

SAINT VINCENT AND THE GRENADINES

VALUE ADDED TAX ACT, 2006

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SAINT VINCENT AND THE GRENADINES

ACT NO. 25 OF 2006

I ASSENT

DR. FREDERICK BALLANTYNE
Governor-General
28th November, 2006

[L.S.]

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

[28th November, 2006]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly of Saint Vincent and the Grenadines 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, 2006. Short title and commencement
- (2) Subject to subsection (3), this Act comes into force on the 1st day of May 2007 or on such later day as the Governor-General may by Proclamation appoint.
- (3) The following sections of this Act come into force on the day the Act is gazetted:
- (a) section 59;
 - (b) to the extent necessary to give effect to section 59, Part III;

- (c) sections 49, 50, 51, 53, 58, 62, 63, 65, 74, 75, 76, 78, 79, 82, 83, 85, 86, 89, 90, 93, 95;
- (d) Parts XX, XXI, and XXII;
- (e) any other sections that are necessary or expedient for the purpose of bringing the Act into operation on the day of the commencement thereof.

Interpretation

2. (1) In this Act, unless the context requires otherwise:

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

- (a) the receipt of the goods or services supplied to the recipient by the supplier;
- (b) the receipt of the goods or services by another person at the instigation of the supplier 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;

“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 storage of transported goods or goods to be transported;

“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 or any other law;

“body of persons” means:

- (a) a body politic, corporate, or collegiate;
- (b) a company, fraternity, fellowship, partnership, or society of persons, whether corporate or unincorporate,

and includes a joint venture and a trust;

“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;

“Comptroller” means the Comptroller of Inland Revenue appointed pursuant to section 3 of the Income Tax Act;

Cap. 312

“company” means an incorporated or unincorporated association or body of persons created or recognised under a law in force in Saint Vincent and the Grenadines or elsewhere, but does not include a partnership or trust;

“Comptroller of Customs” means the Comptroller of Customs appointed pursuant to section 4 of the Customs (Control and Management) Act;

No. 14 of 1999

“condominium body corporate” means a body corporate established under section 15 of the Condominium Act, or any similar person including, without limitation, a trust, a company, or other person if the units in the trust, shares in the company, or other membership interests in the person carry with them an entitlement for the holder to occupy any land or part thereof for any period;

Cap. 237

“consideration” has the meaning given in section 3;

“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% of the use of the goods or services;

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

- (a) the consignment or delivery of goods to an address outside Saint Vincent and the Grenadines; 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 Saint Vincent and the Grenadines;

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, including where the amount is intrinsically connected with the voucher by means of a unique identification number or some other means of linking the voucher with the amount), which 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” means the Government of Saint Vincent and the Grenadines;

“government entity” means:

- (a) the Government or a department, division, or agency of Government;
- (b) a Saint Vincent and the Grenadines statutory body, agency, or authority; or
- (c) a body, agency, or authority owned or operated by the Government;

and includes:

- (d) the Central Water and Sewerage Authority established under the Central Water and Sewerage Authority Act;
- (e) the Carnival Development Corporation;
- (f) the Saint Vincent and the Grenadines Port Authority;
- (g) the Saint Vincent and the Grenadines Postal Corporation;
- (h) the National Broadcasting Corporation;

“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 an hotel, motel, inn, boarding house, guest house, hostel, 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 for continuous periods of less than 45 days;

“import” has the same meaning as in the Customs (Control and Management) Act;

No 14 of 1999

“importer” has the same meaning as in the Customs (Control and Management) Act;

No. 14 of 1999

“individual” means a natural person;

“input tax,”:

- (a) in relation to an acquisition by a person, means the VAT imposed on the supply to the person of the goods or services acquired; and
- (b) in relation to an import of goods by a person, means the VAT imposed on that import;

and includes 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 29 or under any other provision of this Act or the Regulations;

“international assistance agreement” means an agreement between the Government and a foreign government, public international organisation or non-governmental organisation for the provision of financial, technical, humanitarian, or administrative assistance to the Government;

“international transport” means the supply of the following types of services:

- (a) the services, other than ancillary transport services, of transporting passengers or goods by road, water, or air –

- (i) from a place outside Saint Vincent and the Grenadines to another place outside Saint Vincent and the Grenadines,
 - (ii) from a place outside Saint Vincent and the Grenadines to a place in Saint Vincent and the Grenadines, or
 - (iii) from a place in Saint Vincent and the Grenadines to a place outside Saint Vincent and the Grenadines;
- (b) the services of transporting passengers from a place in Saint Vincent and the Grenadines to another place in Saint Vincent and the Grenadines 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 Saint Vincent and the Grenadines to another place in Saint Vincent and the Grenadines 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
 - (d) the services of insuring, arranging for the insurance of, or arranging for the transport of passengers or goods to which paragraph (a), (b), or (c) applies;

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

“lay-away agreement” has the meaning given in section 21(1);

“Minister” means the Minister responsible for finance;

“money” means:

- (a) any coin or paper currency (whether of Saint Vincent and the Grenadines or of another country);

- (b) a negotiable instrument used or circulated, or intended for use or circulation, as currency (whether of Saint Vincent and the Grenadines 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 Saint Vincent and the Grenadines; 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 chairman, 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 subparagraph (i) or (ii), a member of the body;

“output tax,” in relation to a person and to a tax period, means the VAT chargeable in respect of a taxable supply made or treated as having been made by the person during the tax period, and includes any amount that is treated as output tax in that period under this Act or the Regulations;

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

“person” means an individual, a company, a body of persons, a government entity, a foreign government, or a local government authority, council, or similar body;

“phone card” means a card or similar item in whatever form it is issued, including electronically, which entitles the holder to receive telecommunications services up to its face value, and includes a pre-paid Subscriber Identity Module (“SIM”) card and a rechargeable card;

“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);

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

- (a) an educational institution referred to in item 11 of paragraph (1) of Schedule 4 or the board of management or a parent teacher association of such an institution;

- (b) a person who provides entertainment on a daily or weekly basis;
- (c) a church incorporated by statute or approved by the Minister; or
- (d) an approved non-profit body;

“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” means the taxes imposed under:

- (a) the Consumption Tax Act;
- (b) the Hotel Tax Act;
- (c) the Entertainments Act;
- (d) the Telecommunications Service Surcharge Act; and
- (e) item 54 of the Schedule of the Stamp Act (which provides for receipts);

“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) the Government, an individual responsible for accounting for the receipt or payment of moneys or funds on behalf of the Government;
- (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 Saint Vincent and the Grenadines 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 Saint Vincent and the Grenadines, including a manager of a business of such person in Saint Vincent and the Grenadines;
- (k) any person, a receiver or agent of the person; and

- (l) a person that the Comptroller has, by notice in writing, declared to be a representative of a person for the purposes of this Act;

“resident” means:

- (a) a government entity or a local government authority, council, or similar body;
- (b) a person resident in Saint Vincent and the Grenadines for the year in question for the purposes of the Income Tax Act; Cap. 312
- (c) a person, other than an individual, which is formed or created under the laws of Saint Vincent and the Grenadines or is managed and controlled in Saint Vincent and the Grenadines, whether or not that person is resident in Saint Vincent and the Grenadines for the year in question for the purposes of the Income Tax Act; or Cap. 312
- (d) any other person to the extent that the person carries on a taxable activity in Saint Vincent and the Grenadines;

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

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

“sales receipt” means a document that a supplier is required to issue under section 33;

“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,” has the same meaning as in the Customs (Control and Management) Act; No. 14 of 1999

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

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

“tax” has the same meaning as “VAT”;

“tax fraction” has the meaning given in section 15(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(9), a person who is required to apply for registration under this Act or under any other Act dealing with the administration of this Act;

“taxable supply” means a supply made in Saint Vincent and the Grenadines by a taxable person in the course or furtherance of a taxable activity, but does not include an exempt supply;

“taxpayer identification number”, “TIN” or “Vat Identification Number” 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;

“total amounts wagered” has the meaning given in section 20(1);

“total monetary prizes” has the meaning given in section 20(1);

“travel agent” means a travel agent, tour operator, hotel operator, or person acting in a similar capacity, who makes supplies of rights to receive accommodation, meals, tours, services, entertainment of any kind, or any similar goods or services commonly provided to tourists or visitors to a particular country (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 in section 15; and
- (b) in relation to an import, has the meaning given in section 26;

“VAT” or “Value Added Tax” means the tax imposed under this Act, and includes any amount, including interest or a penalty payable under this Act, to the extent that it is treated as VAT for the purposes of this Act, and the absence of a specific reference to the inclusion of such amounts in a particular provision should not be taken to imply that they are not included in the VAT referred to in that section;

“VAT adjustment event” has the meaning given in section 16(1), including as affected by section 17;

“VAT credit note” or “credit note” means a document that a supplier is required to issue under section 34(1);

“VAT debit note” or “debit note” means a document that a supplier is required to issue under section 34(2);

“VAT-exclusive fair market value” means the fair market value of a supply or thing, reduced, if it was 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 32(1);

“VAT properly chargeable,” in the context of a VAT adjustment event, means the VAT that would have been chargeable if the VAT adjustment event had taken place before the value of the supply was calculated, and, if the supply is a reverse-charged supply under section 18, before the extent of the supply was determined;

“VAT return” or “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 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 supply that will be zero-rated.

3. (1) Consideration, in relation to a supply or 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 Regulations may provide 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 subsection (1)(b), 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.

Related persons

5. (1) Persons are "related persons" if:

- (a) they are officers or directors of one another's business;
- (b) in the case of a partnership, they are a partner in 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 in 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 restraint or 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 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 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:
 - (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; and
 - (c) 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;

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 part of the principal supply.

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

(7) Subject to subsections (5) and (6), the Regulations may provide that a supply of goods and services is a supply of goods or a

supply of services, or that a supply of more than one kind is a supply of one of those kinds.

(8) The Regulations may provide that something that would otherwise be a supply is not a supply for the purposes of this Act.

Taxable activity

7. (1) Subject to subsection (2), taxable activity means an activity carried on 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 a business, trade, manufacture, commerce, or adventure in the nature of trade, 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 shall be 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 (b);
- (e) an activity carried on by a government entity or by a local government authority, council, or similar body, except to the extent that the activity-
 - (i) involves the supply of goods or services for a fee, including but not limited to the supply of a licence, permit, permission, or other right, a lease of property, a supply of goods, or a supply of services, or
 - (ii) is one in which the entity carries on activities commonly conducted by other persons for profit.

(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
- (b) a taxable import.

Imposition of
Value Added Tax
and persons liable

(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 -
 - (i) is of holiday or hotel accommodation, or is of accommodation in, or the right to occupy as a residence any place listed under item 8 of paragraph (1) of Schedule 4 for a continuous period of less than 45 days, the rate of tax applicable to the supply is ten per cent,
 - (ii) is taxable because, under paragraph (2) of Schedule 4, the supplier chooses not to treat the supply as exempt under item 7 or 8 of paragraph (1) of that Schedule, the rate of tax applicable to the supply is ten per cent;
- (c) if the supply is of a kind for which a special rate is specified in another Act or in the Regulations, that rate;
- (d) 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 27, 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 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 supply.

(7) Notwithstanding subsection (5), the Comptroller may, under Part XVII of this Act or under any other Act providing for recovery of tax 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 by a law or Regulations and as a general rule:

- (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 apply for registration under this Act on the last day of any month, if:

Application for registration

- (a) the person exceeded the registration threshold in the period of 12 calendar months ending on that day;
- (b) the person exceeded one third of the registration threshold in the period of 4 calendar months ending on that day, unless there are reasonable grounds to expect that in that period and the following 8 calendar 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 12 month period commencing on the following day.

(2) Subject to subsection (3), a person exceeds the registration threshold in a particular period if the total value of supplies made by the person in the course or furtherance of a taxable activity during that period is equal to or greater than \$120,000.

(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 supplies the person would be treated as making because of section 18 if the person were registered; 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 he 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 is required to apply for registration, irrespective of whether the person exceeds the registration threshold:

- (a) if the person is a government entity or a local authority, council, or similar body that carries on a taxable activity, at the earlier of the day two calendar months before the day referred to in section 1(2) or seven days before the date on which the person commences carrying on a taxable activity;
- (b) if the person is a promoter of public entertainment or a licensee or proprietor of a place of public entertainment, the earlier of seven days before the day on which the person commences carrying on a taxable activity or a day no later than 48 hours before the entertainment will be provided;
- (c) if the Regulations require the person to apply for registration.

(5) A resident agent acting on behalf of a non-resident principal is required to apply for registration if the non-resident principal is required to apply for registration.

(6) A non-resident supplier who is required to apply for registration 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) A person who is not required to apply for registration may apply for registration if the person is carrying on a taxable activity and makes, or intends to make, supplies that would be taxable if the person were registered.

(8) An application for registration must be made to the Comptroller in the approved form and, in the case of a person who is required to apply for registration, must be lodged with the Comptroller within fourteen calendar days of the date on which the person becomes required to apply for registration, except where subsection (4) requires the application to be made at an earlier time.

(9) For the purposes of paragraph (b) of the definition of a taxable person, a person is not a taxable person under that paragraph:

- (a) unless the timeframe for applying for registration has elapsed without the person having submitted an application for registration; or
- (b) if the person submitted an application for registration within the timeframe but that application has not yet been dealt with by the Comptroller;

and for the purposes of this subsection, minor defects in the form or content of an application for registration do not cause the person to become a taxable person.

10. (1) If a person applies for registration and the Comptroller is satisfied that the person is required to apply for registration, the Comptroller:

Registration

- (a) must register the person; and

- (b) within 21 days of the date on which the person became required to apply for registration, must notify the person of the registration by notice in writing;

and the date of effect of the registration must be the beginning of the month following the month in which the notice is issued.

(2) If a promoter of public entertainment or a licensee or proprietor of a place of public entertainment is required to apply for registration under section 9(4)(b), the Comptroller must register that person no later than the earlier of:

- (a) the day on which the person commences to carry on a taxable activity; or
- (b) 24 hours before the entertainment will be provided;

whichever is appropriate.

(3) If the Comptroller is satisfied that a person is required to apply for registration and the person has not applied for registration within the time limit given in section 9, the Comptroller may register that person unless the person is a non-resident to whom section 9(6) applies.

(4) Subject to section 60, if a person applies for registration and the Comptroller is not satisfied that the person is required to apply for registration, he must register the person if he 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 laws relating to customs.

(5) If the Comptroller registers a person who is not required to apply for registration:

- (a) he must notify the person of the registration by notice in writing issued no later than 21 days after the day on which the person applied to be registered;
- (b) the date of effect of the registration may be the date requested by the person in the application or such later date as the Comptroller reasonably determines, based on the information available to him, to be the date on which the person will commence carrying on a taxable activity, provided that the date should not be less than 7 days after the date on which the notice is issued.

(6) The Comptroller must issue a registered person with a Value Added Tax Registration Certificate in the approved form, which must include a reference to the date on which the registration takes effect and the person's TIN for VAT purposes.

(7) A person who fails to apply for registration when required is treated as registered from:

- (a) the first day of the tax period commencing immediately after the date on which the person was required to apply for registration; or
- (b) such later date as the Comptroller notifies in writing, provided that date is not more than two calendar months from the date determined under paragraph (a).

(8) A registered person must display the original copy of its VAT registration certificate in a prominent position at the principal place at which the person carries on its taxable activity, and, 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, must also be displayed in a prominent position.

(9) A registered person must 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 14 days of the change occurring.

(10) If the Comptroller decides not to register a person who applies for registration, he must, within 28 days of receiving the application, notify the person by notice in writing stating the reasons for his decision and outlining the person's rights to object and appeal against the decision under Part XVIII.

Cancellation of
registration

11. (1) A registered person who ceases to make taxable supplies must, in the approved form, apply to the Comptroller for cancellation of its registration within 7 days of the date on which the person ceased making taxable supplies.

(2) A registered person, who continues to make taxable supplies but does not exceed the registration threshold may apply to have its registration cancelled, except where the person is required to be registered irrespective of the registration threshold.

(3) The Comptroller must, by notice in writing, cancel the registration of a person who has applied for cancellation if he is satisfied that the person is required or permitted to apply for cancellation of registration.

(4) The Comptroller must, by notice in writing, cancel the registration of a person who has not applied for cancellation if he is satisfied that the person has ceased making taxable supplies.

(5) The cancellation of a person's registration takes effect from the date set out in the notice of cancellation, which must not be less than 2 years after the date on which the registration commenced (or such earlier date as the Comptroller considers appropriate) unless the person will not continue to make taxable supplies.

(6) A person whose registration is cancelled under this section 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.

(7) The taxable supply referred to in subsection (6) 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 at that date 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;

or if 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 for the purposes of this Act.

(8) If a person's registration is cancelled under this section, the person must:

- (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 15 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 (6).

(9) An application for cancellation of registration must be in the approved form.

National register of persons registered for VAT

12. (1) The Comptroller must maintain a National 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;
- (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 must 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 he retains full and accurate historical records of persons removed from the Register.

PART IV

BASIC RULES RELATING TO SUPPLIES

Time of supply

13. (1) A supply of goods or services is made on 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) Despite 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 made on 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 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 27, 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 27, the supply or acquisition is treated as being made in the last tax period in which the person is registered.

(8) The Regulations may specify or vary the time at which a particular kind of supply is treated as being made.

Place of supply

14. (1) Except as otherwise provided in this Act or the Regulations, a supply of goods or services is regarded as taking place in Saint Vincent and the Grenadines 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 Saint Vincent and the Grenadines at the time of the supply, or

- (ii) in the case of a supply of services, the services are physically performed in Saint Vincent and the Grenadines by any person who is in Saint Vincent and the Grenadines at the time the services are performed.
- (2) Except as provided in subsections (1)(b), (5), and (7), a supply of goods or services is regarded as not taking place in Saint Vincent and the Grenadines if the supplier is a non-resident.
- (3) Where a supplier who is not resident in Saint Vincent and the Grenadines and is not a registered person makes a supply of goods or services referred to in subsections (1)(b), (5), or (7) to a recipient who is a registered person and who acquires the goods or services in the course of furtherance of a taxable activity, the supply is deemed to take place outside Saint Vincent and the Grenadines unless the supplier and recipient have agreed in writing that this subsection will not apply.
- (4) Where goods that have been imported into Saint Vincent and the Grenadines are supplied to a person before the goods are entered for use within Saint Vincent and the Grenadines, the supply is deemed to have taken place outside Saint Vincent and the Grenadines.
- (5) Where a supply is of the lease, hire, or licence of goods, including under a charterparty or agreement for chartering:
 - (a) if the goods are for use, or are used, wholly outside Saint Vincent and the Grenadines, the supply is treated as taking place outside Saint Vincent and the Grenadines;
 - (b) if the goods are for use, or are used, wholly or partly in Saint Vincent and the Grenadines, the supply is treated as taking place in Saint Vincent and the Grenadines;
 - (c) if the goods are used in international territory and immediately before and after that use the goods are used in Saint Vincent and the Grenadines, the supply is treated as taking place in Saint Vincent and the Grenadines.
- (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 Saint Vincent and the Grenadines if the supplier is a non-resident and a person, physically in Saint Vincent and the Grenadines, 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 must treat the supply of telecommunications services as taking place in Saint Vincent and the Grenadines if the person's address for receiving invoices from the supplier is in Saint Vincent and the Grenadines, where "address" means the physical, residential, or business address of the person to whom invoices are sent, but does not include a post office box number.

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

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

(12) A supply of services by a Saint Vincent and the Grenadines licensing authority occurs in Saint Vincent and the Grenadines regardless of where the licence, permit, certificate, concession, authorisation, or other document is issued.

(13) The Regulations may specify or vary the place of supply for a particular kind of supply.

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

Value of supply

$$R/(100+R)$$

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), or a taxable person supplies goods or services to an employee for personal use, the value of the supply is:

- (a) if the application or supply 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, the amount referred to in subparagraph (b)(i), 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 or supplied as referred to in that subsection, 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, or supplied to the employee, reduced, in a case to which paragraph (a)(ii) or (b)(ii) 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) The value of a supply that a recipient is treated as having made because of section 18 is:

- (a) if the supplier and recipient are related persons, the appropriate proportion of the VAT, exclusive fair market value of the actual supply; or

- (b) in any other case, the appropriate proportion of the consideration for the actual supply;

where “actual supply” means the supply made to the recipient and “appropriate proportion” reflects the extent to which the recipient is treated as making the supply because of section 18.

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

(9) 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.

(10) The Regulations may specify or vary the way in which the value of a particular kind of supply is determined.

16. (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, whether or not it was a taxable supply, is fundamentally varied or altered.

Post-supply
adjustments for
VAT adjustment
events

(2) If a VAT adjustment event occurs and the VAT properly chargeable in respect of the supply exceeds the VAT actually accounted for by the supplier, the amount of the excess is treated as output tax payable by 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 34(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 the 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 in accordance with section 34(1).

(5) If subsection (4) applies and the recipient is a taxable person, the recipient must include in its output tax for the tax period in which the credit note is received, the following amount:

- (a) if the recipient was 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 was 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 was 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

17. (1) If all or part of the consideration for a supply has not been paid by the recipient of the supply, this section provides for section 16 to be applied in certain circumstances in relation to the recipient of the supply, and in each case the section is taken to apply as if a VAT adjustment event referred to in section 16(1)(b) had occurred in relation to the supply.

(2) If the amount referred to in subsection (2) has been overdue for more than 12 months from the date on which it was due to be paid, section 16 applies to 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 16 has applied in relation to a supply because of subsection (3) of this section, the recipient later pays one or more payments for the supply, section 16 applies again to the recipient to the extent of each such additional payment.

(4) For the avoidance of doubt, no VAT adjustment event arises under this section or section 16 for a supplier in relation to an overdue payment or a bad debt relating to a supply made by that supplier.

(5) The documentation requirements of section 29(8) do not apply to a recipient who is required to pay an amount of VAT or allowed an input tax credit because of the application of this section.

18. (1) If:

Reverse charge on
imported services

- (a) a non-resident person makes a supply of services to a taxable person in Saint Vincent and the Grenadines, otherwise than through a resident agent;
- (b) the supply is not a taxable supply but would have been a taxable supply if it had been made by a resident who was registered for VAT; and
- (c) the supply is not or would not be zero-rated;

the supply is treated as a taxable supply made by the recipient of the supply at the same time and for the same consideration as the actual supply, but only to the extent that the recipient will use the supply:

- (d) to make exempt supplies;
- (e) for private or domestic use, or a use that would be private or domestic if the recipient were an individual; or
- (f) to provide entertainment (as defined for the purposes of section 28) to-
 - (i) an associate or employee, or
 - (ii) any other person other than in the course of a taxable activity of providing entertainment.

(2) If a VAT adjustment event occurs in relation to a supply, part or all of which is treated as a supply made by the recipient because of subsection (1), 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 payable by the recipient for a taxable supply made in the tax period in which the VAT adjustment event occur.

(3) If a VAT adjustment event occurs in relation to a supply, part or all of which is treated as a supply made by the recipient because of subsection (1), 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 Comptroller may, on application in writing by the recipient, allow the recipient an input tax credit for the amount of the excess in the tax period he thinks appropriate if, on the evidence provided, he is satisfied that the adjustment event occurs.

(4) If a taxable person carries on activities both inside and outside Saint Vincent and the Grenadines, the person is treated as if it were two separate persons corresponding respectively to the taxable activities the person carries on inside and outside Saint Vincent and the Grenadines and:

- (a) the person outside Saint Vincent and the Grenadines is deemed to have made a supply to the person inside Saint Vincent and the Grenadines consisting of any benefit in the nature of services (as defined for the purposes of this Act) that is received by the person in Saint Vincent and the Grenadines through or as a result of the activities carried on by the person outside Saint Vincent and the Grenadines;
- (b) the time of the supply is worked out under section 13(2)(b) on the assumption that a supply has been made;
- (c) the value of the supply is worked out under section 15(7)(a) on the assumption that the supply was made by a non-resident outside Saint Vincent and the Grenadines to a related person inside Saint Vincent and the Grenadines; and

- (d) subsections (2) and (3) apply to a supply that is treated as being made by a taxable person because of this subsection.

PART V

SPECIAL RULES RELATING TO SUPPLIES

19. (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 Regulations provide 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.

20. (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;

“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 under this section on the total gambling supplies made for each tax period rather than for each gambling supply.

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

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

(4) If the amount calculated under subsection (3) is a negative amount in any tax period no amount is included in the output tax of the taxable person.

(5) Section 17, which provides for 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.

21. (1) In this section, “lay-away agreement” means a purchase agreement for goods under which: Lay-away sales

- (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 occurs 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 occurs when the amount is recovered.

22. 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 occurs on the date the coin, note, or token is taken from the machine, meter, or other device by or on behalf of the supplier. V e n d i n g
machines

23. (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;

Supply as part of the transfer of a going concern

- (b) a transfer of a taxable activity as a going concern occurs 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.

(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-
 - (i) has agreed in writing with the recipient that the taxable activity is supplied as a going concern; and
 - (ii) notified the Comptroller, in writing, of the details of the supplies treated as zero-rated under this section because of the transfer, including the quantities and values of the things supplied.

(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 has an amount of output tax equal to the tax rate specified in section 8(3)(d) multiplied by the consideration for the acquisition;
- (b) the output tax is payable in the tax period in which the acquisition was made; and

- (c) this Act, other than this section, applies in relation to the output tax as if it were output tax charged by the supplier in relation to the supply.

24. (1) Whether or not it would otherwise apply, section 14(1)(b) does not apply to a supply by a non-resident, including but not limited to a non-resident travel agent, if the supply is a supply of a right to receive, in Saint Vincent and the Grenadines, accommodation, meals, tours, services, entertainment of any kind, or any similar goods or services commonly provided to tourists or visitors to Saint Vincent and the Grenadines (whether alone or as part of a holiday or tour package).

Travel agents and
tour operators

(2) Whether or not it would otherwise apply, section 19(2)(b) does not apply to a supply, in Saint Vincent and the Grenadines, to a tourist or visitor to Saint Vincent and the Grenadines, 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 of any kind, or any similar goods or services commonly provided to tourists or visitors to Saint Vincent and the Grenadines (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 1 or 2, a taxable supply by a resident travel agent is not zero-rated if the supply is a supply of a right to receive, outside Saint Vincent and the Grenadines, accommodation, meals, tours, services, entertainment of any kind, or any 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 the total supplies made for each tax period and is equal to the amount calculated according to the following formula, reduced by an amount equal to that sum multiplied by the tax fraction:

where-

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

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.

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

PART VI

BASIC RULES RELATING TO IMPORTS

Time of import

25. An import of goods occurs:

- (a) if the goods are entered under the Customs (Control and Management) Act, on the date on which they are so entered; or
- (b) in any other case, on the date the goods are brought into Saint Vincent and the Grenadines.

Value of import

26. (1) The value of an import of goods is the sum of:

- (a) the value of the goods for the purposes of customs duty under the Customs (Control and Management) Act, 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 Saint Vincent and the Grenadines, 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 import duty, customs service charge, excise tax, or other tax 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 application of 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 Regulations may specify or vary the way in which the value of a particular kind of import is determined.

PART VII

CALCULATION AND PAYMENT OF VAT NET AMOUNT

27. The amount of VAT that a taxable person must remit to the Comptroller for a tax period is a net amount calculated according to the following formula:

Net amount of
VAT to be
remitted in a tax
period

A-B

where-

A is the total output tax payable by the person in relation to the period; and

B is the total input tax credits allowed to the person under sections 16, 17, 29, 30, 31, and 44 in respect of that tax period.

PART VIII

INPUT TAX CREDITS

28. (1) In this section:

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

Goods or services
for which no
input tax credits
are allowable

“passenger vehicle” means an on-road or off-road vehicle designed or adapted for the transport of 9 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;
- (b) the acquisition or import is 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 was provided in the ordinary course of that taxable activity and was 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 otherwise of a private or domestic nature.

Input tax credits

29. (1) Except as otherwise provided, 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 payable on taxable acquisitions or imports made by the person during that tax period.

(2) Except as otherwise provided, if none of the supplies made by a taxable person during a tax period are taxable supplies, the person is not allowed input tax credits for the input tax payable on taxable acquisitions or imports made by the person during that period.

(3) Except as otherwise provided, if a taxable person makes both taxable and other supplies during a tax period, the input tax credits allowed to the person for that tax period are determined as follows:

- (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 payable 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 payable 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—

$$A \times \frac{B}{C}$$

where—

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

B is the value of all taxable supplies made by the taxable person during the period; and

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 Saint Vincent and the Grenadines.

(4) Notwithstanding subsection (3):

- (a) if the fraction $\frac{B}{C}$ in subsection (3)(c) is more than 0.90, the taxable person is allowed input tax credits for all of the input tax payable on taxable acquisitions or imports made by the person during that tax period;

- (b) if the fraction $\frac{B}{C}$ in subsection (3)(c) is less than 0.10, the taxable person is not allowed input tax credits for taxable 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 (3)(c) does not apply;
- (d) if the Regulations specify a different way for a particular class of taxable person to calculate the amount of input tax allowed for a tax period in which the person makes both taxable and exempt supplies, the person must use that method to calculate the input tax credits it is allowed for that period.

(5) If section 16(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 16(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 it 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 32(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 (Control and Management) Act for the import; or
- (c) in the case of an input tax credit allowed under section 16(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 16(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 registered after the date of commencement of this 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 thing 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;
- (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.

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

- (a) the Comptroller must notify the applicant of his decision within 60 days of receiving the application, and must state the amount (if any) of the input tax credit to which the person is entitled;
- (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.

30. (1) For the purposes of section 29, 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.

Acquisitions or importations by resident agent

(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.

31. (1) The Regulations may require a taxable person to include an amount in its output tax or input tax for one or more tax period 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 subsection (1)(a) and (b), this section does not limit the Minister's power to make Regulations under this Act.

PART IX**VAT DOCUMENTATION**

VAT invoices

32. (1) A registered supplier who makes a taxable supply to a registered recipient is required, at the time of the supply, to 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

33. (1) A registered supplier making a taxable supply to a recipient who is not registered is prohibited from issuing a VAT invoice to the recipient, but must, at the time of the supply, issue a sales receipt to the recipient.

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

VAT credit and
debit notes

34. (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 must 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 must provide the recipient with an original VAT debit note.

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

35. (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

36. (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 must comply with a request under subsection (1) within 14 days of receiving the request.

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

- (a) for a VAT invoice, more than 60 days after the date on which the supply occurred; or
- (b) for a VAT credit or debit note, more than 60 days after the VAT adjustment event to which the credit or debit note relates.

Prohibitions

37. (1) If the Regulations specify that prior approval is required from the Comptroller 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.

(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.

(4) It is an offence to issue a VAT invoice, VAT credit note, or VAT debit note in circumstances other than those specified in this Part.

Retention
records of

38. The following documents must be retained by a registered person for the purposes of Part XIX of this Act:

- (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 18 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

39. (1) A taxable person must lodge a VAT return for each tax period no later than 15 calendar days after the end of the period. VAT returns
- (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) 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).
- (4) A permission granted under subsection (3) does not alter the due date for payment of VAT under section 41.
- (5) The Comptroller may, by notice in writing, require a person to file, whether on that person's own behalf or as agent or trustee of another person, such fuller or additional returns for a tax period as he requires, and such notice may be given even if the taxable person has not lodged a VAT return for the period.

Amended returns

40. (1) If a taxable person who has lodged a VAT return requests the Comptroller to amend the return, the Comptroller must amend the original return or accept lodgement of an amended return.

(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.

Due date for payment of VAT for a tax period

41. (1) The VAT payable by a taxable person to the Comptroller under section 27 is due and payable by the due date for lodgement of the VAT return for the 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 for a tax period by the due date is liable to a late payment penalty 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 the Comptroller may, if he thinks it appropriate in the circumstances, 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 he determines.

(5) If a person makes an application under subsection (4), the Comptroller must notify the person of his decision in writing within 7 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 subsection (3) is 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 61 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 Saint Vincent and the Grenadines before the due date for payment of an amount of VAT, that VAT is due on the date specified by the Comptroller by notice in writing to the taxable person.

Division 2: VAT Payable on Imports

42. (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 date for
payment of VAT
on imports

(2) 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.

43. (1) The Comptroller of Customs:

VAT payable on
imports

(a) must collect the VAT due under this Act on an import of goods at the time of import and must 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 Saint Vincent and the Grenadines, 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) Except where the contrary intention appears, the provisions of the Customs (Control and Management) Act, and any enactments amending that Act, relating to the import, transit, coastwise carriage, and clearance of goods, and the payment and recovery of duty, apply in relation to VAT payable on a taxable import under this Act, so far as those provisions are relevant, and with such exceptions, modifications, and adaptations as are necessary for the purpose of collecting VAT on taxable imports.

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

PART XI

REFUNDS

Refunds

44. (1) If the calculation under section 27 results in a negative amount of VAT payable because the total input tax credits allowed in the tax period exceed the total output tax payable 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 six consecutive tax periods after the tax period in which the excess arose; and
- (b) any amount that has not been credited after those six months must, on application in the form and manner prescribed by the Comptroller, be refunded to the person within one calendar month 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 must, on application in the form and manner he prescribes, refund an excess within three calendar months after lodgement of the VAT return for the tax period:

- (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 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 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) A taxable person who has erroneously overpaid VAT for a tax period may apply in writing to the Comptroller for an input tax credit equal to the amount overpaid and, if the Comptroller is satisfied that the amount was erroneously overpaid, he must allow the person an input tax credit for that amount, or for such other amount the Comptroller is satisfied was erroneously paid, in the tax period in which the Comptroller notifies the person of his decision.

(5) An application under subsection (4) must be made within 3 years from the end of the tax period to which the overpayment relates and the Comptroller must make a decision in relation to the application within 30 days of the date of the application, unless on or before that time the Comptroller commences an audit of the taxpayer in relation to that tax period.

(6) If a refund is payable to a person under this section:

- (a) the Comptroller may apply it 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 including any unpaid amounts under the repealed taxes; and
- (b) if the refund is for an excess referred to under paragraph (1)(b) or subsection (3), any remaining amount that has not been refunded by the Comptroller within the time required by those provisions will bear interest at the rate prescribed for overdue refunds under the Income Tax Act.

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(7) Notwithstanding anything in this section, if the amount of an excess to be refunded is less than \$100, it must continue to be carried forward into succeeding tax periods until it is reduced to nil.

(8) The Comptroller may authorise, subject to appropriate conditions and restrictions, the granting of a refund of 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; or
- (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.

(9) A claim for a refund under subsection (8) 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 under subsection (8).

(10) Where the Comptroller does not pay a refund within the time required under this section, interest is payable by the Comptroller on the amount outstanding at the rate prescribed for the purposes of this Act.

PART XII

ASSESSMENTS

45. (1) The Comptroller may make an assessment of the VAT payable by a taxable person if:-

Assessments

- (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 44 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 that VAT is charged 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.

(3) If a taxable person makes a supply of goods or services and the supply is not a taxable supply, or is a taxable supply charged with VAT at the rate of zero percent, and in either case, the taxable person represents that a positive rate of tax is charged on the supply, the Comptroller may make an assessment of VAT on that person as if the supply were a taxable supply.

(4) An amount assessed under subsection (2) or (3) is treated, for all purposes of this Act, as VAT payable under this Act unless, in the case of an amount assessed under subsection (3), the taxable person reasonably believed that VAT should have been applied at the positive rate and has since refunded to the recipient of the supply the VAT charged

on the supply or has otherwise satisfied the Comptroller that the recipient was not disadvantaged and the taxable person was not advantaged by the mistake.

(5) 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.

(6) The Comptroller must serve notice of an 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 must be no less than 10 business days after the date on which the notice is served; and
- (c) the time, place, and manner of appealing the assessment.

(7) The Comptroller may, within the timeframe specified in subsection (9), amend the assessment by making such alterations or additions to the assessment as he considers necessary, and must serve a notice of the amended assessment on the person assessed.

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

(9) The Comptroller may not make an assessment, including an amended assessment:

- (a) in the case of an assessment under subsection (1)(a), 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 subsection (1)(c), more than six years after the date on which the refund was paid or, if an input tax credit was allowed, 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 default in furnishing the return for the tax period or in applying for the refund.

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

(11) Nothing in subsection (9) prevents the amendment of an assessment to give effect to a decision of the Appeal Commissioners or a Judge.

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

- (a) in respect of VAT assessed under subsection (1)(a) and (b), from being computed from the original due date for payment of the VAT as determined under section 41;
- (b) in respect of VAT assessed under subsection (1)(c) in relation to an application for a refund, from being computed from the date on which the refund was paid; 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 41 if the supply had been a taxable supply.

46. (1) If a supplier has incorrectly treated a taxable supply as an exempt or zero-rated supply because of misrepresentation or fraud 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.

Assessment of
recipient

(2) The Comptroller must 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 cannot 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.

47. (1) In this section:

Negation of tax benefit from a scheme

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

“tax benefit” includes:

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

(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) If the Comptroller makes a determination under subsection (2), he must notify the person of his 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

48. (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**POWERS AND DUTIES OF THE COMPTROLLER**

49. (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

(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 he will administer this Act and his understanding of how the Act applies, and may designate such documents as being only for internal use by taxation officers or may, if he 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.

50. (1) Except as provided in this section, the Comptroller or a taxation officer carrying out the provisions of this Act must not: Secrecy

(a) disclose to a person any matter in respect of another person that may come to the officer's knowledge in the exercise of his powers or the performance of his duties under the said provisions; nor

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

(2) Nothing in this section prevents the Comptroller from:

(a) disclosing information to a person in the service of a revenue or statistical department of the Government, so long as 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 Saint Vincent and the Grenadines 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) must 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 may use documents or information obtained in the performance of his duties under this Act for the purposes of any other revenue law administered by the Minister, the Comptroller of Inland Revenue, or the Comptroller of Customs.

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

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

Power to require security

51. (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.

(2) A person who is required to give security under subsection (1) must 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 must 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 any amount remaining must be refunded to the person who gave the security.

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

52. (1) The Comptroller may 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.

Power to seize
goods

(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 must 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) if, after making reasonable enquiries, he cannot obtain sufficient information to identify a person

referred to in paragraph (a), a person claiming the goods who provides sufficient information to enable such notice to be served, 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 proceeds of a disposal of goods under subsection (6) must be applied 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; and
- (c) the balance, if any, must be paid to the owner of the goods.

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

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

- (a) the power of delegation conferred by this subsection; and
- (b) the power to sanction prosecutions conferred by section 74.

(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

54. (1) Except as provided in section 18(4), or as allowed by the Comptroller under this section, a taxable activity conducted by a taxable person in branches or divisions is a single taxable activity for the purposes of this Act. Branches and divisions

(2) A person who conducts a taxable activity in branches or divisions must be registered in the name of the person and not in the branches or divisions.

Actions of
partners, trustees
and members of
unincorporated
persons

55. (1) Notwithstanding any other law, 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;
- (e) providing information; or
- (f) any other action by the person.

Currency

56. (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, the amount must be converted to Eastern Caribbean Currency at the Eastern Caribbean Central Bank mid-exchange rate applying between the foreign currency and the Eastern Caribbean Currency on the date the amount is taken into account for the purposes of this Act.

VAT-inclusive
pricing

57. (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 included an amount for VAT when determining the price, stated that the price included an amount for VAT, or otherwise took VAT into account in setting the price.

(2) A price advertised or quoted by a taxable person in respect of a taxable supply must include the VAT payable on the supply, and the advertisement or quotation must also separately state the amount of the VAT payable.

(3) Despite subsection (2), price tickets on goods need not separately state the amount of VAT 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.

58. (1) The Minister may make Regulations:

Regulations

- (a) for any matter that this Act requires or allows to be prescribed by Regulations;
- (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 tax rate or tax base under the Act;
- (b) the collection of output tax in respect of taxable supplies made by retailers;
- (c) simplified methods for calculating the net VAT payable to the Comptroller by small businesses;
- (d) refunding to visitors the tax paid on gifts, souvenirs, or other goods to be consumed outside Saint Vincent and the Grenadines, if the total value of such goods acquired in the course of one visit to Saint Vincent and the Grenadines exceeds one thousand dollars;

- (e) 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 this Act;
- (f) ensuring that the provisions of this 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;
- (g) ensuring that this Act operates as a multi-stage, value added tax on consumption in Saint Vincent and the Grenadines at the appropriate rate of tax;
- (h) prescribing the duties and functions of officers and other persons appointed or employed under the Act;
- (i) 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;
- (j) prescribing the forms of assessments, notices, and other documents that are referred to in this Act or are necessary in order to give effect to this Act;
- (k) providing for any matter that is contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration of this Act.

(3) Subject to subsection (4), Regulations made under this Act are subject to an affirmative resolution of the House of Assembly.

(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**REGISTRATION ON COMMENCEMENT OF VAT**

59. (1) A person is required to apply to the Comptroller for registration under this Act no later than two calendar months before the commencement day referred to in section 1(2) if, considering the total value of supplies made or to be made by the person in the course or furtherance of the person's taxable activity, the person would have been required to apply for registration under section 9 on or before that day if this Act had come into force 12 calendar months before that day.

Registration at
the
commencement
of VAT

(2) A person who is not required to be registered under subsection (1) is required to apply for registration under this Act on any subsequent day before the day referred to in section 1(2), if on that day section 9(1)(c) would have applied to that person if this Act had come in force 12 calendar months before that day.

(3) Notwithstanding section 10, if a person is required to apply for registration under subsection (1) or (2) of this section, the date of effect of the registration is the date of commencement of this Act.

(4) If, prior to the date on which this section commenced:

- (a) a person purported to lodge an application for registration under this Act;
- (b) the Comptroller purported to register a person under this Act;
- (c) the Comptroller purported to issue a person with a TIN; or
- (d) the Comptroller purported to issue a Value Added Tax Registration Certificate under this Act;

the application, registration, TIN, or certificate, as applicable, is treated for all purposes as if it were made on the date of commencement of this section.

(5) If the Comptroller is satisfied that a person is required to apply for registration under subsection (1) or (2) and the person has not

applied for registration as required, the Comptroller may register that person unless the person is a non-resident to whom section 9(6) applies.

Voluntary
registration
during first two
years

60. (1) Despite section 10 (5) (b), if a person applies for registration under section 9 (7) and the person is not required to be registered, the Comptroller may not register the person with a date of effect earlier than such date as the Minister may by Order appoint as being the date from which voluntary registration will be allowed.

(2) Subsection (1) does not prevent the Comptroller, before the day referred to in that subsection, receiving or processing such applications for registration, so long as the date of effect of the registration is on or after that day.

PART XVI

INTEREST, PENALTIES, AND OFFENCES

Division 1: Interest

Interest on late
payments

61. (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 for interest on the amount unpaid at the rate prescribed for the purpose of section 74 of the Income Tax Act, calculated from the date the payment was due to the date the payment is made.

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(2) Interest payable by a person under subsection (1) may be recovered by the Comptroller under the Income Tax Act as if it were tax payable by the person, provided that section 9 of that Act does not apply in relation to amounts payable under this Act.

(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) Interest payable under this section is payable in addition to the late payment penalty imposed under section 41(3) and any penalty imposed under Division 2 or fine imposed under Division 3 in respect of the non-payment of the amount.

Division 2: Administrative Penalties

62. (1) No penalty is payable under this Division by a person who has been convicted of an offence under Division 3 in respect of the same act or omission, or if the offence has been compounded under section 90.

G e n e r a l
provisions

(2) If a penalty under this Division has been paid and a prosecution proceeding is instituted under Division 3 in respect of the same act or omission, the Comptroller must refund the amount of the penalty paid, and the penalty is not payable unless and until the prosecution is withdrawn.

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(3) A person's liability for a penalty under a section in this Division is separate and distinct from the person's liability, if any, for a penalty under another section in this Division.

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(4) The Comptroller may make an assessment of a penalty charged under this Division as if the penalty were VAT payable under this Act, and may specify the date on which the penalty is payable, which must not be less than 14 days from the date on which the notice of assessment was issued.

(5) A notice of an assessment of a penalty imposed under this Division must be served on the person subject to the penalty and must state the amount of the penalty payable, the provision under which it is payable, and the due date for payment, and on service of the notice:

- (a) the notice and the assessment are treated as if they were a notice and assessment of VAT payable under this Act;
- (b) the amount of the penalty specified in the notice is treated as VAT payable under this Act; and
- (c) the due date for payment is the date specified in the notice.

(6) A person's liability to pay a penalty under this Division arises on the making of an assessment by the Comptroller under subsection (5).

(7) The time limit for assessing a penalty under this Division is:

- (a) if the amount of the penalty may be calculated by reference to the VAT payable for a tax period, whether or not it has been calculated in that way, the same time limit as applies for assessing the VAT to which the penalty relates; or
- (b) in any other case:
 - (i) if the penalty is payable because of the doing of an act, within three years after the Comptroller has become aware of the act,
 - (ii) if the penalty is payable because of the failure to do an act, within three years after the Comptroller has become aware of such failure,
 - (iii) if the penalty is payable because of the non-disclosure or incorrect disclosure by a person of information relating to that person's liability to VAT for a tax period, within three years after the person's correct liability to VAT has become final for that tax period.

(8) Where this Division makes a penalty payable for each day, month, or other period during which a particular state of affairs exists or continues, the penalty is payable in full for part of such day, month, or other period in which the state of affairs commences, continues, or ends.

(9) The Comptroller may, of his own volition or on application in writing by a person liable to pay a penalty under this Division, remit the penalty in whole or part if he is satisfied that there is good cause to do so.

Failure to apply for registration

63. (1) A person who, being required to apply for registration under section 9(1), 9(4), 9(5), or 59, does not do so, is liable to a penalty equal to double the amount of VAT payable by the person from the day on which the person was required to apply for registration until the person files an application or is registered by the Comptroller, whichever is earlier.

(2) If a person is required to be registered only because it is a resident agent acting for a non-resident who is registered:

- (a) the penalty payable by the agent under subsection (1) is payable only in respect of supplies made by the agent in its own right, and does not apply to the supplies made by the agent on behalf of the principal;
- (b) the principal is liable for a penalty under subsection (1) in respect of supplies made by the agent on its behalf during that period, unless the principal believed on reasonable grounds that the agent was registered under this Act.

(3) No penalty is payable under subsection (1) by a non-resident supplier if section 9(6) applies to the supplier, and 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; or
- (b) the supplier believed on reasonable grounds that all of the agents were registered under this Act.

64. (1) A person who fails to display its Value Added Tax Registration Certificate or a certified copy thereof issued by the Comptroller, whichever is applicable, as required by section 10(8) is liable for a penalty of \$50 per day for each day on which the failure occurs.

Failure to display
registration
certificate

65. A person who fails to notify the Comptroller as required by section 10(9), or to apply for cancellation of its registration as required by section 11(1), is liable for a penalty not exceeding \$1,000.

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

66. (1) A person is liable to a penalty not exceeding \$25,000 if the person:

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

TIN, VAT invoice,
credit note, debit
note, or sales
receipt

(2) A supplier is not liable to a penalty under paragraph 1(b) or (c) only because information relating to the recipient of the supply, which was 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) was incorrect, if the person, having exercised all due care, believes on reasonable grounds that the information relating to the recipient was accurate.

(3) A supplier is not liable for a penalty under paragraph 1(c) 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 was required to be issued was or was not a registered person.

Failure to file return

67. A person who fails to file a VAT return by the due date is liable for a penalty equal to the greater of:

(a) \$500; or

(b) 5 per cent of the VAT payable for the period to which the return relates;

for each month in which the return remains outstanding, until the return is filed or an assessment is issued in respect of the period to which the return relates.

Failure to comply with notice for recovery of VAT

68. 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 is liable for a penalty not exceeding 25 per cent of the amount sought to be recovered from the person.

Failure to keep records

69. A person who fails to maintain proper records as required by sections 38 and 96 is liable to a penalty of \$50 per day for each day the failure continues.

Failure to provide facilities

70. A person who fails to provide a taxation officer with reasonable facilities and assistance as required by section 98(4) is liable to a penalty not exceeding \$1,500.

Failure to comply with notice to give information

71. A person who fails to comply with a notice issued under section 97(1) within the specified time is liable to a penalty not exceeding \$1,000.

72. A person who contravenes the requirements of section 57 in relation to the advertising or quotation of prices for taxable supplies is liable to:

Non-compliance with VAT-inclusive price quotation requirements

- (a) an initial penalty of \$500; and
- (b) a further penalty of \$50 for each day the breach continues after the person has received a written warning from the Comptroller to correct the breach.

73. (1) A person who makes a statement to a taxation officer that is false or misleading in a material particular is liable to a penalty under this section if an amount properly payable by the person under this Act exceeds the amount that would be payable if the person were assessed on the basis that the statement were true.

Penalty for making false or misleading statements

(2) The amount of the penalty for which the person is liable is the greater of \$250 and:

- (a) if an amount payable by the person would have been less if it were determined on the basis of the information provided in the statement, the amount by which that amount would have been so reduced;
- (b) in a case where the amount of a refund that the person applied for would be increased if it were determined on the basis of the information provided in the statement, the amount by which that amount would have been so increased.

(3) No penalty is imposed under this section 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.

(4) 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.

(5) 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.

Division 3: Criminal Offences

Prosecution

74. Criminal proceedings under this Act may be commenced in the name of the Comptroller.

Time limit for proceedings to be taken

75. Proceedings under this Division may be commenced:

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

76. (1) A person who is required to apply for registration under section 9(1), 9(4), 9(5), or 59 and does not do so commits an offence and is liable on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 2 years, or both fine and imprisonment.

Failure to apply
for registration

(2) Subsection (1) does not apply to a non-resident supplier if section 9(6) applies to the supplier, and 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; or
- (b) the supplier believed on reasonable grounds that all of the agents were registered under this Act.

77. A person who fails to display the person's Value Added Tax Registration Certificate or a copy thereof (whichever is applicable) as required by section 10(8) commits an offence and is liable on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 2 years, or both fine and imprisonment.

Failure to display
registration
certificate

78. A person who fails to notify the Comptroller as required by section 10(9), or to apply for cancellation of its registration as required by section 11(1), commits an offence and is liable on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 2 years, or both fine and imprisonment.

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

79. A person who fails to comply with section 11(8)(a), (b), or (c) commits an offence and is liable on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 2 years, or both fine and imprisonment.

Offences on
cancellation of
registration

80. (1) A person commits an offence and is liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 2 years, or both fine and imprisonment if the person:

VAT invoice, credit
note, debit note, or
sales receipt

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

(2) A supplier is not guilty of an offence under paragraph 1(b) or (c) only because information relating to the recipient of the supply, which was 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) was incorrect, if the person, having exercised all due care, believes on reasonable grounds that the information relating to the recipient was accurate.

(3) A supplier is not guilty of an offence under paragraph 1(c) 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 was required to be issued was or was not a registered person.

Tax evasion

81. 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 \$25,000, or to imprisonment for a term not exceeding two years, or both fine and imprisonment.

Impeding tax
administration

82. (1) A person who wilfully 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 \$10,000, or to imprisonment for a term not exceeding six months, or both fine and imprisonment.

(2) 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;

- (d) otherwise impedes the determination, assessment, or collection of VAT.

83. A person who contravenes section 50 commits an offence and is liable on summary conviction to a fine not exceeding \$10,000, or to imprisonment for a term not exceeding six months, or both fine and imprisonment.

Failure to
preserve secrecy

84. A person who improperly claims a refund under section 44 commits an offence and is liable on summary conviction to a fine not exceeding \$10,000, or to imprisonment for a term not exceeding six months, or both fine and imprisonment.

Improper claim
for refund

85. A taxation officer who, in carrying out the provisions of this Act:

Offences by
taxation officers

- (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;
- (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 tax revenue is or may be defrauded;

commits an offence and is liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding two years, or both fine and imprisonment, and the Court may, in addition to imposing a fine, 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 for the VAT.

86. A person who is required to pay security under section 51 commits an offence if the security is not paid within the time allowed for payment and on summary conviction is liable to a fine not exceeding \$10,000 or imprisonment for a term not exceeding two years or to both fine and imprisonment.

Failure to pay
security

Offences under
the Regulations

87. The Regulations may prescribe specific offences for breach of the Regulations, and for the penalties for such breaches, but such penalties shall not exceed a fine of \$10,000 or imprisonment for a term of one year or both fine and imprisonment.

Offences by
companies

88. (1) If an offence under this Act has been committed by a company, every person who at the time of the commission of the offence:

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

is deemed to have committed the offence.

(2) Subsection (1) does not apply if:

- (a) the offence was committed without the person's consent or knowledge;
- (b) the person exercised all such diligence to prevent the commission of the offence as ought to have been exercised having regard to the nature of the person's functions and all the circumstances.

Aiding
abetting

and

89. A person who aids, abets, assists, counsels, incites, or induces the commission of an offence under this Act commits that offence and is liable to the same penalties as the person committing the offence.

Compounding of
offences

90. (1) If a person has committed an offence under this Division, other than an offence under section 83 or 85, the Comptroller may, at any time prior to the commencement of the hearing by a Court of the proceedings relating thereto, compound the offence and order the person to pay such sum of money as specified by the Comptroller, not exceeding the maximum amount of the fine prescribed for the offence.

(2) The Comptroller may compound an offence under this section only if the person concerned requests the Comptroller in writing to do so.

(3) If the Comptroller compounds an offence under this section, the order referred to in subsection (1) must:

- (a) be in writing and have attached the written request described in subsection (2);
- (b) specify:
 - (i) the offence committed,
 - (ii) the sum of money to be paid, and
 - (iii) the due date for the payment;
- (c) be served on the person who committed the offence; and
- (d) be final and not subject to appeal.

(4) If the Comptroller compounds an offence under this section, the offender is not liable for prosecution or penalty in respect of that offence.

(5) The Comptroller's power under this section is subject to the powers of the Director of Public Prosecutions under the Constitution and the Criminal Procedure Code, and the Comptroller must give the Director of Public Prosecutions a copy of the order described in subsection (3) at the time it is served on the taxpayer.

(6) The amount ordered to be paid under subsection (1) is recoverable as if it were VAT due and payable under this Act.

PART XVII

COLLECTION AND RECOVERY

91. (1) Except to the extent of any inconsistency, the provisions of Part XI of the Income Tax Act apply for the purposes of the collection and recovery of amounts due and payable under this Act.

Recovery of VAT

(2) In addition to the powers under subsection (1) but subject to section 102 (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 Commissioner 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 Commissioner within 15 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 15 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.

(3) 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 of Cabinet, order the extinguishment of the liability as a debt due to the Crown.

(4) If the Comptroller determines that a person whose debt was extinguished under subsection (3) 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 (3).

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

Allocation
payments of

92. If, in addition to an amount of VAT which is due and payable by a person under this Act, an amount of interest or penalty is payable, a payment made by the person in respect of the VAT, interest, or penalty 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 amount of interest, to reduce the amount of penalty due and payable; and

- (c) then, to the extent that the payment exceeds the sum of the penalty and interest, to reduce the amount of VAT due and payable.

PART XVIII

OBJECTIONS AND APPEALS

93. (1) The following decisions made under this Act are reviewable decisions:

Reviewable
decisions

- (a) a decision under section 10 to register or not register a person under this Act, including a decision in relation to the date of commencement of registration;
- (b) a decision under section 11 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 39(3) not to allow a person permission for late lodgement of a return;
- (d) a decision under section 39(5) to require a person to lodge fuller or additional returns;
- (e) a decision under section 41(4) 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 41(6) not to waive a late lodgement penalty;
- (g) a decision under section 44 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 47 to make a determination in relation to a taxpayer's liability for an amount;

- (j) a decision under section 51 to require a person to give security;
- (k) a decision under section 62(9) not to remit a penalty, or a decision to remit the penalty only in part;
- (l) a decision under section 101 to appoint a person as a representative of a taxable person;
- (m) a decision under section 29(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).

94. (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.

Objections to the
Comptroller

(2) A notice of objection under subsection (1) must be given to the Comptroller within thirty days after the date of service of the notice of assessment, or 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 must consider a valid objection made under subsection (1) and may disallow or allow it, either wholly or in part, and must 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 90 days 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, the Comptroller is deemed to have disallowed the objection and for this purpose a notice of the disallowance is deemed to have been served on the person 7 days after the expiration of the 90 day period.

(5) If, within the timeframe allowed by subsection (2), a person lodges an objection against an assessment or other decision of the Comptroller, the person's obligation to pay the amount assessed shall not be suspended by reason of any objection having been lodged against an assessment until notice of the Comptroller's decision on the objection is served on the person, and the amount assessed may be recovered as if no such objection had been lodged.

(6) Notwithstanding subsection (5), the Comptroller may in his discretion and subject to such terms and conditions as he deems fit to impose, suspend recovery until notice of his decision on the objection is served on the person.

(7) 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.

95. (1) A person may appeal a reviewable decision to the Appeal Commissioners established under section 103 of the Income Tax Act and for the purpose of hearing and deciding the appeal, the provisions of sections 104 and 105 of that Act apply, to the extent relevant, to the hearing and determination of appeals under this Act.

Appeals to Appeal
Commissioners
and to a Judge

(2) A person may appeal a decision of the Appeal Commissioners to the High Court on a matter of law, and for the purpose of hearing and deciding the appeal, the provisions of section 106 of the Income Tax Act apply, to the extent relevant, to the hearing and determination of appeals under this Act.

(3) The provisions of the Income Tax Act relating to appeals apply to appeals pursuant to subsections (1) and (2) in the same manner as they apply to appeals under that Act.

PART XIX

RECORD-KEEPING AND INFORMATION COLLECTION

96. Every taxable person must maintain in Saint Vincent and the Grenadines such accounts, documents, and other records, including records referred to in section 38, as required under this Act or under any Act dealing with the administration of this Act and such accounts, documents, and records must be maintained by the taxpayer for 7 years after the end of the tax period to which they relate.

Maintenance of
accounts and
records

Power to require
provision of
information

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

- (a) furnish, within the time specified in the notice, information that may be required by the notice;
- (b) attend, at the time and place designated in the notice, to be examined on oath by the Comptroller, or a taxation officer authorised in writing by the Comptroller, concerning the tax affairs of that person or another person, and for that purpose the Comptroller or the authorised 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;
- (b) any contractual duty of confidentiality.

Power to enter and
search

98. (1) If the Comptroller has reasonable grounds to suspect a breach of this Act has occurred, for the purposes of investigating the suspected breach he, or a taxation officer authorised in writing by him may, with a search warrant:

- (a) have access to any premises, place, property, book, record or computer;
- (b) make an extract or copy of a book, record or computer-stored information to which access is obtained under paragraph (a);
- (c) seize a book, record, or other document to which access is obtained under paragraph (a) that, in the

opinion of the Comptroller or authorised taxation officer, affords evidence that may be material in determining the VAT liability of a taxpayer;

- (d) 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) 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 the Comptroller's written authorisation permitting the officer to exercise powers under subsection (1).

(3) The Comptroller may 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 must provide all reasonable facilities and assistance to the Comptroller or authorised 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 authorised officer must sign for all records, books, or computers removed and retained under this section and he must return them to the owner within 14 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;

(b) any contractual duty of confidentiality.

Translation of records

99. 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 translation into English.

PART XX

TAXPAYER IDENTIFICATION NUMBER

Taxpayer identification number

100. (1) The Comptroller must 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 must 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 must be required to use its previous TIN unless the Comptroller considers it inappropriate to do so.

PART XXI

REPRESENTATIVES

Power to appoint representatives

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

(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 liable person;

- (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.

102. (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 by 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;
- (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 XI of the Income Tax Act apply as if a person appointed as a representative under this Act were a person appointed as agent under that Part.

(7) This section does not apply to a person who is a representative only because of section 101 and paragraph (1) of the definition of representative unless and until the Comptroller gives notice to the person that he has declared the person to be a representative, and includes in the notice a statement that one consequence of the declaration is that this section will apply.

Duties
Receivers

of 103. (1) In this section, "receiver" means a person who, with respect to an asset in Saint Vincent and the Grenadines is:

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

(2) A receiver must notify the Comptroller in writing within 14 calendar days after the earlier of being appointed to the position or taking possession of an asset of a person liable to VAT in Saint Vincent and the Grenadines.

(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) must 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) is liable to the extent of the amount set aside for the VAT payable by the person who owned the asset;
- (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 is 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.

104. (1) If a company fails to pay an amount required to be paid by this Act, the persons who were directors or officers 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.

Directors of
companies

(2) A director or an officer of a company is not liable for a failure under subsection (1) if the director exercised that degree of care, diligence, and skill to prevent the failure which a reasonably prudent person would have exercised in comparable circumstances.

(3) A director or an officer 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 or an officer who satisfies a claim under this section is entitled to a contribution from the other directors or officers who were liable for the claim.

105. (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 are 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

106. 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

107. (1) If, after the death of a taxable person or the sequestration of a taxable person's estate, 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 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 is in possession of land or other property previously mortgaged by a mortgagor who is a taxable person, and the mortgagee carries on a taxable activity in relation to the land or other property, the mortgagee is deemed, from the date the mortgagee took possession of that land or property until such time as the mortgagee ceases to be in possession of the land or property, to be the taxable person carrying on the taxable activity.

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

Trustee

PART XXII

FORMS AND NOTICES

109. (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 shall be valid whether or not published in the Gazette.

Forms, notices
a n d
authentication of
documents

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

- (a) by posting electronic versions of the documents on an official web site of the Government of Saint Vincent and the Grenadines, the Inland Revenue Department, or the Department of Customs; or
- (b) by making hard copies available for collection from Post 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 authorised for that purpose, is printed, stamped, or written on the document.

110. (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:

Services of notices

- (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 Saint Vincent and the Grenadines; 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.

111. No document purporting to be made, issued, or executed under this Act may be:

Validity of documents

- (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

112.(1) The following shall be considered to be part of this Act:

- (a) the headings of the Sections, Parts, Divisions, and Subdivisions into which the Act is divided; and
- (b) the Schedules to the Act.

Purposive interpretation and extrinsic materials

(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 this Act and the purpose or object underlying this 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 in the Gazette;
- (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, the House of Assembly by a Minister before the time when the provision was enacted;
- (d) the speech made to the House of Assembly 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 the House of Assembly;

- (e) any document (whether or not a document to which a preceding paragraph applies) that is declared by this 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 House of Assembly.

(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 1**ZERO-RATED SUPPLIES:****EXPORTS OF GOODS AND OTHER SUPPLIES OF GOODS
FOR CONSUMPTION OUTSIDE SAINT VINCENT AND THE
GRENADINES**

(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:

1. A supply of goods, if the supplier has entered or will enter the goods for export under the Customs (Control and Management) Act 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 Saint Vincent and the Grenadines by the supplier.

3. A supply of goods, if:

(a) the goods are supplied in Saint Vincent and the Grenadines to a non-resident recipient who is not a taxable person, or to the agent of that recipient; and

(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;

but only if, within 90 days 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 (Control and Management) Act.

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 Saint Vincent and the Grenadines without being effectively used or enjoyed in Saint Vincent and the Grenadines.

5. A supply of goods in the course of repairing, maintaining, cleaning, renovating, modifying, treating, or otherwise physically affecting other goods referred to in item 3, 4, or 5 in paragraph (1) of Schedule 2, if the goods supplied are:

- (a) attached to or become part of those other goods; or
- (b) become unusable or worthless as a direct result of being used to repair, renovate, modify or treat the other goods.

6. A supply of goods if the goods are located outside Saint Vincent and the Grenadines at the time of supply and will not be imported into Saint Vincent and the Grenadines by the supplier.

7. A supply of real property relating to land located outside Saint Vincent and the Grenadines.

(2) A supply of goods is not zero-rated under paragraph (1) if the goods have been or will be re-imported into Saint Vincent and the Grenadines by the supplier.

(3) A supply of unprocessed agricultural products is not zero-rated under paragraph (1).

SCHEDULE 2**ZERO-RATED SUPPLIES:****EXPORTED SERVICES AND OTHER SUPPLIES OF SERVICES
FOR CONSUMPTION OUTSIDE SAINT VINCENT AND THE
GRENADINES**

(1) A taxable supply is zero-rated for the purposes of this Act if it is listed in one of the items below:

SERVICES CONNECTED WITH EXPORTED GOODS

1. A supply of services directly in connection with land, or improvements to land, situated outside Saint Vincent and the Grenadines.
2. A supply of services directly in connection with goods situated outside Saint Vincent and the Grenadines at the time the services are performed.
3. A supply of services directly in connection with goods temporarily imported into Saint Vincent and the Grenadines under the regime for temporary imports specified in the Customs (Control and Management) Act.
4. A supply of services directly in connection with a container temporarily imported under the regime for temporary imports specified in the Customs (Control and Management) Act.
5. A supply of the services of repairing, maintaining, cleaning, renovating, modifying, or treating goods brought temporarily into Saint Vincent and the Grenadines for the purposes of receiving the services, so long as the goods are removed from Saint Vincent and the Grenadines after the services have been performed and have not been used in Saint Vincent and the Grenadines for any purpose other than to enable the services to be performed.

6. A supply of services directly in connection with a supply of goods referred to in items 1, 2, 5, or 6 in paragraph (1) of Schedule 1, or a supply of services referred to in item 5 or 6 of this paragraph, including a supply that consists of arranging for, or is ancillary or incidental to, such supply.

7. 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 item 3 in paragraph (1) of Schedule 1, or items 1, 2, or 3 of this paragraph, including a supply that consists of arranging for, or is ancillary or incidental to, such supply.

SERVICES CONSUMED OUTSIDE SAINT VINCENT AND THE GRENADINES

8. A supply of services that is physically performed outside Saint Vincent and the Grenadines, if the services are of a kind that are effectively used or enjoyed at the time and place where they are performed.

9. A supply of services, other than a supply of services:
- (a) directly in connection with land, or improvements to land, situated in Saint Vincent and the Grenadines;
 - (b) directly in connection with goods situated in Saint Vincent and the Grenadines at the time the services are performed;
 - (c) that consist of refraining from or tolerating an activity, a situation, or the doing of an act in Saint Vincent and the Grenadines, if the restraint or toleration is effectively used or enjoyed in Saint Vincent and the Grenadines;

if:

- (d) the services are supplied to a non-resident who is outside of Saint Vincent and the Grenadines at the time the services are supplied; or

-
- (e) the services are supplied to a person who is outside of Saint Vincent and the Grenadines at the time the services are supplied and the services are effectively used or enjoyed outside Saint Vincent and the Grenadines.
10. A supply of services that consist of:
- (a) the filing, prosecution, granting, maintenance, transfer, assignment, licensing, or enforcement of intellectual property rights for use outside Saint Vincent and the Grenadines;
 - (b) incidental services necessary for the supply of services referred to in item 8; or
 - (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 Saint Vincent and the Grenadines.
11. A supply of telecommunications services by a resident telecommunications supplier to a non-resident telecommunications supplier, to the extent that the supply is for the use or consumption of a person outside Saint Vincent and the Grenadines at the time the services are performed.
12. A supply of telecommunications services that is provided to a person other than another telecommunications supplier, if the telecommunications service is initiated outside Saint Vincent and the Grenadines.
- (2) A supply of services is not zero-rated under item 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 Saint Vincent and the Grenadines, unless the supply to be received would be zero-rated if it were made in Saint Vincent and the Grenadines.
- (3) Without limiting paragraph (2), a supply of services is not zero-rated under paragraph item 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 Saint Vincent and the Grenadines 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 it 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 that supply of goods or services when the right or option is exercised, rather than the granting of the right or option.

SCHEDULE 3**ZERO-RATED SUPPLIES AND IMPORTS: OTHER**

(1) In this Schedule the classification and description of goods which bear heading numbers designated in the Customs Tariff are to be interpreted in accordance with the rules for interpretation set out in Part I of the Customs Tariff.

(2) A supply or import listed in one of the items below is a zero-rated supply or import for the purposes of this Act:

1. A supply or import of one of the following foods listed for human consumption, as further detailed in the Regulations:

- (a) non-packaged white rice;
- (b) cane sugar;
- (c) milk;
- (d) chicken back, neck and wings;
- (e) turkey back, neck and wings;
- (f) baby formula;
- (g) non-packaged wheat flour.

2. A supply of:

- (a) the first 200 kilowatt hours per month of electricity;
and
- (b) all fuel in respect of which a surcharge is imposed that is incurred in respect of the total kilowatt hours per month;

provided by the Saint Vincent Electricity Services Limited or any other person approved by the Minister, if the supply is provided to residential premises for domestic use.

3. A supply of gasoline, kerosene, diesel and LPG
4. A supply of exercise of books.
5. A supply of newspapers.
6. A supply of the agricultural inputs of ventilated boxes and packing film specifically designed for use in the transporting of unprocessed agriculture products to the extent provided in Regulations.
7. A supply of packages, containers, labels and bottles as further detailed in the Regulations.
8. A supply of computers.
9. A supply of invalid carriages and orthopaedic appliances.
10. A supply of services by:
 - (a) the Saint Vincent and the Grenadines Port Authority;
 - (b) an airport in Saint Vincent and the Grenadines;to an unregistered non-resident who is the owner or operator of the ship or aircraft, as the case may be, used by that person in international commercial service, for consumption or use in connection with that ship or aircraft.
11. A supply of international financial services to a non-resident by an international financial institution.

SCHEDULE 4**EXEMPT SUPPLIES**

(1) A supply listed in one of the items below is an exempt supply for the purposes of this Act:

1. A supply of water by the Central Water and Sewerage Authority and the transportation within Saint Vincent and the Grenadines of water supplied by the Central Water and Sewerage Authority if the supply is provided to residential premises for domestic use.

2. A supply of the following "financial services":

- (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;
- (b) transactions concerning money, deposit and current accounts, payments, transfers, debts, cheques, or negotiable instruments, other than debt collection and factoring;
- (c) transactions relating to financial derivatives, forward contracts, options to acquire financial instruments, and similar arrangements;
- (d) transactions relating to shares, stocks, bonds, and other securities, including a sale of an interest in a timesharing scheme, but not including custody services;
- (e) management of investment funds;
- (f) insurance and reinsurance transactions, including related services performed by insurance brokers and insurance agents;

- (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;
- (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
- (i) the arranging of any of the services in paragraphs (a) to (h).

3. A supply of goods, if the goods were used by the taxable person solely in connection with making exempt supplies, unless the supply is made to a registered person.

4. A supply of international transport services, including international mail services provided by the Saint Vincent and the Grenadines Postal Corporation.

5. A sale of real property, to the extent that the property relates to residential premises, including land that is designated as residential and is reasonably attributed to such premises.

6. A lease, licence, hire or other form of supply of the right to occupy or be accommodated in residential premises.

7. 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).

8. 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).

9. A supply by a condominium body corporate to a member of the body, if the unit in the Unit Plan 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).

10. A supply of the transportation of passengers by land, sea, or air within Saint Vincent and the Grenadines, but not including:

- (a) a supply of a chartered tour of a kind ordinarily provided to tourists or other visitors to Saint Vincent and the Grenadines; or
- (b) a chartered journey by sea or air.

11. A supply of "education services," consisting of tuition or instruction for students provided by an institution duly registered or licensed by law or the Minister for 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, cultural and artistic persons.
12. A supply of medical, dental, nursing, convalescent, rehabilitation, midwifery, paramedical, optical, or other similar services.
13. A supply of services in a nursing home or residential care facility for aged, indigent, infirm, or disabled persons who need permanent care.
14. A supply of prescription medicines.
15. A supply of veterinary services.
16. A gambling supply conducted by an approved non-profit body.
17. A supply of a ticket in a lottery conducted by the Saint Vincent and the Grenadines National Lotteries Authority or the Windward Islands Lotteries Commission.
18. A supply of unimproved land or of land to be used for agricultural purposes.
19. A supply of domestic postal services by the Saint Vincent and the Grenadines Postal Corporation.
20. A supply of unprocessed agricultural products if:
- (a) the supplier is the producer of the goods; or
 - (b) but for paragraph (3) of Schedule 1, the supply would have been a zero-rated export under paragraph (1) of that Schedule.
21. A supply of live animals or insects, other than domesticated animals generally held as pets.

22. A supply of goods falling within one of the following categories of agricultural inputs to the extent provided in Regulations:

- (a) seedlings, cuttings, and fertilizers;
- (b) pesticides, insecticides, and other treatments approved for use in agriculture by the Ministry responsible for agriculture;
- (c) herbicides and fungicides;
- (d) hay, fodder, silage, and animal feed other than food for domesticated animals generally held as pets;
- (e) machinery and equipment specifically designed for agricultural or horticultural use;

but only if the treatment of the supply as exempt has been approved by the Minister.

23. A supply of goods falling within one or more of the following categories of fishing inputs

- (a) fibreglass or wooden boats;
- (b) anchors;
- (c) grapnels;
- (d) global positioning systems (G.P.S), compasses, very high frequency (V.H.F.) Radios, or other similar means for identifying the position or location of a fishing vessel or for allowing communication from the fishing vessel to other persons;
- (e) fish finders;

- (f) flare guns and flares, life vests, life rings, buoys and floats, and other similar safety equipment for use on fishing vessels;
- (g) monofilament fishing lines, gaffs, harpoons, spools, line haulers, and jigging reels;
- (h) outboard engines up to 75 hp, inboard diesel engines, winches, and propellers,

but only if the goods are to be used in carrying on a taxable fishing activity and the treatment of the supply as exempt has been approved by the Minister.

24. 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.

25. A supply of the services of repairing, maintaining, cleaning, renovating, modifying, or treating an aircraft or ship engaged in international transport.

26. A supply of services that:

- (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.

27. A supply of bread by the producer of the bread.

28. A supply of services by a trade union to a member or another trade union where the supply is made in the ordinary course of its objectives as a trade union.

29. A supply of articles of religious worship or a supply of religious services by an institution.

30. A supply of printed matter, articles and material as further detailed in the Regulations.

31. A supply of goods or services by the State or local authority in connection with a taxable activity, where the consideration for the goods or services is nominal in amount or not intended to recover the cost of such goods or services.

32. A supply of goods or services to a diplomatic mission.

(2) Where a supply, in respect of which item 6 or 7 of paragraph (1) applies, is made for a continuous period of more than 45 days, the supply is not exempt if the supplier chooses to treat the supply as taxable at the rate of tax set out in section 8 (3) (b) (ii).

(3) If, but for this paragraph, a supply, other than a supply covered by item 1, 3, or 18 in paragraph (1), would be both exempt and zero-rated, the supply is zero-rated rather than exempt.

SCHEDULE 5**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 Saint Vincent and the Grenadines would be an exempt supply.

2. An import of goods given as an unconditional gift to an approved charitable organisation or government school, otherwise than for the purposes of re-sale.

3. An import of goods if it is exempt from customs duty under Item XI A, XI B, XII A, XII B, or XIII I in the List of Conditional Duty Exemptions in the First and Second Schedules to the Customs Duty Act.

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4. An import of goods (including an import of a container) that has been exported and then returned to Saint Vincent and the Grenadines by any person without have been subjected to any process of manufacture or adaptation and without a permanent change of ownership, but not if when the goods were exported:

(a) they were the subject of a supply that was zero-rated;
or

(b) they were the subject of a supply that, for the purposes of this Act occurred before this Act commenced.

5. An import of household and personal effects, professional apparatus, professional books, or workmen's tools by a natural person, including a citizen of Saint Vincent and the Grenadines, if the goods are imported for personal use and not for re-sale and the goods:

(a) have been in the use of the person for at least one year prior to entry; or

-
- (b) are imported on change of permanent residence of the person to Saint Vincent and the Grenadines.
6. An import of goods, not including merchandise, owned by a citizen of Saint Vincent and the Grenadines or a person resident in Saint Vincent and the Grenadines who has died abroad.
7. An import of goods consigned by a natural person abroad to a natural person in Saint Vincent and the Grenadines as a bona fide, unsolicited gift provided that this item does not apply to:
- (a) an item exceeding \$130 in value;
 - (b) goods contained in passengers' baggage; or
 - (c) wine, spirits, or manufactured tobacco (including cigarettes or cigars).
8. An import of goods shipped or conveyed to Saint Vincent and the Grenadines for trans-shipment or conveyance to any other country.
9. An import of goods by a diplomatic or consular mission, or by a diplomat or member of the diplomat's family forming part of the diplomat's household in Saint Vincent and the Grenadines to the extent provided for under a law of Saint Vincent and the Grenadines or under Item XI in the List of Conditional Duty Exemptions in the First and Second Schedules to the Customs Duties Act.
10. An import of goods made available free of charge by a country or an international institution with a view to assisting the economic development of Saint Vincent and the Grenadines, as approved by the Minister.
11. An import of goods if it is exempt from customs duty under Items II and III in the List of Conditional Duty Exemptions in the First and Second Schedules to the Customs Duties Act if the goods are for use in carrying on a taxable activity involving agriculture or fishing and are not for private or domestic use.

12. An import of goods referred to in item 14, 21, 22, or 23, of Schedule 4, subject to the same conditions or limitations on exemption, if any, set out in those items in relation to a supply of such goods.

13. An import of goods if it is exempt from customs duty under Item VIII in the List of Conditional Duty Exemptions in the First and Second Schedules to the Customs Duties Act if the goods are for use in health or under the Canouan Resorts Development Limited (Lease ratification) Act or the Mustique Company Limited Act.

14. An import by a person who is not registered for VAT of goods referred to in item 24, 25, or 26 of Schedule 4, if a supply of such goods to the person would be exempt under the relevant item.

15. An import of clothing donated for free distribution in Saint Vincent and the Grenadines, as approved by the Minister.

16. An import of goods (including foodstuff) for use in rehabilitation or relief following natural disaster, as approved by the Minister.

17. An import of goods if the Comptroller of Customs is satisfied that VAT has previously been paid on the sale or importation of the goods.

Passed in the House of Assembly this 1st day of October, 2006.

NICOLE HERBERT
Clerk of the House of Assembly.

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