

VALUE ADDED TAX ACT

(Consolidated Version with amendments to 27 April 2007)

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¹FA 15/2006 – Section 51 deleted w.e.f 01.10.06.
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³ FA 15/2006 – Section 53 deleted and replaced w.e.f 01.07.06.
VAT Act 1998:-
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⁴ FA 15/2006 – PART XA added w.e.f 01.07.06.

⁵ FA 15/2006 – Section 53A added w.e.f 01.07.06.

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⁷ FA 15/2006 – Section 53C added w.e.f 01.07.06.

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An Act

To provide for the replacement of the sales tax on goods by a value added tax on goods and services and for the purposes connected therewith and incidental thereto.

ENACTED by the Parliament of Mauritius, as follows -

PART I - PRELIMINARY

1. Short title

This Act may be cited as the Value Added Tax Act 1998.

2. Interpretation

In this Act -

“appointed day” means 7 September 1998;

“Authority” means the Mauritius Revenue Authority established under ¹ the Mauritius Revenue Authority Act 2004;

“business” has the meaning given to it by section 3;

"certificate" means a certificate of registration issued under section 17;

Definition deleted ²

Definition deleted ³

Definition deleted ⁴

“customs duty” means the duty leviable under the Customs Act 1988 and the Customs Tariff Act;

“customs laws” has the same meaning as in the Customs Act 1988;

¹ MRA Act 2004 - Definition added..

² MRA Act 2004 – Definition deleted .
VAT Act 1998 :-
"Commissioner" means the Commissioner for Value Added Tax;

³ MRA Act 2004 – Definition deleted .
FA 23/2001 - Definition added w.e.f 07.08.2001.
"Committee" means the Assessment Review Committee set up under section 8E of the Unified Revenue Act 1983

⁴ MRA Act 2004 – Definition deleted .
VAT Act 1998 :-
"Customs" means the Customs and Excise Department;

"customs value", in relation to goods, means the value as determined under the Customs Act 1988;

“Director-General” means the Director-General of the Authority; ¹

“document” means any document and includes information stored in a computer, disc, cassette, or on microfilm, or preserved by any mechanical or electronic device;

“duty free shop” has the same meaning as in the Customs Act 1988;

"excise duty" means the excise duty chargeable under the Excise Act 1994 on the excisable goods specified in Part I of the First Schedule to that Act;

"exempt supply" means a supply of such goods or services exempted from the payment of VAT as are specified in the First Schedule;

Definition deleted ²

Definition deleted ³

“freeport zone” has the same meaning as in the Freeport Act 1992;

"goods"-

- (a) means any movable or immovable property; and
- (b) includes animals; but
- (c) does not include money;

¹ MRA Act 2004 - Definition added.

² FA 15 /2006 – Definition deleted w.e.f 01.10.06.

VAT Act 1998 :-

“export enterprise” has the same meaning as in the Industrial Expansion Act 1993;

³ FA 15 /2006 – Definition deleted w.e.f 01.10.06.

VAT Act 1998 :-

“export processing zone” has the same meaning as in the Industrial Expansion Act 1993;

“hire purchase agreement” has the same meaning as in the Hire Purchase and Credit Sale Act;

“import” means bring or cause to be brought within Mauritius;

“input tax”, in relation to a taxable person, means -

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

being goods or services used or to be used in the course or furtherance of his business;

“input tax allowable” means the input tax allowable under section 21;

“invoice” -

- (a) means a document notifying an obligation to make payment; and
- (b) includes any document similar to an invoice; but
- (c) does not include a VAT invoice;

“local authority” has the same meaning as in the Local Government Act 1989;

“Minister” means the Minister to whom responsibility for the subject of finance is assigned;

“money” includes currencies whether of Mauritius or any other country but does not include a collector’s piece, investment article or item of numismatic interest;

“non-resident”,¹

- (a) in the case of an individual, means a person –
 - (i) whose permanent place of abode is outside Mauritius; and
 - (ii) who is outside Mauritius at the time the services are supplied;
- (b) in the case of any other person –
 - (i) means a person whose centre of economic interest is located outside Mauritius; and
 - (ii) includes a company incorporated in Mauritius in so far as its banking transactions carried out through a permanent establishment outside Mauritius are concerned; but
 - (iii) does not include a company incorporated outside Mauritius in so far as its banking transactions carried out through a permanent establishment in Mauritius are concerned;

¹ FA 14/2005 - Definition added w.e.f 01.07.05.

“officer” means an officer of the Authority; ¹

“output tax”, in relation to a taxable person, means VAT on the taxable supplies he makes in the course or furtherance of his business;

“person” includes any *société*, trust, economic entity or similar organisation, club or association, Ministry or Government department and any local authority;

“qualified auditor” has the same meaning as in the Companies Act 1984;

“quarter” means a period of 3 months ending at the end of March, June, September or December;

“registered person” means a person who is registered under section 15 or 16;

“record” -

- (a) means a record specified in section 19; and
- (b) includes copies of VAT invoice specified in section 20;

“return” means a return specified in section 22;

“services” means anything which is not goods or money;

“*société*” -

- (a) means a *société* formed under any enactment in Mauritius; and
- (b) includes -
 - (i) a *société de fait* or a *société en participation*;
 - (ii) a joint venture; or
 - (iii) a *société* or partnership formed under the law of a foreign country;

“supply” has the meaning given to it by section 4;

¹ MRA Act 2004 – Definition deleted and replaced.

VAT Act 1998 :-

“officer” means a public officer posted to the VAT Department;

“tax” -

- (a) means the value added tax specified in section 9; and
- (b) includes any penalty and any interest imposed under this Act; but ¹
- (c) does not include any fine;

“taxable period”, in relation to a taxable person, means -

- (a) in the case where his annual turnover of taxable supplies exceeds the amount specified in the Second Schedule, a month or part of a month; or
- (b) in any other case, a quarter or part of a quarter;

“taxable person” -

- (a) means any person who is required to be registered under section 15; and
- (b) includes a registered person;

"taxable supply" means a supply of goods in Mauritius, or a supply of services performed or utilised in Mauritius; and

- (a) includes a supply which is zero-rated; but
- (b) does not include an exempt supply,

made by a taxable person in the course or furtherance of his business;

Definition deleted ²

“ Tribunal” definition deleted; ³

“trust” means any trust constituted under any enactment;

¹ FA 2006 – Paragraph (b) Repealed and replaced w.e.f 01.10.06.

FA 25/2000 – Paragraph (b) amended w.e.f 07.08.2000.

(b) includes any surcharge under section 26 and any penalty under sections 24 (9), 27 and 67; but

Act 2 /1998 :- includes any surcharge under section 26 and any penalty under sections 27 and 67; but

² FA 2006 – Definition deleted w.e.f 01.10.06.

VAT Act 1998 :-

“traveller” has the same meaning as in the Customs Regulations 1989;

³ FA 23/2001 – Definition deleted w.e.f 07.08.01.

Act 2 /1998 :-

“Tribunal” means the Tax Appeal Tribunal established under the Tax Appeal Tribunal Act 1984;

“value added tax” means the value added tax charged in accordance with this Act;

"VAT" means value added tax and any reference in this Act to VAT is a reference to value added tax;

“VAT invoice” -

- (a) means a VAT invoice under section 20; but
- (b) does not include a receipt or invoice under section 19;

“VAT Registration Number” means the VAT Registration Number allocated to a person under section 17;

“visitor” means a person holding - ¹

- (a) a foreign passport; and
- (b) a valid ticket for travel by air or sea to a foreign airport or port.

3. Meaning of business

(1) In this Act, "business" -

- (a) means -
 - (i) any trade, commerce or manufacture, profession, vocation or occupation; or
 - (ii) any other activity in the nature of trade, commerce or manufacture, profession, vocation or occupation; and
- (b) includes any activity carried on by a person, whether or not for gains or profit, and which involves in part or in whole the supply of goods or services to other persons for a consideration.

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

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

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

¹ FA 2006 – Definition Repealed and replaced w.e.f 01.10.06.

4. Meaning of supply

- (1) Subject to the other provisions of this Act, “supply” means -
 - (a) in the case of goods, the transfer for a consideration of the right to dispose of the goods as the owner; or
 - (b) in the case of services, the performance of services for a consideration.
- (2) Without prejudice to the provisions of the Third Schedule and to any regulations made under subsection (4) -
 - (a) “supply” in this Act includes all forms of supply, but not anything done otherwise than for a consideration;
 - (b) anything which is not a supply of goods but is done for a consideration (including, if so done, the granting, assignment or surrender of any right) is a supply of services.
- (3) The Third Schedule shall apply for determining what is, or is to be treated as, a supply of goods or a supply of services.
- (4) Without prejudice to section 72(1)(b), the Minister may, by regulations, amend the Third Schedule to provide, with respect to any transaction, whether -
 - (a) it is to be treated as a supply of goods and not as a supply of services;
 - (b) it is to be treated as a supply of services and not as a supply of goods; or
 - (c) it is to be treated as neither a supply of goods nor a supply of services.
- (5)
 - (a) A supply of goods incidental to the supply of services is part of the supply of the services.
 - (b) A supply of services incidental to the importation of goods is part of the importation of the goods.
 - (c) A supply of services incidental to the supply of goods is part of the supply of the goods.
- (6) A supply of services made by a person in performing the duties of his office or employment is not a supply made by that person.

5. Time of supply

(1) Subject to the other provisions of this Act, a supply of goods or services shall be deemed to take place -

- (a) at the time an invoice or a VAT invoice in respect of that supply is issued by the supplier; or
- (b) at the time payment for that supply is received by the supplier,

whichever is the earlier.

(2) Where services are supplied for a continuous period under any enactment or agreement which provides for periodic payments, the services are treated as successively supplied for successive parts of the period as determined by the enactment or agreement and each successive supply shall be deemed to take place -

- (a) at the time an invoice or a VAT invoice in respect of that supply is issued by the supplier; or
- (b) at the time payment for that supply is received by the supplier,

whichever is the earlier.

(3) Where a taxable supply is made -

- (a) under a hire purchase agreement, the supply shall be treated as a supply of goods and it shall be deemed to be supplied at the time the agreement is made; or
- (b) under a lease agreement, the supply shall be treated as a supply of services and it shall be deemed to be supplied -
 - (i) at the time an invoice or a VAT invoice in respect of that supply is issued by the supplier; or
 - (ii) at the time payment for that supply is received by the supplier, whichever is the earlier.

(4) Where any goods specified in Part II of the Seventh Schedule are supplied at the stage in the chain of distribution immediately before the retail stage, the time of supply of those goods shall, subject to subsection (1), be treated, for all intents and purposes, as if the supply at the retail stage has taken place.¹

(5) Notwithstanding the other provisions of this section, the Minister may, by regulations, make provision with respect to the time at which a supply is to be treated as taking place in cases where it is a supply of goods or services for a consideration, the whole or part of which, is payable periodically or from time to time, or at the end of any period.

¹FA 20/2002 – New subsection (4) added w.e.f 01.10.02; the existing subsection (4) renumbered (5).

Act 2 /1998: - *Notwithstanding the other provisions of this section, the Minister may, by regulations, make provision with respect to the time at which a supply is to be treated as taking place in cases where it is a supply of goods or services for a consideration, the whole or part of which, is payable periodically or from time to time, or at the end of any period.*

6. Application of the Act

(1) This Act shall bind the State.

(2) Where in any enactment or agreement made before or after the commencement of this Act, it is provided that notwithstanding any other enactment a statutory corporation or any other person shall be exempt from the payment of the whole or part of any tax, that provision shall not be construed as an exemption from the payment of VAT under this Act.

(3), (4) and (5) Deleted ¹

PART II - ADMINISTRATION

7. Deleted ²

8. Confidentiality

(1) Subject to subsection (2), every officer shall maintain the confidentiality of any return, assessment, document or other matter that comes to his knowledge or possession in the performance of his duties and functions under this Act and any regulations made thereunder.

¹FA 18/2003 - Subsections (3) (4) and (5) deleted w.e.f 21.07.03.
FA 20/2002 – Subsection (3), (4) and (5) added as follows :

- (3) *Subject to subsection (4), this Act shall apply to –*
 - (a) *any person engaged in any business or profession specified in Part I of the Tenth Schedule as from 1 October 2002;*
 - (b) *any person engaged in any business specified in Part II of the Tenth Schedule as from 10 January 2003.*
- (4) *Section 15(2) (a) (i) shall apply to any person engaged in any business or profession specified in Part I of the Tenth Schedule as from 1 September 2002.*
- (5) *Section 15(2)(a)(ii) shall apply to any person engaged in any business specified in Part II of the Tenth Schedule as from 1 December 2002.*

²MRA Act 2004 – Section 7 deleted.
Act. 2 /1998 :-

7. Commissioner for Value Added Tax

For the due administration of this Act, there shall be a Commissioner for Value Added Tax who shall be a public officer and who shall be assisted by such other officers as may be necessary.

(2) Except for the purposes of this Act, any other revenue law, the Prevention of Corruption Act 2002 or where so authorised to do so by the Minister, no officer shall communicate to any person any matter relating to this Act and any regulations made thereunder.¹

(3) Any officer who, without lawful excuse, contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 2 years.

PART III - LIABILITY TO VALUE ADDED TAX

9. Charge to value added tax

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

(2) VAT on any taxable supply is a liability of the person making the supply and becomes due at the time of supply.

(3) Where food or drink, cooked or prepared in any manner, is supplied, such food or drink shall, notwithstanding the other provisions of this Act, be deemed to be a taxable supply.

(4) Subject to the other provisions of this Act, every person who -

- (a) imports goods, other than goods specified in the First Schedule, shall pay a value added tax on those goods; or
- (b) being a taxable person, makes taxable supplies, shall, after the end of the taxable period in which those supplies are made, pay to the Director-General, within such time as may be prescribed, a value added tax on those supplies.²

(5) VAT on the importation of goods shall be charged, levied and payable as if it were customs duty or excise duty and as if all goods imported into Mauritius are dutiable and liable to customs duty or excise duty.

(6) Every taxable person shall be liable to pay to the Director-General VAT on all his taxable supplies as from the date he is required to be registered as a registered person under this Act.³

¹ FA 14/2005 - Subsection (2) amended w.e.f 21.04.05.
Act. 2 /1998 :-

Except for the purposes of administering this Act or any other revenue law or where so authorised to do so by the Minister, no officer shall communicate to any person any matter relating to this Act and any regulations made thereunder.

² MRA Act 2004 - Director-General replacing Commissioner.

³ MRA Act 2004 - Director-General replacing Commissioner.

(7) The liability under the Act of a *société*, club, association, or similar organisation, as a taxable person shall not be affected by any change in its associateship or membership, as the case may be.

(8) No person shall charge VAT on any supplies of goods or services he makes unless he is a registered person at the time the supplies are made.

(9) Notwithstanding the other provisions of this section, where -

- (a) any goods specified in Part II of the Seventh Schedule; or
- (b) prepaid cards in respect of any services,

are supplied at any stage in the chain of distribution immediately before the retail stage, the supply shall be deemed to have been made at the retail stage and VAT on such supply shall be charged on such value as includes the retail margin.¹

¹FA 2006 – Subsection (9) Repealed and replaced w.e.f 01.10.06.

FA 20/2002 - Subsection (9) added w.e.f 01.10.02.

(9) Notwithstanding the other provisions of this section, where any goods specified in the Part II of the Seventh Schedule are supplied at the stage in the chain of distribution immediately before the retail stage, the supply shall be deemed to have been made at the retail stage and VAT on such supply shall be charged on such value as includes the retail margin.

10. Rate of VAT

(1) Subject to section 51, VAT shall be charged at the rate specified in the Fourth Schedule and shall be charged - ¹

- (a) on any taxable supply by reference to the value of the supply as determined under section 12; and
- (b) on the importation of any goods, other than those specified in the First Schedule, by reference to the value of the goods as determined under section 13.

(2) Notwithstanding any other enactment or agreement and subject to subsections (3) and (4), where the rate of tax is varied before the supply of any goods or services takes place pursuant to section 5, the rate of tax on the supply of those goods or services shall be varied as from the date of the variation. ²

(3) Where, in the course of the execution of a contract for the supply of any goods or services, the rate of tax is varied, the rate of tax on the supply of those goods or services shall be varied with respect to the remaining part of the contract as from the date of the variation. ³

(4) Where, in respect of a continuous supply of services, invoices are issued at regular intervals and the rate of tax is varied, the rate of tax on the supply of those services shall be varied as from the date of the variation. ⁴

11. Zero-rating

(1) Where a taxable person supplies goods or services and the supply is zero-rated -

- (a) no VAT shall be charged on the supply; but
- (b) it shall in all respects be treated as a taxable supply, and

accordingly the rate at which VAT is treated as charged on the supply shall be nil.

(2) A supply of goods or services is zero-rated by virtue of this section if the goods or services are of a description specified in the Fifth Schedule.

¹FA 20/2002 - Existing provisions numbered subsection (1) w.e.f 01.07.02.

FA 18/1999 – Existing provisions amended w.e.f 07.09.98.

Act. 2 /1998 : -

VAT shall be charged at the rate specified in the Fourth Schedule and shall be charged -

- (a) *on any taxable supply by reference to the value of the supply as determined under section 12; and*
- (b) *on the importation of any goods, other than those specified in the First Schedule, by reference to the value of the goods as determined under section 13*

² FA 20/2002 - Subsection (2) added w.e.f 01.07.02.

³ FA 20/2002 - Subsection (3) added w.e.f 01.07.02.

⁴FA 20/2002 - Subsection (4) added w.e.f 01.07.02.

12. Value of taxable supplies

(1) For the purposes of this Act, the value of any taxable supply made by a taxable person shall, subject to the other provisions of this Act, be determined in accordance with the provisions of this section.

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

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

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

(5) For the purposes of subsection (3), the open market value of a supply of goods or services shall be taken to be the amount that would fall to be taken as its value under subsection (2) if the supply were for such consideration in money as would be payable by a person who has no relationship with any person which would affect that consideration.

(6) Where a supply of any of the goods specified in Part I of the Seventh Schedule is made by a registered person - ¹

(a) at the stage in the chain of distribution immediately before the stage of retail, VAT shall be calculated on such value of the supply as excludes the retail margin.

(b) at the stage of retail, VAT shall be calculated on the value of the supply as specified in paragraph (a).

(7) Where a supply of any of the goods specified in Part II of the Seventh Schedule is made by a registered person - ²

(a) at the stage in the chain of distribution immediately before the stage of retail, VAT shall be calculated on such value of the supply as includes the retail margin.

(b) at the stage of retail, VAT shall be calculated on the value of the supply as specified in paragraph (a)

¹ FA 20/2002 - Subsection (6) replaced w.e.f 01.10.02.

FA 18/1999 - Subsection (6) added w.e.f 07.09.98 :-

Where a registered person makes a supply of any of the goods specified in the Seventh Schedule and the supply is made in such quantities as are appropriate to sales by retail, VAT shall be calculated on such value of the supply as excludes the retail margin.

² FA 20/2002 - Subsection (7) added w.e.f 01.10.02.

13. Value of imported goods

The value shall, in respect of goods imported by any person, be the sum of –

- (a) the customs value of the goods; and
- (b) the customs duty and excise duty payable on the goods.

14. Reverse charge on supply of services received from abroad

(1) Where a person who does not belong in Mauritius makes a taxable supply of services which are performed or utilised in Mauritius, to a registered person, then all the same consequences shall follow under this Act as if the registered person had himself supplied the services in Mauritius and that supply were a taxable supply. ¹

(2) Where a supply of services which is treated as made by a registered person under subsection (1), then the provisions of section 21 shall apply and the registered person may claim the tax on the supply of those services as input tax.

(3) The invoice or other documentation from the person making the supply shall be treated as a VAT invoice.

(4) The value of the supply under this section shall be the amount paid or payable for the services.

(5) For the purposes of this section, a person does not belong in Mauritius if that person -

- (a) has no permanent establishment in Mauritius for the carrying on of his business; or
- (b) has his place of abode outside Mauritius.

¹ FA 18/2003 - Subsection (1) amended w.e.f 21.07.03.
Act. 2 / 1998 :-

Where a person who does not belong in Mauritius makes a supply of services which are performed or utilised in Mauritius, to a registered person, then all the same consequences shall follow under this Act as if the registered person had himself supplied the services in Mauritius and that supply were a taxable supply.

PART IV - REGISTRATION

15. Compulsory registration

- (1) Subject to the other provisions of this section, every person -
- (a) who, in the course or furtherance of his business, makes taxable supplies; and
 - (b) whose turnover of taxable supplies exceeds or is likely to exceed the amount, specified in the Sixth Schedule, ¹

shall apply to the Director-General, in such form and in such manner as may be approved by him, for compulsory registration as a registered person under the Act. ²

- (2) (a) Notwithstanding section 16, every person engaged in – ³
- (i) any business or profession specified in Part I of the Tenth Schedule and whose turnover of taxable supplies does not exceed or is not likely to exceed the amount specified in the Sixth Schedule; or ⁴
 - (ii) any business specified in Part II of the Tenth Schedule, irrespective of his turnover of taxable supplies,

shall apply to the Director-General, in such form and in such manner as may be approved by him, for compulsory registration as a registered person under the Act.

(b) Paragraph (a) (i) shall not apply to a person holding an office or employment, unless the person, otherwise than by virtue of any enactment, is also engaged, in addition to his office or employment, in any business or profession specified in Part I of the Tenth schedule.

¹ FA 2006 – Subsection (1) (b) Repealed and replaced w.e.f 01.10.06.

VAT Act 1998 :-

(b) whose turnover of taxable supplies exceeds or is likely to exceed any of the amounts corresponding to any of the periods, specified in the Sixth Schedule,

² MRA Act 2004 - Director-General replacing Commissioner.

³FA 20/2002 – New subsection (2) added; subsection (2)(a)(i) w.e.f 01.09.02 and subsection (2)(a)(ii) w.e.f 01.12.02.

The existing subsection (2), (3) and (4) renumbered (3), (4) and (5) respectively.

FA 18/1999 - Subsection (2) added w.e.f 01.09.1999 :-

Where the turnover of a person is made up exclusively of supplies which are zero-rated, that person shall not be bound to apply for registration under this section.

The existing subsection (2) and (3) renumbered (3) and (4) respectively.

⁴FA 2006 – Subsection (2) (a) (i) Repealed and replaced w.e.f 01.10.06.

FA 20/2002 –

- (2) (a) *Notwithstanding section 16, every person engaged in –*
- (i) *any business or profession specified in Part I of the Tenth Schedule and whose turnover of taxable supplies does not exceed or is not likely to exceed any of the amounts corresponding to any of the periods specified in the Sixth Schedule; or*

(2A) Notwithstanding the other provisions of this Act, the registration of a person engaged in the business specified in item 1 of Part II of the Tenth Schedule shall be in respect of –

- (a) the banking services referred to -
 - (i) in subparagraph (A), (B) and (C) of item 50(a)(ii) of the First Schedule;
 - (ii) in item 6(b)(ii) of the Fifth Schedule; and
- (b) his other taxable supplies, irrespective of the amount of his turnover. ¹

(3) Where the turnover of a person is made up exclusively of supplies which are zero-rated, that person shall not be bound to apply for registration under this section.

(4) Where the Director-General is satisfied that the applicant is required to be registered, he shall register the applicant as a registered person under the Act. ²

(5) Where the Director-General is satisfied that - ³

- (a) a person, in the course or furtherance of his business, makes taxable supplies;
- (b) the taxable supplies made by certain other persons should properly be regarded as those made by that person;
- (c) upon the taxable supplies referred to in paragraphs (a) and (b) being together taken into account, that person would be liable to be registered; and
- (d) the main reason or one of the main reasons for that person carrying on business in the way he does is the avoidance of a liability to be registered,

the Director-General may issue a direction to that person directing that the persons named therein shall be treated as a single taxable person and that single taxable person shall be liable to be registered under this section. ⁴

¹FA 2006 – Subsection (2A) added w.e.f 01.10.06.

² MRA Act 2004 - Director-General replacing Commissioner.

³ MRA Act 2004 - Director-General replacing Commissioner.

⁴ MRA Act 2004 - Director-General replacing Commissioner.

15A. Penalty for failure to apply for compulsory registration

Any taxable person who does not apply for compulsory registration under section 15 shall be liable to pay to the Director-General a penalty of 5,000 rupees for every month or part of the month from the taxable period in respect of which he is liable to be registered as a registered person up to the month immediately preceding the month in which the application for registration is submitted, provided that the total penalty payable shall not exceed 50,000 rupees. ¹

16. Voluntary registration

(1) Notwithstanding section 15, any person who, in the course or furtherance of his business, makes taxable supplies may apply to the Director-General, in such form and in such manner as may be approved by him, for voluntary registration as a registered person under the Act. ²

(2) Where the applicant satisfies the Director-General that -

- (a) he currently keeps and maintains a proper record of his business;
- (b) he has kept and maintained a proper record of his business for a period of at least one year preceding the year in which the application for registration is made; and
- (c) he has been discharging his obligations under the revenue laws,

the Director-General may register the applicant as a registered person under the Act. ³

17. Certificate of registration

(1) Where a person has been registered under section 15 or 16, the Director-General shall allocate to that person a VAT Registration Number and issue to him a certificate of registration in a form approved by the Director-General on such terms and conditions as he thinks fit.

(2) The Director-General shall, in the certificate of registration issued to a person under subsection (1), specify the VAT Registration Number allocated to that person. ⁴

18. Cancellation of registration

(1) Where the Director-General is satisfied that a registered person should cease to be registered under the Act, he may, by notice in writing, require the registered person, within 14 days of the date of the notice, to show cause why he should not cease to be registered and if the Director-General is satisfied that, having regard to all circumstances of the case, it is expedient to do so, he may cancel the registration with effect from such date as the Director-General may determine and give notice thereof to the person. ⁵

¹FA 2006 – Section 15A added w.e.f 01.10.06.

² MRA Act 2004 - Director-General replacing Commissioner.

³ MRA Act 2004 - Director-General replacing Commissioner.

⁴ MRA Act 2004 - Director-General replacing Commissioner.

⁵MRA Act 2004 - Director-General replacing Commissioner.

(2) Where the registration of a registered person is cancelled under subsection (1), the person shall -

- (a) cease to hold himself out to be a registered person;
- (b) submit a return and pay all tax due including the tax due on any goods forming part of the assets of the business other than those specified in section 21 (2) (b); and ¹
- (c) immediately return to the Director-General his certificate of registration and all its copies. ²

PART V - RECORD AND VAT INVOICE

19. Record

(1) Every person shall, for the purposes of this Act, keep in the course of his business, a full and true written record, whether on computer or otherwise, in the English or French language of every transaction he makes.

(2) Every person referred to in subsection (1) who -

- (a) imports or exports goods shall keep, in respect of those goods, a copy of his Customs declarations, either electronic through the TradeNet or otherwise, in chronological order;
- (b) receives goods or to whom services are supplied shall keep receipts, invoices or VAT invoices in respect of those goods or services in chronological order they are received or supplied; and
- (c) makes supplies of goods or services shall, subject to section 20, issue to the purchaser a receipt or invoice in respect of those goods or services and keep legible copies thereof, either on computer or otherwise, in chronological order,

in such manner as may be prescribed.

(3) Subsection (2) (c) shall not apply to the business specified in item 6 (b) (ii) of the Fifth Schedule and items I and 4 of the Part II of the Tenth Schedule. ³

¹ FA 20/2002 – Paragraph (b) amended w.e.f 10.08.02.

Act 2 /1998 :- submit a return and pay all tax due including the tax due on any goods forming part of the assets of the business; and

² MRA Act 2004 - Director-General replacing Commissioner.

³ FA 18/2003 - Subsection (3) amended w.e.f 21.07.03.

FA 20/2002 - New subsection (3) added and existing subsection (3) and (4) renumbered (4) and (5) respectively ,w.e.f 01.07.02.

Subsection (2) (c) shall not apply to the business specified in item 6 (b) (ii) of the Fifth Schedule and items I of the Part II of the Tenth Schedule.

Act 2 /1998 :- Every record under subsection (1) or (2) shall be kept for a period of at least 5 years after the completion of the transaction to which it relates.

(4) Every record under subsection (1) or (2) shall be kept for a period of at least 5 years after the completion of the transaction to which it relates. ¹

(5) For the purposes of subsection (2)(a), “TradeNet” has the same meaning as in the Customs (Use of Computer) Regulations 1997. ²

20. VAT invoice

(1) Every registered person who makes a taxable supply to another registered person shall issue to that person a VAT invoice in respect of that supply.

(2) A registered person who issues a VAT invoice under subsection (1) shall specify in that VAT invoice -

- (a) the words “VAT INVOICE” in a prominent place;
- (b) his name, business address and his VAT Registration Number;
- (c) its serial number and date of issue;
- (d) the quantity and description of the goods or the description of the services;
- (e) the value of the supply exclusive of VAT;
- (f) the amount of VAT chargeable and the rate applied; and
- (g) the name, address and the VAT Registration Number of the purchaser.

(3) Every person who issues a VAT invoice under this section shall keep legible copies thereof, either on computer or otherwise, in chronological order.

(4) Every copy of a VAT invoice under this section shall be kept for a period of at least 5 years after the completion of the transaction to which it relates.

(5) No person shall issue a VAT invoice or any other document indicating an amount which purports to be VAT on the supply of any goods or services unless -

- (a) he is registered as a registered person under this Act; and
- (b) the supply is a taxable supply.

(6) No VAT invoice shall be issued to a person unless, at the time the VAT invoice is issued, that person is registered as a registered person under this Act.

¹ FA 20/2002 - Existing subsection (3) renumbered subsection (4).

² FA 20/2002 - Existing subsection (4) renumbered subsection (5).

(7) This section shall not apply to the business specified in item 6(b)(ii) of the Fifth Schedule and items I and 4 of Part II of the Tenth Schedule. ¹

PART VI - RETURN, PAYMENT AND REPAYMENT OF TAX

21. Credit for input tax against output tax

(1) Subject to the other provisions of this section, any person may, if he is a taxable person, take, either in his return referred to in section 22 or in his statement referred to in section 23, as a credit against his output tax in any taxable period, the amount of input tax allowable to him during that period.

- (2) No input tax shall be allowed as a credit under this section in respect of -
- (a) goods or services used to make an exempt supply; ²
 - (b) motor cars and other motor vehicles for the transport of not more than 9 persons including the driver, motorcycles and mopeds, for own use or consumption, and their spare parts and accessories;
 - (c) accommodation or lodging, catering services, receptions, entertainment, and the rental or lease of motor cars and other vehicles specified in paragraph (b);
 - (d) maintenance or repairs of motor cars and other vehicles specified in paragraph (b);
 - (e) petroleum oils and other oils or preparations of heading No. 27.10 of Part I of the First Schedule to the Customs Tariff Act, except - ³
 - (i) fuel oils;
 - (ii) oils or preparation used for resale; and
 - (iii) gas oils for use in stationary engines, boilers and burners;

¹ FA 18/2003 - Subsection (7) amended w.e.f 21.07.03.

FA 20/2002 - Subsection (7) added w.e.f 01.07.02 :-

This section shall not apply to the business specified in item 6(b)(ii) of the Fifth Schedule and items I of Part II of the Tenth Schedule.

² FA 18/1999 - Paragraph (a) amended w.e.f 01.09.99.

Act No. 2 /1998:- *goods or services used or consumed to produce an exempt supply;*

³ FA 28/2004 - Paragraph (e) amended w.e.f 01.10.04.

FA 18/1999 - Paragraph (e) amended w.e.f 01.09.99 :-

petroleum oils and other oils or preparations of heading No. 27.10 of Part I of the First Schedule to the Customs Tariff Act, except those for resale and except those for resale and except gas oils and fuel oils for use in stationary engines; and boilers; and

Act 2 / 1998:-

petroleum oils and other oils or preparations of heading No. 27.10 of Part I of the First Schedule to the Customs Tariff Act, except gas oils and fuel oils for use in stationary engines; and

- (f) petroleum gas of heading No. 27.11 of Part I of the First Schedule to the Customs Tariff Act and used for the running of motor cars and other vehicles specified in paragraph (b);
- (g) goods and services used by banks holding a banking licence under the Banking Act 2004 for providing banking services other than to non-residents and corporations holding a Global Business Licence under the Financial Services Development Act 2001;¹
- (ga) banking services provided by banks holding a banking licence under the Banking Act 2004 other than to non-residents and corporations holding a Global Business Licence under the Financial services Development Act 2001; and²
- (h) goods and services used by persons for the purpose of providing services specified in item 4 of Part II of the Tenth Schedule, or services specified in item 4 of Part II of the Tenth Schedule.³
- (3) (a) Where goods or services are used to make a taxable supply, the credit in respect of those goods or services shall be allowed in full;⁴
- (b) Subject to paragraphs (c) and (d) where goods or services are used to make both taxable supplies and exempt supplies, the credit in respect of those goods or services shall be allowed in the proportion of the value of taxable supplies to total turnover on the basis of –⁵
 - (i) in the case of a new business, the estimated figures for the current accounting year; or
 - (ii) in any other case, the actual figures for the previous accounting year.
- (c) The amount of input tax taken in accordance with paragraph (b) (i) shall be adjusted by the person at the end of his accounting year and an adjustment shall be made by him in his return for the taxable period immediately following the end of that accounting year.

¹ FA 14/2005 - Paragraph (g) replaced w.e.f 01.07.05.

FA 20/2002 – Paragraph (g) added w.e.f 10.01.03 :- *goods and services used by banks, or services provided by banks, holding a category I Banking Licence under the Banking Act*

² FA 14/2005 – Paragraph (ga) added w.e.f 01.07.05.

³ FA 18/2003 - Paragraph (h) added w.e.f 01.10.03

⁴FA 18/1999 - Subsection (3) replaced by subsection (3) (a), (b) and (c) w.e.f 01.09.99.

Act. 2/1998:- *Where goods or services are used partly for taxable supplies and partly for exempt supplies, the credit shall be allowed in such proportion as is specified in the Seventh Schedule.*

⁵ FA 23/2001 - Subsection (3)(b) amended w.e.f 11.08.01.

FA 18/1999 :- *Subject to paragraphs (c) where goods or services are used to make both taxable supplies and exempt supplies, the credit in respect of those goods or services shall be allowed in the proportion of the value of taxable supplies to total turnover on the basis of –*

- (i) *in the case of a new business, the estimated figures for the current accounting year; or*
- (ii) *in any other case, the actual figures for the previous accounting year.*

- (d) Where it is proved to the satisfaction of the Director-General that the apportionment in accordance with paragraph (b) is, having regard to the nature of the business, not fair and reasonable, the Director-General may approve such alternative basis of apportionment as he considers appropriate in the circumstances, subject to such conditions as may be prescribed. ¹

(4) The amount of any input tax or output tax shall be adjusted to take into account any debit note or credit note or a bad debt.

(5) No credit for input tax shall be allowed unless –

- (a) VAT invoices issued by suppliers legally authorised to charge VAT; or
- (b) Customs import declarations, either electronic or otherwise, in support of the credit,

are made available to the Director-General for examination on demand. ²

(6) Where credit for any input tax has not been taken in the taxable period in which it ought to have been taken, a registered person may take such credit within a period of 24 months of the date the input tax ought to have been taken. ³

(7) (a) Where, in respect of a building (including extension and renovation) forming part of the fixed assets of a registered person, a credit for input tax has been taken, and before the end of the nineteenth year following the year it was acquired, that building no longer forms part of his fixed assets, the registered person shall be liable to pay back to the Director-General, in respect of the remaining portion of that period, the proportionate amount of the credit allowed. ⁴

(b) The registered person shall, in his return for the taxable period in which the building has ceased to form part of his fixed assets, treat the proportionate amount referred to in paragraph (a) as output tax.

(8) For the purposes of determining the proportion of the value of taxable supplies to total turnover under subsection (3) (b), the value of taxable supplies shall exclude the value of capital goods. ⁵

¹ FA 23/2001- Paragraph (d) added w.e.f 11.08.01.

MRA Act 2004 - Director-General replacing Commissioner.

² MRA Act 2004 - Director-General replacing Commissioner.

³FA 14/2005 - Subsection (6) amended w.e.f 21.04.05.

FA 20/2002 - Subsection (6) amended w.e.f 01.07.02 :- *Where credit for any input tax has not been taken in the taxable period in which it ought to have been taken, a registered person may take such credit within a period of 24 months of the date the input tax was paid.*

Act 2 /1998 :- *Where credit for any input tax has not been taken in the taxable period in which it ought to have been taken, a registered person may take such credit within a period of 12 months of the date the input tax was paid.*

⁴ MRA Act 2004 - Director-General replacing Commissioner.

⁵FA 20/2002 - Subsection (8) added w.e.f 01.07.02.

22. Return and payment of tax

(1) Every registered person shall, after the end of every taxable period, within such time as may be prescribed, submit to the Director-General in respect of that period a return, in such manner and in such form as may be approved by the Director-General, specifying -

- (a) the amount of output tax payable;
- (b) the amount of input tax allowable;
- (c) the value of all taxable supplies made by him;
- (d) the value of goods imported and the value of all taxable supplies made to him;
- (e) the amount of solidarity levy under section 53B; and ¹
- (f) such other particulars as may be required in the form of the return. ²

(1A) Where the annual turnover of taxable supplies does not exceed the amount specified in the Second Schedule, a registered person may, notwithstanding subsection (1), by irrevocable notice in writing to the Director-General, elect the taxable period in relation to him be a period of a month or part of a month. ³

(1B) Where a registered person has made an election under subsection (1A), he shall submit a return in accordance with this section as from the end of the quarter in which the election is made. ⁴

(2) Where a registered person submits a return under subsection (1) or (1B) and - ⁵

- (a) the output tax exceeds the input tax, the difference representing the amount of tax payable shall be paid to the Director-General at the time the return is submitted; or
- (b) the input tax exceeds the output tax which would have been payable if the credit has not been taken, the excess amount shall, subject to section 24, be retained to be carried forward onto the return for the following taxable period for the payment of any VAT that is for the time being payable or may become payable by the registered person.

¹ FA 2006 – Paragraph (e) Repealed and replaced w.e.f 01.07.06.

VAT Act 1998 :-

(e) *such other particulars as may be required in the form of the return.*

² FA 2006 – Paragraph (f) added w.e.f 01.07.06.

³ FA 2006 – Subsection (1A) added w.e.f 07.08.06.

⁴ FA 2006 – Subsection (1B) added w.e.f 07.08.06.

⁵ FA 2006 – Subsection (2) deleted and replaced w.e.f 07.08.06..

VAT Act 1998 :-

(2) *Where a registered person submits a return under subsection (1) and -*

(3) Where a registered person does not make any supply of goods or services and does not receive any goods or services, he shall submit a nil return.

23. Tax liability prior to date of registration

(1) Where a registered person ought to have been registered on a day prior to the date of his registration, he shall, not later than 30 days after the date of his registration - ¹

- (a) submit a statement, in a form approved by the Director-General, giving the information and particulars specified in section 22 in respect of the taxable periods commencing on the date the person was required to be registered and ending on the date immediately preceding the date of his registration, provided that such periods do not exceed 5 years; and ²
- (b) at the same time, pay any tax due in accordance with the statement together with any interest under section 27A. ³

(2) Notwithstanding section 21(5)(a), any registered person may, in the statement under subsection (1), take as a credit against his output tax for the taxable period, the amount of input tax allowable to him during that period provided that the amount of input tax is duly supported by receipts or invoices issued by VAT registered persons and the amount of VAT is separately shown thereon. ⁴

¹ FA 18/2003 - Existing provision numbered subsection (1) w.e.f 21.07.03.

² MRA Act 2004 - Director-General replacing Commissioner.

³ FA 2006 – Subsection (1)(b) amended w.e.f 01.10.06.

VAT Act 1998 :-

(b) *at the same time, pay any tax due in accordance with the statement together with the appropriate penalty specified in section 27.*

⁴ FA 18/2003 - Subsection (2) added w.e.f 21.07.03.

24. Repayment of tax

(1) Where a registered person submits a return under section 22 and the excess amount includes input tax amounting to more than 100,000 rupees or such other amount as may be prescribed, on capital goods being building or structure (including extension and renovation), plant, machinery or equipment, of a capital nature, the registered person may, in that return, make a claim to the Director-General for a repayment of the amount of input tax allowable in respect of those capital goods. ¹

(2) Subject to subsections (3) and (4), where, in respect of a taxable period, a return shows an excess amount, the registered person may, in that return, make a claim to the Director-General for repayment, in addition to any amount repayable under subsection (1), of that part of the excess amount which corresponds to the proportion of the value of zero-rated supplies to the total value of taxable supplies in that taxable period. ²

¹ FA 2006 – Subsection (1) amended w.e.f 07.08.06.
MRA Act 2004 - Director-General replacing Commissioner.

FA 14/2005 – Subsection (1) amended w.e.f 21.04.05.

(1) Where a registered person submits a return under section 22 and the excess amount includes input tax amounting to more than 150,000 rupees or such other amount as may be prescribed, on capital goods being building or structure (including extension and renovation), plant, machinery or equipment, of a capital nature, the registered person may, in that return, make a claim to the Director-General for a repayment of the amount of input tax allowable in respect of those capital goods.

FA 23/2001 - Subsection (1) amended w.e.f 07.08.2001:- *Where a registered person submits a return under section 22 and the excess amount includes input tax amounting to more than 150,000 rupees or such other amount as may be prescribed, on capital goods being building (including extension and renovation), plant, machinery or equipment, of a capital nature, the registered person may, in that return, make a claim to the Commissioner for a repayment of the amount of input tax allowable in respect of those capital goods.*

Act 2 /1998 :- *Where a registered person submits a return under section 22 and the excess amount includes input tax paid and amounting to more than 150,000 rupees or such other amount as may be prescribed, on capital goods being building (including extension and renovation), plant, machinery or equipment, of a capital nature, the registered person may, in that return, make a claim to the Commissioner for a repayment of the amount of input tax allowable in respect of those capital goods.*

²MRA Act 2004 - Director-General replacing Commissioner.

FA 23/2001 – Subsection (2) amended w.e.f 11.08.01.

FA 18/1999 - Subsection (2) amended w.e.f 01.09.99 :- *Subject to subsections (3) and (4), where, in respect of a taxable period, a return shows an excess amount, the registered person may, in that return, make a claim to the Commissioner for repayment, in addition to any amount repayable under subsection (1), of that part of the excess amount which corresponds to the proportion of the value of zero-rated supplies to the total value of taxable supplies in that taxable period, provided that the amount of tax claimed has duly been paid by that person.*

VAT Act 1998 :- *Subject to subsections (3) and (4), where, in respect of a taxable period, a return shows an excess amount, the registered person may, in that return, make a claim to the Commissioner for repayment, in addition to any amount repayable under subsection (1), of that part of the excess amount which corresponds to the proportion of the value of zero-rated supplies to the total value of taxable supplies in that taxable period, provided that the amount of tax claimed has duly been paid by that person.*

(3) For the purposes of subsection (2), the excess amount in a return shall not include any input tax for capital goods, whether repayable under subsection (1) or not.

(4) (a) Where a return shows an excess amount and the registered person is mainly engaged in making zero-rated supplies, he may, in that return, make a claim to the Director-General for a repayment of the whole or part of the excess amount. ¹

(b) On receipt of a claim under paragraph (a), the Director-General may -

(i) repay the whole or part of the excess amount; or

(ii) retain the excess amount to be carried forward onto the return for the following taxable period.

(5) Any claim for repayment under this section shall be made in such manner and in such form as may be approved by the Director-General and shall be submitted together with the return.

(6) Where a claim for repayment is made under this section, the amount claimed shall not be carried forward onto the return for the following taxable period and the Director-General may, on being satisfied that the registered person is entitled to the repayment, proceed to make the repayment.

(7) A repayment under this section shall be made within 45 days of the date of receipt by the Director-General of the return and the claim referred to in subsection (5).

(8) Where the repayment is made after the period specified in subsection (7), the repayment shall carry interest at the prevailing Bank rate.

(9) Where in respect of a claim for repayment under this section, it is found that an amount has been overclaimed, the registered person shall, subject to subsection (10), be liable to pay to the Director-General a penalty representing 20 per cent of the amount overclaimed provided that the penalty shall not exceed 200,000 rupees. ²

¹ MRA Act 2004 - Director-General replacing Commissioner.
FA 23/2001 – Paragraph (a) amended w.e.f 11.08.01.

FA 18/1999 – Paragraph (a) amended w.e.f 01.09.99 :- *Where a return shows an excess amount and the registered person is mainly engaged in making zero-rated supplies; he may, in that return, make a claim to the Commissioner for a repayment of the whole or part of the excess amount, provided that the amount claimed has duly been paid by that person;*

VAT Act 1998 :- *Where a return shows an excess amount and the registered person is mainly engaged in making zero-rated supplies; he may, in that return, make a claim to the Commissioner for a repayment of the whole or part of the excess amount, provided that the amount claimed has duly been paid by that person;*

² MRA Act 2004 - Director-General replacing Commissioner.
FA 18/2003 - Subsection (9) amended w.e.f 21.07.03.

FA 25/2000 – subsection (9) added w.e.f 11.08.00 :-
Where in respect of a claim for repayment under this section, it is found that an amount has been overclaimed, the registered person shall, subject to subsection (10), be liable to pay to the Commissioner a penalty representing 20 per cent of the amount overclaimed

Note : Subsection (9), (10), (11) and (12) added by FA 25/2000 w.e.f 11.08.00.

(10) Subsection (9) shall not apply where the amount of penalty does not exceed 250 rupees. ¹

(11) Subject to subsection (12), the penalty under subsection (9) shall be payable to the Director-General within 28 days of the date of the notification for payment of the penalty. ²

(12) Any penalty payable under subsection (9) shall be applied and set off against any amount of tax which is for the time being repayable to the registered person. ³

25. Change in taxable period

(1) Where the annual turnover of taxable supplies of a registered person whose taxable period is a quarter exceeds the amount specified in the Second Schedule, he shall -

- (a) within 15 days of the date of the closing of his annual accounts, notify the Director-General of that fact in writing; and ⁴
- (b) change his taxable period from a quarter to a month as from the month immediately following that quarter.

(2) Where the annual turnover of taxable supplies of a registered person whose taxable period is a month does not exceed the amount specified in the Second Schedule, he may -

- (a) within 15 days of the date of the closing of his annual accounts, notify the Director-General of that fact in writing; and ⁵
- (b) change his taxable period from a month to a quarter as from the quarter immediately following that month.

(3) Where a registered person changes his taxable period under subsection (1) or (2), he shall submit the return under section 22 in accordance with his new taxable period.

¹ FA 25/2000 – Subsection (10) added w.e.f 11.08.00.

² MRA Act 2004 - Director-General replacing Commissioner.
FA 25/2000 – Subsection (11) added w.e.f 11.08.00.

³ FA 25/2000 – Subsection (12) added w.e.f 11.08.00.

⁴ MRA Act 2004 - Director-General replacing Commissioner.

⁵ MRA Act 2004 - Director-General replacing Commissioner.

26. Penalty for non-submission of return by due date

Where, in respect of a taxable period, a registered person fails to submit a return on or before the last day on which the return is required to be submitted, he shall be liable to pay to the Director-General, in addition to any tax which may be payable, a penalty of 2,000 rupees for every month or part of the month until the return for that taxable period is submitted, provided that the total penalty payable shall not exceed 20,000 rupees. - ¹

26A. Penalty for failure to join electronic system ²

Any registered person who is required under regulations made under the Act to submit his return and make any payment of tax due electronically but fails to join the electronic system, after written notice being given to him by the Director-General, shall be liable to pay to the Director-General on his failure within a period of 7 days from the date of the notice to justify the failure to join the system, a penalty of 5,000 rupees, for every month or part of the month from the taxable period specified in the notice, up to the taxable period immediately preceding the taxable period in respect of which he submits his return, and to make any payment of tax due electronically, provided that the total penalty payable shall not exceed 50,000 rupees.

¹FA 2006 – Section 26 Repealed and replaced w.e.f 01.10.06.
MRA Act 2004 - Director-General replacing Commissioner.
FA 25/2000 - Section 26 amended w.e.f 11.08.00.

26. Surcharge for non-submission of return by due date

Where, in respect of a taxable period, a registered person fails to submit a return under section 22 on or before the last day on which the return is required to be submitted under that section, he shall be liable to pay to the Commissioner, in addition to any tax which may be payable, a surcharge of -

- (a) 2000 rupees; or
- (b) 200 rupees for every day until the return for that taxable period is submitted,

whichever is the higher, provided that the total surcharge payable shall not exceed 20,000 rupees.

Act. 2/1998 :- *Surcharge for non-submission of return by due date*

Where, in respect of a taxable period, a registered person fails to submit a return under section 22 on or before the last day on which the return is required to be submitted under that section, he shall be liable to pay to the Commissioner, in addition to any tax which may be payable, a surcharge of -

- (a) 5000 rupees; or
- (b) 500 rupees for every day until the return for that taxable period is submitted,

whichever is the higher.

² FA 2006 – Section (26A) added w.e.f 01.10.06.

27. Penalty for late payment of tax ¹

(1) Where a taxable person fails to pay any tax due on or before the last day on which it is payable under section 21(7), 22, 23, 37, 39 or 67, he shall be liable to pay to the Director-General, in addition to the tax and any penalty under sections 15A, 24(9), 26, 26A and 37A, a penalty of 5 per cent of the tax.

(2) The penalty under the subsection (1) shall apply to the tax excluding any penalty under sections 15A, 24(9), 26, 26A and 37A and any interest under section 27A.

27A. Interest on tax unpaid or amount repaid or refunded in excess ²

(1) Interest at the rate of one per cent per month or part of the month shall be paid to the Director-General on -

(a) any tax unpaid under section 9 or 21(7) from the date the tax remained unpaid to the date of payment;

(b) any amount claimed by the Director-General in respect of tax repaid in excess and on any amount paid thereon as interest under section 24 from the date of the repayment up to the date of payment of the amount claimed; or

(c) on any amount claimed by the Director-General under section 67 in respect of tax refunded, exempted or reduced erroneously from the date of the erroneous refund, exemption or reduction to -

(i) the date specified in the notice under section 67; and

(ii) in the case of non-payment by the date specified in the notice under section 67, from that date to the date of payment of the amount claimed.

(2) The interest under subsection (1) shall not apply to any penalty under section 15A, 24(9), 26, 26A, 27 or 37A.

¹ FA 2006 – Section (27) Repealed and replaced w.e.f 01.10.06.
MRA Act 2004 - Director-General replacing Commissioner.

Act. 2/1998 :-

Where a taxable person fails to pay any tax due on or before the last day on which it is payable under section 9, 21(7) or 37, he shall be liable to pay to the Commissioner, in addition to the tax and to any surcharge under section 26, a penalty representing -

(a) *10 per cent of the tax excluding the surcharge for the first month or part of the month during which the tax remains unpaid; and*

(b) *2 per cent of the tax excluding the penalty and the surcharge for each subsequent month or part of the month during which the tax remains unpaid, up to a maximum of 100 per cent of the tax.*

² FA 2006 – Section (27A) added w.e.f 01.10.06.

PART VII - POWERS OF DIRECTOR-GENERAL ¹

28. Power to require information

(1) Subject to section 33, the Director-General may, by notice in writing, require any person to furnish to him, within such time as may be specified in the notice, information and particulars relating to -

- (a) the supply of any goods or services made to the person by any other person;
- (b) the supply of any goods or services made by the person to any other person;
- (c) contracts for the supply of any goods or services;
- (d) the amount owed by the person to any other person; and
- (e) such other transactions,

which the Director-General considers necessary or relevant for the purposes of this Act and which may be in the possession or custody, or under the control, of that person.

(2) Where a notice under subsection (1) is issued to a person, that person shall comply with the requirements of that notice.

29. Obligation to furnish information

(1) Every person, when so required by the Director-General shall, for the purposes of this Act, within the time fixed by the Director-General, give orally or in writing, as may be required, all such information as may be demanded of him by the Director-General for the purpose of enabling the Director-General to ascertain his tax liability, make an assessment or collect tax. ²

(2) Subject to section 33, any person, when so required by notice in writing, shall, for the purposes of this Act, furnish to the Director-General, within the time specified in the notice -

- (a) a certified copy of the profit and loss account and balance sheet or such other statement of account as may be required, duly audited by a qualified auditor;
- (b) details of transactions in all the bank accounts of the person, his spouse and minor children; and
- (c) a certified statement of all assets and liabilities of the person, his spouse and minor children.

¹ MRA Act 2004 - Director-General replacing Commissioner.
VAT Act 1998 :-

PART VII - POWERS OF COMMISSIONER

² MRA Act 2004 - Director-General replacing Commissioner.

30. Use of computer system

(1) Notwithstanding the other provisions of this Act and subject to section 8D of the Unified Revenue Act 1983, the Director-General may authorise - ¹

- (a) an application for registration under Part IV;
- (b) a return under section 22 or a statement under section 23;
- (c) any payment or repayment of tax under the Act; or
- (d) any act or thing which is required to be done under the Act,

to be made, submitted or done electronically through such computer system as may be approved by him.

(2) With effect from such date as may be notified in the *Gazette*, the Director-General may direct that any matter, act or thing referred to in subsection (1) shall be made, submitted or done electronically or otherwise.

(3) Any certificate of registration under section 17, any assessment of tax under section 37, or any act or thing which is required to be done by the Director-General under the Act, may be issued, made or done electronically through computer or other mechanical or electronic device.

(4) A person who submits a return and pays tax in the manner specified in subsection (1) shall continue to submit returns and pay tax in that manner unless otherwise authorised by the Director-General. ²

(5) Where, immediately before the commencement of this section, a person has been submitting a return and has been paying tax electronically, the computer system of that person shall be deemed to have been approved by the Director-General for the purposes of subsection (1). ³

¹ MRA Act 2004 - Director-General replacing Commissioner.

FA 23/2001 - Subsection (1) amended w.e.f 11.08.01

VAT Act 1998 :-

Notwithstanding the other provisions of this Act , the Commissioner may authorise -

- (a) *an application for registration under Part IV;*
- (b) *a return under section 22 or a statement under section 23;*
- (c) *any payment or repayment of tax under the Act; or*
- (d) *any act or thing which is required to be done under the Act,*

²MRA Act 2004 - Director-General replacing Commissioner.

FA 23/2001 - Subsection (4) added, w.e.f 11.08.01.

³MRA Act 2004 - Director-General replacing Commissioner.

FA 23/2001 -Subsection (5) added w.e.f 11.08.01.

31. Production of books and records

The Director-General may, for the purposes of ascertaining the tax liability of any person, require that person - ¹

- (a) to produce for -
 - (i) examination, either at the business premises of that person or at the Office of the Director-General, books, records, copies of VAT invoices, contracts for the supply of goods or services, bank statements, or other documents, whether on computer or otherwise, which the Director-General considers necessary and which may be in the possession or custody or under the control of that person;
 - (ii) retention, for such period as the Director-General considers necessary, any record or document specified in subparagraph (i) and for taking copies of or extracts therefrom;
- (b) to call, either at the business premises of the person or at the Office of the Director-General, for the purpose of being examined in respect of any transaction or matter relating to the tax liability of that person.

32. Power to inspect books, records and goods

(1) Subject to subsection (3), the Director-General or any officer authorised by him in writing may, for the purposes of this Act, at all reasonable times, enter any business premises or place where any business is carried on or anything is done in connection with the business and - ²

- (a) may require the person carrying on the business or any person on those premises or in that place who is employed by the person carrying on the business to produce any books, records, copies of VAT invoice, balance sheet, stock sheet, contracts for the supply of goods or services, bank statements or other documents relating to the business, whether these are recorded in a computer system or otherwise, and may remove and retain any such records or other documents, for such period as may be considered reasonable for their examination or inspection;
- (b) may examine any such records or other documents and take copies of or extracts therefrom;
- (c) may inspect any goods;
- (d) may require the person -
 - (i) to produce any goods for inspection; or

¹ MRA Act 2004 - Director-General replacing Commissioner.

² MRA Act 2004 - Director-General replacing Commissioner.

- (ii) to carry out a cash count; and
 - (e) may require the person carrying on the business or any person on those premises or in that place who is employed by the person carrying on the business to give to the Director-General or the authorised officer all reasonable assistance and to answer all proper questions either orally or in writing.¹
- (2) For the purposes of this Act, the Director-General may, at any time, cause a physical stocktaking of the goods of a registered person to be carried out.
- (3) Subsection (1) shall not apply to any person -
- (a) who carries on any banking business, or the business of dealings in foreign currency, regulated by the Banking Act 2004, the Bank of Mauritius Act 2004, or any other enactment relating thereto; or²
 - (b) who carries on the business of providing financial services regulated by the Financial Services Development Act 2001.
- (4) Any person who -
- (a) fails to provide such assistance or to answer such questions as may be required under this section; or
 - (b) obstructs the Director-General or any officer in the exercise of his powers under this section,³

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 5 years.

¹ MRA Act 2004 - Director-General replacing Commissioner.

² FA 14/2005 - Subsection (3)(a) amended w.e.f 21.07.05.

Act 2/ 1998 :-

who carries on any banking business, or the business of dealings in foreign currency, regulated by the Banking Act 1988, the Bank of Mauritius Act, the Foreign Exchange Dealers Act 1995 or any other enactment relating thereto; or

³ MRA Act 2004 - Director-General replacing Commissioner.

32A. Power to access computers and other electronic devices¹

- (1) For the purposes of ascertaining the tax liability of any person under this Act, the Director-General may, subject to subsection (2), at any reasonable time –
- (a) have access to –
 - (i) any computer, computer software, whether installed in the computer or otherwise, electronic till or any other device, used in connection with any document which the person is required to produce for the purpose of ascertaining his tax liability; or
 - (ii) any information, code or technology which has the capability of retransforming or unscrambling encrypted data contained or available to such computers or devices into readable and comprehensive format or text;
 - (b) inspect and check the operation of any such computer, electronic till or other device and make extracts of any computer software, computer output or such other documents used in connection therewith;
 - (c) require any person by whom or on whose behalf the computer or other electronic device is operated, or any person concerned with the operation of the equipment, to give such assistance as is necessary for the purposes of this section; and
 - (d) require any person in possession of decryption information to grant him access to such decryption information necessary to decrypt data required for the purposes of this section.
- (2) Subsection (1) shall not apply to any person referred to in section 32(3).

33. Time limit to require information, books or records

- (1) Subject to subsection (2), no person shall be required -
- (a) to furnish or give any information under section 28 or 29; or
 - (b) to produce any books or records under section 31 or 32,

after 5 years immediately following the last day of the taxable period in which any related transaction took place.

- (2) Subsection (1) shall not apply in case of wilful neglect, evasion or fraud.

¹MRA Act 2004 - Director-General replacing Commissioner.
FA 28/2004 - Section 32A added w.e.f 26.08.04.

34. Power to require security

(1) The Director-General may, for the purposes of securing payment of any tax due, require a person to give security in such amount and in such manner as the Director-General thinks fit. ¹

(2) Any person who, without any reasonable cause, fails to give such security as is required under subsection (1) shall commit an offence.

34A. Power to waive penalty or interest ²

(1) The Director-General may waive the whole or part of any penalty or interest imposed under this Act where he is satisfied that failure to comply with this Act was attributable to a just or reasonable cause.

(2) In the exercise of his power under subsection (1), the Director-General shall, in writing, record the reasons for waiving the whole or part of the penalty or interest.

35. Warrant to search and seize

(1) Subject to subsection (2), where the Director-General has reasonable ground to believe that an offence has been, is being or is likely to be committed under this Act, he may apply to a District Magistrate for the issue of a warrant to an officer -

- (a) to enter and search any business premises or place where any business is carried on or anything is done in connection with the business;
- (b) to inspect or examine any goods or books, records or other documents, whether kept on computer or otherwise, found therein; and
- (c) to seize those goods, books, records or other documents or any computer, device, apparatus, materials or computer software used in connection with the business, where such seizure is necessary for any examination or investigation. ³

(2) Subsection (1) shall not apply to any person referred to in section 32(3).

(3) Any goods, books, records or other documents or computer, device, apparatus, material or computer software seized under subsection (1)(c) shall be returned to the person from whom they were seized when no longer required. ⁴

¹ MRA Act 2004 - Director-General replacing Commissioner.

² FA 2006 – Section 34 A added w.e.f 07.08.06.

³ FA 28/2004 - Paragraph (c) amended w.e.f 26.08.04.

VAT Act 1998 :-

to seize those goods or books, records or other documents where such seizure is necessary for any examination or investigation.

⁴ FA 28/2004 - Subsection (3) amended by w.e.f 26.08.04.

VAT Act 1998:-

Any goods, books, records or other documents seized under subsection (1)(c) shall be returned to the person from whom they were seized when no longer required.

36. Proceedings for temporary closing down of business ¹

- (1) Where, in respect of a taxable period, a registered person -
- (a) fails to submit a return under section 22 or fails to pay the tax payable under that section on or before the last day on which the return is required to be submitted and payment of tax made; and
 - (b) the Director-General is of the opinion that tax ought to have been paid by the registered person for that taxable period,

the Director-General may notify the person in writing of his intention to close down part or the whole of the business of that person for a temporary period not exceeding 14 days, unless the person complies with the requirement of that section within a period of 7 days of the date of the notice.

- (2) (a) Where the registered person fails to comply with the notice issued under subsection (1), the Director-General may make an application under oath, in such form as may be prescribed, to a District Magistrate for an order to close down part or the whole of the business of that person for a period not exceeding 14 days.
- (b) Where an application under oath is made to a Magistrate in the manner specified in paragraph (a), the Magistrate may forthwith grant the application.
- (c) Upon granting an application under paragraph (b), the Magistrate shall issue an order to an Usher, in such form as may be prescribed, to close down the business of the person in accordance with the provisions of this section.

(3) Where an Usher executes an order under subsection (2), he shall affix in a conspicuous place on the front of the premises of the business or part of the business which has been closed, a notice duly certified by the Commissioner bearing the words “CLOSED TEMPORARILY FOR NOT SUBMITTING VAT RETURN AND NOT PAYING VAT”; or the words “CLOSED TEMPORARILY FOR NOT PAYING VAT”, as the case may be.

(4) Where an order under subsection (2) has been executed and the registered person complies with the requirements of –

- (a) section 22; or
- (b) section 22(1) and gives security to the satisfaction of the Director-General for the payment of any tax due,

the order shall lapse and the Director-General shall, in writing, notify the registered person accordingly.

(5) Any person who, contrary to the order, carries on the business or part of the business concerned or who commits any act in breach of the order under this section, shall commit an offence.

¹ MRA Act 2004 - Director-General replacing Commissioner.

36A. Anti-avoidance provisions ¹

(1) Where the Director-General is satisfied that the purpose or effect of any arrangement or transaction is directly or indirectly –

- (a) to reduce or avoid any liability imposed or which would otherwise have been imposed on any person by this Act;
- (b) to relieve any person from any liability to tax;
- (c) to alter the incidence or postpone the time due of any tax which is payable by or which would otherwise have been payable by any person; or
- (d) to obtain credit for any input tax or repayment of any tax which would not otherwise have been obtained.

the Director-General may, without prejudice to such validity as it may have in any other respect or for any other purpose, disregard or vary, for the purposes of this Act, the arrangement or transaction and make such adjustments as he considers appropriate so as to counteract any tax advantage obtained or obtainable by that person from or under that arrangement or transaction.

(2) This section shall not apply to any arrangement or transaction carried out for bona fide commercial reasons and does not have as one of its main purposes: the avoidance or reduction of tax or the obtaining of any tax advantage.

(3) For the purposes of this section, “tax advantage” includes -

- (a) any reduction in the liability of any person to pay tax;
- (b) any reduction in the total consideration payable by any person in respect of any supply of goods or services;
- (c) any postponement of the time when tax is due or payable; or
- (d) any increase in the entitlement of a person to a credit for input tax or repayment of tax.

¹ MRA Act 2004 - Director-General replacing Commissioner.
FA 25/2000 - Section 36A added w.e.f 11.08.00.

PART VIII - ASSESSMENTS, OBJECTIONS AND REVIEW OF ASSESSMENTS¹

37. Director-General may make assessments²

- (1) Subject to subsections (3) and (4), where -
 - (a) a person -
 - (i) fails to submit a return under section 22 or a statement under section 23;
 - (ii) fails to keep proper records;
 - (iii) fails to comply with any of the requirements under section 29, 31 or 32;
 - (iv) being a taxable person, fails to apply for registration as a registered person under the Act;
 - (v) benefits from a repayment of tax under section 24 and it is subsequently found that the tax or part of the tax ought not to have been repaid; or
 - (vi) fails to remit to the Director-General any VAT charged on any supply made by him; or
 - (b) the Director-General is not satisfied -
 - (i) with a return submitted under section 22 or a statement under section 23; or
 - (ii) with the adequacy or correctness of the records kept,

the Director-General may, on such information as is available to him, make an assessment of the tax due and payable by that person or of the excess amount to be carried forward in case the input tax exceeds the output tax and give to that person written notice of the assessment.

¹FA 23/2001 - Heading of Part VIII amended w.e.f 11.08.01.

VAT Act 1998:-

PART VIII - ASSESSMENTS, OBJECTIONS AND APPEALS

²MRA Act 2004 - Director-General replacing Commissioner.

VAT Act 1998 :-

37. Commissioner may make assessments

FA 14/2005 – Paragraph (b) amended w.e.f 21.07.05.

VAT Act 1998:-

(b) *the Commissioner is not satisfied -*

- (i) *with a return submitted under section 22 or a statement under section 23; or*
- (ii) *with the adequacy or correctness of the records kept,*

the Commissioner may, on such information as is available to him, make an assessment of the tax due and payable by that person and give to that person written notice of the assessment.

(2) Where the Director-General has given notice of assessment to any person under subsection (1), that person shall, subject to section 38, pay the amount of tax specified in the notice, not later than 28 days of the date of the notice.

(3) Subject to subsection (5), an assessment under subsection (1) shall not be made after 5 years immediately following the last day of the taxable period in which the liability to pay tax arose.

(4) No assessment under subsection (1) shall be made where the amount of tax or the reduction in the excess amount to be carried forward does not exceed 250 rupees.¹

(5) Subsection (3) shall not apply in case of wilful neglect, evasion or fraud.

37A. Penalty on amount claimed in assessment²

(1) Where an assessment is made under section 37, the amount of tax claimed in the assessment shall carry a penalty not exceeding 50 percent and such penalty shall be deemed to be part of the tax claimed.

(2) For the purposes of subsection (1), “tax claimed”, in relation to the relevant taxable period -

(a) means the difference between the amount of tax payable in the assessment and tax declared in the return under section 22 or statement under section 23; but

(b) does not include -

(i) any penalty under sections 15A, 24(9), 26, 26A, and 27; and

(ii) any interest under section 27A.

¹ FA 14/2005 - Subsection (4) amended w.e.f 21.04.05.

VAT Act 1998:- *No assessment under subsection (1) shall be made where the amount of tax does not exceed 250 rupees.*

²FA 2006 – Section (37A) added w.e.f 01.10.06.

38. Objection to assessments

(1) Where a person assessed to tax under section 37 is dissatisfied with the assessment, he may, within 28 days of the date of the notice of assessment, in writing, lodge with the Director-General an objection against the assessment.

(2) Any person who lodges an objection under subsection (1) shall –

- (a) state, in his letter of objection, the grounds of objection and the adjustments that are required to be made and the reasons therefor;
- (b) submit, at the time the objection is lodged, in respect of each of the taxable periods covered by the assessment, any return required under section 22 or any statement required under section 23;
- (c) pay any amount of tax specified in the return or statement referred to in paragraph (b) together with any penalty under sections 15A, 24(9), 26, 26A and 27 and any interest under section 27A; and ¹

¹FA 2006 – Subsection (2) paragraph (c) Repealed and replaced w.e.f 01.10.06.

FA 14/2005:-

(c) *pay any amount of tax specified in the return or statement referred to in paragraph (b) together with any surcharge under section 26 and any penalty under sections 24 (9) and 27; and*

FA 14/2005 – Subsection (2) replaced w.e.f 21.04.05.

FA 18/2003 - Paragraph (c) amended w.e.f 21.07.03.

(c) *pay, at the time the objection is lodged, the amount of any tax -*

(i) *specified in the return or statement referred to in paragraph (b); or*

(ii) *referred to in paragraph (a)(ii),*

together with any surcharge under section 26 and any penalty under sections 24(9) and 27.

VAT Act 1998 – Subsection (2) :-

(a) *state in his letter of objection, in respect of each of the taxable periods covered by the assessment -*

(i) *the adjustments that are required to be made and the reasons therefor; and*

(ii) *the amount of tax which, in the opinion of the person, is likely to become payable on determination of his objection; and*

(b) *if he is a registered person, submit, at the time the objection is lodged, in respect of each of the taxable periods covered by the assessment, any return required under section 22 or any statement required under section 23; and*

(c) *pay, at the time the objection is lodged, the amount of any tax -*

(i) *specified in the return or statement referred to in paragraph (b); or*

(ii) *referred to in paragraph (a)(ii),*

together with any surcharge under section 26 and any penalty under section 27.

- (d) in addition, pay the difference, if any, between 30 per cent of the amount of tax claimed in the notice of assessment and the amount of tax paid under paragraph (c).

(3) Where it is proved to the satisfaction of the Director-General that, owing to illness or other reasonable cause, a person has been prevented from lodging an objection within the time specified in subsection (1), the Director-General may consider the objection as a valid objection under that subsection.

(4) Where the Director-General refuses to consider a late objection he shall, within 28 days of the date of receipt of the letter of objection, give notice of the refusal to the person.

(5) Where the person fails to comply with subsection (2)(a) or (b) the objection shall be deemed to have lapsed and the Director-General shall, within 28 days of the date of receipt of the letter of objection, give notice thereof to that person. ¹

(6) Where a notice under subsection (4) or (5) is given, the tax specified in the notice of assessment together with any penalty under sections 15A, 24(9), 26, 26A, 27 and 37A and any interest under section 27A shall be paid within 28 days of the date of the notice or the excess amount as assessed shall be deemed to be the excess amount to be carried forward, as the case may be. ²

¹MRA Act 2004 - Director-General replacing Commissioner.

FA 14/2005 - Subsection (5) replaced w.e.f 01.07.05.

VAT Act 1998:- *Where the Commissioner considers that a person has not complied with the provisions of subsection (2), the objection shall be deemed to have lapsed and the Commissioner shall, within 28 days of the date of receipt of the letter of objection, give notice thereof.*

²FA 2006 – Subsection (6) amended w.e.f 01.10.06.

FA 14/2005 - Subsection (6) amended w.e.f 01.07.05.

Where a notice under subsection (4) or (5) is given, the tax specified in the notice of assessment together with any surcharge under section 26 and any penalty under section 27 shall be paid within 28 days of the date of the notice or the excess amount as assessed shall be deemed to be the excess amount to be carried forward, as the case may be.

Act No. 2 of 1998 :- *Where a notice under subsection (4) or (5) is given, the tax specified in the notice of assessment together with any surcharge under section 26 and any penalty under section 27 shall be paid within 28 days of the date of the notice.*

39. Determination of objections

(1) For the purposes of considering an objection, the Director-General may, by notice in writing, require the person, within the time fixed by the Director-General, to furnish or give any information, or produce any books or records, specified in sections 29 and 31.

(2) After considering an objection, the Director-General shall -

- (a) disallow or allow it, in whole or in part;
- (b) determine the objection;
- (c) where appropriate, amend the assessment accordingly, and

give notice of his determination to the person.

(3) Where a notice of determination under subsection (2) is given, the tax specified in the notice together with any penalty under sections 15A, 24(9), 26, 26A, 27 and 37A and any interest under section 27A shall be paid within 28 days of the date of the notice, or the excess amount of input tax against output tax as determined shall be carried forward, as the case may be. ¹

(3A) Where an assessment is reduced pursuant to a determination under subsection (2), any amount of tax paid under section 38 (2) (d) in excess of the amount payable in accordance with that determination, shall be refunded, together with interest at the prevailing Bank rate, free of income tax, from the date the payment is received by the Director-General to the date it is refunded. ²

¹ FA 2006 – Subsection (3) Repealed and replaced w.e.f 01.10.06.

FA 14/2005 - Subsection (3) amended w.e.f 21.04.05.

(3) Where a notice of determination under subsection (2) is given, the tax specified in the notice together with any surcharge under section 26 and any penalty under section 27 shall be paid within 28 days of the date of the notice or the excess amount as determined shall be carried forward, as the case may be.

VAT Act 1998:- *Where a notice of determination under subsection (2) is given, the tax specified in the notice together with any surcharge under section 26 and any penalty under section 27 shall be paid within 28 days of the date of the notice.*

² FA 14/2005 - Subsection (3A) added w.e.f 14.04.05.

- (4) A notice of determination under subsection (2) in respect of an assessment - ¹
- (a) made prior to 1 October 2006, shall be given to the person within 6 months of the date on which the objection is lodged; or
 - (b) made on or after 1 October 2006, shall be given to the person within 4 months of the date on which the objection is lodged.

(5) Where an objection is not determined by the Director-General within the period specified in subsection (4), the objection shall be deemed to have been allowed by the Director-General.

(6) No objection under section 38 shall be dealt with in any manner whatsoever by an officer who has been directly involved in making the assessment.

¹ FA 2006 – Subsection (4) Repealed and replaced w.e.f 07.08.06.

Act. 2/1998 :-

(4) A notice of determination under subsection (2), shall be given to the person within 6 months of the date on which the letter of objection is received.

40. Representations to Assessment Review Committee

Any person who is aggrieved by a decision of the Director-General -

- (a) as to whether or not a supply of goods or services is a taxable supply;
- (b) relating to the registration or cancellation of registration of any person;
- (c) under section 38(4) and (5), 39 or 67,

may lodge written representations with the Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act 2004 ¹

¹MRA Act 2004 - Director-General replacing Commissioner.

MRA Act 2004 - Section 40 amended .

FA 23/2001 - Section 40 amended w.e.f 07.08.01

Representations to Assessment Review Committee

Any person who is aggrieved by a decision of the Commissioner -

- (a) as to whether or not a supply of goods or services is a taxable supply;*
- (b) relating to the registration or cancellation of registration of any person;*
- (c) under section 38(4) and (5), 39 or 67,*

may lodge written representations with the Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act 1983.

VAT Act 1998 :-

40. Appeals

Any person who is aggrieved by a decision of the Commissioner -

- (a) as to whether or not a supply of goods or services is a taxable supply;*
- (b) relating to the registration or cancellation of registration of any person;*
- (c) under section 38(4) and (5), 39 or 67,*

may appeal to the Tribunal in accordance with the Tax Appeal Tribunal Act 1984.

41. Conclusiveness of assessments

Except during a hearing of representations before the Assessment Review Committee ¹

- (a) no assessment under section 37, decision under section 38(4) or (5), determination under section 39, an agreement under section 61 or a notice under section 67, shall be disputed in any court or in any proceedings either on the ground that the person affected is not liable to tax or the amount of tax due and payable is excessive or on any other ground; and
- (b) every such assessment, decision, determination, agreement or notice, shall be final and conclusive.

PART IX - RECOVERY OF TAX

42. Priority for VAT charged by a registered person

(1) Notwithstanding any other enactment, VAT due and payable by a registered person under this Act -

- (a) shall be held on behalf of the Government of Mauritius; and
- (b) shall not be subject to attachment in respect of any debt or liability of the registered person.

(2) In the event of the liquidation or bankruptcy of the registered person, the amount of tax due and payable by that person shall not form part of the estate in liquidation or bankruptcy and shall be paid in full to the Director-General before any distribution of property is made.

¹ FA 23/2001 - Section 41 amended w.e.f 07.08.01.

VAT Act 1998 :- *Except in proceedings on appeal before the Tribunal –*

- (a) *no assessment under section 37, decision under section 38(4) or (5), determination under section 39, an agreement under section 61 or a notice under section 67, shall be disputed in any court or in any proceedings either on the ground that the person affected is not liable to tax or the amount of tax due and payable is excessive or on any other ground; and*
- (b) *every such assessment, decision, determination, agreement or notice, shall be final and conclusive.*

43. Recovery of tax by attachment

The Director-General may, without prejudice to any other action which he may take, enforce payment of any tax payable under this Act by attachment in the same manner as is provided in the Attachment (Rates and Taxes) Act. ¹

44. Recovery of tax by distress and sale

(1) The Director-General may issue a warrant in a form as may be prescribed to an Usher of the Supreme Court to recover tax payable under this Act by distress and sale of the goods, chattels and effects of the person charged or of the person answerable for its payment.

(2) Three days' notice of such sale shall be given in the *Gazette*.

45. Inscribed privilege

(1) The Government shall have, in respect of any tax payable under this Act and so long as the tax is not paid in full or the tax liability is not discharged, a privilege on all immovable properties belonging to the person by whom the tax is payable. ²

(2) Where the Director-General thinks it necessary for securing the recovery of any tax payable under this Act to inscribe the privilege provided for under subsection (1), he shall deposit with the Conservator of Mortgages 2 identical memoranda in a form as may be prescribed and shall forthwith notify the person by whom the tax is payable, of the deposit of the memoranda.

(3) The Conservator of Mortgages shall, upon deposit of the memoranda, inscribe the privilege generally on all immovable properties belonging, or which may subsequently belong, to the person by whom the tax is payable, and shall return one of the memoranda to the Director-General with a statement written or stamped on it to the effect that the privilege has duly been inscribed. ³

(4) Where a privilege is inscribed under this section, it shall take effect from the date of the inscription.

(5) Where any tax in respect of which an inscription has been taken under this section is paid in full or the tax liability is discharged, the Director-General shall forthwith send to the Conservator of Mortgages a request in a form as may be prescribed to erase the inscription.

(6) The inscription of a privilege under this section shall be erased by the Conservator of Mortgages at the request of the Director-General.

¹ MRA Act 2004 - Director-General replacing Commissioner.

² FA 18/2003 - Subsection (1) amended w.e.f 21.07.03.

VAT Act 1998 :- (1) *The Government shall have, in respect of any tax payable under this Act and so long as the tax is not paid in full or the tax liability is discharged, a privilege on all immovable properties belonging to the person by whom the tax is payable.*

³ MRA Act 2004 - Director-General replacing Commissioner.

(7) Any inscription or erasure of inscription which is required to be taken or made under this section shall be free from stamp duty under the Stamp Duty Act 1990 or registration dues leviable under the Registration Duty Act or any other costs.

46. Uninscribed privilege

(1) Notwithstanding section 45, but subject to subsection (2), the privilege for the recovery of taxes under Articles 2148 and 2152 of the Code Napoleon shall operate on account of tax payable under this Act independently of and without the necessity for inscription, upon -

- (a) personal property wherever found;
- (b) the proceeds of the sale of immovable property; and
- (c) the crops, fruits, rents and revenues,

belonging to the person owing the tax.

(2) The privilege conferred under subsection (1) shall operate only in respect of tax payable for a period of 12 months, at the discretion of the Director-General, and shall rank immediately after the privilege for judicial costs. ¹

47. Contrainte

(1) Where any tax is payable under this Act, the Director-General may apply to a Judge in Chambers for an order (Contrainte) to issue against the debtor.

(2) Any order issued under subsection (1) shall -

- (a) be served on the debtor; and
- (b) be executory.

(3) Any debtor aggrieved by an order issued under subsection (1) may, within 21 days of the service of the order, appeal to the Supreme Court.

(4) No costs shall be awarded against an unsuccessful party except disbursement for -

- (a) stamp duty under the Stamp Duty Act 1990;
- (b) service of the order; and
- (c) execution of the order.

48. No limitation of action for recovery of tax

No law relating to the limitation of action shall bar or affect any action or remedy for the recovery of tax payable under this Act.

¹ MRA Act 2004 - Director-General replacing Commissioner.

PART IXA – Deleted¹

¹MRA Act 2004 – PART IXA deleted.

FA 23/2001 - PART IXA replaced w.e.f 01.01.02

PART IXA – COMMISSIONER ,LARGE TAXPAYER DEPARTMENT**48A. Interpretation of Part IXA**

In this Part –

“Commissioner, Large Taxpayer Department” means the Commissioner, Large Taxpayer Department referred to in section 8B of the Unified Revenue Act 1983.

“large taxpayer” has the same meaning as in Section 8B of the Unified Revenue Act 1983.

48B. Administration of Value Added Tax enactments by Commissioner, Large Taxpayer Department

(1) *Notwithstanding the other provisions of this Act or any regulations made thereunder, the Commissioner, Large Taxpayer Department shall administer the Value Added Tax enactments in so far as they relate to large taxpayers.*

(2) *Where, according to the records of the Commissioner for Value Added Tax, a person qualifies as a large taxpayer -*

(a) *the Commissioner for Value Added Tax, shall -*

(i) *transfer all accounts, returns, assessments and other documents in respect of that person, to the Commissioner, Large taxpayer Department; and*

(ii) *as from the date of transfer under subparagraph (i), cease to administer value added tax in relation to that person; and*

(b) *the Commissioner, Large Taxpayer Department, shall, as from the date of transfer under subparagraph (a), administer value added tax in respect of that person.*

(3) *Where, in respect of a period of 12 taxable periods, a person qualifies as a large taxpayer, he shall -*

(a) *immediately notify in writing the Commissioner for Value Added Tax of that fact;*

(b) *immediately after the end of the twelfth taxable period and thereafter, submit his return and pay the tax due, if any, to the Commissioner, Large Taxpayer Department; and*

(c) *discharge all his obligations under the Value Added Tax enactments towards the Commissioner, Large taxpayer Department.*

FA 25/2000 – Section 48A (1) amended w.e.f 11.08.2000 :-

Notwithstanding sections 22, 26 and 27, where in respect of a taxable period, a person submits a single return for both VAT and PAYE or a return for VAT PAYE to the Commissioner of Inland Revenue under section 8B of the Unified Revenue Act 1983 and pays tax, if any, in accordance with that section, he shall be deemed to have submitted and paid tax, if any, to the Commissioner under this Act for that period

FA 18/1999 - PART IXA added w.e.f date of proclamation(not proclaimed)

PART IXA – COMMISSIONER OF INLAND REVENUE**48A. Submission of return and payment of tax**

-
- (1) *Notwithstanding sections 22, 26 and 27, where in respect of a taxable period, a person submits a single return for both VAT and PAYE to the Commissioner of Inland Revenue under section 8B of the Unified Revenue Act 1983 and pays tax, if any, in accordance with that section, he shall be deemed to have submitted and paid tax, if any, to the Commissioner under this Act for that period.*
- (2) *For the purposes of this section, "PAYE" has the same meaning as in the Income Tax Act 1995.*

48B. Power to require information and production of books and records

Without prejudice to section 33(2) of this Act and to sections 7A and 8 of the Unified Revenue Act 1983, where, in respect of a period, the Commissioner of Inland Revenue is satisfied that a person has complied with the requirements of the provisions of section 8C of the unified Revenue Act 1983, that person shall be deemed to have complied with the requirements under section 28, 29, 31 or 32, as the may be, for that period.

**PART X - VAT RELATING TO BONDED WAREHOUSES, FREEPORT ZONE,
EXPORT PROCESSING ZONES AND DUTY FREE SHOPS**

49. VAT relating to a bonded warehouse or an excise warehouse

(1) Subject to the other provisions of this Act, no VAT shall be chargeable on any goods entering a bonded warehouse or an excise warehouse.

(2) VAT shall be chargeable on any goods, other than those specified in the First Schedule, upon their removal from a bonded warehouse to any other place in Mauritius.

(3) For the purposes of this section -

“bonded warehouse” has the same meaning as in the Customs Act 1988; and

“excise warehouse” has the same meaning as in the Excise Act 1994.

50. VAT relating to a freeport zone

(1) Notwithstanding the other provisions of this Act, no VAT shall be payable on any goods imported into a freeport zone.

(2) Where a licensee in a freeport zone makes any taxable supply to any person in Mauritius at any place outside the freeport zone, the taxable supply shall be deemed to be imported goods and VAT shall be chargeable thereon.

51 Repealed ¹

¹FA 2006 – Section 51 Repealed w.e.f 01.10.06.

FA 28/2004 - Subsection (1) amended w.e.f 26.08.04 .

VAT relating to an export processing zone

(1) *Subject to the other provision of this section, no VAT shall be payable on –*

- (a) *scheduled equipment and scheduled materials imported into an export processing zone; or*
- (b) *Any goods removed from an export processing zone by an export enterprise to another export enterprise as if the goods so removed were goods imported by the other export enterprise,*

where the export enterprise having imported the goods referred to in paragraph (a) or (b), as the case may be, has not, at any time during the 3 preceding years, removed any goods, other than those specified in the First Schedule, and other than plant, machinery or equipment, of a capital nature, for sale on the local market and has given a certificate to that effect to the Commissioner.

FA 23/2001 – subsection (1) amended w.e.f 11.08.01.

(1) *Subject to the other provision of this section, no VAT shall be payable on –*

- (a) *scheduled equipment and scheduled materials imported into an export processing zone; or*
- (b) *Any goods removed from an export processing zone by an export enterprise to another export enterprise as if the goods so removed were goods imported by the other export enterprise,*

where the export enterprise having imported the goods referred to in paragraph (a) or (b), as the case may be, has not, at any time during the 3 preceding years, removed any goods, other than those specified in the First Schedule, for sale on the local market and has given a certificate to that effect to the Commissioner.

FA 18/1999 - section 51 replaced w.e.f 07.09.98. *

:- VAT relating to an export processing zone

(1) *Subject to the other provision of this section, no VAT shall be payable on any goods –*

(a) *imported into an export processing zone; or*

(b) *removed from an export processing zone by an export enterprise to another export enterprise as if the goods so removed were goods imported by the other export enterprise, where the export enterprise having imported the goods referred to in paragraph (a) or (b), as the case may be, has not, at any time during the 3 preceding years, removed any goods, other than those specified in the First Schedule, for sale on the local market and has given a certificate to that effect to the Commissioner*

VAT Act 1998 :-

(1) *Notwithstanding any customs laws, VAT shall be payable -*

- (a) *on any goods, other than those specified in the First Schedule, imported by an export enterprise;*
- (b) *on any taxable supply made to an export enterprise; and*
- (c) *on any supply of goods made by an export enterprise to any person in Mauritius.*

* Note subsection (2) and (3) developed on next pages.

¹ FA 2006 – Section 51 repealed w.e.f 01.10.06.

FA 28/2004 –paragraph (a) amended w.e.f 26.08.04.

(2) *Notwithstanding any customs laws, VAT shall be payable*

- (a) *as provided in subsection (3) on any goods, other than those specified in the First Schedule, and other than plant, machinery or equipment, of a capital nature for sale on the local market; imported into an export processing zone or received by an export enterprise from another export enterprise in the manner specified in subsection (1), where the export enterprise has, at any time during the 3 preceding years, removed goods, other than those specified in the First Schedule, and other than plant, machinery or equipment, of a capital nature, for sale on the local market;*
- (b) *on any taxable supply made to an export enterprise;*
- (c) *on any taxable supply made by an export enterprise to another export enterprise in respect of the treatment or processing of goods received from the other enterprise; and*
- (d) *on any goods, other than those specified in the First Schedule, which are removed from an export processing zone to any other place in Mauritius as if the goods removed were imported goods.*

FA 18/1999 - subsection (2) replaced w.e.f 07.09.98.

(2) *Notwithstanding any customs laws, VAT shall be payable –*

- (a) *as provided in subsection (3) on any goods, other than those specified in the First Schedule, imported into an export processing zone or received by an export enterprise from another export enterprise in the manner specified in subsection (1), where the export enterprise has, at any time during the 3 preceding years, removed goods, other than those specified in the first Schedule, for sale on the local market;*
- (b) *on any taxable supply made to an export enterprise;*
- (c) *on any taxable supply made by an export enterprise to another export enterprise in respect of the treatment or processing of goods received from the other enterprise; and*
- (d) *on any goods, other than those specified in the First Schedule, which are removed from an export processing zone to any other place in Mauritius as if the goods removed were imported goods.*

VAT Act 1998:- *The supply of goods referred to in subsection (1)(c) shall be treated as imported goods.*

51 Repealed ¹

¹FA 2006 – Section 51 Repealed w.e.f 01.10.06.

FA 23/2001 – Paragraph (a) amended w.e.f 11.08.01.

(3) *Notwithstanding section 10, VAT under subsection (2)(a) shall be*

- (a) *in the case of scheduled equipment and scheduled materials imported by an export enterprise registered under section 15 or 16, payable in an amount equal to 5 per cent of the amount of VAT chargeable on those goods;*
- (b) *in the case of goods imported by an export enterprise which is not registered as a registered person under the Act, charged at the rate specified in the Fourth Schedule.*

FA 18/1999 – Subsection (3) added w.e.f 07.09.98.

(3) *Notwithstanding section 10, VAT under subsection (2)(a) shall be -*

- (a) *in the case of goods imported by an export enterprise registered under section 15 or 16, payable in an amount equal to 5 per cent of the amount of VAT chargeable on those goods;*
- (b) *in the case of goods imported by an export enterprise which is not registered as a registered person under the Act, charged at the rate specified in the Fourth Schedule*

FA 23/2001 - subsection (4) added w.e.f 11.08.01.

- (4) *For the purposes of this section –
“scheduled equipment” has the same meaning as in the Industrial Expansion Act 1993;
“scheduled materials” has the same meaning as in the Industrial Expansion Act 1993.*

52. Repealed ¹

¹ FA 2006 – Section (52) Repealed w.e.f 01.10.06.

Act. 2/1998 :-

52. VAT relating to a pioneer status enterprise

VAT shall be payable -

- (a) *on any goods, other than those specified in the First Schedule, imported by a pioneer status enterprise under the Industrial Expansion Act 1993;*
- (b) *on any taxable supply made to pioneer status enterprise; and*
- (c) *on any supply of goods or services made by pioneer status enterprise.*

53. VAT relating to a duty free shop or shop under the Deferred Duty and Tax Scheme ¹

- (1) Notwithstanding the other provisions of this Act, no VAT shall be payable -
- (a) on any goods imported for sale in a duty free shop;
 - (b) on any goods supplied by a registered person to a duty free shop for sale; and ²
 - (c) on any goods supplied to a passenger by an operator of a duty free shop.
- (2) No VAT shall be payable on any goods imported for sale in a shop approved under the Deferred Duty and Tax Scheme referred to in section 22 of the Customs Act. ³

¹ FA 2006 – Section (53) Repealed and replaced w.e.f 01.10.06.

53. VAT relating to a duty free shop

(1) *Notwithstanding the other provisions of this Act, no VAT shall be payable -*

- (a) *on any goods imported for sale in a duty free shop;*
- (b) *on any goods supplied by a registered person to a duty free shop for sale; and*
- (c) *on any taxable supply made by an operator of a duty free shop -*
 - (i) *situated at the port or airport;*
 - (ii) *situated elsewhere, where the goods are delivered, under Customs control, to a visitor or traveller at the port or airport.*

(2) *Notwithstanding any customs laws, VAT shall be payable on any supply of goods, other than those specified in the First Schedule, made by an operator of a duty free shop to a visitor when such goods are delivered at the duty free shop to the visitor.*

²FA 23/2001 – Paragraph (b) replaced w.e.f 11.08.01.

Act 2 /1998 :- *on any taxable supply made to a duty free shop situated at the port or airport; and*

³FA 2006 – Subsection (2) Repealed and replaced w.e.f 01.10.06.

FA 23/2001 - Subsection (2) replaced w.e.f 11.08.

(2) Notwithstanding any customs laws, VAT shall be payable on any supply of goods, other than those specified in the First Schedule, made by an operator of a duty free shop to a visitor when such goods are delivered at the duty free shop to the visitor

VAT Act 1998:- *Notwithstanding any customs laws, VAT shall be payable -*

- (a) *on any taxable supply made to an operator of a duty free shop situated at a place other than the port or airport; and*
- (b) *on any supply of goods, other than those specified in the First Schedule, made by the operator to a visitor when such goods are delivered at the duty free shop to the visitor.*

PART XA - SOLIDARITY LEVY ¹

53A .Purpose of solidarity levy

The purpose of the solidarity levy raised under this Part shall be to finance the Empowerment Programme referred to in the 2006-2007 Budget Speech

53B. Liability to solidarity levy

- (1) Subject to other provisions of this Part, every operator shall be liable to pay to the Director-General a solidarity levy calculated on his turnover at the rate specified in Part II of the Eleventh Schedule.
- (2) The levy under this Part shall be raised in respect of the 4 financial years ending 30 June 2010.

53C. Payment of solidarity levy

Every operator shall, after the end of every taxable period, within such time as may be prescribed, pay to the Director-General, in respect of that period, the levy in such manner as may be approved by the Director-General.

53D Circumstances in which no levy is payable

No levy shall be paid in a financial year where -

- (a) the operator had incurred a loss; or
- (b) the profit of the operator before tax does not exceed 5 per cent of his turnover,

in respect of the accounting year immediately preceding the commencement of the financial year.

53E. Adjustment of levy

(1) Where no levy is payable by an operator in a financial year by virtue of section 53D and at the end of the financial year, it is found that his profit before tax in respect of the accounting year immediately preceding the end of the financial year exceeds 5 per cent of his turnover for that accounting year, the operator shall pay to the Director-General the total levy in respect of that financial year within such time as may be prescribed.

- (2) Where levy is payable by an operator during a financial year and it is found that -
 - (a) the operator had incurred a loss; or
 - (b) the profit of the operator before tax does not exceed 5 per cent of his turnover,

¹ FA 2006 – PART XA added w.e.f 01.07.06.

in respect of the accounting year immediately preceding the end of the financial year, the levy paid during that financial year shall be refunded to the operator within such time as may be prescribed.

53F. Late payment of levy

Where the operator fails to pay the levy on or before last day on which it is payable under section 53C, he shall be liable to pay to the Director General, in addition to the levy –

- (a) a penalty of 5 per cent of the levy; and
- (b) interest on the levy, excluding the penalty under paragraph (a), at the rate of one per cent per month or part of the month in which the levy remains unpaid.

53G. Recovery of Levy

The levy shall be recovered in the same manner as VAT is recovered under Part IX.

53H. Interpretation

In this Part -

“levy” –

- (a) means the solidarity levy referred to in section 53B; and
- (b) includes the penalty and interest referred in section 53F;

“operator” means a taxable person engaged in any business specified in Part I of the Eleventh Schedule.

PART XI - OFFENCES

54. Failure to register or pay tax

Any person who -

- (a) being a taxable person –
 - (i) fails to apply for registration under section 15; or
 - (ii) fails to pay any tax due; or
- (b) being a registered person, fails to include in his return any VAT charged,

shall commit an offence.

55. Failure to submit return and pay tax

Any person who, being a registered person -

- (a) fails to submit any return, including a nil return, under section 22;
- (b) fails to submit a statement under section 23; or
- (c) fails to pay tax in accordance with his return or statement,

shall commit an offence.

56. Failure to keep records or to issue VAT invoice

Any person who -

- (a) being a registered person, fails to issue a VAT invoice under section 20;
- (b) for the purposes of this Act -
 - (i) fails to keep records or to issue a receipt or an invoice under section 19; or
 - (ii) fails to furnish information under section 29 or to produce books, records or other documents under section 31,

shall commit an offence.

57. Incorrect return or information

Any person who, for the purposes of this Act -

- (a) makes an incorrect return or statement by omitting or understating any output tax or by overstating any input tax;

- (b) makes an incorrect claim for repayment under section 24; or
- (c) gives any incorrect information in relation to any matter affecting his own tax liability or the tax liability of any other person,

shall commit an offence.

58. False returns, books, records or VAT invoices

Any person who wilfully and with intent to evade VAT -

- (a) submits a return under section 22 or a statement under section 23, which is false in any material particular;
- (b) makes a false claim for repayment under section 24;
- (c) gives any false information to the Director-General;
- (d) makes to the Director-General any statement which is false or incomplete in any material particular;
- (e) prepares or maintains or authorises any other person to prepare or maintain any false books, records, VAT invoices or other documents;
- (f) falsifies or authorises any other person to falsify any books, records, VAT invoices or other documents; or
- (g) misleads or attempts to mislead the Director-General in relation to any matter or thing affecting his own or any other person's liability to VAT,

shall commit an offence.

59. Other offences

Any person who -

- (a) fails to comply with any of the requirements under section 25(1), 29, 31 or 32;
- (b) not being a registered person or being a person who has ceased to be a registered person, holds himself out to be a registered person;
- (c) obstructs any officer in the performance of his functions under the Act or any regulations made thereunder; or
- (d) otherwise contravenes any other provisions of this Act or any regulations made thereunder,

shall commit an offence.

60. Penalties for offences

(1) Any person who commits an offence under section 36(5), 56, 59(a) or (d) shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 3 years.

(2) Any person who commits an offence under section 57, 59(b) or (c) shall, on conviction, be liable to a fine which shall be -

- (a) 100,000 rupees; or
- (b) double the amount of tax involved,

whichever is the higher, and to imprisonment for a term not exceeding 5 years.

(3) (a) Any person who commits an offence under section 54, 55 or 58 shall, subject to paragraph (b), on conviction, be liable to a fine which shall be -

- (i) 200,000 rupees; or
- (ii) treble the amount of tax involved,

whichever is the higher, and to imprisonment for a term not exceeding 8 years.

(b) Where a person is convicted for an offence under section 55(a) or (b), he shall, in addition to any penalty imposed under paragraph (a), be ordered by the court to submit the return or statement, as the case may be, within such time as the court may determine.

61. Compounding of offences

(1) (a) The Director-General may compound any offence committed by a person under this Act or any regulations made thereunder, where such person agrees in writing to pay such amount acceptable to the Director-General representing -¹

- (i) any tax unpaid; and
- (ii) an amount not exceeding the maximum pecuniary penalty imposable under this Act for such offence.

(b) For the purposes of paragraph (a), the Director- General shall chair a committee which shall consist of 3 other officers of the management team of the Authority.

(2) Every agreement under subsection (1) shall be made in writing under the hand of the Director-General and the person and witnessed by an officer.

(3) Every agreement under this section shall be final and conclusive and a copy thereof shall be delivered to the person.

(4) Where the Director-General compounds an offence in accordance with this section -

- (a) the amount for which the offence is compounded shall be deemed to be tax assessed under this Act and shall be recoverable as tax; and
- (b) no further proceedings shall be taken in respect of the offence so compounded against the person.

¹MRA Act 2004 – Subsection (1) deleted and replaced.

FA 10/1998 - Subsection (1) amended w.e.f 01.07.99.

61. Compounding of offences

(1) *The Commissioner may, with the concurrence of the Revenue Authority established under the Unified Revenue Act 1983, compound any offence committed by a person under this Act or any regulations made thereunder, where such person agrees in writing to pay such amount acceptable to the Commissioner representing -*

- (a) *any tax unpaid; and*
- (b) *an amount not exceeding the maximum pecuniary penalty imposable under this Act for such offence.*

VAT Act 1998 :-

(1) *The Commissioner may, with the concurrence of the Unified Revenue Board established under the Unified Revenue Act 1983, compound any offence committed by a person under this Act or any regulations made thereunder, where such person agrees in writing to pay such amount acceptable to the Commissioner representing -*

- (a) *any tax unpaid; and*
- (b) *an amount not exceeding the maximum pecuniary penalty imposable under this Act for such offence.*

62. Tax payable notwithstanding prosecution

Any person convicted of an offence under this Act or any regulations made thereunder or who has agreed to the compounding of an offence under section 61 shall not be relieved of his liability for payment of any tax due.

PART XII - MISCELLANEOUS

63. Cessation or transfer of business

(1) Where a registered person intends to cease business, he shall immediately notify the Director-General in writing of the date of the cessation of business.

(2) Subject to subsection (3), a registered person who ceases business shall, within 15 days of the date of the cessation -

- (a) submit a return and pay all tax due including the tax due on any goods forming part of the assets of the business other than those specified in section 21(2)(b); and ¹
- (b) return to the Director-General his certificate of registration and all his copies.

(3) Where a registered person, who ceases to carry on business, sells or otherwise transfers his business as a going concern to another person, he shall not submit a return and pay the tax as required under subsection (2)(a), but the purchaser or transferee of the business shall be deemed to be a taxable person and shall forthwith register as a registered person under section 15.

64. Tax liability of appointed person

(1) Where an administrator, executor, receiver or liquidator is appointed to manage or wind up the business of any taxable person, the appointed person shall -

- (a) give notice of the appointment to the Director-General, within 15 days of the date of the appointment, in such manner and in such form as may be approved by the Director-General;
- (b) before disposing of any asset of the taxable person, set aside such sum out of the asset as appears to the Director-General to be sufficient to provide for any tax that is or may become due and payable by the taxable person; and

¹ FA 18/2003 - Paragraph (a) amended w.e.f 21.07.03.

VAT Act 1998 :-

submit a return and pay all tax due including the tax due on any goods forming part of the assets of the business; and

- (c) do everything that is required to be done by a taxable person under this Act.

(2) Any appointed person who, without reasonable cause or justification, fails to comply with any of the requirements of subsection (1) shall be personally liable to pay any tax that is or may become due and payable and shall commit an offence.

65. Refund of tax

(1) Any person other than a taxable person may, within 3 years of the date of payment of the tax, make an application to the Director-General, in a form approved by the Director-General, for a refund of tax paid at importation, where - ¹

- (a) the tax was paid in error;
- (b) the goods are found to be defective and are subsequently exported under Customs control; or
- (c) the person subsequently benefits from a duty remission.

(2) Subject to subsection (3), where the Director-General is satisfied that the applicant is entitled to a refund, he shall proceed to make the refund.

(3) No refund of tax which is less than 250 rupees or such other amount as may be prescribed shall be made.

66. Exempt bodies or persons

(1) Any body or person specified in Column 1 of the Ninth Schedule shall be exempted from the payment of VAT in respect of goods or services corresponding to the body or person specified in Column 2 of that Schedule. ²

(2) Where goods or services are supplied pursuant to subsection (1), the registered person shall not charge VAT on the goods or services supplied nor shall any element of VAT be added to the price of those goods or services. ³

67. Erroneous refund, exemption or reduction

¹MRA Act 2004 - Director-General replacing Commissioner.

FA 28/2004 - Subsection (1) replaced w.e.f 26.08.04.
VAT Act 1998:- *Any person other than a taxable person may make an application to the Commissioner, in a form approved by him, within 3 years of the date of payment of the tax, for a refund of tax paid in error.*

² FA 18/1999 - Section 66 amended w.e.f 07.09.98.
VAT Act 1998:-
Any body or person specified in Column 1 of the Ninth Schedule shall be exempted from the payment of VAT in respect of goods corresponding to the body or person specified in Column 2 of that Schedule.

³ FA 2006 – Subsection (2) added (existing provision being numbered subsection (1) w.e.f 07.08.06.

(1) Where any person has benefited through error from a refund, exemption or reduction of tax, he shall be liable to pay the amount of tax which has been erroneously refunded, exempted or reduced.

(2) The Director-General may, by written notice, order the person under subsection (1) to pay, within 28 days of the date of the notice, the tax which has been erroneously refunded, exempted or reduced, together with the appropriate interest under section 27A(1)(c)(i).¹

(3) Where a person referred to in subsection (1) does not comply with an order of the Director-General within 28 days of the date of the notice under subsection (2), he shall be liable to pay, in addition to the tax, a penalty under section 27 and interest under section 27A(1)(c)(ii).²

68. Service of documents

(1) Any return, statement or other document or any payment required or authorised to be served on, given or made to, the Director-General shall be forwarded to him so as to reach the Office of the Director-General not later than the due date.

(2) Any notice of assessment or other notice or other document required to be served on, or given to, any person by the Director-General may be served or given by -

- (a) delivering it personally to him;
- (b) leaving it at, or sending it by post to, his usual or last known place of business or residence; or
- (c) transmitting it electronically through computer or other mechanical or electronic device.

(3) Where a person -

¹FA 2006 – Subsection (2) Repealed and replaced w.e.f 07.08.06..

VAT Act 1998:-

(2) *The Commissioner may, by written notice, order the person under subsection (1) to pay the tax which has been erroneously refunded, exempted or reduced.*

²FA 2006 – Subsection (3) Repealed and replaced w.e.f 07.08.06..

VAT Act 1998:-

(3) *Where a person specified under subsection (1) does not comply with the order of the Commissioner within 28 days of the date of the notice under subsection (2), he shall be liable to pay, in addition to the tax, a penalty representing -*

- (a) *10 per cent of the tax for the first month or part of the month during which the tax remains unpaid; and*
- (b) *2 per cent of the tax excluding the penalty for each subsequent month or part of the month during which the tax remains unpaid,*

up to a maximum of 100 per cent of the tax.

- (a) refuses to accept delivery of a letter addressed to him; or
- (b) fails to take delivery of such a letter which he has been informed awaits him at a post office,

the letter shall be deemed to have been served on him on the date on which he refused to accept the letter or was informed that the letter was at the post office.

69. Admissibility of documents produced by computer

(1) In any legal proceedings under this Act or any regulations made thereunder, a statement contained in a document produced by a computer shall be admissible as evidence of any fact stated therein of which direct oral evidence would be admissible if it is shown that the prescribed conditions have been satisfied.

- (2) In any proceedings, the court may for special cause require evidence to given of any matter under this section.
- (3) Any person giving any information under this section which is false or misleading in any material particular shall commit an offence and shall, on conviction be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 8 years.

69A. Rulings¹

(1) Any person, who in the course or furtherance of his business, makes taxable supplies, may apply to the Director-General for a ruling as to the application of this Act to any of the supplies made to him or made by him.

(2) An application under this section shall be in writing and shall –

- (a) include full details of the transaction relating to the supply together with all documents relevant to the transaction;
- (b) specify precisely the question as to which the ruling is required;
- (c) give a full statement setting out the opinion of that person as to the application of this Act to that supply; and
- (d) be accompanied by such fee as may be prescribed.

(3) The Director-General shall, within 30 days of the receipt of an application under this section, give a ruling on the question on the applicant.

(4) Subject to subsection (5), a ruling under this section shall be binding upon the Director-General.

(5) Where there is any material difference between the actual facts relating to the transaction and the details contained in the application, the ruling shall not be binding upon the Director-General.

(6) A ruling under this section shall be published by the Director-General in such manner as he thinks fit except that the identity of the person to whom the ruling relates shall not be indicated in the publication.

(7) Subject to subsection (8), any person may rely upon a ruling published under subsection (6) as a statement binding on the Director-General with respect to the application of this Act to the facts set out in that ruling.

(8) The Director-General may publish a notice in the *Gazette* to the effect that a ruling which he has previously published shall cease to be binding with effect from a date which shall not be earlier than the date of the notice.

¹ MRA Act 2004 - Director-General replacing Commissioner.
FA 18/1999 - Section 69A added w.e.f 01.09.99.

70. Jurisdiction of Magistrate

- (1) Notwithstanding -
- (a) section 114(2) of the Courts Act; and
 - (b) section 72(5) of the District and Intermediate Courts (Criminal Jurisdiction) Act,

a Magistrate shall, subject to subsection (2), have jurisdiction to try an offence under this Act or any regulations made thereunder and may impose any penalty provided by this Act.

(2) The prosecution of an offence under any of the sections of this Act specified in the Fourth Schedule to the Mauritius Revenue Authority Act 2004 shall take place, at the discretion of the Director of Public Prosecutions, before a Judge sitting without a jury, the Intermediate Court or a District Court.¹

71. Burden of proof

(1) Notwithstanding any other enactment, the burden of proof that any tax has been paid, or any supply of goods or services, or any person, is exempt from tax shall lie on the person -

- (a) liable to pay the tax;
- (b) claiming that the tax has been paid; or
- (a) claiming that he is, or the supply of the goods or services is, exempt from tax.

(2) In any action or proceedings arising out of the seizure of any goods under this Act, the burden of proving that the seizure is illegal shall lie on the person making the allegation.

¹ FA 2006 – Subsection (2) amended by deleting the words “the enactments” and replacing them by the words “this Act” w.e.f 01.07.06.

MRA Act 2004 – subsection (2) added , the existing provision being numbered (1) accordingly -

- (2) *The prosecution of an offence under any of the sections of the enactments specified in the Fourth Schedule to the Mauritius Revenue Authority Act 2004 shall take place, at the discretion of the Director of Public Prosecutions, before a Judge sitting without a jury, the Intermediate Court or a District Court.*

URA Act 17/2003(not proclaimed read as this)

(2) The prosecution for an offence under the sections of the enactments specified in the Fifth Schedule to the Unified Revenue Act shall take place, at the sole discretion of the Director of Public Prosecutions, before the Revenue Division of the Supreme Court, the Intermediate Court, or the District Court.

72. Regulations

- (1) The Minister may -
 - (a) make such regulations as he thinks fit for the purposes of this Act;
 - (b) by regulations –
 - (i) prescribe any matter which may or is required to be prescribed under this Act; or
 - (ii) amend the First Schedule, the Second Schedule and the Third Schedule.
- (2) Any regulations made under this section may provide for the levying of fees and charges.

73. Transitional provisions ¹

(1) Notwithstanding this Act, where a person becomes liable to be registered as a registered person under this Act pursuant to the amendment made to the Sixth Schedule by section 31(y) of the Finance Act 2006, he shall, subject to the other provisions of this section, not later than 15 October 2006, submit to the Director-General, a certified inventory of -

- (a) his trading stocks as at 30 September 2006; and
- (b) capital goods, being plant, machinery or equipment of a capital nature, acquired within a period not exceeding 3 months immediately preceding 1 October 2006,

showing, where applicable, the amount of VAT paid or payable thereon.

(2) Subject to subsection (3) and to section 21(2), where a person has submitted a certified inventory under subsection (1), he may take credit of the VAT paid or payable on his trading stocks and capital goods -

- (a) where his taxable period is a quarter, 50 per cent of the amount of VAT in his return for each of the second and third taxable periods; or
- (b) where his taxable period is a month, 50 per cent of the amount of VAT in his return for each of the third and sixth taxable periods.

(3) No credit under subsection (2) shall be allowed, unless -

- (a) the inventory referred to in subsection (1) has been submitted;
- (b) the VAT on the trading stocks was paid or payable within a period not exceeding 3 months immediately preceding 1 October 2006; and
- (c) the VAT paid or payable is substantiated by receipts or invoices issued by VAT registered persons or by customs import declarations.

(4) The person shall, together with the inventory referred to in subsection (1), submit a statement specifying -

- (a) the amount of VAT which relates to -
 - (i) capital goods, being plant, machinery or equipment of a capital nature; and
 - (ii) other taxable goods used to make taxable supplies;

¹FA 2006 – Section 73 Repealed and replaced w.e.f 07.08.06.

- (b) the amount of VAT paid or payable within a period not exceeding 3 months immediately preceding 1 October 2006.

(5) The inventory referred to in subsection (1) and the statement referred to in subsection (4) shall be duly certified by a qualified auditor.

(6) Any exemption of VAT granted under item 8 of the Ninth Schedule shall lapse on 1 October 2006. ¹

¹ Relating to footnote at the beginning of section 73 –

VAT Act 1998 :-

73. Transitional provisions

(1) *Subject to the other provisions of this section, where, on the appointed day, a person was registered under the Sales Tax Act 1982 and his return for the last taxable period under the Sales Tax Act 1982 shows an excess amount, that amount shall be deemed to be sales tax on trading stocks held by that person and shall not be refundable and shall not be carried forward as a credit to be offset against his VAT liability, if any.*

(2) *Where a person becomes a registered person under this Act on the appointed day, he shall, within 15 days of that day, submit to the Director-General, as at the day immediately preceding the appointed day, a certified inventory of -*

- (a) *his trading stocks; and*
- (b) *capital goods, being plant, machinery or equipment, of a capital nature, acquired within a period not exceeding 3 months immediately preceding the appointed day,*

showing the amount of sales tax paid or payable thereon.

(3) *Subject to subsections (4) and (5), where a person has submitted a certified inventory under subsection (2), the sales tax paid or payable on his trading stocks and capital goods shall be deemed to be value added tax and he may take a credit of -*

- (a) *where his taxable period is a month, 50 per cent of the amount deemed to be value added tax in his return for each of the third and sixth taxable periods; or*
- (b) *where his taxable period is a quarter, 50 per cent of the amount deemed to be value added tax in his return for each of the second and third taxable periods.*

(4) *Any credit in respect of capital goods under subsection (3) shall be allowed in conformity with the Seventh Schedule.*

(5) *No credit under subsection (3) shall be allowed, unless -*

- (a) *the person has complied with the requirements of the Sales Tax Act 1982 and paid all tax due under that Act, as appropriate;*
- (b) *the inventory referred to in subsection (2) has been submitted;*
- (c) *the credit is exclusively in respect of sales tax paid or payable on taxable goods for resale or for manufacture of other taxable goods for sale and on capital goods, being plant, machinery or equipment of a capital nature;*
- (d) *the sales tax on the trading stocks was paid or payable within a period not exceeding 3 months immediately preceding the appointed day; and*

(e) *the sales tax paid or payable is substantiated by proper invoices from registered persons under the Sales Tax Act 1982 or by Customs import declarations, either electronic or otherwise.*

(6) *The person shall, together with the inventory referred to in subsection (2), submit a statement specifying -*

(a) *the amount of sales tax which relates to -*

- (i) *taxable goods for resale or for manufacture of other taxable goods for sale;*
and
- (ii) *capital goods, being plant, machinery or equipment of a capital nature;*

(b) *the amount of sales tax paid or payable within a period not exceeding 3 months immediately preceding the appointed day.*

(7) *The inventory referred to in subsection (2) and the statement referred to in subsection (6) shall be duly certified by a qualified auditor.*

74. Consequential amendments

- (1) The Sales Tax Act 1982 is amended in section 2 -
 - (a) in the definition of “Commissioner”, by deleting the words “Sales Tax” and replacing them by the words “Value Added Tax”; and
 - (b) in the definition of “officer” by deleting the words “Sales Tax Department” and replacing them by the words “VAT Department”.

- (2) The Hotel and Restaurant Tax Act 1986 is amended in section 2, by deleting the words “Sales Tax Act 1982” wherever they appear and replacing them by the words “Value Added Tax Act 1998”.

- (3) The Customs Act 1988 is amended in section 2, in the definition of “taxes”, in paragraph (a), by deleting the words “sales tax” wherever they appear and replacing them by the words “value added tax”.

- (4) The Excise Act 1994 is amended -
 - (a) in section 2 -
 - (i) by deleting the definition of “sales tax”; and
 - (ii) by inserting in its appropriate alphabetical order, the following new definition -

“value added tax” means the value added tax chargeable under the Value Added Tax Act 1998;
 - (b) in section 10, in subsection (3)(b), by deleting the words “Commissioner for Sales Tax” and replacing them by the words “Commissioner for Value Added Tax”; and
 - (c) in section 48, in subsection (2)(a), by deleting the words “sales tax” and replacing them by the words “value added tax”.

- (5) The Gaming Act is amended in section 2, in the definition of “Commissioner”, by deleting the words “the Sales Tax Act 1982” and replacing them by the words “the Value Added Tax Act 1998”.

- (6) The Tax Appeal Tribunal Act 1984 is amended -
 - (a) in section 4, in subsection (3), by adding immediately after paragraph (g) the following new paragraph -
 - (h) in the case of liability to value added tax under the Value Added Tax Act 1998 -
 - (i) where he is a registered person, submit all returns and statements due and pay the amount of any tax shown on

those returns and statements together with any surcharge and any penalty due and the specified amount; or

(ii) in any other case, pay the specified amount.

(b) in section 6, in subsection (5) (b), by deleting the words “and the Hotel and Restaurant Tax Act 1986” and replacing them by the words “, the Hotel and Restaurant Tax Act 1986 and the Value Added Tax Act 1998”; and

(c) in the Schedule, by adding the following -

The Value Added Tax Act 1998

(7) The Unified Revenue Act 1983 is amended in the Schedule -

(a) in PART I, by deleting the words “Commissioner for Sales Tax” and replacing them by the words “Commissioner for Value Added Tax”; and

(b) in PART II, in paragraph (a), by adding the following -

The Value Added Tax Act 1998

75. Repeal and savings

(1) The following enactments are repealed -

(a) The Sales Tax Act 1982;

(b) The Sales Tax Regulations 1982; and

(c) The Sales Tax (Exemptions) Regulations 1983.

(2) Notwithstanding subsection (1), the enactments specified in that subsection shall be deemed to be still in force in relation to any matter arising under those enactments in respect of any period prior to the appointed day.

76. Commencement

(1) Subject to subsection (2), this Act shall come into force on 1 July 1998.

(2) Sections 9, 22, 74(3), 74(4)(a) and (c), 74(7)(b) and 75 shall come into force on the appointed day.

Passed by the National Assembly on the second day of June one thousand nine hundred and ninety eight.

ANDRÉ POMPON
Clerk of the National Assembly

FIRST SCHEDULE
(sections 2, 9, 10, 49, 51, 52 and 53)

Goods or services exempted

1. Rice.
2. Wheat; cereal flours (excluding wheat flour). ¹
3. Bread. ²
4. Animal or vegetable fats and oils other than ghee produced in Mauritius and edible oils. ³
5. Butter. ⁴
6. Milk and cream (other than sterilised liquid milk), buttermilk, whey, kephir and other fermented or acidified milk and cream; cheese and curd. ⁵

¹GN 97/1999 – Item 2 replaced w.e.f 01.09.99.

GN 160/1998 - Item 2 replaced w.e.f 07.09.98:-

Wheat, and cereal flours(including wheat flour) other than flours produced in and exported from Mauritius.
VAT Act 1998:- *Wheat; cereal flours(including wheat flour)*

²FA 2006 – Item 3 deleted and replaced w.e.f 01.10.06.

FA 14/2005 - Item 3 replaced w.e.f 21.04.05

Bread other than bread referred to in the Bread (Control of Manufacture and Sale) Regulations 1988.
VAT Act 1998:- *Bread*

³ GN 113/2000 - Item 4 amended w.e.f 01.09.00.

GN 97/1999 - Item 4 amended w.e.f 01.09.99.

Animal or vegetable fats and oils other than edible oils.

GN 160/1998 – Item 4 amended w.e.f 07.09.98 :-

Animal or vegetable fats and oils other than edible oils produced in and exported from Mauritius
VAT Act 1998 :- *Animal or vegetable fats and oils .*

⁴GN 97/1999 - Item 5 amended w.e.f 01.09.00.

VAT Act 1998 :- *Butter and margarine.*

⁵GN 97/1999– Item 6 replaced w.e.f 01.09.99.

GN 160/1998 w.e.f 07.09.98 :-

Milk and cream (other than sterilised milk processed and produced in and exported from Mauritius), buttermilk, whey, kephir and other fermented or acidified milk and cream; cheese and curd.

VAT Act 1998 :- *Milk and cream, buttermilk, whey, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream; cheese and curd.*

7. Food of a kind used for human consumption –

- (a) fish (excluding fresh, chilled or frozen fish, the produce of Mauritius, and canned tuna, smoked fish and processed fish produced in and exported from Mauritius); ¹
- (b) meat (excluding meat of poultry) other than canned meat produced in and exported from Mauritius, meat offal (excluding offal of poultry); ²
- (c) primary agricultural and horticultural produce (including tomatoes, potatoes, onions and other vegetables, fruits, tea, coffee, cocoa beans and nuts) which have not been processed except for reaping, threshing, husking, crushing, winnowing, trimming, drying and packaging to put them into marketable condition, other than vegetables and fruits produced in and exported from Mauritius and bird's eggs in the shell; ³
- (d) soya bean protein cakes or chunks. ⁴

¹GN 89/2004 - Item 7(a) amended w.e.f 01.07.04 .

GN 37/2003 - Item 7(a) amended w.e.f 15.04.03:- *fish (excluding fresh, chilled or frozen fish, the produce of Mauritius, and canned tuna ,smoked fish and processed fish, produced in and exported from Mauritius) crustaceans other than shrimps and prawns ,live, fresh, chilled or frozen, which are not the produce of Mauritius) molluscs and other aquatic invertebrates;*

GN 12/2003 - Item 7(a) amended w.e.f 15.02.03 :- *fish (excluding fresh, chilled or frozen fish, the produce of Mauritius, and canned tuna, smoked fish and processed fish, produced in and exported from Mauritius) crustaceans (other than shrimps and prawns ,live, fresh, chilled or frozen) molluscs and other aquatic invertebrates;*

GN 113/2000 - Item 7(a) amended w.e.f 01.09.00 :- *fish (excluding fresh, chilled or frozen fish, the produce of Mauritius, and canned tuna, smoked fish and processed fish, produced in and exported from Mauritius) crustaceans, molluscs and other aquatic invertebrates;*

GN 97/1999 - Item 7(a) amended w.e.f 01.09.99:-):- *fish (other than canned tuna ,smoked fish and processed fish produced in and exported from Mauritius)and crustaceans, molluscs and other aquatic invertebrates;*

GN 160/1998 - Item 7(a) amended w.e.f 07.09.98 :-*fish (other than canned tuna produced in and exported from Mauritius)and crustaceans, molluscs and other aquatic invertebrates;*

VAT Act 1998 :- *fish and crustaceans, molluscs and other aquatic invertebrates;*

²GN 97/1999 - Paragraph (b) amended w.e.f 07.09.98.

VAT Act 1998 :- meat (including chicken) and meat offal

³GN 97/1999 - Paragraph (c) amended w.e.f 07.09.98.

VAT Act 1998 :- *primary agricultural and horticultural produce (including tomatoes, potatoes, onions and other vegetables, fruits, eggs, tea, coffee, cocoa beans and nuts) which have not been processed except for reaping, threshing, husking, crushing, winnowing, trimming, drying and packaging to put them into marketable condition.*

⁴GN 160/1998 - Paragraph (d) added w.e.f 07.09.98 .

8. Food preparations from goods of heading Nos. 04.01 to 04.04, not containing cocoa powder or containing cocoa powder in a proportion by weight of less than 10%, for infant use, put up for retail sale, of heading No. 1901.101.
9. Common salt other than common salt produced in Mauritius. ¹
10. Live animals of a kind generally used as, or yielding or producing, food for human consumption other than live poultry. ²
11. Unprocessed agricultural and horticultural produce, other than horticultural produce produced in and exported from Mauritius. ³
12. Medical, hospital and dental services including clinical laboratory services, services provided in a health institution and veterinary services.
13. Antibiotics of heading No. 29.41 other than those produced in and exported from Mauritius.
14. Pharmaceutical products of heading Nos. 30.01 to 30.06 other than those produced in and exported from Mauritius. ⁴
15. Invalid carriages of heading No. 87.13; orthopaedic or other appliances or articles of heading No. 90.21.
16. Educational and training services.
17. Journals and periodicals of heading No. 49.02. ⁵
18. Deleted. ⁶

¹GN 113/2000 - Item 9 amended w.e.f 01.09.00.
VAT Act 1998 :- Common salt.

² GN 97/1999 - Item 10 amended w.e.f 07.09.98.
VAT Act 1998 :- *Live animals of a kind generally used as, or yielding or producing, food for human consumption*

³FA 18/2003 - Item 11 amended w.e.f 21.07.03.
GN 97/1999 - Item 11 amended w.e.f 07.09.98 :-
Unprocessed agricultural and horticultural produce by the producers thereof, other than horticultural produce produced in and exported from Mauritius.
VAT Act 1998 :- *Unprocessed agricultural and horticultural produce by the producers thereof*

⁴ GN 89/2004 - Item 14 amended w.e.f 01.07.04.
GN 160/1998 – Item 14 amended w.e.f 07.09.98:-
Pharmaceutical products of heading Nos. 30.01 to 30.04. other than those produced in and exported from Mauritius.
VAT Act 1998 :- *Pharmaceutical products of heading Nos. 30.01 to 30.04.*

⁵GN 97/1999 - Item 17 replaced w.e.f 07.09.98.
GN 160/1998 - Item 17 amended w.e.f 07.09.98:- *Printed books, brochures, leaflets and similar printed matter, whether or not in single sheets of heading No. 49.01, other those produced in and exported from Mauritius*
VAT Act 1998:- *Printed books, brochures, leaflets and similar printed matter, whether or not in single sheets of heading No. 49.01.*

⁶GN 97/1999 - Item 18 deleted w.e.f 07.09.98.

- 19 Deleted.¹
- 20 Goods re-imported in respect of which no refund under this Act was made on exportation under item Nos. E1 and E2.
21. Goods imported under the transshipment procedure laid down in the Customs Act 1988 under item No. E4.
22. Articles re-imported after repairs on proof that they were sent from Mauritius provided that they shall be charged with VAT on the value of the repairs and the customs duty and excise duty chargeable thereon under item No.E6.
23. Bona fide baggage of a passenger under item No. E8.
24. Household and personal effects of a passenger under item No. E9.
25. Goods imported in the baggage of a passenger under item No. E10.
26. Goods (excluding merchandise for sale, tobacco in any form, wines, spirits, arms and ammunition) imported by post of a value for duty purposes not exceeding 1000 rupees under item No. E11.
- 26A. Sharlon shade, green house, shade screens, fertigation pumps, irrigation pumps, drip irrigation and automatic irrigation controller, imported by persons for use in agriculture under item No. E12.²
27. The transport of passengers by public service vehicles excluding contract buses for the transport of tourists and contract cars.
28. Deleted.³
29. Deleted.⁴

GN 160/1998 – Item 18 w.e.f 07.09.98 :- *Children’s picture, drawing or colouring books of heading No.49.03. other those produced in and exported from Mauritius.*

Act No. 2 of 1998 :-*Children’s picture, drawing or colouring books of heading No.49.03.*

¹ GN 97/1999 - Item 19 deleted w.e.f 01.09.1999.

GN 160/1998 - Item 19 amended w.e.f 07.09.98:- *Music, printed or in manuscript, whether or not bound or illustrated of heading No.49.04 other those produced in and exported from Mauritius*

VAT Act 1998 :- *Music, printed or in manuscript, whether or not bound or illustrated of heading No.49.04.*

²FA 18/2003 - Item 26A added w.e.f 21.07.03.

³ Act 33/2000 – Item 28 deleted w.e.f 02.10.00.

GN 160/1998 - Item 28 amended w.e.f 07.09.98:- *The first 50 kilowatts of electricity per month supplied by the Central Electricity Board for domestic purposes, and the renting out of a meter, the reconnecting of electricity supply and the carrying out of infrastructure works by the Board.*

VAT Act 1998 :- *The first 50 kilowatts of electricity per month supplied by the Central Electricity Board for domestic purposes.*

⁴ Act 33/2000 – Item 29 deleted w.e.f 02.10.00.

GN 160/1998 – Item 29 amended w.e.f 07.09.98:- *The first 15 cubic meters of water per month supplied by the Central Water Authority for domestic purposes, and the renting out of a meter, and the carrying out of infrastructure works by the Authority*

30. (a) Charges under a hire purchase agreement or under a finance lease agreement.
- (b) Postal services and services provided by a person holding a Postal Service Licence under the Postal Services Act 2002 in connection with payment of pension and utility bills. ¹
- 31 Vegetable seeds, fruit and flower seeds, bulbs and plants, used for sowing or planting.
- 32 (Deleted) ²
- 33 Molasses when supplied, either for consideration or otherwise, to planters, and bagasse. ³
34. Herbicides.
35. Deleted. ⁴
36. (a) The renting of fixed telephone lines.
- (b) Charges in respect of internet services provided by an internet service provider of an amount of up to 100 rupees per billing period. ⁵
37. Deleted ⁶

VAT Act 1998 :- *The first 15 cubic meters of water per month supplied by the Central Water Authority for domestic purposes.*

¹ FA 28/2004 – Item 30 (b) amended w.e.f 26.08.04.

GN 97/1999 - Item 30 replaced w.e.f 07.09.98:-

30 (a) *Charges under a hire purchase agreement or under a finance lease agreement.*

(b) *Stamps and postal services under the Post Office Act.*

VAT Act 1998 :- *Stamps and postal services under the Post Office Act.*

² GN 97/1999 - Item 32 deleted w.e.f 01.09.1999.

GN 160/1998 - Item 32 amended w.e.f 07.09.98 :- *Anhydrous ammonia and fertilisers, other than fertilisers produced in and exported from Mauritius.*

VAT Act 1998 :- *Anhydrous ammonia; fertilisers*

³ GN 160/1998 - Item 33 replaced w.e.f 07.09.98.

VAT Act 1998:- *Molasses and bagasse.*

⁴ Act 33/2000 – Item 35 deleted w.e.f 02.10.00.

VAT Act 1998 :- *Water for irrigation.*

⁵ GN 40/2004 – Item 36 replaced w.e.f 01.07.04.

GN 160/1998 – Item 36 replaced w.e.f 07.09.98 :-

The renting of telephone lines and the renting for internet access.

VAT Act 1998 :- *Yarn of heading Nos. 50.04, 50.05, 51.06, 51.07, 51.08, 52.05, 52.06, 54.02, 54.03, 55.09 and 55.10*

⁶ GN 97/1999 - Item 37 deleted w.e.f 01.09.1999.

38. Aircraft leasing.
39. Aircrafts of heading No.88.02.¹
40. Ships for the transport of persons or goods or both persons and goods falling under heading No. 89.01.
41. Fishing vessels, factory ships and other vessels for processing or preserving fishery products of heading No. 89.02.
42. Works of art, collectors' pieces and antiques of heading Nos. 97.01 to 97.06.
43. Cargo handling services in respect of goods transported by sea or air - ²
- (a) from or to Mauritius;
 - (b) from or to the Island of Rodrigues;
 - (c) from or to the Outer Islands; or
 - (d) from a place outside Mauritius to another place outside Mauritius.
44. Deleted ³

GN 160/1998 – Item 37 amended w.e.f 07.09.98:- *Animal feeding stuffs other than prepared pet foods except animal feeding stuffs produced in and exported from Mauritius*
 VAT Act 1998 :- *Animal feeding stuffs other than prepared pet foods.*

¹ GN 113/2000 - Item 39 amended w.e.f 01.09.00.
 GN 160/1998 – Item 39 amended w.e.f 07.09.98 :- *Aircrafts of heading No. 88.02 and helicopter services.*
 VAT Act 1998 :- *Aircrafts of heading No. 88.02.*

² FA 18/2003 – Item 43 amended w.e.f 01.01.04.
 GN 97/1999 - Item 43 replaced w.e.f 01.09.1999. :- *The transport of passengers or goods by sea or air and cargo handling services in respect of goods transported by sea or air*

- (a) *from or to Mauritius;*
- (b) *from or to the Island of Rodrigues;*
- (c) *from or to the Outer Islands; or*
- (d) *from a place outside Mauritius to another place*

GN 160/1998 – Item 43 amended w.e.f 07.09.98 :- *The transport of passengers or goods by sea or air and cargo handling services in respect of goods so transported*

- (a) *from or to Mauritius;*
- (b) *from or to the Island of Rodrigues;*
- (c) *from or to the Outer Islands; or*
- (d) *from a place outside Mauritius to another place*

VAT Act 1998:- *The transport of passengers or goods by sea or air-*

- (a) *from or to Mauritius;*
- (b) *from or to the Island of Rodrigues;*
- (c) *from or to the Outer Islands; or*
- (d) *from a place outside Mauritius to another place*

³ FA 14/2005 – Item 44 deleted w.e.f 21.04.05.
 VAT Act 1998 :- *Kerosene including kerosene jet type fuel.*

45. Entrance fees to any event in respect of any sport discipline specified in the Physical Education and Sport (Designation of Sport Disciplines) Regulations 1986.
46. The renting of, or other grant of the right to use, accommodation in a building used predominately as a place of residence of any person and his family, if the period of accommodation for a continuous term exceeds 90 days.
47. Subject to item 48, the grant, assignment or surrender of any interest in or right over land or of any licence to occupy land. ¹
48. The sale or transfer of an immovable property, a building or part of a building, apartment, flat or tenement -
 - (a) for residential purposes;
 - (b) for any other purposes except land with any building, building or part of a building, apartment, flat or tenement together with any interest in or right over land, sold or transferred by a VAT registered property developer to a VAT registered person. ²
49. Burial and cremation services and coffins.

¹GN 134/2006 – Item 47 deleted and replaced w.e.f 01.10.06.

FA 14/2005 – Item 47 amended w.e.f 21.04.05.

47. The grant, assignment or surrender of any interest in or right over land or of any licence to occupy land.

VAT Act 1998 :-

The grant, assignment or surrender of any interest in or right over land or of any licence to occupy land liable to Registration Duty under the Registration Duty Act.

²GN 134/2006 – Item 48 deleted and replaced w.e.f 01.10.06.

FA 2006 – Item 48 amended w.e.f 01.10.06.

48. The sale or transfer of an immovable property, a building or part of a building, apartment, flat or tenement, except an immovable property, a building or part of a building, apartment flat or tenement for use other than for residential purposes, sold or transferred by a person in the course or furtherance of his business as property developer.

FA 14/2005 – Item 48 amended w.e.f 21.04.05.

The sale or transfer of an immovable property, a building or part of a building, flat or tenement, or the construction of a building or part of a building, flat or tenement (excluding repairs or renovation), used for residential purposes.

GN 97/1999 - Item 48 amended w.e.f 07.09.1998. :- *The sale or transfer of an immovable property, or the construction, sale or transfer of a building or part of a building, flat or tenement , used for residential purposes.*

VAT Act 1998:- *Sale or transfer of a building or part of a building, flat or tenement used for residential purposes.*

50. The following financial services –

- (a) banking services (other than services supplied by a bank holding a banking licence under the Banking Act 2004 in respect of its banking transactions with non-residents and corporations holding a Global Business Licence under the Financial Services Development Act 2001) including - ¹
 - (i) services provided by the Bank of Mauritius; and
 - (ii) the issue, transfer or receipt of, or any dealing with, money, any security for money or any note or order for the payment of money and the operation of any current, deposit or savings account, but except -
 - (A) services provided to merchants accepting a credit card or debit card as payment for the supply of goods or services (merchant's discount);
 - (B) services in respect of safe deposit lockers, issue and renewal of credit cards and debit cards; and
 - (C) services for keeping and maintaining customers' accounts (other than transactions involving the primary dealer system);
- (b) services provided by foreign exchange dealers and money changers;
- (c) the issue, transfer or receipt of, or dealing with any stocks, bonds, shares, debentures and other securities, including the underwriting and the settlement and clearing of such securities;
- (d) the issue or transfer of ownership of a unit under any unit trust;

¹ FA 14/2005 – Item 50 (a) amended w.e.f 21.04.05.

FA 20/2002 – Item 50 (a) amended w.e.f 10.01.2003 :-

- (a) *banking services (other than services supplied by holders of a category 2 Banking Licence) including –*
 - (i) *services provided by the Bank of Mauritius; and*
 - (ii) *the issue, transfer or receipt of, or any dealing with money, any security for money or any note or order for the payment of money and the operation of any current, deposit or savings account, but except -*
 - (A) *services provided to merchants accepting a credit card or debit card as payment for the supply of goods or services (merchant's discount);*
 - (B) *services in respect of safe deposit lockers, issue and renewal of credit cards and debit cards; and*
 - (C) *services for keeping and maintaining customers' accounts (other than transactions involving the primary dealer system);*

GN 160/1998 – Item 50 (a) amended w.e.f 07.09.98 :- *banking services (other than offshore banking services supplied to persons not resident in Mauritius) including the issue, transfer or receipt of, or any dealing with, money, any security for money or any note or order for the payment of money and the operation of any current, deposit or savings account;*

VAT Act 1998 :-

banking services including the issue, transfer or receipt of, or any dealing with, money, any security for money or any note or order for the payment of money and the operation of any current, deposit or savings account;

- (e) the management of investment funds and of pension funds;
- (f) the arrangement, provision, or transfer of ownership, of any contract of insurance or re-insurance under the Insurance Act, but except services provided by an insurance agent, insurance broker or insurance salesman; ¹
- (fa) the making of loans between entities within the same group; and ²
- (g) such other financial services as may be prescribed. ³

51. Buses of H.S Codes 8702.1011 and 8702.9011 and chassis for buses of H.S Code 8706.0011 operated under a road service licence and used for the transport of the general public. ⁴

¹FA 18/2003 – Item 50 (f) amended w.e.f 01.10.03.

FA 20/2002 – Item 50 (f) amended w.e.f 10.01.2003 :- *the arrangement, provision, or transfer of ownership, of any contract of insurance or re-insurance under the Insurance Act, but except services provided by insurance agents;*

VAT Act 1998 :- *the arrangement, provision, or transfer of ownership, of any contract of insurance or re-insurance under the Insurance Act 1987; and*

² FA 20/2002 - Paragraph (fa) added w.e.f 01.01.03.

³ The following financial services have been prescribed (SIXTH SCHEDULE-VAT Regulations G.N 87/1998) :

- (a) The making, the advance or the granting of credit except services in respect of credit cards issued by companies other than banks to merchants accepting such credit cards as payment for the supply of goods or services.
- (b) The granting of, or dealing in, credit guarantees or other securities for money and the management of credit guarantees by the person who granted the credit.
- (c) The provision, or transfer of ownership, of an interest in a superannuation scheme, or the management of a superannuation scheme.
- (d) Factoring

⁴FA 14/2005 – Item 51 amended w.e.f 21.04.05.

GN 167/2004 – Item 51 added w.e.f 07.10.04 :- *Bus chassis and buses to be operated under a road service licence and to be used for the transport of the general public by a company operating more than 75 buses under road service licences.*

52. (a) Gold compounds of H. S. Code 2843.30 .¹
- (b) Gold, unwrought or in semi-manufactured forms, or in powder form, or waste and scrap of heading 71.08
- (c) Chains and similar articles produced in continuous length exceeding 200 centimetres, clasps and parts of silver suitable for use in the manufacture of jewellery of H.S. Code 7113.111
- (d) Chains and similar articles produced in continuous length exceeding 200 centimetres, clasps and parts of other precious metal suitable for use in the manufacture of jewellery of heading 7113.191
53. Blood glucose strip of H.S. Code 3822.001. ²
54. Lancets of heading 90.18 and glucometer of H.S. Code 9027.801. ³
55. Equipment for medical, surgical and dental uses, of heading 90.18 and of H.S. Codes 9006.301, 9019.105, 9019.20, 9022.12, 9022.13, 9022.14, 9022.21, 9022.30, 9022.901, 9022.902, 9022.909, 9027.801, 9402.101, 9405.103 and 9405.403. ⁴
- 55A Equipment for medical, surgical and dental uses, of heading 94.03 and of H.S. Codes 8414.60, 8414.80, 8419.89 and 9011.80, when imported for use in a health institution.
56. Cotton of headings 52.01, 52.02 and 52.03. ⁵
57. Pearls, diamonds, stones, silver and platinum including waste and scrap, of headings 71.01, 71.02, 71.03, 71.05, 71.06, 71.10 and 71.12 and of H.S. Codes 7104.20 and 7104.90. ⁶

¹ GN 212/2006 – Item 52 deleted and replaced w.e.f. 03.11.06.
GN 161/2005 – Item 52 added w.e.f 01.09.05.

52. (a) *Gold, unwrought or in semi-manufactured forms, or in powder form, or waste and scrap.*

(b) *Chains and similar articles of gold produced in continuous lengths exceeding 200 centimetres, suitable for use in the manufacture of articles of jewellery.*

(c) *Clasps of gold and parts thereof*

² FA 2006 – Item 53 added w.e.f 01.10.06.

³ FA 2006 – Item 54 added w.e.f 01.10.06.

⁴ FA 2006 – Item 55 added w.e.f 01.10.06.

⁵ FA 2006 – Item 56 added w.e.f 01.10.06.

⁶ FA 2006 – Item 57 added w.e.f 01.10.06.

58. Machinery and equipment, of headings 84.44 to 84.49 and 84.51 and of H.S Codes 8452.21, 8452.29, 8452.40 and 8452.90. ¹
59. Emery, natural corundum, natural garnet and other natural abrasives of H.S. Code 2513.20 ²
60. Preparations for the treatment of textile materials, leather, furskins or other materials of H.S. Codes 3403.11 and 3403.91 ³
61. Printed circuits of heading 85.34 and electronic integrated circuits and micro-assemblies of heading 85.42 ⁴
62. Pigs', hogs' or boars' bristles and hair; badger hair and other brush making hair; and waste of such bristles or hair of heading 05.02 ⁵
63. Machinery of H.S Codes 8422.20 to 8422.40 ⁶
64. Watch movements of heading 91.08 and H.S. Codes 9110.11 to 9110.19 and watch or clock parts of heading 91.14 ⁷
65. Construction of a building or part of a building, flat or tenement (excluding repairs or renovation), to be used for residential purposes, provided that - ⁸
- (a) the contract in respect thereof has been entered into; or
- (b) the letter of intent relating to an Integrated Resort Scheme prescribed under the Investment Promotion Act has been issued,
prior to 1 October 2006.

¹ FA 2006 – Item 58 added w.e.f 01.10.06.

² GN 134/2006 – Item 59 added w.e.f 01.10.06.

³ GN 134/2006 – Item 60 added w.e.f 01.10.06.

⁴ GN 134/2006 – Item 61 added w.e.f 01.10.06.

⁵ GN 149/2006 – Item 62 added w.e.f 07.10.06.

⁶ GN 149/2006 – Item 63 added w.e.f 07.10.06.

⁷ GN 149/2006 – Item 64 added w.e.f 07.10.06.

⁸ GN 212/2006 – Item 65 added w.e.f. 03.11.06.

For the purposes of this Schedule -

- (a) the heading Nos. refer to the heading numbers of Part I of the First Schedule to the Customs Tariff Act;
- (b) the item Nos. refer to the item Nos. of Part II of the First Schedule to the Customs Tariff Act;
- (c) "fish", "meat" and "meat offal" in item 7(a) and (b) - ¹
 - (i) include food preparations containing more than 20% by weight of fish, sausage, meat, meat offal, blood, or any combination thereof; but
 - (ii) exclude caviar and caviar substitutes of heading 16.04 and the stuffed products of heading No. 19.02 or the preparations of heading No. 21.03 or 21.04;
- (d) "health institution" in item 12 and 55A has the same meaning as in the Private Health Institutions Act 1989; ²
- (e) "public service vehicles" in item 27 has the same meaning as in the Road Traffic Act;
- (f) "contract cars" in item 27 has the meaning assigned to it by section 75 of the Road Traffic Act.
- (g) "Outer Islands" in item 43 has the same meaning as in the Outer Islands Development Corporation Act 1982.
- (h) "land" in item 47 means any vacant land or any land or part thereof with any building, flat or tenement thereon.
- (i) "services" in item 50(f) in relation to - ³
 - (i) an insurance agent, shall not include services in respect of contracts of life insurance entered into prior to 10 January 2003; or
 - (ii) an insurance broker or insurance salesman, shall not include services in respect of contracts of life insurance entered into prior to 1 October 2003.
- (j) the exemption granted under item 51 shall be valid up to 31 August 2007. ⁴

¹GN 89/2004 – Paragraph (c) replaced w.e.f 01.07.04.

GN 12/2003 – Paragraph (c) (ii) amended w.e.f 15.02.03 :-

(ii) *exclude caviar and caviar substitutes of heading 16.04 and the stuffed products of heading No. 19.02 or the preparations of heading No. 21.03 or 21.04;*

VAT Act 1998 :-

- (c) *"fish and crustaceans, molluscs and other aquatic invertebrates" and "meat (including chicken) and meat offal" in item 7(a) and (b) -*
 - (i) *include food preparations containing more than 20% by weight of fish or crustaceans, molluscs or other aquatic invertebrates, sausage, meat (including chicken), meat offal, blood, or any combination thereof; but*
 - (ii) *exclude the stuffed products of heading No. 19.02 or the preparations of heading No. 21.03 or 21.04;*

² GN No. 60 of 2007- Paragraph (d) amended by deleting the words "item 12" and replacing them by the words "items 12 and 55A" w.e.f 27 April 2007.

(d) *"health institution" in item 12 has the same meaning as in the Private Health Institutions Act 1989*

³FA 18/2003 - Paragraph (i) added w.e.f 01.10.03.

⁴GN 167/2004 - Paragraph (j) added w.e.f 07.10.04.

SECOND SCHEDULE
(sections 2 and 25)

Amount of annual turnover 10 million rupees ¹

THIRD SCHEDULE
(section 4)

MATTERS TO BE TREATED AS SUPPLY OF GOODS OR SERVICES

1. The sale, transfer or disposal of a business is a supply of goods.
2. The grant, assignment or surrender of any interest in or right over land or of any licence to occupy land is a supply of goods.
3. The transfer of an undivided share in movable or immovable property is a supply of services.
4. Any transfer of the whole property in goods is a supply of goods; but the transfer -
 - (a) of any undivided share of the property; or
 - (b) of the possession of goods,
 is a supply of services.
5. Goods produced by applying to another person's goods a treatment or process is a supply of goods.
6. Where the possession of goods is transferred -
 - (a) under an agreement for the sale of the goods; or
 - (b) under an agreement which expressly contemplates that the property also will pass at some time in the future (determined by, or ascertainable from, the agreement but in any case not later than when the goods are fully paid for),

¹ FA 2006 – Second Schedule amended w.e.f 01.10.06.
VAT Act 1998:-

SECOND SCHEDULE
(sections 2 and 25)

Amount of annual turnover 12 million rupees

FIFTH SCHEDULE ¹
(*section 11*)

1. Goods, other than those specified in the First Schedule, exported from Mauritius under Customs control.
2. The following goods –
 - (a) wheat flour and wheat bran; ²
 - (b) edible oils;
 - (c) margarine;
 - (d) sterilised liquid milk, curdled milk and cream; yoghurt;
 - (e) sugar;
 - (f) live poultry, meat of poultry, edible offal of poultry and birds' eggs in the shell;
 - (g) fertilisers;
 - (h) animal feeding stuffs other than prepared pet foods;
 - (i) printed books, booklets, brochures, pamphlets, leaflets and similar printed matter (except directories and reports) of heading No. 49.01 and atlases of H.S Code 4905.911; ³
 - (j) children's picture, drawing or colouring books of heading No. 49.03;
 - (k) music, printed or in manuscript, whether or not bound or illustrated of heading No. 49.04;
 - (l) vegetables and fruits produced in and exported from Mauritius;
 - (m) horticultural produce produced in and exported from Mauritius;
 - (n) common salt produced in Mauritius; ⁴

¹ See footnote at end of the Fifth Schedule

²FA 2006 –Sub-item (a) deleted and replaced w.e.f 01.10.06.
FA 14/2005 – Paragraph (a) amended w.e.f 21.04.05.
wheat flour, wheat bran and bread referred to in the Bread (Control of Manufacture and Sale) Regulations 1988;

FA 18/1999 w.e.f 07.09.98 :- *wheat flour, wheat bran;*

³FA 18/2003 – Paragraph (i) amended w.e.f 21.07.03.
FA 18/1999 w.e.f 07.09.98:- *printed books, booklets, brochures, pamphlets, leaflets and similar printed matter (except directories and reports) of heading No. 49.01;*

⁴ FA 25/2000 - Paragraph (n) added w.e.f 01.09.00.

- (o) fish, fresh, chilled or frozen, the produce of Mauritius; ¹
 - (p) ghee produced in Mauritius; ²
 - (q) Kerosene including kerosene jet type fuel. ³
3. The transport of passengers and goods by sea or air – ⁴
- (a) from or to Mauritius;
 - (b) from or to the Island of Rodrigues;
 - (c) from or to the Outer Islands; or
 - (d) from a place outside Mauritius to another place outside Mauritius.
4. (a) Any supply of goods made by an operator of a duty free shop situated at the port or airport.
- (b) Any supply of goods made by an operator of a duty free shop situated at a place other than the port or airport, provided that the goods are delivered, under Customs control, to the visitor at the port or airport. ⁵

¹ FA 25/2000 - Paragraph (o) added w.e.f 01.09.00.

² FA 25/2000 - Paragraph (p) added w.e.f 01.09.00.

³ FA 14/2005 – Paragraph (q) added w.e.f 21.04.05.

⁴ FA 18/2003 – Item 3 amended w.e.f 21.07.03.

FA 18/1999 w.e.f 07.09.98 :- *The transport of goods by sea or air –*

- (a) *from or to Mauritius;*
- (b) *from or to the Island of Rodrigues;*
- (c) *from or to the Outer Islands; or*
- (d) *from a place outside Mauritius to another place*

⁵ FA 2006 – Paragraph (b) amended w.e.f 01.10.06.

VAT Act 1998:-

(b) *Any supply of goods made by an operator of a duty free shop situated at a place other than the port or airport, provided that the goods are delivered, under Customs control, to the visitor or traveller at the port or airport.*

5. The supply of goods or services, other than those specified in the First Schedule and in section 21(2) provided that the goods and services so supplied are meant wholly and exclusively for the freeport activities of the licensee whose business premises are located in a freeport zone. ¹
6. (a) The supply of services to a person who belongs in a country other than Mauritius and who is outside Mauritius at the time the services are performed.
- (b) The supply of services - ²
- (i) by a holder of a management licence under the Financial Services Development Act 2001 to corporations holding a Category 1 Global Business Licence or a Category 2 Global Business Licence; or
- (ii) by a bank holding a banking licence under the Banking Act 2004 in respect of its banking transactions with non-residents and corporations holding a Global Business Licence under the Financial Services Development Act 2001.
- (b) For the purposes of paragraph (a), a person belongs in a country other than Mauritius if that person –
- (i) has no permanent establishment in Mauritius for the carrying on of his business; or
- (ii) has his place of abode outside Mauritius.
- 7 (a) Electricity supplied by the Central Electricity Board and the renting out of a meter, the reconnecting of electricity supply and the carrying out of infrastructure works, by the Board. ¹

¹ FA 14/2005 – Item 5 amended w.e.f 21.04.05.

FA 23/2001 – Item 5 replaced w.e.f 11.08.01 :-
The supply of goods or services, other than those specified in the First Schedule and in section 21(2) provided that the goods and services so supplied are meant wholly and exclusively for the freeport activities of the licensee.

FA 18/1999 w.e.f 07.09.98 :-
The supply of any goods or services, other than those specified in the First schedule, to a licensee in the freeport zone.

² FA 14/2005 –Paragraph (b) amended w.e.f 21.04.05.

FA 20/2002 – Paragraph (b) replaced w.e.f 10.01.03:-
The supply of services -

- (i) *by a holder of a management licence under the Financial Services Development Act 2001 in respect of services supplied to corporations holding a Category 1 Global Business Licence or a Category 2 Global Business Licence; or*
- (ii) *by companies holding a Category 2 Banking Licence under the Banking Act.*

FA 18/1999 w.e.f 07.09.98:-
The supply of services by companies holding an offshore management licence under the Mauritius Offshore Business Activities Act 1992.

- (b) Water supplied by the Central Water Authority and the renting out of a meter and the carrying out of infrastructure works by the Authority. ²
- (c) Water for irrigation. ³
- 8 Goods and services supplied by the Wastewater Management Authority established under Wastewater Management Authority Act 2000. ⁴
- ⁹ Aeronautical services provided within an area at the airport, approved by the Director of Civil Aviation in respect of renting of spaces, hangarage and handling of aircrafts by an operator holding an investment certificate under the Investment Promotion Act. ⁵
10. Dyes, products and preparations, of heading 38.09 and of H.S. Codes 3204.11 to 3204.17, 3204.19 and 3212.901. ⁶
11. Raw hides and skins and leather of headings 41.01 to 41.15. ⁷
12. Silk, silk yarn and woven fabrics of silk, of headings 50.02 to 50.07. ⁸
13. Wool and other animal hair, yarn and woven fabrics made of wool or other animal hair, of headings 51.01 to 51.13. ⁹
14. Cotton sewing thread, yarn and woven fabrics of cotton, of headings 52.04 to 52.12. ¹⁰
15. Vegetable fibres, yarn and woven fabrics of vegetable fibres, of headings 53.01 to 53.11. ¹¹

¹ Act 33/2000 – Item 7 (a) added w.e.f 02.10.2000.

² Act 33/2000 – Item 7 (b) added w.e.f 02.10.2000.

³ Act 33/2000 – Item 7 (c) added w.e.f 02.10.2000.

⁴ Act 35/2001 – Item 8 added w.e.f 13.11.01.

⁵ FA 14/2005 _ Item 9 added w.e.f 21.04.05.

⁶FA 2006 – Item 10 added w.e.f 01.10.06.

⁷ FA 2006 – Item 11 added w.e.f 01.10.06.

⁸ FA 2006 – Item 12 added w.e.f 01.10.06.

⁹ FA 2006 – Item 13 added w.e.f 01.10.06.

¹⁰ FA 2006 – Item 14 added w.e.f 01.10.06.

¹¹ FA 2006 – Item 15 added w.e.f 01.10.06.

16. Sewing thread, yarn, fabrics of synthetic, artificial or man-made filaments, of headings 54.01 to 54.08. ¹
17. Yarn and fabrics of synthetic, artificial or man-made staple fibres, of headings 55.01 to 55.16. ²
18. Wadding and nonwovens, of heading 56.03 and of H.S. Codes 5601.211, 5601.221, and 5601.291. ³
19. Rubber thread and cord, yarn and strip and the like, of headings 56.04, 56.05 and 56.06. ⁴
20. Fabrics of headings 58.01 to 58.04, 58.06, 58.09, 59.03, 59.06, 60.01 to 60.06 and of H.S. Code 5907.001. ⁵
21. Labels, embroidery in the piece and the like, of headings 58.07, 58.08, 58.10 and 58.11 and of H.S. Code 6307.902. ⁶
22. Buttons, press-fasteners, snap-fasteners and press studs, button moulds and other parts of these articles; button blanks, of heading 96.06. ⁷
23. Slide fasteners and parts thereof, of heading 96.07. ⁸
24. Dyeing services. ⁹

For the purposes of item 6 of this Schedule, any reference to services is a reference to services, other than those specified in the First Schedule.

¹FA 2006 – Item 16 added w.e.f 01.10.06.

² FA 2006 – Item 17 added w.e.f 01.10.06.

³ FA 2006 – Item 18 added w.e.f 01.10.06.

⁴ FA 2006 – Item 19 added w.e.f 01.10.06.

⁵ FA 2006 – Item 20 added w.e.f 01.10.06.

⁶ FA 2006 – Item 21 added w.e.f 01.10.06.

⁷ FA 2006 – Item 22 added w.e.f 01.10.06.

⁸ FA 2006 – Item 23 added w.e.f 01.10.06.

⁹ FA 2006 – Item 24 added w.e.f 01.10.06.

Relating to footnote at the beginning of the Fifth Schedule;
VAT Act 1998 -The Fifth Schedule reads as follows before being replaced by the FA 18/1999-

FIFTH SCHEDULE
(section 11)

1. *Goods exported from Mauritius under Customs control*
2. *Any supply of goods made by an operator of a duty free shop situated at the port or airport.*
3. *Any supply of goods made by an operator of a duty free shop situated at a place other than the port or airport, provided that the goods are delivered, under Customs control, to the visitor or traveller at the port or airport.*
4. *The supply of any goods or services to a licensee in the freeport zone.*
5.
 - (a) *The supply of services to a person who belongs in a country other than Mauritius and who is outside Mauritius at the time the services are performed.*
 - (b) *The supply of services by companies holding an offshore management licence under the Mauritius Offshore Business Activities Act 1992.*
 - (c) *For the purposes of paragraph (a), a person belongs in a country other than Mauritius if that person -*
 - (i) *has no permanent establishment in Mauritius for the carrying on of his business; or*
 - (ii) *has his place of abode outside Mauritius.*

For the purposes of this Schedule, any reference to goods or services is a reference to goods or services, other than those specified in the First Schedule.

SIXTH SCHEDULE ¹
(*section 15*)

Annual turnover of taxable supplies

2 million rupees

¹ FA 2006 – Sixth Schedule deleted and replaced w.e.f 01.10.06.
VAT Act 1998:-

SIXTH SCHEDULE
(*section 15*)

Amount	Periods
750,000 rupees	Any period of 3 months
1,500,000 rupees	Any period of 6 months
2,250,000 rupees	Any period of 9 months
3,000,000 rupees	Any period of 12 months

SEVENTH SCHEDULE ¹
(sections 5, 9 and 12)

PART I

1. Liquified petroleum gas
2. Bars of iron or steel
3. Portland cement

PART II

1. Motor spirit and gas oils
2. Cigarettes containing tobacco

¹ FA 20/2002 – The Seventh Schedule replaced w.e.f 01.10.02.

FA 18/1999 The Seventh Schedule replaced w.e.f 07.09.98:-

SEVENTH SCHEDULE
(sections 12(6))

1. Motor spirit and gas oils
1. Liquified petroleum gas
2. Bars of iron or steel
3. Portland cement
4. Cigarettes containing tobacco

VAT Act 1998:-

Seventh Schedule

(Sections 21(3) and 73)

Credit for input tax

Where the proportion of the value of taxable supplies to the total turnover is –

9/10 or more, credit for input tax shall be 100 per cent

between 7/10 to 9/10, credit for input tax shall be ... 80 per cent

between 3/10 to 7/10, credit for input tax shall be ... 50 per cent

less than 3/10 credit for input tax shall be ... NIL

For the purposes of this Schedule, the proportion shall be computed by reference to the value of taxable supplies and the total turnover of the taxable person for the preceding accounting year.

EIGHTH SCHEDULE ¹**(Deleted)**

¹FA 18/1999 – Eighth Schedule deleted w.e.f 07.09.98.

VAT Act 1998 :-

EIGHTH SCHEDULE
(SECTION 24)
Repayment of excess amount

Column 1	Column 2
Proportion of zero-rated supplies to turnover of taxable supplies-	Proportion of excess amount repayable-
9/10 or more	100 per cent
between 7/10 to 9/10	80 per cent
between 3/10 to 7/10	50 per cent
less than 3/10	NIL

NINTH SCHEDULE

(section 66)

	Column 1	Column 2
1.	Disabled persons and the blind.	Appliances and identifiable spare parts (including cells for hearing aids but excluding such articles as spectacles, lenses and contact lenses); spare parts of invalid carriages; reading matter and articles specially designed for the blind.
2.	Benevolent and charitable institutions affiliated with the Mauritius Council of Social Services or receiving a subsidy from Government.	Goods received as donations from abroad and related to their normal activities, not intended for sale.
3.	Any religious body approved by the Director-General. ¹	Goods (not being articles or materials intended either for the construction, repair or furnishing of buildings used for public worship or for the manufacture of things to be used in connection with public worship) for actual use in connection with public worship.
4.	The International Federation of Red Cross and Red Crescent Societies, the Mauritius Red Cross Society, the St John's Ambulance (Mauritius), Mauritius Scouts Association, Mauritius Girl Guides Association and any other society, association or organisation approved by the Director-General. ²	Articles directly related to their normal activities, not intended for sale.

¹ FA 2006 – Item 3 amended w.e.f 07.08.06.

VAT Act 1998 :-

3.	<i>Any religious body approved by the Minister.</i> ¹	<i>Goods (not being articles or materials intended either for the construction, repair or furnishing of buildings used for public worship or for the manufacture of things to be used in connection with public worship) for actual use in connection with public worship.</i>
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² FA 2006 – Item 4 amended w.e.f 07.08.06.

VAT Act 1998 :-

4.	<i>The Mauritius Red Cross Society, the St John's Ambulance (Mauritius), Mauritius Scouts Association, Mauritius Girl Guides Association and any other society, association or organisation approved by the Minister.</i> ²	<i>Articles directly related to their normal activities, not intended for sale.</i>
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	Column 1	Column 2
5.	Any person.	Any goods not exceeding 1,000 rupees in customs value imported in a single package where the Director-General is satisfied that the package is not part of a larger consignment.
6.	Airlines.	<p>(1) Instructional material and training aids for use in connection with the technical training of ground and flight personnel in Mauritius;</p> <p>(2) Repairs, maintenance and servicing equipment for the purpose of establishing and maintaining international or national service operated by that airline;</p> <p>when certified by the Director of Civil Aviation that the goods are to be used for the purposes mentioned in paragraphs (1) and (2);</p> <p>(3) Fuel and lubricants and other consumable technical supplies contained in the tanks or other receptacles on any aircraft arriving in Mauritius, provided that no quantity of such fuel, lubricants or other consumable technical supplies is unloaded without paying tax except temporarily and under customs control; and fuel, lubricants and other consumable technical supplies taken on board the aircraft for consumption during flight.</p>
7.	Any non-citizen serving in Mauritius under a Bilateral or Multilateral Agreement with the Government of Mauritius.	Any goods imported or purchased ex-bond as may be approved by the Minister.
8.	¹	.

¹ FA 2006 – Item 8 deleted w.e.f 01.10.06.
VAT Act 1998 :-

8.	Enterprises engaged in line of activities approved by the Minister.	Specialised machinery and equipment and parts thereof and raw materials, as per list approved by the Mister.
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	Column 1	Column 2
9.	Diplomatic missions and agents.	Rent, telephone and other services. ¹
10.	Any company engaged wholly and exclusively in – (a) the provision of e-commerce services to persons residing outside Mauritius; or (b) the registration and processing in Mauritius of bets placed on overseas sporting events by persons residing outside Mauritius.	Services provided by banks in respect of credit cards or debit cards processed by the company or accepted by the company as payment for the supply of services it provides. ²
11.	Any person approved by the Tertiary Education Commission established under the Tertiary Education Commission Act, as a person engaged in the provision of tertiary education.	Construction of a purpose-built building for the provision of tertiary education, as may be approved by the Tertiary Education Commission. ³
12.	Any holder of a road service licence for the transport of the general public by bus.	Bus bodies built during the period up to 31 August 2007 on imported bus chasis. ⁴

¹Act 33/2000 – Item 9 amended w.e.f 2.10.00.

FA 18/1999 – Item 9 replaced w.e.f 07.09.98.

9.	<i>Diplomatic missions and agents.</i>	<i>Rent, electricity, water, telephone and other services.</i>
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VAT Act 1998 :-

9.	<i>The Mauritius Sugar Syndicate</i>	<i>Sugar for use or consumption in Mauritius.</i>
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² FA 28/2004 – Item 10 amended w.e.f 01.10.04 .

FA 18/2003 – Item 10 added w.e.f 21.07.03 :-

10	<i>Any company engaged wholly and exclusively in the registration and processing in Mauritius of bets placed on overseas sporting events by persons residing outside Mauritius.</i>	<i>Services provided by banks in respect of a credit card or debit card accepted by the company as payment for the supply of services it provides.</i>
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³ FA 14/2005 – Item 11 added w.e.f 21.04.05.

⁴FA 14/2005 – Item 12 added w.e.f 21.04.05.

	Column 1	Column 2
13	Any company registered with the Board of Investment established under the Investment Promotion Act, as a company engaged in the provision of health services. ¹	Construction of a purpose-built building for the provision of health services.
14	National Housing Development Company Ltd. ²	Construction of housing estates.

¹FA 2006 – Item 13 added w.e.f 21.03.06.

² FA 2006 – Item 14 added w.e.f 01.10.06.

TENTH SCHEDULE
(sections 15, 19 and 20)

PART I

Business or profession of –

1. Accountant and or auditor
2. Advertising agent
3. Adviser including investment adviser and tax adviser
4. Architect ¹
5. Attorney and or solicitor
6. Barrister having more than 2 years standing at the Bar
7. Clearing and forwarding agent under the Customs Act
8. Consultant including legal consultant, tax consultant, management consultant and management company other than a holder of a management licence under the Financial Services Development Act 2001.
9. Customs house broker under the Customs Act
10. Engineer
11. Estate agent
12. Land surveyor
13. Marine surveyor
14. Motor surveyor
15. Notary
16. Optician
17. Project manager
18. Property valuer
19. Quantity surveyor
20. Sworn auctioneer
21. Deleted ²
22. Deleted ³

¹ FA 2006 – Item 4 amended w.e.f 01.10.06.
4 Architect and or draughtsman

² FA 2006 – Item 21 deleted w.e.f 01.10.06. *Tour operator*

³ FA 2006 – Item 22 deleted w.e.f 01.10.06..
Travel agent registered with the International Air Transport Association (IATA)

- 23 General sales agent of airlines ¹
- 24 Deleted ²
- 25. Dealers registered with the Assay Office under the Jewellery Act ³

¹ FA 18/2003 – Item 23 added w.e.f 01.10.03.

²FA 2006 – Item 24 deleted w.e.f 01.10.06.

FA 18/2003 – Item 24 added w.e.f 01.10.03.

24 Car rental

³ FA 2006 – Item 25 added w.e.f 01.10.06.

PART II

Business of –

1. Banking by a company holding a banking Licence under the Banking Act 2004 in respect of its banking transactions other than with non-residents and corporations holding a Global Business Licence under the Financial Services Development Act 2001. ¹
2. (a) Insurance agent under the Insurance Act except the business in respect of contracts of life insurance entered into prior to 10 January 2003. ²

(b) Insurance broker under the Insurance Act except the business in respect of contracts of life insurance entered prior to 1 October 2003.
3. Management services by a holder of a management licence under the Financial Services Development Act 2001 in respect of services supplied other than those supplied to corporations holding a Category 1 Global Business Licence or a Category 2 Global Business Licence under that Act
4. Services in respect of credit cards issued by companies other than banks to merchants accepting such credit cards as payment for the supply of goods or services. ³

Note:- For the purposes of item 2(a) of Part II, no adjustment or refund shall be allowed in respect of the period prior to 1 September 2003. ⁴

¹FA 14/2005 – Item 1 of Part II replaced w.e.f 01.07.05.

FA 20/2002 – Item 1 of Part II added w.e.f 10.01.03 :-

Banking by a company holding a Category 1 banking Licence under the Banking Act.

² FA 18/2003 – Item 2 replaced; paragraph (a) w.e.f 01.09.03 and paragraph (b) w.e.f 01.10.03.

FA 20/2002 – Item 2 added w.e.f 10.01.03 :-

Insurance agent under the Insurance Act.

³ FA 18/2003 – Item 4 added w.e.f 01.10.03.

⁴ FA 18/2003 - Note added w.e.f 01.09.03

ELEVENTH SCHEDULE ¹
(sections 53B and 53H)

Part I – Business

1. Hotel
2. Hotel management
3. Tour operator

Part II – Rate of levy

0.85 per cent

*Note: The electronic version of the enactments is for information purposes only.
The authoritative version is the printed version.*

¹ FA 2006 – Eleventh Schedule added w.e.f 01.07.06.