

CHAPTER 15.42

VALUE ADDED TAX ACT

Revised Edition

Showing the law as at 31 December 2019

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

• Act • Subsidiary Legislation •

ACT

(Act 7 of 2012, 10 of 2012, 15 of 2013, 5 of 2014, 5 of 2016 Statutory Instruments 114/2012, 145/2012, 146/2012, 149/2012, 150/2012, 158/2012, 159/2012, 160/2012, 13/2013, 46/2013, 64/2013, 77/2013, 83/2013, 53/2014, 63/2014, 54/2014, 65/2014, 78/2014, 117/2014, 6/2015, 109/2015, 101/2016, 102/2016, 74/2017 and 121/2017, 118/2018, 103/2019, 156/2019 and 174/2019)

Act 7 of 2012 .. in force 1 October 2012 (S.I. 114/2012)

Amended by Act 10 of 2012 .. in force 28 September 2012

Amended by Act 15 of 2013 .. in force 16 December 2013

Amended by Act 5 of 2014 .. in force 17 March 2014

Amended by S.I. 145/2012 .. in force 14 November 2012 (Terminated 8 February 2013)

Affirmed by S.I. 158/2012 .. in force 10 December 2012

Amended by S.I. 146/2012 .. in force 19 November 2012

Amended by S.I. 149/2012 .. in force 22 November 2012 (Terminated 8 February 2014)

Affirmed by S.I. 159/2012 .. in force 10 December 2012

Amended by S.I. 150/2013 .. in force 22 November 2012

Affirmed by S.I. 160/2012 .. in force 10 December 2012

Amended by S.I. 13/2013 .. in force 25 February 2013 (Terminated 8 February 2014)

Amended by S.I. 46/2013 .. in force 24 June 2013 (Terminated 31 March 2014)

Affirmed S.I. 64/2013 .. in force 9 September 2013

Amended by S.I. 77/2013 .. in force 18 November 2013 (Terminated 31 January 2014)

Amended by S.I. 83/2013 .. in force 9 December 2013 (Terminated 15 February 2014)

Amended by S.I. 63/2014 .. in force 1 April 2014

Affirmed by S.I. 53/2014

Amended by S.I. 65/2014 .. in force 1 June 2014

Affirmed by S.I. 54/2014

Amended by S.I. 78/2014 .. in force 11 July 2014

Amended by S.I. 117/2014 .. in force 1 December 2014

Affirmed by S.I. 6/2015 .. in force 1 December 2014

Amended by S.I. 109/2015 .. in force 1 December 2015

Amended by Act 5 of 2016 .. in force 14 March 2016

Amended by S.I. 101/2016 .. in force 1 February 2017

Amended by S.I. 102/2016 .. in force 5 December 2016

Amended by S.I. 74/2017 .. in force 24 July 2017

Amended by S.I. 121/2017 .. in force 15 November 2017

Amended by S.I. 118/2018 .. in force 26 November 2018

Amended by S.I. 103/2019 .. in force 1 June 2018 (Terminating 30 June 2022)

ARRANGEMENT OF SECTIONS

PART 1 PRELIMINARY

1. Short title
2. Interpretation
3. Fair market value
4. Supply
5. Supply by agent or auction
6. Taxable activity

PART 2 ADMINISTRATION

7. Powers and duties of the Comptroller
8. Secrecy and oath of secrecy

PART 3 IMPOSITION AND RATE OF TAX

9. Imposition of tax and persons liable
10. Rate of tax

PART 4 REGISTRATION

11. Taxable person
12. Registration
13. Registration procedure
14. Cancellation of registration
15. Registered person to recover tax from person supplied

PART 5 TAX ON SUPPLY

DIVISION 1 Zero rated and exempt supply

16. Zero rated supply
17. Exempt supply

DIVISION 2 Rules relating to supply

18. Time of supply
19. Place of supply
20. Value of supply

PART 6 TAX ON IMPORTS

DIVISION 1 Exempt imports

21. Exempt imports

DIVISION 2 Tax on import of goods

22. Calculation and collection of tax on import of goods
23. Time of import of goods
24. Value of import of goods
25. Import declaration and payment of tax for importation of goods

DIVISION 3
Tax on import of services

- 26. Time of import of services
- 27. Value of import of services
- 28. Import declaration and payment of tax for importation of services

PART 7

CALCULATION OF TAX PAYABLE

- 29. Tax payable for tax period
- 30. Input tax deduction
- 31. Input tax deduction allocation and disallowance rules
- 32. Post-sale adjustments and bad debts
- 33. Interest on unpaid tax
- 34. Tax invoices and sales receipts
- 35. Tax credit and debit notes

PART 8

TAX PERIOD, RETURNS AND ASSESSMENTS

- 36. Tax period
- 37. Returns
- 38. Extension of time
- 39. Assessments
- 40. General provisions relating to assessments

PART 9

OBJECTIONS AND APPEALS

- 41. Objections
- 42. Appeals to Appeal Commissioners
- 43. Appeal to the High Court
- 44. Appeal to the Court of Appeal
- 45. Burden of proof

PART 10

PAYMENT, COLLECTION AND RECOVERY

- 46. Due date for payment of tax
- 47. Allocation of payments
- 48. Recovery of tax as debt due
- 49. Recovery of tax from persons leaving Saint Lucia
- 50. Security
- 51. Preferential claim to assets
- 52. Seizure of goods and vehicles
- 53. Distress proceedings
- 54. Recovery of tax from recipient of supply
- 55. Recovery of tax from third parties
- 56. Duties of receivers

PART 11

CARRY FOWARDS, REFUNDS AND INTEREST

- 57. Carry forward of excess credits and refund of tax
- 58. Interest on overpayment
- 59. Others eligible for tax refund

PART 12

REPRESENTATIVES AND SPECIAL CASES OF TAXABLE PERSONS

- 60. Persons acting in a representative capacity
- 61. Power to appoint representatives
- 62. Directors of corporations
- 63. Officers of unincorporated bodies
- 64. Partnerships or unincorporated associations
- 65. Death or insolvency of taxable person
- 66. Trustee
- 67. Branches or divisions

PART 13
RECORDS AND INVESTIGATION POWERS

- 68. Meaning of records
- 69. Record-keeping
- 70. Notice to obtain information or evidence
- 71. Liability to cost
- 72. Access to records, computers and goods

PART 14
OFFENCES AND PENALTIES

DIVISION 1
Criminal proceedings

- 73. Sanction for prosecution
- 74. Time limit for proceedings to be taken
- 75. Tax evasion
- 76. Impeding tax administration
- 77. Offences by tax officers
- 78. Offences by companies, aiders and abettors
- 79. Collection of tax by non-registered persons
- 80. False or misleading statements
- 81. Other offences
- 82. General penalty
- 83. Compounding of offences

DIVISION 2
Civil penalties

- 84. General provisions
- 85. Procedure

DIVISION 3
Civil Offences

- 86. Failure to register or display certificate
- 87. Failure to notify Comptroller
- 88. Tax invoices etc.
- 89. Failure to file return
- 90. Failure to comply with notice of recovery of tax
- 91. Failure to keep records
- 92. Failure to provide facilities and assistance
- 93. Failure to comply with notice to give information
- 94. Non-compliance with price quotation requirements
- 95. Temporary closure of business premises
- 96. Publication of names of defaulters

PART 15
MISCELLANEOUS

- 97. Taxpayer identification number
- 98. Forms and notices and authentication of documents
- 99. Service of notices
- 100. Tax-inclusive pricing
- 101. Schemes for obtaining tax benefits
- 102. Currency conversion
- 103. International agreements
- 104. Registration of certain goods prohibited in certain circumstances
- 105. Auctioneer and agent
- 106. Regulations
- 107. Variation of consideration on a change in rate
- 108. Application of increased or reduced rate
- 109. Amendment of Schedules
- 110. Remission of tax
- 111. Repeals
- 112. Transition
- 113. Exemption in another law

CHAPTER 15.42
VALUE ADDED TAX ACT

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

Commencement [1 October 2012]

PART 1
PRELIMINARY

1. Short title

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

2. Interpretation

In this Act —

“approved charitable organisation” means an organisation designated as an approved charitable organisation by the Minister in accordance with the Regulations;

“association not for gain” means an institution of religious worship, society, association, or organisation which is — (*Amended by Act 10 of 2012*)

- (a) carried on otherwise than for the purposes of profit or gain to any proprietor, member, or shareholder; and
- (b) in terms of its memorandum, articles of association, written rules, or other document constituting or governing its activities —
 - (i) required to utilize any assets or income solely in the furtherance of its aims and objects, and
 - (ii) prohibited from transferring any portion of its assets or income directly or indirectly so as to benefit any person other than by way of the provision of charitable assistance, religious worship, or the payment in good faith of reasonable remuneration to any of its officers or employees for any services actually rendered to it, and
 - (iii) upon its winding-up or liquidation, is obliged to give or transfer its assets remaining after the satisfaction of its liabilities to another institution of religious worship, society, association or organisation having similar objects;

“auctioneer” means a person engaged in a taxable activity that includes the supply of goods by auction as an auctioneer or agent for or on behalf of another person;

“business” means any business, profession, trade, venture or undertaking and includes the provision of personal services or technical and managerial skills and any adventure or concern in the nature of trade but does not include any employment;

“capital goods” means an asset, or a component of an asset, which is of a character subject to an allowance for depreciation or comparable deduction for income tax purposes, and which is used in the course or furtherance of a taxable activity;

"cash" includes coins, bills, a cheque, debit card and credit card payments;

"cash value", in relation to a supply of goods under a credit agreement, means

—

- (a) where the seller or lessor is a bank or other financial institution, an amount equal to the sum of —
 - (i) the consideration paid by the bank or other financial institution for the goods or the fair market value of the supply of the goods to the bank or other financial institution, whichever is the greater, and
 - (ii) any consideration for erection, construction, assembly, or installation of the goods borne by the bank or other financial institution, or
- (b) where the seller or lessor is a dealer, an amount equal to the sum of —
 - (i) the consideration at which the goods are normally sold by the dealer for cash, and
 - (ii) any consideration for erection, construction, assembly, or installation of the goods borne by the dealer;

"company" means a body corporate, wherever incorporated, but does not include a partnership or an unincorporated body of persons;

"Comptroller" means the Comptroller of Inland Revenue referred to under the Income Tax Act;

"Comptroller of Customs" means the Comptroller of Customs referred to under section 4 of the Customs (Control and Management) Act;

"consideration", in relation to a supply or import of goods or services, means the total amount in money or kind paid or payable, including a deposit on a returnable container, for the supply or import by any person, directly or indirectly, including any duties, levies, fees, and charges, other than tax payable under this Act, paid or payable on, or by reason of, the supply or import, reduced by any price discounts or rebates allowed and accounted for at the time of the supply or import, but does not include —

- (a) a cash payment made by any person as an unconditional gift to an association not for gain; or
- (b) a deposit, other than a deposit on a returnable container, whether refundable or not, given in connection with a supply of goods or services unless and until the supplier applies the deposit as consideration for the supply or such deposit is forfeited;

"Constituency Council" or **"Council"** means a body of local representatives who have been appointed in accordance with section 4 of Constituency Council Act;

"credit agreement" means a hire-purchase agreement or a finance lease;

"Customs (Control and Management) Act" means the Customs (Control and Management) Act;

"Customs Tariff Headings" means the headings in the Customs Common External Tariff, as amended;

"days" when used in the plural, means working days, except as otherwise provided;

"dealer" means a person who buys goods from a manufacturer or producer and sells the goods for wholesale or retail;

"documents" include electronic documents;

"Eastern Caribbean Dollar" or **"\$"** means, except as otherwise provided in this Act, EC\$ or XCD\$;

“entry”, in relation to goods imported, is to be construed within the meaning of “entered” in the Customs (Control and Management) Act;

“exempt import” has the meaning in section 21;

“exempt supply” means a supply of goods or services to which section 17 applies;

“fair market value” has the meaning in section 3;

“finance lease”, in relation to goods, means a lease of goods where —

- (a) the lease term exceeds 75% of the expected life of the goods; or
- (b) the lease provides for transfer of ownership at the end of the lease term or the lessee has an option to purchase the goods for a fixed or determinable price at the 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 20% of its fair market value at the commencement of the lease; or
- (d) the leased goods are custom-made for the lessee and at the end of the lease term will not be usable by anyone other than the lessee;

“game of chance” includes a raffle or lottery, or the playing of a table game or gaming machine;

“goods” mean real or tangible personal property, thermal or electrical energy, heat, gas, refrigeration, air conditioning and water, but does not include money;

“hire-purchase agreement” means a hire-purchase agreement under the Consumer Credit Act;

“import” means —

- (a) in the case of goods, bringing or causing to be brought into Saint Lucia; or
- (b) in the case of services, a supply of services to a resident —
 - (i) by a non-resident, or
 - (ii) by a resident from a business carried on by the resident outside Saint Lucia,

to the extent that such services are not to be utilised or consumed by a registered person in making taxable supplies in Saint Lucia;

“import declaration” means the declaration documents required for the entry of goods into Saint Lucia;

“importer”, in relation to an import of goods, has the meaning assigned in the Customs (Control and Management) Act;

“Income Tax Act” means the Income Tax Act;

“input tax” means tax paid or payable under this Act in respect of a taxable supply to, or an import of goods by, a taxable person;

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

“lease” has the meaning given in article 1509 of the Civil Code of the Revised Laws of Saint Lucia 1957;

“local authority” means a local authority under the local authority (Repealed by Cap. 17:19);

“Minister” means the Minister responsible for Finance;

“money” means —

- (a) a coin or paper currency recognised in Saint Lucia as legal tender;
- (b) a coin or paper currency of a foreign country that is used or circulated as currency; or
- (c) a bill of exchange, promissory note, bank draft, postal order, money order, or similar instrument other than an item of numismatic interest;

"non-resident" means a person who is not a resident and a person referred to in paragraph (b) of the definition of "resident" to the extent that the person is not a resident;

"output tax", in relation to a taxable person, means the tax chargeable on a taxable supply made by that person;

"person" includes the State, a public authority, a local authority, a natural person, trust, company, partnership and an unincorporated body of persons;

"promoter of public entertainment" means a person who arranges the staging of public entertainment, but does not include entertainment organised by —

- (a) a duly recognised educational institution under the Education Act;
- (b) the board of management or a parent teacher association of an approved educational institution;
- (c) a person who provides entertainment on a daily or weekly basis;
- (d) a church incorporated or registered in Saint Lucia under any statute; or
- (e) an approved charitable organisation;

"public authority" includes any entity for the purposes of this Act—

- (a) established by or under the Constitution of Saint Lucia 1978;
- (b) established by statute;
- (c) which forms part of any level or branch of Government;
- (d) owned, controlled or substantially financed by funds provided by the Government or the State; or
- (e) carrying out a statutory or public authority function,

except that a body is a public authority only to the extent of its statutory or public functions;

"public entertainment" means any musical entertainment, theatrical performance, comedy, dance performance, circus, show or any similar event to which the public is invited;

"recipient", in relation to a supply or import, means the person to whom the supply or import is made or in the case of an import of goods, for whom the goods are intended;

"registered recipient" means a registered person receiving a taxable supply;

"registered supplier" means a registered person making a taxable supply;

"Registrar of Lands" means the Registrar of Lands under section 5 of the Land Registration Act;

"Regulations" means Regulations made under section 106;

"related persons" means —

- (a) a natural person and a relative of that natural person; or
- (b) a trust and a person who is or may be a beneficiary in respect of that trust or whose relative is or may be a beneficiary; or

- (c) a partnership or company limited by shares and a member of the partnership or company limited who, together with shares or other membership interests held by persons who are related to such member under another paragraph of this definition, owns 25% or more of the rights to income or capital of the partnership or company; or
- (d) a shareholder in a company limited by shares if the shareholder, together with shares held by persons who are related to such shareholder under another paragraph of this definition —
 - (i) controls 25% or more of the voting power in the company limited by shares, or
 - (ii) owns 25% or more of the rights to dividends or of the rights to capital, or
- (e) two companies, if a person, either alone or together with a person or persons who are related to such person under another paragraph of this definition —
 - (i) controls 25% or more of the voting power in both companies, or
 - (ii) owns 25% or more of the rights to dividends or of the rights to capital in both companies; and, for the purposes of paragraphs (c), (d), and (e) of this definition, a person is treated as owning, on a pro rata basis, shares or other membership interests which are owned or controlled by such person indirectly through one or more interposed persons;

“relative”, in relation to a natural person, means —

- (a) the spouse of the person; or
- (b) an ancestor, or a lineal descendant of the person’s grandparents, stepfather, stepmother, or stepchild; or
- (c) a spouse of a person referred to in paragraph (b),

and for the purposes of this definition, an adopted child is treated as a natural child of the adopter;

“rental agreement” means an agreement for the letting of goods other than a hire-purchase agreement or a finance lease;

“resident” means —

- (a) the State, a public authority or a local authority;
- (b) a person resident in Saint Lucia for the year in question for the purposes of the Income Tax Act;
- (c) a person, other than an individual, formed or created under a law in force in Saint Lucia or managed and controlled in Saint Lucia, whether or not that person is resident in Saint Lucia for the year in question for the purposes of the Income Tax Act; or
- (d) any other person to the extent that the person carries on a taxable activity in Saint Lucia;

“returnable container” means a container —

- (a) for which a deposit is charged by the supplier; and
- (b) the deposit for which is required by law or agreement to be refunded or allowed as a credit to the person returning it;

“sale” means an agreement of purchase and sale, and any other transaction whereby ownership of goods passes or is to pass from one person to another;

"sales receipt" means a document that a supplier is required to issue under section 34;

"second-hand goods" means goods which have been previously used except the following —

- (a) precious metals or goods made of precious metals being —
 - (i) gold, in an investment form, of at least 99.5% fineness,
 - (ii) silver, in an investment form, of at least 99.9% fineness,
 - (iii) platinum, in an investment form, of at least 99% fineness,
 - (iv) goods to the extent that they would fall within (i), (ii) or (iii) if they were of the required fineness;
- (b) diamonds, rubies, emeralds or sapphires that are not mounted, set or strung;
- (c) animals or plants;
- (d) real property; and
- (e) goods valued at \$10,000 or less;

(Inserted by Act 10 of 2012)

"services" means anything that is not goods or money;

"State" means the Government of Saint Lucia but does not include a public authority;

"supplier", in relation to a supply, means the person making the supply;

"supply" has the meaning in section 4;

"tax" means value added tax;

"tax credit note" has the meaning in section 35;

"tax debit note" has the meaning in section 35;

"tax fraction", in relation to a taxable supply, means the fraction calculated in accordance with the formula $R/(1 + R)$ where "R" is the rate of VAT, expressed as a percentage, applicable to the taxable supply;

"tax invoice" means a document provided as required under section 34;

"tax officer" means the Comptroller and any other person in the public service who is acting on behalf of the Comptroller;

"tax period" has the meaning in section 36;

"taxable activity" has the meaning in section 6;

"taxable person" has the meaning in section 11 and includes any reference in this Act to a registered person or a taxpayer;

"taxable supply" means a supply of goods or services in Saint Lucia in the course or furtherance of a taxable activity, other than an exempt supply;

"taxpayer identification number" means the number issued for tax purposes by the Comptroller to a person registered under this Act;

"trust" means a relationship where property is under the control or management of a trustee;

"trustee" means a person appointed or constituted trustee by act of parties, by Order or declaration of a Court, or by operation of law and includes a person having

or taking upon himself or herself the administration or control of property subject to a trust;

“unregistered recipient” means a person who is not registered receiving a taxable supply;

“value added tax” means the tax imposed under this Act and includes any amount, including interest or a penalty payable under this Act to the extent that it is treated as tax for the purposes of this Act;

“value of a supply” has the meaning in section 20;

“value of an import” has the meaning in section 24.

3. Fair market value

(1) For the purposes of this Act, the fair market value of a supply or import of goods or services at a given date is the consideration in money which the supply or import, as the case may be, would generally fetch if supplied or imported in similar circumstances at the given date in Saint Lucia, being a supply or import freely offered and made between persons who are not related persons.

(2) Where the fair market value of a supply or import of goods or services at a given date cannot be determined under subsection (1), the fair market value is the consideration in money which a similar supply or similar import, as the case may be, would generally fetch if supplied or imported in similar circumstances at the given date in Saint Lucia, being a supply or import freely offered and made between persons who are not related persons.

(3) Where the fair market value of a supply or import of goods or services cannot be determined under subsection (1) or (2), the fair market value is determined in accordance with any method approved by the Comptroller which provides a sufficiently objective approximation of the consideration in money which could be obtained for that supply or import had the supply or import been freely offered and made between persons who are not related persons.

(4) The fair market value of a supply or import is determined at the time of the supply or import as determined under this Act.

(5) In this section —

“similar import”, in relation to goods or services, means goods or services produced in the same country which although not alike in all respects, have the characteristics and like component materials which enable the goods and services to perform the same functions and to be commercially interchangeable;

“similar supply”, in relation to a supply of goods or services, means any other supply of goods or services that, in respect of the characteristics, quality, quantity, functional components, materials, and reputation of the first-mentioned goods or services, is the same as, or closely or substantially resembles, that supply of goods or services.

4. Supply

(1) Subject to this Act —

(a) **“a supply of goods”** means —

- (i) a sale of goods, or
- (ii) a grant of the use or right to use goods, whether with or without a driver, pilot, crew, or operator, under a rental agreement, credit agreement, freight contract, agreement for charter, or other agreement under which such use or right to use is granted, or
- (iii) transfer or provision of thermal or electrical energy, heat, gas, refrigeration, air conditioning, or water.

(b) **"a supply of services"** means anything done which is not a supply of goods or money, including —

- (i) the granting, assignment, cessation, or surrender of a right,
- (ii) making available a facility or advantage, or
- (iii) refraining from or tolerating an activity.

(2) The disposition of a taxable activity as a going concern, or a part of a taxable activity that is capable of separate operation, is a supply of goods made in the course or furtherance of such taxable activity.

(3) For the purposes of subsection (2), a taxable activity or a part of a taxable activity capable of separate operation is disposed of as a going concern where —

- (a) all the goods and services necessary for the continued operation of that taxable activity or that part of a taxable activity are supplied to the transferee; and
- (b) the transferor carries on, or is carrying on, that taxable activity or that part of a taxable activity up to the time of its transfer to the transferee.

(4) A supply of goods for goods or services is a supply of goods.

(5) A supply of services for goods or services is a supply of services.

(6) Subject to subsections (17) and (21), the application by a taxable person of goods or services acquired for use in a taxable activity to a different use, including the provision of goods or services to an employee for personal use, is a supply of those goods or services by the taxable person in the course or furtherance of that taxable activity.

(7) Where goods are repossessed under a credit agreement, the repossession is a supply of the goods by the debtor under the credit agreement to the person exercising the right of repossession, and where such debtor is a registered person the supply is made in the course or furtherance of the debtor's taxable activity unless such goods did not form part of the assets held or used by the debtor in connection with that activity.

(8) Where a lay-away agreement terminates or is cancelled and the seller retains an amount paid by the purchaser or recovers an amount the purchaser owes under the agreement, the cancellation or termination is a supply of services by the seller in respect of the agreement.

(9) The placing of a bet by a person with another person operating a game of chance is a supply of services by the person operating the game of chance to the person placing the bet.

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

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

(12) A supply or import of services incidental to an import of goods is part of the import of goods.

(13) The Minister may by Regulations provide that a supply of goods and services is a supply of goods or a supply of services.

(14) Where a supply consists both of a supply that is charged with tax at a positive rate and —

- (a) a supply charged with tax at a zero rate; or
- (b) an exempt supply,

each part of the supply is treated as a separate supply if reasonably capable of being supplied separately.

(15) A supply of services by an employee to an employer by reason of employment is not a supply.

(16) The transfer of goods to a person acting in a representative capacity to the transferor is not a supply.

(17) Where a taxable person supplies goods or services and that person was not entitled to claim a deduction for input tax imposed and paid on the acquisition of such goods or services, the supply by the taxable person is a supply of goods or services otherwise than in the course or furtherance of a taxable activity.

(18) Where a supply described in subsection (2) was charged with tax at the rate of zero per cent in terms of paragraph 2(1)(i) of Schedule 1, the acquisition of the taxable activity is a supply by the recipient in the course or furtherance of a taxable activity carried on by the recipient to the extent that the goods and services comprising the taxable activity were acquired for a purpose other than consumption, use, or supply in the course of making taxable supplies, unless this purpose relates to less than 10% of the total taxable activity.

(19) Where a right to receive goods or services for a monetary value stated on a token, voucher, gift certificate, or stamp, other than a postage stamp authorised under the Post Office Ordinance is granted for a consideration in money, the issue of such token, voucher, gift certificate, or stamp is not a supply, except to the extent, if any, that such consideration exceeds that monetary value.

(20) Subsection (19) does not apply to a phone card, prepayment on a cellular phone, or a similar scheme of advance payment for the supply of goods or the rendering of services.

(21) A person whose registration is cancelled under section 14 is deemed to have made a taxable supply in Saint Lucia of —

- (a) except as provided in paragraph (b), the value of goods on hand; and
- (b) the value of capital goods for income tax purposes, as if those capital goods were sold,

on the date the registration is cancelled, but only if an input tax deduction was claimed with respect to the goods or services.

(22) Notwithstanding subsections (10) and (12) a supply of immovable property does not include the supply of services incidental to that supply or the import of services incidental to that supply.

(23) The Minister may by Regulations prescribe rules to determine whether a transaction constitutes a supply for the purposes of this section.

5. Supply by agent or auction

(1) Subject to this section, a supply of goods or services made —

- (a) by a person as agent for a principal is a supply by the principal; or
- (b) to a person as agent for a principal is a supply to the principal.

(2) Subsection (1) does not apply to services supplied by an agent to the agent's principal.

(3) Except for an exempt supply, a supply of goods by auction is treated as a supply of goods for consideration by the auctioneer as supplies made in the course or furtherance of a taxable activity carried on by the auctioneer.

(4) Subsection (1) does not apply where the principal is a non-resident.

(5) In this section "**principal**" means a person on whose behalf an agent acts.

6. Taxable activity

(1) For the purposes of this Act, “**taxable activity**” means an activity which is carried on continuously or regularly by any person in Saint Lucia or partly in Saint Lucia whether or not for profit, that involves or intends to involve, in whole or in part, the supply of taxable goods or services to another person for consideration.

(2) Taxable activity does not include —

- (a) an activity carried on by a natural person essentially as a private recreational pursuit or hobby or an activity carried on by a person other than a natural person which would, if carried on by a natural person, be carried on essentially as a private recreational pursuit or hobby;
- (b) an activity to the extent that the activity involves the making of exempt supplies; or
- (c) an activity of the State or a local authority, except when it conducts auctions, hires equipment, rents space, sells medicine and drugs, or when it engages in activity commonly conducted for profit.

(3) Anything done in connection with the commencement or termination of a taxable activity is treated as carried out in the course or furtherance of that taxable activity.

(4) Subject to subsection (5), a supply is made for consideration if the supplier directly or indirectly receives a payment for the supply from the recipient or any other person, including a payment wholly or partly in money or kind.

(5) A supply made for consideration includes —

- (a) a supply made between related persons for no consideration;
- (b) a supply of goods for use only as trade samples; or
- (c) a supply referred to in section 4(6) or (18).

(6) Taxable activity includes a supply of public entertainment.

PART 2 ADMINISTRATION

7. Powers and duties of the Comptroller

(1) The Comptroller has the responsibility for carrying out the provisions of this Act.

(2) The Comptroller may, in relation to any matter or class of matter, delegate in writing to any tax officer or other person employed in carrying out the provisions of this Act any powers, functions or duties conferred or imposed on the Comptroller by this Act other than —

- (a) the power of delegation conferred by this subsection; and
- (b) the power to sanction prosecutions conferred by section 73.

(3) A delegation made under subsection (2) may be revoked at any time by the Comptroller and does not prevent the exercise of such powers, duties or functions by the Comptroller.

(4) Subject to subsections (5) and (6), a decision made and a notice or communication issued or signed by the Comptroller or the Comptroller’s delegate may be withdrawn or amended at any time.

(5) Where the Comptroller, knowing all the material facts at the time, makes a decision that a person is required or not required to register, and the person accepts the Comptroller’s decision, and subsequently the Comptroller withdraws the decision, the Comptroller’s decision governs the liability or non-liability of such person for

payment of tax on any transaction concluded or event which occurred before the withdrawal of the decision.

(6) Where the Comptroller, knowing all the material facts at the time, makes a decision as to the nature of a transaction concluded by a person, and the person accepts the Comptroller's decision, and the Comptroller subsequently withdraws the decision, the Comptroller's decision governs the liability or non-liability of that person for payment of tax on any transaction concluded before the withdrawal of the decision.

8. Secrecy and oath of secrecy

(1) Subject to this section, a tax officer or other person carrying out the provisions of this Act shall not —

- (a) disclose to any person any matter in respect of any other person that may in the exercise of the tax officer's powers or the performance of the tax officer's duties under the said provisions come to the officer's knowledge; or
- (b) permit any person to have access to any records in the possession or custody of the Comptroller, except in the exercise of the tax officer's powers or the performance of the officer's duties under this Act or by Order of a Court.

(2) A person referred to in subsection (1) is not required to produce in any Court, any return of income, assessment or notice of assessment or to divulge or communicate any information which comes to his or her knowledge in the performance of his or her duties under this Act except to the extent to which it is necessary for the purposes of this Act.

(3) Nothing in this section prevents the Comptroller from disclosing —

- (a) any documents or information to —
 - (i) a person where the disclosure is necessary for the purposes of this Act or any other law in force in Saint Lucia which the Comptroller or the Comptroller of Customs has the power, duty or function to administer,
 - (ii) a person authorised by any enactment to receive such information,
 - (iii) the competent authority of the Government of another country with which Saint Lucia has entered into an agreement for the avoidance of double taxation or for the exchange of information, to the extent permitted under the agreement or any law in force in Saint Lucia;
- (b) information which does not identify a specific person to a person in the service of the State in a revenue or statistical department where such disclosure is necessary for the performance of the person's official duties.

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

(5) Documents or information obtained by the Comptroller in the performance of duties under this Act may be used by the Comptroller for the purposes of any other law administered by the Minister, Comptroller or the Comptroller of Customs.

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

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

(8) Nothing in this section prevents the Comptroller and the Comptroller of Customs from exchanging information in order to perform their duties under any

enactment in force in Saint Lucia that is administered by the Comptroller and the Comptroller of Customs.

(9) A tax officer, other person appointed under or employed in carrying out the provisions of this Act or a person to whom confidential information is disclosed under subsection (3)(a) or (3)(b) shall make an oath or affirmation of secrecy in the manner and form approved by the Comptroller.

(10) An oath or affirmation under subsection (9) may be taken before the Comptroller, who is hereby authorised to administer the oath or affirmation, or before a magistrate, and no fee is payable.

(11) The obligation as to secrecy imposed by this section continues to apply in respect of any person although he or she ceases to have any official duty under or be employed in carrying out the provisions of this Act.

(12) A person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year or to both.

PART 3

IMPOSITION AND RATE OF TAX

9. Imposition of tax and persons liable

(1) Subject to this Act, a tax to be known as the value added tax shall be charged and paid in accordance with this Act on —

- (a) every taxable supply by a taxable person;
- (b) every import of goods or import of services, other than an exempt import;
- (c) the value of a supply of goods by a registered or unregistered person, mission, organization or government that obtained an exemption from tax or a refund of the tax on the import or domestic acquisition of such goods if such supply occurs within 5 years after the goods are acquired.

(2) Except as otherwise provided in this Act, tax payable under subsection (1) shall —

- (a) in the case of a supply, be accounted for by —
 - (i) the taxable person, or
 - (ii) the person specified in subsection (1)(c),
making the supply;
- (b) in the case of an import of goods, be paid by the importer;
- (c) in the case of an import of services, be paid by the recipient of services.

(3) A transaction chargeable with tax under both subsection (1)(a) and (b) is treated as a supply chargeable under subsection (1)(a).

10. Rate of tax

(1) The amount of tax shall be calculated in accordance with this Act at the rate of 12.5% of the value of taxable goods or services imported into Saint Lucia or of the value of taxable supplies of goods or services except in the case of a supply that is zero rated. (*Amended by S.I. 101/2016*)

(2) Notwithstanding subsection (1) the Minister may, by Order, specify the rate of tax for goods and services provided by hotels and other providers in the tourism sector. (*Substituted by Act 10 of 2012*)

(3) The Minister may, by Order, vary the rates specified in subsections (1) and (2).

(4) An Order made under this section is subject to the affirmative resolution of Parliament.

(5) For the purposes of this section, “**hotel**” means a building or group of buildings in the State occupied together comprising not less than five bedrooms for the purpose of providing hotel accommodation for reward.

PART 4 REGISTRATION

11. Taxable person

(1) A taxable person is a person who is registered or is required to register under section 12 of this Act or a Regulation made under this Act.

(2) Where a person is required to register under section 12(1), 12(6), 12(7), or 12(9), that person is a taxable person from the date specified for that person under section 13(6)(a) and (b).

(3) Where a person who applies for registration under section 12(5) and is registered under section 13(2), that person is a taxable person from the date specified under section 13(6)(c).

(4) Where a person is required to register under section 12(10) that person is a taxable person from the date specified in section 13(6)(d).

12. Registration

(1) Subject to this Act, every person who carries on a taxable activity and is not registered, shall apply for registration within 10 working days of —

- (a) the end of any period of 12 or fewer months where during that period the person made taxable supplies the total value of which exceeded \$400,000; or (*Amended by Act 5 of 2016*)
- (b) the beginning of any period of 365 calendar days, where there are reasonable grounds to expect that the total value of taxable supplies to be made by the person during that period will exceed \$400,000. (*Amended by Act 5 of 2016*)

(2) In determining whether a person is required to apply for registration under subsection (1), (9) or (10) the Comptroller may have regard to the value of taxable supplies made by another person where both persons are related persons or are acting in concert in making the taxable supplies.

(3) For purposes of subsection (1), (9) or (10) the value of a person’s supplies is determined under section 20.

(4) A person is not required to apply for registration under subsection (1), (9) or (10) where the Comptroller is satisfied that the value of taxable supplies exceeded the amount specified under subsection (1) solely as a consequence of —

- (a) the cessation;
- (b) substantial and permanent reduction in the size or scale; or
- (c) the replacement of old capital goods,

of a taxable activity carried on by the person.

(5) A person who makes, or intends to make taxable supplies, but is not required to apply for registration under subsection (1), may apply to the Comptroller for registration under this Act.

(6) Notwithstanding subsection (1), (9) or (10) the State or a local authority is required to apply for registration from the date the State or local authority commences a taxable activity.

(7) Notwithstanding subsection (1) or (10), a person who is an auctioneer is required to apply for registration on the date on which the person becomes an auctioneer.

(8) In the case of a person who is not resident in Saint Lucia for the year in question for the purposes of the Income Tax Act, supplies made by that person are taken into account for the purposes of subsection (1), (9) or (10) only where the supply is made, or to be made in Saint Lucia.

(9) Notwithstanding subsection (1) or (10), a promoter of public entertainment and a licensee and a proprietor of a place of public entertainment shall apply for registration at least 5 working days before the commencement of the public entertainment promoted by them if, within any period of 12 or fewer months that includes this public entertainment, the total value of the promoter or the licensee or proprietor's taxable supplies is reasonably expected to exceed \$400,000. *(Substituted by Act 10 of 2012 and amended by Act 5 of 2016)*

(10) Notwithstanding subsection (1), a person who carries on a taxable activity and is not registered shall apply for registration where —

- (a) during any period of 3 months that person made taxable supplies which exceed \$100,000; and *(Amended by Act 5 of 2016)*
- (b) there are reasonable grounds to expect that the total value of taxable supplies to be made by the person during that period and the next consecutive 9 months will exceed \$400,000. *(Amended by Act 5 of 2016)*

(11) A person required to register under subsection (10) shall apply for registration within 10 working days of the end of the 3rd month after which the person's taxable supplies exceeded \$100,000.

(12) *(Repealed by Act 10 of 2012)*

(13) Where any person has proved to the satisfaction of the Comptroller that such person has commenced any business or any project to carry on a business or project in Saint Lucia, and undertakes to make taxable supplies in such business or project within a period of 18 months from commencement of such business or project, he or she may apply to register under subsection (5) and the Comptroller may register such person subject to such conditions as may be specified by him or her, and allow credit for input tax in respect of such business or project subject to the provisions of sections 30 and 31.

(14) Where the Comptroller is satisfied that in consideration of the nature of the business or project that the period of 18 months is not sufficient to make taxable supplies he or she may extend such period on the basis of an application made by such registered person to that effect.

(15) Where any person registered under subsection (14) does not commence making taxable supplies within the period of 18 months or extended period approved by the Comptroller, the person is liable for the amount of tax that otherwise would have been payable by the person during the 18 months or extended period, but for the provisions of subsections (5) and (14).

13. Registration procedure

(1) An application for registration under section 12 must be in the form approved by the Comptroller and the applicant must provide such further information as the Comptroller may require.

(2) The Comptroller is required to register a person who applies for registration within 21 working days of receipt of the application, unless the Comptroller is satisfied that the person is not eligible to apply for registration under section 12. *(Substituted by Act 10 of 2012)*

(3) Notwithstanding subsection (2), where an application for registration is made under section 12(5) the decision to register or not is at the discretion of the Comptroller who must inform the applicant of the decision within 30 calendar days of receiving the application.

(4) An application for registration under section 12(5) must not be accepted where —

- (a) the person has no fixed place of abode or business;
- (b) the person does not keep proper records; or
- (c) the Comptroller has reasonable grounds to believe that the person —
 - (i) will not keep proper records, or
 - (ii) will not submit regular and reliable tax returns,as required under this Act; *(Amended by Act 5 of 2016)*
- (d) the person has not complied with the requirements of any law administered by the Inland Revenue Department. *(Inserted by Act 5 of 2016)*

(5) Where a person required to register under this Act fails to apply for registration as required under section 12, the Comptroller may register the person from the date determined by the Comptroller.

(6) Registration takes effect, in the case of —

- (a) a person referred to in section 12(1)(a), from the beginning of the tax period immediately following the end of the period of 12 or fewer months;
- (b) a person referred to in section 12(1)(b), 12(6), 12(7), or 12(9), from the beginning of the 365 day period, the date the State or local authority commences a taxable activity, the date the person becomes an auctioneer, or the date the promoter, licensee or proprietor begins making taxable supplies in connection with public entertainment, respectively;
- (c) an application under section 12(5), from the beginning of the tax period immediately following the period in which the person applied for registration; or
- (d) an application under section 12(10), from the beginning of the tax period immediately following the end of the 3 month period.

(7) The Comptroller shall serve a notice in writing on an applicant for registration of the decision in respect of the application within 21 days of receipt of an application under subsection (2).

(8) An applicant dissatisfied with a decision referred to in subsection (7) may challenge the decision under Part 9 of this Act.

(9) The Comptroller shall issue to each person registered a certificate of registration which states the name and other relevant details of the registered person, the date on which the registration takes effect, and the person's taxpayer identification number.

(10) The Comptroller shall establish and maintain a register containing the relevant details of all registered persons, and make publicly available the names of registered persons, their taxpayer identification numbers, and contact details.

(11) Every person shall display the certificate of registration issued to him or her under subsection (9) in a conspicuous place at each location at which he or she engages in taxable activities.

(12) A taxable person shall notify the Comptroller, in writing, within 21 calendar days of —

- (a) any change in the name, address, place of business, constitution, or nature of the principal taxable activity or activities of the person; and
- (b) any change of address from which, or name in which, any taxable activity is carried on by the taxable person, or

- (c) any change in circumstances if the person ceases to operate or closes on a temporary basis in a situation not covered in section 14(1).

(13) Subject to subsection (2), where the Comptroller fails to serve a notice as required by subsection (7), the Comptroller is deemed to have made a decision to register the applicant.

(14) For the purposes of subsections (2) and (7), if within the 21-day period, the Comptroller requests additional information from the applicant in order to determine if the applicant is eligible to apply for registration under section 12, the 21 day period is suspended until the Comptroller receives the required information in the form prescribed by the Comptroller.

14. Cancellation of registration

(1) Subject to subsections (2) and (13), a taxable person who ceases to carry on taxable activities shall notify the Comptroller of that fact within 5 working days of the date of such cessation, and the Comptroller is required to cancel the registration of that person with effect from the last calendar day of the tax period during which all such taxable activities ceased, or from such other date as the Comptroller may determine.

(2) The Comptroller shall not cancel the registration of a taxable person under subsection (1) where the Comptroller has reasonable grounds to believe that the person will carry on any taxable activity at any time within 12 months from the date of cessation.

(3) A notification under subsection (1) must be made in writing and state the date upon which that person ceased to carry on taxable activities, and whether or not that person intends to carry on any taxable activity within 12 months from that date.

(4) If the Comptroller is satisfied that a taxable person —

- (a) is not carrying on a taxable activity; or
- (b) was not required or entitled to apply for registration; and
 - (i) has no fixed place of abode or business,
 - (ii) has not kept proper accounting records relating to any business activity carried on by that person,
 - (iii) has not submitted regular and reliable tax returns as required by section 37, or
 - (iv) has not complied with his or her obligations under the laws relating to tax, including any laws relating to customs; or
- (c) was required to register under section 12 and ceases to satisfy the registration requirements under section 12; or (*Amended by Act 5 of 2016*)
- (d) has not complied with the requirements of any law administered by the Inland Revenue Department, (*Inserted by Act 5 of 2016*)

the Comptroller may cancel the registration of that person, and the cancellation shall take effect from the last day of the tax period during which the Comptroller becomes so satisfied or from such other date as the Comptroller may determine, and the Comptroller shall give written notice to the taxable person of the date on which cancellation takes effect.

(*Substituted by Act 10 of 2012*)

(5) A date determined by the Comptroller for the cancellation of registration under subsection (4) may be retrospective to a date not earlier than —

- (a) the last day of the tax period during which taxable activity carried on by the person ceased; or

- (b) the date on which the person was registered under this Act, if the Comptroller is satisfied that the person did not, from that date, carry on any taxable activity.

(6) Subject to subsection (7) or (8), a taxable person may apply in writing to the Comptroller to have the person's registration cancelled where, at any time, the value of that person's taxable supplies —

- (a) in the past 12 months has not been; or
- (b) in the period of 12 months then beginning will not be more than the amount specified under section 12(1).

(7) A person —

- (a) required to register under section 12(1), (9) or (10) who ceases to satisfy the criteria under section 12(1), (9) or (10); or *(Substituted by Act 10 of 2012)*
- (b) registered as a result of an application under section 12(5),

may apply for cancellation of the registration only after the expiration of 2 years from the date the registration took effect.

(8) Subsection (6) does not apply to an auctioneer, the State, or a Constituency Council.

(9) Where the Comptroller is satisfied that a taxable person who has made an application under subsection (6) or (7) is entitled to have a registration cancelled, the Comptroller is required to cancel that person's registration with effect from the end of the tax period unless the Comptroller orders the cancellation to take effect at an earlier date.

(10) Any obligation or liability under this Act, including the obligation to pay tax and to file returns, of any person in respect of anything done or omitted to be done by that person while the person is a taxable person, is not affected by cancellation of the person's registration.

(11) Where the registration of a person is cancelled, the Comptroller shall remove the person's name and details from the register described in section 13(10).

(12) A person dissatisfied with a decision of the Comptroller under this section to cancel or not to cancel the person's registration may challenge the decision under Part 9 of this Act.

(13) A taxable person who sells a going concern or engages in a similar transaction, such as a merger, shall notify the Comptroller of that fact at least 5 working days before the earliest of the date —

- (a) the sale closes;
- (b) the purchaser acquires any legal interest in the assets to be acquired; or
- (c) the assets of the going concern are transferred.

(Substituted by Act 10 of 2012)

15. Registered person to recover tax from person supplied

(1) A registered person who makes a taxable supply may recover from the person to whom the supply is made an amount calculated by multiplying the value of the supply by the rate of tax charged on that supply and, unless the supply is expressed to be for a consideration that includes an amount in respect of tax, that amount is recoverable in addition to any other consideration for the supply.

(2) A registered or other person who, knowingly otherwise than in accordance with subsection (1), recovers or seeks to recover from any other person an amount represented to be in respect of tax commits an offence and is liable on summary

conviction to a fine not exceeding \$30,000 or imprisonment for a term not exceeding 2 years or to both.

PART 5 TAX ON SUPPLY

DIVISION 1 Zero rated and exempt supply

16. Zero rated supply

(1) The supply of goods specified in Schedule 1 is zero rated for the purposes of this Act.

(2) The supply of services specified in Schedule 1 is zero rated for the purpose of this Act.

(3) Where the supply of any goods or the supply of any services is zero rated, the rate at which tax is regarded as being charged is zero per cent, and consequently no tax shall be charged on the supply.

(4) Where a taxable person has applied the rate of zero per cent to a supply under this section, the taxable person is required to obtain and retain such documentary proof as is acceptable to the Comptroller substantiating the person's entitlement to apply the zero rate to the supply.

17. Exempt supply

(1) Subject to subsection (3), a supply of goods is an exempt supply if it is specified in Schedule 2.

(2) Subject to subsection (3), a supply of services is an exempt supply if it is specified in Schedule 2.

(3) A supply of goods or services is not an exempt supply if, in the absence of subsections (1) and (2), the supply would be charged with tax at the rate of zero per cent under section 16.

(4) Notwithstanding subsections (1), (2) and (3), the exempt supplies listed under paragraph 2(dd) of Schedule 2 apply from the date on which this Act comes into force and terminates on the 28th day of February, 2014. *(Inserted by Act 10 of 2012 and substituted by Act 5 of 2014)*

DIVISION 2 Rules relating to supply

18. Time of supply

(1) Subject to this Act, a supply of goods or services occurs on the earliest of the date on which —

- (a) the goods are delivered or made available or the performance of services is completed;
- (b) an invoice for the supply is issued by the supplier; or
- (c) any consideration for the supply is received.

(2) A supply of goods under a credit agreement occurs on the date of commencement of the credit agreement.

(3) A supply of goods under a lay-away agreement occurs when the goods are delivered to the purchaser.

(4) A supply of goods or services under section 4(6) occurs when the goods or services are applied to a different use.

(5) A supply of goods under section 4(7) occurs when the goods are repossessed, or where the debtor may under any law be reinstated in his or her rights and obligations under the credit agreement, the day after the last day of any period during which the debtor may under such law be so reinstated.

(6) A supply of services under section 4(8) occurs when the seller obtains the right to retain any amount paid by the purchaser or when the seller recovers any amount owing by the purchaser under the agreement.

(7) A supply for a consideration in money received by the supplier by means of a machine, meter, or other device operated by coin, note, or token occurs when the coin, note, or token is taken from that machine, meter, or other device by or on behalf of the supplier.

(8) Goods supplied under a rental agreement or services supplied under an agreement that provides for periodic payments are treated as successively supplied for successive parts of the period of the agreement, and each of the successive supplies occur when a payment becomes due or is received, whichever is the earlier.

(9) Where —

- (a) goods described under section 4 (1)(a)(iii) are supplied; or
- (b) goods or services are supplied directly in the construction, major reconstruction, manufacture, or extension of a building or engineering work,

and the consideration becomes due and payable in installments or periodically, the goods or services are treated as successively supplied for each period to which a payment for the goods or services relates and each successive supply occurs when payment in respect of the supply becomes due, or is received, or any invoice relating only to that payment is issued, whichever is the earliest.

(10) A supply under section 4(18) occurs when the supply under section 4(2), to which it relates, occurs.

(11) To the extent that the issuance of a token, voucher, gift certificate, or stamp is a supply under section 4(19), the supply occurs when the token, voucher, gift certificate, or stamp is issued.

(12) The forfeit of a deposit, other than a deposit on a returnable container, is a supply of services when the deposit is forfeited.

(13) A supply under section 4(21) occurs at the time the registration is cancelled.

(14) The Minister may by Regulations prescribe rules to determine the time of a supply of particular goods or services which are not governed by this section.

19. Place of supply

(1) Subject to this Act, a supply of goods takes place where the goods are delivered or made available by the supplier or, if the delivery or making available involves the goods being transported, at the place where the goods are when the transportation commences.

(2) A supply of thermal or electrical energy, heating, gas, refrigeration, air conditioning, or water takes place where the supply is received.

(3) Subject to this section and to Regulations, a supply of a service takes place at the location of the place of business of the supplier from which the services are supplied.

(4) The supply of the following goods or services takes place where the recipient uses or obtains the advantage of the goods or services —

- (a) a transfer or assignment of a copyright, patent, licence, trademark, or similar right;
- (b) the service of a consultant, engineer, lawyer, architect, or accountant, the processing of data or supplying information, or any similar service;
- (c) an advertising service;
- (d) the obligation to refrain from pursuing or exercising taxable activity, employment, or a right described in this subsection;
- (e) the supply of personnel;
- (f) the service of an agent in procuring for the agent's principal a service described in this subsection;
- (g) the leasing of tangible personal property, other than transport property;
- (h) the supply of goods via electronic commerce and the supply of internet access or similar services. *(Amended by Act 10 of 2012)*
- (i) *(Repealed by Act 10 of 2012)*

(5) The supply of public entertainment or any cultural, artistic, sporting, educational, or similar activities, or services connected with tangible personal property, takes place where the service is physically carried out, unless the service is described in subsection (4).

(6) The supply of services connected with immovable property takes place where the immovable property is located, unless the service is described in subsection (4).

(7) A supply of services of, or incidental to, transport takes place where the transport occurs, unless the service is described in subsection (4).

(8) Services supplied from a place of business in Saint Lucia which would be treated as supplied outside Saint Lucia under subsections (4) to (7) are considered as supplied in Saint Lucia and are considered as exported from Saint Lucia for the purposes of Schedule 1.

(9) A supply of a kind not described in subsections (1) to (7) is considered to take place in Saint Lucia.

(10) The Minister may by Regulations prescribe rules to determine the place of a supply of particular goods or services which are not governed by this section.

20. Value of supply

(1) Subject to the remaining provisions of this section, the value of a supply of goods or services is the amount of the consideration for the supply.

(2) Where a portion of the price of a taxable supply represents tax imposed by this Act that is not accounted for separately, the value of the supply is the price reduced by an amount equal to the tax fraction multiplied by that price.

(3) Where a supply is made by a taxable person for no consideration or for a consideration that is less than the fair market value of that supply and —

- (a) the supplier and the recipient are related persons; or
- (b) the recipient is an approved charitable organisation,

the value of the supply is the fair market value of the supply.

(4) Where a taxable person makes a supply of goods or services referred to in section 4(6), the value of the supply is the lesser of —

- (a) the consideration paid or payable by the taxable person for the goods or services; or
- (b) the fair market value of the supply.

(5) The Minister may by Regulations prescribe rules to determine the value of a supply governed by subsection (4) where the taxable person applies less than the entire goods or services to a different use.

(6) The value of a supply of goods under a credit agreement is the cash value of the supply.

(7) Where a debtor makes a supply of goods as a result of the repossession of the goods from the debtor under a credit agreement, the value of the supply is an amount equal to the balance of the cash value of the supply of those goods to the debtor that has not been recovered at the time of the supply.

(8) For the purposes of subsection (7), the balance of the cash value of the supply is the amount remaining after deducting from the cash value so much of the sum of the payments made by the debtor under the credit agreement as, on the basis of an apportionment in accordance with the rights and obligations of the parties to such agreement, may properly be regarded as having been made in respect of the cash value of the supply.

(9) The value of a supply of services under section 4(8) is an amount equal to the amount referred to in that subsection that is retained or recoverable.

(10) Where the grant of any right to receive goods or services for a monetary value stated on any token, voucher, gift certificate, or stamp is a supply under section 4(19), the value of the supply is an amount equal to the amount by which the consideration exceeds the monetary value of the token, voucher, gift certificate, or stamp.

(11) Where an issuer for no consideration surrenders the token, voucher, gift certificate, or stamp to a supplier of goods or services other than the issuer in return for a price discount on a taxable supply, the supplier is required to include in the value of the supply of such goods or services the monetary value stated on the token, voucher, gift certificate, or stamp, less the tax fraction of the monetary value.

(12) For the purposes of subsection (11), "**issuer**" means the holder of a token, voucher, gift certificate or stamp issued by a taxable person.

(13) For the purposes of subsection (11), the monetary value is inclusive of tax.

(14) Where a taxable supply is not the only matter to which the consideration for the supply relates, the value of the taxable supply is such part of the consideration as is properly attributable to it.

(15) Except as otherwise provided in this section, if a supply is made for no consideration the value of the supply is nil.

(16) The value of a supply of services under section 4(9) is the amount received in respect of the bet, reduced by an amount equal to the tax fraction multiplied by the amount received in respect of the bet.

(17) The value of a supply referred to in section 4(18) is the consideration for the acquisition of the taxable activity reduced by an amount which bears to the amount of such consideration the same ratio as the intended use or application of the taxable activity for making taxable supplies bears to the total intended use or application of the taxable activity.

(18) The value of a supply referred to in section 4(21) is equal to —

- (a) except as provided in paragraph (b), the fair market value of the goods or services deemed to be supplied; and
- (b) in the case of capital goods subject to the capital allowance under the Income Tax Act, the undepreciated cost of the goods deemed to be supplied.

(19) Notwithstanding this section, the value of services consisting of a hotel accommodation or tour package in Saint Lucia arranged by a non-resident, unregistered travel agent or a non-resident, unregistered tour operator is the

consideration charged by the registered supplier for the services, less the commission or fee paid to that travel agent or tour operator for those services.

(20) For the purposes of subsection (19) —

- (a) the deduction for the commission or fee paid cannot exceed 20% of the registered supplier's published rates for those services; and
- (b) the output tax reported on hotel accommodation or tour package specified in subsection (19) is not less than the tax the registered supplier charged the foreign travel agent or tour operator for the covered services.

(21) The Minister may by Regulations prescribe rules to determine the value of a supply of particular goods or services not governed by this section.

PART 6 TAX ON IMPORTS

DIVISION 1 Exempt imports

21. Exempt imports

(1) An import of goods is exempt from the payment of tax where the import is specified in Schedule 3.

(2) An import of services is exempt from the payment of tax where the import is specified in Schedule 3.

DIVISION 2 Tax on import of goods

22. Calculation and collection of tax on import of goods

(1) Tax charged on the import of goods shall be of an amount calculated by multiplying the rate of tax applicable under this Act by the value of the import of goods.

(2) The Comptroller of Customs shall on behalf of the Comptroller be responsible for the collection of the tax to which this Division applies.

(3) Tax on the import of goods shall be charged and payable under this Act but, for the purposes of collecting and enforcing the payment of this tax the Customs (Control and Management) Act applies with the necessary changes in the same manner as if it were a duty of customs.

(4) The Comptroller of Customs may, under subsection (3), exercise any power conferred on the Comptroller of Customs by any customs legislation as if the reference to duty in that legislation included a reference to tax charged on imported goods under this Act.

(5) Where the interpretation of a provision of this Act by the Comptroller differs from the interpretation of a provision of this Act by the Comptroller of Customs, the interpretation of the Comptroller prevails unless, where necessary, a determination on the issue is made by a Court.

23. Time of import of goods

An import of goods occurs when the goods are entered for home use for the purposes of the Customs (Control and Management) Act.

24. Value of import of goods

(1) For the purposes of this Act, the value of an import of goods into Saint Lucia is —

- (a) the value of the goods determined in accordance with Schedule 2 to the Customs (Control and Management) Act, whether or not duty is payable under that Act; and
- (b) any duties, taxes, other than the tax charged under this Act, imposed, paid or payable upon the entry of imported goods.

(2) Notwithstanding subsection (1), where the goods are re-imported after being exported for repair, renovation or improvement and it is shown that the goods have been subjected to a process of repair, renovation or improvement abroad and where the form or character of the goods has not been changed, the value of the goods, for the purposes of calculating tax, if any, on the entry of the goods when the goods are re-imported, is the amount of the increase in the value of the goods that is attributable to the process.

25. Import declaration and payment of tax for importation of goods

(1) The Comptroller of Customs —

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

(2) Where tax is payable on an import of goods, the importer shall, upon such entry, furnish the Comptroller of Customs with an import declaration and pay the tax due on the import in accordance with the arrangements referred to in subsection (4).

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

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

(4) Except where the contrary intention appears, the provisions of the Customs (Control and Management) Act, relating to the import, transit, coastwise carriage, clearance of goods, and payment and recovery of duty apply, so far as relevant, to the tax charged under this Act on the import of goods, with such exceptions, modifications and adaptations as the Minister may by Regulations prescribe.

(5) The Comptroller of Customs may, under subsection (4), exercise any power conferred on the Comptroller of Customs by any customs legislation as if the reference to duty in that legislation included a reference to tax charged on imported goods under this Act.

DIVISION 3 *Tax on import of services*

26. Time of import of services

An import of services occurs at the time determined by applying section 18 to the import on the basis that the import is a supply of services.

27. Value of import of services

(1) Subject to subsection (2), the value of an import of services is the amount of the consideration for the import.

(2) Where —

- (a) an import of services is made for no consideration or for a consideration that is less than the fair market value of that import; and (*Substituted by Act 10 of 2012*)
- (b) the supplier and the recipient are related persons,

the value of the import is the fair market value of the import.

(3) Where a portion of the price of an import of services represents tax imposed by this Act that is not accounted for separately, the value of the import is the price reduced by an amount equal to the tax fraction multiplied by that price.

28. Import declaration and payment of tax for importation of services

(1) Where tax is payable on an import of services, other than where section 4(12) applies, the person liable for the tax under section 9(2)(c) shall —

- (a) furnish the Comptroller with an import declaration; and
- (b) pay the tax due in respect of the import within 21 calendar days after the tax period in which the services were imported. (*Substituted by Act 10 of 2012 and by Act 15 of 2013*)

(2) An import declaration under subsection (1) is required to —

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

(3) Notwithstanding section 67, for the purposes of subsection (1), tax is payable by the recipient of the service —

- (a) where a business is established and carries on business from outside of Saint Lucia and supplies a service to a person or local branch in Saint Lucia;
- (b) in the case of a registered recipient, if the import by the person is not for use in making taxable supplies; or
- (c) in the case of a non-registered recipient, whether —
 - (i) the person's taxable supplies are below the threshold under section 12; or
 - (ii) the person is not engaged in making taxable supplies.

(*Inserted by Act 15 of 2013*)

(4) For the purposes of subsection (3), the local branch or other affiliate of a business that is established and operates outside Saint Lucia is treated as a person separate from the non-resident branch or home office for purposes of the tax.
(*Inserted by Act 15 of 2013*)

PART 7
CALCULATION OF TAX PAYABLE

29. Tax payable for tax period

(1) The tax payable by a taxable person for a tax period in respect of taxable supplies is the total amount of output tax payable by the person in respect of taxable supplies made by the person during the tax period, less the total input tax deduction allowed to the person under section 30 for the tax period.

(2) Where the total amount of input tax deduction allowed to a taxable person for a tax period under subsection (1) exceeds the total amount of output tax payable by the person for that tax period, the amount of the excess is dealt with in accordance with section 57.

30. Input tax deduction

(1) Subject to section 17 and this section, the total amount of input tax allowed as a deduction for the purposes of section 29 is the sum of — (*Amended by Act 10 of 2012*)

- (a) the input tax payable in respect of taxable supplies made to the person during the tax period and the input tax paid in respect of any import of goods by the person during the tax period, where the supply or import is for use in a taxable activity carried on by the person;
- (b) any input tax deduction allowed under section 32 for the tax period;
- (c) an amount equal to the tax fraction of any amount paid during the tax period by the taxable person as a prize or winnings to the recipient of services under section 4(9);
- (d) an amount equal to the tax fraction of any amount paid during the tax period by the taxable person to a supplier in respect of the redemption of a token, voucher, gift certificate, or stamp referred to in section 18(11) by the supplier for tax period; and
- (e) any amount carried forward under section 57(7);
- (f) subject to paragraphs (g), (h), and (i), an amount equal to 75% of the tax fraction of the lesser of —
 - (i) the amount paid for, or
 - (ii) the fair market value, including tax,
of second-hand goods acquired in Saint Lucia during the tax period by a registered person from a person, registered or not registered, in a transaction not subject to tax if the goods are taxable at a positive rate under this Act and are acquired for the purpose of making taxable supplies;
- (g) an amount equal to 75% of the tax fraction of the lesser of —
 - (i) the amount paid, or
 - (ii) the fair market value, including tax,
for the second-hand goods acquired in Saint Lucia during the tax period by a registered person from a related person, registered or not registered, in a transaction not subject to tax if the goods are taxable at a positive rate under this Act and are acquired for the purpose of making taxable supplies, but not more than the tax imposed on the supply of the goods to the related person;
- (h) an amount equal to 75% of the tax fraction of the value of second-hand goods that are repossessed in Saint Lucia during the tax period by a creditor who is a registered person, from a defaulting debtor, whether

registered or not, in a transaction not subject to tax if the goods are taxable at a positive rate under this Act and are acquired for the purpose of making taxable supplies, but not more than the tax imposed on the supply of the goods to the defaulting debtor;

- (i) an amount equal to 75% of the tax fraction of the value of second-hand goods that are acquired in Saint Lucia during the tax period by an insurer who is a registered person, from an insured person in a transaction not subject to tax if the goods —
 - (i) are acquired in settlement of an insurance claim,
 - (ii) are taxable at a positive rate under this Act, and
 - (iii) are acquired for re-supply in a taxable transaction, but not more than the tax imposed on the supply of the goods to the insured person.

(2) Subject to this section, no deduction of input tax is allowed in respect of a supply or import unless —

- (a) a tax invoice, or tax debit note or tax credit note, as the case may be, in relation to the supply, has been provided in accordance with section 34 or 35 and is held by the taxable person taking the deduction at the time a return in respect of the supply is filed, other than when a tax invoice is not required to be provided;
- (b) an import declaration, or a document issued by the Comptroller of Customs evidencing payment of tax in relation to an import that has been delivered in accordance with the Customs (Control and Management) Act or this Act and is held by the taxable person taking the deduction at the time a return in respect of the import is filed; and
- (c) for the purposes of subsection (1)(f), (g) and (i), with respect to the acquisition, the taxable person is in possession of documents required by the Comptroller. (*Substituted by Act 10 of 2012 and by Act 15 of 2013*)

(3) Where a taxable person does not have a tax invoice evidencing the input tax paid, the Comptroller may allow an input tax deduction in the financial year in which the deduction arises where the Comptroller is satisfied —

- (a) that the taxable person took all reasonable steps to acquire a tax invoice; and
- (b) that the failure to acquire a tax invoice was not the fault of the taxable person; and
- (c) that the amount of input tax deduction claimed by the taxable person is correct.

31. Input tax deduction allocation and disallowance rules

(1) A taxable person shall not under section 37 deduct any amount of input tax paid or payable in respect of —

- (a) a taxable supply to, or import by, the person of a passenger vehicle, unless the person is in the business of dealing in, or hiring of, such vehicles, and the vehicle was acquired for the purposes of such business;
- (b) a taxable supply to, or import by, the person of goods or services acquired for the purposes of entertainment, unless —
 - (i) the person is in the business of providing entertainment and the taxable supply or import relates to the provision of taxable supplies of entertainment in the ordinary course of that business, or

- (ii) the person is in the business of providing taxable supplies of transportation services and the entertainment is provided to passengers as part of the transportation service;
- (c) any fees or subscriptions paid by the person in respect of membership of any person in a club, association, or society of a sporting, social, or recreational nature; or
- (d) a taxable supply to, or import by, the person of goods or services acquired for the repair or maintenance of a passenger vehicle, unless the person is in the business of refurbishing for resale or of hiring of such vehicles, and the repair or maintenance was directly related to the provision of taxable supplies in the ordinary course of that refurbishing or hiring business.

(2) Subject to subsections (3) and (4), where only a part of the supplies made by a taxable person during a tax period are taxable supplies, the amount of the input tax allowed as a deduction under section 30(1)(a) for that period is determined as follows —

- (a) in respect of a supply or import received which is directly allocable to the making of taxable supplies, the full amount of input tax payable in respect of the supply or import is to be allowed as a deduction;
- (b) in respect of a supply or import received which is directly allocable to the making of exempt supplies, no amount of input tax payable in respect of the supply or import is to be allowed as a deduction; or
- (c) in respect of a supply or import received which is used for the making of both taxable and exempt supplies, the amount calculated according to the following formula $A \times B/C$ where —
 - (i) A is the total amount of input tax payable in respect of supplies and imports received during the tax period, less the sum of the input tax accounted for under paragraphs (a) and (b), and the input tax disallowed under subsection (1), (*Substituted by Act 15 of 2013*)
 - (ii) B is the total amount of taxable supplies made by the taxable person during the period, and
 - (iii) C is the total amount of all supplies made by the taxable person during the period.

(3) Where the fraction B/C in subsection (2)(c) is more than zero point nine zero, the taxable person may deduct the total amount of input tax on supplies and imports described in that paragraph.

(4) In the case of a bank or other financial institution making both exempt and taxable supplies for a tax period, subsection (2) does not apply and the amount of the input tax allowed as a deduction under section 30(1)(a) for that period is the amount of input tax payable in respect of supplies or imports received which are directly allocable to the making of taxable supplies.

(5) Notwithstanding subsection (2), where a taxable person makes both taxable and exempt supplies during a tax period, the Comptroller may determine the amount of input tax allowed for the tax period on such other basis as the Comptroller considers reasonable.

(6) A taxable person dissatisfied with a decision of the Comptroller under subsection (5) may challenge the decision under Part 9 of this Act.

(7) In this section —

“entertainment” means the provision of food, beverages, tobacco products, accommodation, amusement, recreation, or other hospitality by a taxable person whether directly or indirectly to any person;

“passenger vehicles” include motorcars and other motor vehicles principally designed for the transportation of people including station wagons and sport utility vehicles but excluding pickup trucks exclusively used for commercial purposes.

32. Post-sale adjustments and bad debts

(1) This section applies where, in relation to a supply by a registered person —

- (a) the supply is cancelled;
- (b) the taxation of the supply changes because the nature of the supply is fundamentally varied or altered;
- (c) the previously agreed consideration for the supply is altered, whether due to an offer of a discount or for any other reason; or
- (d) the goods or services or part of the goods or services are returned to the supplier.

(2) Subsection (1) applies only where the registered person making the supply has —

- (a) provided a tax invoice in relation to the supply and the amount shown on the invoice as the tax charged on the supply is incorrect as a result of the occurrence of one or more of the events described under subsection (1)(a) to (d); or
- (b) filed a return for the tax period in which the supply occurred and has accounted for an incorrect amount of output tax on that supply as a result of the occurrence of one or more of the events described under subsection (1)(a) to (d).

(3) Where subsection (1) applies, the registered person making the supply is required to make an adjustment as specified under subsection (4) or (6).

(4) Where the output tax properly chargeable in respect of the supply exceeds the output tax actually accounted for by the registered person, the amount of the excess is deemed to be output tax charged by the supplier in relation to a taxable supply made in the tax period in which the event referred to in subsection (1) occurred.

(5) For the purposes of section 30, where a registered person issues a tax debit note to rectify the output tax charged to a registered recipient in the circumstances specified under subsection (4), the additional tax specified in the tax debit note is deemed to be input tax payable by the registered recipient in the tax period in which the tax debit note is received.

(6) Subject to subsection (8), where the output tax actually accounted for by the registered person exceeds the output tax properly chargeable in relation to the supply, the registered person is allowed an input tax deduction under section 30 for the amount of the excess in the tax period in which the event referred to in subsection (1) occurred.

(7) Where a supplier issues a tax credit note to rectify the output tax charged to a recipient who is a registered person in the circumstances specified under subsection (6), the additional tax specified in the tax credit note is treated as output tax payable by the recipient in respect of a taxable supply made by the recipient in the tax period in which the tax credit note is received.

(8) Where the supply has been made to a person who is not a registered person, a deduction under subsection (6) is not allowed, unless the amount of the excess tax has been repaid to the recipient of the supply, whether in cash or as a credit against an amount owing to the registered person by the recipient.

(9) Subject to subsection (13) a registered person is allowed an input tax deduction under section 30 for tax paid in respect of a taxable supply made by the registered person where the whole or part of the consideration for the supply is subsequently treated as a bad debt.

(10) The amount of the deduction allowed under subsection (9) is the amount of the tax paid in respect of the taxable supply which corresponds to the amount of the debt treated as bad.

(11) The deduction under subsection (9) arises on —

- (a) the later of the period in which the debt is written off and the first tax period that ends at least one year after the consideration became due and payable to the registered person; and
- (b) the registered person satisfies the Comptroller that reasonable efforts have been made to recover the amounts due and payable.

(Substituted by Act 10 of 2012)

(12) Where any amount in respect of which a deduction has been allowed in accordance with subsection (9) is at any time wholly or partly recovered by the registered person, the registered person is treated as having charged tax in respect of a taxable supply made during the tax period in which the bad debt is wholly or partly recovered, being an amount of tax calculated according to the following formula $A \times B/C$ where —

- (a) A is the amount allowed as a deduction under subsection (9);
- (b) B is the amount of the bad debt recovered; and
- (c) C is the amount of the bad debt previously written off.

(13) A deduction is allowed under subsection (9) if —

- (a) the taxable supply was made to a person other than a registered person; or
- (b) the taxable supply was made to a registered person and the person claiming the deduction under subsection (9) issued a tax credit note to the registered purchaser listing the amount claimed under the formula in subsection (12).

(14) Notwithstanding subsection (11), where the person to whom a supply is made is declared bankrupt, the registered person may deduct from his payment of output tax for the later of the taxable period in which the bad debt is written off and the time at which the person is declared bankrupt in accordance with subsection (12).
(Inserted by Act 10 of 2012)

33. Interest on unpaid tax

(1) Tax payable under this Act which is not paid by the date upon which it becomes due and payable bears interest at the rate of 1.25% per month or part of a month for the period during which it remains unpaid.

(2) The rate of interest under this section may be altered from time to time by Order made by the Minister, and such Order is subject to the affirmative resolution of the House.

(3) Interest paid by a person under subsection (1) must be refunded to the person to the extent that the tax to which it relates is subsequently determined not to have been due and payable.

(4) The provisions of this Act relating to the payment, collection and recovery of tax apply to any interest charged under this section as if the interest were tax due under this Act.

(5) Interest payable under this section is in addition to the late payment penalty imposed under section 46(4).

34. Tax invoices and sales receipts

(1) Subject to subsection (2), a registered supplier, making a taxable supply to a registered recipient, shall provide the registered recipient with an original tax invoice for the taxable supply in the form and containing the information specified by the Comptroller.

(2) A registered supplier making a taxable supply to a registered recipient is authorised to issue a sales receipt, in lieu of a tax invoice if the total consideration for the taxable supply is in cash and does not exceed the amount specified in Regulations.

(3) A person shall not provide a tax invoice in circumstances other than the circumstances specified under this section.

(4) Subject to subsection (6), a registered supplier shall not issue more than one tax invoice for each taxable supply.

(5) Where, within 60 calendar days after the date of a supply, a registered recipient who has not received a tax invoice as required by subsection (1) requests the registered supplier, in writing, to provide a tax invoice in respect of the taxable supply, the supplier shall comply with the request within 14 calendar days after receiving it.

(6) Where a registered recipient claims to have lost the original tax invoice for a taxable supply, the registered supplier may provide a copy clearly marked "copy".

(7) A registered supplier making a taxable supply to an unregistered recipient, shall provide the unregistered recipient with a sales receipt for the taxable supply in the form and containing the information specified by the Comptroller.

(8) Notwithstanding this section —

- (a) a registered supplier making a taxable supply to a person, mission, organisation, or government specified in section 59(1) may issue an original tax invoice covering that supply to the person, mission, organisation, or government in the form and containing the information specified by the Comptroller;
- (b) if a recipient referred to in paragraph (a) claims to have lost the original tax invoice for a taxable supply, the registered supplier may provide a copy clearly marked "copy"; and
- (c) a registered person making a taxable supply consisting of one or more items totalling not more than \$5 is not required to issue a tax invoice or sales receipt for that supply.

(9) A person shall not —

- (a) issue a false invoice or a false sales receipt; or
- (b) use a false taxpayer identification number.

(10) A person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding one year or to both.

35. Tax credit and debit notes

(1) Where a tax invoice has been issued in the circumstances specified under section 32(2)(a) and the amount shown as tax charged on that tax invoice exceeds the tax properly chargeable in respect of the supply, the registered person making the supply is required to provide a registered recipient of the supply with a tax credit note containing the particulars specified in the Regulations.

(2) A person shall not provide a tax credit note in any circumstances other than those specified under subsection (1).

(3) Where a tax invoice has been issued in the circumstances specified under section 32(2)(a) and the tax properly chargeable in respect of the supply exceeds the amount shown as tax charged in that tax invoice, the registered person making the supply is required to provide a registered recipient of the supply with a tax debit note containing the particulars specified in the Regulations.

(4) A person shall not provide a tax debit note in any circumstances other than the circumstances specified under subsection (3).

(5) A registered person may issue only one tax credit note or tax debit note for the amount of the excess stated in subsection (1) or (3) respectively.

(6) Notwithstanding the provisions of this section, where a registered person claims to have lost the original tax credit note or tax debit note, the registered person who made the supply may provide a copy clearly marked "copy".

(7) A person shall not knowingly or recklessly issue a false tax credit note or a false tax debit note.

(8) A person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding \$15,000 or imprisonment for one year or both.

PART 8

TAX PERIOD, RETURNS AND ASSESSMENTS

36. Tax period

The tax period applicable to a taxable person under this Act is the calendar month.

37. Returns

(1) Subject to section 38, every taxable person shall file a tax return for each tax period with the Comptroller within 21 calendar days after the end of the period, whether or not tax is payable in respect of that period.

(2) A tax return must —

- (a) be in the form approved by the Comptroller;
- (b) state the information necessary to calculate the tax payable in accordance with section 29 for the period; and
- (c) be filed in the manner approved by the Comptroller.

(3) In addition to or instead of any tax return required under this Act, the Comptroller may by notice in writing require a person, whether or not a taxable person, to file with the Comptroller, whether on that person's own behalf or as agent or trustee of another person, such fewer, additional, or other returns in the form approved by the Comptroller as and when required by the Comptroller for the purposes of this Act.

(4) A person dissatisfied with a decision of the Comptroller under subsection (3) may challenge the decision under Part 9 of this Act.

(5) A person who, for two or more consecutive or non-consecutive tax periods, fails to file returns within the time and in the manner prescribed under this section commits an offence and is liable on summary conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both.

38. Extension of time

(1) Upon application in writing by a person, the Comptroller may, where good cause is shown by the person, extend the period within which a return required under section 37 is to be filed.

(2) The granting of an extension of time under subsection (1) does not alter the due date for payment of tax under section 46.

(3) A person dissatisfied with a decision of the Comptroller under subsection (1) may challenge the decision under Part 9 of this Act.

39. Assessments

(1) The Comptroller may make an assessment of the amount of tax payable by the person or of the amount of tax represented by the person as payable in respect of a supply where —

- (a) a person fails to file a return as required by section 37 or fails to furnish an import declaration as required by section 25 or 28;
- (b) the Comptroller is not satisfied with a return or import declaration furnished by a person;
- (c) the Comptroller has reason to believe that a person will become liable for the payment of an amount of tax but is unlikely to pay such amount;
- (d) a person, other than a taxable person, supplies goods or services and represents that tax is charged on the supply;
- (e) a taxable person supplies goods or services and the supply is not a taxable supply or is a taxable supply charged with tax at the rate of zero per cent and, in either case, the taxable person represents that a positive rate of tax is charged on the supply;
- (f) the Comptroller has determined the liability of any person in terms of section 101(1); or
- (g) a taxable person supplies goods or services and the supply is a taxable supply charged with tax at a positive rate and the taxable person represents that the rate of zero per cent is charged on the supply.

(2) The person assessed under subsection (1) —

- (a) in the case of an assessment under subsection (1)(d),(e) or (g), is the person making the supply; or
- (b) in the case of an assessment under subsection (1)(f), is the person whose liability has been determined under section 101(1); or
- (c) in any other case, is the person required to account for the tax under this Act.

(3) An assessment under subsection (1)(a), (c), (d), (e), (f) or (g) may be made at any time.

(4) An assessment under subsection (1)(b) —

- (a) where the default was due to fraud or willful default committed by, or on behalf of, the person who furnished the return or import declaration, may be made at any time; or
- (b) in any case other than that referred to in paragraph (a), may be made within 6 years after the date the return or import declaration was furnished.

(5) The Comptroller may, based on the information available, estimate the tax payable by a person for the purposes of making an assessment under subsection (1).

(6) Where a taxable person is not satisfied with a return filed by that person under this Act, that person may apply to the Comptroller to make an addition or alteration to that return.

(7) An application under subsection (6) must be in writing and specify in detail the grounds upon which it is made and must be made within 3 years after the date the return was filed by the taxable person or, in the event an assessment is made by the Comptroller after such 3-year period, may be made within 60 calendar days after the date that notice of such assessment is served on the taxpayer.

(8) After considering an application under subsection (6), the Comptroller may make an assessment of the amount that, in the Comptroller's opinion, is the amount of tax payable under this Act.

(9) Where an assessment has been made under this section, the Comptroller shall serve a notice of the assessment on the person assessed, stating —

- (a) the tax payable;
- (b) the date the tax is due and payable; and
- (c) the time, place, and manner of objecting to the assessment.

(10) The Comptroller may, within 3 years after service of the notice of assessment, or in the case of assessments described in subsection (4), within the deadline specified in subsection (4), amend an assessment by making such alterations or additions to the assessment as the Comptroller considers necessary, in which case the Comptroller shall serve notice of the amended assessment on the person assessed. *(Substituted by Act 10 of 2012)*

(11) An assessment under this section may be amended by the Comptroller notwithstanding that the tax or refund as assessed may already have been paid.

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

(13) An amount assessed under subsection (1)(d), (e) or (f) is treated, for all purposes of this Act, as tax charged under this Act.

40. General provisions relating to assessments

(1) The original or a certified copy of a notice of assessment is receivable in any proceedings as conclusive evidence that the assessment has been duly made and, except in proceedings under Part 9 relating to the assessment, that the amount and all particulars of the assessment are correct.

(2) An assessment or other document purporting to be made, issued or executed under this Act is not to be quashed or deemed to be void or voidable for want of form or by reason of mistake, defect or omission if it is in substance and effect, in conformity with this Act and the person assessed or intended to be assessed or affected by the document is identified in the assessment or other document.

PART 9 OBJECTIONS AND APPEALS

41. Objections

(1) A person dissatisfied with an appealable decision may lodge an objection to the decision with the Comptroller within 30 calendar days after the service of the notice of the decision.

(2) Where the Comptroller is satisfied that owing to absence from Saint Lucia, sickness, or other reasonable cause, the person was prevented from lodging an objection within the time specified under subsection (1) and there has been no unreasonable delay by the person in lodging the objection, the Comptroller may accept an objection lodged after the time specified under subsection (1).

(3) An objection to an appealable decision must be in writing and specify in detail the grounds upon which it is made and must be accompanied by payment of all of the tax not in dispute and fifty per cent of the amount of tax in dispute.

(4) Where a person who is dissatisfied with an appealable decision fails to file an objection within the time specified in subsection (1) or where the reason for filing the objection after the time specified in subsection (1) is not accepted by the Comptroller under subsection (2), the objection shall not be regarded by the Comptroller and the whole amount of the tax assessed becomes payable by the person liable to tax.

(5) After considering the objection, the Comptroller may allow the objection in whole or in part and amend the assessment or the decision objected to accordingly, or disallow the objection.

(6) The Comptroller shall serve the person objecting with a notice in writing of the decision on the objection.

(7) If the Comptroller has not made a decision on the objection, and ninety calendar days have passed since the objection was lodged, the Comptroller is deemed to have made a decision to allow the objection.

(8) A person dissatisfied with a decision of the Comptroller under subsection (2) may challenge the decision under this Part.

(9) For the purposes of subsection (3), if an assessment is based solely on a calculation error in a filed return, an objection to the assessment does not suspend the taxpayer's obligation to pay any of the amount assessed.

(10) In this section "**appealable decision**" means an assessment, or a decision described in sections 13(7), 14(12), 31(7), 37(4), 38(3), 39(6), 41(9), 42(7), 46(5), 50(5), 57(13), 61(2) and 85(4).

42. Appeals to Appeal Commissioners

(1) A person dissatisfied with a decision on the objection under section 41(5) may, within 30 calendar days after being served with notice of the decision lodge a notice of appeal with the Appeal Commissioners and, if lodged shall serve a copy of the notice of appeal on the Comptroller.

(2) Upon application in writing by a person dissatisfied with a decision under section 41(5), the Appeal Commissioners may, where satisfied that owing to absence from Saint Lucia, sickness, or other reasonable cause, the person was prevented from lodging a notice of appeal within the time specified under subsection (1) and there has been no unreasonable delay by the person in lodging the notice, accept a notice of appeal lodged after the time specified under subsection (1).

(3) In an appeal to the Appeal Commissioners against an objection decision the Appeal Commissioners may consider the objection only if the Comptroller —

- (a) certifies that the person assessed has paid the full amount of the tax due under the assessment; or
- (b) is satisfied that the person objecting is unable to pay the full amount of tax due and has given sufficient security, for the amount of tax unpaid and interest that may become payable.

(4) In an appeal to the Appeal Commissioners against a decision on the objection, the person is limited to the grounds set out in the person's objection, unless the Appeal Commissioners grant the person leave to add new grounds.

(5) In deciding an appeal, the Appeal Commissioners may make an order —

- (a) affirming, reducing, increasing, or otherwise varying the assessment under appeal; or
- (b) remitting the assessment for reconsideration by the Comptroller in accordance with the directions of the Appeal Commissioners.

(6) A person dissatisfied with a decision of the Appeal Commissioners under subsection (2) may challenge the decision under this Part.

(7) Sections 108, 109, 110, and 111 of the Income Tax Act, apply to appeals under this Act to the extent that the sections are not inconsistent with the provisions of this Act.

(8) If the Appeal Commissioners have not made a decision on the appeal and 180 calendar days have passed since the objection was lodged, the Appeal Commissioners are deemed to have made a decision to allow the appeal.

(9) In this section "**Appeal Commissioners**" means the Appeal Commissioners appointed under section 108 of the Income Tax Act.

43. Appeal to the High Court

(1) A person who is dissatisfied with a decision of the Appeal Commissioners may, within 30 calendar days after being notified of the decision, lodge a notice of appeal with the High Court; and the person appealing shall serve a copy of the notice of appeal on the other party to the proceeding before the Appeal Commissioners.

(2) An appeal to the High Court under subsection (1) may be made on questions of law including questions of mixed fact and law and the notice of appeal must state the questions of law that will be raised on the appeal.

(3) On an appeal under this section the High Court may —

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

44. Appeal to the Court of Appeal

(1) A person who is dissatisfied with a decision of the High Court may, within 42 calendar days after being notified of the decision, appeal to the Court of Appeal and the Court of Appeal may —

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

(2) An appeal to the Court of Appeal may be made only on questions of law including questions of mixed fact and law, and the notice of appeal must state the questions of law that will be raised on the appeal.

45. Burden of proof

The burden of proving that an assessment is excessive or that a decision of the Comptroller is wrong is on the person objecting to the assessment or decision.

PART 10 PAYMENT, COLLECTION AND RECOVERY

46. Due date for payment of tax

(1) Tax payable under this Act is due and payable —

- (a) by a taxable person for a tax period, by the due date for the return for the tax period;
- (b) by a person assessed under an assessment issued under this Act, by the date specified in the notice of assessment;
- (c) by an importer of goods or a recipient of an import of services, by the due date specified under sections 25 and 28 in respect of the import; or
- (d) by any other person, by the date a taxable transaction occurs as determined under this Act.

(2) Subject to section 41(5), where an objection to, or a notice of appeal against an assessment has been lodged, the due date of the tax payable under the assessment remains as specified under subsection (1).

(3) Upon application in writing by a person liable to tax, the Comptroller may, where good cause is shown, extend the time for payment of tax by the person beyond the date on which it is due and payable under this section, or make such other

arrangements as appropriate to ensure the payment of the tax due, and any such extension does not alter the due date for the purposes of section 33.

(4) Any person who fails to pay tax, being the whole or part of the remainder of any tax due or payable under this Act, by the due date is liable to a penalty equal to 10% of the amount of tax due.

(5) A person dissatisfied with a decision of the Comptroller under subsection (3) may challenge the decision under Part 9 of this Act.

47. Allocation of payments

Where, in addition to any amount of tax which is due and payable by any person under this Act, any amount of interest or penalty is payable, any payment made by the person in respect of such tax, interest or penalty which is less than the total amount due is deemed to be made —

- (a) first in respect of such interest;
- (b) to the extent that such payment exceeds the amount of such interest, then in respect of such penalty; and
- (c) to the extent that such payment exceeds the sum of such penalty and interest, then in respect of such tax.

48. Recovery of tax as debt due

(1) Tax that is due and payable under this Act is a debt due to the Crown and payable to the Comptroller, and may be recovered in the manner provided by the Income Tax Act, or by court action in the manner provided by the Income Tax Act with the necessary modifications, where —

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

(2) Subsection (1) does not apply to tax collected by the Comptroller of Customs, which is recovered under procedures for recovery of customs duty.

(3) A portion of the tax due and payable to the Comptroller under this Act, being such portion as may be determined from time to time by the Comptroller after consultation with the Minister of Finance, is to be paid into a Special Fund established in accordance with section 9 of the Finance (Administration) Act to pay the refunds required to be paid under this Act.

49. Recovery of tax from persons leaving Saint Lucia

(1) Where the Comptroller has reasonable grounds to believe that a person may leave Saint Lucia without paying all tax due under this Act, the Comptroller may obtain an order from a Court, directing the Chief Immigration Officer to take the necessary steps to prevent the person from leaving Saint Lucia until the person makes —

- (a) payment in full; or
- (b) an arrangement satisfactory to the Comptroller for the payment of the tax.

(2) The Comptroller shall serve a copy of the order issued under subsection (1) on the person named in the order if it is practicable to do so.

50. Security

(1) Where it is reasonable to do so for the protection of the revenue or as provided for in this Act, the Comptroller, by notice in writing, may require a person to

give security for the payment of tax within a specified time that is or may become payable by the person under this Act.

(2) Security required under subsection (1), including security required from a promoter of public entertainment, must be for such amount, in such form, and furnished within such period as the Comptroller may specify in the notice.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding one year or to both.

(4) Where security under subsection (1) is in cash and the Comptroller is satisfied that the security is no longer required, the Comptroller shall apply the amount of the security as specified under section 57(4).

(5) A person dissatisfied with a decision of the Comptroller under subsection (1) may challenge the decision under Part 9 of this Act.

(6) A promoter of public entertainment shall not allow the public entertainment to take place unless the promoter has paid the amount required under subsection (1) and received the Comptroller's written approval.

(7) A promoter of public entertainment who contravenes subsection (6) commits an offence and is liable —

- (a) on summary conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 3 years or to both; and
- (b) to a tax at the rate under subsection 10(1) on the value of the tickets printed for entertainment.

51. Preferential claim to assets

(1) From the date on which tax becomes due and payable under this Act and until the tax is paid, the Comptroller has a lien upon —

- (a) the assets of the person liable to pay the tax; and
- (b) any asset of a related person if the Comptroller reasonably believes that the person liable to pay the tax legally owns the asset and transferred the asset to the related person in order to avoid the payment of tax.

(2) The lien described in subsection (1) is not valid against the interest of a person who is a purchaser from the taxpayer or a holder of a security interest in the property, if the person's ownership of or other interest in the property arises —

- (a) before the person has actual knowledge of the lien; and
- (b) before notice of the lien has been duly registered by the Registrar.

(3) Where a person is in default of paying tax, the Comptroller may by notice in writing, apply to the Registrar of the High Court or the Registrar of Lands to register a security interest in any fixed assets, which are owned by that person, to cover any unpaid tax in default, together with any expense incurred in recovery proceedings.

(4) Where the Comptroller has made an application under subsection (3), the Registrar of the High Court or the Registrar of Lands shall register the notice of security without fee, as if the notice were an instrument of mortgage over or charge on, as the case may be, such asset, and such registration operates while it subsists, subject to any prior mortgage or charge, in all respects as a legal mortgage over or charge on the asset to secure the amount due.

(5) Where the Registrar of the High Court or the Registrar of Lands registers a security interest referred to in subsection (4) the Registrar shall notify the owner of the property, within 15 days of such registration that the security interest has been registered.

(6) The Comptroller shall serve a copy of the notice referred to in subsection (4) on the person in default and that person may pay the tax in default and have the notice removed.

52. Seizure of goods and vehicles

(1) Where the Comptroller has reasonable grounds to believe that tax on a supply or import of goods has not been or will not be paid, the Comptroller may apply to a Magistrate for an Order to authorise him or her to seize the goods and the Magistrate on being satisfied of the reasons for such application shall issue the Order.

(2) The Comptroller may seize any vehicle used in the removal or carriage of goods under subsection (1), unless it is shown that such vehicle was so used without the consent or knowledge of the owner of that vehicle or other person lawfully in possession or charge of the vehicle or that the owner or person in possession had no reason to believe that the vehicle was used to remove or carry goods in respect of which the tax had not been paid; and at the discretion of the Comptroller, the vehicle may be sold by public auction or may be dealt with in such other manner as the Comptroller may direct subject to conditions specified under subsection (9).

(3) Goods seized under subsection (1) must be stored in a place approved by the Comptroller for the storage of such goods.

(4) Where goods are seized under subsection (1), or a vehicle is seized under subsection (2), the Comptroller is required to serve on the owner of the goods or vehicle or the person who had custody or control of the goods or vehicle immediately before seizure, a notice in writing, within 14 days after the seizure —

- (a) identifying the goods or vehicle;
- (b) stating that the goods or vehicle has been seized under this section and the reason for seizure; and
- (c) setting out the terms of subsections (7), (8), and (9).

(5) The Comptroller shall not serve notice under subsection (4) if, after making reasonable enquiries, the Comptroller does not have sufficient information to identify the person on whom the notice should be served and in that event the Comptroller shall post a notice of the seizure in a conspicuous place on the premises from where the goods were seized.

(6) The Comptroller may serve a notice under subsection (4) on any person claiming the goods, provided the person has given the Comptroller sufficient information to enable such a notice to be served.

(7) Subject to subsection (8), the Comptroller may authorise the delivery of goods seized under subsection (1) to the person on whom a notice under subsection (4) has been served, where that person pays or gives security, in accordance with section 50, for the payment of tax due and payable or that will become due and payable in respect of the supply or import of the goods.

(8) The Comptroller shall detain goods seized under subsection (1) —

- (a) in the case of perishable goods, only for such period as the Comptroller considers reasonable having regard to the condition of the goods; or
- (b) in any other case, until the later of —
 - (i) 20 working days after the seizure of the goods, or
 - (ii) 20 working days after the due date for payment of the tax on the supply or import of the goods.

(9) Where the detention period in subsection (8) has expired, the Comptroller —

- (a) may subject to paragraph (b) sell the goods in the manner specified under section 53(4) and apply the proceeds of sale as set out in section 53(5);

- (b) before he or she sells a vehicle seized under paragraph (a), shall obtain an order from the High Court authorizing the Comptroller to sell the vehicle.

(10) The Judge shall not grant an order under subsection (9), unless the Judge is satisfied that the seizure was in order.

(11) Notwithstanding the provisions of this section, the Comptroller may proceed under section 48 with respect to any balance owed if the proceeds of sale are not sufficient to meet the costs thereof and the tax due.

(12) For the purpose of this section “**vehicle**” means the method of carriage or conveyance and includes any cart, wagon, or vessel and any trailer attached to such vehicle.

53. Distress proceedings

(1) The Comptroller may recover unpaid tax by distress proceedings against the personal property of the person liable to pay the tax.

(2) For the purposes of executing distress under subsection (1), the Comptroller may, upon warrant issued by a Magistrate —

- (a) at any time enter any house or premises; and
- (b) require a police officer to be present while the distress is being executed.

(3) Property upon which a distress is levied under this section, other than perishable goods, must be kept for 10 working days either at the premises where the distress was levied or at such other place as the Comptroller may consider appropriate, at the cost of the person liable to pay the tax.

(4) Where the person liable to pay the tax does not pay the tax due, together with the costs of the distress —

- (a) in the case of perishable goods, within such period as the Comptroller considers reasonable having regard to the condition of the goods; or
- (b) in any other case, after the 10 working days period referred to in subsection (3),

the property distrained upon may be sold by public auction, or in such other manner as provided in Regulations.

(5) The proceeds of a disposal under subsection (4) shall be applied by the Comptroller first towards the cost of taking, keeping, and selling the property distrained upon, then towards the tax due and payable and, subject to section 57, the remainder of the proceeds, if any, shall be restored to the person liable to pay the tax.

(6) Nothing in this section precludes the Comptroller from proceeding under section 48 with respect to any balance owed if the proceeds of the distress are not sufficient to meet the costs thereof and the tax due.

(7) All costs incurred by the Comptroller in respect of a distress may be recovered by the Comptroller from the person liable to pay the tax as tax due under this Act.

(8) Distress may not be levied under this section upon tools of trade.

54. Recovery of tax from recipient of supply

(1) Where, in respect of a taxable supply by a taxable person, the taxable person has, in consequence of a fraudulent action or misrepresentation by the recipient of the supply, incorrectly treated the supply as an exempt or zero rated supply, the Comptroller may raise an assessment upon the recipient for the amount of unpaid tax in respect of the supply together with any interest that has become payable under sections 33 and 46.

(2) The Comptroller shall serve a notice of an assessment under subsection (1) on the recipient specifying —

- (a) the tax payable;
- (b) the date the tax is due and payable; and
- (c) the time, place, and manner of objecting to the assessment.

(3) An assessment raised under subsection (1) is treated as an assessment for all purposes of this Act.

(4) Subsection (1) does not preclude the Comptroller from recovering the tax or interest from the taxable person making the supply.

(5) For the purposes of subsection (4) —

- (a) any amount recovered from the recipient is to be credited against the liability of the taxable person; and
- (b) any amount recovered from the taxable person is to be credited against the liability of the recipient.

(6) Where an amount of tax or interest referred to in subsection (1) is paid by the taxable person, the taxable person may recover the amount paid from the recipient.

(7) An amount assessed under this section is treated, for all purposes of this Act, as tax charged under this Act.

55. Recovery of tax from third parties

(1) Where a person liable to pay tax under this Act, fails to pay tax by the due date, the Comptroller may, by notice in writing, require any other person —

- (a) owing or who may owe money to the person liable to pay the tax;
- (b) holding or who may subsequently hold money for, or on account of, the person liable to pay the tax;
- (c) having authority from some other person to pay money to the person liable; or
- (d) having in possession the property of the person liable to pay the tax notwithstanding any other law,

to be the agent of that person to pay the money or deliver the property to the Comptroller within such period specified in the notice or if on such date no money is due or held to which this subsection applies, within 15 calendar days of the date on which money becomes due or is held in any of the circumstances referred to in this subsection, the amount specified in the notice or, if the money due or held is less than the amount specified, the whole amount of money due or held.

(2) A copy of a notice issued under subsection (1) must be served on the person liable to pay the tax.

(3) A person making a payment under a notice under subsection (1) is deemed to have acted under the authority of the person liable to pay the tax and of all other persons concerned and is indemnified in respect of the payment.

(4) The provisions of this Act relating to the payment, collection and recovery of tax apply to any amount due under this section as if the amount were tax due under this Act.

(5) A person who fails to comply with a notice under this section is liable for the amount of the tax to which the notice applies.

(6) A person who contravenes subsection (5) commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding one year.

56. Duties of receivers

(1) A receiver shall notify the Comptroller in writing within 14 calendar days after being appointed to the position or taking possession of an asset of the person liable to pay tax in Saint Lucia, whichever first occurs.

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

(3) A receiver —

- (a) shall set aside, out of the proceeds of sale of an asset, the amount notified by the Comptroller under subsection (2), or such lesser amount as is subsequently agreed on by the Comptroller;
- (b) is liable to the extent of the amount set aside for the tax of the person who owned the asset;
- (c) may pay any debt that has priority over the tax referred to in this section notwithstanding any provision of this section.

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

(5) In this section “**receiver**” means a person who, with respect to an asset in Saint Lucia is —

- (a) a liquidator of a company;
- (b) a receiver appointed out of Court or by a Court;
- (c) a trustee for a bankrupt person;
- (d) an executor or administrator of the estate of a deceased person; or
- (e) any other person conducting business on behalf of a person legally incapacitated.

PART 11 CARRY FORWARDS, REFUNDS AND INTEREST

57. Carry forward of excess credits and refund of tax

(1) Where —

- (a) the total amount of input tax deductible by a taxable person under section 30 for a tax period exceeds the person’s output tax for that period; or
- (b) the amount of tax paid by a person, other than in circumstances specified under paragraph (a), exceeds the amount properly charged to tax under this Act,

the amount of the excess is treated in the manner provided in this section.

(2) Except as provided in subsections (5), (14), and (16), the excess described in subsection (1)(a) is carried forward to the next tax period and treated as input tax deductible in that period.

(3) Subject to this section, if any of the excess referred to in subsection (1)(a) for a tax period remains after being carried forward and used as an input tax deductible in three consecutive tax periods, the taxable person may file with the Comptroller a claim for refund for the amount remaining, in the form and with the documentation specified by the Comptroller.

(4) By the end of the first calendar month following the date the claim for refund described in subsection (3) is filed or, where the Comptroller orders an audit of the

claim for refund described in subsection (3), within 10 days after conclusion of the audit, if later, the Comptroller, to the extent satisfied that the taxpayer is entitled to the amount of the refund claimed —

- (a) may apply the amount of the refund claimed under subsection (3) in reduction of any tax, levy, interest or penalty payable by the person in terms of this Act, other taxes collected by the Comptroller, and any unpaid amounts under the Acts repealed by section 111; and
- (b) is required to refund any excess remaining to the taxable person.

(5) Where at least fifty per cent of the taxable supplies of a taxable person for the taxable period is taxed at a rate of zero per cent, and the person reports an excess under subsection (1)(a) for the tax period, the Comptroller may refund the taxpayer for the excess deductions attributable to the zero rated supplies by the end of the first calendar month following the period specified under section 37(1). (*Substituted by Act 10 of 2012 and by Act 5 of 2016*)

(6) By the end of the first calendar month following the month in which the claim for refund described in subsection (5) was received or, where the Comptroller orders an audit of the claim for refund described in subsection (5), within 10 working days after conclusion of the audit, if later, the Comptroller, to the extent satisfied that the taxpayer is entitled to the amount of the refund claimed —

- (a) may apply the amount of the refund claimed under subsection (5) in reduction of any tax, levy, interest or penalty payable by the person in terms of this Act, other taxes collected by the Comptroller, and any unpaid amounts under the Acts repealed by section 111; and
- (b) is required to refund any excess remaining to the taxable person.

(7) Notwithstanding subsections (4)(b) or (6)(b), if the amount of the excess to be refunded is not more than \$100 the excess must be carried forward to the next succeeding tax period and must be accounted for as provided in section 30(1)(e).

(8) Where a person has overpaid tax in the circumstances specified under subsection (1)(b), the person may file with the Comptroller a claim for refund of the excess, accompanied by documentary proof of payment of the excess amount as specified by the Comptroller.

(9) For the purposes of subsection (8), if the claim for refund is filed by a taxable person —

- (a) the Comptroller shall deal with the claim as if it were a claim under subsection (3); and
- (b) to the extent that any output tax claimed to be refundable is an amount borne by a recipient who is not a registered person, the output tax is refundable only to the extent that it will be repaid by the taxable person to that recipient, whether in cash or as a credit against an amount owing to the taxable person by the recipient.

(10) Where a taxable person has failed to file a return for any tax period as required under this Act, the Comptroller may withhold payment of any amount refundable under this section until the taxable person files such return as required.

(11) A claim for a refund specified in subsection (3), (5) or (8) must be made within 3 years after the date the person has the right to apply for the refund under this section.

(12) The Comptroller is required to serve on a person claiming a refund, a notice in writing of the decision in respect of the claim within 30 calendar days of receiving the claim.

(13) A person claiming a refund under this section who is dissatisfied with a decision referred to in subsection (12) may challenge the decision under Part 9 of this Act.

(14) Notwithstanding anything in this section, the Comptroller may first apply the amount of any excess under subsection (1) in reduction of any tax, levy or interest payable by the person in terms of this Act, other taxes collected by the Comptroller under any other Acts, and any unpaid amounts under the Acts repealed by section 111.

(15) For the purpose of this section, subsection (1)(b) applies to a person entitled to a refund of tax under section 59(1) and (3).

(16) For the purposes of subsection (3), the Comptroller may, on the terms and conditions imposed, authorize a taxable person to file a claim for refund as if subsection (3) required the excess referred to in subsection (1)(a) to be carried forward and used as an input tax deductible in one instead of three consecutive tax periods. *(Substituted by Act 10 of 2012)*

(17) The Comptroller may make an authorization under subsection (18) only where —

- (a) the taxable person has kept proper records;
- (b) the taxable person has submitted regular and reliable tax returns;
- (c) the taxable person has complied with all of his or her obligations under the laws relating to tax, including any laws relating to customs as required under this Act; and
- (d) the taxable person has complied with all of his or her obligations under the Acts repealed by section 111.

(Substituted by Act 10 of 2012)

(18) A person shall not improperly claim a refund under subsection (3), (5) or (8). *(Inserted by Act 10 of 2012)*

(19) A person who contravenes subsection (16) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both. *(Inserted by Act 10 of 2012)*

58. Interest on overpayment

(1) Where the Comptroller fails to pay a refund of tax relating to an excess under section 57 within 1 month of the date specified under that section, the Comptroller is required to pay the taxable person entitled to the refund an additional amount as interest commencing 1 month after such date and ending on the date the payment of the refund is made.

(2) Where the Comptroller is required to refund an amount of tax to a person as a result of —

- (a) an objection decision under section 41;
- (b) a decision of the Appeal Commissioners under section 42;
- (c) a decision of the High Court under section 43; or
- (d) a decision of the Court of Appeal under section 44,

the Comptroller shall pay interest on the amount of the refund for the period commencing from the date the person paid the tax refunded and ending on the date the refund is made.

(3) The rate of interest payable on a refund under this section is such rate as is specified in the Regulations.

59. Others eligible for tax refund

(1) (a) Where goods or services are supplied to a diplomatic mission, consulate, international organization or a member of the diplomatic or consular service or a

member of his or her family forming part of his or her household, such mission, consulate, organization or member, as the case may be, may apply to the Comptroller within 2 years after the supply was made for a refund of the tax paid in respect of the goods or services, as the case may be.

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

(c) An organization or government to the extent provided under a technical assistance or humanitarian assistance or other local agreement entered into with the Government of Saint Lucia; (*Amended by Act 15 of 2013*)

(d) a company incorporated, licensed or continued under the —

- (i) International Insurance Act;
- (ii) International Business Companies Act;
- (iii) International Trust Act;
- (iv) International Mutual Fund Act;
- (v) International Banks Act;
- (vi) International Partnerships Act.

(*Substituted by Act 15 of 2013*)

(*Substituted by Act 10 of 2012*)

(2) (*Repealed by Act 10 of 2012*)

(3) The Minister, may by Regulations authorise the grant of a refund of tax paid on a supply of an unconditional gift of goods or services to an approved charitable organisation for use in connection with the organisation's charitable purposes other than for resale.

(4) For the purposes of this section, "**technical assistance agreement**" includes an agreement that provides assistance by grant, loan, direct payment by the Government, or a combination of funding options.

PART 12 REPRESENTATIVES AND SPECIAL CASES OF TAXABLE PERSONS

60. Persons acting in a representative capacity

(1) Every representative of a taxable person is responsible for performing any duties, including the payment of tax, imposed by this Act on the taxable person.

(2) Every representative is personally liable for the payment of any tax payable in his or her representative capacity if, while the amount remains unpaid, the representative —

- (a) alienates, charges, or disposes of any money received or accrued in respect of which the tax is payable; or
- (b) disposes of or parts with any fund or money belonging to the taxable person which is in the possession of the representative or which comes to the representative after the tax is payable if,

such tax could legally have been paid from or out of such fund or money.

(3) Nothing in this section is to be construed as relieving a taxable person from performing any duties imposed by this Act on the taxable person which the representative of the person has failed to perform.

(4) In this section "**representative**", in relation to a taxable person, means —

- (a) the Financial Controller or the designated officer in the case of a company (other than a company in liquidation);
- (b) any member of the committee of management in the case of an unincorporated association or body;
- (c) any person who is responsible for accounting for the receipt and payment of money or funds on behalf of the company in any other case;
- (d) the liquidator in the case of a company in liquidation;
- (e) any person responsible for accounting for the receipt and payment of money under the provisions of any law or for the receipt and payment of public funds or of funds voted by Parliament in the case of the State or Constituency Council;
- (f) any partner in the case of a partnership;
- (g) any trustee in the case of a trust; or
- (h) any person controlling the non-resident's affairs in Saint Lucia, including any manager of a taxable activity of the non-resident in Saint Lucia in the case of a non-resident or a person referred to in paragraph (b) of the definition of "resident" in section 2.

61. Power to appoint representatives

(1) The Comptroller may, if the Comptroller considers it necessary to do so, declare a person to be a representative of the taxable person for the purposes of section 60.

(2) A person dissatisfied with a decision referred to in subsection (1) may challenge the decision under Part 9 of this Act.

62. Directors of corporations

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

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

(3) A director of a corporation shall not be assessed for an amount payable by him or her under this section more than 5 years after the filing of the tax return, or in the case where an assessment had been made under section 39(1) not more than 5 years after the date of assessment relating to that amount.

(4) A director who satisfied a claim under this section is entitled to contribution from the other directors who were liable for the claim.

63. Officers of unincorporated bodies

(1) Where any liability or obligation is imposed by or under this Act or the Regulations on an unincorporated body, the body and each of the persons who are officers of the body at the time the liability or obligation is imposed are jointly and severally liable and responsible to satisfy the liability or obligation.

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

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

(4) Any document which is served on an unincorporated body under this Act or the Regulations is deemed to have also been served on the officers of the unincorporated body.

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

(6) In this section —

“officer of an unincorporated body” means —

- (a) in the case of a partnership, a partner of the partnership;
- (b) in the case of a joint venture, a participant in the joint venture;
- (c) in the case of a trust, a trustee of the trust; and
- (d) in the case of any unincorporated body, other than a body referred to in paragraph (a), (b) or (c) —
 - (i) a person who holds office as Chairman, President, Treasurer or Secretary of the body or any similar office,
 - (ii) where there is no such officer of the body, a member of any committee that has management of the affairs of the body, or
 - (iii) where there is no such officer as referred to in subparagraph (i) or committee referred to in subparagraph (ii), a member of the body;

“unincorporated body” includes unincorporated associations.

64. Partnerships or unincorporated associations

(1) Where —

- (a) a partnership, or unincorporated association or body is dissolved in consequence of —
 - (i) the retirement or withdrawal of one or more, but not all, of its partners or members, or
 - (ii) the admission of a new partner or member;
- (b) a new partnership, or unincorporated association or body comes into existence consisting of the remaining members and one or more new members; and
- (c) the new entity continues to carry on the taxable activity of the dissolved entity as a going concern,

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

(2) In this section —

“dissolved entity” means a partnership or unincorporated association or body that is dissolved;

“new entity” means a new partnership or unincorporated association or body that comes into existence.

65. Death or insolvency of taxable person

Where, after the death of a taxable person or the sequestration of a taxable person's estate, any taxable activity previously carried on by the taxable person is carried on by or on behalf of the executor, administrator or trustee of the person's estate or anything is done in connection with the termination of the taxable activity, the estate of the taxable person, as represented by the executor, administrator or trustee, is deemed for the purposes of this Act to be the taxable person in respect of the taxable activity.

66. Trustee

A person who is a trustee in more than one capacity is treated for the purposes of this Act as a separate person in relation to each of those capacities.

67. Branches or divisions

Where a taxable activity is conducted by a taxable person in branches or divisions, the taxable person is deemed to be a single person conducting the taxable activity for purposes of this Act and no separate registration of branches or divisions is allowed.

PART 13 RECORDS AND INVESTIGATION POWERS

68. Meaning of records

In this Part, "**records**" include accounting records, accounts, books, computer-stored information, and other records, including the records referred to in section 69.

69. Record-keeping

(1) A taxable person or any other person liable to tax under this Act shall maintain in Saint Lucia the following records —

- (a) original tax invoices, sales receipts, tax credit notes and tax debit notes received by the person;
- (b) a copy of all tax invoices, sales receipts, tax credit notes and tax debit notes issued by the person;
- (c) customs documentation relating to imports and exports by the person;
- (d) accounting records relating to taxable activities carried on in Saint Lucia; and
- (e) any other records as may be prescribed by Regulations.

(2) Records required to be maintained under subsection (1) must be retained —

- (a) in the English language;
- (b) for 6 years after the end of the tax period to which they relate.

(3) A taxpayer may apply in writing to the Comptroller for permission to dispose of records required to be maintained under this Act prior to the expiration of the period up to which records are required to be kept and the Comptroller may grant permission in writing if satisfied that the records may not be required for any tax purposes.

(4) A person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding one year.

70. Notice to obtain information or evidence

(1) The Comptroller may, by notice in writing, require any person, whether or not liable to tax under this Act —

- (a) to furnish such information concerning that person or any other person as may be required by the notice; or
- (b) to attend at the time and place designated in the notice for the purpose of being examined on oath before the Comptroller or any tax officer authorised by the Comptroller for this purpose concerning the assessable or chargeable tax or any transaction or matters appearing to the Comptroller to be relevant to the examination for that person or any other person, and for that purpose the Comptroller or the authorised officer may require the person examined to produce any record or computer in the control of the person; or
- (c) to provide access to the premises where any business is carried on by that person or where records or books of account are kept in relation to that business in order to —
 - (i) examine the records or books of account and any other documents that relate to the activities of the business,
 - (ii) inspect any raw materials, trading stock or other assets; and require the owner of the business, or any employee or agent, to give him or her such reasonable assistance in connection with the examination or inspection as may be necessary and to answer orally or in writing any questions relating, or
 - (iii) inspect the process of that person, including the method adopted in recording the supplies; and
- (d) require the owner of the business, or any employee or agent, to give him or her such reasonable assistance in connection with the examination or inspection as may be necessary and to answer orally or in writing any questions relating.

(2) Where the notice requires the production of a record or computer, it is sufficient if such record or computer is described in the notice with reasonable certainty.

(3) Where during the course of any examination or inspection it appears to the Comptroller or the authorised officer that there may not have been a correct disclosure of liability to tax, he or she may take possession of any books of account or other documents for further examination and after examination may retain or make copies of or take extracts from the books or documents for any of the purposes of this Act.

(4) Without prejudice to the generality of subsection (1), the Comptroller may require —

- (a) a bank or other financial institution to furnish the Comptroller with the details of any banking account or other assets which may be held on behalf of any person, or to furnish a copy of bank statements or statement of assets of any such banking account or other asset;
- (b) a bank to permit the Comptroller or any tax officer authorised by him or her to inspect the records of the bank or other financial institution with respect to the banking account of any person;
- (c) the attendance of an officer of a bank or other financial institution before the Comptroller to give evidence respecting bank accounts or other assets which may be held by the bank or other financial institution on behalf of a person.

(5) This section has effect notwithstanding any rule of law relating to privilege or the public interest in relation to the furnishing of information or the production of records or documents.

(6) A person who contravenes a notice issued under subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

71. Liability to cost

A person liable to tax shall bear the cost of an examination under section 70.

72. Access to records, computers and goods

(1) Where the Comptroller has reasonable grounds to believe that an offence in connection with the tax is being, or is about to be committed on any premises, or that evidence of the commission of such an offence is to be found on the premises, the Comptroller shall apply to a Magistrate for a warrant to allow a tax officer —

- (a) without prior notice and at any time, to enter any premises or place where records are kept and on such premises search for any records;
- (b) in carrying out a search referred to in paragraph (a) and in any manner, to open or cause to be opened or removed and opened, any article in which the officer suspects that any records are kept;
- (c) to seize any records which in the tax officer's opinion may afford evidence that may be material in determining the liability of any person for tax payable under this Act;
- (d) to retain any records seized under paragraph (c) for as long as the records may be required for determining a person's liability under this Act or for any proceeding under this Act;
- (e) to examine and make extracts from, and copies of, any records, and require from any person an explanation of any entry in the records and access to records, computers and goods;
- (f) where a hard copy or computer disk of computer-stored information is not provided, to seize and retain the computer in which the information is stored for as long as is reasonable to copy the information required.

(2) A tax officer who attempts to exercise a power under subsection (1) is not entitled to enter or remain on any premises or at any place if, upon being requested by the occupier of the premises or place, the tax officer does not produce the warrant issued under subsection (1).

(3) The owner, manager, or any other person lawfully on the premises or at the place entered or proposed to be entered under this section shall provide all reasonable facilities and assistance for the effective exercise of power under this section.

(4) A person whose records or computer have been removed may examine or make copies or extracts from any records or computers which are removed and retained under subsection (1) during regular office hours under such supervision as the Comptroller may determine.

(5) A tax officer exercising a power under subsection (1) may request the assistance of a Customs officer or police officer as the tax officer may consider reasonably necessary and any such Customs officer or police officer shall render such assistance as may be required by the tax officer.

(6) An owner, manager or any other person who contravenes subsection (3) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

PART 14 OFFENCES AND PENALTIES

DIVISION 1 Criminal proceedings

73. Sanction for prosecution

(1) Subject to the powers of the Director of Public Prosecutions under the Constitution of Saint Lucia no criminal proceedings in respect of any offence under this Act is to be commenced except with the sanction of the Comptroller.

(2) Criminal proceedings under this Act must be commenced in the name of the State.

74. Time limit for proceedings to be taken

Proceedings under this Division may be commenced —

- (a) where the offence alleged has involved the doing of any act, within 3 years after the discovery of the act;
- (b) where the offence alleged has involved the failure to do any act, within 3 years after the Comptroller has become aware of such failure;
- (c) where the offence alleged has involved the nondisclosure or incorrect disclosure by any person of information relating to that person's liability to tax for a tax period, within 3 years after his or her correct liability to tax has become final for that tax period.

75. Tax evasion

(1) A person shall not willfully evade, or attempt to evade an assessment, payment, or collection of tax.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 3 years or to both.

76. Impeding tax administration

(1) A person shall not willfully impede or attempt to impede the Comptroller in his or her administration of this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 or to imprisonment for a term of 6 months or to both.

(3) For the purposes of this section, a person impedes the administration of this Act if the person —

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

77. Offences by tax officers

(1) A tax officer in carrying out the provisions of this Act shall not —

- (a) directly or indirectly ask for, or take in connection with any of the officer's duties any payment or reward, whether pecuniary or otherwise, or any promise or security for any such payment or reward, not being a payment or reward which the officer was lawfully entitled to receive; or

- (b) enter into or acquiesce in any agreement to do, abstain from doing, permit, conceal, or connive at any act or thing whereby the tax revenue is or may be defrauded or which is contrary to the provisions of this Act or to the proper execution of the officer's duty.

(2) A tax officer who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year or to both, and the Court may, in addition to imposing a fine, order the convicted person to pay to the Comptroller any amount of tax that has not been paid as a result of the tax officer's wrong doing and which cannot be recovered from the person liable for the tax.

78. Offences by companies, aiders and abettors

(1) Where an offence under this Act has been committed by a company, every person who at the time of the commission of the offence —

- (a) was director or other similar officer of the company; or
- (b) was acting or purporting to act in such capacity, is deemed to have committed the offence.

(2) Subsection (1) does not apply where —

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

(3) A person aiding and abetting the commission of an offence under this Act commits that offence and is liable to the same penalties as the person committing the offence.

79. Collection of tax by non-registered persons

(1) A non-registered person shall not collect tax on a supply.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding of \$100,000 or to imprisonment or a term not exceeding 4 years.

80. False or misleading statements

(1) A person shall not knowingly or recklessly make a statement to a tax officer that is false or misleading in a material particular or omit from a statement made to a tax officer any matter or thing without which —

- (a) the statement is misleading in a material particular; and
- (b) the tax properly payable by the person exceeds the tax that would be payable if the person were assessed on the basis that the statement is true.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$100,000 or to imprisonment or a term not exceeding 4 years.

(3) Notwithstanding subsection (2), a person must pay to the Comptroller the tax payable and the tax payable includes —

- (a) in a case where an amount of tax payable by the person would be reduced if it were determined on the basis of the information provided in the statement, the amount by which that tax would have been so reduced; and

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

(4) A reference in this section to a statement made to a tax officer is a reference to a statement made orally, in writing, or in any other form to that officer acting in the performance of the officer's duties under this Act, and includes a statement made —

- (a) in an application, certificate, declaration, notification, return, objection, or other document made, prepared, given, filed, lodged, or furnished under this Act;
- (b) in any information required to be furnished under this Act;
- (c) in a document furnished to a tax officer otherwise than under this Act;
- (d) in an answer to a question asked of a person by a tax officer; or
- (e) to another person with the knowledge or reasonable expectation that the statement would be conveyed to a tax officer.

(3) It is a defence to a prosecution under subsection (1) that the person did not know and could not reasonably be expected to have known that the statement to which the prosecution relates was false or misleading.

81. Other offences

For the avoidance of doubt the offences created under sections 8(12), 15(2), 34(10), 35(8), 37(5), 50(2), 50(7), 55(6), 57(17), 69(4), 70(6), 72(6), 75(2) and 100(6) are subject to the provisions of sections 73 and 74 in this Division.

82. General penalty

A person who commits an offence under this Act for which no penalty is specified is liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year or both.

83. Compounding of offences

(1) Where a person has committed an offence under this Division other than an offence under section 75 or 77, the Comptroller may, at any time prior to the commencement of the hearing by any court of the proceedings relating to that offence, compound such offence and order the person to pay such sum of money as specified by the Comptroller, not exceeding the maximum amount of the fine prescribed for the offence.

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

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

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

(4) The Comptroller's power under this section is subject to the powers of the Director of Public Prosecutions under the Constitution of Saint Lucia, and the Comptroller shall give the Director of Public Prosecutions a copy of the order described in subsection (3) at the time the order is served on the taxpayer.

(5) The amount ordered to be paid under subsection (1) is recoverable as the amount it were tax due and payable.

DIVISION 2

Civil penalties

84. General provisions

(1) A penalty is not payable under this Division where, in respect of the same act or omission, the person has been convicted of an offence under Division 1, or an offence has been compounded under section 83.

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

(3) Where good cause is shown, in writing, by the person liable to a penalty, the Comptroller may mitigate in whole or part any penalty payable.

(4) Penalties are assessed and collected following the same procedure for tax, as if the amount of penalty is tax due under this Act, and the penalties described in subsection (6) are assessed together with the tax to which they relate.

(5) A person dissatisfied with a decision of the Comptroller under subsection (3) may challenge the decision under Part 9 of this Act.

(6) In the case of a penalty which amount may be calculated by reference to the tax payable for a tax period, the time limit for assessing the penalty is the same as the limit for assessing the tax to which the penalty relates.

(7) In the case of penalties under this Division other than those described in subsection (6), the time limit for assessing a penalty under this Division is determined under section 74.

85. Procedure

(1) If the Comptroller has reason to believe that a person is liable for a penalty under sections 86 to 94 of this Division, he or she may serve a Notice of Penalty on the person.

(2) A Notice of Penalty referred to in subsection (1) must be in a form approved by the Comptroller and must in every case —

- (a) contain a description of the alleged offence for which that person may be liable for a penalty and the amount payable as prescribed in this Division; and
- (b) advise that if the person does not wish to have a complaint of the alleged offence heard and determined by the district court, the penalty amount specified in the Notice of Penalty must be paid to the Inland Revenue Department within a period of 30 days of service of the Notice of Penalty;
- (c) advise that if the person claims that he or she is not liable to the penalty specified, he or she must, within 30 calendar days of the date of service of the Notice of Penalty, give notice of his or her claim at the district court office specified in the Notice of Penalty;
- (d) advise that if the person contests the alleged offence as provided for in paragraph (c), and the person is found liable by the District Court, that the penalty amount for which the person is liable is an amount greater than the amount specified in the Notice of Penalty.

(3) A copy of a Notice of Penalty served on a person under this Division and a copy of a certificate of service by the person effecting service must be filed in the District Court and has the same effect as a claim form and an affidavit of service filed in civil proceedings in the Court.

(4) Where the penalty amount specified in the Notice of Penalty has been paid within the 30 day period as provided for in subsection 2(b), the Comptroller shall immediately cause a Certificate of Payment in a form approved by the Comptroller to be filed in the District Court Office and no further proceedings must occur in respect of the Notice of Penalty.

(5) An amount paid under subsection 2(b) must be dealt with as if it were a penalty imposed by a Court.

(6) Where the person contests the alleged offence as provided for under subsection 2(c), immediately upon notice being given of a claim in accordance with subsection 2(c) the District Court shall issue a court date to both parties and the Comptroller shall on the said date proceed against the person.

(7) Where a person who contests the alleged offence is found liable by the District Court for the penalty, the penalty amount for which the person is liable is a fine greater than the fixed penalty amount specified in sections 86 – 94 but not exceeding a maximum of double the fixed penalty amount.

(8) Where a person served with a Notice of Penalty does not give notice of his or her claim by the end of the relevant 30 day period and upon the Comptroller certifying in writing that the person has not paid the specified amount within the 30 day period as provided for under subsection 2(b), the District Court shall register the Notice of Penalty and upon registration the Notice of Penalty has the same force and effect as if it were a judgement in default of appearance granted by the District Court in favour of the Crown against a judgement debtor and all proceedings may be taken upon the registered Notice and it may be enforced as if it were a judgement of the District Court.

DIVISION 3

Civil offences

86. Failure to register or display certificate

(1) A person who fails to apply for registration as required under sections 12 and 112(12) is liable to a penalty equal to double the amount of output tax payable from the time the person is required to apply for registration until the person files an application for registration with the Comptroller.

(2) A person who fails to display the certificate of registration issued by the Comptroller as required by section 13(11) is liable to a penalty of \$100 per day for each day or portion of the day that the failure continues.

87. Failure to notify Comptroller

A person who fails to notify the Comptroller as required by section 13(12) or 14(1) is liable to a penalty of \$250 for the first instance, \$500 for the second instance and \$1,000 for the third and any subsequent instance.

88. Tax invoices etc.

A person who —

- (a) issues a false invoice or false sales receipt;
- (b) uses a false taxpayer identification number;
- (c) fails to provide a tax invoice, sales receipt, tax credit note, or tax debit note, or provides one otherwise than as provided for in sections 34 and 35,

is liable to a penalty of \$5,000 for the first instance, \$10,000 for the second instance, \$15,000 for the third instance and \$25,000 for the fourth and any subsequent instance.

89. Failure to file return

A person who fails to file a return within the time required under this Act is liable to a penalty of \$250 per month or part of the month, for the period during which the return remains unfiled.

90. Failure to comply with notice of recovery of tax

A person who fails to comply with a notice under section 55 is liable to a penalty of 25% of the amount sought to be recovered from that person.

91. Failure to keep records

A person who fails to maintain proper records as required by section 69 is liable to a penalty of \$100 per day for each day or portion of the day that the failure continues.

92. Failure to provide facilities and assistance

A person who fails to provide a tax officer with reasonable facilities and assistance as required by section 72(3) is liable to a penalty of \$1,500.

93. Failure to comply with notice to give information

A person who fails within the specified time to comply with a notice issued under section 70(1) is liable to a penalty of \$1,000 and a further penalty of \$100 for each day or part of the day that the breach continues after receiving a written warning from the Comptroller to correct the breach.

94. Non-compliance with price quotation requirements

A person who contravenes the requirements of subsection (2) or (4) of section 100 is liable to a penalty of \$500 and a further penalty of \$50 for each day or part of the day that the breach continues after receiving a written warning from the Comptroller to correct the breach.

95. Temporary closure of business premises

(1) Where a person repeatedly violates an offence under —

- (a) section 34 in relation to tax invoices;
- (b) section 35 in relation to tax debit notes or tax credit notes;
- (c) section 37 by failing to file returns;
- (d) section 46 by failing to pay tax when due;
- (e) section 57 by improperly claiming tax refunds; or
- (f) section 76 by impeding tax administration,

after obtaining an order of a court having jurisdiction in respect of the person, the Comptroller may forcibly close one or more business premises of the person for a period not exceeding 14 calendar days.

(2) For the purposes of subsection (1), the Comptroller may use reasonable force and police assistance necessary to close all or any premises of the person, barring access with locks, fencing, boarding, or other appropriate methods.

(3) For the purposes of this section, a “**repeated violation**” means a violation that is committed within one year of receipt by the person of a written warning that a violation of such kind has been committed more than once within the year preceding the year of the warning, and that repetition may result in closure under this section.

96. Publication of names of defaulters

Notwithstanding anything in any other law in force in Saint Lucia, where a person is convicted of an offence under this Act, the Comptroller may publish, in a newspaper circulating in the State, the name of the person or the name of the business of that person, or both.

PART 15 MISCELLANEOUS

97. Taxpayer identification number

The Comptroller shall require a person to include the taxpayer identification number issued by the Comptroller to that person in any return, notice, or other documents prescribed or used for the purposes of this Act.

98. Forms and notices and authentication of documents

(1) Forms, notices, returns, and other documents prescribed or published by the Comptroller may be in such form as the Comptroller determines for the efficient administration of this Act, and are valid whether or not published in the Gazette.

(2) The Comptroller shall make the documents referred to in subsection (1) available to the public at the offices of the Inland Revenue Department and any other locations, or by any other means, as the Comptroller determines.

(3) A notice or other document issued, served, or given by the Comptroller under this Act is sufficiently authenticated if the name or title of the Comptroller, or authorised tax officer, is printed, stamped, or written on the document.

99. Service of notices

(1) Unless otherwise provided in this Act, a notice required by this Act to be in writing must be served on the recipient of the notice.

(2) A notice described in subsection (1) is considered sufficiently served on a person if it is —

- (a) personally served on that person;
- (b) personally served on the representative of that person under section 60;
- (c) left at the person’s usual or last known place of abode, office, or place of business in Saint Lucia; or
- (d) sent by registered post to such place of abode, office, or place of business, or to the person’s usual or last known address in Saint Lucia.

100. Tax-inclusive pricing

(1) A price charged by a taxable person in respect of a taxable supply is deemed to include, for the purposes of this Act, the tax charged on the supply under section 9(1)(a) or (c), whether or not the taxable person has included tax in such price.

(2) Subject to subsection (3), a price advertised or quoted by a taxable person in respect of a taxable supply must include tax and this must be stated in the advertisement or quotation.

(3) A taxable person may advertise or quote a price in respect of a taxable supply as exclusive of tax, provided the advertisement or quotation also states the amount of

tax charged on the supply, or the price inclusive of tax, and that the amount of tax or the price inclusive of the tax is displayed no less prominently than the price exclusive of tax.

(4) Subject to subsection (5), price tickets on goods supplied by a taxable person need not state that the price includes tax if this is stated by way of a notice prominently displayed at the premises in which the taxable person carries on a taxable activity, including the places in such premises where payments are effected.

(5) The Comptroller may in the case of a taxable person or a class of taxable persons approve any other method of displaying prices of goods or services by such persons.

(6) A person who contravenes subsection (2) or (4) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

101. Schemes for obtaining tax benefits

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

- (a) a person has obtained a tax benefit in connection with the scheme in a manner that constitutes a misuse of the provisions of this Act; and
- (b) having regard to the substance of the scheme, it would be concluded that the person, or one of the persons, who entered into or carried out the scheme did so for the sole or dominant purpose of enabling the person to obtain the tax benefit,

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

(2) In this section —

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

“**tax benefit**” includes —

- (a) a reduction in the liability of a person to pay value added tax;
- (b) an increase in the entitlement of a person to a deduction or refund;
- (c) a postponement of liability for the payment of value added tax;
- (d) an acceleration of entitlement to a deduction for input tax; or
- (e) any other avoidance or benefit from the delay in payment of tax or acceleration of entitlement to a deduction for input tax.

102. Currency conversion

(1) For the purposes of this Act, all amounts of money are to be expressed in Eastern Caribbean Dollars, EC\$ or XCD\$.

(2) Where an amount is expressed in a currency other than Eastern Caribbean Dollars, EC\$ or XCD\$ —

- (a) in the case of imports, the amount is to be converted at the exchange rate as determined for purposes of the Customs (Control and Management) Act;

- (b) in all other cases, the amount is to be converted at the exchange rate applying between the currency and the Eastern Caribbean Dollar, EC\$ or XCD\$ at the time the amount is taken into account under this Act.

103. International agreements

(1) To the extent that the terms of a treaty or other international agreement to which Saint Lucia is a party are inconsistent with the provisions of this Act, the terms of the treaty or international agreement prevails over the provisions of this Act.

(2) In this section, “**international agreement**” means an existing agreement or any agreement that may thereafter be approved by Cabinet between Saint Lucia and a foreign government or an international organisation providing humanitarian or technical assistance.

104. Registration of certain goods prohibited in certain circumstances

(1) Where any form of registration is required under any law in respect of goods consisting of an aircraft, boat, fishing vessel, ship, yacht, motor cycle, motor vehicle, tractor, caravan, firearms or trailer, hereinafter referred to as “registrable goods”, no registering authority responsible for such registration under such law may effect such registration upon a change of ownership or importation into Saint Lucia of registrable goods unless the person applying for registration produces to such registering authority —

- (a) in the case of registrable goods which are imported into Saint Lucia, a receipt or customs document issued by the Comptroller of Customs showing that tax which is payable under this Act has been paid in respect of such importation into Saint Lucia, or a receipt or certificate showing that no tax is payable under this Act in respect of such importation, of the registrable goods in consequence of which the registration is required;
- (b) a declaration, in such form as the Comptroller may prescribe, issued by a registered person who, in carrying on a taxable activity in the ordinary course of which registrable goods are dealt in, supplied such goods in consequence of which the registration is required, certifying that the tax payable under this Act has been, or will be, paid by such person;
- (c) a certificate issued by the Comptroller, or other documentation acceptable to the Comptroller, to the effect that the supply or import of the registrable goods was an exempt supply or exempt import, as the case may be; or
- (d) in the case of registered goods supplied by an unregistered person for which a refund or exemption had been granted under section 59 or under international agreements, as defined under section 91, a receipt or certificate issued by the Comptroller or the Comptroller of Customs that payment of tax has been made.

(2) For purposes of this section, “**registering authority**” means a person appointed under any law to issue a licence, permit, certificate, concession, or other authorization.

105. Auctioneer and agent

(1) Where a taxable supply has been made in circumstances specified under section 5(1)(a), the agent may issue a tax invoice in accordance with this Act in relation to the supply as if the agent had made the supply, in which case the principal may not also issue a tax invoice in relation to the supply.

(2) Where a taxable supply has been made in the circumstances specified under section 5(1)(b), at the request of the agent, a tax invoice in relation to the supply may be issued to the agent, in which case the supplier may not issue a tax invoice to the principal in relation to the supply.

(3) Where tax is payable by an auctioneer in respect of the supply of goods specified under section 5(3), the auctioneer shall charge the purchaser the amount of tax payable in respect of the sale by adding the tax to the amount of a successful bid or, in the case of sales out-of-hand, to the purchase price, and shall recover that tax from the purchaser.

106. Regulations

(1) The Minister may make Regulations for the better carrying into effect of the purposes of this Act, and for any matter which under this Act is to be prescribed by Regulations.

(2) Without prejudice to the generality of subsection (1), the Regulations may provide for —

- (a) provisions of a saving or transitional nature consequent on the coming into force of this Act;
- (b) specific offences and penalties not exceeding five thousand dollars for breach of the Regulations;
- (c) the application of terms used in this Act and ancillary rules that facilitate the application of the provisions in this Act, including the determination of the value, time, and place of transactions for the purposes of applying this Act to the transactions;
- (d) guidelines as an aid to interpretation of this Act.

107. Variation of consideration on a change in rate

(1) Where —

- (a) an agreement for a supply of goods or services by a registered person has been entered into; and
- (b) subsequent to entering into the agreement, tax is imposed on the supply or the rate of tax applicable to the supply is increased,

the supplier may, unless explicitly provided to the contrary in the agreement, recover from the recipient, in addition to the amounts payable by the recipient, an amount equal to the amount of tax imposed or the amount by which tax was increased, as the case may be.

(2) Where —

- (a) an agreement for a supply of goods or services by a registered person has been entered into; and
- (b) subsequent to entering into the agreement, tax on the supply is withdrawn or the rate of tax applicable to the supply is decreased,

the supplier shall, unless explicitly provided to the contrary in the agreement, reduce the amount payable by the recipient by an amount equal to the amount of tax withdrawn or the amount by which tax was decreased, as the case may be.

(3) Subject to subsections (4) and (5), where subsection (1) or (2) applies in respect of a supply of goods or services subject to any fee, charge, or other amount, whether a fixed, maximum, or minimum fee, charge, or other amount, prescribed by, or determined under, any Act, regulation, or measure having force of law, that fee, charge, or other amount may be increased or must be decreased, as the case may be, by the amount of tax or additional tax chargeable, or the amount of tax no longer chargeable.

(4) Subsection (3) does not apply where the fee, charge, or other amount has been altered in any Act, regulation, or measure having force of law to take account of any imposition, increase, decrease, or withdrawal of tax.

(5) Nothing in subsection (3) must be construed so as to permit any further increase or require any further decrease, as the case may be, in a fee, charge, or other amount where the fee, charge, or other amount is calculated as a percentage or fraction of another amount which represents the consideration in money for a taxable supply.

108. Application of increased or reduced rate

(1) Where —

- (a) services are performed; or
- (b) goods are provided in respect of a successive supply contemplated in section 18(8) or (9),

during a period beginning before and ending on or after the date on which a change in the rate of tax levied under section 9(1)(a) or (c) becomes effective in respect of the supply of the goods or services, or the date on which the tax is imposed or withdrawn in respect of the supply, and the supply is deemed under section 18 to have been made on or after the said date, the value of the supply is, on the basis of a fair and reasonable apportionment, deemed to consist of a part, relating to the performance of services or provision of goods before the said date and a part, relating to the performance of services or provision of goods on or after the said date.

(2) For the purposes of subsection (1), in the case of —

- (a) a change in the rate on the said date, the tax payable in respect of the first part is to be determined at the rate applicable before the said date and the tax payable in respect of the second part is determined at the rate applicable on the said date;
- (b) the imposition of tax on the said date, the first part is not to be subject to tax; or
- (c) the withdrawal of the tax, the first part is to be subject to tax as if the tax had not been withdrawn.

(3) For the purposes of subsection (1), goods are deemed to be provided by the supplier of the goods when the goods are delivered to the recipient and goods supplied under a rental agreement are deemed to be provided to the recipient when the recipient takes possession or occupation of the goods.

(4) In this section —

“**first part**” means the part relating to the performance of services or provision of goods before the said date;

“**second part**” means the part relating to the performance of services or provision of goods on or after the said date.

109. Amendment of Schedules

(1) The Minister may by Order published in the Gazette —

- (a) amend the Schedules to this Act; or
- (b) increase or decrease any monetary amount set out in this Act.

(2) An Order made under subsection (1) is to be subject to the following affirmative resolution of Parliament save and except where the Minister amends the Tariff heads only.

110. Remission of tax

(1) Where the Comptroller has taken all steps permissible under this Act to recover tax and the Comptroller is unable to recover any amount of tax, penalty and interest due and payable under this Act by a person for a specified period, the

Comptroller shall advise the Minister and the Minister may remit the matter to the Comptroller for the steps to be re-taken or may, subject to reinstatement under subsection (3), order the extinguishment of the liability as a debt due to the Crown.

(2) An Order made under subsection (1) shall be approved by Cabinet.

(3) If the Comptroller determines that a person subject to an order under subsection (1) has assets that may be attached to recover the unpaid tax, penalty and interest specified in the order, then with the approval of Cabinet, the order may be revoked and the liability reinstated.

111. Repeals

(1) The following are repealed with effect from the date this Act comes into force

- (a) Consumption Tax Act;
- (b) Environmental Protection Levy Act;
- (c) Motor Vehicle Rental Fee Act;
- (d) Mobile Cellular Telephone (Tax) Act;
- (e) Hotel Accommodation Tax Act.

(2) A reference to tax, duty, service charge or fee in any Act, other than in this Act, must not be treated as a reference to tax under this Act and an exemption in any law from the payment of tax, duty, service charge or fee must not be treated as an exemption from tax under this Act.

112. Transition

(1) The repealed legislation, including the rules governing the levy, payment, assessment, reporting, and recovery of those taxes, continue to apply to a supply or import taking place prior to the date on which this Act comes into force under section 1.

(2) All appointments made under the repealed legislation and subsisting at the date of commencement of this Act are treated as appointments made under this Act; and an oath of secrecy taken under the repealed legislation is treated as having been taken under this Act.

(3) All forms and documents used in relation to the repealed legislation may continue to be used under this Act, and all references in those forms and documents to provisions of and expressions appropriate to the repealed legislation are taken to refer to the corresponding provisions and expressions of this Act.

(4) Where a contract was concluded between two or more parties before the entry into operation of this Act, and no provision relating to tax was made in the contract, the supplier may recover from the recipient tax due on any taxable supplies made under the contract after the date on which this Act came into operation.

(5) Where a contract concluded after the date on which this Act came into operation does not include a provision relating to tax, the contract price is deemed to include tax and the supplier under the contract is required to account for the tax due.

(6) Subject to subsection (8), if, in connection with a supply of goods or services

- (a) title to goods passes, delivery of goods is made or services are provided after the date on which this Act came into force; and
- (b) payment is received or an invoice is issued within 9 months before that date,

for purposes of determining the tax period in which the supply occurs or an input tax deduction is allowable, the payment is treated as having been made or the invoice is treated as having been issued on the date on which this Act comes into operation.

(Substituted by Act 10 of 2012)

(7) Subject to subsection (8), if goods subject to consumption tax were supplied successively as provided under section 18(8) or (9), and the supply occurred during a period that began before and ended after this Act came into effect, tax under this Act is imposed on the portion of the consideration for the goods supplied after this Act came into effect.

(8) Subsection (7) applies only if —

- (a) the value of the consideration for the goods on the day before this Act came into effect is determined in a manner approved by the Comptroller; and
- (b) the required documentation is submitted to the Comptroller in the form approved by the Comptroller by the end of the supplier's first tax period after this Act becomes effective.

(9) Notwithstanding subsection (8), if construction, reconstruction, manufacture or extension of a building or civil engineering work is performed under a written agreement executed before this Act came into effect and the property is made available to the recipient after that date, tax is imposed only on the value of the work performed after that date if the value of the work on the day before this Act came into effect is determined in a manner approved by the Comptroller and is submitted to the Comptroller by the end of the supplier's first tax period after this Act becomes effective.

(10) If immovable property is provided under a rental agreement for a period that commences before and ends after the effective date of this Act, the consideration for the rental must not include the amount attributable to the portion of the period that ends before the effective date.

(11) For the purposes of section 30(1)(c), an amount paid as a prize or winnings does not include an amount attributable to obligations or contingent obligations that exist immediately before this Act comes into effect.

(12) A person who is required to register under section 12 as of the effective date of this Act must register no later than 2 months before the date that this Act comes into effect, and any such registration is effective as of the date that this Act comes into effect, even if the application for registration is filed up to 3 months before the effective date.

(13) The Minister may make Regulations for other transitional measures relating to the end of any repealed tax under section 111, the start of value added tax, or the transition from any repealed tax under section 111 to value added tax.

(14) In this section "**repealed legislation**" means the legislation referred to in section 111(1).

113. Exemption in another law

A provision in another law that grants an exemption under section 17 or 21 of this Act, or a tax at a rate of zero per cent under section 16 of this Act does not come into effect for the purposes of this Act until a corresponding amendment is made to this Act.

Schedule 1

(Sections 4(18), 16(1)-(2) and 19(8))

ZERO RATED SUPPLIES

1. In this Schedule —

“educational supplies” means a supply of printed material, as defined under Customs Tariff Heading 49.01 – 49.05; *(Inserted by S.I. 156/2019)*

“export country” means any country other than Saint Lucia and includes any place which is not situated in Saint Lucia, but does not include a specific country or territory that the Minister by Order published in the *Gazette* designates as one that is not an export country;

“exported from Saint Lucia”, in relation to any movable goods supplied by a registered person under a sale or a credit agreement, means, subject to paragraph 4 of this Schedule —

- (a) consigned or delivered by the registered person to the recipient at an address in an export country as evidenced by documentary proof acceptable to the Comptroller; or
- (b) delivered by the registered person to the owner or charterer of a foreign-going aircraft or foreign-going vessel when such aircraft or vessel is going to a destination in an export country and such goods are for use or consumption in such aircraft or vessel, as the case may be;

“fuel” means the goods described under the following Customs Tariff Headings —

- (a) 2710.11.30;
- (b) 2710.19.10;
- (c) 2710.19.20;
- (d) 2710.19.40;
- (e) 2711.11.00;
- (f) 2711.19.11;
- (g) 2711.19.12;
- (h) 2711.19.13 and
- (i) 2711.19.14.

(Substituted by Act 10 of 2012 and by Act 15 of 2013)

“funeral home” means —

- (a) a company incorporated or registered under the Companies Act; or
- (b) a business registered under the Registration of Business Names Act,

that engages in business transactions for the burial or cremation of a deceased person;

(Inserted by S.I. 174/2019)

“funeral package” means a bundle of goods and services provided by a funeral home for the burial or cremation of a deceased person that comprises —

- (a) collecting, storing, preparing and embalming the body;
- (b) a coffin or casket;
- (c) providing —
 - (i) hearse services,
 - (ii) leaflets, corsages and photo badges,
 - (iii) facilities for viewing the body prior to the funeral,
 - (iv) cremation services, and

- (v) chapel services.

(Inserted by S.I. 174/2019)

ZERO RATED SUPPLY OF GOODS AND SERVICES

2. (1) The following supply of goods are zero rated for the purposes of section 16 of the Act —

- (a) a supply of goods where the supplier has entered the goods for export, under the Customs (Control and Management) Act, and the goods have been exported from Saint Lucia by the supplier;
- (b) a supply of goods where the Comptroller is satisfied that the goods have been exported from Saint Lucia by the supplier without having been used in Saint Lucia after the supply was entered except as necessary for or incidental to, the export of the goods;
- (c) a supply of goods to a warehouse under Part 7 of the Customs (Control and Management) Act or to a licensed duty free shop under the Tourist (Duty-Free Shopping System) Act or to a destination within a free zone under the Free Zone Act;
- (d) a supply of goods where the supplier is a licensed duty-free shop operator under the Tourist (Duty-Free Shopping System) Act who obtains and produces evidence satisfactory to the Comptroller of Customs that the conditions specified in section 20 of the Tourist (Duty-Free Shopping System) Act in respect of the goods have been complied with;
- (e) a supply of goods where the goods are not situated in Saint Lucia at the time of supply and are not to be entered into Saint Lucia for home consumption under the Customs (Control and Management) Act by the supplier of the goods;
- (f) a supply of goods under a rental agreement, charter party, or agreement for chartering, where the goods are used exclusively in an export country;
- (g) a supply of live animals other than domesticated animals generally held as pets;
- (h) a supply of fuel;
- (i) a supply by a registered person to another registered person of a taxable activity, or part of a taxable activity, as a going concern, if —
 - (i) sections 4(2) and 14(13) are satisfied, and
 - (ii) a notice in writing signed by the transferor and transferee and containing the details of the supply is furnished to the Comptroller within 21 calendar days after the supply takes place;
- (j)

0401.10.00	Fresh milk of a fat content, by weight, not exceeding 1%
0401.20.00	Fresh milk of a fat content, by weight, exceeding 1% but not exceeding 6%
0401.30.00	Fresh milk of a fat content, by weight, exceeding 6%
0402.10.00	Powdered milk of a fat content, by weight not exceeding 1.5%
0402.21.00	Powdered milk of a fat content, by weight exceeding 1.5%: not containing added sugar or other sweetening matter
0402.29.00	Other Powdered milk of a fat content, by weight exceeding 1.5%
0402.91.00	Evaporated milk

0407.00.30	Fresh Eggs (other than hatching eggs)
1006.10.90	Rice in the husk (Other than for sowing)
1006.20.10	White Rice, in Packages for Retail Sale
1006.20.20	Other White Rice
1006.20.30	Parboiled Rice, in Packages for Retail Sale
1006.20.40	Other Parboiled Rice
1006.30.10	Semi-milled White Rice in Packages of not more than 10 kg
1006.30.20	Other Semi-milled White Rice
1006.30.30	Semi-milled Parboiled Rice in Packages of not more than 10 kg
1006.30.40	Other Semi-milled Parboiled Rice
1006.30.50	Wholly Milled White Rice, in Packages of not more than 10 kg
1006.30.60	Other Wholly Milled White Rice
1006.30.70	Wholly Milled Parboiled Rice, in Packages of not more than 10 kg
1006.30.80	Other Wholly Milled Parboiled Rice
1006.40.10	Broken Rice in Packages for Retail Sale
1006.40.90	Other Broken Rice
1101.00.10	Flour of Durum Wheat
1101.00.90	Other Flour
1701.11.10	Cane Sugar (For retail sale in packages of not more than 10 kgs)
1701.11.19	Other Cane Sugar
1701.99.90	Other
1901.10.00	Preparations for infant use, put up for retail sale
1902.19.0	Uncooked pasta, not stuffed or otherwise prepared;

(Substituted by S.I. 65/2014)

- (k) a supply of the following agricultural inputs approved for use in agriculture by the Minister responsible for agriculture —
 - (i) ventilated boxes specifically designed for use in transporting unprocessed agricultural products,
 - (ii) animal feed, other than food for domesticated animals generally held as pets.

(Substituted by Act 10 of 2012, by Act 15 of 2013)

- (l) a supply of goods that forms part of a funeral package provided by a funeral home. *(Inserted by S.I. 174/2019)*

2 (2) The following supply of services are zero rated for the purposes of section 16 of the Act —

- (a) a supply of services directly in connection with land, or any improvement thereto, situated outside Saint Lucia;
- (b) a supply of services directly to a non-resident who is not a registered person, otherwise than through an agent or other person comprising the storage, repair, maintenance, cleaning, management, or arranging the provision of a container temporarily imported under the special regime for temporary imports specified in the Customs (Control and Management) Act or the arranging of such services;
- (c) a supply of services by a non-resident person to a business operating in an area designated as a free zone area under the Free Zone Act;
- (d) a supply to a telecommunication carrier not conducting business in Saint Lucia that involves the transmission of calls and other telecommunications services through Saint Lucia that have their origin and destination outside Saint Lucia, but are not for the consumption or use of persons in Saint Lucia, but if the telecommunication carrier charges an interconnection fee for providing this service then the interconnection fee shall be taxable;

(Substituted by Act 10 of 2012)

- (e) a supply of water and sewerage provided by the Saint Lucia Water and Sewerage Company;
- (f) a supply of electrical energy provided by Saint Lucia Electricity Services Limited; *(Amended by S.I. 156/2019)*
- (g) a supply of the service of printing of educational supplies. *(Inserted by S.I. 156/2019)*
- (h) a supply of a service that forms part of a funeral package provided by a funeral home; *(Inserted by S.I. 174/2019)*
- (i) a supply of a service directly related to the reconnection of water provided by the Water and Sewerage Company Incorporated (WASCO); *(Inserted by S.I. 174/2019)*
- (j) a supply of a service directly related to the reconnection of electrical energy provided by the Saint Lucia Electricity Services Company Limited; *(Inserted by S.I. 174/2019)*
- (k) a supply of a service under the contract agreement between the Saint Lucia Air and Sea Ports Authority and the Overseas Engineering and Construction Co., LTDA S.A. (OECC) for the Hewanorra International Airport Redevelopment Project; *(Inserted by S.I. 174/2019)*
- (l) a supply of a service under the contract agreement between the Government of Saint Lucia and the Overseas Engineering and Construction Co., LTDA S.A. (OECC) for the Road Improvement and Maintenance Programme – Phase IV. *(Inserted by S.I. 174/2019)*

3. (1) A supply of goods shall not be considered to be exported from Saint Lucia unless —

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

(2) A supply of goods shall not be considered to be exported from Saint Lucia if the supply has been or will be re-imported to Saint Lucia by the supplier.

Schedule 2

(Section 17)

EXEMPT SUPPLIES

1. In this Schedule —

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

“commercial rental establishment” means —

- (a) accommodation in a house, flat, apartment, or room, other than accommodation in respect of which the provisions of paragraph (a) or (c) of this definition apply – which is regularly or systematically leased or held for lease as residential accommodation for continuous periods not exceeding 45 calendar days in the case of each occupant of such house, flat, apartment, or room; or which is leased with furnishings provided by the lessor;
- (b) accommodation in a house, flat, apartment, room, caravan, houseboat, tent, or caravan or camping site which constitutes an asset, including a leased asset, of a business undertaking or a separately identifiable part of a business undertaking carried on by any person who —
 - (i) leases or holds for leasing as residential accommodation, a house, flat, apartment, room, caravan, houseboat, or caravan or camping sites in the course of such business undertaking, and
 - (ii) regularly or normally leases or holds for lease as residential accommodation such house, flat, apartment, room, caravan, houseboat, or caravan or camping sites for continuous periods not exceeding 45 calendar days in the case of each occupant, or
- (c) any other accommodation designated by the Minister by Regulations to be a commercial rental establishment;
- (d) accommodation in a boarding establishment or hostel operated by any employer solely or mainly for the benefit of the employees of such employer or of a related person of such employer or their dependents, provided such establishment or hostel is not operated for the purpose of making profits from such establishment or hostel for the employer or such related person;
- (e) accommodation in a boarding establishment or hostel operated by a local authority otherwise than for the purpose of making profits from such establishment or hostel; or
- (f) accommodation in a registered hospital, maternity home, nursing home, convalescent home, or clinic;

“dwelling” means any building, premises, structure, or any other place, or any part thereof, used predominantly as a place of residence or abode of a natural person or which is intended for use as a place of residence or abode of a natural person, together with any appurtenances belonging thereto and enjoyed therewith, but does not include a commercial rental establishment or a time-share arrangement;

“education services” means tuition or instruction for students provided by an institution duly recognized by the Ministry of Education under the Education Act whether public, private, assisted or denominational, being —

- (a) a pre-primary, primary, or secondary school;

- (b) a technical or vocational school or college, community college, or university;
- (c) an educational institution established for the promotion of adult education, vocational training, technical education;
- (d) an institution established for the education or training of physically or mentally disabled persons; or
- (e) an institution established for the training of sports persons;

"educational supplies" means a supply of printed material, as defined under Customs Tariff Heading 49.01 - 49.05;

"financial services" means —

- (a) granting, negotiating, and dealing with loans, credit, credit guarantees, and any security for money, including management of loans, credit, or credit guarantees by the grantor; or
- (b) transactions concerning money, deposit and current accounts, payments, transfers, debts, cheques, or negotiable instruments, other than debt collection and factoring; or
- (c) transactions relating to financial derivatives, forward contracts, options, and similar arrangements; or
- (d) transactions relating to shares, stocks, bonds, and other securities, other than custody services; or
- (e) management of investment funds; or
- (f) insurance and reinsurance transactions, including related services performed by insurance brokers and insurance agents; or
- (g) other financial services provided by banks within the scope of their banking business;

"foreign-going aircraft" means an aircraft engaged in the transportation for reward of passengers or goods wholly or mainly on flights between airports in Saint Lucia and airports in export countries or between airports in export countries;

"foreign-going vessel" means a vessel engaged in the transportation for reward of passengers or goods wholly or mainly on voyages between seaports in Saint Lucia and seaports in export countries or between seaports in export countries;

"intellectual property rights" means any patent, design, trade mark, copyright, know-how, confidential information, trade secret, or similar rights;

"international transport services" means the services, including ancillary transport services, of transporting passengers or goods by land, water, or air;

- (a) from a place outside Saint Lucia to another place outside Saint Lucia where the transport or part of the transport is across the territory of Saint Lucia; or
- (b) from a place outside Saint Lucia to a place not beyond a port of entry in Saint Lucia; or
- (c) from a place in Saint Lucia to a place outside Saint Lucia;

"medical services" means a supply of a medical, dental, allied health, nursing, convalescent, rehabilitation, midwifery, paramedical or other similar service, where the service is performed by, or under the supervision and control of, a person who is registered as being qualified to perform that service under the Health Practitioners Act or under the Registration of Nurses and Midwives Act;

"pre-primary school" means a school duly recognized by the Ministry of Education which conducts early childhood education under the Education Act;

"religious services" means the conducting of religious ceremonies including baptisms, christenings, dedications, funerals, burials, marriages, blessings; presiding over or performing mass or service; conducting of workshops or seminars for church members and social groups, such as groups for the youth, women or men.

2. The following supplies are specified as exempt supplies for the purposes of section 17 of this Act —

- (a) a supply of financial services;
- (b) a supply of medical services, except for elective services that are cosmetic in nature. In the event of any uncertainty or dispute as to what constitutes "cosmetic" the Ministry of Health shall be the competent authority;
- (c) a supply of services in a nursing home, residential care facility or provided directly by a facility to aged, indigent or disabled persons who need care;
- (d) a supply of hearing aids, crutches, manual and motorized wheelchairs, trusses, colostomy bags and similar appliances and apparatus and identifiable spare parts for the relief of permanent bodily disablement, including reading matter and reading aides (excluding glasses, frames and contact lenses) specifically designed for the visually impaired;
- (e) a supply of veterinary services in respect of any live bird, livestock or other animal of a kind generally used as food for human consumption;
- (f) a supply of baby or adult diapers;
- (g) a supply of prophylactics and contraceptives;
- (h) a supply of education services;
- (i) a supply of services rendered by a daycare business recognized by the Ministry of Education, including after-school care and by a summer camp for children under the age of 18;
- (j) a supply of educational supplies;
- (k) a sale of an immovable, including land attributable to a dwelling;
- (l) a sale of immovable property, including land, attributable to a dwelling provided that upon application to the relevant Ministry for change of use of such immovable property, so that the use of the immovable property will become commercial in nature, the person making the application for change of use or on whose behalf the application is made, must account for the tax that would have been payable at the time of the sale, had the sale of the immovable property been subject to the tax;
- (m) a supply of an accommodation in a dwelling —
 - (i) under a lease or rental of the accommodation,
 - (ii) under a lease of land to the extent that the subject land is used or is to be used for the principal purpose of accommodation in a dwelling erected or to be erected on that land, or
 - (iii) where the supplier is the employer of the recipient, the recipient is entitled to occupy the accommodation as a benefit of his office or employment and his or her right thereto is limited to the period of his or her employment or the term of his office or a period agreed upon by the supplier and the recipient;
- (n) a supply of land used or to be used for agricultural purposes provided that upon application to the relevant Ministry for change of use of such land, so that the use of the land will become commercial in nature, the person making the application for change of use or on whose behalf the application is made, must account for the tax that would have been

payable at the time of the supply, had the supply of land been subject to the tax;

- (o) a supply of games of chance, lotteries, the Saint Lucia National Lottery, and the Windward Island Lotteries Commission for specified periods of time as prescribed by the Minister by Order published in the Gazette;

(Substituted by Act 10 of 2012)

- (p) a supply of religious services by a registered institution of religious worship;
- (q) a supply of local transportation of passengers from one point within Saint Lucia to another point within Saint Lucia;
- (r) a supply of a returnable crate used to transport beverages for consideration not exceeding the separately stated deposit;
- (s) a supply of services by a Trade Union (or similar organisation providing services in the nature of trade union services), to a member or to another trade union, where the supply is made solely in the ordinary course of its objectives as a trade union (or similar organization);
- (t) a supply of postal services by the State not including courier services;
- (u) a supply of services comprising —
 - (i) the filing, prosecution, granting, maintenance, transfer, assignment, licensing, or enforcement of any intellectual property rights for use outside Saint Lucia,
 - (ii) incidental services necessary for the supply of services referred to in subparagraph (a), or
 - (iii) the acceptance by a person of an obligation to refrain from pursuing or exercising in whole or in part any intellectual property rights for use outside Saint Lucia;
- (v) a supply of the following agricultural inputs approved for use in agriculture by the Minister responsible for agriculture —
 - (i) seeds, seedlings, cuttings and fertilizers,
 - (ii) pesticides, insecticides and other treatments,
 - (iii) herbicides, fungicides and nematicides,
 - (iv) packing film and plastic bags specifically designed for use in transporting unprocessed agricultural products,
 - (v) machinery and equipment specifically designed for agricultural or horticultural use,
 - (vi) plant propagation bags,
 - (vii) poultry receptacles, waterers and feeders,
 - (viii) a greenhouse specifically designed for horticultural use;
 - (ix) hatching eggs for poultry production;

(Substituted by Act 15 of 2013)

- (w) a supply of the following fishing inputs approved for use in the fishing trade by the Ministry of Agriculture:
 - (i) fibre-glass and wooden boats,
 - (ii) anchors, grapnel, G.P.S, compass, V.H.F radio, fish finder,
 - (iii) flare guns and flares, life vests, life rings, buoys and floats,

- (iv) mono-filament fishing lines, gaffs, harpoons,
- (v) outboard engines up to 100 hp, inboard diesel engines, propellers,
- (vi) winches, spools, line haulers, jigging reels;
- (x) a supply of international transport services;
- (y) a supply of goods in the course of repairing, renovating, modifying, or treating goods to which subparagraph (v) or (w) applies and the goods supplied —
 - (i) are wrought into, affixed to, attached to, or otherwise form part of those other goods, or
 - (ii) being consumable goods, become unusable or worthless as a direct result of being used in that repair, renovation, modification, or treatment process;
- (z) a supply of services directly in respect of —
 - (i) personal property situated outside Saint Lucia at the time the services are rendered,
 - (ii) a supply of goods referred to in paragraphs (a) or (b) of the definition of “exported from Saint Lucia” in Schedule 1”, or
 - (iii) the repair, maintenance, cleaning, outfitting, refurbishing or improving a foreign-going aircraft or foreign-going vessel;
- (aa) a supply of any services, including port and harbour services, docking, berthing, mooring, parking or the arranging of such services —
 - (i) to a foreign-going vessel or foreign-going aircraft for consumption or use in connection with that vessel or aircraft,
 - (ii) to a yacht or pleasure craft (including an airplane) owned by persons who are neither citizens nor residents of Saint Lucia at the time when the service is supplied;
- (bb) a supply of toilet paper; and
- (cc) *(Substituted by Act 10 of 2012, amended by Act 15 of 2013, substituted by S.I. 65/2014 and amended by S.I. 78/2014)*

0207.11.00	Fowls of the species Gallus Domesticus (Not cut in pieces, fresh or chilled)
0207.12.00	Fowls of the species Gallus Domesticus (Not cut in pieces, frozen)
0207.13.00	Chicken cuts and offal (including livers) fresh or chilled
0207.14.10	Backs and necks of the fowls of the species Gallus Domesticus, frozen
0207.14.20	Wings of the fowls of the species Gallus Domesticus, frozen
0207.14.90	Other cuts of the meat of the species Gallus Domesticus, frozen
0207.14.30	Chicken, livers, frozen
0701.90.00	Potatoes other than seed potatoes, fresh or chilled
0702.00.00	Tomatoes, fresh or chilled
0703.10.10	Onions, fresh or chilled
0703.10.20	Shallots (eschallots), fresh or chilled
0703.20.00	Garlic, fresh or chilled
0703.90.00	Leeks and other alliaceous vegetables, fresh or chilled
0704.10.90	Headed broccoli, fresh or chilled
0704.90.10	Cabbages, fresh or chilled
0704.90.90	Other edible brassicas, fresh or chilled
0705.11.00	Cabbage Lettuce (Head Lettuce), fresh or chilled
0705.19.00	Other Lettuce, fresh or chilled
0706.10.10	Carrots, fresh or chilled

0706.90.90	Other edible roots, fresh or chilled
0707.00.10	Cucumbers, fresh or chilled
0708.10.10	Pigeon peas, fresh or chilled
0708.20.10	String beans, fresh or chilled
0708.20.20	Bora (bodi) beans (<i>Vigna</i> spp.), fresh or chilled
0708.20.90	Other beans, fresh or chilled
0708.90.00	Other leguminous vegetables, fresh or chilled
0709.40.00	Celery other than celeriac, fresh or chilled
0709.90.10	Zucchini, fresh or chilled
0709.90.20	Ochroes, fresh or chilled
0709.90.30	Pumpkins, fresh or chilled
0709.90.40	Sweet corn (corn on the cob), fresh or chilled
0709.60.10	Sweet peppers, fresh or chilled
0709.60.90	Other fruits of the genus <i>Capsicum</i> or of the genus <i>Pimenta</i>
0709.90.90	Other vegetables, fresh or chilled
0713.10.10	Pigeon peas, dried shelled, whether or not skinned or split
0713.40.00	Lentils, dried shelled, whether or not skinned or split
0801.19.10	Coconuts, not shelled, fresh or dried, whether or not shelled or peeled
0801.19.90	Coconuts, other, fresh or dried, whether or not shelled or peeled
0803.00.10	Bananas, fresh or dried
0803.00.20	Plantains, fresh or dried
0804.30.00	Pineapples, fresh or dried
0804.40.00	Avocados, fresh or dried
0804.50.10	Guavas, fresh or dried
0804.50.20	Mangoes, fresh or dried
0805.10.00	Oranges, fresh or dried
0805.20.20	Ortaniques, fresh or dried
0805.20.90	Mandarins, (including tangerines and <i>sasutmas</i>); clementines, wilkings and similar citrus hybrids, fresh or dried
0805.50.10	Lemons, fresh or dried
0805.50.20	Limes, fresh or dried
0805.40.00	Grapefruit, fresh or dried
0805.90.00	Other citrus fruit, fresh or dried
0807.11.00	Watermelons, fresh
0807.20.00	Pawpaws (papayas), fresh
0810.90.20	Golden apples, fresh
0810.90.30	Passion fruit, fresh
0810.90.40	Soursop, fresh
0810.90.50	Breadfruit, fresh
0810.90.60	Carambolas, fresh
0810.90.80	Christophine, fresh
1604.14.10	Canned Tuna
1604.15.00	Canned Mackerel
Ex 1905.90.90	Bread unsweetened (e.g. sandwich loaves, hot dog rolls and hamburger buns);

(dd) the following construction materials — *(Inserted by Act 10 of 2012)*

2505.10.00	Sand
2517.10.00	Pebbles, gravel, broken or crushed stone, of a kind commonly used for concrete aggregates
2523.29.10	Building cement
3208.90.90	Other paints and varnishes
3210.00.10	Water thinned paints (emulsion paints or dispersion paints)
3210.00.20	Distempers, dry

3210.00.40	Other paints
3824.50.00	Non-refractory mortars and concretes
4403.10.10	Wood in the rough; of coniferous species
4407.10.10	Wood sawn or chipped; coniferous pitch-pine
4407.10.90	Wood sawn or chipped Other, coniferous
4407.29.20	Greenheart
4407.99.00	Wood sawn or chipped; Other
4409.10.10	Pitch-pine
4412.31.00	Plywood with at least one outer layer of tropical wood
4412.32.00	Plywood; Other, with at least one outer ply of non coniferous wood
4412.39.00	Plywood; Other
4412.99.00	Plywood; with at least one ply of tropical wood
4412.99.00	Other plywood; containing at least one layer of particle board
4412.99.00	Other plywood;
4412.99.00	Plywood; with at least one ply of tropical wood
4412.99.00	Other plywood; containing at least one layer of particle board
4412.99.00	Other plywood; containing at least one layer of particle board
7210.61.20	Flat rolled products: plated or coated with aluminum; of a thickness of less than 3mm
7210.70.20	Flat rolled products: painted or varnished; of a thickness of less than 3mm
7213.10.10	Bars and rods, hot-rolled in irregularly wound coils, of iron
7213.10.90	Bars and rods, hot-rolled in irregularly wound coils, of non alloy steel
7213.20.00	Bars and rods, hot-rolled in irregularly wound coils, other of free cutting steel
7213.91.10	Bars and rods, hot-rolled in irregularly wound coils, of circular cross-section, of iron
7213.91.90	Bars and rods, hot-rolled in irregularly wound coils, of circular cross-section, of non alloy steel
7213.99.10	Bars and rods, hot-rolled in irregularly wound coils, of circular cross-section, Other; of iron
7213.99.90	Bars and rods, hot-rolled in irregularly wound coils, of circular cross-section, Other; of non alloy steel
7214.10.10	Other bars and rods; forged; of iron
7214.10.20	Other bars and rods; Forged; of non alloy steel
7214.20.10	Other bars and rods; containing indentations; of iron
7214.20.90	Other bars and rods; containing indentations; of non alloy steel
7216.91.90	Angles, shapes and sections: cold formed or finished; other
7216.99.00	Angles, shapes and sections: cold formed or finished; other
7228.60.00	Other bars and rods of other alloy steel; other
7228.70.10	Other bars and rods of other alloy steel; Angles
7228.70.20	Other bars and rods of other alloy steel; shapes and sections
7228.80.00	Other bars and rods of other alloy steel; hollow drills and bars
7314.20.90	Cloth, grill netting and fencing; welded at intersection; other

(ee) *(Inserted by S.I. 149/2012 and expired on 8 February 2014)*

(ff) a supply of the following computer items as defined under the following Customs Tariff Headings — *(Inserted by S.I. 150/2013)*

<i>Customs Tariff Heading</i>	<i>Description of Goods</i>
8471.30.00	Portable automatic data processing machines, weighing not more than 10kg, consisting of at least a central processing unit, a keyboard and a display
8471.41.00	Comprising in the same housing at least a central processing unit and an input and output unit, whether or not combined
8471.49.00	Other, presented in the form of systems

8471.50.00	Processing units other than those of subheading 8471.41.00 or 8471.49.00, whether or not containing in the same housing one or two of the following types of unit: storage units, input units, output units
8471.60.00	Input or output units, whether or not containing storage units in the same housing
8471.70.00	Storage units
8473.30.00	Parts and accessories of the machines of heading 84.71

(gg) *(Inserted by S.I. 46/2013 and terminated on 31 March 2014)*

(Amended by Act 10 of 2012, 146/2012, 149/2012, 150/2012, 158/2012, 159/2012, 160/2012, 13/2013, 46/2013)

Schedule 3

(Section 21)

EXEMPT IMPORTS

The following imports of goods are specified as exempt imports for the purposes of section 21 of this Act —

1. Goods or services imported by a person where a supply of the goods or services to the person in Saint Lucia would be exempt or zero rated.
2. (1) Imported goods, including packing containers, that were exported and thereafter returned to or brought back by the exporter or any other party, without having been subjected to any process of manufacture or adaptation and without a permanent change of ownership, but not including goods if at the time of export —
 - (a) the supply of the goods was charged with the tax at the rate of 0% under section 16; or
 - (b) the supply of goods was made before the commencement date of the tax and that supply would have been charged with tax at the rate of 0% under section 16, if the supply had taken place on or after the commencement date.
- (2) Goods replaced under warranty where the warranty persists and the value of the warranty was included in the custom value on which duty was paid on the goods requiring replacement.

(Substituted by S.I. 109/2015)

3. Goods (including packing containers) produced or manufactured in Saint Lucia, exported from Saint Lucia and thereafter returned to or brought back by the exporter or any other party, without having been subjected to any process of manufacture or adaptation, but not including goods if at the time of export —
 - (a) the supply of the goods was charged with tax at the rate of 0% under section 16; or
 - (b) the supply of those goods was made before the commencement date of tax and that supply would have been charged with tax at the rate of 0% under section 16, if the supply had taken place on or after the commencement date.
4. The personal effects of a passenger, carried in his or her baggage or on his or her person which he or she might reasonably be expected to carry with him or her for his or her own regular and private use, which are so declared and passed as such by a Customs officer at the port of entry and which in the case of a passenger 18 years old or older may include —
 - (a) wine or spirits not exceeding one quart;
 - (b) tobacco not exceeding half a pound;

- (c) cigars not exceeding 50 in number;
 - (d) cigarettes not exceeding 200 in number.
5. Goods belonging to a passenger which accompany the passenger and which were acquired by him abroad for his personal or household use or as souvenirs or gifts which the Comptroller of Customs is satisfied are not for sale provided that this does not apply to —
- (a) goods exceeding \$250 in value;
 - (b) goods contained in passengers' baggage;
 - (c) wines, spirits or manufactured tobacco (including cigarettes or cigars);
 - (d) arms and ammunition (except where carried by a member of an armed force entitled to carry such arms on his person).
6. An unconditional gift of —
- (a) goods, to the State, that are not for resale, if the Comptroller of Customs and the Comptroller have written notification from the Ministry responsible for finance before entry, that the goods are an unconditional gift subject to exemption under this Schedule; and
 - (b) services to the State, if the Comptroller of Customs and the Comptroller have written notification from the Ministry responsible for finance before provision of the services are made.

(Substituted by S.I. 109/2015)

7. An unconditional gift of goods to an approved charitable organisation, other than for the purposes of resale if the Comptroller of Customs has written notification from the Minister before entry, that the goods are an unconditional gift subject to exemption under this Schedule. *(Substituted by Act 15 of 2013)*
8. An import of —
- (a) the remains (including its receptacle) of a citizen of Saint Lucia or a person resident in Saint Lucia, who has died abroad; or
 - (b) the personal effects (not including merchandise) of a citizen of Saint Lucia or a person resident in Saint Lucia, who has died abroad.
9. Household goods and personal effects, determined as such by the Comptroller of Customs, which accompany a passenger or which are imported by a passenger within 3 months before or after the arrival of the passenger or within such further period as the Comptroller of Customs deems reasonable, that are for the passenger's personal use and not for sale or exchange and are declared to have been in the use and possession of the passenger for at least one year.
10. Used implements, instruments and tools of profession, trade, occupation or employment of a passenger, determined as such by the Comptroller of Customs in consultation with the returning national, which accompany that passenger, or imported by that passenger within 3 months before or after the arrival of the passenger or within such further period as the Comptroller of Customs may allow, which are not intended for sale or exchange and which are declared to have been in the use and possession of that passenger for a period of at least one year.
11. Goods which are shipped or conveyed to Saint Lucia for transshipment or conveyance to any other country.
12. Goods imported by nationals returning home for permanent residence in the following categories —
- (a) household and personal effects, determined as such by the Comptroller of Customs whether used or new, which accompany the returning national or imported by that returning national within 3 months before or after the arrival of the returning national or within such further period as the

Comptroller of Customs may allow, adequate to furnish his or her family residence and which are not intended for sale or exchange;

- (b) one motor vehicle with a customs value of not more than US\$30,000 free of customs duty per family of a returning national whether the motor vehicle is used or new, which accompanies the returning national, arrives or imported by the returning national within 3 months before or after the arrival of the returning national or within such further period as the Comptroller of Customs may allow, which is not intended for sale or exchange within 3 years of importation;
 - (i) where the customs value of a motor vehicle imported under paragraph (b) exceeds US\$30,000 the excess customs duty shall be paid by the importer;
 - (ii) a vehicle imported under paragraph (i) shall not be sold, exchanged or disposed of within 3 years from the date of importation;
 - (iii) where a vehicle imported under paragraph (b) is disposed of contrary to paragraph (ii), the returning national shall pay the full duties payable on a prorata basis based upon the cost of the vehicle at the time of importation;

(Substituted by Act 15 of 2013)

- (c) implements, instruments and tools of profession, trade or occupation (not including plant, machinery and heavy equipment), determined as such by the Comptroller of Customs in consultation with the returning national, of a returning national,

where a "returning national" is either (i) a citizen of Saint Lucia or (ii) an alien spouse of a citizen of Saint Lucia, who is 18 years and above, returning to Saint Lucia to settle after a minimum of 10 years residence abroad and provided that —

- (i) a returning national who, during the 10 year period immediately preceding his or her return to Saint Lucia as a returning national has visited or stayed in Saint Lucia for a continuous period of more than 6 months on more than 2 occasions shall not qualify for the exemption,
- (ii) no person shall benefit from the exemption on more than one occasion,
- (iii) a returning national who is accorded the exemption who, during the 3 year period immediately following his return to Saint Lucia returns abroad and resides outside Saint Lucia for a continuous period exceeding 3 months loses his or her privileges and is liable to pay all of the tax waived for him or her under this exemption.

- 13. Containers temporarily imported under Customs Tariff Heading 8609.00.
- 14. Cups, medals, shields and similar trophies not being articles of general utility proved to the satisfaction of the Comptroller of Customs to be specially imported for bestowal as honorary distinctions or prizes or when won abroad, or sent by donors resident abroad provided that the articles are not imported or stocked for purposes of trade.
- 15. Newspapers, trade catalogues and advertising matter and patterns and samples of no commercial value.
- 16. Goods and services imported during a threatened disaster alert or after a disaster emergency where the authorised signatories of the Office of the National Emergency Management Organisation (NEMO) or the Cabinet Secretary certifies that those goods are urgently required for dealing with the threat or emergency. These goods are not for resale.
- 17. Currency notes and coins imported under the Eastern Caribbean Central Bank Agreement Act.
- 18. Imports of goods by —

- (a) a person to the extent provided under the Diplomatic Immunities and Privileges Act, an international or regional treaty or convention having force of law in Saint Lucia, or the recognised principles of international law;
- (b) a diplomatic or consular mission of a foreign country established in Saint Lucia, relating to transactions concluded for the official purposes of such mission; or
- (c) an organisation or government to the extent provided under a technical assistance or humanitarian assistance agreement entered into with the Government of Saint Lucia.

(Amended by Act 15 of 2013)

19. The Comptroller may exempt from tax, capital goods imported, if the following conditions are satisfied before the importation —

- (a) the importer is a registered person under section 12(5);
- (b) the importer has a valid licence under the —
 - (i) Fiscal Incentives Act;
 - (ii) Special Development Areas Act; or
 - (iii) Tourism Incentives Act;

(Substituted by Act 15 of 2013)

- (c) the importer has not commenced taxable activity;
- (d) the Minister of Finance approves of a Master List of the capital goods eligible for exemption;
- (e) the goods are consigned directly to the approved importer;
- (f) the capital goods eligible for exemption are goods to be used in a taxable activity and goods that qualify under section 31;
- (g) the importer whose investment has been approved under paragraph (b) above has filed all required returns and paid all taxes due under all tax Acts;
- (h) the importer agrees to pay the amount of tax otherwise payable on the import of the capital goods if —
 - (i) the importer violates the terms of the licence agreement,
 - (ii) the importer's registration is cancelled as a result of the expiration of the licence, or
 - (iii) the registration is cancelled in accordance with the provisions of this Act.

20. (1) Personal items, food, clothing, toys and other household consumables, contained in barrels and imported during the period commencing on the 15th day of November, 2019 and terminating on the 31st day of January, 2020.

(2) The exemption under subparagraph (1) —

- (a) applies to items with a total value not exceeding EC\$2,500.00 for each barrel;
- (b) is limited to a maximum of 2 barrels for each household;
- (c) does not apply to electronic items; and
- (d) does not apply to items for commercial use.

(Inserted by S.I. 145/2012, 77/2013, terminated on 31 January 2014 and inserted by S.I. 117/2014, affirmed by S.I. 6/2015, terminated on 15 February 2015, amended by S.I. 109/2015 and terminated on 15 February 2016, amended by S.I. 102/2016 and terminated on 15 February 2017, amended by S.I. 121/2017 and terminated on 31 January 2018, amended by S.I. 118/2018 and terminated on 31 January 2019, amended by S.I. 156/2019 and terminating on 31 January 2020)

(Amended by S.I. 145/2012, 158/2012, 77/2013)

21. Goods such as hosts, wines, incense and candles imported solely for use during religious services by a registered institution of religious worship. *(Inserted by Act 15 of 2013 and substituted by S.I. 109/2015)*
23. An import of goods and services by the St. Lucia Association for Persons with Developmental Disabilities Inc. and The Child Development and Guidance Centre Inc. *(Inserted by S.I. 74/2017)*
24. An import of alter supplies by the Roman Catholic Church in 2013. *(Inserted by S.I. 118/2018)*
25. The import of goods or services for the Hewanorra International Airport Redevelopment Project for a period of 4 years and one month commencing from the 1st day of June, 2018 and terminating on the 30th day of June, 2022. *(Inserted by S.I. 103/2019)*
26. The import of goods or services for the Road Improvement and Maintenance Programme – Phase IV for the period commencing from the 31st day of May, 2019 and terminating on the 12th day of November, 2021. *(Inserted by S.I. 174/2019)*

CHAPTER 15.42 VALUE ADDED TAX ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

1. Interpretative Notes for the Value Added Tax Act
2. Value Added Tax Regulations – Section 106
3. Value Added Tax (Rate of Tax) (Goods and Services – Hotels and Other Tourism Providers) Order – Section 10(2)
4. Value Added Tax (Others Eligible for Tax Refund) Order – Section 59(1)
5. Value Added Tax (Application of the Term Pharmaceuticals) Regulations – Section 106
6. Resolution of Parliament to Approve Draft Value Added Tax (Amendment of Schedule 3) Order – Section 109(1)(a)
7. Value Added Tax (Deferred Payment of Value Added Tax for Importation of Capital Goods and Raw Materials) Regulations – Section 106(1)

Interpretative Notes for the Value Added Tax Act

These notes are issued by the Comptroller of Inland Revenue to assist with the interpretation of the various provisions of the Value Added Tax Act. They do not replace the provisions of the Act, and where there appears to be any variance, the Act Prevails.

These notes are to be read in conjunction with the Act and the Regulations.

1. Rate of tax

1.1 *Reduced rate of tax for goods and services provided by hotels.*—Section 10(2) of the Act provides for a reduced rate of tax on the value of taxable goods and services provided by hotels.

1.2 *Qualifying establishment.*—The reduced rate of tax under section 10(2) of the Act applies to the value of taxable goods and services provided by hotels. An establishment is considered to be a hotel if it is a building or group of buildings in the State occupied together comprising not less than five bedrooms for the purpose of providing hotel accommodation for reward. Further, it is an establishment that provides sleeping accommodation facilities for individuals for overnight or short term not exceeding 45 calendar days. If in a rare circumstance a guest stays more than 45 calendar days, this does not cause the establishment to fail to be considered a similar establishment.

2. Registration and Cancellation of Registration

2.1 *Application for registration.*—The application for registration under section 13(1) for persons required to be registered shall be in the form approved by the Comptroller and, apart from such other information the Comptroller may require, shall contain at least the following particulars:

- (a) the name, address and contact information of the applicant;
- (b) identification of the business activity undertaken by the applicant;
- (c) the date taxable activity commenced or will commence;
- (d) whether the applicant is a sole trader, partnership, company or other entity;
- (e) the total value of the applicant's supplies for such period required by the Comptroller in accordance with the Act;
- (f) name and address of applicant's bank and applicant's bank account number.

2.2 *Waiver of registration.*—Section 12(4) allows for a person to not apply for registration, or the Comptroller himself may, without a request, decide not to register an applicant if the person's taxable supplies exceeded or will exceed the threshold solely as a result of —

- (a) the cessation;
- (b) substantial and permanent reduction in the size or scale; or
- (c) the replacement of old capital goods,

of a taxable activity carried on by the person.

For example, a person may request the waiver if the person discontinues selling a line of products and sells the remaining inventory of that line, producing substantial sales that will not recur in the future.

2.3 *Threshold already satisfied.*—Section 13(6)(a) of the Act provides that if a person must register because that person's taxable supplies exceeded the threshold in the prior 12 or fewer months, registration is effective at the beginning of the tax period immediately following the end of the period of 12 or fewer months. For example, if during an 8-month period from 1 February to 30 September, a person's taxable supplies exceeded the threshold, the person must apply for registration no later than 10 working days after 30 September. The person should apply in September. The person's registration is effective 1 October, so the person must account for the tax on 1 October.

2.4 *Threshold to be satisfied in future.*—Section 13(6)(b) of the Act provides that if a person must register because that person is expected to have taxable supplies exceeding the threshold in the next 365 calendar days, registration is effective from

the beginning of the 365-day period. For example, if as of 31 March, a person expects to have taxable supplies above the threshold in the next 365 calendar days, the person must apply no later than 10 working days after 31 March and registration is effective 1 April.

2.5 Voluntary Registration.—Under section 12(5) of the Act, a person not required to register may apply for registration. There is no automatic right to be registered for voluntary applicants. Whether the application is granted and the person is registered is at the Comptroller's discretion. However section 13(8) makes the Comptroller's decision appealable.

2.6 Certificate of Registration.—The Certificate of Registration under section 13(9) shall be in the form approved by the Comptroller and shall contain at least the following particulars:

- (a) the name of the registered person;
- (b) the taxpayer identification number (TIN);
- (c) the effective date of registration;
- (d) the date of issue of the certificate;
- (e) the certificate number;
- (f) the location of the business, outlet, branch or similar at which the certificate is to be displayed.

2.7 Failure to register.—Under section 13(5) of the Act, if a person required to register fails to register, the Comptroller may register the person and specify the effective date of the registration. For example, assume that a person fails to register, but was required to do so because taxable supplies exceeded the threshold on 31 December, 2012. If the Comptroller discovers on 15 July, 2013 that the person was required to register as of 31 December, 2012, the Comptroller may register the person, effective 1 January, 2013.

2.8 Change of information.—The notification of change of information under section 13(12) of the Act shall be in the form approved by the Comptroller and shall contain at least the following particulars:

- (a) the name of the registered person;
- (b) the taxpayer identification number;
- (c) the change of name under which the person will conduct taxable activity (if applicable);
- (d) the change of place of business or address from which the person will conduct taxable activity (if applicable);
- (e) the change in the nature of taxable activity in which the person will engage (if applicable);
- (f) the change in the constitution of the person's business or activity (if applicable);
- (g) any other information required by the Comptroller.

2.9 Cancellation of registration.—Section 14(13) of the Act provides that a person who expects to sell a going concern must notify the Comptroller of that intent at least 5 calendar days before the sale closes, the purchaser acquires a legal interest in the assets to be acquired, or the assets of the going concern are transferred, whichever occurs first. The seller must also apply for cancellation of their registration under section 14(1) of the Act if the seller, as a result of the sale of a going concern, ceases to engage in taxable activity. The seller must state whether or not he intends to make taxable transactions within 12 months from the date he has stated on his application for cancellation. For example, a person who sells his existing business may decide to start a new business and make taxable supplies. This information may assist the Comptroller's decision whether or not to grant the application for cancellation. The

Comptroller can initiate a cancellation without any application unless, under section 14(2) of the Act, the Comptroller has reasonable grounds to believe that the person will engage in taxable activity within 12 months from the date of cessation.

2.10 Notification of cancellation.—A notification of cancellation of registration shall be in the form approved by the Comptroller and in addition to the information specified in section 14(3) shall contain at least the following particulars —

- (a) the name, address and contact details of the registered person;
- (b) the taxpayer identification number;
- (c) the reason for application for cancellation;
- (d) the date that taxable activity will cease (if applicable);
- (e) the value of stock on hand;
- (f) the value of assets on hand.

2.11 Effective date of cancellation.—Under section 14(1) of the Act, the cancellation of registration generally takes effect at the end of the last day of the tax period during which taxable activity ceases. The Comptroller has the authority to specify a different effective date. If the Comptroller initiates cancellation because he or she is satisfied that a taxable person is not engaged in a taxable activity or is not required or entitled to apply for registration, under section 14(4) of the Act, the Comptroller may cancel the person's registration, effective on the last day of the tax period during which the Comptroller becomes so satisfied or on another date the Comptroller specifies. For example, under section 14(6) of the Act, if the Comptroller is satisfied that the registered person did not make taxable transactions from the date the registration took effect, the Comptroller can cancel the registration retroactive to that effective date. The Comptroller must provide written notice of the date that the cancellation takes effect.

2.12 Deemed supply of goods on hand when the registration is cancelled.—When registration is cancelled, under Section 4 (21) a registered person is deemed to have made a taxable supply in Saint Lucia of the goods on hand on the date of cancellation, but only if an input tax deduction was claimed with respect to the goods and services on hand. This ensures that the newly unregistered person is not in a more advantageous position than other unregistered persons who would not have been able to claim input tax.

2.13 Tax obligations after cancellation of registration.—Under section 14(10) of the Act, a taxable person's obligations or liability under the Act while registered, including the furnishing of returns and payment of tax, is not affected by cancellation of the person's registration. The person remains liable and the Comptroller can take action to enforce the person's obligations or tax liability.

3. Time of Supply

3.1 Repossession of goods.—Section 4(7) of the Act treats the repossession of goods under a credit agreement as a supply of the goods. Under section 18(5) of the Act, the supply occurs on the day that the goods are repossessed. The date of the supply may be later if the debtor may under any law be reinstated in his rights and obligations under the credit agreement. In this situation, the date of the supply is the day after the last day of any period during which the debtor may under such law be so reinstated. For example, if after goods are repossessed the debtor can have his rights to recover his goods reinstated by paying installments in default, then even if the debtor does not make payments and has the right to recover his goods, the supply occurs on the day after the debtor loses his right to pay arrears and have his rights reinstated.

3.2 Transfer of a going concern.—Section 4(2) of the Act treats, as a supply of goods, the transfer of a taxable activity (or a portion of a taxable activity capable of separate operation) as a going concern. For example, a business person who is retiring may sell his flower shop, or a computer store owner who is downsizing might sell the retail portion of his business and retain and concentrate on the repair portion or department. These transfers would fall within the scope of section 4(2) and would be

deemed a supply of goods. The transfer may be zero rated under Schedule 1, if the conditions of Schedule 1, paragraph 2(1)(i) are met. If the buyer uses some of the acquired assets for purposes other than to make taxable supplies, according to section 4(18) of the Act, the buyer is treated as making a taxable supply on the acquisition of the going concern to the extent that the buyer uses the goods or services acquired for purposes other than to make taxable supplies. Under section 18(10) of the Act, the taxable supply by the buyer occurs when the supply of the going concern under section 4(2) of the Act occurs.

3.3 Advance receipt for services or a deposit.—Consideration, as defined in section 2 of the Act, does not include a deposit given in connection with a supply of goods or services unless and until the supplier applies the deposit as consideration for the supply or such deposit is forfeited. In contrast, an advance payment for the rendition of services in the future is included as part of the consideration for a supply for services. Section 18(1) of the Act provides that a supply of services occurs at the earliest of the date the services are completed, an invoice covering the services is issued, or any consideration for services received. The classification of a receipt as a deposit or advance payment depends on the facts and circumstances of the case. For example, an advance payment received by a hotel or other service provider for specific accommodations or other services to be provided in the future is presumed to be consideration for the service to be supplied and not a deposit for purposes of the definition of consideration in Section 2 of the Act.

4. Value of supply

4.1 Price discounts and rebates provided at time of supply.—The consideration for a supply and therefore the value of a supply is reduced by any price discounts or rebates allowed and accounted for at the time of the supply of goods or the rendition of services. For example, discounts taken at the cash register for goods on sale reduce the value of a supply subject to tax. Post-supply price adjustments do not affect the tax imposed on the supply. For example, if a retailer sells computer software and the manufacturer of the software offers a rebate to a purchaser of the software upon proof of purchase (such as submission of a tax invoice), the manufacturer's rebate does not reduce the consideration subject to tax when the retailer sells the software. Those adjustments must be accounted for by a registered seller and registered purchaser in accordance with section 32 of the Act.

4.2 Tax not accounted for separately.—Where a portion of the price of a supply represents tax imposed by the Act that is not accounted for separately, the value of the supply is the price reduced by the amount of tax, determined as an amount equal to the product of the tax fraction multiplied by that price (section 20(2)). The tax fraction under the definition in section 2 of the Act is $R/(1 + R)$, where "R" is the rate of tax (expressed as a percentage) under section 10(1) of the Act.

For example, where the price (including tax that is not accounted for separately) is \$115 and the tax rate is 15%, then the amount of tax is determined as follows —

$115 (.15) / (1.15) = 100 (.15) = 15$, and the value of the supply is \$115 less \$15, or \$100.

4.3 Transfers for no consideration or for less than fair value.—Section 20(3) of the Act provides that the value of a supply of goods without consideration or for less than fair market value is the fair market value of the goods. This special valuation rule applies only if the supplier and recipient are related persons or if the recipient is an approved charitable organisation. This rule is designed, in part, to prevent tax avoidance on transfers to purchasers who are not entitled to claim input tax deductions on purchases. When fair market value applies, a reduction for the amount of tax included in the fair market value must be computed as is explained under paragraph 4.2 above.

4.4 Change of use of goods or services.—If a registered person converts an entire good or service from use in a taxable activity to a different use and the person was allowed an input tax deduction in respect of the acquisition of that good or service, section 4(6) of the Act generally treats the change in use as a supply of goods or services in the course or furtherance of a taxable activity. Under section 20(4) of the Act, the value of the deemed supply is the lesser of the consideration paid or payable on the acquisition of those goods or services, or the fair market value of the goods or

services when they are converted to a different use. For example, if a computer acquired by a registered person for business use for \$1,000 now is worth \$400, the transfer of that computer to an employee for personal use is a taxable supply with a value of \$400.

4.5 *Change of use of goods or services – special rule.—*

4.5.1 *Input tax deduction disallowance.*—Under section 4(17) of the Act, the change in the use of goods or services by a taxable person is not a taxable supply if that person was not entitled to claim a deduction for input tax imposed and paid on the acquisition of those goods or services. As a result, the valuation rules under section 20(4) of the Act do not apply to a change in the use of such goods or services.

4.5.2 *Cancellation of registration.*—Under section 4(21) of the Act, the cancellation of registration does not produce a taxable supply of goods and services on hand on the date of cancellation to the extent that input tax on the acquisition of those goods or services was not deductible. As a result, the valuation rules under section 20(4) of the Act do not apply to a change in the use of those goods upon cancellation of registration.

4.6 *Change of use of goods and services – conversion of less than the entire goods or services to a different use.*—This paragraph governs the value of a supply under section 20(5) of the Act, when less than an entire good or service is applied to a different use. If, in a transaction governed by section 4(6) of the Act, a registered person changes any part of the use of goods or services from use in a taxable activity to a different use, then generally, the change is treated as a conversion of the entire good or service to a different use unless the registered person establishes to the satisfaction of the Comptroller that less than the entire good or service was converted. There is an exception. If a registered person converts 10 percent or less of a good or service to a different use, the change in use is not treated as a supply under section 4(6) of the Act. Changes within a 12-month period are aggregated for purposes of determining the portion of a good or service that was converted to a different use under this paragraph.

4.7 *Balance of the cash value.*—The balance of the cash value of the supply under section 20(8) of the Act is the amount remaining after deducting from the cash value so much of the sum of the payments made by the debtor under the credit agreement as, on the basis of an apportionment in accordance with the rights and obligations of the parties to such agreement, may properly be regarded as having been made in respect of the cash value of the supply. For example, assume that the seller of goods is a dealer who finances the purchase, the consideration for the sale was \$5,000, and the payments by the buyer properly attributable to the principal were \$1,500. For purposes of section 20(7) of the Act, the value of the goods repossessed is \$5,000 less \$1,500, or \$3,500.

4.8 *Reporting of Deposits.*—The consideration and therefore the value of a supply does not include a deposit given by the purchaser in connection with a supply unless and until the deposit is forfeited or the supplier applies the deposit as part payment for the supply. This rule applies to refundable and non-refundable deposits, including payments under a lay-away plan, but does not apply to deposits on returnable containers. Deposits on returnable containers are treated as part of the consideration for a supply (see definition of consideration in section 2 of the Act), and are included in the value of the supply.

4.9 *Calculation of value of a supply incident to transfer of going concern.*—The value of the goods and services treated as a supply by the recipient under section 4(18) of the Act shall be the consideration for the acquisition of the taxable activity, reduced by an amount which bears to the amount of such consideration the same ratio as the intended use or application of the taxable activity for making taxable transactions bears to the total intended use or application of the taxable activity. For example, assume that the consideration for a zero rated supply of a going business is 1,000,000 and that the recipient will use 80 percent of the acquired goods and services in making taxable supplies, the value of the acquisition deemed to be supplied by the recipient is $\$1,000,000 - (80\% \times \$1,000,000)$, or \$200,000.

4.10 *Supplies of goods used partly in taxable and partly in exempt activities.*—When goods are used by a taxable person in mixed activities, the value of the supply

of the goods must be apportioned between or among the multiple uses. For example, if goods used 60 percent in taxable activities and 40 percent in exempt activities are sold for a tax-exclusive price of \$10,000, and the portion of the goods used in exempt activities is treated as a supply not in the course or furtherance of taxable activities under section 4(17), then unless section 20(3) of the Act or another exception applies, the value of the taxable supply for purposes of section 20 is 60 percent of \$10,000 or \$6,000.

5. Import of services

5.1 *In general.*—Imported services are reportable by the recipient under section 28 of the Act. Under the definition of an import in section 2 of the Act, imported services are taxable only if they are supplied to a Saint Lucian resident who does not use or consume the imported services in making taxable supplies in Saint Lucia. For example, an import of services is taxed if imported by a person that renders exempt services such as a school rendering exempt educational services.

6. Input tax deduction rules

6.1 *Period in which an input tax deduction is claimed.*—A taxable person deducts input tax in the tax period in which the tax on a domestic acquisition is payable. For example, if an invoice issued on 28 January is received on 5 February, and tax is payable by the recipient when the invoice is issued, the taxable person claims the input tax deduction in the tax period that includes 28 January.

6.2 *Commencement or termination of a taxable activity.*—Activity involved in commencing or terminating a taxable activity is considered to be related to taxable activity under section 6(3) of the Act. The costs incurred to begin or terminate a taxable activity therefore are costs taken into account in calculating the allowable input tax deductions under section 30 of the Act.

6.3 *Input tax deductions on vehicles carrying goods.*—In accordance with section 31(1)(a) of the Act denies a deduction for input tax on the acquisition of a passenger vehicle, unless the person acquires the vehicle for purposes of that person's business of dealing in, or hiring, such vehicles. "Passenger vehicles," according to section 31(7) of the Act, include motorcars and other motor vehicles principally designed to transport people. This disallowance rule does not apply to a commercial truck, a double cab truck designed to carry goods, a pickup truck, or other vehicle used exclusively for the transport of goods. If a passenger vehicle acquired by a person in the business of dealing in, or hiring passenger vehicles, is provided by that person directly or indirectly for the benefit of an owner, officer or employee, the person is denied an input tax deduction on the acquisition of the vehicle to the extent of the tax on the portion of the passenger vehicle used by or for the benefit of such individual, or the person (while owning the vehicle) is deemed to have changed the use of the vehicle under section 4(6) of the Act. For example, if an employee of a car rental company will use for personal purposes a newly-acquired motor car usually rented to customers, the car rental company is denied an input tax deduction on the acquisition of the car for the portion of the tax on the rental car to be used for such purposes. The same rule applies if the car rental company permits a related person who does not work for the company to use a car usually rented to customers.

6.4 *Input tax deductions on entertainment.*—For purposes of section 31(1)(b) of the Act, an input tax deduction is not allowed for tax paid on the purchase or import by a taxable person of goods or services for the purpose of entertainment. "Entertainment" is defined in section 31(7) of the Act as provision of food, beverages, tobacco, accommodation, amusement, recreation, or other hospitality. Entertainment includes restaurant meals for executives, employees, or customers, the rental of a lodge, the charge for satellite or cable television services, and the charge for food at a retreat for employees. Under section 31(1)(b)(i) of the Act, the disallowance rule does not apply to purchases of "entertainment" by a registered person engaged in the business of selling "entertainment" (such as a restaurant or disco) if the purchases are used directly in the supply of taxable entertainment in the ordinary course of business.

6.5 *Input tax deductions on membership in a sporting, social, or recreational club, association, or society.*—Section 31(1)(c) of the Act denies a deduction for input tax on fees or subscriptions for membership in a club, association, or society of a sporting,

social or recreational nature. While not an exhaustive list, the disallowance rule applies to input tax on a membership in a hunting, drinking, dining, smoking, or similar establishment.

6.6 Input tax allocation rules.—Under section 31(2)(a) and (b) of the Act, the input tax on acquisitions directly allocable to the making of taxable supplies is deductible in full, and the input tax on acquisitions directly allocable to the making of exempt supplies is disallowed in full. Input tax on acquisitions used in making both taxable and exempt supplies (dual-purpose acquisitions) must be allocated between them in accordance with the formula $A \times B/C$ (section 31(2)(c)) ; that is, allocated in proportion to total taxable sales during the current tax period divided by total supplies in that period. For example, if during the month of August, the input tax not directly allocable to either taxable or exempt supplies is \$10,000, the total taxable supplies in August are \$6,000,000 and the total supplies in August are \$10,000,000 the input tax allocable to taxable supplies under this formula (and therefore deductible for August) is $\$10,000 \times 6,000,000 / 10,000,000$, or \$6,000.

6.7 De minimis rule.—If a taxable person's ratio of taxable supplies to total supplies under the formula $A \times B / C$ in section 31(2)(c) of the Act is more than 0.90, under section 31(3) of the Act, the taxable person may deduct the entire input tax on dual-purpose acquisitions used to make both taxable and exempt supplies. In other words, if more than 90 percent of total supplies are taxable supplies, the ratio in section 31(2)(c) of the Act is deemed to be 100%, and all input tax on the dual-purpose acquisitions is deductible.

6.8 Allocation rule for financial institutions.—Section 31(4) of the Act provides that a bank or other financial institution making both taxable and exempt supplies in a tax period can deduct, under section 31(2) of the Act, only the input tax on acquisitions that are directly allocable to the making of taxable supplies. There is no deductible input tax under the formula in section 31(2)(c) of the Act on dual-purpose acquisitions used in making both taxable and exempt supplies.

7. Bad Debts

7.1 In general.—This applies if a registered person makes a supply of taxable goods or services, accounts for the supply in a tax return, and in a subsequent tax period, it is determined that the registered person will not be able to recover all or part of the consideration from the customer. If a registered person claims relief for a bad debt and the customer subsequently pays all or a portion of the amount claimed as a bad debt, the registered person must report as output tax the presumed tax element in the recovered debt.

7.2 Claiming bad debt deductions.—Section 32(9) to (13) of the Act provides rules for registered persons to account for bad debts on supplies reported for VAT purposes. Under section 32(9) of the Act, a registered person can deduct, as an input tax deduction, the tax on a prior taxable supply to the extent that the consideration for the supply is treated as a bad debt. The deduction (a bad debt deduction) is treated as an input tax deduction under section 30(1) of the Act in calculating the net tax liability for the tax period.

7.3 Circumstances for allowance of bad debt.—Under section 32(13) of the Act, the bad debt deduction is allowed in two cases. The deduction is allowed if the taxable supply that gave rise to the bad debt was made to an unregistered person. The deduction also is allowed if the taxable supply was made to a registered person and the supplier issues a tax credit note to the registered defaulting customer, listing the amount claimed as bad debt deduction. The tax credit note must contain the relevant particulars. The registered, defaulting purchaser must report as output tax the tax reported on the tax credit note. It is only the registered person that makes the supply that can claim an input tax deduction for the bad debt. An exception applies if a going concern is transferred and the transferee writes off an acquired account as a bad debt.

7.4 Calculation of input tax deduction – bad debt.—Under section 32(10) of the Act, the input tax deduction for the bad debt is equal to the tax fraction (definition in section 2 of the Act) multiplied by the portion of the taxable supply written off as a bad debt. The tax fraction is the one applicable when the original taxable supply was made. For example, if \$2,300 of a customer's account is written off and the tax rate at the time of the supply was 15%, the input tax deduction is $15/115 \times 2,300$, or \$300.

7.5 Requirements for claiming input tax deduction – bad debt.—The bad debt deduction arises when the bad debt is written off by the seller on its books. Under section 32(11) of the Act, to be entitled to this deduction for a bad debt, the registered person must satisfy the Comptroller that reasonable efforts have been made to recover the debt due and payable, and at least one year has elapsed. In order to claim an input tax deduction for a bad debt written off, a registered person must retain a copy of the tax invoice for the supply on which the deduction is claimed. The person also must establish a separate bad debt account for each bad debt for which an input tax deduction is claimed. That account must include a record of the name of the customer, and the date and number of the invoice originally issued, the amount written off as a bad debt, the tax period in which the supply was reported, and the tax period in which the input tax deduction is claimed. If a tax credit note is issued, a copy must be retained.

7.6 Recovery of bad debt.—If a registered person recovers any portion of a debt that gave rise to a bad debt deduction, under section 32(12) of the Act, the registered person must report the following amount as tax on a taxable supply (output tax) in the tax period in which the debt is wholly or partially recovered. The amount reportable is calculated according to the formula $A \times B/C$, where: **A** is the allowable input tax deduction for the bad debt, **B** is the amount of the recovered bad debt, and **C** is the total bad debt written off. For example, if the original input tax deduction for the bad debt was \$1,500, the recovery was \$3 000, and the bad debt written off was \$10 000, the output tax reportable on the recovered bad debt is $1,500 \times 3,000 / 10,000$, or \$450. A drawback of VAT resulting from a recovery of a previously-deducted bad debt is required, even if the supplier is no longer registered for VAT purposes.

8. Tax invoices and sales receipts

8.1 Tax invoice.—A tax invoice under section 34(1) of the Act is a pre-numbered document executed by the registered supplier and must contain at least the following particulars —

- (a) the words “Value Added Tax Invoice” or “VAT Invoice” in a prominent place;
- (b) the name, address and TIN of the supplier;
- (c) the name, address and TIN of the recipient;
- (d) the date on which the VAT Invoice is issued;
- (e) a description of the goods or services supplied, including the quantity or volume, as applicable, and the date on which the supply was made;
- (f) the consideration for the supply; and
- (g) the amount of VAT charged.

8.2 Sales receipt.—A sales receipt under section 34(2) or (7) of the Act is a document executed by the registered supplier and must contain at least the following particulars —

- (a) the words “VAT Sales Receipt” in a prominent place;
- (b) the name, address and TIN of the supplier;
- (c) the date on which the sales receipt is issued;
- (d) a description of the goods and services supplied, including the quantity or volume as applicable and, if necessary to identify the supply, the date on which the supply was made;
- (e) the total consideration for the supply (including VAT); and
- (f) the amount of VAT charged.

9. Refund of tax

9.1 *Claim for refund of tax.*—A person entitled to file a claim for a refund of tax under section 57 of the Act must file their claim in such form approved by the Comptroller and shall contain at least the following particulars —

- (a) name, address and contact details of the applicant for refund;
- (b) taxpayer identification number of the applicant;
- (c) amount of refund claimed;
- (d) period in which excess input tax occurred;
- (e) customs declaration or receipt number that relates to the excess input tax.

The claim for refund shall be accompanied by such documentary proof as will establish the payment of the excess amount.

10. Due date for filing a return and for payment of tax.

10.1 *In general.*—Under section 89 of the Act, a person who fails to file a return within the required due date, is liable to a penalty of \$250. Under section 46(4) of the Act, a person who fails to pay the tax that is due and payable by the required due date, is liable to a penalty of 10 percent of the amount due. Under section 46(1) of the Act, a person who fails to pay tax payable under the Act by the date it is due and payable is liable for interest at a rate of 1.25 percent per month or part thereof, for the period during which the tax remains unpaid. For tax payable with the filing of a regular VAT return, this date is the due date of the return. For example, a VAT registered business is liable to pay \$10,000 on 21 December, 2012. If the business fails file a return and fails to pay the VAT that is due on 21 December, 2012, (i.e. \$10,000), then the business is liable to —

- (a) penalty of \$250 (for failing to file the return – section 89 of the Act);
- (b) a penalty of 10 percent of the \$10,000 (amounting to \$1,000) (for failing to pay the tax that is due and payable as at the due date – section 46(4) of the Act); and
- (c) pay interest at a rate of 1.25 percent of the \$10,000 (\$125) per month or part of a month for which the tax remains unpaid (as interest on unpaid tax – section 33(1) of the Act).

11. Refunds of excess input tax deductions and other overpayments

11.1 *Carryover of excess deductions.*—Under sections 57(1) to 57(3) of the Act, except as provided in section 57(5), the general rule is that a taxable person must carry forward excess input tax deductions to three consecutive tax periods before the person is eligible to apply for a refund of any unused excess input tax deductions. For example, except as provided under this clause, if a taxable person has excess input tax deductions for March, the person must carry forward those excess input tax deductions to April. If the excess deductions are not fully used up against output tax in the April through June tax periods, the person may file a claim for a refund of the excess deductions remaining. The oldest carryover is used first. For example, if a taxable person has excess deductions for March and April, the excess deductions from March are used against the output tax in May before the excess deductions from April are used against the output tax in May. The Comptroller generally has one calendar month to pay the refund upon application; that is, the Comptroller has until the end of July to pay the refund. However, under section 57(4) of the Act, if the Comptroller orders an audit of the refund claim, then the Comptroller has until the end of 10 working days after the conclusion of the audit to pay the refund. The time provided for the payment of a refund of excess input tax deductions is subject to an overall limit. Under section 57(4) of the Act, the Comptroller is required to pay the refund only to the extent that the Comptroller is satisfied that the taxpayer is entitled to the amount of the refund claimed.

11.2 *Refund claims related to the commencement of a taxable activity.*—Section 57(4) of the Act provides that the Comptroller is required to pay a refund of excess input tax deductions only to the extent the Comptroller is satisfied that the taxpayer is entitled to the amount of the refund claimed. Generally, when a taxable person claims a refund of excess deductions under section 57(4) of the Act that is attributable to the commencement of a taxable activity, the Comptroller will not be satisfied that the taxable person is entitled to the refund claimed unless, from the available evidence, the Comptroller is satisfied that the taxable person will be using the goods and services giving rise to the excess deductions to engage in the making of taxable supplies.

11.3 *Refund claims under section 57(8) of the Act.*—If a person overpays tax other than in circumstances specified in section 57(1)(a) of the Act, then under section 57(8) of the Act, the person may file a claim for a refund of the excess. This procedure may apply, for example, to a person who is registered or not registered, and later discovers that a calculation error resulted in the overpayment of VAT on previously-reported transactions. However, if a person pays more tax on the import of goods or services than is imposed by the Act, the person must apply for a refund to the Comptroller. An application for refund to the Comptroller may also be made in the circumstance when goods are consigned to a returning resident in care of a local representative, who pays the tax due as a deposit. When the returning resident arrives, he or she can process an import declaration and apply for a refund of the deposit to the extent that the returning resident meets the conditions of the exemption for the import of goods by returning residents in Schedule 3 of the Act.

11.4 *Refund claim form.*—A person entitled to file a claim for a refund of tax under section 57 of the Act must file the claim on the refund form required by the Comptroller, together with documentary proof required by the Comptroller to support the claim for refund.

12. Approved Charitable Organisations eligible for refund of tax

12.1 *Documentation for refund.*—An application by an approved charitable organisation for a refund of tax under section 59(3) of the Act must include documentation to support the refund request. The refund application must be in the form approved by the Comptroller and contain the information required by the Comptroller.

12.2 *Processing of refund.*—An application for refund by an organisation specified in paragraph 12.1 may be processed by the Comptroller as and when any such application for request is approved by the Minister.

SCHEDULES

13. Schedule 1 – Zero Rated Supplies

13.1 *Application of zero rating.*—Where a registered person has applied the rate of zero percent to a supply under Schedule 1 of the Act, the registered person must obtain and retain documentary proof acceptable to the Comptroller substantiating the person's entitlement to apply the zero rate to the supply. The registered person also must comply with all other conditions or restrictions that the Comptroller may impose for the protection of the revenue.

13.2 *Minister's designation that foreign country is not an export country.*—The Minister may designate a country as one that is not an export country, but it is anticipated that this power will be exercised only in exceptional circumstances. The power may be exercised if another country discriminates against Saint Lucia in the treatment of exports to Saint Lucia under its value added tax or comparable tax.

13.3 *Substantiation of zero rating.*—To obtain zero rating for the export of goods and related services under this paragraph, the exporter, at the port of exit, must identify the goods and present documentary proof required by the Comptroller. The export must comply with the requirements of Schedule 1, paragraph 3(1) of the Act.

13.4 *Fuel.*— Schedule 1, paragraph 2(1)(h) of the Act zero rates the supply of fuel. Fuel is inclusive of the oils, gases and other preparations included in the Customs

Tariff Headings specified in the definition of “fuel” in Schedule 1 which include, for example, illuminated kerosene, liquefied natural gas, liquefied propane, liquefied butane, ethylene and propylene, among others. Fuel does not include any other petroleum, gas or other products not covered in the said Tariff Headings.

13.5 *A going concern – explanation of term.*—A going concern is an income-producing activity capable of separate operation that is in fact operational and capable of being carried on without interruption after the transfer, but not a dormant or prospective business. A transfer qualifies if it constitutes the entire taxable activity of the supplier that is a going concern or a portion of a taxable activity of the supplier if capable of being carried on as a going concern as required by section 4(3). A supply can be of a going concern even if the transferred business is not profitable, or is being transferred to a liquidator, receiver, trustee in bankruptcy, or other person appointed upon the insolvency of a registered person. The supply is zero rated only if it takes place on or after the effective date of the VAT Act. A supply of a going concern comes within the zero rating of Schedule 1, paragraph 2(1)(i) of the Act, even if the supply is to a person with no previous interest in the business. Zero rating applies to a supply of an existing business that involves only a change of legal entity or form of doing business, such as from a partnership to an incorporated company. It is not necessary for the transferee to operate the particular income-producing activity acquired, so long as it is capable of separate operation. To illustrate the concept of a going concern, the supply of a vacant factory building held as an investment does not qualify for zero rating as the transfer of a going concern. The transfer of machinery and a factory building that have been used to manufacture shipping boxes is a supply of a going concern that can qualify for zero rating.

13.6 *Post-supply notice requirement.*— Schedule 1, paragraph 2(1)(i)(ii) requires the transferor and transferee to furnish the Comptroller a notice in writing within 21 calendar days after the supply takes place. Unless the transferor and transferee both are registered persons and both sign and file in a timely manner the post-supply notice expressing their intent to treat the transfer as a supply of a going concern under Schedule 1, paragraph 2(1)(i) of the Act, the transfer is not zero rated, even if in fact it is a transfer of a going concern. The 21 calendar day period within which the notice must be filed is determined under the time of supply rules in section 18 of the Act. If the transferee previously was not a registered person, the supply can qualify for zero rating only if the transferee is registered by the date the transfer takes place. If the parties satisfy the notice requirements in Schedule 1, paragraph 2(1)(i) and the transfer does not qualify as a zero rated supply of a going concern under section 4(2) of the Act, the consideration charged for the supply is treated as being exclusive of VAT, the transfer is subject to tax, the value of the supply for tax purposes is the consideration charged, and the transferee can claim an input tax deduction to the extent allowable under the Act. If under the agreement between the parties the selling price is increased to include VAT in the event of non-qualification of the transfer, then the value of the supply is determined on the basis of the adjusted selling price under the contract (reduced, under the general rules, by the amount of VAT).

13.7 *Details of the transfer.*—Under Schedule 1, paragraph 2(1)(i)(ii), the required notice to the Comptroller must include the details of the supply. To satisfy this requirement, the notice must include a complete list of the assets transferred, the market value of each asset transferred, the nature of the business conducted by the transferor and the business to be conducted by the transferee with the acquired assets, and the length of time the transferor’s business has been operated with the assets transferred. The transferor must report any assets that will be used in making supplies that are not taxable supplies. The Comptroller may require additional information from the transferor or transferee, or both, or may waive the requirement to value individual assets of nominal value.

13.8 *Supply upon cancellation of transferor’s registration.*—If the transferor’s registration is cancelled by the Comptroller as part of the transfer of a going concern, then under section 4(21) of the Act the goods not transferred as part of the going concern generally constitute a supply of the goods by the transferor at their market values, except that this rule does not apply to goods for which the transferor has not been allowed an input tax deduction under section 30 of the Act.

13.9 *Specially designed ventilated boxes.*—Schedule 1, paragraph 2(1)(k) of the Act zero rates supplies of ventilated boxes that are specifically designed for use in transporting unprocessed agricultural products. The zero rating extends to boxes

designed to transport flowers. Other types of boxes are not zero rated, even if used to transport unprocessed agricultural products.

14. Schedule 2 – Exempt Supplies

14.1 Financial services.—A supply of financial services is exempt from tax under Schedule 2, paragraph 2(a) of the Act. Financial services as specified are exempt, whether provided for explicit or implicit fees.

14.2 Invoicing finance charges.—For purposes of “financial services” as defined in Schedule 2(1), if a supplier makes a taxable supply of goods on credit and includes the finance charges in the total amount payable by the buyer in installments, the total amount payable for the goods (including any finance charges) is subject to tax. If, on the other hand, the seller lists the consideration for the goods and the finance charges separately on the tax invoice, tax is imposed at the time of the supply only on the consideration for the goods.

14.3 Definitions of specific terms.—For purposes of “financial services” as defined in Schedule 2(1), the following definitions apply —

“**cheque**” includes a postal order, a money order, a traveller’s cheque, or any order or authorisation (whether in writing, by electronic means, or otherwise) to a financial institution to credit or debit any account;

“**insurance policy**” means insurance cover under a policy treated as general insurance business or as long-term insurance business under the Insurance Act.

14.4 Financial services rendered by businesses that are not registered as banks or financial institutions.—Financial services that are defined as exempt in Schedule 2(1) are exempt, whether rendered by a registered bank or financial institution or by any other person.

14.5 Taxable services, even if associated with financial services.—Some services are not exempt under Schedule 2, paragraph 2(a) of the Act, whether or not they are rendered in connection with an exempt financial service. They include, but are not limited to the following —

- (a) Legal, accounting and record package services, actuarial, notary, and tax agency services (including advisory services) when rendered to a supplier of financial services or to a customer of that supplier of financial services;
- (b) Safe custody for cash, documents, or other items;
- (c) Data processing and payroll services;
- (d) Debt collection or factoring services;
- (e) Trustee, financial advisory, and estate planning services;
- (f) Leases, licenses, and similar arrangements relating to property other than a financial instrument; and
- (g) Any other explicit fee, including administrative fees.

14.6 Accounting and record package services.—Accounting and record package services are services provided to a financial institution rendering exempt financial services that include a financial clearing system that may be part of the settlement process, the posting of financial transactions to or the maintenance of the accounts of the financial institution’s customers, and the rendering of services ancillary to the services just described.

14.7 Factoring.—The mere acquisition of a debt is not a taxable transaction, including debt acquired by a factor. The services related to debt recovery, litigation, and the management of the recovery of the amount due from debtors are taxable, including sales accounting services under a factoring arrangement and other services related to factoring.

14.8 *Mixed supplies.*—If an exempt or taxable financial service is incidental to a main supply, or if such a financial service is the main service, the rules in section 4 of the Act on mixed and incidental supplies apply.

14.9 *Input tax deduction allocation rules.*—Banks and other financial institutions that make both taxable and exempt supplies may claim input tax deductions under section 31(2) of the Act only on domestic acquisitions (including rentals) and imports used directly in making taxable transactions (section 31(4) of the Act). This means that input tax deductions are only allowable for purchases that are used directly for taxable transactions. Other providers of financial services are subject to the allocation rules in section 31 of the Act.

14.10 *Records and other data.*—Regardless of method used to allocate input tax deductions under section 31 of the Act, the registered person must retain records to substantiate the method used. The Comptroller may require financial service providers to submit statistical data on various product lines.

14.11 *Insurance exemption.*—The exemption for financial services extends to the premiums for insurance cover under an insurance policy.

14.12 *Riders to insurance policies.*—The premium attributable to riders attached to an insurance policy that is exempt from tax constitutes exempt services if the riders are only incidental to the provision of the insurance cover. Services covered in riders to exempt insurance policies that are not incidental to the insurance coverage are taxable to the extent that the independent supply of those services would be taxable. The Comptroller shall have the sole discretion to determine whether a non-insurance rider is incidental to the main insurance policy.

14.13 *Issuer of an insurance policy.*—The premium on an insurance policy is exempt only if the premium is charged on a policy issued by a person who is registered to issue such policies under the Insurance Act, Cap 12.08.

14.14 *No exemption for warranties.*—An insurance policy does not include insurance cover on a warranty in respect of the quality, fitness or performance of tangible property. A supply customarily provided in the form of a warranty that goods or services will perform as promised or the items can be returned or repaired is not an exempt supply if structured as an insurance policy.

14.15 *Medical services.*—Schedule 2, paragraph 2(b) of the Act exempts the supply of medical services. Medical services are exempt, whether provided with or without charge and whether paid by the patient or resident or any third party, if the medical services meet two conditions:

- (a) they are rendered in a qualified medical facility or by a qualified medical practitioner, or both; and
- (b) they qualify as exempt medical services as defined in Schedule 2.

14.16 *Qualified medical facility.*—For a service rendered in a facility to be an exempt medical service, the service must be rendered in a qualified medical facility. A qualified medical facility is the office of a qualified medical practitioner. It also includes a licenced hospital, maternity home, nursing home, convalescent home, or clinic.

14.17 *Qualified medical practitioner.*—A qualified medical service is exempt if it is provided by a qualified medical practitioner or under the supervision and control of a qualified medical practitioner. A qualified medical practitioner is a person who is registered as being qualified under the Health Practitioners Act or under the Registration of Nurses and Midwives Act to perform medical, dental, nursing, convalescent, rehabilitation, midwifery, paramedical, and other services.

14.18 *Qualified medical services in general.*—To qualify for the exemption, medical services must consist of qualified medical services, in a qualified medical facility, or medical services rendered by a qualified medical practitioner, or both. Medical services involve the diagnosis, treatment, prevention, or amelioration of a disease, including the promotion of mental health, but do not include services for cosmetic reasons other than those required in connection with a disease, trauma, or congenital deformity.

14.19 *Qualified services in a qualified medical facility.*—For purposes of paragraph 14.16 above, exempt medical services include the services provided to a dweller or patient by a qualified medical practitioner in a qualified facility, as well as meals and accommodations, nursing and personal care, and assistance with daily living activities to meet the needs of the resident or patient.

14.20 *Exempt medical services.*—For purposes of paragraph 14.15 above, exempt medical services include the following —

- (a) medicines and drugs that are administered in a hospital, maternity, nursing, or convalescent home, or clinic, for which there is no separate charge;
- (b) laboratory, x-ray, or other diagnostic services;
- (c) the use of operating rooms, case rooms, or anesthetic facilities, including necessary equipment or supplies;
- (d) the use of radiotherapy, physiotherapy, or occupational therapy facilities in rendering exempt medical services;
- (e) accommodation and meals (except in a restaurant or cafeteria available to persons other than patients or residents) provided to patients or residents in the course of receiving exempt medical services;
- (f) services rendered by the medical facility staff (including orderlies or technicians) in connection with exempt medical services;
- (g) dental, periodontal, and endodontal services rendered in connection with a disease, trauma, or congenital deformity, but not dentistry for cosmetic reasons;
- (h) ambulance services; and
- (i) psychoanalytic services.

14.21 *Cosmetic medical services.*—As defined by the Ministry of Health, cosmetic medical services constitute the following, and are therefore taxable —

- (a) Brow lifts;
- (b) Botox when used for anti-wrinkling;
- (c) Laser skin rejuvenation;
- (d) Cosmeceuticals;
- (e) Eyelash Enhancement;
- (f) Arm Lift (Brachioplasty) (Except for skin reduction after significant weight reduction);
- (g) Breast lift (Mastopexy);
- (h) Skin fillers -Collagen, Juvederm, Restylane;
- (i) Face lift (Rhytidectomy);
- (j) Facial peels used for wrinkle reduction;
- (k) Mineral Cosmetics;
- (l) Laser hair removal (exception clinical hirsutism);
- (m) Spider veins removal;
- (n) Thigh lift;
- (o) Neck lift (Cervicoplasty, platysmaplasty);
- (p) Cosmetic dentures (meaning with jewels or made of gold/silver);

- (q) Invisalign;
- (r) Lumineers;
- (s) Take home teeth whitening kits;
- (t) Zoom in-office teeth whitening;
- (u) Eyelid Surgery;
- (v) Microderm Abrasion;
- (w) Breast Reduction (except for medical conditions such as large breast lumps, breast cancer, chronic back pain);
- (x) Breast Augmentation;
- (y) Ear Surgery (Pinnaplasty);
- (z) Liposuction;
- (aa) Nose surgery

14.22 *Services provided by a facility to aged, indigent or disabled persons that need care.*—Schedule 2, paragraph 2(c) of the Act exempts services provided directly by a home to described categories of persons that need care. The exemption applies to the care provided to aged, indigent, infirm, or disabled persons. It covers meals and accommodations provided in kind by the facility, for example, services provided directly by a home for the aged or an institution for disabled persons, are exempt.

14.23 *Veterinary services.*—Schedule 2, paragraph 2(e) of the Act exempts the supply of veterinary services in respect of any live bird, livestock or other animal of a kind generally used as food for human consumption. The exemption covers the professional services rendered by a veterinarian registered under the Health Practitioner's Act. The exemption does not cover services rendered for domesticated animals like dogs, cats, and birds.

14.24 *Education services.*—Schedule 2, paragraph 2(h) of the Act exempts education services as defined in Schedule 2, paragraph 1 of the Act. Qualified charges for education services are exempt if the services meet two conditions —

- (a) they are specified in the Schedules; and
- (b) they are provided to students by a qualified educational institution.

14.25 *Qualified educational institutions.*—To qualify for the exemption, the services must be provided to students by a duly recognised —

- (a) pre-primary, primary, or secondary school;
- (b) technical or vocational school or college, community college or university;
- (c) educational institution established for the promotion of adult education, vocational training, technical education;
- (d) institution established for the education or training of physically or mentally handicapped persons; or
- (e) institution established for the training of sports persons.

14.26 *Public and private institutions.*—An educational institution within paragraph 14.25 above is qualified, whether it is a private school operating on a for-profit basis, or a non-profit organisation, church, charity, or a department of government.

14.27 *Accreditation of educational institutions.*—An educational institution within paragraph 14.25 above is a qualified institution only if the institution is recognised by the Ministry of Education. "Recognised" in this context means registered to the extent that there is registration in place for the institution in question. Otherwise "recognised" means accepted by the Ministry of Education as being a proper institution capable of providing and approved to provide education services.

14.28 *Exempt education services.*—Schedule 2 defines “education services” to include “tuition and instruction” The following categories of services qualify under this definition and are exempt education services —

- (a) courses of instruction provided to students at a qualified educational institution;
- (b) the administration of examinations, if provided by the educational institution or the State; and
- (c) charges for tuition, school facilities, and curriculum-related activities and instruction under part 14.29 below.

14.29 *Qualified charges for tuition, facilities, and curriculum-related activities and instruction.*—Qualified charges for tuition, facilities, and curriculum-related activities and instruction are —

- (a) instruction or tutoring related to a qualified course;
- (b) compulsory levies for facilities as part of a supply of exempt educational services;
- (c) student council fees, athletic fees, and other mandatory fees related to course registration;
- (d) charges for reports, library services, identity cards, record keeping and other administrative services provided by the educational institution and directly related to the supply of education courses; and
- (e) charges for course materials, the rental of curriculum-related goods by the supplier of the education (e.g., the rental of musical instruments), field trips directly related to the curriculum if not predominantly recreational.

14.30 *Facility charges.*—Qualified facility charges are charges for buildings, grounds, libraries, and computer, science and other laboratories.

14.31 *Education services not covered by the exemption.*—The exemption for education services does not cover the following education courses —

- (a) courses in video recording or photography or other hobbies, unless they are part of a degree- or diploma-granting program; and
- (b) courses, such as picture framing, cooking, and personal investment, that are designed to improve knowledge for personal purposes.

14.32 *Education of religious workers.*—Religious workers receiving education are treated as students for the purposes of education services exemption.

14.33 *Day care, after-school.*—

14.33.1 *Day care and after school programmes.*—Schedule 2, paragraph 2(i) of the Act exempts a supply of services by a day care business for pre-school children or older persons with physical or mental handicaps, after-school care provided in a pre-primary or primary school, and summer camp services for children under 18 years of age.

14.33.2 *Services covered.*—Supplies by a day care provider are exempt from tax to the extent that the charges are for the care of the pre-school child or the handicapped person while at the day care facility, and any meals and supplies provided at the facility. For example, if a person provides day care for a pre-school child and charges hourly, daily or other periodic rates that include the care of the child and meals at the facility, the charges are exempt from tax. Charges for the care of a child and meals in a pre-primary or primary school before or after school hours are exempt. Summer camp charges for accommodations, meals, and activities for children under 18 years of age are exempt from tax. Supplies of clothing, equipment, travel, and other goods or services not specifically listed as exempt herein are not covered by this exemption.

14.34 *Exempt education services provided by a pre-primary, primary, or secondary school.*—In addition to the aforementioned services exempt, exempt education services rendered by a pre-primary, primary, or secondary school include —

- (a) basic instruction, including special education courses;
- (b) fees or charges for a program before or after school that is operated by the school to the extent exempt as after- school care under Schedule 2, paragraph 2(i) of the Act;
- (c) charges for the use of school musical instruments or sports equipment;
- (d) services rendered by students or their teachers as part of the instructional programme; and
- (e) charges for students to attend a school play, dance, field trip, or other school- sanctioned activity primarily for the students.

14.35 *Exempt education services rendered by a university, community college, or technical college.*—Exempt education services rendered by a university, community college, or technical college include in class and correspondence courses that qualify for credit toward a degree or diploma, whether or not the student is pursuing a degree or diploma program.

14.36 *Exempt adult education, vocational training, technical education, and education or training of physically or mentally handicapped persons.*—The education exemption for adult education, vocational training, technical education, and for the education or training of physically or mentally handicapped persons covers charges for —

- (a) adult education courses leading to a degree or diploma or courses that are likely to enhance employment-related skills of the students enrolled in the courses;
- (b) courses of study at a vocational school that develop or enhance a student's occupational skills;
- (c) courses leading to, or to maintain or upgrade, a professional or trade accreditation or designation recognised by the appropriate government accrediting agency; and
- (d) a certificate or examination in a course or program for accreditation or designation.

14.37 *Employment-related skills.*—Courses enhance employment-related skills if the course objectives specify those skills that students will acquire, and there is a reasonable expectation that the skills taught will be used by the students in their employment, businesses, professions or trades, rather than for recreational, hobby, artistic, or cultural purposes.

14.38 *Supplies, other than course, not covered by the exemption.*—The exemption for education services does not include —

- (a) the rental of facilities by an educational institution to an outside group;
- (b) commissions and other fees received from the placement of coin-operated machines on the institution's property; and
- (c) the sale of non-course material, such as items containing the school logo.

14.39 *Dwelling and leases of land.*—

14.39.1 *Dwellings and leases of land for dwellings or agricultural purposes.*—Schedule 2, paragraph 2(k) of the Act exempts from tax the sale of a residential accommodation (a dwelling), including the land attributable to the residential accommodation. The lease of a residential accommodation (including land for a residential accommodation) or the grant by an employer of a residential accommodation to an employee or officer holder is exempt under Schedule 2, paragraph 2(l)(iii) of the Act. The sale or lease of land used or to be used for

agricultural purposes is exempt under Schedule 2, paragraph 2(m) of the Act. Other leases of real property, including land, are taxable.

14.39.2 Dwelling.—A “dwelling,” defined in Schedule 2, paragraph (1) of the Act includes buildings, structures, and other places or parts thereof that are used or intended to be used predominantly as places of residence or abode of natural persons, including appurtenances, but not commercial rental establishments. The land surrounding a dwelling complex, including the driveway, paths, gardens and landscaped grounds for the use and enjoyment of residents is part of the dwelling. A commercial rental establishment is defined in Schedule 2, paragraph (1) of the Act.

14.39.3 Input tax deductions.—Under section 31 of the Act, a registered person who leases new or used property as a dwelling is denied input tax deductions for tax on any costs attributable to the exempt lease of the dwelling.

14.39.4 Employer-provided dwelling.—When an employer provides a dwelling to an employee or office holder, and the benefit is limited to the recipient’s period of employment, term of office, or other agreed period, the supply of the dwelling is exempt from tax. However, the same fringe benefit may be treated as a taxable supply by the employer in the course or furtherance of a taxable activity. The exemption takes priority. As a result, the employer under section 31 of the Act is denied input tax deductions for tax on costs attributable to this exempt fringe benefit.

14.39.5 Sale or lease of parking space in a dwelling complex.—The lease of a parking space in a dwelling complex as part of a lease of a dwelling is exempt.

14.39.6 Sales and leases of land for agricultural purposes.—Under Schedule 2, paragraph 2(n) of the Act exempts the sale or lease of land if it is used or to be used principally for agricultural purposes. To qualify for the exemption, the supplier must receive and retain written documentary evidence that the land will be used for an agricultural purpose. Any portion of the land used for a taxable activity is not covered by the exemption. An agricultural purpose includes activities related to livestock, and the cultivation of crops, seeds, plants, and trees. This exemption does not apply to the disposition or sale of the lease. The sale of agricultural land is exempt if the purchaser certifies in writing that the land will be used for agricultural purposes. The certification must be in the form approved by the Comptroller. The seller must submit this certification with the return for the period covered by the sale in the form and in the manner provided by the Comptroller.

14.40 Lotteries and games of chance.—Schedule 2, paragraph 2(o) of the Act exempts from tax supplies of games of chance conducted by non-profit organisations and lotteries operated by two lottery commissions. The lotteries that are exempt from tax are those conducted by the Saint Lucia National Lottery and the Windward Islands Lotteries Commission. The bets placed at the games of chance conducted by non-profit organisations and the sale of lottery tickets by these commissions are not subject to tax, and the non-profit organisations and lottery commissions are not entitled to deduct input tax on winnings paid out or on acquisitions used in making these exempt supplies.

14.41 Transportation of goods and passengers by land.—

14.41.1 Scope of exemption for transport of passengers supplied locally.—Schedule 2, paragraph 2(q) of the Act exempts the supply of transportation of passengers within Saint Lucia by any mode of transport. The exemption applies whether the transport is by land, sea or air once it is from one point within Saint Lucia to another point within Saint Lucia. It also applies regardless of whether the passenger is resident or not. The exemption applies when the major element of a supply is transport from one place to another. A tourist taking a taxi ride from an airport to a hotel is exempt from tax. If the transportation represents an incidental component of the main supply and is not an aim in itself, the supply is classified on the basis of the main supply. For example, the supply of a sightseeing tour within Saint Lucia is a taxable supply. The domestic transport is treated as incidental to the taxable sightseeing activity, and therefore no portion of the tour or sightseeing charge is considered as attributable to exempt local transportation.

14.42 Trade Unions.—

14.42.1 *Services by trade union to members.*—Schedule 2, paragraph 2(s) of the Act exempts a supply of services by a Trade Union to a member or to another trade union of services if the supply is made in the ordinary course of its trade union activities. For example, the exemption applies to the representation of members in arbitration, but not to any commercial activities by a union that compete with private enterprise. The exemption also covers organisations that perform services in the nature of the services supplied by a trade union, but because of legal restrictions cannot be constituted as trade unions, such as the Police Welfare Association and the Saint Lucia Fire Service Association for example, as well as any other organisations accepted as falling within this description by the Ministry of Labour.

14.42.2 *Supplies not covered.*—Services supplied by outside suppliers directly or indirectly to the union or a union member are not exempt. Goods supplied by the union to its members are not covered by the exemption.

14.43 *Supplies of specified Agricultural inputs.*—

- (a) Schedule 2, paragraph 2(v)(i) of the Act exempts the supply of agricultural inputs classified as seedlings, cuttings, and fertilizers. These items are exempt if supplied in a form used for cultivation. This category includes not only seeds, but bulbs and roots when provided for cultivation. Fertilizers formulated for agricultural use are exempt as well.
- (b) Pesticides, insecticides, and other treatments approved for agricultural use. Schedule 2, paragraph 2(v)(ii) of the Act exempts pesticides, insecticides, and other treatments that the Ministry of Agriculture declares to be one of these preparations formulated for agricultural use that qualify under this paragraph.
- (c) Herbicides, fungicides and nematicides. Schedule 2, paragraph 2(v)(iii) of the Act exempts agricultural inputs that are declared as herbicides and fungicides by the Ministry of Agriculture.
- (d) Animal feed other than for pets. Schedule 2, paragraph 2(v)(iv) of the Act exempts animal feed. The exemption is limited to products intended and sold for the feeding of livestock, poultry, fish, or wild animals (including wild birds not generally kept as household pets). Stock lick and substances used as a stock lick are exempted, whether or not they possess medicinal properties. The exemption does not apply to food for domesticated animals generally held as pets. For example, this exemption does not apply to food sold for dogs, cats, and birds.
- (e) Packing film. Schedule 2, paragraph 2(v)(v) of the Act exempts supplies of packing film that are specifically designed for use in transporting unprocessed agricultural products.
- (f) Agricultural and horticultural machinery. Schedule 2, paragraph 2(v)(vi) of the Act exempts the supply of machinery and equipment that is specifically designed or adapted for use in agriculture and horticulture.

14.44 *Supplies of specified fishing inputs.*—Schedule 2, paragraph 2(w) of the Act exempts a list of inputs used in the fishing business. The inputs listed as exempt supplies include: fibreglass and wooden boats, anchors, grapnels, G.P.S., compass, V.H.F. radio, fish finder, flare guns and flares, life vests, life ring, buoys and floats, monofilament fishing lines, gaff, harpoons, outboard engines up to 100 hp., inboard diesel engines, winches, spools, line haulers, jigging reels and propellers. The exemption applies to the listed items used in the fishing trade. It is the Ministry of Agriculture that may declare or disallow a fishing input as being for use in the fishing trade.

14.45 *International transport services pertaining to goods or passengers.*—Schedule 2, paragraph 2(x) of the Act exempts the supply of international transport services. Schedule 2, paragraph 1 of the Act, defines “international transport services.” They involve the service, including ancillary transport services, of transporting passengers or goods by road, water, or air on an international journey. Services, including ancillary transport services within the definition of international transport services, includes the storage of goods within Saint Lucia by an export freight

company (to be transported by air or ship) until the goods are accumulated from a number of domestic exporters and then transported in bulk to the dock or airport.

14.46 *Bread*.—Schedule 2, paragraph 2(cc) of the Act exempts the sale of bread. The exemption covers bread and rolls that do not contain any added ingredients or sweeteners. For example, the exemption covers basic bread and dinner rolls, but not bread like bagels or pita bread or bread with icing, fruit, or chocolate added on top or inside the product.

15. Schedule 3 – Exempt Imports

15.1 *Passengers*.—The exemption of the tax granted in Schedule 3 in respect of goods and other items such as professional tools and instruments for passengers and the extent of the exemption is to be administrated in accordance with Paragraph X of the List of Conditional Duty Exemptions Schedule 2 of the Customs Import and Export Tariffs as may be amended from time to time. The relevant goods will be exempt from VAT to the extent the Tariff exempts the said goods from tax.

Value Added Tax Regulations – Section 106

(Statutory Instruments 117/2012, 8/2014 and 56/2017)

Statutory Instrument 117/2012 .. in force 28 September 2012

Amended by S.I. 8/2014 .. in force 3 February 2014

Amended by S.I. 56/2017 .. in force 26 June 2017

ARRANGEMENT OF REGULATIONS

1. Citation
 2. Interpretation
 3. Supply of Goods And Services
 4. Value of Supply
 5. Sales Receipts
 6. Tax Credit Notes and Tax Debit Notes
 7. Interest on Refunds
 8. Charitable organisations eligible refund of tax
- Schedule

VALUE ADDED TAX REGULATIONS – SECTION 106

Commencement [28 September 2012]

1. Citation

These Regulations may be cited as the Value Added Tax Regulations.

2. Interpretation

In these Regulations —

“**Act**” means the Value Added Tax Act;

“**commission agent**” means a person who is remunerated on a commission basis;

“**VAT**” or “**tax**” means the value added tax imposed by the Act.

3. Supply of Goods And Services

(1) If a commission agent renders domestic services on behalf of a principal, the services generally are independent supplies that are taxable unless they are zero rated under section 16 of the Act or exempt under section 17 of the Act.

(2) The use, by a taxable person, of capital goods to provide entertainment constitutes a supply of entertainment by the taxable person under section 4 of the Act, and is subject to tax.

(3) For the purposes of subregulation (2), capital goods include yachts, power boats, leisure facilities and private aircrafts.

(4) The use of leased or licensed goods or the use of corporate or individual membership is a supply of entertainment under section 4 of the Act and is subject to tax.

(5) For the purposes of subregulation (4), leased or licensed goods include yachts, power boats, leisure facilities and private aircrafts, and corporate or individual membership includes membership of a golf club, gym or other leisure facility.

(6) (a) Where —

- (i) land is compulsorily acquired from a taxable person under the Land Acquisition Act or any other Act under which land can be compulsorily acquired,
- (ii) compensation is paid to that person in relation to the acquisition, and
- (iii) a sale of that land by the person would have been a taxable supply if it had been made on the day on which the land was compulsorily acquired, the taxable person is treated as making a taxable supply of the land under section 4 of the Act on the day on which the land is compulsorily acquired and for a consideration equal to the amount of compensation paid or payable in relation to the compulsory acquisition.

(b) Regulation 3(6)(a) applies whether or not the taxable person consents to the compulsory acquisition or agrees to the amount of compensation paid.

(c) For the purposes of regulation 3(6), land is compulsorily acquired on the day on which title to the land is vested in the Crown, or in a person other than the Crown who has compulsorily acquired the land.

(7) (1) Where two or more goods, services or both are combined to form the subject matter of a single supply and the VAT treatment of each would be different if they were not combined, the VAT treatment of the supply as either a single supply or as two or more separate supplies is determined as follows:

(a) if —

- (i) one part of the supply (the subsidiary part) is ancillary or incidental to another part of the supply (the dominant part), and
- (ii) looked at objectively, the subsidiary part does not constitute an object in itself for the recipient but is merely a means of better enjoying the dominant part, or is something necessarily supplied as an integral part of the dominant part,

then the subsidiary part is treated as part of the dominant part and has the same VAT treatment as the dominant part;

(b) if and to the extent that paragraph (a) does not apply, then each part of the supply is treated as a separate supply; and

(c) if appropriate, paragraphs (a) and (b) may be applied in iterative steps in respect of each thing supplied so as to determine the true character of the

supply and the extent, if any, to which the supply should be treated as two or more separate supplies.

(2) If a single supply consists of more than one part, each part is treated as a separate supply if —

- (a) neither part is ancillary or incidental to the other; and
- (b) had the parts been capable of being separately supplied, they would have had different VAT treatments.

(3) For the purposes of working out the value of each supply, the consideration for a single supply that is treated as two or more separate supplies because of subregulation (1) or (2) should be apportioned between each separate supply in such a way as to provide a true reflection of the price paid by the recipient for each separate supply.

(4) The way in which the supplier and recipient agreed to apportion the consideration may be considered in determining the value of a supply in accordance with this regulation, but should not be taken to be conclusive.

4. Value of Supply

For the purposes of section 20(5) of the Act, where a taxable person applies less than the entire goods or services to a different use, the value of supply is determined as follows:

- (a) If 10% or less of a good or service is converted to a different use, the change in use is not treated as a supply under section 4(6) of the Act.
- (b) Changes within a 12 month period are to be aggregated for the purposes of determining the portion of a good or service that was converted to a different use.

5. Sales Receipts

For the purposes of section 34(2) of the Act, a registered supplier may issue a sales receipt in lieu of a tax invoice for a taxable supply to a registered recipient if the total consideration for the sale reported on the sales invoice is payable in cash and does not exceed \$50.00.

6. Tax Credit Notes and Tax Debit Notes

(1) A tax credit note required by section 35(1) of the Act must contain at least the following particulars:

- (a) the name, address and taxpayer identification number of the registered person making the supply;
- (b) the name, address and taxpayer identification number of the recipient of the supply;
- (c) the value of the supply shown on the invoice, the correct amount of the value of the supply, the difference between those 2 amounts and the tax charged that relates to the difference; (*Substituted by S.I. 8/2014*)
- (d) the words "Tax Credit Note" in a prominent place;
- (e) the date on which the tax credit note was issued;
- (f) a brief explanation as to why the tax credit note is being issued; and
- (g) information sufficient to identify the taxable supply to which the tax credit note relates.

(2) A tax debit note required by section 35(3) of the Act must contain at least the following particulars:

- (a) the name, address and taxpayer identification number of the registered person making the supply;
- (b) the name, address and taxpayer identification number of the recipient of the supply;
- (c) the value of the supply shown on the invoice, the correct amount of the value of the supply, the difference between those 2 amounts and the tax charged that relates to the difference; (*Substituted by S.I. 8/2014*)
- (d) the words "Tax Debit Note" in a prominent place;
- (e) the date on which the tax debit note was issued;
- (f) a brief explanation as to why the tax debit note is being issued; and
- (g) information sufficient to identify the taxable supply to which the tax debit note relates.

7. Interest on Refunds

The rate of interest payable on a refund under section 58(3) of the Act —

- (a) is 4% per annum or part thereof; and
- (b) is calculated as simple interest.

8. Charitable organisations eligible refund of tax

(1) An approved charitable organisation is an organisation listed in the Schedule.

(2) For the purposes of the Act, an organisation shall submit Articles of Incorporation to the Ministry of finance as a prerequisite to being designated as an approved charitable organisation.

(*Substituted by S.I. 8/2014*)

Schedule

(Regulation 8)

An approved charitable organisation means —

- (a) Adelaide/Frances Memorial Home;
- (b) CARITAS;
- (c) Cornerstone Humanitarian Society;
- (d) Council for Elderly;
- (e) Friends of the Mentally Challenged;
- (f) Home for Abandoned Children/Foster Care;
- (g) Kiwanis Club;
- (h) Leo Club;
- (i) Lions Club;
- (j) Marian Home;
- (k) National Council for the Disabled;
- (l) National Community Foundation;
- (m) Rotaract Club;

- (n) Rotary Club;
 - (o) St. John's Ambulance Brigade;
 - (p) St. Lucia Association for the Developmentally Challenged;
 - (q) St. Lucia Blind Welfare Association;
 - (r) St. Lucia Cadet Corps;
 - (s) St. Lucia Cancer Society;
 - (t) St. Lucia Crisis Centre Corporation;
 - (u) St. Lucia Ex-Servicemen League;
 - (v) St. Lucia Girl Guides Association;
 - (w) St. Lucia Planned Parenthood Association Incorporated;
 - (x) St. Lucia Red Cross;
 - (y) St. Lucia Scouts Association;
 - (z) St. Lucia Sickle Cell Association;
 - (aa) St. Lucia Society for the Deaf;
 - (bb) St. Lucy's Home;
 - (cc) St. Vincent de Paul Society;
 - (dd) The Holy Family Children's Home;
 - (ee) Upton Garden Girls' Centre; *(Amended by S.I. 56/2017)*
 - (ff) Villa St. Joseph; *(Amended by S.I. 56/2017)*
 - (gg) St. Lucia Association for Persons with Development Disabilities Inc.; and
(Inserted by S.I. 56/2017)
 - (hh) The Child Development and Guidance Centre Inc. *(Inserted by S.I. 56/2017)*
- (Substituted by S.I. 8/2014 and amended by S.I. 56/2017)*
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Value Added Tax (Rate of Tax) (Goods and Services – Hotels and Other Tourism Providers) Order – Section 10(2)

(Statutory Instrument 64/2014)

Statutory Instrument 137/2012 .. in force 1 October 2012 (Terminated 30 April 2013)
 Affirmed by S.I. 138/2012 .. in force 5 November 2012

Statutory Instrument 45/2013 .. in force 1 May 2013 (Terminated 31 March 2014)
 Affirmed by S.I. 63/2013 .. in force 9 September 2013

Statutory Instrument 7/2014 .. in force 1 April 2014 (Revoked by S.I. 31/2014)
 Affirmed by S.I. 19/2014 .. in force 1 April 2014

Amended by S.I. 31/2014 .. in force 1 April 2014 (Revokes S.I. 7/2014, Revoked by S.I. 52/2014)
 Amended by S.I. 52/2014 .. in force 1 April 2014 (Revokes S.I. 31/2014)
 Amended by S.I. 64/2014 .. in force 1 April 2014

Commencement [1 April 2014]

1. Citation

This Order may be cited as the Value Added Tax (Rate of Tax) (Goods and Services – Hotels and other providers in the tourism sector) Order.

2. Interpretation

In this Order, “principal Act” means the Value Added Tax Act.

3. Commencement

This Order is deemed to have come into force on the 1st day of April, 2014.

4. Rate of tax

For the purposes of section 10(2) of the Value Added Tax Act, the rate of tax for the following goods and services provided by hotels and other providers in the tourism sector is 10 per cent —

- (a) the supply of accommodation in a hotel;
- (b) the supply of food and beverages, including alcoholic beverages, by a restaurant;
- (c) water sports services;
- (d) tours conducted by land, air or sea within Saint Lucia, not including transportation provided by an external provider; and
- (e) admission to heritage sites and other touristic attractions.

5. Revocation

The Value Added Tax (Rate of Tax) (Goods and Services – Hotels and other providers in the tourism sector) (Amendment) Order, No. 31 of 2014 is revoked.

6. Affirmative Resolution

The Amendment to the rate of tax for goods and services for hotels and other providers in the tourism sector in the principal Act made under this Order is affirmed by Resolution of Parliament contained in Statutory Instrument No. 52 of 2014.

Value Added Tax (Others Eligible for Tax Refund) Order – Section 59(1)

(Statutory Instruments 9/2014 and 28/2014)

Statutory Instrument 9/2014 .. in force 3 February 2014

Amended by S.I. 28/2014 .. in force 10 March 2014

Commencement [3 February 2014]

1. Citation

This Order may be cited as the Value Added Tax (Others Eligible for Tax Refund) Order.

2. Others eligible for tax refund

Subject to section 3, diplomatic missions, consulates, international organisations and members specified in the Schedule to this Order are entitled to a tax refund.

3. Conditions

Diplomatic missions and consulates, international organisations and members entitled to a tax refund under section 2 are subject to the following conditions —

- (a) that the diplomatic missions, consulates, international organisations and members are subject to the approval of the Minister responsible for external affairs;
- (b) in the case of diplomatic missions, consulates and international organisations, that a tax refund is paid on acquisitions destined for official use and for services received in an official capacity; and
- (c) in the case of the heads of diplomatic missions, consulates, diplomatic agents, heads of international organisations and other senior officials, that a tax refund is paid for goods acquired for personal use and for services received for personal use.

Schedule

(Section 2)

Diplomatic Missions, Consulates and International Organisations	Tax refund	Members and others eligible	Tax refund
Diplomatic mission and consulate	domestic purchase	head of diplomatic mission and consulate, diplomatic agents	domestic purchase
Caribbean Environmental Health Institute	domestic purchase	executive director and other senior officials	domestic purchase
Caribbean Postal Union	domestic purchase	head of the Caribbean Postal Union and other senior officials	domestic purchase
Eastern Caribbean Supreme Court	domestic purchase	chief justice, judge, master and other senior officials	hotel accommodation and restaurant purchases and domestic purchases
Eastern Caribbean Telecommunications Authority	domestic purchase	managing director and other senior officials and family members living with him or her	domestic purchase
Inter-American Institute for Cooperation on Agriculture	domestic purchase	Director General of the Institute and other international personnel and members of their family living with them	domestic purchase
Organisation of American States	domestic purchase	—	—
Organisation of Eastern Caribbean States	domestic purchase	Director General and other senior officials	domestic purchase

(Amended by S.I. 28/2014)

Value Added Tax (Application of the Term Pharmaceuticals) Regulations – Section 106

(Statutory Instrument 109/2014)

Statutory Instrument 109/2014 .. in force 1 November 2014

ARRANGEMENT OF REGULATIONS

1. Citation
 2. Commencement
 3. Application of the term pharmaceuticals
-

VALUE ADDED TAX (APPLICATION OF THE TERM PHARMACEUTICALS) REGULATIONS – SECTION 106

Commencement [1 November 2014]

1. Citation

These Regulations may be cited as the Value Added Tax (Application of the term Pharmaceuticals) Regulations.

2. Commencement

These Regulations are deemed to have come into force on the 1st day of November, 2014.

3. Application of the term pharmaceuticals

For the purposes of Schedule 2 of the Value Added Tax Act, the term pharmaceuticals applies to —

- (a) a controlled drug under Schedule 1 of the Pharmacy Regulations;
 - (b) an over the counter medicine for the conditions set out under Schedule 2 of the Pharmacy Regulations;
 - (c) a pharmacist assisted drug under Schedule 3 of the Pharmacy Regulations; and
 - (d) a prescription only drug under Schedule 4 of the Pharmacy Regulations.
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Resolution of Parliament to Approve Draft Value Added Tax (Amendment of Schedule 3) Order – Section 109(1)(a)

(Statutory Instrument 114/2017)

Statutory Instrument 114/2017 .. in force 6 November 2017

Commencement [6 November 2017]

RESOLUTION

WHEREAS under section 109(1)(a) of the Value Added Tax Act “the Act”, it is provided that the Minister responsible for finance may, by Order published in the *Gazette*, amend the Schedules to the Act;

AND WHEREAS it is further provided under section 109(2) of the Act that an Order made pursuant to section 109(1) of the Act is subject to an affirmative resolution of Parliament except where the amendment is to customs tariff headings only;

AND WHEREAS the Minister responsible for finance seeks approval of the draft Value Added Tax (Amendment of Schedule 3) Order to amend Schedule 3 of the Act by affirmative resolution of Parliament;

BE IT RESOLVED that Parliament by affirmative resolution approves the draft Value Added Tax (Amendment of Schedule 3) Order which amends Schedule 3 of the Act.

Value Added Tax (Deferred Payment of Value Added Tax for Importation of Capital Goods and Raw Materials) Regulations – Section 106(1)

(Statutory Instrument 127/2017)

Statutory Instrument 127/2017 .. in force 18 December 2017

ARRANGEMENT OF REGULATIONS

1. Citation
2. Interpretation
3. Application
4. Exception, modification and adaptation of Customs (Control and Management) Act
5. Application for deferred payment of value added tax
6. Approval or refusal of application
7. Approval certificate
8. Return

VALUE ADDED TAX (DEFERRED PAYMENT OF VALUE ADDED TAX FOR IMPORTATION OF CAPITAL GOODS AND RAW MATERIALS) REGULATIONS – SECTION 106(1)

Commencement [18 December 2017]

1. Citation

These Regulations may be cited as the Value Added Tax (Deferred Payment of Value Added Tax for Importation of Capital Goods and Raw Materials) Regulations.

2. Interpretation

In these Regulations —

“**Act**” means the Value Added Tax Act;

“**Permanent Secretary**” means the person appointed by the Public Service Commission as the Permanent Secretary within the Ministry responsible for finance;

“**raw materials**” means goods imported for the purpose of undergoing a process of manufacture to produce a manufactured product.

3. Application

These Regulations apply where the Comptroller does not exempt imported capital goods and raw materials from the payment of value added tax under paragraph 19 of Schedule 3 of the Act.

4. Exception, modification and adaptation of Customs (Control and Management) Act

Notwithstanding anything under the Customs (Control and Management) Act relating to the tax charged on the importation of goods, the Comptroller may authorize

a deferred payment of value added tax on the importation of capital goods and raw materials under these Regulations.

5. Application for deferred payment of value added tax

(1) A registered person may make an application to the Permanent Secretary in a form approved by the Comptroller, prior to the importation of capital goods and raw materials, for the deferred payment of value added tax on the importation of capital goods and raw materials.

(2) An application under subregulation (1) must include —

- (a) a list of the capital goods and raw materials to be imported on which a deferred payment of value added tax is to be applied;
- (b) a copy of the invoice as proof of the value of goods to be imported; and
- (c) a tax clearance.

(3) The Permanent Secretary shall submit to the Comptroller an application made under subregulation (1) for the Comptroller's determination.

6. Approval or refusal of application

(1) The Comptroller, within ten days of receipt of an application made under regulation 5, shall —

- (a) approve the application with or without conditions; or
- (b) refuse the application.

(2) The Comptroller may approve an application for deferred payment of value added tax on the importation of —

- (a) capital goods, if he or she is satisfied that the capital goods will be used for commercial purposes; or
- (b) raw materials, if he or she is satisfied that the raw materials will be used in the manufacturing of goods.

(3) Without limiting the generality of subregulation (1), the Comptroller may approve an application with conditions that —

- (a) the registered person complies with the Act and satisfies the requirement for filing returns on time and making payments for value added tax in full and on time;
- (b) the registered person complies with the requirements of the laws administered by the Inland Revenue Department and the Customs and Excise Department;
- (c) the registered person provides a declaration that the capital goods and raw materials are for use in the business of the registered person;
- (d) where the business of the registered person is dealing in a mixed supply, the portion of the deferred input tax which is directly allocable to the making of the taxable supply is allowed as a deduction;
- (e) the registered person accounts for a transaction undertaken in the respective month on the return form; and
- (f) the registered person pays excess resulting from a transaction on filing the return.

(4) The Comptroller shall in writing —

- (a) notify the registered person of the approval or refusal of an application made under regulation 5; and

- (b) give reasons for his or her decision.

7. Approval certificate

(1) The Comptroller shall issue to a registered person, an approval certificate if an application under regulation 5 is approved.

(2) An approval certificate must be in a form specified by the Comptroller.

(3) An approval certificate is valid —

- (a) in the case of the purchase of raw materials, for a period not exceeding one year but not less than 6 months; and
- (b) in the case of capital goods, for the capital goods identified on the approval certificate.

(4) The registered person must present the approval certificate to the Comptroller of Customs and Excise for the deferment of payment of value added tax on the importation of capital goods and raw materials.

8. Return

A registered person shall disclose on the value added tax return form the value added tax payable on the importation of capital goods and raw materials and the value added tax allowed on the capital goods and the raw materials.
