accordance with paragraph (2) of Schedule 4, the supplier chooses not to treat the supply as exempt under item 6 or 7 of paragraph (1) of that Schedule, 10 per cent; or
- (c) to the extent provided in Regulations, 10 percent of the value of a taxable supply by a taxable person of the dive activity portion of a dive package;
- (d) if the supply or an import is of a kind for which a special rate is specified in another Act or in the regulations, that rate;
- (e) in any other case, 15 per cent.

(4) The VAT chargeable—

- (a) on a taxable supply, is the liability of the supplier and must be accounted for to the Comptroller according to the formula in section 32, unless otherwise specified under this Act; and

- (b) on a taxable import, must be paid to the Comptroller of Customs by the importer at the time of import.

(5) For the purposes of subsection (4), if a non-resident principal makes a taxable supply or a taxable import through a resident agent, the VAT payable under that subsection is payable by the resident agent and not by the non-resident principal.

(6) Subsection (5) does not apply if the non-resident agent is a person who carries on a taxable activity through a fixed place in Grenada, and is a taxable person under this Act at the time of the supply.

(7) Notwithstanding subsection (5), the Comptroller may, under Part XVII of this Act or under any other Act providing for recovery of VAT under this Act, recover all or part of the VAT payable, including any penalties and interest thereon, against either or both of the principal and the agent, but may not recover more than the full amount properly payable under this Act.

(8) No person, class of persons, transaction, class of transactions, import, or class of imports is exempt from VAT, except as provided by this Act or the Regulations, or by law—

- (a) exemptions of a general nature or application should be provided for in this Act or the Regulations; and
- (b) exemptions of an isolated or specific nature, or in relation to a particular transaction or event, may be provided for in a law specifically dealing with the person, event, or transaction for which the exemption is granted.

PART III

REGISTRATION

9.—(1) A person is required to be registered under this Act if on the last day of any month—

Persons exceeding threshold required to be registered.

- (a) the person exceeds the registration threshold in the period of twelve months ending on that day;
- (b) the person exceeds one third of the registration threshold in the period of 4 months ending on that day, unless there are reasonable grounds to expect, that in that period and the following eight months, the person will not exceed the registration threshold; or
- (c) there are reasonable grounds to expect that the person will exceed the registration threshold in the twelve month period commencing on the following day.

(2) A person exceeds the registration threshold in a particular period if the total value of supplies made or likely to be made, by the person in the course or furtherance of a taxable activity during that period, is equal to, or greater than, \$120,000.00.

(3) In determining whether a person exceeds the registration threshold under subsection (2)—

- (a) the value of supplies made by the person is treated as if it did not include:

- (i) the value of a supply that is not taxable or that would not be a taxable supply if the person were registered;
 - (ii) the value of a supply by way of sale of one or more capital assets of the person;
 - (iii) the value of a supply made solely as a consequence of the person selling the person's taxable activity or part of that taxable activity; or
 - (iv) the value of supplies made solely as a consequence of the person permanently ceasing to carry on its taxable activity;
- (b) the value of supplies made by the person includes the value of goods and services acquired by the person if the person would, if registered, be required to reverse charge the VAT on those supplies under section 22; and
- (c) the Comptroller may require the person to treat the value of supplies made by that person, as including the value of supplies made by a related person, if the Comptroller is satisfied that it is appropriate to do so due to the nature of the activities carried out by the related person, the way in which the taxable activities of the taxable person and the related person are carried on, the connections between those persons or between the activities carried on by them, or any other relevant factors.

(4) A person who is required to be registered under this section, shall apply for registration to the Comptroller in the prescribed form no later than 14 days after the day on which the person became required to be registered.

(5) A resident agent acting on behalf of a non-resident principal is required to be registered under subsection (1), if the non-resident principal is required to be registered under that subsection.

(6) A non-resident supplier who is required to be registered, may choose not to apply for registration, if all the taxable supplies or imports made by the supplier are made through one or more resident agents who are registered.

(7) Paragraph (b) of the definition of a taxable person does not apply to a person:

- (a) on or before the day on which an application for registration is required to be made, as specified in subsection (4); nor
- (b) if the person submitted an application for registration on or before the required day, but the application has not yet been processed by the Comptroller, and for this purpose, a defective application is treated as properly submitted, so long as the defects do not prevent the Comptroller from clearly identifying the applicant.

(8) A person who is required to register because of paragraph (c) of subsection 3, is treated as being required to register on the last day of the month in which the person receives a notice from the Comptroller applying that paragraph to the person.

Suppliers of public entertainment required to be registered.

10.—(1) A person who is a promoter of public entertainment, or a licensee or proprietor of a place of public entertainment, is required to be registered whether or not the person exceeds the registration threshold.

(2) A person who is required to be registered under subsection (1), must lodge an application for registration with the Comptroller in the approved form no later than one month before the day on which the person first makes a supply in relation to the entertainment, including but not limited to:

- (a) a supply of a ticket, right of entry, or other right entitling a person to receive the proposed entertainment;
- (b) a supply of merchandising products relating to the entertainment;
- (c) a supply of a lease, licence, or other right to occupy or use a place for public entertainment;
- (d) a supply in the nature of advertising or promotional services or rights, including a supply in the nature of sponsorship of the event; and
- (e) a supply of the right to sell goods or services at a place of public entertainment, at or around the time when the entertainment is to be provided.

(3) For the purposes of paragraph (b) of the definition of taxable person, a person who is required to be registered under subsection (1), but is not registered, is treated as a taxable person from the day before the first day on which the person makes any form of supply in relation to the entertainment.

(4) A person who is required to be registered under subsection (1) is prohibited from making a supply in relation to the entertainment, including a supply specifically listed in subsection (2), before the person is registered.

(5) For the purposes of applying subsections (2), (3), and (4) and any provisions of this Act or the Regulations imposing penalties or offences in relation to those subsections, the time at which a supply is made is the earliest of the time when—

- (a) an invoice for the supply is issued by the supplier;
- (b) any of the consideration for the supply is paid by the recipient; or
- (c) the supply actually takes place, being:
 - (i) for a supply of goods, when the goods are delivered or made available; or
 - (ii) for a supply of services, when the services are performed

and, for the avoidance of doubt, the supply of a ticket is a supply of services, being the grant of a right, and is performed when the ticket is given to the recipient or to any person at the direction of the recipient, or is put aside by the supplier to be held for the recipient.

11.—(1) A government entity that carries on a taxable activity through which it makes supplies that would be taxable if the person were registered, is required to be registered, and shall apply for registration irrespective of whether it exceeds the registration threshold.

Government entities required to be registered

(2) A person who is required to be registered under subsection (1), shall apply for registration no later than one month before the day on which the person becomes required to be registered.

(3) For the purposes of paragraph (b) of the definition of taxable person, a person who is required to be registered under subsection (1), but does not apply within the required time, is treated as a taxable person from the later of the VAT commencement day, or the day on which the person becomes required to be registered.

Registration of person wishing to carry on investment.

12.—(1) Where a person intends to make a taxable supply by means of an investment pursuant to the provisions of the Grenada Investment Promotion Act, and such person does not exceed the registration threshold, he shall be required to be registered pursuant to the provisions of this Act.

(2) For the purposes of this section “investment” means the direct contribution of foreign or domestic capital by an investor, including the creation or acquisition of business assets by, or for a business enterprise, and includes the expansion, restructuring, improvement or rehabilitation of a business enterprise; and the word “invest” shall be construed accordingly.

Voluntary registration.

13.—(1) A person who is not required under this Act to be registered, may apply for registration at any time if the person makes, or intends to make, supplies that would be taxable if the person were registered and shall, in addition to an application in the approved form, provide the Comptroller with such additional information, if any, in relation to the application as the Comptroller reasonably requests.

(2) Where the Comptroller is satisfied that—

- (a) the person is making, or will make, supplies that would be taxable if the person were registered;
- (b) the person has a fixed place at which the person's taxable activity is carried on;
- (c) there are reasonable grounds to believe that the person will keep proper records and lodge regular and reliable VAT returns; and
- (d) if the person has commenced carrying on a taxable activity, the person has—
 - (i) kept proper records in relation to its taxable activity; and
 - (ii) complied with its obligations under other taxation laws, including the customs laws.

he may register the person in accordance with the provisions of this Act.

(3) If a person makes an application under this section and the Comptroller is satisfied that the person is required to be registered, the Comptroller shall treat the application as made under section 14.

14.—(1) If a person applies for registration and the Comptroller is satisfied that the person is required to be registered, the Comptroller shall—

- (a) register the person; and
- (b) within 21 days after the day on which the application was made, notify the person in

writing of the registration, the day on which it takes effect, and of the TIN issued to the person.

(2) Where the Comptroller registers a person under subsection (1), the registration takes effect on the first day of the month commencing at least 14 days after the day on which the Comptroller notifies the person of the registration, unless the registered person agrees to an earlier date of effect.

(3) If the Comptroller has reasonable grounds to believe that a person other than a non-resident to whom section 9(6) applies is required to be registered, he shall issue a notice in writing to the person to that effect and shall—

- (a) register the person; and
- (b) no later than 21 days before the day on which the registration takes effect, notify the person in writing of the registration, the day on which it takes effect, and the TIN issued to the person.

(4) Where the Comptroller registers a person under subsection (3), the registration takes effect on the day specified in the notice of registration given by the Comptroller to the person, provided that the registration must not take effect before the day on which, subject to section 9(7), 10(3), or 11(3), whichever is applicable, the person is treated as a taxable person under paragraph (b) of the definition of taxable person.

(5) A notice given under subsection (3) must clearly state the information from which the Comptroller has concluded that reasonable grounds exist for believing that the person is required to be registered.

(6) A notice given under subsection (5) may be revoked by the Comptroller at any time by a later notice in writing given to the person, and the declaration in the original notice shall cease to have effect from the date specified in the revocation notice.

(7) Where a person who is not required to be registered applies for registration under section 13—

- (a) the Comptroller shall, within 21 days, notify the person in writing of the decision on the application; and
- (b) if the Comptroller decides to register the person—
 - (i) the notice shall state the day on which the registration takes effect and the TIN issued to the person; and
 - (ii) the registration shall take effect on the day requested by the person in the application, or such later day as the Comptroller reasonably determines to be the day on which the person will commence carrying on a taxable activity, but unless the person agrees to an earlier date, shall not take effect less than 14 days after the day on which notice is given to the person.

(8) The Comptroller shall issue a registered person with a Value Added Tax Registration Certificate in the approved form, stating the day on which the registration takes effect and the person's TIN.

(9) If the Comptroller decides not to register a person who applies for registration, the Comptroller shall, within 21 days of receiving the application, notify the person by notice in writing, stating the reasons for the decision and outlining the person's rights to object and appeal against the decision under Part XVIII.

(10) A registered person shall display in a prominent position:

- (a) at the principal place at which the person carries on its taxable activity, the person's original VAT registration certificate; and
- (b) at every other place from which the person carries on its taxable activity, a certified copy of the certificate, which must be obtained from the Comptroller.

(11) A registered person shall notify the Comptroller in writing of a change in the name (including business name or other trading name), address, place of business, or nature of the taxable activity carried on by the person within 21 days of the change occurring.

Cancellation of registration.

15.—(1) A registered person who ceases to make taxable supplies shall, within 14 days of the date on which the person ceased making taxable supplies, apply to the Comptroller for a cancellation of its registration.

(2) A registered person, who is no longer required to be registered but continues to make taxable supplies, may apply to the Comptroller for a cancellation of its registration.

(3) The Comptroller shall, by notice in writing, cancel the registration of a person who makes an application under subsection (1) or (2), if the Comptroller is satisfied that the person is no longer eligible to be registered under the Act.

(4) Notwithstanding subsections (1) and (2) and subsection (5), the Comptroller shall, by notice in writing, cancel the registration of a person who has not applied for cancellation if the Comptroller is satisfied that the person has ceased making taxable supplies.

(5) The Comptroller may cancel the registration of a person who is no longer required to be registered, if the Comptroller is satisfied that—

- (a) the person does not have a fixed place at which the person's taxable activity is carried on;
- (b) the person has not kept proper records of its business;
- (c) the person has not lodged regular and reliable VAT returns; or
- (d) the person has not complied with its obligations under other taxation laws, including the customs laws, and there are reasonable grounds to believe that the person will not keep proper records or lodge regular and reliable VAT returns.

(6) The cancellation of a person's registration takes effect from the day set out in the notice of cancellation, which must not be less than two years after the day on which the

registration commenced unless the person has ceased making taxable supplies or the Comptroller considers it appropriate that the cancellation should take effect from an earlier day.

(7) A person whose registration is cancelled is treated as having made a taxable supply of goods or services on hand at the time the registration is cancelled, but only if the person was allowed an input tax credit in respect of the acquisition or importation of those goods or services, or in respect of the acquisition of goods or services which have been subsumed into those goods or services.

(8) The taxable supply referred to in subsection (7) is treated as having been made—

- (a) immediately before the cancellation of the person's registration; and
- (b) for a value equal to—
 - (i) if the goods or services have been used in the person's taxable activity, the lesser of the fair market value of the goods on that day, or the consideration paid or payable for the acquisition of the goods or services by the person, reduced, in either case, by the tax fraction of that amount; or
 - (ii) if the goods or services have not been used in the person's taxable activity, the consideration paid or payable for the acquisition of the goods or services by the person, reduced by the tax fraction of that amount;

and to the extent that the deemed supply relates to goods imported by the person, references in this paragraph to the consideration paid or payable by the person for the acquisition of the goods, should be taken to refer to the value of the import.

(9) If a person's registration is cancelled, the person shall—

- (a) immediately cease to hold out in any way that the person is a registered person;
- (b) immediately cease to use any documents (including VAT invoices, receipts, credit notes, and debit notes) that identify the person as a registered person;
- (c) immediately return the person's VAT Registration Certificate, and any certified copies thereof, to the Comptroller; and
- (d) within 20 days after the date of cancellation of the person's registration, lodge a final VAT return and pay all VAT due, including VAT, if any, due as a result of subsection (7).

(10) An application for cancellation of registration shall be in the prescribed form.

16.—(1) The Comptroller shall maintain a register of persons registered for VAT, which must include an accurate and up to date record of all registered persons and must state:

- (a) the name and address of the registered person;
- (b) the trading name or names, if any, under which the registered person carries on its taxable activities;

Register of persons registered for VAT.

- (c) the TIN of that person; and
 - (d) the date on which the registration commenced.
- (2) If the Comptroller cancels the registration of a person—
- (a) the Comptroller shall ensure that the person's entry remains in the Register for at least six months after the date of cancellation, and that the Register clearly shows that the registration has been cancelled and the date from which it was cancelled; and
 - (b) after six months the Comptroller may remove the person's entry from the Register, provided that the Comptroller retains full and accurate historical records of persons removed from the Register.
- (3) The Register under subsection (1) shall be published by the Comptroller.
- (4) For the purposes of complying with obligations arising under this Act or the Regulations—
- (a) it shall not be reasonable for a taxable person to believe that another person is registered for VAT, if that other person is not listed as registered on the published Register; and
 - (b) where the other person is not so listed, if the taxable person has, or should have reason to suspect, that a person not listed is in fact registered, the taxable person may request the

Comptroller to confirm the other person's registration status and shall be entitled to rely on the Comptroller's response.

PART IV

BASIC RULES RELATING TO SUPPLIES

Time of supply.

17.—(1) Except as otherwise provided, a supply of goods or services is treated as being made at the earlier of the time when—

- (a) an invoice for the supply is issued by the supplier; or
- (b) any of the consideration for the supply is received.

(2) Notwithstanding subsection (1), if the supplier and recipient are related persons, or if the Comptroller is of the opinion that a supplier and recipient have colluded to defer the time of payment for VAT, by deferring the issue of an invoice or the payment of consideration, a supply of goods or services is treated as being made at the earliest of the date determined under subsection (1), or the date on which:

- (a) for a supply of goods, the goods are delivered or made available; or
- (b) for a supply of services, the services are performed.

(3) An application of goods or services to a private or exempt use, that is treated as a supply of goods or services under section 6(4), is treated as being made on the date the goods or services are first applied to such use.

(4) Where a progressive or periodic supply is treated, under section 6(3), as a series of separate supplies made successively, each successive supply is treated as being made on the earliest of:

- (a) the date on which an invoice for the progressive or periodic payment corresponding to the supply is issued by the supplier, but only if a separate invoice is issued for each such supply;
- (b) the date on which the progressive or periodic payment corresponding to the supply is due;
- (c) the date on which any of the progressive or periodic payment corresponding to the supply is received;
- (d) the first day of the period, if any, to which the progressive or periodic payment relates; or
- (e) the first day on which the recipient is able to commence use or enjoyment of the successive part of the actual supply which corresponds to the supply.

(5) Where a person becomes registered or ceases to be registered, for the purpose of working out whether a supply made by the person is a taxable supply, or whether an acquisition made by the person gives rise to an entitlement to input tax credits, a supply or acquisition is treated as being made when:

- (a) for a supply of goods, the goods are delivered or made available; or

- (b) for a supply of services, the services are performed.

(6) Where, because of subsection (5), a supply or acquisition is treated as being made by a person while the person was registered, but the time referred to in subsection (1) occurred before the person became registered, for the purpose of determining in which tax period the person should account for the VAT or input tax credit under section 32, the supply or acquisition is treated as being made in the first tax period in which the person is registered.

(7) Where, because of subsection (5), a supply or acquisition is treated as being made by a person while the person was registered, but the time referred to in subsection (1) occurred after the person ceased to be registered, for the purpose of determining in which tax period the person should account for the VAT or input tax credit under section 32, the supply or acquisition is treated as being made in the last tax period in which the person is registered.

(8) The Minister may prescribe the time at which a particular kind of supply is treated as being made.

18.—(1) Except as otherwise provided in this Act or the Regulations, a supply of goods or services is regarded as taking place in Grenada if—

- (a) the supplier is a resident; or
- (b) the supplier is a non-resident and—
 - (i) in the case of a supply of goods, the goods supplied are located in Grenada at the time of the supply; or

- (ii) in the case of a supply of services, the services are physically performed in Grenada by any person who is in Grenada at the time the services are performed.

(2) Except as provided in subsection (5), subsection (7), and paragraph (b) of subsection (1), a supply of goods or services are not regarded as taking place in Grenada if the supplier is a non-resident.

(3) Where a supplier who is not resident in Grenada and is not a registered person who acquired the goods and services for his taxable activity makes a supply of goods or services referred to in subsection (5), subsection (7), or paragraph (b) of subsection (1), to a recipient who is a registered person, the supply is deemed to take place outside Grenada, unless the supplier and recipient have agreed in writing that this subsection will not apply.

(4) Where a person makes a supply of imported goods after the goods are imported but before the goods are entered for home use, the goods are deemed to have been located outside Grenada at the time of supply.

(5) Where a supply by a non-resident is of the lease, hire, or licence of goods, including under a charterparty or agreement for chartering, for the purposes of paragraph (b)(i) of subsection (1), the goods are treated as located in Grenada at the time of supply during any period in which—

- (a) the goods are for use, or are used, wholly or partly in Grenada; or
- (b) the goods are used in international territory, if immediately before and after that use, the goods are used in Grenada.

(6) For the avoidance of doubt, in the case of a progressive or periodic supply, including a supply referred to in subsection (5) of this section, that is deemed to be a series of separate supplies because of section 6(3), the place where each such supply takes place is determined separately.

(7) A supply of telecommunications services is regarded as taking place in Grenada if the supplier is a non-resident and a person, physically in Grenada, initiates the supply from a telecommunications supplier, whether or not the person initiates the supply on behalf of another person.

(8) For the purposes of this Act, the person who initiates a supply of telecommunications services is—

- (a) the person who is identified by the supplier of the services as being—
 - (i) the person who controls the commencement of the supply;
 - (ii) the person who pays for the services; or
 - (iii) the person who contracts for the supply; and
- (b) if more than 1 person satisfies paragraph (a), the person who appears highest on the list in that paragraph.

(9) If a telecommunications supplier cannot apply subsection (7) because it is impractical for the supplier to determine the physical location of a person due to the type of service or the class of customer to which the person belongs, the supplier shall treat the supply of telecommunications services as taking place in Grenada, if the person's address for receiving invoices from the supplier is in Grenada.

(10) For the purposes of subsection (9) "address" does not include a post office box number.

(11) Subject to subsection (12), if subsection (9) applies, the telecommunications supplier shall apply subsection (9) for all supplies of telecommunications services made for that type of service or class of customer.

(12) Subsections (7) and (9) do not apply to supplies made between telecommunications suppliers.

(13) A supply of services consisting of a licence, permit, certificate, concession, authorisation, or other right to do something in Grenada occurs in Grenada regardless of where it is issued.

(14) The Minister may prescribe the place of supply for a particular kind of supply.

Value of supply.

19.—(1) "Tax fraction", in relation to a taxable supply, means the fraction calculated in accordance with the following formula—

$$R/(1+R)$$

where R is the rate of VAT applicable to the supply as determined under section 8(3).

(2) Subject to this section—

- (a) the value of a taxable supply is, the consideration for the supply reduced by an amount equal to that sum multiplied by the tax fraction; and
- (b) the value of a supply that is not a taxable supply, is the consideration for the supply.

(3) If a person has applied goods or services to a private or exempt use and the application is treated as a supply under section 6(4), the value of the supply is—

- (a) if the application is of goods imported by the person, the lesser of:
 - (i) the value of the import for the purposes of this Act; or
 - (ii) if only part of the input tax was allowed as a credit to the taxable person, the value of the import reduced by an amount reflecting the extent to which no input tax credit was allowed; or
- (b) in any other case, the lesser of:
 - (i) the consideration paid or payable by the person for the acquisition of the goods or services, reduced by an amount equal to the input tax incurred on that acquisition; or
 - (ii) if only part of the input tax was allowed as a credit to the taxable person, that amount reduced by an amount reflecting the extent to which no input tax credit was allowed.

(4) If, in a situation to which subsection (3) applies, before the goods or services are applied to a private or exempt use, the taxable person has used them in its taxable activity for a purpose other than making exempt supplies, the value of the supply is the lesser of:

- (a) the amount determined under subsection (3); or
- (b) the VAT-exclusive fair market value of the goods or services at the time they are first applied to the private or exempt use, reduced, in a case to which paragraph (a)(ii) or (b)(ii) of subsection (3) applies, by an appropriate amount reflecting the extent to which no input tax credit was allowed.

(5) The value of a supply of goods under a finance lease, does not include an amount payable in relation to a supply of credit under the lease agreement, if the credit for the goods is provided for a separate charge and the charge is disclosed to the recipient of the goods.

(6) If a taxable person makes a supply for no consideration, or for consideration that is less than the fair market value of the supply, to a related person who would not be entitled to a full input tax credit for the acquisition of the thing supplied, the value of the supply is the VAT-exclusive fair market value of the supply.

(7) Except as provided otherwise, the value of a supply of goods or services for no consideration is nil.

(8) The value of an unconditional gift given to an approved non-profit body is nil, provided that anything received by the donor in respect of the gift is insignificant, such as a recognition or acknowledgement of the gift.

(9) The Minister may prescribe methods, including methods different from those set out in this section, for determining the value of particular kinds of supply.

20.—(1) A VAT adjustment event occurs if—

- (a) a taxable supply is cancelled;
- (b) the consideration for a taxable supply is altered;
- (c) goods or services (or part thereof) that were the subject, or one of the subjects, of a taxable supply are returned to the supplier; or
- (d) the nature of a supply is fundamentally varied or altered in such a way that the supply becomes, or ceases to be, a taxable supply.

(2) If a VAT adjustment event occurs and the VAT actually accounted for by the supplier, is less than the VAT properly chargeable in respect of the supply, the amount of the difference is treated as output tax of the supplier in the tax period in which the VAT adjustment event occurred.

(3) If subsection (2) applies and the supplier has issued a VAT debit note to the recipient of the supply in accordance with section 39(2), the recipient of the supply may treat the additional VAT specified in the VAT debit note as input tax in the tax period in which the VAT debit note is received.

(4) If a VAT adjustment event occurs, and the VAT actually accounted for by the supplier exceeds VAT properly chargeable in respect of the supply, the supplier may treat the amount of the excess as input tax in the tax period in which the VAT adjustment event occurred, but only if the supplier has issued a VAT credit note to the recipient of the supply if required to do so under section 39(1).

Post-supply
adjustments
VAT adjustr
events.

(5) If subsection (4) applies and the recipient is a taxable person, the following amount is treated as output tax of the recipient in the tax period in which the credit note is received:

- (a) if the recipient were entitled to a credit for all of the input tax in relation to the acquisition, the amount of additional VAT specified in the VAT credit note;
- (b) if the recipient were entitled to a credit for only a proportion of the input tax in relation to the acquisition, the same proportion of the amount of additional VAT specified in the VAT credit note; or
- (c) if the recipient were not entitled to a credit for the input tax in relation to the acquisition, nil.

(6) If the recipient of a supply to which subsection (4) applies is unregistered, no VAT credit note may be issued and no input tax credit is allowed under that subsection until the supplier has repaid the excess VAT to the recipient of the supply, whether in cash or as a credit against any amount owing to the supplier by the recipient.

Post supply
adjustments for
bad debts.

21.—(1) If all or part of the consideration for a supply has not been received by the supplier, this section provides for section 20 to be applied in certain circumstances, and in each case, the section is taken to apply as if a VAT adjustment event referred to in paragraph (b) of section 20(1) had occurred in relation to the supply.

(2) If the amount referred to in subsection (1) has been overdue for more than 12 months from the date on which it was due to be paid, section 20 applies to both the

supplier and the recipient, provided that if the supplier has, in writing, granted additional time to pay, the period of 12 months is taken to commence when the additional time has expired.

(3) If, after section 20 has applied in relation to a supply because of subsection (2) of this section, the supplier later receives one or more payments for the supply, section 20 applies again to both the supplier and the recipient to the extent of each such additional payment.

(4) If, before the time referred to in subsection (2), the supplier has, in its books of account, written off an amount in respect of all or part of the amount not received, section 20 applies to the supplier but not the recipient.

(5) If, after section 20 has applied in relation to a supply because of subsection (4) of this section, the supplier later receives one or more payments for the supply, section 20 applies again to the supplier to the extent of each such additional payment and the supplier is not required to give the recipient an VAT credit note.

(6) For the avoidance of doubt, a supplier cannot apply both subsection (2) and subsection (4) in relation to the same amount outstanding on a supply.

(7) For the purposes of a VAT adjustment event that arises because of this section—

- (a) the supplier is not required to give the recipient a VAT debit or credit note; and
- (b) for the purposes of section 34(8), neither the supplier nor the recipient is required to hold a copy of a VAT debit or credit note,

but in a case to which subsection (4) applies, the supplier must hold documentary evidence establishing that it has written off the debt and the reasons why the debt was written off, and in any other case to which this section applies, each party must be able to substantiate the extent to which payments have been made or received and the basis of the adjustments made under section 20 because of this section.

Reverse charge
on imported
services.

22.—(1) The purpose of this section is:

- (a) to remove the incentive for persons to acquire services from non-residents, including offshore branches of the person, in preference to using local suppliers whose services would be taxable;
- (b) to achieve this by requiring persons to reverse charge VAT when they acquire services from non-residents;
- (c) to limit reverse charging to services for which the person would not have been entitled, to a full input tax credit if the supply of the services had otherwise been taxable; and
- (d) to ensure that reverse charged VAT is subject to the same post-supply adjustment rules as locally purchased services.

(2) A supply of services is a taxable supply if—

- (a) the services are supplied in Grenada to a person by a non-resident person, otherwise than through a resident agent;

- (b) the supply is not a taxable supply but would have been taxable at a rate other than zero, if it had been made through a taxable activity carried on by a resident who was registered for VAT; and
- (c) the recipient of the supply will use the services acquired wholly or partly—
 - (i) to make exempt supplies, if that will constitute more than ten per cent of the total use of the services;
 - (ii) for private or domestic use, or a use that would be private or domestic if the recipient were an individual; or
 - (iii) for any other purpose for which input tax credits would be denied.

(3) The VAT chargeable on a taxable supply referred to in subsection (2) is the liability of the recipient of the supply, and must be accounted for to the Comptroller as output tax of the recipient.

(4) Where VAT is chargeable on a supply that is taxable because of subsection (2)—

- (a) the value of the supply is:
 - (i) if the supplier and recipient are related persons, the VAT-exclusive fair market value of the actual supply; or
 - (ii) in any other case, the consideration for the actual supply;

where "actual supply" means the supply made to the recipient; and

- (b) the VAT payable by the recipient is also input tax of the recipient, within the meaning of paragraph (a) of the definition of input tax.

(5) If a VAT adjustment event occurs in relation to a supply that is, or would be because of the VAT adjustment event, taxable under subsection (2), and the event would cause the VAT properly chargeable in respect of the supply to exceed the VAT actually accounted for by the recipient, the amount of the excess is treated as output tax of the recipient in the tax period in which the VAT adjustment event occurs.

(6) If a VAT adjustment event occurs in relation to a supply that is taxable under subsection (2), and the event would cause the VAT actually accounted for by the recipient to exceed the VAT properly chargeable in respect of the supply, the recipient is allowed an input tax credit for the amount of the excess in the tax period in which the VAT adjustment event occurs.

(7) For the purposes of this section, if a person carries on activities at a fixed place inside Grenada and a fixed place outside Grenada—

- (a) the person is treated as if it were two separate persons corresponding respectively to the taxable activities the person carries on at each place;
- (b) the person outside Grenada is deemed to have made a supply to the person inside Grenada, consisting of any benefit in the nature of services (as defined for the purposes of this

Act), that is received by the person in Grenada through, or as a result of, the activities carried on by the person outside Grenada;

- (c) the time of the supply is worked out under paragraph (b) of section 17(2) on the assumption that a supply has been made; and
- (d) the value of the supply is worked out under paragraph (a)(i) of subsection (4), on the assumption that the supply was made by a non-resident outside Grenada to a related person inside Grenada.

PART V

SPECIAL RULES RELATING TO SUPPLIES

23.—(1) If a right or option is exercised, the consideration for the supply made on exercise of the right or option is limited to the additional consideration, if any, for that supply, or in connection with the exercise of the right or option.

Rights,
options,
and
vouchers.

(2) Subsection (1) applies to a supply made on redemption of a face value voucher unless—

- (a) the Minister prescribes otherwise; or
- (b) the supply made on redemption of the voucher is a taxable supply, and the supply of the voucher was not a taxable supply.

24.—(1) In this section—

Gambling
supplies.

"total amounts wagered," in relation to a taxable person and a tax period, is the sum of:

- (a) the consideration for all of the gambling supplies made by the taxable person in that tax period; and
- (b) any amounts recovered by the taxable person during the tax period in respect of an amount written off in the current or a previous tax period, which was included in total monetary prizes under paragraph (d) of the definition of that term; and

“total monetary prizes,” in relation to a taxable person and a tax period, is the sum of the following amounts, whether or not the relevant gambling event, gambling supply, or gambling loss occurred during the tax period:

- (a) the monetary prizes paid by the person during the tax period because of the outcome of gambling events;
- (b) any amounts of money paid during the tax period by the person to a recipient of the person’s gambling supplies, because of an agreement between them requiring the person to repay a proportion of the recipient’s losses from those supplies;
- (c) a negative amount, if any, resulting from the calculation under subsection (3) in the immediately preceding tax period; and
- (d) an amount the person writes off as a bad debt in relation to all, or part of the consideration for a gambling supply made by the person, that is due as a debt to the person, and has not been received.

(2) Notwithstanding section 8(2), the amount of VAT chargeable on gambling supplies made by a taxable person, is determined on a global basis under this section for each tax period, rather than for each gambling supply.

(3) In each tax period, an amount calculated according to the following formula is treated as output tax of a person who makes gambling supplies:

(Total amounts wagered - Total monetary prizes) x the tax fraction.

(4) If, in any tax period, the amount calculated under subsection (3) is a negative amount, that amount is not treated as output tax of the taxable person.

(5) Section 21, which deals with bad debts, does not apply in relation to a gambling supply.

(6) A payment of a kind referred to in paragraph (b) of the definition of “total monetary prizes”, is treated as if it were not consideration for a supply or acquisition.

(7) Notwithstanding sections 37 and 38, a registered person:

- (a) shall not issue a VAT invoice for a gambling supply; and
- (b) may issue a sales receipt for the supply, but is not required to do so.

25.—(1) In this section, “lay-away agreement” means a purchase agreement for goods under which—

- (a) the purchase price is payable by at least one additional payment after the payment of a deposit;

- (b) delivery of the goods takes place at a time after payment of the deposit; and
- (c) ownership of the goods is transferred by delivery.

(2) A supply of goods under a lay-away agreement occurs on the date the goods are delivered to the purchaser.

(3) If a lay-away agreement is cancelled and the person who would have been the supplier (referred to herein as the supplier), retains an amount paid as consideration for the cancelled supply, or recovers an amount owing by the person who would have been the recipient under the agreement (referred to herein as the recipient)—

- (a) the cancellation of the agreement is treated as a supply of services by the supplier to the recipient;
- (b) the value of the supply is the amount retained or recovered by the supplier, reduced by an amount equal to that amount multiplied by the tax fraction;
- (c) to the extent, if any, that an amount is retained, the supply is treated as being made at the time of cancellation; and
- (d) to the extent, if any, that an amount is recovered from the recipient under the agreement, the supply is treated as being made at the time when the amount is recovered.

26. A supply of goods through a vending machine, meter, or other automatic device, (not including a pay telephone), that is operated by a coin, note, or token is treated as being made on the date the coin, note, or token is taken from the machine, meter, or other device by or on behalf of the supplier.

Vending machines.

27.—(1) For the purposes of this section—

- (a) a transfer of a taxable activity includes a transfer of part of a taxable activity, if that part is capable of separate operation;
- (b) a transfer of a taxable activity as a going concern is treated as occurring if—
 - (i) all the goods and services necessary for the continued operation of that taxable activity are supplied to the person to whom the taxable activity is transferred; and
 - (ii) the supplier carries on the taxable activity until the day of the transfer.

Supply as part of the transfer of a going concern.

(2) A supply of goods or services as part of the transfer of a taxable activity as a going concern by a registered person to another registered person is zero-rated, but only if—

- (a) the supply would otherwise have been a taxable supply that was not a zero-rated supply; and
- (b) the supplier and the recipient have—

- (i) agreed in writing and notified the Comptroller within fourteen days of the date of the agreement in writing that the taxable activity is to be treated as transferred as a going concern for the purposes of this section;
- (ii) included in their agreement the details of the supplies to be treated as zero-rated under this section because of the transfer, including the quantities and values of the things supplied; and
- (iii) provided a copy of the agreement to the Comptroller no later than 20 days after the end of the tax period in which the taxable activity is transferred.

(3) If the recipient of a supply that has been treated as zero-rated under this section uses or intends to use the thing acquired to make exempt supplies, or for a private or domestic purpose, and the extent of that use will constitute more than 10 per cent of the total use of the thing acquired—

- (a) the recipient is, in the tax period in which the acquisition was made, treated as having an amount of output tax equal to the tax rate specified in paragraph (d) of section 8(3) multiplied by the consideration for the acquisition; and
- (b) for the purposes of applying this Act, other than this section, to the recipient, the amount treated as output tax under paragraph (a) is treated as input tax of the recipient, as if it had been imposed on the supplier in relation to the supply.

28.—(1) Paragraph (b) of section 18(1) does not apply to a supply by a non-resident, including, but not limited to a non-resident travel agent, of a right to receive, in Grenada, accommodation, meals, tours, services, entertainment, or similar goods or services commonly provided to tourists or visitors to Grenada, (whether alone or as part of a holiday or tour package).

Travel agents and tour operators act as principal.

(2) Paragraph (b) of section 23(2) does not apply to a supply in Grenada, to a tourist or visitor to Grenada, to the extent, if any, that the consideration for the supply includes the redemption of a face value voucher if:

- (a) the supply is of accommodation, meals, tours, services, entertainment, or similar goods or services commonly provided to tourists or visitors to Grenada (whether alone or as part of a holiday or tour package); and
- (b) the supply of the voucher to the tourist or visitor was not a taxable supply because of subsection (1).

(3) Despite anything in Schedule I or II, a taxable supply by a resident travel agent is not zero-rated if the supply is a supply of a right to receive, outside Grenada, accommodation, meals, tours, services, entertainment, or similar goods or services commonly provided to tourists or visitors to foreign countries, (whether alone or as part of a holiday or tour package).

(4) Where one or more taxable supplies made by a resident travel agent is not zero-rated because of subsection (3), the value of those supplies is calculated on a global basis for each tax period and is equal to the amount calculated accordingly to the following formula—

$$(C-P) \times (1-T)$$

where —

- (a) **C** is the consideration for all taxable supplies of goods and services made by the taxable person in that tax period that are not zero-rated because of subsection (3); and
- (b) **P** is the consideration paid by the person for the acquisition in that tax period of such goods and services for the purpose of on-supply; and
- (c) **T** is the tax fraction.

(5) If **P** exceeds **C** in the calculation in subsection (4) for a particular tax period, the excess is included in the value of **P** for the following tax period.

(6) For the avoidance of doubt, this section applies only to supplies made by a travel agent as principal, not for supplies made as an agent arranging for supplies to be made by other persons.

Value of
employee fringe
benefits.

29.—(1) The value of a taxable supply by an employer to an employee is limited to the amount of consideration in money, (if any), payable by the employee for the supply, reduced by the tax fraction of that amount, if the supply is of—

- (a) accommodation for a period not exceeding an aggregate of 45 days in any calendar year; or
- (b) meals.

(2) The value of a supply by an employer to an employee, other than a supply referred to in subsection (1), is—

- (a) where the supply is of goods imported by the employer and on-supplied to the employee in essentially the same form in which the goods were imported:
 - (i) the value of the import for the purposes of this Act; or
 - (ii) if only part of the input tax was allowed as a credit to the employer, the value of the import is reduced by an amount reflecting the extent to which no input tax credit was allowed;
- (b) where the supply is of goods or services acquired by the employer and on-supplied to the employee in essentially the same form and manner as they were acquired:
 - (i) the consideration paid or payable by the employer for the goods or services, reduced by the VAT, if any, is chargeable on their supply to the employer; or
 - (ii) if the employer was allowed to deduct only a proportion of the input tax incurred on the acquisition, the amount is calculated under sub-paragraph (i) multiplied by that proportion; and

- (c) in any other case, the VAT-exclusive market value of the goods or services supplied to the employee.

(3) Except where subsection (1) applies, the value of a supply by an employer to an employee for which the employee pays consideration in money is the greater of—

- (a) the value worked out under subsection (2); or
 (b) the consideration paid in money, minus the tax fraction of that consideration.

(4) Where a taxable acquisition or importation by an employer is used by the employer to provide a taxable fringe benefit to an employee, section 33 does not prevent the employer claiming an input tax credit for the acquisition or importation, so long as—

- (a) the employer keeps detailed records showing the extent of the credit claimed, the extent to which the thing acquired or imported is used to supply fringe benefits, the output tax paid by the employer in respect of the fringe benefits; and
 (b) the input tax credits allowed because of this subsection do not exceed the output tax payable by the employer for the fringe benefits.

PART VI

BASIC RULES RELATING TO IMPORTS

30.—An import of goods occurs—

Time of impo

- (a) if the goods are entered for home use under the customs laws, on the day on which they are so entered; or
 (b) in any other case where goods are imported for use in Grenada, on the day the goods are brought into Grenada.

31.—(1) The value of an import of goods is the sum of—

Value of impo

- (a) the value of the goods for the purposes of customs duty under the customs laws, whether or not duty is payable on the import;
 (b) to the extent not included under paragraph (a):
 (i) the cost of insurance and freight incurred in bringing the goods to Grenada; and
 (ii) the cost of services that have been treated as part of the import of the goods because of section 6(6); and
 (c) the amounts, if any, of customs duty, customs service charge, excise tax, or other tax, levy, or fiscal charge (other than VAT) payable on the importation of the goods.

(2) Where goods are re-imported after being exported for the purpose of undergoing repair, renovation, or improvement, the value of the import of the goods is the amount of the increase in their value that is attributable to the repair, renovation, or improvement process, so long as the form or character of the goods has not been changed by the repair, renovation, or improvement.

(3) The Minister may prescribe the way in which the value of a particular kind of import is determined.

PART VII

CALCULATION AND PAYMENT OF VAT NET AMOUNT

Net amount of VAT to be remitted in a tax period.

32.—(1) The amount of VAT that a taxable person must remit to the Comptroller for a tax period is the net amount calculated according to the following formula—

A-B

where—

- (a) **A** is the sum of all the amounts of output tax chargeable to the person in respect of taxable supplies made or treated as having been made by the person in that tax period, and all other amounts required to be treated as output tax of the person in that tax period; and
- (b) **B** is the total input tax credits allowed to the person under sections 20, 21, 34, 35, 36, 49, 50, 51 and 52 in respect of that tax period.

(2) Where the net amount calculated under subsection (1) is a positive amount, that amount is the VAT payable to the Comptroller for the tax period and must be paid to the Comptroller in accordance with section 46.

(3) Where the net amount calculated under subsection (1) is a negative amount, that amount shall be dealt with in accordance with section 49.

PART VIII

INPUT TAX CREDITS

33.—(1) In this section—

“entertainment” means the provision of food, beverages, tobacco, amusement, recreation, or hospitality of any kind, including gambling; and

“passenger vehicle” means an on-road or off-road vehicle designed or adapted for the transport of nine or fewer seated passengers.

(2) Notwithstanding any other provision in this Act, no entitlement to an input tax credit arises for a person in relation to a taxable acquisition or import by the person to the extent that—

- (a) the acquisition or import is not made in the course or furtherance (including commencement or termination) of the person’s taxable activity;

Goods or services for which no input tax credits are allowable.

- (b) the acquisition or import of a passenger vehicle, or of spare parts or repair and maintenance services for such vehicle, unless the person's taxable activity involves dealing in or hiring out such vehicles, and the vehicle was acquired for that purpose;
- (c) the acquisition or import is used to provide entertainment, to the extent of that use, unless the person's taxable activity involves providing entertainment, and the entertainment is provided in the ordinary course of that taxable activity and is not supplied to a related person or employee;
- (d) the acquisition is of a membership or right or entry for any person in a club, association, or society of a sporting, social, or recreational nature; or
- (e) the acquisition or import is of a private or domestic nature.

(3) An acquisition by a person deemed to be of a private or domestic nature, if the acquisition would have been private or domestic if made by an individual, or if the acquisition is for the private purposes of the person.

Input tax credits
for acquisitions
and imports.

34.—(1) If all of the supplies made by a taxable person during a tax period are taxable supplies, the person is allowed input tax credits for all of the input tax chargeable on acquisitions or imports made by the person during that tax period.

(2) Where a person makes a non-taxable supply in the ordinary course of the person's business, that person is not allowed input tax credits for the input tax payable on taxable acquisitions or imports by the person during that period.

(3) Where subsection (1) does not apply to a taxable person during a tax period, for that tax period—

- (a) if an acquisition or import by the person relates wholly to making taxable supplies, an input tax credit is allowed for the full amount of input tax chargeable in respect of the acquisition or import;
- (b) if an acquisition or import by the person relates wholly to making supplies that are not taxable, no input tax credit is allowed for the input tax chargeable in respect of that acquisition or import;
- (c) for acquisitions or imports by the person that relate, whether directly or indirectly, partly to making taxable supplies and partly to making other supplies, the sum of the input tax credits allowed for such supplies or imports during the tax period is calculated according to the following formula—

$$A \times B/C$$

where—

- (i) A is the total amount of input tax chargeable in respect of imports or acquisitions made by the person during the period, less the input tax accounted for under (a) and (b) of subsection (3);

- (ii) B is the value of all taxable supplies made by the taxable person during the period; and
 - (iii) C is the value of all supplies made by the taxable person during the period, other than supplies made through a taxable activity carried on by the person outside Grenada.
- (4) Notwithstanding subsection (3)—
- (a) if the fraction B/C in paragraph (c) of subsection (3) is more than 0.90, the taxable person is allowed input tax credits for all of the input tax chargeable on acquisitions or imports made by the person during that tax period;
 - (b) if the fraction B/C in paragraph (c) of subsection (3) is less than 0.10, the taxable person is not allowed input tax credits for acquisitions or imports made by the person during that tax period;
 - (c) if the taxable person is a bank or other financial institution making both exempt and taxable supplies, whether or not the person makes any exempt supplies in the particular tax period, paragraph (c) of subsection (3) does not apply;
 - (d) if the Minister prescribes a different way for a particular class of taxable person to calculate the amount of input tax allowed for a tax

period in which subsection (1) does not apply, the person shall use that method to calculate the input tax credits it is allowed for that period.

(5) If section 20(3) allows a taxable person to treat an amount as input tax in a tax period because a VAT adjustment event occurred during that period in relation to an acquisition made by the person, the amount of the input tax credit the person is allowed for the input tax is determined by reference to the extent that the person was entitled to an input tax credit for the original acquisition.

(6) If section 20(4) allows a taxable person to treat an amount as input tax in a tax period because a VAT adjustment event occurred during that period in relation to a supply made by that person, the person is entitled to an input tax credit for that amount.

(7) If, at the time the person submits a VAT return for a tax period, the person does not, in relation to an acquisition or importation made in that tax period, hold the documentation referred to in subsection (8)—

- (a) the person is not allowed the input tax credit which would otherwise have been allowed for that acquisition or importation in that tax period; but
- (b) the person is allowed the input tax credit in the first subsequent tax period in which the person holds the documentation,

provided that if the person does not hold the documentation before the end of the tax period ending 6 months after the date on which the return was due, no input tax credit is allowed for the acquisition or importation.

(8) The documentation required for the purposes of subsection (7) is—

- (a) in the case of a taxable acquisition, the VAT invoice issued by the supplier for the supply, or for a low value supply to which section 37(3) applied, the sales receipt issued by the supplier for the supply;
- (b) in the case of a taxable import, a bill of entry or other document prescribed under the customs laws for the import; or
- (c) in the case of an input tax credit allowed under section 20(3) because of a VAT adjustment event for an acquisition, the VAT debit note issued by the supplier in respect of that event;
- (d) in the case of an input tax credit allowed under section 20(4) because of a VAT adjustment event for a supply, a copy of the VAT credit note issued to the recipient of the supply in respect of that event.

(9) Subsection (7) does not alter the way in which the amount of an input tax credit for an acquisition or importation made in a tax period is calculated under this section.

(10) Whether an acquisition or importation made in a tax period relates to making a particular kind of supply, should be determined on the basis of the taxable person's intention at the time of the acquisition or importation, but the taxable person may take account of actual use or a change in intention that occurs before the date on which the VAT return for that tax period is required to be lodged.

(11) Where a person ("the registrant") becomes newly registered under the Act and makes an application in writing to the Comptroller within 6 months of becoming registered, the Comptroller may allow the person an input tax credit for an acquisition or importation made in the three months preceding the date of effect of the registration if:

- (a) the registrant has the goods or services acquired or imported on hand at the date of effect of the registration, and has provided sufficient documentary evidence of this fact to the Comptroller;
- (b) the registrant provides sufficient documentary evidence, including sales receipts and import documentation, to show the amount of VAT that was included in the price of the acquisitions or that was paid by the registrant on importation;
- (c) the Comptroller is satisfied that the VAT referred to in paragraph (b) has in fact been accounted for by the supplier as required under this Act, or paid to the Comptroller of Customs at the time of import by the registrant; and
- (d) the registrant has provided such other evidence as is necessary to establish the extent to which the thing acquired has been used in the registrant's taxable activity, prior to the date of effect of the registration; and
- (e) the registrant would have been entitled to an input tax credit if the acquisition or importation had been made when the person was registered.

(12) Where an input tax credit is allowed under subsection (11):

- (a) The amount of the input tax credit is reduced in proportion to the extent to which the thing acquired or imported was used by the registrant prior to the date of effect of the registration, and to the extent that the registrant would not have been entitled to an input tax credit, if the acquisition or importation had been made while the person was registered;
- (b) the registrant is not required to hold a VAT invoice in relation to an acquisition for which a credit has been allowed.

(13) Where a person makes an application under subsection (11):

- (a) the Comptroller shall notify the applicant of his decision within 2 months of receiving the application, stating the amount (if any) of the input tax credit to which the person is entitled; and
- (b) the input tax credit (if any) is allowed in the earlier of the tax period in which the person receives the notice, or the tax period ending eight months after the date of effect of the registration.

Acquisitions or imports by resident agent.

35.—(1) For the purposes of section 34, if a non-resident principal makes an acquisition or import through a resident agent, any input tax credit allowed under that section is allowed to the resident agent and not to the non-resident principal.

(2) Subsection (1) does not apply if the non-resident principal is treated to any extent as a resident because of paragraph (d) of the definition of resident, and the principal is registered for VAT under this Act at the time of the acquisition or import.

36.—(1) The Minister may prescribe rules requiring a taxable person to treat an amount as output tax or input tax in one or more tax periods if:

Regulations relating to input tax credit entitlements.

- (a) the value of a particular acquisition or importation, or of a related group of acquisitions or importations, exceeds \$10,000; or
- (b) the acquisition is of a capital asset of the person,

and the way in which the person has used the acquisition or importation is different from the way in which it intended to use the acquisition or importation.

(2) The Regulations may provide additional rules allowing or denying input tax credits, in order to ensure that the amount of input tax credits allowed to a taxable person reflects the extent to which its acquisitions or importations are used to make taxable supplies.

(3) Except to the extent of the limitations in paragraphs (a) and (b) of subsection (1), this section does not limit the Minister's power to make regulations under this Act.

PART IX

VAT DOCUMENTATION

VAT Invoices. 37.—(1) A registered supplier who makes a taxable supply to a registered recipient shall, at the time of the supply, issue the recipient with an original VAT invoice for the supply.

(2) A VAT invoice must contain the information prescribed by the Regulations.

(3) A registered supplier making a taxable supply to a registered recipient may issue a sales receipt in lieu of a VAT invoice, if the consideration for the taxable supply is paid in money and does not exceed \$50.

Sales receipts. 38.—(1) A registered supplier who makes a taxable supply to a recipient who is not registered may not issue a VAT invoice to the recipient, but shall, at the time of the supply, issue a sales receipt to the recipient.

(2) A sales receipt must contain the information prescribed in the Regulations.

VAT credit and debit notes.

39.—(1) If—

- (a) a registered supplier has made a taxable supply to a registered recipient;
- (b) a VAT adjustment event has occurred in relation to the supply;
- (c) at the time of the supply, the supplier issued an original VAT invoice to the recipient; and

- (d) the amount shown on that invoice as the VAT charged, exceeds the VAT properly chargeable in respect of the supply,

the supplier shall provide the recipient with an original VAT credit note.

(2) If—

- (a) a registered supplier has made a taxable supply to a registered recipient;
- (b) a VAT adjustment event has occurred in relation to the supply;
- (c) at the time of the supply, the supplier issued an original VAT invoice to the recipient; and
- (d) the VAT properly chargeable in respect of the supply, exceeds the amount shown on that invoice as the VAT charged,

the supplier shall provide the recipient with an original VAT debit note.

(3) A VAT credit or debit note must contain the information prescribed by the Regulations.

40.—(1) If a taxable supply is made by or to an agent on behalf of a principal and both the agent and principal are registered under this Act, any documentation required to be issued by or to the principal, including a VAT credit or debit note, may be issued by or to the agent, using the name, address, and TIN of the agent.

Documentation issued by or to agents.

(2) If a taxable supply is made by or to an agent on behalf of a principal, and the principal is registered under this Act but the agent is not registered, any documentation required to be issued by or to the principal, including a VAT credit or debit note, may be issued by or to the agent, but must be issued using the name, address, and TIN of the principal.

(3) If a taxable supply is made by or to an agent on behalf of a non-resident principal who is not registered under this Act, any documentation required to be issued by or to the principal, including a VAT credit or debit note, must be issued by or to the agent, using the name, address, and TIN of the agent.

(4) If a taxable supply is made by or to an agent on behalf of a principal, any documentation required to be issued must be issued only once, and must not be issued by or to both the agent and the principal.

(5) A document issued by or to an agent in accordance with this Act, is treated as issued by or to the principal for the purposes of this Act.

Requests for
VAT
documentation.

41.—(1) A registered recipient who has not received a VAT invoice, VAT credit note, or VAT debit note that the supplier was required to issue, may make a written request to the supplier to issue the document.

(2) A registered supplier shall comply with a request under subsection (1) within 21 days of receiving the request.

(3) A request under subsection (1) cannot be made—

- (a) for a VAT invoice, more than 2 months after the date on which the supply occurred; or

- (b) for a VAT credit or debit note, more than 2 months after the VAT adjustment event to which the credit or debit note relates.

42.—(1) If the Minister makes Regulations prescribing that prior approval from the Comptroller is required before VAT invoices, debit notes, or credit notes are issued, whether electronically or otherwise, no such document may be issued until the approval is obtained. Prohibition

(2) Only one original VAT invoice may be issued for a taxable supply, but the person who issued the original may provide a copy clearly marked as such, to a registered recipient who claims to have lost the original.

(3) Only one original VAT credit or debit note may be issued for a particular VAT adjustment event in relation to a supply, but the person who issued the original, may provide a copy clearly marked as such, to a registered recipient who claims to have lost the original.

43. A person shall, in relation to any period during which the person was registered, retain the following documents for the purposes of Part XVIII of this Act— Retention records.

- (a) a copy of all VAT invoices, VAT credit notes, and VAT debit notes issued by the person, maintained in chronological order;
- (b) all VAT invoices, VAT credit notes, and VAT debit notes received by the person, whether originals or copies;
- (c) all customs documentation relating to imports and exports of goods by the person; and

- (d) in relation to all imported services to which section 22 applies, sufficient written evidence to identify the supplier and the recipient, and to show the nature and quantity of services supplied, the time of supply, the place of supply, the consideration for the supply, and the extent to which the supply has been used by the recipient for particular purposes.

PART X

VAT RETURNS AND PAYMENTS

Division 1: VAT Payable on Returns

VAT returns.

44.—(1) A taxable person shall lodge a VAT return for each tax period no later than 20 days after the end of the period.

- (2) A VAT return must—
- (a) be lodged with the Comptroller;
 - (b) be in the form prescribed by the Comptroller; and
 - (c) contain the information specified in that form.

(3) A person who fails to file a VAT return within the stipulated date provided under sub-clause (1) shall be liable to pay a late fee of \$10,000.00.

(4) Where the Comptroller has granted an extension of time to file a VAT return, the tax payer's liability if any, for a late filing fee under sub-clause (3) shall be waived.

(5) On application in writing by a taxable person, the Comptroller may grant that person permission to lodge a VAT return after the date specified in subsection (1).

(6) A permission granted under subsection (3) does not alter the due date for payment of VAT under section 46.

(7) The Comptroller may, by notice in writing, require a person, whether on that person's own behalf or as agent or trustee of another person, to file, within such time as the Comptroller considers appropriate, such fuller or additional returns for a tax period as the Comptroller requires, and such notice may be given, even if the taxable person has not lodged a VAT return for the period.

45.—(1) If a taxable person who has lodged a VAT return requests the Comptroller to amend the return, the Comptroller shall amend the original return or accept lodgement of an amended return. Amended returns.

(2) The request must be in writing, specifying in detail the grounds on which it is made, and must be made within three years after the end of the tax period to which the return relates.

46.—(1) The VAT payable by a taxable person to the Comptroller under section 32 is due and payable by the due date for lodgement of the VAT return for the tax period. Due date for payment of VAT for a tax period.

(2) The liability to pay an amount of VAT arises by operation of this section, and does not depend on the Comptroller making an assessment of the VAT due.

(3) A person who fails to pay all or part of the VAT due and payable for a tax period by the due date shall be liable to pay a late payment fee equal to twenty percent of the amount of VAT due but not paid.

(4) A taxable person may request the Comptroller in writing to grant an extension, or a further extension, of time to pay the VAT due for a tax period, and, if the Comptroller thinks it appropriate in the circumstances, the Comptroller may grant the requested extension, or a different extension, or make other arrangements to ensure payment of the VAT, including arrangements requiring the person to pay the amount due in such instalments as the Comptroller determines.

(5) If a person makes an application under subsection (3), the Comptroller shall notify the person of his decision in writing within 14 days of receiving the application.

(6) If the Comptroller has granted an extension of time to pay an amount of VAT, or made other arrangements for payment of the VAT, the taxpayer's liability, if any, for a late payment penalty under sub-section (3) shall be waived.

(7) The grant of an extension of time, or the grant of permission to pay VAT due by instalments, does not prevent a liability for interest arising under section 68 from the original date the VAT was due for payment.

(8) If a taxpayer is permitted to pay VAT by instalments and the taxpayer defaults in payment of an instalment, the whole balance of the VAT outstanding at the time of the default becomes immediately payable.

(9) If the Comptroller has reasonable grounds to believe that a taxpayer may leave Grenada for an extended period before the due date for payment of an amount of VAT, the VAT is due on such earlier date as the Comptroller may specify in writing to the taxable person.

Division 2: VAT Payable on Imports

47.—(1) The VAT payable by an importer to the Comptroller of Customs in respect of a taxable import is due and payable at the time of the import.

Due da
payer
VAT on
imports

(2) Notwithstanding subsection (1), if taxable imports are stored in a custom warehouse, the tax shall be paid at the time being entered for home use.

(3) The liability to pay an amount of VAT arises by operation of this section and does not depend on the making of an assessment of the VAT due.

48.—(1) The Comptroller of Customs—

VAT P
import

- (a) shall collect the VAT due under this Act on an import of goods at the time of import, and shall at that time obtain the name and TIN for VAT purposes, if any, of the importer, the import declaration, and the invoice values in respect of the import; and
- (b) may make arrangements for such functions to be performed on his behalf in respect of imports through the postal services.

(2) An importer of goods is required, on entry of the goods into Grenada, to furnish the Comptroller of Customs with an import declaration and pay any VAT due on the import.

(3) An import declaration required under subsection (2) must—

- (a) be in the form prescribed by the Comptroller of Customs;
- (b) state the information necessary to calculate the VAT payable in respect of the import; and
- (c) be furnished in the manner prescribed by the Comptroller of Customs.

(4) Unless a contrary intention appears, in relation to goods imported into the State, the provisions of the customs laws apply, so far as they are relevant, and with such exceptions, modifications, and adaptations as are necessary, as if VAT were an import duty.

(5) The Comptroller of Customs may exercise any power conferred on the Comptroller of Customs by the customs laws, as if a reference to duty in that legislation included a reference to VAT charged under this Act on an import of goods.

PART XI

REFUNDS

Refund of negative net amount of VAT for a tax period.

49.—(1) If, in any tax period, the calculation under section 32 results in a negative amount, because the sum of all the input tax credits allowed in the tax period, exceeds the sum of all the amounts of output tax for the tax period—

- (a) the excess is carried forward and allowed as an input tax credit in the following tax period, and any remaining amount not credited in that period is carried forward to the next tax period, and this process continues until either—
 - (i) no amount remains; or

- (ii) the amount, or part of it, has been carried forward for three consecutive tax periods after the tax period in which the excess arose; and
- (b) if any amount has not been credited after those three months—
 - (i) and such amount does not exceed \$250, the amount continues to be carried forward into consecutive tax periods until it is reduced to nil; or
 - (ii) in any other case, the Comptroller shall refund the amount, on application in the form and manner prescribed by the Comptroller, within two calendar months after the date of the application.

(2) If, in a particular tax period, a taxable person is allowed input tax credits because of more than one excess carried forward under subsection (1) from an earlier tax period, the excess credit from the earliest tax period is allowed first.

(3) Despite subsection (1), the Comptroller shall, on application in the form and manner the Comptroller prescribes, refund an excess exceeding \$250 within two calendar months after the date of the application—

- (a) if, considering the person's turnover or predicted turnover from supplies made or to be made during the period of twelve calendar months consisting of the current month, the previous five months, and the following six calendar months—

- (i) 50 per cent or more of the person's turnover is from supplies that are zero-rated or are exports; or
 - (ii) 50 per cent or more of the person's expenditure on inputs, is from acquisitions or imports that relate to making supplies that are zero-rated or are exports; or
- (b) in any other case, the excess is due to some other feature of the taxable person's business that the Comptroller is satisfied, regularly results in excess input tax credits.

(4) An application for a refund under this section cannot be made before the VAT return is lodged for the relevant tax period, which is—

- (a) in the case of a refund under subsection (1), the third tax period after the period in which the negative net amount arose; or
- (b) in the case of a refund under subsection (3), the tax period in which the negative net amount arose.

Refunds of VAT
erroneously
overpaid.

50.—(1) A taxable person who has erroneously overpaid VAT for a tax period may, within three years from the end of that tax period, apply in writing to the Comptroller for an input tax credit equal to the amount overpaid.

(2) If a taxable person makes an application for an input tax credit under subsection (1), the Comptroller shall, within two months of the date of the application—

- (a) make a decision in relation to the application and notify the taxable person of the decision; and
- (b) if the Comptroller is satisfied that all or part of the amount was erroneously overpaid, include in the notice, a statement of the amount refundable,

provided that this subsection does not apply if, on or before the expiry of the two months, the Comptroller commences an audit of the taxpayer in relation to that tax period.

(3) If, within two months after receiving an application for a refund under subsection (1), section 49 and section 51, the Comptroller commences an audit of the taxpayer in relation to that tax period, the Comptroller shall—

- (a) notify the taxable person of the audit within two months of the date on which the application was made;
- (b) make a decision on the audit and in relation to the application within one year of the date on which the person lodged the application;
- (c) notify the taxable person of the decision within one month of making the decision; and
- (d) if the Comptroller is satisfied that all or part of the amount was erroneously overpaid, include in the notice a statement of the amount refundable.

(4) Subject to subsection (5)—

(a) where the Comptroller has determined that an amount is refundable to a taxable person under subsection (2), the taxable person is allowed an input tax credit for the amount refundable, in the tax period in which the Comptroller notifies the person of the decision and such amounts shall be treated in the same manner as provided for under section 49;

(b) where the Comptroller has determined that an amount is refundable to a taxable person under subsection (3)—

(i) if the amount refundable exceeds \$250, the Comptroller shall pay the amount to the person within two months of the date on which the Comptroller notifies the person of the decision; or

(ii) in any other case, the taxable person is allowed an input tax credit for the amount refundable, in the tax period in which the Comptroller notifies the person of the decision.

(5) Where the reason why a taxable person erroneously overpaid VAT for a tax period was because the taxable person erroneously treated a supply as taxable, or erroneously treated a supply as taxable at a higher rate than the rate applicable to the supply, none of the amount overpaid is refundable unless—

(a) if the recipient of the supply was a registered person, the Comptroller is satisfied that the taxable person has refunded, or will refund, the amount of overpaid VAT to the recipient of the supply, or has otherwise satisfied the Comptroller that the recipient was not disadvantaged and the taxable person was not advantaged by the mistake; or

(b) if the recipient of the supply was not a registered person, or it is not feasible for the taxable person to identify the recipient of the supply in order to refund the overpaid VAT, the Comptroller is satisfied that the taxable person will in some other way, such as through a short-term discount offer, provide compensation for the previously overpaid VAT to the class of persons likely to include or have included the recipient.

51.—(1) Notwithstanding section 49 (3), the Comptroller may authorise at an earlier period, subject to appropriate conditions and restrictions, the granting of a refund or part or all of the VAT incurred in relation to a taxable acquisition or a taxable import made by—

(a) an approved non-profit body;

(b) a public international organisation, foreign government, or any other person to the extent that organisation, government, or person is entitled to exemption from VAT under an international assistance agreement, if that organisation, government, or person is listed in the Regulations;

Refunds to diplomats, approved non-profit bodies, and other international bodies.

- (c) a person to the extent that the person is entitled to exemption for VAT under the Vienna Convention on Diplomatic Relations, or under another international treaty or convention having force of law in Grenada or to which Grenada is a signatory, or the recognised principles of international law; or
- (d) a diplomatic or consular mission of a foreign country established in Grenada, relating to transactions concluded for the official purposes of such mission;
- (e) a person who intends to make a taxable supply by means of an investment pursuant to the provisions of the Grenada Investment Promotion Act;
- (f) an exporter who makes a taxable supply to the extent provided in Section 49 (3) (a) (i) and (ii).

(2) A claim for a refund under subsection (1) must be made in the form and manner, and at the time prescribed by the Comptroller, and must be accompanied by such supporting documentation as the Comptroller may require, including but not limited to:

- (a) evidence that the VAT for which a refund was sought was incurred by the person, including customs documents, sales receipts, or other appropriate evidence;
- (b) evidence of the person's entitlement to make the claim.

(3) The Comptroller shall within two months after the date on which an application for a refund is made under this section—

- (a) make a decision in relation to the application and give the applicant notice in writing of the decision, stating the amount refundable, and providing reasons for any difference between that amount and the amount for which a refund was requested; and
- (b) pay the amount refundable to the applicant.

52.—(1) No refund is payable to a person under section 49 or 50 unless, and until the applicant has lodged all VAT returns it was required to lodge for tax periods falling between the tax period to which the application relates, and the tax period in which the application for the refund is made.

Application of
payment of
refunds.

(2) If a refund is payable to a person under section 49 or 50, the Comptroller may apply the refund first in reduction of any interest or penalty payable by the person under this Act, or against payment of any other taxes, levies, or duties collected by the Comptroller, and any unpaid amounts under the repealed taxes.

(3) If the amount remaining after applying subsection (1) does not exceed two hundred and fifty dollars, the Comptroller shall not refund the amount, and the taxable person is instead allowed an input tax credit in the tax period in which the refund would otherwise have been required to be paid.

(4) Where the Comptroller does not pay a refund arising under this Part within the time required, interest is payable by the Comptroller on the amount outstanding at the rate of 1.5% per month.

PART XII

ASSESSMENTS

Assessments.

53.—(1) The Comptroller may make an assessment of the VAT payable by a taxable person if—

- (a) the Comptroller is not satisfied as to the accuracy of a VAT return lodged by the person;
- (b) the person fails to lodge a VAT return as required under this Act; or
- (c) the person has been paid a refund or allowed an input tax credit under section 49 to which the person is not entitled.

(2) If a person, other than a taxable person, makes a supply of goods or services and represents to the recipient that VAT is chargeable on the supply, the Comptroller may make an assessment of VAT payable by the person in relation to that supply, as if the person were a taxable person and the supply were a taxable supply, with VAT chargeable in accordance with the amount represented.

(3) If a taxable person makes a supply of goods or services and represents to the recipient—

- (a) that the supply is taxable when it is not; or
- (b) that the rate of tax chargeable on the supply is higher than the rate in fact chargeable,

the Comptroller may make an assessment of VAT on the taxable person as if the supply were a taxable supply, with VAT chargeable at the rate represented, provided that the Comptroller shall not make an assessment under this subsection if, in the tax return lodged for the relevant tax period—

- (c) the taxable person reported the VAT chargeable on the supply, in accordance with the way it was represented; and
- (d) either—
 - (i) before the commencement of an audit in relation to a tax period in which the representation came to light, the person applied under section 50 for a refund of the tax erroneously overpaid; or
 - (ii) the Comptroller is satisfied that it would be appropriate to deal with the amount erroneously overpaid under section 50.

(4) An amount assessed under subsection (2) or (3) is treated, for all purposes of this Act, as VAT chargeable under this Act.

(5) The Comptroller may, within three years after making an assessment (“the original assessment”), amend the assessment by making such alterations or additions to the assessment as the Comptroller considers necessary, and if an amended assessment is made, shall serve a notice of the amended assessment on the person assessed.

(6) An amended assessment is treated in all respects as an assessment under this Act.

(7) For the purposes of making an assessment under this section, the Comptroller may estimate the amount of VAT payable by a person based on the information available to him.

(8) The Comptroller may not make an assessment, including an amended assessment,—

- (a) in the case of an assessment under paragraph (a) of subsection (1), more than six years after the end of the tax period to which the assessment relates; or
- (b) in the case of an assessment under paragraph (c) of subsection (1), more than six years after the date on which the refund was paid, or, if an input tax credit was allowed for the amount refundable, more than six years after the end of the tax period in which the credit was allowed,

unless, in either case, the taxable person committed fraud or wilful neglect in furnishing the return for the tax period or in applying for the refund.

(9) The Comptroller may make an assessment at any time if the assessment is made under paragraph (b) of subsection (1) or under subsection (2) or (3).

(10) Nothing in subsection (8) prevents the amendment of an assessment to give effect to a decision of the Appeal Commissioners or a Court.

(11) The Comptroller shall, with 21 days of making an assessment serve notice of the assessment on the person assessed, stating—

- (a) the reason for the assessment, the amount of VAT payable as a result of the assessment, and the basis on which that amount was determined;
- (b) the date on which that VAT is due and payable, which should be no less than 21 days after the date on which the notice is served; and
- (c) the time, place, and manner of appealing the assessment.

(12) Nothing in this section prevents any interest or penalty payable—

- (a) in respect of VAT assessed under paragraph (a) or (b) of subsection (1), from being computed from the original due date for payment of the VAT as determined under section 46;
- (b) in respect of VAT assessed under subsection paragraph (c) of subsection (1), in relation to an application for a refund, from being computed from—
 - (i) the date on which a refund was paid to the person; or

- (ii) if an input tax credit was allowed for the amount refundable; the date on which the VAT return was required to be lodged for the tax period in which the input tax credit was allowed; or
- (c) in respect of VAT assessed under subsection (2) or (3), from being computed from the date on which payment of the VAT would have been due under section 45, if the supply had been a taxable supply.

Assessment of recipient.

54.—(1) If a supplier incorrectly treats a taxable supply as an exempt or zero-rated supply because of fraudulent misrepresentation by the recipient of the supply, the Comptroller may assess the recipient of the supply for payment of the VAT due in respect of the supply, including any interest or penalty payable as a result of the late payment of the VAT, and the assessment is treated as an assessment of VAT payable by the recipient for all purposes of this Act, whether or not the recipient is a taxable person.

(2) The Comptroller shall serve notice of the assessment on the recipient specifying—

- (a) the reason for the assessment;
- (b) the amount of VAT payable as a result of the assessment;
- (c) the date on which that VAT is due and payable; and

- (d) the time, place, and manner of objecting against the assessment.

(3) Subsection (1) does not preclude the Comptroller from recovering from the supplier the VAT, interest, or penalty due in respect of the supply and—

- (a) the Comptroller may recover part of the VAT payable on the supply from the supplier and part from the recipient; but
- (b) the Comptroller shall not recover more than the total amount of VAT, interest, and penalty payable in relation to the supply.

(4) If a supplier who incorrectly treated a taxable supply as an exempt or zero-rated supply, because of misrepresentation or fraud by the recipient of the supply, has paid to the Comptroller any amount of the VAT, interest, or penalty in respect of the supply, the supplier may recover that amount from the recipient of the supply.

55.—(1) In this section—

“scheme” includes a course of action and an agreement, arrangement, promise, plan, proposal, or undertaking, whether expressed or implied and whether or not legally enforceable; and

“tax benefit” includes—

- (a) a reduction in the liability of a person to pay VAT;

Negation of tax benefit from a scheme.

- (b) an increase in the entitlement of a person to an input tax credit, including an increase in an excess carried forward;
- (c) an entitlement to a refund;
- (d) a postponement of liability for the payment of VAT;
- (e) an acceleration of entitlement to a deduction for input tax;
- (f) any other benefit arising because of a delay in payment of output tax, or an acceleration of entitlement to a deduction for input tax;
- (g) anything that causes what is in substance and effect a taxable supply or import, not to be a taxable supply or import; or
- (h) anything that gives rise to an input tax credit entitlement for an acquisition or import that is in substance and effect an acquisition used or to be used, for a purpose other than that of making taxable supplies.

(2) Notwithstanding anything in this Act, if the Comptroller is satisfied that a scheme has been entered into or carried out and—

- (a) a person has obtained a tax benefit in connection with the scheme in a manner that constitutes a misuse or abuse of the provisions of this Act; and

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

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

(3) For the purposes of determining a person's liability under subsection (2), and for the purposes of ensuring the prevention or reduction of the tax benefit, the Comptroller may do any of the following—

- (a) treat a particular event that actually happened as not having happened;
- (b) treat a particular event that did not actually happen as having happened and, if appropriate, treat the event as:
 - (i) having happened at a particular time; and
 - (ii) having involved particular action by a particular person;
- (c) treat a particular event that actually happened as:

- (i) having happened at a time different from the time it actually happened; or
- (ii) having involved particular action by a particular person (whether or not the event actually involved any action by that person).

(4) The Comptroller shall notify a person whose liability the Comptroller has determined under subsection (2), of the determination, either by serving notice of the determination on the person or by issuing an assessment to the person in relation to one or more tax periods.

General provisions relating to assessments.

56.—(1) The original or a certified copy of a notice of assessment is receivable in proceedings as conclusive evidence that the assessment has been duly made and, except in proceedings in relation to the assessment under Part XVIII of this Act, that the amount and all particulars of the assessment are correct.

(2) No assessment purporting to be made, issued, or executed under this Act may be—

- (a) quashed or deemed to be void or voidable for want of form; or
- (b) affected by reason of mistake, defect, or omission therein,

if it is, in substance and effect, in conformity with this Act, and the person assessed or intended to be assessed is designated in it according to common understanding.

PART XIII

ADMINISTRATION

57.—(1) The Comptroller has the responsibility for the general administration of this Act and for carrying out the provisions of this Act.

Powers and Duties of the Comptroller and the Comptroller of Customs.

(2) The power to carry out a duty or function required of the Comptroller under this Act, including that of carrying out the responsibilities under subsection (1), is conferred on the Comptroller.

(3) The Comptroller may prepare documents outlining the way in which this Act will be administered, including documents outlining the Comptroller's understanding of how the Act applies, and may designate such documents as being only for internal use by taxation officers or, if the Comptroller thinks appropriate, publish such documents for the information of taxpayers.

(4) A document referred to in subsection (3) is not binding for the purposes of this Act, and in the performance of his responsibilities under this Act, the Comptroller may at any time withdraw the document in whole or in part, or administer this Act in a manner that is not in conformity with the document.

(5) The Comptroller of Customs has the responsibility for the administration and enforcement of this Act in respect of VAT payable on imports, and for carrying out the provisions of this Act in that respect.

Co-operation
and information
exchange.

58.—(1) Notwithstanding anything in this law, the customs laws, or any other law, the Comptroller of Customs shall provide the Comptroller with such information as the Comptroller reasonably requests, in order to enable the Comptroller to carry out the responsibilities imposed on the Comptroller by this Act.

(2) Notwithstanding anything in this law, the Income Tax Act, or any other law, the Comptroller shall provide the Comptroller of Customs with such information as the Comptroller of Customs reasonably requests, in order to enable the Comptroller of Customs to carry out the responsibilities imposed on the Comptroller of Customs by this Act.

(3) For the purposes of giving effect to this section, the Comptroller and the Comptroller of Customs shall enter into a Memorandum of Understanding to govern, amongst other matters:

- (a) the exchange of information relevant to the administration of this Act;
- (b) procedures to be followed in exchanging such information;
- (c) procedures for regular exchanges of information without specific request;
- (d) procedures for requesting and providing additional information;
- (e) co-operation in the conduct of audits and other investigations;

- (f) the protection of confidentiality and related issues;
- (g) situations in which a request for information may be refused; and
- (h) any other matter required to enable the Comptroller or the Comptroller of Customs to fulfil the responsibilities imposed under this Act.

(4) Where any law requires the Comptroller or the Comptroller of Customs, or an officer acting under the authority of either of them, to protect or maintain the secrecy or confidentiality of information about a person, it is not a breach of that law for the Comptroller and the Comptroller of Customs to exchange information for the purposes of this Act.

(5) A memorandum made for the purposes of this Act may relate to matters other than and in addition to those relevant to this Act.

59.—(1) Except as provided in this section, the Comptroller, the Comptroller of Customs, or an officer acting under the authority of either of them in carrying out the provisions of this Act shall not—

- (a) disclose to a person any matter in respect of another person that may come to the knowledge of the relevant Comptroller or officer in the exercise of his or her powers, or the performance of his or her duties, under this Act; nor

Secrecy.

- (b) permit a person to have access to records in the possession or custody of the Comptroller, the Comptroller of Customs, or the officer, except in the exercise of powers, or the performance of duties, under this Act, or by order of a court.

(2) Nothing in this section prevents the Comptroller or the Comptroller of Customs from—

- (a) disclosing information to a person in the service of a revenue or statistical department of the Government of Grenada, so long as the Comptroller is satisfied that such disclosure is necessary for the performance of that person's official duties and the information disclosed does not identify a specific person; or
- (b) disclosing documents or information—
- (i) if the disclosure is necessary for the purposes of this Act or another revenue law;
 - (ii) if a person is authorised by an enactment to receive such information; or
 - (iii) if the information is disclosed to the competent authority of the government of another country with which Grenada has entered into an agreement, for the avoidance of double taxation or for the exchange of information, to the extent permitted under that agreement or under a law.

(3) A person receiving documents and information disclosed in accordance with subsection (2), shall keep them secret under the provisions of this section, except to the minimum extent necessary to achieve the purpose for which the disclosure was made.

(4) The Comptroller and the Comptroller of Customs may use documents or information obtained in the performance of their duties under this Act, for the purposes of any other revenue law administered by either of them, or by any other agency or Department falling under the Portfolio of the Minister.

(5) If a person consents in writing, information concerning that person may be disclosed to another person.

(6) The Comptroller or the Comptroller of Customs may disclose information concerning a taxpayer's affairs to a person claiming to be the taxpayer or the taxpayer's authorised representative, only after obtaining written evidence of the authenticity of the claim.

(7) Nothing in this section should be taken to limit the powers granted, and obligations imposed, under sections 57 and 58.

60.—(1) For the purposes of securing payment of VAT that is or may become due, the Comptroller may, by notice in writing, require a person to give security in such amount and manner as the Comptroller thinks fit, by the date specified in the notice. Power to require security.

(2) A person who is required to give security under subsection (1), shall give the security in the amount and manner and on the date specified in the notice.

(3) If security has been given in cash and the Comptroller is satisfied that the security is no longer required, the Comptroller shall apply the amount of the security in the following order—

- (a) first in reduction of any interest or penalty payable by the person under this Act;
- (b) then against any VAT due and payable by the person;
- (c) then against payment of any other taxes, levies, or duties collected by the Comptroller, including any unpaid amounts under the repealed taxes,

and shall refund any remaining amount to the person who gave the security.

(4) A decision under subsection (1) may be challenged only under Part XVIII of this Act.

Power to seize goods.

61.—(1) The Comptroller may, in the execution of a warrant signed by a Magistrate or a Justice of the Peace, enter a place and seize goods in respect of which the Comptroller has reasonable grounds to believe that VAT that is, or will become payable in respect of the supply or import of the goods, has not been or will not be paid.

(2) Goods seized under subsection (1) must be stored in a place approved by the Comptroller for that purpose.

(3) As soon as practicable after a seizure of goods under subsection (1), the Comptroller shall serve notice of the seizure on—

- (a) either—
 - (i) the owner of the goods; or
 - (ii) the person who had custody or control of the goods immediately before seizure; or
- (b) a person claiming the goods who provides sufficient information to enable such notice to be served if, after making reasonable enquiries, the Comptroller cannot obtain sufficient information to identify a person referred to in paragraph (a), and if no such person claims the goods, the Comptroller is not required to serve the notice.

(4) A notice under subsection (3) must be in writing and must—

- (a) identify the goods seized;
- (b) state that the goods have been seized under this section and the reason for the seizure; and
- (c) set out the terms of subsections (5), (6), and (7).

(5) The Comptroller may authorise the delivery of goods seized under subsection (1) to the person on whom a notice under subsection (3) has been served, if that person has, to the satisfaction of the Comptroller:

- (a) given, or made an arrangement to give, security for payment of the VAT that is due, or may become payable in respect of the supply or import of the goods; or

- (b) agreed to pay by instalments, the VAT that is due or may become payable in respect of the supply or import of the goods.

(6) If subsection (5) does not apply, the Comptroller may detain the goods seized under subsection (1)—

- (a) in the case of perishable goods, for such period as the Comptroller considers reasonable, having regard to the condition of the goods; or
- (b) in any other case, for 21 days after the seizure of the goods,

and thereafter the Comptroller may sell the goods by public auction or in such other manner as the Comptroller may determine.

(7) The Comptroller shall apply the proceeds of a disposal of goods under subsection (6) as follows—

- (a) first toward the cost of seizing, keeping, and selling the goods;
- (b) then towards payment of the VAT due in respect of the supply or import of the goods seized, including any interest or penalties thereon;
- (c) then towards payment of any other taxes, levies, or duties collected by the Comptroller, including any unpaid amounts under the repealed taxes; and
- (d) the balance, if any, to be paid to the owner of the goods.

(8) Nothing in this section precludes the Comptroller from proceeding under Part XVI of this Act with respect to any balance owed, if the proceeds of disposal are not sufficient to meet the costs referred to in paragraphs (a) and (b) of subsection (7).

62.—(1) The Comptroller may delegate in writing a duty, ^{Delegation.} power, or function conferred on him under this Act other than:

- (a) the power of delegation conferred by this subsection; and
- (b) the power to sanction prosecutions conferred by section 70.

(2) A delegation under this section does not prevent the exercise of such power, duty, or function by the Comptroller himself.

(3) The Comptroller may, at any time, revoke in writing, a delegation under this section.

PART XIV

MISCELLANEOUS

63.—(1) A person who conducts more than one taxable activity, or who conducts one or more taxable activities through branches or divisions, must be registered in the name of the person and not in the names of the activities, branches, or divisions. ^{Branches and divisions.}

(2) Subsection (1) does not prevent a person being treated as if he were two separate persons for the purposes of section 22(7).

Actions of partners, trustees, and members of unincorporated persons.

64.—(1) For the purposes of this Act, anything done or engaged in by a person in the capacity as an officer of an unincorporated body of persons, is treated as being done by the unincorporated body and not by the officer.

(2) Without limiting subsection (1), examples of things done or engaged in by a person include:

- (a) carrying on a taxable activity or part of the activity;
- (b) making a supply, import, or acquisition in the course or furtherance of the taxable activity carried on by the body;
- (c) receiving service of a notice;
- (d) lodging a return; or
- (e) providing information.

Currency.

65.—(1) An amount taken into account under this Act must be expressed in Eastern Caribbean Currency.

(2) If an amount is expressed or paid in a currency other than Eastern Caribbean Currency—

- (a) if the amount relates to an import of goods, it must be converted into Eastern Caribbean Currency at the exchange rate applicable under the customs laws, for the purposes of computing the customs duty payable on the import; and

- (b) if no such provisions apply, and in any other case, the amount must be converted to Eastern Caribbean Currency at the Eastern Caribbean Central Bank mid-exchange rate applying between the foreign currency and Eastern Caribbean Currency, on the date the amount is taken into account for the purposes of this Act.

66.—(1) A price charged by a taxable person in respect of a taxable supply includes an amount representing the VAT chargeable on that supply, whether or not the person includes an amount for VAT when determining the price, states that the price includes an amount for VAT, or otherwise takes VAT into account in setting the price. VAT-inclusive pricing.

(2) A price advertised or quoted by a taxable person in respect of a taxable supply must be VAT-inclusive, and the advertisement or quote must clearly state that the price includes VAT, unless the supply is a zero-rated supply, in which case the advertisement or quote must indicate that no VAT is payable on the supply.

(3) Despite subsection (2), price tickets on goods need not separately state that VAT is included in the price, if a notice stating that prices include VAT is prominently displayed at or near the entrance to the premises where the goods are offered for sale and at the place where payments are effected.

(4) A taxable person advertising or quoting a price, may include a statement of the VAT-exclusive price in the advertisement or quotation, only if the VAT-inclusive price is stated with equal or greater prominence.

(5) The Comptroller may, in relation to a taxable person or a class of taxable persons, approve another method of displaying prices for taxable supplies, including, but only in the case of supplies made to other taxable persons, a method involving VAT-exclusive pricing.

Regulations.

67.—(1) The Minister may make regulations—

- (a) for any matter that this Act requires or allows to be prescribed by regulations; or
- (b) for any matter that is necessary or convenient to be prescribed in order to better carry out or give effect to the purposes of the Act.

(2) Without limiting the generality of subsection (1), such regulations may provide for—

- (a) transitional or saving provisions consequent on the coming into force of the Act, or on any change in the VAT rate or the tax base under the Act;
- (b) the collection of output tax in respect of taxable supplies made by retailers;
- (c) provisions to remedy (in manner and or form), any deficiency in this Act arising from the absence or insufficiency of provisions to deal with any thing that is necessary to give effect to the Act;

- (d) ensuring that the provisions of the Act do not inappropriately result in the application of VAT more than once (or, unless clearly intended by the Act, less than once) to a particular type of transaction;
- (e) ensuring that this Act operates as a multi-stage, value added tax on consumption in Grenada, at the appropriate rate of VAT;
- (f) prescribing the duties and functions of officers and other persons appointed or employed under the Act;
- (g) prescribing the form of returns to be made, the particulars to be included in the returns, the persons by whom, and the time when or within which such returns are to be made;
- (h) prescribing the forms of assessments, notices, and other documents that are referred to in the Act, or are necessary in order to give effect to the Act;
- (i) providing for any matter that is contemplated by or necessary for giving full effect to the provisions of the Act, and for the due administration under the Act.

(3) Subject to subsection (3), regulations made under this Act are subject to an affirmative resolution of the Parliament.

(4) The specification and description of the nature and form of filing and documentation requirements and approved forms, may be issued by the Minister as Regulations, or by way of notice in the *Gazette*.

PART XV

INTEREST AND OFFENCES

Division 1: Interest

Interest on late payments.

68.—(1) A person who fails to pay VAT payable to the Comptroller or the Comptroller of Customs under this Act on or before the due date for payment, is liable to interest on the amount unpaid at the rate of 1.5% per month or part thereof, calculated from the date the payment was due to the date the payment is made.

(2) Interest payable by a person under subsection (1) may be recovered by the Comptroller as if it were VAT payable by the person.

(3) If a person has paid interest under subsection (1), and an amount to which the interest relates is found not to have been payable, the interest paid on that amount must be refunded to the person.

(4) The Comptroller may, on application in writing by a person liable to pay interest under this section, remit the interest in whole or part if the Comptroller is satisfied that there is good cause to do so.

69.—(1) Subsection (2) applies if—

- (a) an act has been committed, or an omission has been made, by a company; and
- (b) because of the act or omission, the company is liable to an administrative penalty or to prosecution for an offence in relation to the act or omission.

(2) Every person who, at the time of the act or omission referred to in subsection (1)—

- (a) was a director or other similar officer of the company; or
- (b) was acting or purporting to act in such capacity,

is liable to a penalty and may be prosecuted for an offence under Division 2, as if the person were the company.

70. A person who aids, abets, assists, counsels, incites, or induces a contravention of the Act or the commission of an offence under the Act, commits that contravention or offence, and is liable to the same penalty, fine, or term of imprisonment as a person committing the offence.

71.—(1) Where, in respect of a single act, omission, or course of conduct, a fixed penalty may be imposed on a

person under more than one section in Division 2, the person's liability for a penalty under each such section is separate and distinct from the person's liability under each other such section.

Penalties or offences for acts or omissions by companies.

Aiding and abetting.

Independent application of penalties and offences.

(2) Where, in respect of a single act, omission, or course of conduct, a person is convicted of more than one offence under Division 2—

- (a) the maximum term of imprisonment imposed for the offences shall not exceed a term of 5 years; and
- (b) the person shall not subsequently be prosecuted for additional offences in relation to the same act, omission, or course of conduct.

(3) No fixed penalty is payable under a section in Division 2 in respect of an act, omission, or course of conduct by a person if—

- (a) the person has been convicted of an offence under that section in respect of the same act, omission, or course of conduct; or
- (b) the offence has been compounded by the Director of Public Prosecutions.

72.—For the avoidance of doubt—

- (a) the liability of a person to pay tax due under Part VII, or tax assessed under Part XII, is independent of the person's liability to pay a penalty or fine imposed under this Part; and
- (b) where a penalty or fine is calculated by reference to the amount of VAT payable, that penalty or fine is payable in addition to the VAT payable.

Fines and penalties are in addition to tax payable.

Division 2: Penalties and Offences

73.—(1) A person who is required to be registered and does not apply for registration within the required time, commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding two years. Failure to apply for registration.

(2) This section does not apply to a non-resident supplier to which section 9(6) applies, if in the case of taxable supplies made by the supplier through one or more resident agents, either—

- (a) all of the agents are registered under this Act at the time the supplies were made; or
- (b) at the time the supplies were made, the supplier believed on reasonable grounds that all of the agents were registered under this Act.

(3) If a person is required to be registered only because he is a resident agent acting for a non-resident who is registered—

- (a) a fixed penalty payable by the agent pursuant to the provisions of Part XVI, or a fine payable under subsection (1), is payable only in respect of supplies made by the agent in his own right, and does not apply to the supplies made by the agent on behalf of the principal; and

- (b) the principal is liable to a fixed penalty pursuant to the provisions of Part XVI, or a fine payable under subsection (3), in respect of supplies made by the agent on his behalf during that period, unless, at the time the supplies were made, the principal believed on reasonable grounds that the agent was registered under this Act.

Failure to display registration certificate.

74. A person who fails to display, as required by section 14(10), his Value Added Tax Registration Certificate, or a certified copy thereof issued by the Comptroller, whichever is applicable, commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars, or to a term of imprisonment not exceeding eighteen months.

Failure to notify changes affecting registration, or to apply for cancellation of registration.

75. A person who fails to notify the Comptroller as required by section 14(11), or to apply for cancellation of his registration as required by section 15(1), commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars, or to a term of imprisonment not exceeding eighteen months.

Failure to comply with requirements after cancellation of registration.

76. A person who fails to comply with paragraph (a), (b), or (c) of section 15(9) commits an offence, and is liable on summary conviction to a fine not exceeding ten thousand dollars, or to a term of imprisonment not exceeding two years.

Public entertainment supplies by unregistered persons.

77. A promoter of public entertainment, or a licensee or proprietor of a place of public entertainment who, in contravention of section 10(4), makes a supply in relation to public entertainment while not registered, commits an offence

and is liable on summary conviction to a fine not exceeding twenty thousand dollars, or to a term of imprisonment not exceeding three years.

78.—(1) A person shall not—

- (a) use a false TIN or a TIN that does not apply to the person;
- (b) issue a false VAT invoice, VAT credit note, VAT debit note, or sales receipt; or
- (c) provide, or fail to provide, a VAT invoice, VAT credit note, VAT debit note, or sales receipt otherwise than as provided for in Part IX.

False Documentation or TIN.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars, or to a term of imprisonment not exceeding three years.

(3) For the purposes of paragraph (b) or (c) of subsection (1), a supplier does not contravene the Act or commit an offence only because information relating to the recipient of the supply, which is relevant to the issue of, or required to be included in, the VAT invoice, debit or credit note, or sales receipt (including, but not limited to, information about the registration status or TIN of the person) is incorrect, if the person, having exercised all due care, believes on reasonable grounds that the information relating to the recipient is accurate.

(4) For the purposes of paragraph (c) of subsection (1), a supplier does not contravene the Act or commit an offence if the person, having exercised all due care, believes on reasonable grounds, that the recipient of the supply for which a VAT invoice, debit or credit note, or sales receipt is required to be issued, is or is not a registered person.

Failure to file return or pay net amount due.

79. A person who fails to file a VAT return by the due date commits an offence, and is liable on summary conviction, to a fine not exceeding twenty thousand dollars, or to a term of imprisonment not exceeding three years.

Failure to comply with notice for recovery of VAT.

80. A person who fails to comply with a notice issued under Part XI of the Income Tax Act in relation to an amount of VAT payable under this Act, contravenes the Act and commits an offence, and is liable, on summary conviction, to a fine not exceeding thirty thousand dollars, or to a term of imprisonment not exceeding three years.

Failure to keep records.

81. A person who fails to maintain proper records as required by sections 43 and 111 contravenes the Act and commits an offence, and is liable, on summary conviction, to a fine not exceeding five thousand dollars or a term of imprisonment not exceeding eighteen months.

Failure to comply with notice to give information.

82. A person who fails to comply with a notice issued under section 105(1) within the specified time contravenes the Act and commits an offence, and is liable, on summary conviction, to a fine not exceeding ten thousand dollars or a term of imprisonment not exceeding two years.

83. A person who contravenes the requirements of section 66 in relation to the advertising or quotation of prices for taxable supplies contravenes the Act and commits an offence, and is liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding eighteen months.

Non-compliance with VAT-inclusive price quotation requirements.

84.—(1) A person who makes a statement to a taxation officer that is false or misleading in a material particular contravenes the Act and commits an offence, if an amount properly payable by the person under this Act exceeds the amount that would be payable, if the person was assessed on the basis that the statement was true.

False or misleading statements.

(2) Subsection (1) shall apply if the person who made the statement did not know, and could not reasonably be expected to know, that the statement was false or misleading in a material particular.

(3) A reference in this section to a statement made to a taxation officer, includes a reference to a statement made orally, in writing, or in another form, to that officer acting in the performance of the officer's duties under this Act, and includes a statement made—

- (a) in an application, certificate, declaration, notification, return, objection, or other document made, prepared, given, filed, lodged, or furnished under this Act;
- (b) in any information required to be furnished under this Act;

- (c) in a document furnished to a taxation officer otherwise than pursuant to this Act;
- (d) in an answer to a question asked of a person by a taxation officer; or
- (e) to another person, with the knowledge or reasonable expectation that the statement would be conveyed to a taxation officer.

(4) A reference in this section to a statement that is misleading in a material particular, includes a reference to a statement that is so because of the omission of any matter or thing from the statement.

Understatement
of tax payable or
improper claim
for refund.

85. In relation to a particular tax period, a person commits an offence if the person does one or more of the following—

- (a) understates or omits to include an amount of output tax in a return submitted to the Comptroller for the tax period;
- (b) overstates the input tax credits allowed in a return submitted to the Comptroller for the tax period; or
- (c) improperly claims a refund under Part XI in relation to the tax period;

and is liable on summary conviction to a fine not exceeding ten thousand dollars, or to a term of imprisonment not exceeding two years.

86. A person who is required to pay security under section 60 and does not do so by the required day, contravenes the Act and commits an offence, and is liable on summary conviction to a fine not exceeding ten thousand dollars or a term of imprisonment not exceeding two years.

Failure to pay
security.

87.—(1) A person who impedes or attempts to impede the Comptroller in the administration of this Act, commits an offence, and is liable on summary conviction to a fine not exceeding ten thousand dollars or a term of imprisonment not exceeding two years.

Impeding tax
administration

(2) For the purposes of subsection (1), a person impedes the administration of this Act if the person—

- (a) fails to comply with a lawful request by a taxation officer to examine documents, records, or data within the control of the person;
- (b) fails to comply with a lawful request by the Comptroller to have the person appear before a taxation officer authorised by the Comptroller;
- (c) interferes with the lawful right of a taxation officer to enter onto a business premises or a dwelling unit; or
- (d) otherwise impedes the determination, assessment, or collection of VAT.

88. A person who wilfully evades, or attempts to evade the assessment, payment, or collection of VAT commits an offence and is liable on summary conviction, to a fine not exceeding twenty-five thousand dollars or to a term of imprisonment not exceeding three years.

VAT evasion

Failure to
preserve
secrecy.

89. A person who contravenes the requirements of section 59 commits an offence, and is liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding two years.

Offences by
taxation
officers.

90.—(1) A taxation officer commits an offence if the officer, in carrying out the provisions of this Act—

- (a) directly or indirectly asks for, or takes, in connection with the officer's duties, a payment or reward, whether pecuniary or otherwise, or a promise or security for such payment or reward, not being a payment or reward which the officer was lawfully entitled to receive; or
- (b) enters into or acquiesces in an agreement to do, abstain from doing, permit, conceal, or connive at an act or thing that is contrary to the provisions of this Act or to the proper execution of the officer's duty, or that has the effect that the VAT revenue is or may be defrauded

and is liable, on summary conviction to a fine not exceeding twenty-five thousand dollars or to a term of imprisonment not exceeding three years.

(2) This section applies in addition to and does not limit the operation of the Integrity in Public Life Act 2007.

(3) In addition to imposing a fine under subsection (1), the Court may order the convicted person to pay to the Comptroller an amount of VAT that has not been paid as a result of the officer's wrongdoing, and which cannot be recovered from the person liable to pay the VAT.

91.—(1) A person commits an offence if the person— Interpretation.

- (a) without lawful excuse fails to comply with a requirement made under this Act or the Regulations; or
- (b) knowingly provides any information required by or under this Act or the Regulations that are false or misleading in any material particular

and is liable, on summary conviction to a fine not exceeding five thousand dollars or a term of imprisonment not exceeding six months.

(2) This section applies to an act or omission that constitutes a contravention of, or offence against, the Regulations, unless the Regulations themselves specify a particular penalty, fine or term of imprisonment in relation to the act or omission.

PART XVI

FIXED PENALTY

92. For the purpose of this Part—

General
penalties and
offences.

“authorized officer” means the Comptroller or any person employed in Inland Revenue Department authorized in writing by the Comptroller, to perform the functions under this Part;

“fixed penalty offence” means an offence listed in the First Column of Schedule VI, an offence being created under the section of this Act or the Value Added Tax (Transitional Provisions) Act, 2009 specified in the Second Column of the Schedule and attracting the fixed penalty set out in the Third Column of the Schedule;

“fixed penalty notice” means a notice in the form set out in Schedule VII, offering the opportunity of the discharge of any liability to conviction of the offence to which the notice relates, by payments of a fixed penalty in accordance with this Part.

Fixed penalty notices.

93.—(1) Where an authorized officer has reason to believe that a person has committed an offence specified under the First Column of Schedule VI, he may serve on such a person a fixed penalty notice in the manner specified in Schedule VII, informing the person that if he does not wish to be prosecuted for the alleged offence in court, he may pay to an officer specified, in the fixed penalty notice, within the time specified, the amount of the penalty prescribed for the offence, if dealt with under this section.

(2) A fixed penalty notice may be served on a person personally, or by posting it to him within thirty days after the occurrence giving rise to the allegation of the offence.

(3) A person who receives a fixed penalty notice may decline to be dealt with under the provisions of this Part, and where he fails to pay the fixed penalty as provided under Schedule VI within the time specified in the fixed penalty

notice, or within such further time as may, in any particular case, be allowed, he is deemed to have declined to be dealt with under the provisions of this Part.

94. A fixed penalty notice shall be signed by an authorized officer and shall specify—

Particular to be specified in fixed penalty notice.

- (a) the date, time and place of the giving or affixing of the notice;
- (b) the section of the Act creating the offence alleged, and such particulars of the offence as are required under this Act;
- (c) the time within which the fixed penalty may be paid in accordance with section 95 (2);
- (d) the amount of the fixed penalty;
- (e) the clerk of the Magistrate’s Court to whom, and the address at or to which, the fixed penalty may be paid or remitted; and
- (f) the address of the Magistrate’s Court at which the person is required to appear in the event of his failure to pay the fixed penalty within the specified time, and the date and time of such appearance.

95.—(1) Where a fixed penalty notice has been given under section 94, the person to whom the notice is issued, may pay the fixed penalty in accordance with the penalty notice.

Payment of fixed penalty precludes prosecution.

(2) The time within which a fixed penalty is payable is thirty-one (31) days from the date of the notice, and where payment reaches the clerk of the Magistrate's Court after that time, it shall be returned to the sender.

(3) Where the fixed penalty is paid in accordance with the notice, no person shall then be liable to be convicted for the offence in respect of which the notice was given, and the proceedings instituted by the notice shall be deemed to have been dismissed.

Amount of fixed penalty payable.

96.—(1) The fixed penalty for an offence shall be the amount specified in the Third Column of Schedule VI for that offence.

(2) Notwithstanding anything to the contrary contained in this Act or any other law, where in respect of an offence attracting a fixed penalty, a person is served with a fixed penalty notice under section 94 requiring him to pay the fixed penalty or to appear at the court specified, but he does not pay the fixed penalty and instead is proceeded against in court, if he is convicted of the offence and the court decides to impose a fine, that fine shall not be less than the sum that is the fixed penalty attached to that offence by Schedule VI.

Payment of fixed penalty.

97.—(1) Payment of the fixed penalty shall be made to the clerk of the Magistrate's Court as stated in the notice given pursuant to section 94, and shall be dealt with in the same manner as payment of a fine imposed for an offence under the Criminal Procedure Code.

(2) Payment of the fixed penalty shall be accompanied by the notice which shall be completed by the person to whom the notice is issued.

(3) The clerk of the Magistrate's Court to whom a fixed penalty has been paid, shall in writing in the prescribed manner, inform the Comptroller that the fixed penalty had been paid.

98. In any proceedings, a certificate that payment of the fixed penalty was or was not made to the clerk of the Magistrate's Court by the date specified in the certificate shall, if the certificate purports to be signed by such clerk, be sufficient evidence of the facts stated, unless the contrary is proved.

Certificate of payment or non payment of fixed penalty.

99. Where a fixed penalty is not paid within the time specified in the notice to which section 94 refers; being the time within which it should be paid in accordance with section 95.(2), proceedings in respect of the offence specified in the notice shall thereafter proceed in the manner prescribed by the Criminal Procedure Code.

Consequence of failure to pay or to appear.

100. The Minister may from time to time by Regulations—

Amendment and replacement of Sixth Schedule.

- (a) add offence to Schedule VI;
- (b) remove any offence from the Schedule VI; or
- (c) replace the Schedule VI in whole or in part.

101. The Minister may by Regulations make provisions respecting any matter incidental to the operation of this Part and in particular for prescribing the duties of the clerk of the Magistrate's Court, and the information to be supplied to such clerk by the person on whom the fixed penalty is imposed.

Special Regulations.

PART XVII

COLLECTION AND RECOVERY

Recovery of
VAT.

102.—(1) An amount due and payable under this Act, including a net amount payable under section 31, interest payable under the Act, a penalty applied under Division 1 of Part XV, and any other amount payable under this Act, is a debt due to the Crown and payable to the Comptroller, and for the purpose of recovering the debt, except to the extent of any inconsistency, sections 98, 99, 106, 107, and 107A of the Income Tax Act apply as if the amount owing under this Act were income tax.

(2) An amount is not considered to be payable for the purposes of subsection (1) unless—

- (a) the amount is shown as a positive net amount on a return and remains unpaid; or
- (b) the amount is shown in a notice of assessment served on the taxpayer and the taxpayer has failed to pay it within the deadline specified in the notice.

(3) In addition to the powers under subsection (1) but subject to section 116(4), where money or property of a person who is liable to pay an amount under this Act (“the person liable”) is, or will be, in the possession or control of a representative:

- (a) to the extent of the amount owed by the person liable, the Comptroller may, by notice in writing, require the representative to pay part or all of the money held, or to transfer all or part of the property, to the Comptroller within 21 days of the date of service of the notice or, in the case of money or property that will come into the possession or control of the representative at a later date, within 21 days of that date; and
- (b) in paying the amount or transferring the property, the representative is deemed to have acted under the authority of the person liable and of all other persons concerned, and is indemnified in respect of the payment.

(4) If the Comptroller is unable to recover an amount of VAT, interest, or penalty due and payable by a person under this Act, the Minister may, on approval by Cabinet, order the extinguishment of the liability as a debt due to the Crown.

(5) If the Comptroller determines that a person whose debt was extinguished under subsection (4) has assets that may be attached to recover all or part of the unpaid amounts; the liability for the debt may be reinstated by an order of the Minister, approved by Cabinet, revoking the order made under subsection (4).

(6) This section does not apply to VAT collected by the Comptroller of Customs, which is recoverable under procedures for recovery of customs duty.

Allocation of
payments.

103.—If, in addition to an amount of VAT which is due and payable by a person under this Act, an amount of interest is payable, a payment made by the person in respect of the VAT, interest, which is less than the total amount due, must be applied in the following order—

- (a) first, to reduce the amount of interest due and payable;
- (b) then, to the extent that the payment exceeds the sum of the interest, to reduce the amount of VAT due and payable.

Recovery of
VAT from
persons leaving
Grenada.

104.—(1) If the Comptroller has reasonable grounds to believe that any person may leave Grenada without paying all VAT due under this Act from the person, or from a company or other body of persons controlled by the person, the Comptroller may, by notice in writing served on that person, require the person within the timeframe specified in the notice to:

- (a) make payment in full; or
- (b) make arrangements satisfactory to the Comptroller for the payment of the VAT or to secure the amount that is or will become owing.

(2) If any person fails to make payment in full or give satisfactory security as required under subsection (1), the Comptroller may issue a Certificate of Non-Compliance, stating that the person has an outstanding VAT debt, and a copy of the certificate must be given to the person and to the Chief Immigration Officer, who shall not permit the person to leave Grenada until the Comptroller revokes the certificate because the debt is paid or appropriate security is given.

- (2)—
- (3) Where a certificate is given under subsection (a)
 - (a) the Comptroller may revoke the certificate at any time; and
 - (b) the Comptroller shall revoke the certificate within 24 hours of the person complying with the notice given under subsection (1).

(4) Nothing in this section prevents the Chief Immigration Officer from allowing the person to leave Grenada if, in his or her view, there are compelling circumstances justifying a decision to allow the person to leave.

PART XVIII

OBJECTIONS AND APPEALS

105.—(1) The following decisions made under this Act are reviewable decisions—

Reviewable
decisions.

- (a) a decision under Part III to register or not register a person under this Act, including—
 - (i) a decision in relation to the date of commencement of registration;
 - (ii) a declaration under section 14(5) that reasonable grounds exist for believing that the person is required to be registered;

- (b) a decision under section 15 to cancel or not to cancel a person's registration under this Act, including a decision in relation to the date of cessation of registration;
- (c) a decision under section 44(3) not to allow a person permission for late lodgement of a return;
- (d) a decision under section 44(5) to require a person to lodge fuller or additional returns;
- (e) a decision under section 46(3) on a request for an extension of time to pay, including a decision not to grant the request, to require payment sooner than requested, or to require a taxpayer to comply with other payment arrangements;
- (f) a decision under section 46(5) not to waive a late lodgement penalty;
- (g) a decision under Part XI not to pay a refund or allow an input tax credit;
- (h) the issue of an assessment under Part XII;
- (i) a decision under section 55 to make a determination in relation to a taxpayer's liability for an amount;
- (j) a decision under section 60 to require a person to give security;

- (k) a decision under section 68(4) not to remit all or part of the interest payable under section 68;
- (l) a decision under section 115 to appoint a person as a representative of a taxable person;
- (m) a decision under sections 34(11), (12), and (13) to allow or not allow an input tax credit to a registered person, including a decision as to the amount of any input tax credit allowed.

(2) A decision is a reviewable decision if another provision of this Act states that it is a reviewable decision, whether or not the decision is listed in subsection (1).

106.—(1) A person may, by notice in writing to the Comptroller, lodge a notice of objection to a reviewable decision, requesting the Comptroller to reconsider his decision and giving reasons for the request. Objections to the Comptroller.

(2) A notice of objection under subsection (1) must be given to the Comptroller within one month after the date of service of the notice of assessment, or of the date on which the decision was made, whichever is applicable, or within such further time as the Comptroller for good cause allows.

(3) The Comptroller shall consider a valid objection made under subsection (1) and may disallow or allow it, either wholly or in part, and inform the objector of his decision by notice in writing as soon as practicable after making his decision, and of any effect that decision has on the amount of VAT payable by the objector under this Act.

(4) If, within three months of the date on which a request was given to the Comptroller under subsection (1), the Comptroller has not served notice of his decision to the objector, whether because no decision has been made, or because a decision has been made but has not been notified to the objector, for the purpose of allowing the person to appeal, the Comptroller is deemed to have disallowed the objection, and a notice of the disallowance is deemed to have been served on the person seven days after the expiration of the three month period.

(5) If, within the timeframe allowed by subsection (1), a person lodges an objection against an assessment or other decision of the Comptroller which has the effect that an amount is payable by the person to the Comptroller, the person's obligation to pay fifty percent of the amount assessed is suspended until notice of the Comptroller's decision on the objection is served on the person.

(6) Nothing in this section alters the way in which interest accrues on an amount payable, or changes the date from which interest would otherwise begin to accrue.

Appeals to the
Appeal
Commissioners.

107.—(1) A person who is aggrieved by a decision of the Comptroller under section 106 on an objection against a reviewable decision may, by notice of appeal, appeal from the decision to the Appeal Commissioners.

(2) A notice of appeal, a copy of which must be lodged with the Comptroller, must be made in writing and lodged with the Secretary to the Appeal Commissioners within 30 days of the date of service of the Comptroller's decision on the objection, or within such further time as the Tribunal may for good cause allow.

(3) The Appeal Commissioners shall hear an appeal made under this section and shall make a decision in accordance with the provisions of this Act—

- (a) affirming the decision under review;
- (b) varying the decision under review; or
- (c) setting aside the decision under review and:
 - (i) making a decision in substitution for the decision set aside; or
 - (ii) remitting the matter for reconsideration by the Comptroller in accordance with any directions or recommendations of the Appeal Commissioners.

(4) The provisions of Part XI of the Income Tax Act apply, to the extent relevant, to the hearing and determination of appeals by the Appeal Commissioners under this Act.

108.—(1) The Comptroller or the appellant may appeal to the High Court from any decision of the Appeal Commissioners which involves a question of law, including a question of mixed fact and law. Right of further appeal.

(2) The Comptroller or the appellant may appeal to the Court of Appeal from any decision of the High Court (being a decision of the High Court on an appeal from the Appeal Commissioners) which involves a question of law, including a question of mixed fact and law.

(3) On any further appeal to which this section relates, the High Court or the Court of Appeal, as the case may be—

- (a) may confirm, increase or order the reduction of any assessment;
- (b) may make such other order as it thinks fit; and
- (c) may make such order as to costs as it thinks fit.

Payment not suspended by objection or appeal.

109.—(1) A notice of objection or appeal against a reviewable decision does not suspend an obligation to pay—

- (a) any tax chargeable on a return or under an assessment; or
- (b) any penalty imposed under this Act; or
- (c) any interest imposed under this Act,

and the tax, penalty or interest may be recovered as if no such objection or appeal had been lodged.

(2) Despite subsection (1), the Comptroller may, at the Comptroller's discretion and subject to such terms and conditions as the Comptroller thinks appropriate, suspend recovery of any amount pending the determination of an objection or appeal.

PART XIX

RECORD-KEEPING AND INFORMATION COLLECTION

Maintenance of accounts and records.

110.—(1) Every taxable person shall maintain in Grenada such accounts, documents, and other records, including records referred to in section 43, as required under this Act or under any Act dealing with the administration of this Act, and

such accounts, documents, and the records must be maintained by the taxpayer for 7 years after the end of the tax period to which they relate.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to the penalty stipulated under section 81.

111.—(1) The Comptroller may, for the purposes of administering this Act, by notice in writing, require a person to—

Power to require provision of information.

- (a) furnish, within the time specified in the notice, information that may be required by the notice; or
- (b) attend, at the time and place designated in the notice, to be examined by the Comptroller, or a taxation officer authorized in writing by the Comptroller, concerning the tax affairs of that person or another person, and for that purpose, the Comptroller or the authorized taxation officer, may require the person examined to produce a book, record, or computer-stored information under the control of the person.

(2) A notice issued under this section must be personally served on the person to whom it is directed or left at his last known usual place of business or abode, and the certificate of service signed by the person serving the notice is evidence of the facts stated therein.

(3) This section has effect notwithstanding—

- (a) any Act relating to privacy, privilege, or the public interest with respect to the giving of information or the production of books, records, or computer-stored information; or
- (b) any contractual duty of confidentiality.

(4) A person who contravenes the provisions of this section commits an offence and is liable on summary conviction to the penalty stipulated under section 82.

Power to enter and search.

112.—(1) If the Comptroller has reasonable grounds to suspect a breach of this Act has occurred, or is not satisfied with the information provided in response to a request under section 111, for the purposes of investigating the suspected breach, the Comptroller, or a taxation officer authorized in writing by the Comptroller—

- (a) is entitled to have, at all times and without notice, full and free access to any premises, place, property, book, record, or computer;
- (b) may make an extract or copy of a book, record, or computer-stored information to which access is obtained under paragraph (a);
- (c) may seize a book, record, or other document that, in the opinion of the Comptroller or authorized taxation officer, affords evidence that may be material in determining the VAT liability of a taxpayer;
- (d) may retain a book, record, or document seized under paragraph (c) for as long as it may be required for determining a taxpayer's VAT liability, or for proceeding under this Act; and

- (e) may, if a hard copy or electronic copy of information stored on a computer is not provided, seize and retain the computer for as long as is necessary to copy the information required.

(2) A taxation officer is not entitled to enter or remain on premises or a place if, on request by the owner or lawful occupier, the officer is unable to produce a warrant, issued by a Magistrate or a Justice of the Peace, permitting the officer to exercise powers under subsection (1).

(3) The Comptroller shall require a police officer to be present for the purposes of exercising powers under this section.

(4) The owner or lawful occupier of the premises or place to which an exercise of power under subsection (1) relates, shall provide all reasonable facilities and assistance to the Comptroller or authorized officer.

(5) A person whose books, records, or computer have been seized under subsection (1) may examine them and make copies, at his expense, during office hours.

(6) The Comptroller or authorized officer shall sign for all records, books, or computers removed and retained under this section and shall return them to the owner within 21 days of the conclusion of the investigation or related proceedings.

(7) This section has effect notwithstanding—

- (a) any Act relating to privacy, privilege, or the public interest with respect to access to premises or places, or the production of property, books, records, or computer-stored information; or
- (b) any contractual duty of confidentiality.

(8) Pursuant to this section a person who fails to provide a taxation officer with reasonable facilities and assistance as required commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding six months.

Translation of records.

113. If a book, record, or computer-stored information referred to in this Act is not in English, the Comptroller may, by notice in writing, require the taxable person keeping the book, record, or computer-stored information to provide, at the person's expense, a certified translation into English.

PART XX

TAXPAYER IDENTIFICATION NUMBER

Taxpayer identification number.

114.—(1) The Comptroller shall issue every registered person with a unique taxpayer identification number for VAT purposes, which number may be the same as or related to the number, if any, used to identify the person for the purposes of income tax or another tax administered by the Comptroller.

(2) Every taxable person shall include its TIN in a return, notice, or other document prescribed or used for the purposes of this Act.

(3) A person whose registration is cancelled under this Act and who is later re-registered, shall be required to use its previous TIN unless the Comptroller considers it inappropriate to do so.

PART XXI

REPRESENTATIVES

115.—(1) The Comptroller may, by notice in writing, declare an individual to be a representative of a person for the purposes of this Act. Power to appoint representatives.

(2) Without limiting subsection (1), the Comptroller may declare a person to be a representative of another person who is liable to pay an amount to the Comptroller under this Act ("the person liable"), if:

- (a) the person owes or may owe money to the person liable;
- (b) the person has authority from some other person to pay money to the person liable; or
- (c) the person is in possession of property of the person liable.

116.—(1) Every representative of a person is responsible for performing duties or obligations imposed by this Act on that person, including the payment of amounts due and payable under this Act. Liabilities and obligations of representatives

(2) Subject to subsection (4), an amount that, by virtue of subsection (1), is payable by a representative of a person, is recoverable from the representative only to the extent of assets, if any, of the person that are in the possession or under the control of the representative.

(3) Every representative is personally liable for the payment of amounts due from the representative in that capacity if, while the amount remains unpaid, the representative—

- (a) alienates, charges or disposes of money received or accrued in respect of which the amount is payable; or
- (b) disposes of or parts with money or funds belonging to the person that are in the possession of the representative, or which come to the representative after the amount is payable, if such amount could legally have been paid from, or out of, such money or funds.

(4) Nothing in this section relieves a person from performing duties or obligations imposed on the person by this Act, that the representative of the person has failed to perform.

(5) If there are two or more representatives of a person, the duties or obligations referred to in this section apply, jointly and severally to the representatives but may be discharged by any of them.

(6) The powers of the Comptroller under Part XII of the Income Tax Act apply, as if a person appointed as a representative under this Act were a representative of a taxpayer under that Act.

(7) This section does not apply to a person who is a representative only because of section 115 and paragraph (1) of the definition of representative, unless and until the Comptroller gives notice to the person that the person has been declared to be a representative, and includes in the notice a statement that one consequence of the declaration is, that this section will apply.

117.—(1) In this section, “receiver” means a person who, with respect to an asset in Grenada is—

Duties of
Receivers.

- (a) a liquidator of a company;
- (b) a receiver appointed out of court or by a court;
- (c) a trustee for a bankrupt person;
- (d) a mortgagee in possession;
- (e) an executor of the estate of a deceased person; or
- (f) any other person conducting business on behalf of a person who is legally incapacitated.

(2) A receiver shall notify the Comptroller in writing within 21 days after the earlier of being appointed to the position or taking possession of an asset of a person liable to VAT in Grenada.

(3) The Comptroller may in writing notify a receiver of the amount which appears to the Comptroller to be sufficient to provide for VAT, which is or will become payable by the person whose assets are in the possession of the receiver.

(4) A receiver—

- (a) shall set aside, out of the proceeds of sale of an asset of the person who is legally incapacitated, the amount notified by the Comptroller under subsection (3), or such lesser amount as is subsequently agreed on by the Comptroller;
- (b) shall be liable, to the extent of the amount set aside, for the VAT payable by the person who owned the asset; and
- (c) may pay a debt that has priority over the VAT referred to in this section notwithstanding any provision of this section.

(5) A receiver shall be personally liable, to the extent of an amount required to be set aside under subsection (4), for the VAT referred to in subsection (3) if, and to the extent that, the receiver fails to comply with the requirements of this section.

Directors of companies.

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

(2) A director of a company is not liable under subsection (1) to pay an amount the company failed to pay if 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.

(3) A director of a company may not be assessed for an amount under this section more than five years after the end of the tax period in which the import, supply, or VAT adjustment event to which the amount relates occurred, or in the case where an assessment had been made, not more than five years after the date of the assessment.

(4) A director who makes a payment under this section is entitled to a contribution from the other directors who were liable to make the payment.

119.—(1) A liability or obligation imposed by or under this Act or the Regulations on an unincorporated body, is imposed on the body and on any person who is an officer of the body, at the time the liability or obligation is imposed, and the body and each such officer is jointly and severally liable for that liability or obligation.

Officers of unincorporated bodies.

(2) For the purposes of this Act, the existence of an unincorporated body and any taxable activity carried on by the unincorporated body are deemed not to be affected by any change in its members or officers.

(3) A document which is required to be served on an unincorporated body under this Act or the Regulations, may be served on an officer of the body.

(4) An offence under this Act committed by an unincorporated body is taken to have been committed by the officers of the unincorporated body.

Continuity of partnerships or unincorporated associations.

120. If—

- (a) a partnership or other unincorporated association or body is dissolved or otherwise ceases to exist because of the retirement or withdrawal of one or more, but not all, of its partners or members, or because of the admission of a new partner or member; and
- (b) apart from the provisions of this Act a new partnership, association, or body, consisting of the remaining members, or of the existing or remaining members and one or more new members, thereby comes into existence; and
- (c) the new partnership, association, or body continues to carry on the taxable activity that was carried on by the dissolved partnership, association, or body,

the dissolved partnership, association, or body and the new partnership, association, or body, are for the purposes of this Act, deemed to be one and the same, unless the Comptroller, having regard to the circumstances of the case, otherwise directs.

Death or insolvency of taxable person; mortgagee in possession.

121.—(1) If, after the death of a taxable person or the sequestration of a taxable person's estate—

- (a) a taxable activity previously carried on by the taxable person is carried on by, or on behalf of the executor or trustee of the person's estate; or

- (b) anything is done in connection with the termination of the taxable activity,

the estate of the taxable person, as represented by the executor or trustee, is deemed for the purposes of this Act, to be the taxable person in respect of the taxable activity.

(2) If a mortgagee takes possession of land or other property previously mortgaged by a mortgagor who is a taxable person and, while in possession of the land or property, the mortgagee carries on the taxable activity previously carried on by the mortgagor in relation to the land or other property, the mortgagee shall, to the extent and for the duration that it carries on that taxable activity, be deemed to be the mortgagor.

122. For the purposes of this Act, if a person is a trustee in ^{Trustee.} more than one capacity, the person is treated as a separate person in relation to each of those capacities.

PART XXII

FORMS AND NOTICES

123.—(1) Forms, notices, returns, and other documents prescribed or published by the Comptroller for the purposes of the Act, may be in such form as the Comptroller determines for the efficient administration of the Act, and is valid whether or not published in the *Gazette*. ^{Forms, notices, and authentication of documents.}

(2) The Comptroller shall make the documents referred to in subsection (1) available to the public at the offices of the Inland Revenue Department, and may also make the documents available by any other means and at any other locations the Comptroller thinks appropriate, including but not limited to:

- (a) by posting electronic versions of the documents on an official web site of the Government of Grenada, the Inland Revenue Department, or the Department of Customs; or
- (b) by making hard copies available for collection from District Revenue Offices.

(3) A notice or other document issued, served, or given by the Comptroller under this Act, is sufficiently authenticated if the name or title of the Comptroller, or a taxation officer authorized for that purpose, is printed, stamped, or written on the document.

Service of notices.

124.—(1) Subject to this Act, a notice or other document required to be served on a person for the purposes of this Act, is treated as properly served on the person if it is—

- (a) personally served on the person or his representative;
- (b) left at the person's usual or last known place of abode or business in Grenada; or
- (c) sent by registered post to his last known address.

(2) The validity of service of a notice under this Act may not be challenged after the notice has been wholly or partly complied with.

Validity of documents.

125. No document purporting to be made, issued, or executed under this Act may be—

- (a) quashed or deemed to be void or voidable for want of form; or
- (b) affected by reason of mistake, defect, or omission therein,

if it is, in substance and effect, in conformity with this Act and the person affected by the document is designated in it according to common understanding.

PART XXIII

PRINCIPLES OF INTERPRETATION

126.—(1) The following shall be considered to be part of this Act:

Purposive interpretation and extrinsic materials.

- (a) the headings of the sections, Parts, Divisions, and Subdivisions into which the Act is divided; and
- (b) the Schedules to the Act.

(2) In interpreting a provision of this Act, a construction that would promote the purpose or object underlying the provision or the Act (whether that purpose or object is expressly stated in the Act or not), should be preferred to a construction that would not promote that purpose or object.

(3) Subject to subsection (5), in interpreting a provision of this Act, if any material that does not form part of the Act is capable of assisting in ascertaining the meaning of the provision, consideration may be given to that material:

- (a) to confirm that the meaning of the provision is the ordinary meaning conveyed by the text of the provision, taking into account its context in the Act and the purpose or object underlying the Act; or
- (b) to determine the meaning of the provision when:
 - (i) the provision is ambiguous or obscure; or
 - (ii) the ordinary meaning conveyed by the text and taking into account its context in the Act and the purpose or object underlying the Act, leads to a result that is manifestly absurd or is unreasonable.

(4) Without limiting the generality of subsection (3), the material that may be considered in interpreting a provision of this Act includes:

- (a) all matters not forming part of the Act that are set out in the document containing the text of the Act, as printed by the Government Printer;
- (b) any treaty or other international agreement or international assistance agreement that is referred to in the Act;

- (c) any explanatory memorandum relating to the Bill containing the provision, or any other relevant document, that was laid before, or furnished to the members of either House of the Parliament, by a Minister, before the time when the provision was enacted;
- (d) the speech made to a House of the Parliament by a Minister on the occasion of the moving, by that Minister, of a motion that the Bill containing the provision be read a second time in that House;
- (e) any document, (whether or not a document, to which a preceding paragraph applies), that is declared by the Act to be a relevant document for the purposes of this section; and
- (f) any relevant material in any official record of proceedings of debates in the Parliament or either House of the Parliament.

(5) In determining whether consideration should be given to any material in accordance with subsection (3), or in considering the weight to be given to any such material, regard should be had, in addition to any other relevant matters, to:

- (a) the desirability of persons being able to rely on the ordinary meaning conveyed by the text of the provision taking into account its context in the Act and the purpose or object underlying the Act; and

- (b) the need to avoid prolonging legal or other proceedings without compensating advantage.

SCHEDULE I

ZERO-RATED SUPPLIES:
EXPORTED GOODS AND OTHER SUPPLIES OF GOODS FOR CONSUMPTION
OUTSIDE GRENADA

(1) A taxable supply of goods is zero-rated for the purposes of this Act if it is listed in one of the items below—

Item No.	Description
1.	A supply of goods, if the supplier has entered or will enter the goods for export under the customs laws and the goods have been or will be exported.
2.	A supply of goods, if the Comptroller is satisfied that the goods have been or will be exported from Grenada by the supplier.
3.	<p>A supply of goods, if—</p> <p>(a) the goods are supplied in Grenada to a non-resident recipient who is not a taxable person, or to the agent of that recipient; and</p> <p>(b) the goods are or will be exported without being altered or used in any way between the time they are delivered or made available to the recipient, and the time they are exported, except to the extent, if any, necessary to prepare them for export,</p> <p>but only if, within 3 months of the date on which the goods are delivered or made available by the supplier to the recipient, the supplier holds sufficient documentary evidence to establish that the recipient or agent entered the goods for export under the customs laws.</p>

4.	A supply of goods to a tourist or visitor, if the supplier is a licensed duty-free vendor who holds documentary evidence, collected at the time of the supply, which establishes that the goods are to be removed from Grenada without being effectively used or enjoyed in Grenada.
5.	<p>A supply of goods in the course of repairing, maintaining, cleaning, renovating, modifying, treating, or otherwise physically affecting other goods referred to in items 3, 4, 5, or 13 in paragraph (1) of Schedule 2, if the goods supplied are:</p> <p>(a) attached to or become part of those other goods; or</p> <p>(b) become unusable or worthless as a direct result of being used to repair, renovate, modify or treat the other goods.</p>
6.	A supply of goods if the goods are located outside Grenada at the time of supply, and will not be imported into Grenada by the supplier.
7.	A supply of real property relating to land located outside Grenada.

(2) A supply of goods is not zero-rated under paragraph (1), if the goods have been or will be re-imported into Grenada by the supplier.

(3) Where a supply by a resident is of the lease, hire, or licence of goods, including under a charterparty or agreement for chartering, for the purposes of item 6 of paragraph (1)—

- (a) the goods are treated as located outside Grenada at the time of supply during any period in which the goods are for use, or are used, wholly or partly outside Grenada; and
- (b) it is assumed that the supplier will not import the goods during the relevant period, if the goods are outside Grenada during that period.

SCHEDULE II

ZERO-RATED SUPPLIES:
EXPORTED SERVICES AND OTHER SUPPLIES OF SERVICES FOR
CONSUMPTION OUTSIDE GRENADA

(1) A taxable supply is zero-rated for the purposes of this Act if it is listed in one of the items below—

Item No.	Description
SERVICES CONNECTED WITH EXPORTED GOODS:	
1.	A supply of services directly in connection with land, or improvements to land, situated outside Grenada.
2.	A supply of services directly in connection with goods, (other than goods covered by item 1), situated outside Grenada at the time the services are performed.
3.	A supply of services directly in connection with goods, (including containers suitable for repetitive use), temporarily imported into Grenada under the special regime for temporary imports specified in the Customs Act, or any other provision of the customs laws dealing with temporary imports.
4.	A supply of services directly in connection with a container temporarily imported under the special regime for temporary imports specified in the Customs Act.
5.	A supply of the services of repairing, maintaining, cleaning, renovating, modifying, or treating goods brought temporarily into Grenada for the purposes of receiving the services, so long as the goods are removed from Grenada after the services have been performed, and have not been used in Grenada for any purpose other than to enable the services to be performed.
6.	<p>A supply of services directly in connection with:</p> <p>(a) a supply of goods referred to in items 1, 2, 5, or 6 in paragraph (1) of Schedule 1, or</p> <p>(b) a supply of services referred to in item 4 or 5 of this paragraph,</p> <p>including a supply that consists of arranging for, or is ancillary or incidental to, such supply.</p>

7.	<p>A supply of services to a non-resident who is not a taxable person, if the supply is directly in connection with a supply referred to in:</p> <p>(a) item 3 in paragraph (1) of Schedule 1, or</p> <p>(b) items 1, 2, or 3 of this paragraph,</p> <p>including a supply that consists of arranging for, or is ancillary or incidental to, such supply.</p>
SERVICES CONSUMED OUTSIDE GRENADA:	
8.	A supply of services that are physically performed outside Grenada, if the services are of a kind that are effectively used or enjoyed at the time and place where they are performed.
9.	<p>A supply of services, other than services—</p> <p>(a) directly in connection with land, or improvements to land, situated in Grenada;</p> <p>(b) directly in connection with goods situated in Grenada at the time the services are performed; or</p> <p>(c) that consist of refraining from or tolerating an activity, a situation, or the doing of an act in Grenada, if the restraint or toleration is for effective use or enjoyment in Grenada,</p> <p>if—</p> <p>(d) the services are supplied to a non-resident person who is outside Grenada at the time the services are performed; or</p> <p>(e) the services are supplied to a resident person who is outside Grenada at the time the services are performed, and the services are for effective use or enjoyment outside Grenada.</p>

10.	<p>A supply of services that consist of—</p> <p>(a) the filing, prosecution, granting, maintenance, transfer, assignment, licensing, or enforcement of intellectual property rights for use outside Grenada;</p> <p>(b) incidental services necessary for the supply of services referred to in paragraph (a); or</p> <p>(c) the acceptance by a person of an obligation to refrain from pursuing or exercising, in whole or part, intellectual property rights for use outside Grenada.</p>
11.	<p>A supply of telecommunications services by a resident telecommunications supplier to a non-resident telecommunications supplier.</p>
12.	<p>A supply of telecommunications services that are provided to a person other than another telecommunications supplier, if the telecommunications service is initiated outside Grenada.</p>
13.	<p>A supply of services relating to goods under warranty to the extent that the services are—</p> <p>(a) provided under the warranty;</p> <p>(b) supplied to the warrantor, who is a non-resident and is not a registered person, for consideration given by that warrantor; and</p> <p>(c) in respect of goods that were subject to tax under section 8(1)(b).</p>

(2) A supply of services is not zero-rated under items 9, 11, or 12 of paragraph (1), if the supply is a supply of a right or option to receive a supply of goods or services in Grenada, unless the supply to be received would be zero-rated if it were made in Grenada.

(3) Without limiting paragraph (2), a supply of services is not zero-rated under items 9, 11, or 12 of paragraph (1) if the services are supplied under an agreement that is entered into, whether directly or indirectly, with a person who is a non-resident, if—

- (a) the performance of the services is, or it is reasonably foreseeable at the time the agreement is entered into, that the performance of the services will be received in Grenada by another person, and
- (b) it is reasonably foreseeable, at the time the agreement is entered into, that the other person will not be a taxable person when he receives the performance of the services,

and for the avoidance of doubt, if the supply is a supply of a right or option to receive goods or services, the performance of the services referred to in this paragraph is the performance of the supply of goods or services when the right or option is exercised, rather than the granting of the right or option.

(4) A supply of telecommunications services is not zero-rated under any item in paragraph (1) other than item 11 or 12.

SCHEDULE III

ZERO-RATED SUPPLIES AND IMPORTS: OTHER

(1) A supply or import listed in one of the items below is a zero-rated supply or import for the purposes of this Act—

Item No.	Description
1.	<p>A supply or import of food for human consumption to the extent provided in regulations:</p> <ul style="list-style-type: none"> · Flour · Sugar · Rice · Milk · Infant preparations

2.	<p>A supply of water by NAWASA if—</p> <p>(a) provided to residential premises for private or domestic use, provided that in each tax period, only the first 2,900 gallons of water supplied to a single household is zero-rated; or</p> <p>(b) provided for use in agriculture or commercial fishing.</p>
3.	<p>A supply of electricity by GRENLEC provided to residential premises for private or domestic use, provided that in each tax period only the first 99 kilowatt hours of electricity supplied to a single household is zero-rated.</p>
4.	<p>A supply of stamps by the Grenada Postal Corporation.</p>
5.	<p>A supply of motor spirit (gasoline), diesel, LPG cooking gas, or Kerosene, if it is subject to tax under the Petrol Tax Act 2005.</p>

SCHEDULE IV

EXEMPT SUPPLIES

(1) A supply listed in one of the items below is an exempt supply for the purposes of this Act—

Item No.	Description
1.	<p>A supply of the following "financial services"—</p> <p>(a) granting, negotiating, and dealing with loans, credit, credit guarantees, and security for money, including management of loans, credit, or credit guarantees by the grantor;</p> <p>(b) transactions concerning money, deposit and current accounts, payments, transfers, debts, cheques, or negotiable instruments, other than debt collection and factoring;</p> <p>(c) transactions relating to financial derivatives, forward contracts, options to acquire financial instruments, and similar arrangements;</p> <p>(d) transactions relating to shares, stocks, bonds, and other securities, but not including custody services;</p> <p>(e) management of investment funds;</p> <p>(f) provision, or transfer of ownership, of an insurance contract or the provision of reinsurance in respect of such contract;</p> <p>(g) provision, or transfer of ownership, of an interest in a scheme, whereby provision is made for the payment or granting of benefits by a benefit fund, provident fund, pension fund, retirement annuity fund or preservation fund;</p> <p>(h) a supply of credit under a finance lease, if the credit for the goods is provided for a separate charge and the charge is disclosed to the recipient of the goods; or</p> <p>(i) the arranging of any of the services in paragraphs (a) to (h).</p>
2.	<p>A supply of goods, if the goods were used by the taxable person solely in connection with making exempt supplies, or if the goods are a passenger vehicle on which the person incurred input tax and was denied a credit under section 33(2)(b).</p>

form of supply ... right to be a common ... in residential premises

3.	The following supplies of real property: (a) a supply of vacant land; or (b) a supply of land to the extent that it is to be used for agricultural purposes.
4.	A supply of real property, to the extent that the property relates to or is residential premises, including land that is reasonably attributable to such premises.
4.	A lease, licence, hire, rental or other form of supply, to the extent that it is a supply of the right to occupy or be accommodated in residential premises.
6.	A supply of holiday or hotel accommodation, if the accommodation is provided to an individual, (alone or together with other individuals), who resides therein under terms consistent with a landlord and tenant agreement, and for a continuous period of more than 45 days, (counting the first day on which the person is supplied the accommodation and disregarding the day on which the person ceases to be provided with the accommodation).
7..	A supply of accommodation in, or the right to occupy as a residence, a caravan, houseboat, camping site, boat, marina berth, or similar place, on terms commensurate with those of landlord and tenant, if the accommodation is provided to an individual (alone or together with other individuals) for a continuous period of more than 45 days, (counting the first day on which the person is supplied the accommodation, and disregarding the day on which the person ceases to be provided with the accommodation).
8.	A supply by a condominium corporation to a member of the corporation, if the unit that is owned by the member, or the property the member, is entitled to occupy as a consequence of its membership, constitutes residential premises (including any garage, storage space, or other space associated with the premises, so long as that space is of a type commonly considered to be part of residential premises).

9.	A supply of "education services," consisting of tuition or instruction for students provided by an institution duly registered by the Minister of Education, being— (a) a pre-primary, primary, or secondary school; (b) a technical college, community college, or university; (c) an educational institution established for the promotion of adult education, vocational training, improved literacy, or technical education; (d) an institution established for the education or training of physically or mentally handicapped person; or (e) an institution established for the training of sports persons.
10.	A supply of medical, surgical, psychotherapeutic, dental, nursing, convalescent, rehabilitation, midwifery, paramedical, optical, or other similar services where the services are provided— (a) by an institution regulated by the Minister of Health; or (b) by, or under the supervision and control of, a person who is registered as being qualified to perform that service under a law of Grenada or whose qualifications to perform the services are recognised by the Government of Grenada.
11.	A supply of services in a nursing home or residential care facility for aged, indigent, infirm, or disabled persons who need permanent care.
12.	A supply of veterinary services by a person who is licensed or recognised by the Grenada Medical, Dental, and Veterinary Surgeons Regulatory Board.
13.	A supply of goods or services by an approved non-profit body, as prescribed by the Minister, if the supply is made for a prescribed purpose.
14.	A gambling supply conducted by an approved non-profit body.
15.	A supply of a ticket in a lottery conducted by the Grenada National Lottery Authority or the Windward Islands Lotteries Commission.

16.	A supply of the transportation of passengers within Grenada by taxi, bus, or ferry, but not including a supply of a chartered tour of a kind ordinarily provided to tourists or other visitors to Grenada.
17.	A supply of unprocessed agricultural products if: <ul style="list-style-type: none"> (a) the supplier is the producer of the products; or (b) but for paragraph (3) of Schedule I, the supply would have been a zero-rated export under paragraph (1) of that Schedule.
18.	A supply of agricultural or fishing inputs, if the import of the thing supplied would be exempt under paragraph (a) or (g) of item 3 in Schedule 5.
19.	A supply of aircraft's stores or ship's stores, or of spare parts for an aircraft or ship, if the stores or parts are for use, consumption, or sale on the aircraft or ship during a flight or voyage that constitutes international transport.
20.	A supply of the services of repairing, maintaining, cleaning, renovating, modifying, or treating an aircraft or ship engaged in international transport.
21.	A supply to a non-resident who is not a taxable person of services that— <ul style="list-style-type: none"> (a) consist of the handling, pilotage, salvage, or towage of a ship or aircraft engaged in international transport; or (b) are provided directly in connection with the operation or management of a ship or aircraft engaged in international transport.
22.	A supply of international transport services.
23.	A supply of insuring, arranging for the insurance of, or arranging for, the international transport.

(2) A supply is not exempt under item 6 or 7 of paragraph (1) for the first 45 days of occupation, and thereafter is not exempt, if the supplier chooses instead to treat the supply as taxable at the rate set out in paragraph (b) of section 8(3).

(3) If, but for this paragraph, a supply, other than a supply covered by item 19 or 21 in paragraph (1), would be both exempt and zero-rated, the supply is zero-rated rather than exempt.

SCHEDULE V
EXEMPT IMPORTS

(1) An import listed in one of the items below is an exempt import for the purposes of this Act—

1.	An import of goods if a supply of the goods in Grenada would be an exempt supply.
2.	An import of goods given otherwise than for the purposes of sale as an unconditional gift— <ul style="list-style-type: none"> (a) to an approved non-profit organisation, or to an institution referred to in item 9 or 10(a) of paragraph (1) in Schedule IV; or (b) to the State, if the Comptroller of Customs has written notification from the the Minister of Finance that the goods are to be exempt from VAT.
3.	An import of goods to the extent provided in regulations and if it is exempt from customs duty under one of the items in the List of Conditional Duty Exemptions in the Common External Tariff specified below: <ul style="list-style-type: none"> (a) Agricultural inputs falling under items 3(a), 3(b), 3(c), 3(d), or 3(e); (b) Goods imported by the Blind and Disabled items 7(a) or 7(b); (c) Coverings or packages falling under items 12(a) or 12(b); (d) Goods imported for Cultural Activities item 13(a), 13(b), 13(c), 13(d); (e) Goods imported by Diplomatic, Consular, and other representatives of foreign states and falling under items 14(a), 14(b), or 14(c); (f) Goods imported for Economic and Social Development items 16(a), or 16(b)

3.	<p>(g) Inputs to commercial fisheries falling under item 20;</p> <p>(h) Charitable gifts falling under item 21(a);</p> <p>(i) Goods imported by the Governor-General falling under item 22</p> <p>(j) Goods imported by the Handicap-Mentally or Physically falling under item 25</p> <p>(k) Household effects falling under items 27(a), 27(b), or 27(c);</p> <p>(l) Donated clothing for indigent children falling under item 28;</p> <p>(m) Goods imported by the Peace-Corps falling under item 32;</p> <p>(n) Personal effects falling under items 33(a), 33(b), or 33(c);</p> <p>(o) Goods and Items imported by Public and Contract officers items 36(a), 36(b), or 36(c);</p> <p>(p) Goods imported by Red Cross Society item 39;</p> <p>(q) Goods for relief from natural disasters, falling under item 40;</p> <p>(r) Goods imported by Religious Bodies items 41(a), 41(b), 41(c), 41(d), 41(e), or 41(f);</p> <p>(s) Samples item 42;</p> <p>(t) Goods imported by Schools falling under items 43(a), 43(b), or 43(c);</p> <p>(u) Sporting Goods and Equipments item 44;</p> <p>(v) Goods imported by St. John's Ambulance Brigade item 45;</p> <p>(w) Goods imported by students studying in Grenada, or returning Grenadian students falling under items 47(a) or 47(b);</p> <p>(x) Items in relation to foreign technical assistance provided to Grenada, falling under item 48;</p> <p>(y) Trophies falling under item 52;</p> <p>(z) Goods imported by Youth and other Organisations falling under item 53.</p>
----	--

4.	<p>An import of goods (including an import of a container) that have been exported and then returned to Grenada by any person without having been subjected to any process of manufacture or adaptation and without a permanent change of ownership, but not if at the time when the goods were exported:</p> <p style="padding-left: 40px;">(a) they were the subject of a supply that was zero-rated; or</p> <p style="padding-left: 40px;">(b) they were the subject of a supply that, for the purposes of the Value Added Tax (Transitional Provisions) Act 2009, occurred before this Act commenced.</p>
5.	<p>An import of goods shipped or conveyed to Grenada for trans-shipment or conveyance to any other country.</p>
6.	<p>An import of goods made available free of charge by a foreign government or an international institution, with a view to assisting the economic development of Grenada, as approved by the Minister of Finance.</p>
7.	<p>An import of clothing donated for free distribution in Grenada, as approved by the Minister of Finance.</p>
8.	<p>Microcomputers, software and accessories as specified in regulations, imported for personal use by individuals not registered for VAT.</p>

SCHEDULE VI

(Sections 73, 74, 75, 76, 77, 80, 81, 82, 83, 86, 112)

OFFENCE	SECTION	FIXED PENALTY
1. Failure to apply for Registration.	73	\$5,000.00
2. Failure to display VAT registration certificate.	74	\$2,500.00
3. Failure to notify changes affecting registration or to apply for cancellation of registration.	75	\$2,500.00

4. Failure to comply with requirements after cancellation of registration.	76	\$5,000.00
5. Making a supply in relation to Public entertainment in contravention Section 10 (4).	77	\$10,000.00
6. Failure to comply with notice for recovery of VAT.	80	\$2,500.00
7. Failure to keep records.	81	\$2,500.00
8. Failure to comply with notice to give information.	82	\$5,000.00
9. Non-compliance with VAT Inclusive price quotation requirements.	83	\$5,000.00
10. Failure to pay security.	86	\$5,000.00
11. Failure to provide facilities.	112	\$1,500.00
12. Making a regulated supply for an excessive price.	12 of the Value Added Tax (Transitional provisions Act 2009)	\$5,000.00

SCHEDULE VII

(Section 93)

NOTE: (It is an offence for anyone, other than the person liable for the undermentioned offence, to remove or interfere with this notice without authority).

VAT ACT, 2009
NOTICE OF OPPORTUNITY TO PAY FIXED PENALTY

TAKE NOTICE that, I,
(name of authorized officer)
have reason to believe that an offence, particulars of which are given overleaf, has been committed

The fixed penalty for the offence is
.....
(penalty in words and figures)

If this amount is paid to the Clerk of the Magistrate's Court within thirty-one (31) days from the date of this notice, that is to say, not later than..... no proceedings will be taken and any liability to conviction of the offence will be discharged. The offence carries a maximum fine of

\$.....

In paying the fixed penalty, the following conditions shall be observed:

(1) The fixed penalty shall be accompanied by this notice on which shall be inserted in the space provided the VAT registration number of the person liable for the offence.

(2) Where payment of the fixed penalty is made otherwise than in conformity with the VAT Act made thereunder, the Clerk shall as soon as practicable after payment return the amount paid to the sender, and thereafter proceedings in respect of the alleged offence shall begin.

(3) Payment of the fixed penalty shall be made or remitted to "The Clerk of the Magistrate's Court" at the following address:

.....
.....

Should you fail to pay the fixed penalty not later than, you are hereby required to attend the Magistrate's Court on the day of 20..... at 9.00 o'clock in the forenoon at the undermentioned address, as the defendant in the matter in respect of which this notice was issued.

.....
(State name and address of court)

This notice was given/affixed at
(state location)

on 20..... at a.m. m.
(state date) (state time)

PARTICULARS OF OFFENCE

At a.m./p.m on the day
of 20 at
you

Contrary to
(state section/regulation contravened)
of the
(state Act/regulation)

Signature of authorized officer

Passed in the House of Representatives this 2nd day of June, 2009.

ADRIAN C. A. HAYES
Clerk to the House of Representatives.

Passed in the Senate this 23rd day of June, 2009.

ADRIAN C. A. HAYES
Clerk to the Senate.

VALUE ADDED TAX BILL 2009

EXPLANATORY MEMORANDUM

I. Introduction

The Value Added Tax Bill 2009 (‘the Bill’) provides for the imposition, collection, and administration of a broad-based tax on consumption in Grenada, which will replace a number of existing, less-efficient taxes. The tax, to be known as the Value Added Tax, or ‘VAT,’ is modelled on the credit-invoice, value added type consumption taxes in use in over 120 countries around the world, including many of the countries in the Caribbean region.

VAT is a single rate, broad-based, multi-stage tax transaction tax, imposed and collected at each stage in the chain of production and distribution. Although the tax will be imposed on, and collected by businesses, the final tax burden is intended to fall on domestic consumers. The broad base of the tax will limit the distortions produced by the current taxation regime, by spreading the indirect tax burden across all aspects of the economy, rather than concentrating it on imported goods. VAT will also provide for simpler compliance and administration than the existing taxes being replaced.

While both VAT and the taxes it will replace are ultimately borne by consumers, the structure of VAT is intended to relieve the effects of tax cascading. Tax cascading occurs when tax is imposed on tax, and often arises in single-stage taxes when there are business to business (‘B2B’) transactions and both businesses are liable for tax. For example, cascading will occur under a wholesale sales tax if one wholesaler sells to another, unless transactions between wholesalers are treated as exempt. In such situations, not only will the same value be taxed twice, but if the first wholesaler passes on the burden of the tax, the second wholesaler will apply tax on that passed on tax. Thus, cascading includes both double taxation and tax on tax. This is why single-stage consumption taxes often operate a ‘ring system’, under which transactions between vendors within the ring of registered producers and distributors are exempt from tax.

In contrast, a value added tax is a multi-stage tax, under which all transactions are taxed. There is no ring fencing and there are no exempt taxpayers. Instead, tax cascading is avoided by having an input tax credit mechanism for registered businesses. Under a VAT regime, registered persons are required to pay VAT on their taxable supplies, on the presumption that they have collected the amount of VAT payable by including an allowance for it in the prices they charge for those supplies. VAT applies whether or not the customer is another registered person, but customers who are registered will generally be allowed to deduct most of the VAT incurred on their business inputs. For each registered taxpayer, the tax payable on business outputs is netted off against the tax incurred on business inputs (which includes both local, taxed purchases and taxed