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SCHEDULES

THE FIVE HUNDRED AND FORTY-SIXTH

ACT

OF THE PARLIAMENT OF THE REPUBLIC

OF GHANA

ENTITLED

THE VALUE ADDED TAX ACT, 1998

AN ACT to provide for the imposition of value added tax and to provide for purposes related to the tax.

DATE OF ASSENT: *16th March, 1998*

BE IT ENACTED by Parliament as follows –

PART I – IMPOSITION OF VALUE ADDED TAX

1. Imposition of tax –

(1) A tax to be known as value added tax is hereby imposed and shall in accordance with this Act be charged on –

- (a) every supply of goods and services made in Ghana;
- (b) every importation of goods; and
- (c) supply of any imported service, other than exempt goods and services.

(2) Unless otherwise provided in this Act the tax shall be charged on supply of goods and services where the supply is taxable supply and made by a taxable person in the course of his business.

(3) The tax shall be charged and payable on the importation of goods and for that purpose the laws and regulations applicable to collection of customs duties and other taxes on importation of goods shall apply with such modifications as are necessary.

- (4) The charge made under this section shall be the output tax.

2. Persons liable to pay the tax –

Except otherwise provided in this Act, the tax shall be paid –

- (a) in the case of taxable supply by the taxable person making the supply;
- (b) in the case of imported goods, by the importer; and
- (c) in the case of imported service, by the receiver of the service.

3. Rate of the tax –

Except otherwise provide in this Act, the rate of the tax shall be 10 per cent calculated on the value of the taxable supply of the goods, services or import.

4. Taxable person –

(1) A taxable person is a person registered under section 5 of this Act.

(2) The Commissioner shall notify a taxable person when registered and shall issue a certificate of registration which shall be exhibited at the principal place of business of the taxable person.

(3) The effective date of registration as a taxable person shall be such date as shall be specified in the certificate of registration issued by the Commissioner.

5. Registration as taxable person -

(1) A person is registrable as a taxable person if he is a person who makes taxable supply of goods or services and in the case of a retailer of goods he is person whose business turnover exceeds –

- (a) ₡200 million over a twelve month period; or
- (b) ₡150 million over a nine month period; or
- (c) ₡100 million over a six month period; or
- (d) ₡50 million over a three month period whichever is achieved

earliest.

(2) For the purpose of determining the thresholds under subsection (1), separate businesses under the same ownership may be treated as owned by the one person.

(3) Any person who qualifies as a taxable person, or has grounds to believe that he will qualify as a taxable person shall apply on such form as shall be prescribed by regulations for registration by the Commissioner.

(4) A person who is not registered, but who is liable to apply to be registered under this Act, is a taxable person from the beginning of the tax period immediately following the period in which the duty to apply for registration arose.

(5) An applicant shall make the application within thirty days of becoming qualified or having reason to believe that he will so qualify.

(6) The Commissioner may in writing notify any person that the person has within a tax period specified in the notice made taxable supplies –

- (a) in excess of the turnover figures; or
- (b) below the turnover figures

specified in subsection (1) , and is registrable as a taxable person or not registrable and shall act accordingly by registering or cancelling the registration.

(7) Any national, regional, local or other authority or body which carries on any business activity which makes it registrable as a taxable person shall apply for registration.

(8) A group of taxable persons may, with the approval of the Commissioner be treated for the purposes of the tax as one designated taxable person; provided each member of the group undertakes to be jointly and severally liable for any contravention under this Act and regulations made under it.

(9) A taxable person whose business is structured into distinct divisions may apply to the Commissioner for each division to be registered for the tax.

(10) Notwithstanding any provision of this section –

- (a) any business with a turnover below the registrable level provided in subsection (1) of this section may apply voluntarily to be registered by the Commissioner; and
- (b) the Commissioner may in writing notify and register any class or category of businesses specified in the notice as registrable under this Act.

(11) The Commissioner shall register a person who qualifies under subsection (10) as a taxable person unless the Commissioner –

- (a) is satisfied that the person has no fixed place of abode or business; or
- (b) has reasonable grounds to believe that that person –
 - (i) will not keep proper accounting records relating to any business activity carried on by that person; or

- (ii) will not submit regular and reliable tax return as required by or under this Act; or
- (iii) is not a fit and proper person to be registered.

6. Register and particulars of taxable persons-

The Commissioner shall keep a register in which shall be recorded the particulars of taxable persons.

7. Change in business

- (1) A taxable person shall notify the Commissioner in writing –
 - (a) if the business ceases to operate or is sold or moves; or
 - (b) if there is material change in the ownership of the business; or
 - (c) of any change –
 - (i) in the name or address of that person; or
 - (ii) in circumstances which makes the person no longer qualified for registration; or
 - (iii) of a material nature in the business activities or in the nature of taxable supplies being made.

(2) The notification shall be made within thirty days of the cessation, sale, move, change of ownership or any other change as the case may be.

8. Cancellation of registration –

(1) The registration of a taxable person shall be cancelled by the Commissioner where the Commissioner is satisfied that the registered person no longer exists.

(2) A taxable person shall apply in writing for the cancellation of the registration if that person ceases to carry on the business in relation to which the registration was made.

(3) Any cancellation shall take effect from the end of the tax period in which the registration is cancelled.

(4) A taxable person whose registration has been cancelled under this section shall be regarded as having made a taxable supply of all goods on hand (including capital goods) and the person shall be liable for output tax, at the time the registration is cancelled on all goods in respect of which he received input tax credit under section 24; the output tax payable being based on the open market value of the goods at the time his registration was cancelled.

(5) The obligations and liabilities of a person under this Act and regulations made under this Act, including the submission of return required under section 28 of this Act, in respect

of anything done or omitted to be done by that person while a taxable person shall not be affected by cancellation of the person's registration.

(6) The Commissioner shall serve a notice in writing on a person of the decision to cancel or refuse to cancel any registration under this Part within thirty days –

- (a) of the making of the decision; or
- (b) of receipt of the application.

PART III – SUPPLY OF GOODS AND SERVICES

9. Supply of goods -

Subject to this Act and regulations made under this Act, a supply of goods means any arrangement under which the owner of the goods parts with or will part with possession of the goods including provision of goods by sale, barter, lease, transfer, exchange, gift or similar disposition.

10. Supply of services -

(1) Subject to this Act and regulations made under this Act, supply of services means any supply which is not a supply of goods or money and includes –

- (a) the performance of services for another person;
- (b) the making available of any facility or advantage; or
- (c) tolerating any situation or refraining from the doing of any activity.

(2) A supply of services made by an employee to his employer because of the employment is not a supply made by the employee.

11. Mixed supplies -

(1) A supply of services incidental to the supply of goods is part of the supply of goods.

(2) A supply of goods incidental to the supply of services is part of the supply of services.

(3) A supply of services incidental to the import of goods is part of the import of the goods.

12. Supply by agent -

(1) A supply of goods or services made by a person as agent for another who is the principal is a supply by the principal.

(2) Subsection (1) does not apply to an agent's supply of services as agent to the principal.

PART IV – TAXABLE SUPPLIES

13. Taxable supply –

(1) Except otherwise provided in this Act or regulations made under it, a taxable supply is a supply of goods or services made by a taxable person for consideration in the course of or as a part of his business activities and includes:

- (a) the processing of data or supply of information or similar service;
- (b) the supply of staff;
- (c) the acceptance of a wager or stake in any form of betting or gaming including lotteries and gaming machines;
- (d) the making of gifts or loans of goods;
- (e) the leasing or letting of goods on hire;
- (f) the appropriation of goods for personal use or consumption by the taxable person or by any other person;
- (g) the sale, transfer, assignment, or licensing of patents, copyrights, trademarks, computer software, and other proprietary information; and
- (h) exports of non-traditional products.

(2) A supply is made as part of a person's business activities if the supply is made by him as part of or incidental to any economic activity he conducts.

(3) Where a person produces goods by processing or treating another person's goods, the supply of the goods shall be regarded as supply of goods.

(4) The supply of any form of power, heat, refrigeration or ventilation shall be regarded as supply of goods.

(5) A supply is made for consideration, if the supplier directly or indirectly receives payment wholly or partly in money or in kind from the person supplied or any other person.

14. Exempt supply –

(1) A supply of the goods and services specified in Schedule 1 is exempt supply and not subject to the tax.

(2) Where a supply is an exempt supply under paragraph 19 of Schedule 1, both the transferor and transferee shall notify the Commissioner in writing of the details of the transfer.

15. Zero-rated supply -

Output tax shall be at zero on the supply of the goods and services specified in Schedule 2 to this Act.

16. Exempt import -

An import of goods in an exempt import if the goods are exempt under Schedule 1 of this Act and classified in conformity with the Harmonized Commodity Description and Coding System also known as “the Harmonized System”.

17. Relief supply -

There shall be relief from the tax on taxable supply to the individuals, organizations and businesses specified in Schedule 3 to this Act.

PART V – TIME AND PLACE OF SUPPLY

18. Time of supply –

(1) Except otherwise provided in this Act or regulations made under this Act, a supply of goods or services occurs –

- (a) where the goods or services are applied to own use, on the date on which the goods or services are first applied to own use;
- (b) where the goods or services are supplied by way of gift, on the date on which ownership in the goods passes or the performance of the services is completed;
- (c) in any other case the earliest of the date on which –
 - (i) the goods are removed from the taxable person’s premises, or from other premises where the goods are under the taxable person’s control; or
 - (ii) the goods are made available to the person to whom they are supplied; or
 - (iii) the services are supplied or rendered; or
 - (iv) receipt of payment is made; or

(v) a tax invoice is issued.

(2) Where under subsection (1) (c) (iv) and (v) of this section, payment is received or a tax invoice is issued for part of the supply, this section shall apply only to the part of the supply represented by the payment or the tax invoice.

(3) Where supplies are made on a continuous basis or by metered supplies, the time of supply shall be the determination of the supply or the first meter reading following the introduction of the tax and subsequently at the time of each determination or meter reading.

(4) The supply of goods under a hire purchase agreement or finance lease occurs on the date the goods are made available under the agreement or lease.

(5) Where –

(a) goods are supplied under a rental agreement; or

(b) goods or service are supplied under an agreement or law which provides for periodic payments,

the goods or services shall be treated as successively supplied for successive parts of the period of the agreement or as determined by that law, and each successive supply occurs on the earlier of the date on which payment is due or received.

(6) For the purpose of this section, where two or more payments are made or are to be made for supply of goods or services, other than a supply to which subsection (4) or (5) applies, each payment shall be regarded as made for a separate supply to the extent of the amount of the payment on the earlier of the date the payment is due or received.

(7) In this section the term “rental agreement” means any agreement for the letting of goods other than a hire purchase agreement or finance lease.

(8) Where the supply of goods or service is ancillary to another supply, the time of supply of the ancillary supply shall be deemed to be the same as the time of supply for the main goods or service.

19. Issue of tax invoice -

(1) A taxable person shall on shall on making taxable supply of goods or services issue to the customers or the persons supplied, tax invoices in such form as shall be prescribed by regulations.

(2) A taxable person upon issuing tax invoices shall retain a copy of each invoice in a serial number order.

20. Place of supply -

- (1) The place of supply of goods shall be the place from which the goods are supplied.
- (2) Unless otherwise provided in regulations made under this Act, the place of supply of a service shall be the supplier's place of business or the place from which the service is supplied or rendered.

PART VI – TAXABLE VALUE

21. Value of taxable supply –

- (1) The value of a taxable supply is –
 - (a) where the supply is for money consideration the amount of the consideration with the addition of all duties and taxes but excluding the tax; and
 - (b) where the supply is not for money consideration or is only partly for money consideration, the open market value of similar supply excluding the tax.
- (2) For the purposes of this Act the open market value of supply of goods or services means the value determined under subsection 1 (a) of this section, if the supplier, purchaser or any other person concerned in the transaction were completely independent of each other and did not in any way influence the transaction.
- (3) Where the open market value of a taxable supply cannot be determined under subsection (2) the open market value of the supply shall be the amount that, in the opinion of the Commissioner having regard to all the circumstances of the supply, is the fair market value of the supply.
- (4) The taxable value of –
 - (a) a taxable supply of goods under a hire purchase agreement or finance lease;
 - (b) a taxable supply of goods by way of an application to own use;
 - (c) a taxable supply for reduced consideration; or
 - (d) a taxable supply described in section 8(4) is the open market value of the goods or services at the time the supply is made, excluding, in the case of a hire purchase agreement or finance lease, any interest or finance charges.
- (5) Where a taxable supply is made without a separate amount of the consideration being identified as a payment of the tax, the taxable value of that supply shall be the amount of the consideration paid excluding the tax.
- (6) For the purposes of subsection (1) “similar supply” in relation to a taxable supply, means a supply that is identical to or closely or substantially resembles the taxable supply,

having regard to the characteristics, quality, quantity supplied, functional components, reputation of, and materials comprising the goods or services which are the subject of the taxable supply.

22. Taxable value for determining the tax on imported goods –

The value for determining the tax chargeable on taxable imports shall be the import value calculated in accordance with sections 29 to 35 of the Customs, Excise and Preventive Service (Management) Law, 1993 (P. N. D. C. L. 330) with the addition of all import duties and taxes but excluding the tax.

23. Adjustments -

(1) Where in relation to a taxable supply by a taxable person –

- (a) the supply is cancelled; or
- (b) the nature of the supply has been fundamentally varied or altered; or
- (c) the previously agreed consideration for the supply has been altered by agreement with the recipient of the supply, whether due to an offer of a discount or for any other reason; or
- (d) the goods or services or part have been returned to the supplier, the provisions of this section shall apply.

(2) Where in addition to the conditions in subsection (1) the taxable person making the supply has –

- (a) in giving a tax invoice in relation to the supply the amount shown on the invoice as the tax charged on the supply is incorrect because of the occurrence of any one or more of the events mentioned in subsection (1); or
- (b) filed a return for the period in which the supply occurred and has accounted for an incorrect amount of output tax on that supply because of the occurrence of any one or more of the events mentioned in subsection (1), the taxable person making the supply shall make an adjustment as provided under subsections (3) and (4) of this section.

(3) Where the output tax properly chargeable in respect of the supply exceeds the output tax actually accounted for by the taxable person making the supply, the amount of the excess shall be regarded as tax charged by the person in relation to a taxable supply made in the tax period in which the events referred to in subsections (1) and (2) occurred.

(4) Subject to subsection (6) of this section where the output tax actually accounted for exceeds the output tax properly chargeable in relation to that supply, the taxable person making

the supply shall be allowed a credit for the amount of the excess in the tax period in which the events referred to in subsections (1) and (2) occurred.

(5) The credit allowed under subsection (4) shall for the purpose of this Act be treated as a reduction of output tax.

(6) No credit allowed under subsection (4) where the supply has been made to a person who is not a taxable person, unless the amount of the excess tax has been repaid by the taxable person to the recipient, whether in cash or as a credit against any amount owed to the taxable person by the recipient.

PART VII – DEDUCTION OF INPUT TAX AND REFUNDS

24. Credit for deductible input tax –

(1) At the end of the accounting period provided in this Act or prescribed by regulations, a taxable person may deduct from the out tax due for the period, tax on goods and services purchased in Ghana or goods and service imported by him and used wholly, exclusively and necessarily in the course of his business, subject to the following conditions-

- (a) the supply is a taxable supply;
- (b) in respect of purchases made in Ghana, the taxable person is in possession of a tax invoice issued under this Act;
- (c) in respect of importation or removal of goods from bonded warehouse, the taxable person is in possession of the relevant customs entries indicating that tax was paid.

(2) The tax deducted from the output tax under subsection (1) shall be known as deductible input tax.

(3) Unless otherwise provided in this Act, no input tax deduction shall be made on purchases or imports in respect of exempt supplies by the taxable person.

(4) No input tax deduction shall be taken more than once nor shall it be taken after the expiration of a period of three years from the date the deduction accrued.

(5) A taxable person does not qualify for input tax deduction in respect of taxable supply or import of motor vehicles or vehicle spare parts unless the taxable person is in business of dealing in or hiring of motor vehicles or selling vehicle spare parts; provided that motor vehicles and spare parts used wholly, exclusively and necessarily for the business shall qualify for input tax deduction.

(6) A taxable person does not qualify for input tax deduction in respect of taxable supply in respect of entertainment including restaurant, meals and hotel expenses unless the taxable person is in the business of providing entertainment .

(7) Where a taxable supply to, or an import of goods by, a taxable person is partly for business use and partly for personal or other use, the amount of input tax allowed as a credit shall be restricted to that part of the supply that relates to the business use.

(8) If goods for which a credit has been allowed under this Act cease to be applied to taxable transactions before the end of their life, the goods shall be treated as sold at the time of the cessations for the open market value.

(9) In the case of a taxable person who regularly resells used goods purchased from consumers, the Commissioner may determine the procedures for allowing such person input tax credit.

(10) The Minister may by legislative instrument prescribe other classes, types or description of goods and services on which input tax is non-deductible.

25. Refund or credit of excess tax paid -

(1) Where the amount of input tax which is deductible exceeds the amount of output tax due in respect of the accounting period, the excess amount shall be credited by the Commissioner to the taxable person; except that in the case of exports the Commissioner may refund the excess credit to the taxable person where his exports exceed 70% of the total supplies within the accounting period.

(2) A refund under subsection (1) shall be made to the taxable person where the excess credit remains outstanding for a continuous period of three (3) months or more.

(3) A taxable person who is registered from a specified effective date and who has in stock on the effective date goods on which the tax has been paid may claim credit or refund of the tax in such form as shall be prescribed by regulations; provided that the supply of import occurred not more than four (4) months prior to the date of his registration, or, in the case of capital goods, the goods have been held for a period not exceeding six (6) months from the date of registration.

(4) For the purpose of this section, a completed refund or credit claim form together with the relevant tax invoices or in the case of imported goods the relevant customs document for tax paid, shall be submitted to the Commissioner by the taxable person, except that where the Commissioner subsequently rejects the claim, any tax previously treated as credit or refund shall be recovered by the Commissioner in accordance with this Act.

26. Deductible tax for mixed taxable and exempt supply –

(1) A taxable person who makes both taxable and exempt supplies may deduct the input tax on the taxable purchases and imports which can be directly attributed only to the taxable supplies made; except that where the fraction in this subsection and subsection (2) is less than 5 per cent, the taxable person may not take credit for any input tax for the period.

(2) Where a taxable person has made both taxable and exempt supplies, but cannot directly attribute the input tax to the taxable and exempt supplies under subsection (1), he may deduct as input tax an amount that bears the same ratio as the taxable supplies bear to the total supplies, applying the apportionment formula specified in Schedule 4 to this Act.

(3) Where in applying the formula the fraction under subsections (1) and (2) is less than 5 per cent, the taxable person may not take any credit for any input tax for the period.

(4) Where in applying the formula under subsections (1) and (2) the fraction is more than 95 per cent, the taxable person may take credit for all input tax for the period.

(5) The Commissioner may approve or direct alternative methods of apportioning input tax where he considers that the methods described in this section will result in an unreasonable calculation of the input tax which may be deducted.

27. Time for payment of refund

(1) Where a taxable person is entitled to a refund of tax under this Act, the refund shall be paid by the Commissioner on an application by the taxable person within thirty (30) days of receipt of the application subject to the conditions that –

- (a) all previous returns have been submitted by the due dates with no tax for any periods outstanding; and
- (b) all tax, penalties and interest from previous tax periods have been paid by the due dates.

(2) Where the conditions specified in subsection (1) have not been fulfilled the Commissioner shall reject the claim for refund and shall inform the applicant accordingly in writing within 30 days of receipt of the application.

PART VIII – TAX RETURN, RECORDS AND ASSESSMENT

28. Submission of tax return and date of payment of the tax -

(1) Unless otherwise directed in writing by the Commissioner, a taxable person shall account for the tax each calendar month on a tax return.

(2) The tax return shall be in a form prescribed by regulations and shall state the amount of tax payable for the period, the amount of input tax credit refund claimed, and such other matters as may be prescribed.

(3) In addition to any return required under subsection (2), the Commissioner may require any person, whether a taxable person or not, to submit whether on that person's own behalf or as agent or trustee of another person to the Commissioner such further or other return in the prescribed form as and when required by the Commissioner for the purposes of this Act.

(4) A return shall be submitted to the Commissioner not later than the last working day of the month immediately following the month to which the return relates.

(5) Upon application in writing by a taxable person, the Commissioner may, where good cause is shown by the taxable person, extend the period in which a tax return is to be submitted.

(6) The payment of the tax due in the accounting period shall be made to the Commissioner not later than the last working day of the month immediately following the accounting period to which the return relates.

(7) A taxable person directed to make his tax return other than at the end of the accounting period shall be informed of the date by which the return and payment shall be made to the Commissioner.

(8) A taxable person who without justification fails to submit to the Commissioner his tax return on the due date shall be liable to a pecuniary penalty of ₱1 million and a further penalty of ₱5,000 for each day that the return is not submitted.

(9) Regulations may provide further for matters relating to tax return and issue of tax invoices.

29. Records to be kept for purposes of the tax –

(1) Every taxable person shall keep such records and books of account as the Minister may by regulations prescribe and as the Commissioner may direct and shall produce them at

such place and time as the Commissioner may by general notice published in the Gazette or any national newspaper or in writing to a taxable person, require.

(2) In respect of the records to be kept under sub-section (1) of this section, a taxable person shall not destroy any book, document, account or record which is less than six years old without the written permission of the Commissioner.

(3) Any permission granted under sub-section (2) of this section shall specify the book, document, account or records to which the permission relates.

(4) Upon an application being made under sub-section (2) of this section, the Commissioner may within six months after the receipt of the application, examine the books, documents accounts and records to which the application relates and after the expiration of the six months the applicant may proceed to destroy the books, documents, accounts or records whether the Commissioner has examined them or not.

(5) Notwithstanding the provision, in subsection (4), where in the opinion of the Commissioner the examination required may extend for a period of more than six months, the Commissioner shall take an inventory of the documents in question and shall keep the records in his possession or as he may direct until the examination is completed.

30. Assessment of the tax and correction of return -

(1) Where a taxable person fails to submit his tax return by the date provided under this Act or regulations made under this Act or the Commissioner has grounds to believe that a return is incorrect or that any lawful tax has not been paid, the Commissioner –

- (a) may based on any information available to him assess the tax due; and
- (b) shall notify his assessment in writing to the taxable person stating that the tax shall be paid within twenty-one days of the date of the notice;

except that the Commissioner shall not raise an assessment after a period of three years unless fraud has been determine by law.

(2) Where a taxable person notified of tax assessment under subsection (1) of this section provides information which the Commissioner accepts as justifying the withdrawal or amendment of the assessment, the Commissioner may withdraw or amend the assessment.

(3) An amended assessment shall be paid within fourteen days of the amendment.

(4) Where a taxable person is not satisfied with the return submitted by him, he may apply in writing to the Commissioner to make any addition or alteration to the return; any such application shall state in detail the grounds upon which the application is made and shall be submitted not more than three months after the submission of the original return.

PART IX – RECOVERY OF DUE TAX, INTEREST AND OTHER LIABILITIES

31. Recovery of tax due -

(1) Any tax due under this Act, any penalty and interest which remains unpaid after the due date under this Act or under any other enactment in respect of value added tax may be recovered by the Commissioner as a debt.

(2) Any amount shown on an invoice as tax on a supply of goods or services shall be recoverable as tax due from the person issuing the invoice, whether or not –

- (a) the invoice is a tax invoice issued under this Act or in accordance with regulations made under this Act; or
- (b) an amount of tax is chargeable on the supply; or
- (c) the person issuing the invoice is a taxable person.

(3) Where any body corporate or unincorporated liable for the payment of the tax, or of any penalties or interest arising under this Act, defaults in payment, in whole, or in part, after written demand, the directors, partners, and the person in control of the body shall be jointly and severally liable to pay the sum due.

32. Payment of interest on outstanding tax –

(1) A taxable person who fails to pay any tax payable by the due date shall be charged interest at the prevailing Bank of Ghana discount rate plus one-quarter of that rate for a month on the tax due if it remains unpaid for any part of the month after the date on which it is payable.

(2) Where the interest charged under subsection (1) is not paid by the due date, interest shall be charged on the unpaid interest in the same manner as interest is charged on unpaid tax.

(3) Any interest charged under this section and any penalty payable that remains unpaid shall be recoverable as a debt by the Commissioner in accordance with the provisions of this Act.

33. Garnishment –

Where any tax, penalty or interest is due and payable from a taxable person the Commissioner may on an application to the court seek an order for –

- (a) any individual or business from whom any money is due or is accruing or may become due to the taxable person; or

- (b) any individual or business who holds or who may subsequently hold money for or on account of the taxable person, to pay to the Commissioner that money, or so much of it as is sufficient to discharge the tax, interest or penalty due and payable.

34. Distraint for liability –

(1) The Commissioner may in writing authorise the levying of distress in accordance with this section.

(2) Where any tax, penalty or interest due under this Act remains unpaid after the time by which this Act requires it to be paid the Commissioner may in writing and with notice to the taxable person authorise the levying of distress –

- (a) upon the goods, chattels and effects of the taxable person; and
- (b) upon –
 - (i) all assets, property, building, factory, machinery, plant, tools means of transport and communication, accessories, animals and all goods used in Ghana in the manufacture, production, sale or distribution of any taxable supplies;
 - (ii) any commodity or items found in any premises or any lands owned by or in use or in use or in possession of the taxable person or of any person on his behalf and or in trust for him.

(3) The written authority of the Commissioner to distraint under this Act shall be a warrant as in Form A provided in Schedule 5 to this Act and shall be the authority to levy by distress the amount of any tax penalty or interest due.

(4) The distress warrant so taken shall be executed on only the assets of the taxable person and the Service shall take possession of the properties specified in sub-section (2) exclusive of all liabilities.

(5) For the purpose of levying the distress, any person authorized in writing by the Commissioner may execute the warrant of distress on the goods and assets of the taxable person specified under subsection (2) wherever the property may be and where necessary break open any building or place in the day-time for the purpose.

(6) The authorised person shall call to his assistance any police officer and it shall be the duty of the police officer when required to assist in the execution of the warrant of distress and in levying the distress.

(7) The distress so taken may at the cost of its owner be kept for fourteen days, and if the amount due in respect of the tax, interest or penalties and the cost and charges of and incidental to the distress are not then paid, the property distrained may be sold.

(8) There shall be paid out of the proceeds of the sale, first the costs or charges of the distress and incidental to the sale and keeping of the distress, next the amount due in respect of the tax and penalties, and the residue, if any, shall be paid to the owner of the property and for the avoidance of doubt any payment to the owner shall be made subject to the prior interest of the Service which shall have precedence over all other interests.

(9) Where any property seized in the execution of the distress warrant is under a mortgage, bill of sale, charged by way of security for any debt, or is in any way encumbered, the sale of the property shall be made subject to the prior interest of the Service which shall have precedence over all other interests.

35. Recovery in respect of a person under liquidation –

(1) Where any tax, penalty or interest is due from a taxable or other person who is subject to liquidation or bankruptcy proceedings, the liquidator, receiver, or other person responsible for winding up the affairs of the debtor shall not distribute any assets until full payment has been made of the tax, penalty or interest due under this Act.

(2) The Commissioner shall be deemed to be a creditor within the meaning of section 261 (6) of the Companies Code, 1963 (Act 179) for the purpose of this section.

PART X – ADMINISTRATION OF VALUE ADDED TAX

36. Establishment of Value Added Tax Service –

There is established by this Act a public service to be known as the Value Added Tax Service in this Act referred to as “the Service”.

37. The functions of the Service –

The Service shall be responsible for the administration and management of the value added tax imposed by this Act and shall except otherwise provided in this Act, be responsible for the collection of and accounting for all taxes, penalties and interest payable under this Act.

38. Members of the Service –

The Service shall consist of the following members –

- (a) persons employed for the Service; and
- (b) other public officers who may be transferred or seconded to the Service.

39. Governing body of the Service –

(1) There is established by this Act the Value Added Tax Service Board referred to in this Act as “the Board” which shall be the governing body of the Service.

(2) The Board shall consist of the following members appointed by the President acting in consultation with the Council of State –

- (a) a Chairman and six other persons;
- (b) a representative of the Minister for Finance; and
- (c) the Commissioner of the Service appointed under section 44 of this Act.

(3) The President shall in appointing the Chairman and the six other members have regard to the integrity, knowledge, expertise and experience of the persons and in particular their knowledge in matters relevant to the functions of the Service.

40. Qualifications of members of the Board.

(1) No person is qualified to be a member of the Board who –

- (a) is not a citizen of Ghana;
- (b) has been adjudged or otherwise declared –
 - (i) bankrupt under any law in force in Ghana and has not been discharged;
 - (ii) to be of unsound mind or is detained as a criminal lunatic under any law in force in Ghana; or
- (c) has been convicted –
 - (i) for high crime under the Constitution or high treason or treason or for an offence involving the security of the State, fraud, dishonesty or moral turpitude; or
 - (ii) for any other offence punishable by death or a sentence of not less than ten (10) years; or
- (d) has been found by the report of a commission or a committee of inquiry to be incompetent to hold public office or is a person in respect of whom a commission or a committee of inquiry has found that while being a public officer he acquired assets unlawfully or defrauded the state or misused or

abused his office, or wilfully acted in a manner prejudicial to the interest of the State and the findings have not been set aside on appeal or judicial review; or

(e) is under sentence of death or other sentence of imprisonment imposed on him by any court; or

(f) is otherwise disqualified by any law for the time being in force.

(2) A person shall not be taken to be disqualified to be a member of the Board under paragraph (c) or (d) of subsection (1) of this section if –

(a) ten years or more have passed since the end of the sentence or the date of the publication of the report of the commission or committee of inquiry; or

(b) he has been pardoned.

41. Functions of the Board –

The Board shall –

(a) ensure the effective, efficient and optimum collection of all taxes, penalties and interest due to the State under this Act;

(b) generally control the management of the Service on matters of policy;

(c) recommend to the Minister policies for effective management of value added tax;

(d) ensure that all amounts collected by the Service are paid into the Consolidated Fund unless otherwise provided by law;

(e) draw up a scheme of service and the terms and conditions of service as well as the remuneration of employees of the Service in consultation with the Public Services Commission;

(f) perform such other duties as it considers relevant and expedient for the collection of the tax.

42. Tenure of office of Board members –

(1) The Chairman and other members of the Board other than the Commissioner of the Service and the representative of the Minister for Finance, shall hold office for a period of three (3) years and shall on the expiration of that period be eligible for reappointment except that no such member shall be on the Board for more than three terms in succession.

(2) Members of the Board may be paid such allowances as the Minister may determine.

43. Meetings of the Board –

(1) The Board shall meet at such times and places as the Chairman may determine, but shall meet at least once every three (3) months.

(2) A special meeting of the Board may be called by the Chairman and shall be called by the Chairman at the written request of any three members of the Board.

(3) At every meeting of the Board at which he is present, the Chairman shall preside, and in his absence a member of the Board elected by the members present from among their number shall preside.

(4) The quorum for a meeting of the Board shall be five which shall include the Chairman or the Commissioner.

(5) The Board may co-opt any person to act as an adviser at its meeting but no person co-opted shall be entitled to vote at the meeting on a matter for decision by the Board.

(6) The validity of any proceedings of the Board shall not be affected by any vacancy in its membership or by any defect in the appointment or qualification of any of its members.

(7) Subject to this Act the Board shall regulate its own procedure.

44. Commissioner of Value Added Tax and his functions –

(1) The head of the Service shall be the Commissioner of Value Added Tax who shall be appointed by the President in accordance with the advice of the Board given in consultation with the Public Services Commission.

(2) Subject to the direction of the Board on matters of policy, the Commissioner shall be responsible for the administration of the Service.

(3) The Commissioner may subject to such conditions as he thinks fit, authorise any other officer of the Service to perform any function that may be performed by the Commissioner under this Act or regulations made under this Act other than delegating his authority under this subsection.

45. Deputy Commissioners and their functions –

(1) There shall be appointed for the Service such Deputy Commissioners as the President considers necessary.

(2) The Deputy Commissioners shall be appointed by the President in accordance with the advice of the Board given in consultation with the Public Services Commission.

(3) The Deputy Commissioners shall perform such functions as the Board in consultation with the Commissioner may determine.

46. Secretary to the Board –

(1) There shall be a Secretary to the Board who shall be appointed by the President in accordance with the advice of the Board given in consultation with the Public Services Commission.

(2) The Secretary shall arrange the business of the Board and cause to be recorded and kept the minutes of meetings of the Board; and perform such other functions as the Board or the Commissioner may direct.

47. Internal Auditor –

(1) There shall be appointed for the Service a Chief Internal Auditor who shall be responsible for all internal audit of the Service.

(2) The Chief Internal Auditor shall be appointed by the President in accordance with the advice of the Board given in consultation with the Public Services Commission.

(3) The Chief Internal Auditor shall be responsible to the Commissioner for the performance of his duties.

(4) The Chief Internal Auditor shall at intervals of three months, prepare and submit to the Commissioner a report on the internal audits carried out by him during the period of three months immediately preceding the preparation of that report.

(5) Without prejudice to the general effect of subsection (4) of this section, the Chief Internal Auditor shall make in each report such observations as appear to him necessary as to the conduct of the affairs of the Service during the period to which the report relates.

(6) The Chief Internal Auditor shall send a copy of each report prepared by him under this section to –

- (a) the Minister;
- (b) the Auditor-General; and
- (c) the Chairman of the Board.

48. Other staff of the Service –

(1) There shall be appointed for the Service such other staff as may be necessary for the proper and efficient discharge of the functions of the Service.

(2) There may be engaged for the Service such consultants and experts as the Board may consider necessary.

49. Delegation of power of appointment –

The President may in accordance with article 195(2) of the Constitution, delegate the power of appointment of public officers under this Part.

50. Expenses of the Service –

Parliament shall provide to the Service such monies as may be required for carrying out the functions of the Service, and for the payment of salaries and all other expenditure.

51. Accounts and audit –

(1) The Board shall keep proper books of accounts and proper records in relation to them and the account books and records of the Service shall be in such form as the Auditor – General may approve.

(2) The financial year of the Service shall be the same as the financial year of the Government.

(3) The books and accounts of the Service shall each year be audited by the Auditor – General.

(4) The Auditor-General shall forward a copy of his report to the Board within six months of the end of each financial year.

(5) The Service shall keep separate records and accounts for –

- (a) taxes, penalties and interests collected and paid into the Consolidated Fund;
- (b) funds provided for the administration of the Service under section 50 of this Act; and
- (c) the VAT Refund Account provided for under 53 (2).

52. Annual reports –

(1) The Board shall submit to the Minister –

- (a) a report on the activities and operations of the Service for each financial year within six months of the end of the financial year to which the report relates; and

(b) detailed estimates of its revenue and expenditure for the next financial year within three months before the beginning of that financial year.

(2) The Minister may at any time call for returns of revenue or revised estimates from the Commissioner.

(3) The Minister shall within three months of the receipt of the report from the Board submit a report thereon to Parliament.

53. Payment of tax into Consolidated Fund –

(1) The tax, interest and penalties collected under this Act shall be paid into the Consolidated Fund in accordance with the financial regulations.

(2) Notwithstanding subsection (1) the Minister may with the approval of Parliament set aside such percentage as Parliament may approve in an account designated as VAT Refund Account out of which refund due under this Act; proven overpayment of tax, payment made by non taxable persons and payments made on non-taxable supply can be refunded.

PART XI – OBJECTIONS AND APPEALS

54. Objection to decision of an officer other than the Commissioner –

(1) A person who is dissatisfied with any decision of an officer of the Service other than the Commissioner, may lodge an objection with the Commission within thirty (30) days after notice of the decision has been served on him or upon his becoming aware of the decision.

(2) The Commissioner may for good cause, such as absence from the country of the dissatisfied person, sickness or other reasonable cause, accept an objection lodged out of the time stipulated under subsection (1).

(3) The objection shall be in writing and shall specify in detail the grounds upon which it is made.

(4) The Commissioner shall make a decision on an objection within thirty (30) days after receipt of the objection where all relevant documents are made available and where necessary, after interviewing the objector.

55. Appeal to court –

(1) A person dissatisfied with the decision of the Commissioner may lodge an appeal with any court with jurisdiction to hear and determine tax disputes.

(2) The appeal shall be lodged by the aggrieved person within thirty (30) days after being notified of the decision of the Commissioner.

(3) No appeal lodged with the court shall be heard unless all tax return due under this Act and regulations made under it have been submitted and any tax assessed or due has been paid; except that the court may waive the requirement to pay all or part of the tax before hearing the appeal.

(4) Where after hearing the appeal the appellant is found to be entitled to any refund of tax, interest shall be paid on the refund at the prevailing Bank of Ghana discount rate at the time of payment of the refund.

PART XII – OFFICERS AND PENALTIES

56. Failure to register –

(1) A person who fails –

- (a) to apply for registration as required under section 5; or
- (b) to notify the Commissioner of a change in his business as required under section 7; or
- (c) to apply for cancellation of registration as required section 8 commits an offence.

(2) Where the failure is deliberate or reckless he shall be liable on summary conviction to a fine not exceeding ₵10 million or imprisonment for a term not exceeding five years or to both and where the failure is for any reason, to a fine not exceeding ₵5 million or imprisonment for a term not exceeding one year or to both.

57. Failure to issue tax invoice –

A person who fails to issue a tax invoice as required under section 20 for goods supplied or services rendered commits an offence and is liable on summary conviction to a fine not exceeding ₵10 million cedis or imprisonment for a term not exceeding five years or to both.

58. False or misleading statement –

(1) A person who in any matter relating to the tax –

- (a) makes a statement to an officer of the Service which is false or misleading in any material particular; or

(b) omits from a statement made to the officer any matter or thing without which the statement is misleading in any material particular commits an offence.

(2) Where the statement or omission was made knowingly or recklessly he shall be liable on summary conviction to a fine not exceeding ₪10 million or to imprisonment for a term not exceeding five years or to both; and in any other case, be liable on conviction to a fine not exceeding ₪5 million or to imprisonment for a term not exceeding one year.

(3) It shall be a defence for the accused to prove that he did not know and could not reasonably be expected to have known that the statement to which the prosecution relates was false or misleading having regard to all the circumstances of the case.

(4) For the purpose of this section a statement made to an officer of the Service means a statement made in writing, orally or in any other form to the officer acting in the performance of his duties under this Act and regulations made thereunder and includes Statements made –

- (a) in an application, certificate, declaration, notification, return, objection or other document made, prepared, given, filed or furnished under this Act and regulations made thereunder; or
- (b) in information required to be furnished under this Act and regulations made thereunder; or
- (c) in answers to a question asked by an officer of the Service.

59. Falsification and alteration of documents –

(1) Any person who –

- (a) forges, falsifies or wilfully uses a forged or falsified certificate or other document required by or under this Act, or by or under the directions of the Commissioner or any instrument used in the transaction of any business or matter relating to the tax; or
- (b) alters any document or instrument relating to the tax after it has been officially issued, or forges the seal, signature, initials or other mark of or used by any officer for the verification of any document or instrument or for the security of the tax or relating to any tax payable under this Act; or
- (c) on any document or instrument required for the purposes of this Act forges or imitates the seal, signature, initials or other mark of or made use of by any other person whatsoever, whether with or without the consent of the person,

commits an offence and shall be liable on summary conviction to a minimum fine of €2 million and not exceeding €10 million or imprisonment for a term not exceeding 5 years or both and any goods involved in the commission of the offence shall be forfeited to the State.

60. Evasion of tax payment –

(1) A person who is knowingly concerned in or takes steps with a view to fraudulent evasion of the tax payable by him or any other person, commits an offence and is liable on summary conviction to a fine not exceeding three times the tax being evaded or to imprisonment for a term not exceeding 5 years or to both.

(2) A person who acquires possession of or deals with any goods, or accepts the supply of any goods or services having reason to believe that the tax on the supply of the goods or services has not been, or will not be paid or that tax has been, or will be, falsely reclaimed, commits an offence and is liable on summary conviction to a fine not exceeding 5 years or to both.

61. Failure to maintain proper records –

A person who fails to maintain proper records as required under this Act and regulations made under this Act commits an offence and is liable on summary conviction to –

- (a) a fine not exceeding €10 million or to imprisonment not exceeding 5 years or to both where the failure was deliberate or reckless; or
- (b) in any other case, to a fine not exceeding €5 million or to imprisonment not exceeding one year or to both.

62. Obstruction of officer of the Service –

A person who obstructs the Commissioner or an officer authorized by the Commissioner in the performance of his duties under this Act; assaults or refuses to grant access to his premises to the officer in the performance of his duties commits an offence and is liable on summary conviction to a fine of not less than €500,000 or more than €5 million or to imprisonment for a term not exceeding one year or to both.

63. Offences relating to officers –

(1) An officer of the Service who in connection with any of his duties takes or seeks, directly or indirectly, any payment or other reward, whether pecuniary or otherwise, on account of anything relating to his office or employment, including the failure to carry out his proper

duties, commits an offence and is liable on summary conviction to imprisonment for a term not exceeding five years or a fine not exceeding three times the value of any tax involved and shall be dismissed from the service.

(2) A person who directly or indirectly offers to any officer any payment or other reward whatsoever, whether pecuniary or otherwise, in order to induce the officer not to perform his proper duties commits an offence and is liable on summary conviction to imprisonment for a term not exceeding five years or a fine not exceeding three times any tax involved, or to both

(3) Any person who for the purposes of this Act and regulations made under it impersonates an officer of the Service in any way commits an offence and is liable on summary conviction to imprisonment for a term of not less than 6 months and not exceeding three years.

64. Protection of officers –

Subject to the Constitution an officer of the Service shall not be liable for any act in respect of any matter or thing done by him in good faith in the performance of his duties under this Act and regulations made under it.

65. Relationship of the Service and other public services –

(1) A Commissioner of any of the Revenue Services shall authorise the provision of any information about the taxes and duties for which he is responsible on the request of the Commissioner of another Revenue Service. Such requests may be made when the information requested will assist the Commissioner seeking the information to fulfil his statutory responsibilities and the information shall be provided without undue delay.

(2) The Commissioner may require any officer in the employment of the Government or any local authority, other public body, or private institution to supply such particulars as may be required in respect of the tax and which may be in the possession of the officer or person.

(3) Every person who is so required by the Commissioner shall give orally or in writing, as may be required, all such information as may be demanded of him by the Commissioner for the purpose of enabling the Commissioner to make an assessment or to collect the tax.

66. Taking of samples –

(1) An officer may take samples of goods from the possession of any person where he considers it necessary to protect revenue against mistake or fraud.

(2) The officer shall provide a receipt for any samples taken, and the samples may, except where there is an offence, be returned to the owner or be disposed by the Commissioner with the consent of the owner.

67. Power of inspection and warrants –

(1) For the purpose of exercising any power given by or under this Act, an officer may at any reasonable time enter premises used in any way for business purposes, including premises, where taxable goods are stored; and the officer may open any packaging and inspect and take stock of any goods and examine business records, accounts, and correspondence on the premises.

(2) Where the Commissioner is satisfied that there are reasonable grounds to suspect that any premises contain taxable goods on which the tax has been evaded or fraudulently over-claimed, or documents or other evidence of failure to pay the tax legally due, he may authorise an officer to seek a warrant to search the premises and things and persons therein.

(3) No search of any business premises, persons or things therein shall be made by any officer under this section, except under a warrant issued by a judge or Chairman or of a Tribunal.

(4) The authorized officer may for the purpose of entering the premises use such reasonable force as may be necessary.

(5) No female shall be searched except by a female.

(6) When exercising his powers under this section an officer may remove any goods or documents or other evidence which he has reasonable grounds to believe will provide assistance in assessing the tax due, or have been or will be, the subject of, or relevant to, the commission of an offence under this Act and regulations made under this Act.

(7) The officer shall provide a receipt for anything removed.

68. Power to seal off premises –

(1) The Commissioner or an officer authorised by the Commissioner may apply to a court for an order to seal off, lock up, or in any physical manner prevent any person from entering or gaining access to the premise of any person or taxable person who, there are reasonable grounds to believe has not paid the tax due or has made a false claim for repayment of the tax.

(2) An officer in performance of his duties under this section or any other section of this Act may seek the assistance of the police.

69. Provision of information –

(1) Where an officer of the Service has reasonable grounds to believe that an offence has been or will be committed in relation to any supply of goods or services under this Act, the officer may demand that –

(a) any person concerned in whatever capacity in the supply of the goods or services; or

(b) any person to whom the supply is made

shall produce all records and documents relating to the supply of the goods or services and the person shall comply.

(2) Any person or taxable person shall on request by an officer provide the information and answer any question, relating to subsection (1).

70. General penalty –

Any person who does any act or makes an omission which constitutes a contravention of any provision of this Act for which no penalty is provided or is concerned in the doing or making of any such act or omission, or who does any such act or makes any such omission with intent to facilitate evasion of the tax by himself or any person, commits an offence and is liable on summary conviction to a fine not exceeding three times the revenue or tax involved in the commission of the offence or to imprisonment for a term not exceeding five years or to both.

71. Penalty for unauthorized collection of the tax –

Any person, whether a taxable person or not who unlawfully charges and collects the tax on supply of goods or services commits an offence and is liable on summary conviction to a fine not exceeding ten times the amount of tax or revenue involved in the commission of the offence or to a term of imprisonment not exceeding five years or to both.

72. Compounding of offences –

(1) Where any person commits an offence under this Act which amounts to failure to pay the tax or which results in loss of revenue to the State, the Commissioner may at any time before proceedings are commenced in the court, compound the offence and order the person to pay a sum of money not exceeding three times the amount of tax or revenue involved in the commission of the offence.

(2) The Commissioner shall only compound an offence under this section if the person concerned admits in writing that the person has committed the offence.

(3) Where the Commissioner compounds an offence under this section, the order referred to in subsection (1) –

- (a) shall be in writing and specify the offence committed, the sum of money to be paid, and the due date for the payment, and shall have attached the written admission referred to in subsection (2);
- (b) shall be served on the person who committed the offence; and
- (c) shall be enforced in the same manner as an order of a court for the payment of the amount stated in the order.

(4) Where the Commissioner compounds an offence under this section, the person shall not be liable for prosecution in respect of the offence.

PART XIII – MISCELLANEOUS PROVISIONS

73. Evidence in proceedings –

(1) A certificate by the Commissioner that –

- (a) a person or taxable person was or was not registered on any date by or under this Act; or
- (b) any return required by or under this Act has not been made or had not been made by any date; or
- (c) tax shown as due in any return or assessment made under this Act has not been paid,

shall be sufficient evidence in civil or criminal proceedings of that fact unless the contrary is proved.

(2) A photocopy of any document furnished to the Commissioner or any other member of the Service under the requirements of this Act and certified to that effect by the Commissioner, shall be admissible as evidence in civil or criminal proceedings to the same extent as would the original document.

(3) A statement or other information contained in a document produced by a computer shall be admissible as evidence in civil or criminal proceedings provided it is certified as correct by the Commissioner unless the contrary is proved.

74. Regulations –

(1) The Minister may by legislative instrument make such regulations as he considers necessary for the implementation of this Act.

(2) Without prejudice to subsection (1) of this section regulations may be made –

- (a) prescribing anything that is required to be prescribed under this Act;
- (b) relating to time of supply for such goods and services as may be prescribed in the regulations;
- (c) relating to the form of tax return and payment;
- (d) in respect of time and method of claiming refund of tax;
- (e) in respect of issue of tax invoices and their production to officers;
- (f) for forms to be issued for the purposes of this Act;
- (g) in respect of records to be kept;
- (h) for the apportionment of input tax between taxable and exempt supplies, where applicable;
- (i) for the recovery, where applicable, of any tax paid on goods in stock at the start of business on the effective date of the tax;
- (j) for the application of special schemes for the collection of the tax in specified cases.

75. Directives and other powers of the Commissioner –

(1) Subject to the provisions of this Act and regulations made under it, the Commissioner may in writing give such administrative directives as he considers necessary for the implementation of the provisions of this Act and the regulation.

(2) The Commissioner may where he considers it necessary for the protection of revenue in writing request a taxable person to provide such security as the Commissioner considers adequate.

76. Interpretation –

In this Act unless the context otherwise requires –

“accounting period” means one calendar month;

“application to own use” in relation to goods, mean applying the goods to personal use including personal use by a relative or any other non business use;

“betting” means risking money or other property in forecasting the outcome of some event;

“Board” means the Value Added Tax Board established under section 39 of this Act;

“business” means a corporate body, individual, partnership or any organisation carrying on any form of commercial activity;

“Commissioner” means the Commissioner of Value Added Tax;

“consideration”, in relation to a supply of goods or services, means the total amount in money or kind paid or payable for the supply by any person, directly or indirectly, including any duties, levies, fees and charges paid or payable on, or by reason of, the supply other than the tax, reduced by any discounts or rebates allowed and accounted for at the time of the supply;

“exempt import” has the meaning in section 16;

“exempt supply” means a supply of goods or services to which section 14 applies;

“finance lease,” in relation to goods, includes the lease of goods where –

- (a) the lease term exceeds seventy-five percent of the expected life of the goods; or
- (b) the lessee has an option to purchase the goods for a fixed or determinable price at expiration of the lease; or
- (c) the estimated residual value of the goods to the lessor at the expiration of the lease term including the period of any option to renew is less than twenty percent of its fair market value at the commencement of the lease;

“gaming” has a similar meaning to “betting”,

“gaming machine” means a machine capable of accepting money or tokens risked in forecasting the outcome of some events;

“goods” includes all kinds of movable and immovable property, thermal and electrical energy, heating, gas, refrigeration, air conditioning and water, but does not include money;

“hire purchase agreement” means an agreement that is a hire purchase agreement within the meaning of the Hire Purchase Decree 1974 (N.R.C.D. 292);

“importer” in relation to import of goods includes the person who owns the goods or any other person who is for the time being in possession of or beneficially interested in the goods; and in relation to goods imported by means of a pipeline, includes the owner of the pipeline;

“input tax” means tax payable by a taxable person in respect of a taxable supply of goods and services or import;

“lotteries” means a scheme whereby the right is purchased to take part in a draw by lot for a prize;

“Minister” means the Minister responsible for Finance;

“officer” means any member of the Value Added Tax Service performing duties put on him under this Act and regulations under this Act or delegated to him by a senior officer of the Service, or any other person appointed or authorized by an officer to perform any official duty connected with the tax; and includes an officer performing any duty under this Act on behalf of the Commissioner;

“output tax” means the tax chargeable under section 1(4) in respect of taxable supply;

“registered” means registered under section 5 of this Act;

“relative” in relation to an individual, includes an ancestor of the individual, a descendant of the individual’s grandparents, or the spouse of the individual;

“return” means a return of tax due, or claim for tax refund;

“Revenue Services” means the Customs, Excise and Preventive Service, the Internal Revenue Service, and the Value Added Tax Service;

“sales tax” means the tax on sale of goods provided under Part IV (a) of the Customs, Excise and Preventive Service (Management) Law 1993 (P.N.D.C.L. 330);

“Service” means the Value Added Tax Service;

“the tax” means value added tax;

“tax invoice” means an invoice issued upon supply of taxable goods and services in accordance with this Act and regulations made under this Act;

“taxable person” is a person registered under section 5 and includes an individual, partnership, group of persons, company or corporations registered by the Commissioner under that section;

“tax period” means one calendar month;

“taxable transaction” means a taxable supply or an import of goods or services that is subject to tax under this Act;

“VAT” means Value Added Tax.

77. Consequential amendment –

On the date that the value added tax becomes chargeable under this Act, the Customs, Excise and Preventive Service (Management) Law 1993 (PNDCL. 330) shall be deemed to be amended as follows –

- (a) in section 24 –
 - (i) by the repeal of paragraph (c) of subsection (2);
 - (ii) by the deletion of the word “sales” in paragraph (a) of subsection (4);
- (b) by the repeal of sections 60 to 64; and
- (c) by the deletion of the words “sales tax” wherever they appear in the Law.

78. Repeal, savings and transitional provisions –

(1) On the date that the value added tax becomes chargeable under this Act the following Acts shall cease to be applicable and shall be deemed to be repealed –

- (a) the Customs, Excise, and Preventive Service (Management) (Amendment) (No. 2) Act 1995 (Act 500);
- (b) the Service Tax Act 1995 (Act 501); and
- (c) the Service Tax (Amendment) Act, 1997 (Act 529).

(2) Notwithstanding the repeal under subsection (1) any person liable to register –

- (a) for sales tax under the Customs, Excise and Preventive Service (Management) Law, 1993 (P.N.D.C.L. 330),
- (b) for service tax under the Service Tax Act, 1995 (Act 501)

before the coming into force of this Act shall on the coming into force of this Act be deemed to be liable for registration under this Act.

(3) Notwithstanding the repeal under subsection (1) the repealed enactments shall remain in force –

- (a) for the purpose of verifying the relevant tax returns; and
- (b) for the assessment and recovery of any arrears or penalty

payable under the repealed enactments.

79. Commencement –

(1) Subject to subsection (2) of this section Act shall come into force on the date it is published in the *Gazette* after the Presidential assent.

(2) The liability for the payment of the tax shall come into force on such date as the Minister shall specify in the *Gazette* and the mass media and shall be a date not later than 31st December, 1998;

Provided that the Minister shall give at least 30 days notice in the *Gazette* and mass media of the date for the payment of the tax.

SCHEDULES

SCHEDULE 1 – (EXEMPT SUPPLIES) (Sections 14 & 16)

<i>Items No.</i>	<i>Description</i>
1. Animals, livestock and poultry.	All live animals
2. Animals, livestock and poultry Imported for breeding purposes.	Live asses, mules, and hinnies; live bovine animals; live swine; live sheep and goats; live poultry.
3. Animal product in its raw state Produced in Ghana.	Edible meat and offal of the animals listed in term I, provided any processing is restricted to salting, smoking or similar process, but excluding pate, fatty livers of geese and ducks and similar products.
4. Agricultural and aquatic food product in its raw state. Produced in Ghana.	Fish, crustaceans, and molluscs, (but excluding ornamental fish); Vegetables and fruits, nuts, coffee, cocoa, shea butter, maize sorghum, millet, tubers, guinea corn and rice.
5. Seeds, bulbs rootings, and other forms of propagation	Of edible fruits, nuts and vegetables.
6. Agricultural inputs	Chemicals including all forms of fertilizers, acaricides, fungicides, nematicides, growth regulations pesticides, veterinary drugs and vaccines, feed and feed ingredient.

Note:

Products under items 3 and 4 shall be considered as in their original or raw state even if they have undergone simple processes of preparation or preservation such as freezing, chilling, drying, salting, smoking, stripping or polishing.

<i>Items No.</i>	<i>Description</i>
7. Fishing equipment:	boats, nets floats, twines, hooks and other fishing gear.
8. Water:	Supply of waters excluding bottled and distilled water;
9. Electricity:	domestic use of electricity up to a minimum consumption level prescribed in regulations by the Minister.
10. Printed matter – (Books and news papers):	fully printed or produced by any duplicating process, including atlases, books, charts, maps, music, but excluding newspapers (imported), plans and drawings, scientific and technical works, periodicals, magazines, trade catalogues, price lists, greeting cards, almanacs, calendars and stationery.
11. Education:	The supply of educational services at any level by an educational establishment approved by the Minister for Education. Laboratory equipment for educational purposes and library equipment.
12. Medical supplies and Service-pharmaceuticals:	Essential drug list and medical supplies determined by the Minister of Health and approved by Parliament.
13. Transportation:	Includes transportation by bus and similar vehicles, train, boat and air.
14. Machinery:	<p data-bbox="691 1293 1409 1367">machinery, apparatus, appliances and part thereof, designed for use in –</p> <ul style="list-style-type: none"> <li data-bbox="789 1377 1360 1440">(a) agriculture, veterinary, fishing and horticulture; <li data-bbox="789 1451 1003 1482">(b) industry; <li data-bbox="789 1493 1455 1556">(c) mining as specified in the mining list and dredging; and <li data-bbox="789 1566 1179 1587">(d) railway and tramway.

<i>Items No.</i>	<i>Description</i>
15. Crude oil and hydrocarbon Products:	Petrol, diesel, liquefied petroleum gas, kerosene and residual fuel oil.
16. Land, buildings and construction:	(a) Land and buildings; the granting assignment or surrender of an interest in land or building; the right to occupy land or buildings; (b) Civil engineering work; (c) Services supplied in the course of construction, demolition, alteration, maintenance, to buildings or other works under (a) or (b) above, including professional services such as architectural or surveying;
17. Financial services:	provision of insurance; issue, transfer, receipt of, or dealing with money (including foreign exchange) or any note or order of payment of money; provision of credit; operation of any bank (or similar institution) account; but excluding professional advise such as accountancy, investment, and legal.
18. Goods for the disabled:	articles designed exclusively for us by the disabled.
19. Transfer of going concern	the supply of goods as part of the transfer of a business as a going concern by one taxable person to another taxable person.
20. Postal Services	supply of postages stamps.

SCHEDULE 2 – ZERO-RATED SUPPLIES (Section 15)

1. Export of taxable goods and services.
2. Goods shipped as stores on vessels and aircrafts leaving the territories of Ghana.

SCHEDULE 3 – (RELIEF SUPPLIES) (Section 17)

1. President of the Republic of Ghana.
2. For the official use of any Commonwealth of Foreign Embassy, Mission or Consulate (relief applies only to VAT on imported goods).
3. For the use of a permanent member of the Diplomatic Service of any Commonwealth or Foreign Country, exempted by Parliament from the payment of Customs duties (relief applies only to VAT on imported goods).

Note: Provided that with regard to items 2 and 3 of this Schedule a similar privilege is accorded by such Commonwealth of Foreign Country to the Ghana representative in that country.

- 4. For the use of an international agency or technical assistance scheme where the terms of the agreement made with the Government include exemption from domestic taxes.
- 5. Emergency relief items approved by Parliament.

SCHEDULE 4 - (APPORTIONMENT INPUT TAX) Section 26(2))

For the purpose of determining the deductible input tax under subsection (2) of section 26, the following formula shall apply –

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

Where

A is the total amount of input tax for the period; and

B is the total amount of taxable supplies made by the taxable person during the period; and

C is the total amount of all supplies made by the taxable person during the period.

WARRANT OF DISTRESS

UNDER VALUE ADDED TAX ACT, 1998 (ACT 546)

(Section 34 (3))

To

I Commissioner of VAT by virtue of the powers vested in me by section 34(3) of the VAT Act, 1998 (Act) do hereby authorize you to collect and recover the sum of due for tax/penalty/interest from..... VAT debtor of and for the recovery of this sum I authorize you, with the aid if necessary of your assistants to levy this sum forthwith by distress together with the costs and charges of and incidental to the keeping of the distress on all distrainable things specified under section 34(2) of the Value Added Tax Act, 1998 (Act) the property of and belonging to the said debtor wherever they may be found and on all such distrainable things as specified under the said section 34(2) used in Ghana in the manufacture, production, sale or distribution of any taxable supplies which you may find in any premises or on any land owned by or in possession of the said taxable person on his behalf or in trust for him.

For the purpose of levying the distress you are hereby authorized to call to your assistance any police officer to break open any building or place in the day time.

Given under my hand at.....this..... day of

Commissioner of VAT

Date of Gazette notification: 18th March, 1998.

THE FIVE HUNDRED AND SEVENTY-NINTH

ACT

OF THE PARLIAMENT OF THE REPUBLIC

OF GHANA

ENTITLED

VALUE ADDED TAX (AMENDMENT) ACT, 2000

AN ACT to amend the Value Added Tax Act, 1998 (Act 546) to increase the rate of tax, to provide for exemptions and to provide for related matters.

DATE OF ASSENT: *19th April, 2000.*

BE IT ENACTED by Parliament as follows:

Section 3 of Act 546 amended

1. The Value Added Tax Act, 1998 (Act 546) referred to in this Act as the “principal enactment” is amended in section 3 by the substitution for “10 per cent” of “12½ per cent”

Schedule 1 of Act 546 amended

2. The principal enactment is amended in Schedule 1 by the repeal of item 12 and the insertion of the following:

“12. (a) Medical Services

(b) Pharmaceuticals Essential drugs as listed under Chapter 30 of the Harmonised Systems Commodities Classification Code, 1999 and the active ingredients specified in Schedule 1 A for essential drugs”.

Schedule 1 A inserted in Act 546

3. The principal enactment is amended by the insertion after Schedule 1 of a new Schedule 1 A as follows:

“SCHEDULE 1A – ACTIVE INGREDIENTS FOR ESSENTIAL DRUGS

1. Aluminium Hydroxide powder
2. Amoxicillin Trihydrate Powder
3. Amocycillin Trihydrate Compacted
4. Ampicillin Trihydrate Powder
5. Ampicillin Trihydrate Compacted
6. Acetysalicycli Acid (Aspirin)
7. Codeine Phosphate Powder
8. Chloramphenicol Levo Powder
9. Chloramphenicol Palmitate Powder
10. Chlordiazepoxide Hcl Powder
- 11 Chloroquine Phosphate Powder
12. Chlorpheniramine Maleate Powder
13. Cloxacillin Sodium Powder
14. Diazepam Powder
15. Diphenhydramine Hcl Powder
16. Ferric Ammonium Ciitrate Powder/Crystals
17. Haemoglobin Powder
18. Ibuprofen Powder
19. Indomethacin Powder
20. Liver Extract
21. Mebendazole Powder
22. Metronidazole Powder
23. Metronidazole Benzoate Powder
24. Oxy-Tetracycline Hcl Powder
25. Acetaminophen Powder (Paracetamol)
26. Penicillin V Potassium Powder
27. Piperazine Citrate Powder/Crystals

28. Prednisolone Powder
29. Sulphamethoxazole Powder
30. Sulphathiazazole Powder
31. Phthayl Sulphathiazazole Powder
32. Tetracycline Hcl Powder
33. Trimethoprim Powder
34. Gelatin Capsule Shells"

Date of *Gazette* notification: 28th April, 2000

THE FIVE HUNDRED AND NINETY-FIFTH

ACT

OF THE PARLIAMENT OF THE REPUBLIC
OF GHANA
ENTITLED

VALUE ADDED TAX (AMENDMENT) ACT, 2001

AN ACT to amend the Value Added Tax Act, 1998 (Act 546) by revising the thresholds and removing from the exemption in the Schedule, imported finished pharmaceutical production to make them taxable, except sale at retail level.

DATE OF ASSENT: *4th April, 2001.*

BE IT ENACTED by parliament as follows:

The Value Added Tax Act, 1998 (Act 546) as amended is further amended as follows:

(a) by the substitution for subsection (1) of section 5 of the following:

“Registration as taxable person

5. (1) A person is registrable as a taxable person if he is a person who makes a taxable supply of goods or services and in the case of a retailer of goods he is a person whose business turnover exceeds –

(a) ₵100 million over a twelve-month period; or

- (b) ¢75 million over a nine-month period
- (c) ¢50 million over a six-month period; or
- (d) ¢25 million over a three-month period;
which is achieved earliest”;

(b) by the substitution for item 12 in the Schedule of the following:

- “Item No. 12 (a) Medical Services
(b) Pharmaceuticals

Essential drugs as listed under Chapter 30 of the Harmonise Systems Commodities; Classification Code, 1999 produced or supplied by retail in Ghana, and the active ingredients specified in Schedule 1 A for essential drugs;

Imported special drugs determined by the Minister for Health and approved by Parliament”.

Date of *Gazette* notification: 6th April, 2001

THE SIX HUNDRED AND TWENTY-NINETH
ACT
OF THE PARLIAMENT OF THE REPUBLIC
OF GHANA
ENTITLED
VALUE ADDED TAX (AMENDMENT) ACT, 2002

AN ACT to amend the Value Added Tax Act, 1998 (Act 546).

DATE OF ASSENT: *24th June, 2002.*

BE IT ENACTED by Parliament as follows:

Schedule 16 to Act 546 amended

1. The Value Added Tax Act, 1998 (Act 546) as amended and referred to in this Act as the “principal enactment” is further amended by the substitution for section 16 of the following:

“Exempt import

16. An import of goods is an exempt import if the goods are exempt under Schedule 1 to this Act and classified as exempt import in conformity with the Harmonized Commodity Description and Coding System also known as the ‘Harmonized System’.

Section 57 of Act amended

2. The principal enactment is amended in section 57 by the substitution for “section 20” of “section 19”.

Schedule 1 to Act 546 amended

3. Schedule 1 to the principal enactment is amended as follows:

(a) by the substitution for items 1 and 2 of the following:

<i>Item No.</i>	<i>Description</i>
“1. Live Animals	Cattle, sheep, goat, swine and poultry but excluding horses, asses, mules, hinnies and similar exotic animals.
2. Animals, livestock, poultry and fish breeding purposes.	Live asses, mules and hinnies, live bovine animals, live swine; live imported for sheep and goats; live marine mammals, live fish and aquatic invertebrates”;

(b) by the substitution for item 5 under the heading “Description”, of the following:

“of edible fruits, nuts, cereals, tubers and vegetables”;

(c) in item 16 under the heading “Description”,

(i) by the addition to paragraph (a) at the end after the word “buildings” of the following:

“excluding hotel accommodation, warehousing, storage and similar occupancy incidental to the provision of the relevant services”;

(ii) by the repeal of paragraph (c); and

(d) by the insertion after item 20 of the following new items:

- “21. Salt Denatured salt, compressed salt used in animal feeding and salt for human consumption including table salt.
22. Mosquito net Mosquito nets of man-made textile material whether or not impregnated with chemicals”.

Date of *Gazette* notification: 25th April, 2002

THE SIX HUNDRED AND THIRTY-NINTH
ACT
OF THE PARLIAMENT OF THE REPUBLIC
OF GHANA
ENTITLED
VALUE ADDED TAX (AMENDMENT) ACT, 2003

AN ACT to amend the Value Added Tax Act, 1998 (Act 546) as amended to exempt from VAT Compact Fluorescent Lamps (CFL) and fully assembled computers imported or procured locally by educational establishments that are approved by the Ministry of Education.

DATE OF ASSENT: *11th April, 2003.*

BE IT ENACTED by Parliament as follows:

Schedule 1 to Act 546 amended

The Value Added Tax Act, 1998 (Act 546) as amended is further amended in Schedule 1 as follows:

(a) in item 9 under the heading "Description" by the addition of the following:

"Compact Fluorescent Lamps (CFL)".

(b) in item 11 under the heading "Description" by the insertion of the following sentence after the word "Education".

"Fully assembled computers imported or procured locally by educational establishments that are approved by the Minister of Education".

Date of *Gazette* notification: 17th April, 2003.

THE SIX HUNDRED AND SEVENTIETH
ACT
OF THE PARLIAMENT OF THE REPUBLIC
OF GHANA
ENTITLED
VALUE ADDED TAX (AMENDMENT) ACT, 2004

AN ACT to amend the Value Added Tax Act, 1998 (Act 546) to include pharmaceutical products and expand the list of pharmaceutical raw materials exempt from VAT and to provide for related matters.

DATE ASSENT: *23rd April, 2004*

BE IT ENACTED by Parliament as follows:

Schedule 1 to Act 546 amended.

The Value Added Tax Act, 1998 (Act 546) as amended is further amended

(a) by the substitution for item 12 of Schedule 1 of the following;

“12 Medical Service – Pharmaceuticals

(a) Medical Services

(b) Pharmaceuticals

(i) Essential drugs as listed Under Chapter 30 of the Harmonised System Commodities Classification Code, 1999, produced or supplied by retail in Ghana;

(ii) Active ingredients specified in Schedule 1 A for essential drugs;

(iii) Imported special drugs determined by the Minister for Health and approved by Parliament as specified in Schedule 1 B.”

(b) by the substitution of Schedule 1 A of the following:

“SCHEDULE 1 A

ACTIVE INGREDIENTS FOR ESSENTIAL DRUGS

1. Aluminium Hydroxide powder
2. Amoxicillin Trihydrate Powder
3. Amoxicillin Trihydrate Compacted
4. Ampicillin Trihydrate Powder
5. Ampicillin Trihydrate Compacted
6. Acetylsalicylic Acid (Aspirin)
7. Codeine Phosphate Powder
8. Chloramphenicol Levo Powder
9. Chloramphenicol Palmitate Powder
10. Chlordiazepoxide Hcl Powder
11. Chloroquine Phosphate Powder
12. Chlorpheniramine Maleate Powder
13. Cloxacillin Sodium Powder
14. Diazepam Powder
15. Diphenhydramine Hcl Powder
16. Ferric Ammonium Citrate Powder/Crystals
17. Haemoglobin Powder
18. Ibuprofen Powder
19. Indomethacin Powder
20. Liver Extract
21. Mebendazole Powder

22. Metronidazole Powder
23. Metronidazole Benzoate Powder
24. Oxytetracycline Hcl Powder
25. Acetaminophen Powder (Paracetamol)
26. Penicillin V Potassium Powder
27. Piperazine Citrate Powder/Crystals
28. Prednisolone Powder
29. Sulphamethoxazole Powder
30. Sulphathiazole Powder
31. Phthaysulphathiazole Powder
32. Tetracycline Hcl Powder
33. Trimethoprim Powder
34. Gelatin Capsule Shells
35. Flocloracillin Compacted/powder
36. Albendazole Powder
37. Griseofulvin Powder
38. Diclofenac Sodium Powder
39. Nifedipine Powder
40. Gilbenclamide Powder
41. Metformin Powder
42. Quinine Sulphate Powder
43. Ciprofloxacin Powder
44. Propranolol Powder
45. Artesunate Powder
46. Doxycycline Compacted/Powder
47. Sulphadoxine Powder
48. Pyrimethamine Powder
49. Methylsalicylate Powder
50. Theophylline Powder
51. Phenobarbitone Powder
52. Magnesium Hydroxide Powder
53. Salbutamol Powder
54. Erythromycin Powder
55. Promethazine Powder

56. Folic Acid Powder
57. Amodiaquine Powder
58. Isoniazid Powder
59. Thiacetazone Powder
60. Rifampicin Powder
61. Ferrous Salt Powder
62. Reserpine Powder
63. Frusemide Powder
64. Bisacodyl Powder
65. Ergometrine Maleate Powder
66. Cimetidine powder

(c) by the insertion after Schedule 1 A of a new Schedule 1 B as follows:

“SCHEDULE 1 B

SELECTED IMPORTED SPECIAL DRUGS

1. Acetylcysteine Inj. 200mg/10m1
2. Aminophylline Injection, 250mg/10m1
3. Antileprosy Pack (Clofazimine Tablet, 100mg: Dapsone Tablet, 50mg
Rifampicin Capsule, 300mg)
4. Antirabies immunoglobulins Inj. 10001U/5ml (Bovine)
5. Antirabies immunoglobulins Inj. (Human)
6. Anti-snake venom, Polyvalent Inj.
7. BCG Vaccine Injection
8. Carbamazepine Tablets, 200mg
9. Chlopromazine Tablet, 100mg
10. Chlopromazine Tablet 25mg
11. Chlopromazine Tablet, 50mg
12. Diagnostic Strips - Glucose
13. Diagnostic Strips - Multipurpose
14. Diagnostic Strips - Protein
15. Diagnostic Tablets - Glucose
16. Diagnostic Tablets - Ketones
17. Diphtheria + Pertussis + Tetanus vaccine Injection
18. Ethosuximide Syrup 250mg/5m1
19. Ethosuximide Tablet, 250mg
20. Gilbenclamide Tablet, 5mg
21. Glyceryl Trinitrate Sublingual Tablet 500mg
22. Haloperidol Inj. 50mg
23. Hepatitis B Vaccine Inj.
24. Hydralazine Injection 20mg/Ampoule

25. Imipramine Tablet 25mg
26. Isoniazid + Thioacetazone Tablet, 300 + 150mg
27. Insulin Isophane Inj. 100 units/m1 10m1
28. Insulin Lente Injection 100 units/m1 10m1
29. Insulin soluble, 100 units/m1/10m1
30. Isoniazid Tablet, 6mg
31. Ivermectin Tablet, 6mg
32. Meales Vaccine Injection
33. Meningococcal Vaccine Injection
34. Metformin Tablet, 500mg
35. Metformin Tablet, 850mg
36. Nifedipine Capsule, 10mg
37. Nifedipine Capsule, 5mg (slow release)
38. Nifedipine Capsule, 10mg (slow release)
39. Nifedipine Tablet, 20mg (slow release)
40. Oxygen (Medicinal Gas) Inhalation
41. Phenytoin Injection, 50mgm1
42. Phenytoin sodium Table, 100mg
43. Poliomyelitis Vaccine Oral solution
44. Pyrazinamide Suspension, 125mg/m1
45. Pyrazinamide Tablet, 500mg
46. Quinine Inj. 40mg/m1in 5m1
47. Quinine Tablet, 300mg
48. Rabies Vaccine Injection
49. Rifampicin + Isoniazid Suspension, 75+50mg/5m1
50. Rifampicin+Isoniazid Tablet, 150gm+100mg
51. Salbutamol Inhaler, 200 dose 100mcg/metered dose
52. Salbutamol Nebulizer Solution, 5mg/m1as sulphate
53. Salbutamol Sulphate Inj. 50mcg/m1
54. Salmeterol Inhaler, 120 doses 25mcg/metered dose
55. Streptomycin Injection, 1gm
56. Tetanus Immunoglobulin Injection, 2501U/m1
57. Tetanus Vaccine Injection, 401U/5m1
58. Tetracycline Eye Ointment 1% 5gm

59. Timolool Maleate Eye Drops 0.5%
60. Tuberculin (PPD) Injection
61. Valproate sodium Capsule, 200mg
62. Valproate sodium syrup, 200mg/5m1
63. Yellow Fever Vaccine Injection 20 doses
64. Yellow Fever Vaccine Injection 10 doses
65. Zidovudine+Lamivudine Tablet, 300mg+150mg
66. All other anti-retroviral drugs approved for use in Ghana”

Date of *Gazette* notification: 30th April, 2004.

THE SIX HUNDRED AND SEVENTY-FIRST
ACT
OF THE PARLIAMENT OF THE REPUBLIC
OF GHANA
ENTITLED
VALUE ADDED TAX (AMENDMENT NO. 2) ACT, 2004

AN ACT to amend the Value Added Tax Act, 1998 (Act 546) as amended to remove VAT on import for VAT registered manufacturers on inputs for fishing nets, twines and musical instruments and for connected purposes.

DATE OF ASSENT: *23rd April, 2004.*

BE IT ENACTED by Parliament as follows:

Schedule 1 of Act 546 amended

1. The Value Added Tax Act, 1998 (Act 546) as amended and referred to in this Act as the “principal enactment” is further amended in Schedule I as follows:

(a) in item 7 under the heading “Description”, by the addition of the following:

“Input (imported) for fishing nets and twines”

(b) by the insertion after item 22 of the following new item:

“23. Musical Instruments: Musical instruments as listed
under Chapter 92 of the
Harmonised Commodities
Classification Code”.

Schedule 3 of Act 546 amended

2. Schedule 3 of the principal enactment is amended by the addition of the following:

“VAT-registered manufactures for raw materials at importation, subject to the condition that:

- (i) the manufacturer is a member in good standing of the Association of Ghana Industries;
- (ii) the manufacturer has submitted all previous tax returns and paid the tax, penalties and interest from previous tax periods;
- (iii) the Commissioner is satisfied that the manufacturer has met the conditions in subparagraphs (i) and (ii) of this paragraph and other compliance requirements of this Act and has listed the manufacturer in a register published by the Commissioner with a validity period of 6 months effective 1st January of each year;
- (iv) the imported raw materials will be applied solely and exclusively for the manufacturing operations of the relief beneficiary.”

Date of *Gazette* notification: 30th April, 2004.

THE SIX HUNDRED AND NINETY-SIXTH
ACT
OF THE PARLIAMENT OF THE REPUBLIC
OF GHANA
ENTITLED
VALUE ADDED TAX (AMENDMENT) ACT, 2006

AN ACT to amend the Value Added Tax Act, 1998 (Act 546) to zero-rate locally produced textbooks, exercise books, locally manufactured agricultural machinery and implements or tools and for related matters.

DATE OF ASSENT: *23rd February, 2006*

ENACTED by the President and Parliament:

Schedule 2 to Act 546 amended

1. The Value Added Tax Act, 1998 (Act 546) referred to as the “principal enactment” is amended in Schedule 2 by the insertion after item no. 2 of the following new items:

“3. Locally produced textbooks and exercise books.

4. Locally manufactured agricultural machinery and other agricultural implements or tools”

Section 25 of Act 546 amended

2. The principal enactment is amended in section 25 by the substitution for subsection (1) of the following:

“(1) Where the amount of input tax which is deductible exceeds the amount of output tax due in respect of the accounting period, the excess amount shall be credited by the Commissioner to the taxable person except in the case of

(a) exports, where the Commissioner may refund the excess credit to the taxable person where that persons exports exceed 25% of the total supplies within the accounting period and the total export proceeds have been repatriated by the importers’ banks to the exporters’ authorised dealer banks in Ghana, and

(b) the supplies specified in items 2 and 3 of Schedule 2 to this Act where the Commissioner may refund the excess credit to the taxable person”.

Schedule 1 to Act 546 amended

3. Schedule 1 to the principal enactment is amended by deleting the word “agriculture” in Description (a) of item No. 4”.

Date of *Gazette* notification: 24th February, 2006.

THE SEVEN HUNDRED AND THIRTY-FOURTH

ACT

OF THE PARLIAMENT OF THE REPUBLIC

OF GHANA

ENTITLED

VALUE ADDED TAX (AMENDMENT) ACT, 2007

AN ACT to amend the Value Added Tax Act, 1998 (Act 546) in order to give legal backing to a Flat Rate VAT SCHEME that will facilitate VAT collection in the informal retail distributing trade sector and to provide for related purposes.

DATE OF ASSENT: *18th May, 2007*

ENACTED by the President and Parliament:

Schedule 24 of Act 546 amended

1. The Value Added Tax Act, 1998 (Act 546) as amended and referred to in this Act as the principal enactment is further amended in subsection 24 by the insertion after subsection (6) of subsection (6a)

“(6a) A taxable person to whom subsection (2) of section 3 applies does not qualify for input tax deduction or tax credit”.

Section 3 of Act 546 amended

2. The principal enactment is amended in section 3 by the insertion of subsection (2).

“(2) Unless otherwise directed by the Commissioner in writing, a taxable person who is a retailer of goods shall account for the Value Added Tax payable under this section at a flat rate of 3% calculated on the value of the taxable supply”.

Section 76 of Act 546 amended

3. The principal enactment is by the insertion after the interpretation of “VAT” of “VAT Flat Rate Scheme” means a Value Added Tax collection and accounting mechanism that applies a marginal tax percentage representing net VAT payable on the value of taxable goods supplied”.

Date of Gazette notification: 24th May, 2007.

THE SEVEN HUNDRED AND FIFTY-SECOND
ACT
OF THE PARLIAMENT OF THE REPUBLIC
OF GHANA
ENTITLED
VALUE ADDED TAX (AMENDMENT) ACT, 2008

An Act to amend the Value Added Tax 1998, (Act 546), to exempt telephone sets including mobile or cellular phones and satellite phone from the imposition of Value Added Tax.

DATE OF ASSENT: 28th March, 2008.

ENACTED by the President and Parliament:

First Schedule of Act 546 amended

The Value Added Tax Act, 1998 (Act 546), is amended in the First Schedule by the insertion after item 23 of this new item:

<i>Item No.</i>	<i>Description</i>
"24. Telephone sets:	Telephone sets, including mobile or cellular phones and satellite phones as specified under the First Schedule to the Customs Excise and Preventive Service (Duties and Other Taxes) Act 1996, (Act 512)".

Date of Gazette notification: 28^h March, 2008.