

VALUE ADDED TAX ACT, 2010*(Act 35 of 2010)***ARRANGEMENT OF SECTIONS**

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VALUE ADDED TAX ACT, 2010

(Act 35 of 2010)

I assent

A handwritten signature in dark ink, appearing to read 'Michel'.

J. A. Michel
President



30th December, 2010

AN ACT to provide for the imposition and collection of Value Added Tax on goods and services supplied in Seychelles or imported into Seychelles, to repeal the Goods and Services Tax Act 2001 and to provide for matters connected therewith or incidental thereto

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY PROVISIONS

1.(1) This Act may be cited as the Value Added Tax Act, 2010.

Short title and
date of
operation

(2) Subject to subsection (3), this Act comes into operation on 1st July 2012 and applies to supplies and imports made on or after that date.

(3) Part III, and sections 43, 44, 54 and 55 come into effect when the Act receives assent.

Interpretation

2. In this Act, unless the context requires otherwise—
- “additional tax” means additional tax imposed under the Act or the Revenue Administration Act;
- “Associate” has the same meaning as in the Business Tax Act;
- “Business Tax Act” means the Business Tax Act, 2009 (Act No. 28 of 2009);
- “commencement date” means the date that the Act comes into operation as determined under section 1(2);
- “consideration” has the meaning in section 3;
- “creditable acquisition”, in relation to a taxable person, means—
- (a) a taxable supply made to the person by another taxable person; or
 - (b) a taxable import made by the person;
- “customs legislation” means the Trades Tax Act and any successor legislation dealing with customs;
- “Director General of Customs” means the Director General of Customs appointed under the Customs Management Decree (Cap 56);

“enterprise” has the meaning in section 4;

“entity” has the same meaning as in the Business Tax Act;

“exempt import” means an import exempted from the payment of VAT as specified in Part I of the First Schedule;

“exempt supply” means a supply of such goods or services exempted from the payment of VAT as specified in Part II of the First Schedule;

“fair market value” has the meaning in section 5;

“goods” means immovable or tangible movable property, including animals, but does not include money;

“Government body” has the same meaning as in the Business Tax Act,

“import” means to bring goods into Seychelles or cause goods to be brought into Seychelles from a place outside Seychelles;

“importer” has the meaning in the Customs legislation;

“input tax”, in relation to a person, means —

- (a) the VAT payable in respect of a creditable acquisition by a person; and
- (b) an amount that is treated for the purposes of this Act as input tax payable by the person,

but does not include additional tax imposed under this Act or the Revenue Administration Act in respect of a creditable acquisition;

“input tax credit”, in relation to a person, means the credit for input tax allowed to the person under this Act;

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

“Minister” means the Minister responsible for finance;

“money” means—

- (a) any coin or paper currency that is legal tender in Seychelles, other than a coin or paper currency that is a collector's piece;
- (b) a bill of exchange, promissory note, bank draft, or postal or money order; or
- (c) whatever is supplied as payment by way of—
 - (i) a credit card or debit card; or
 - (ii) the crediting or debiting an account;

“output tax”, means the VAT payable on a taxable supply made by a taxable person;

“person” means an individual, entity, partnership, trust, estate, Government body, or public international organisation;

“prescribed” means prescribed by Regulations made under this Act;

“registered person” means a person registered under section 8 or 9;

“registration threshold” means the amount specified in the Fifth Schedule;

“Revenue Administration Act” means the Revenue Administration Act, 2009 (Act No. 27 of 2009);

“Revenue Commissioner” means the Revenue Commissioner appointed under section 4 of the Seychelles Revenue Commission Act;

“revenue laws” has the same meaning as in the Revenue Administration Act;

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

“Service Charge” has the same meaning as in the Income and non-Monetary Benefits Tax Act;

“supply” means a supply of goods or a supply of services;

“supply of goods” means a sale, exchange, or other transfer of the right to dispose of goods as owner, including under a hire purchase agreement;

“supply of services” means anything done that is not a supply of goods or money, including —

- (a) the grant, assignment, or surrender of any right;
- (b) the making available of any facility or advantage;

“supplier” means a person engaged in a supply of goods and services;

“tax fraction”, in relation to a taxable supply, means

the fraction computed in accordance with the following formula—

$$r / (1+r)$$

where *r* is the rate of VAT applicable to the supply as determined under section 6;

“Taxpayer identification number” has the meaning as in the Business Tax Act;

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

“taxable person” means —

- (a) a registered person; or
- (b) a person who is required to apply for registration but who has not done so within the time specified in section 7;

“taxable supply” means —

- (a) a supply, other than an exempt supply, made in Seychelles by a person in the course of furtherance of an enterprise; or
- (b) a deemed taxable supply under this Act;

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

- (a) the related transfer or assignment of the right to use capacity for such transmission, emission, or reception; and

(b) the provision of access to global or local information networks,

but does not include the supply of the underlying writing, images, sounds, or information;

“Trades Tax Act” means the Trades Tax Act 1992 (Act 10 of 1992) and subsidiary legislation made thereunder;

“trading stock” has the same meaning as in the Business Tax Act;

“VAT” means the value added tax imposed under section 6;

“VAT-exclusive fair market value”, in relation to a supply, means the fair market value of the supply reduced by an amount equal to the fair market value multiplied by the tax fraction;

“VAT credit note” means a document that a supplier is required to issue under section 29(1);

“VAT debit note” means a document that a supplier is required to issue under section 29(3);

“VAT invoice” means a document required to be issued under section 28;

“VAT period” means the calendar month; and

“zero-rated supply” means a supply referred to in the Second Schedule.

3.(1) “Consideration”, in relation to a supply, means —

Consideration

(a) the amount in money paid or paid by any person, directly or indirectly, for the supply; and

- (b) the fair market value of an amount in kind paid or paid by any person, directly or indirectly, for the supply;

and any taxes (including VAT), duties, levies, fees, and charges (excluding service charges) paid or paid on, or by reason of the supply reduced by any price discounts or rebates allowed and accounted for at the time of the supply.

(2) The consideration for a supply of goods under a hire purchase agreement to which section 14(2) applies does not include any amount paid in relation to a supply of credit under the agreement.

Enterprise

4.(1) An "enterprise" means —

- (a) an activity carried on continuously or regularly by a person, whether for pecuniary profit or not, if the activity involves or is intended to involve the supply of goods or services to another person, including a business, trade, commerce, manufacture, profession, vocation, or occupation of any kind; or
- (b) an activity in the nature of a business, trade, commerce, manufacture, profession, vocation, or occupation, whether conducted for pecuniary profit or not.

(2) An enterprise does not include —

- (a) an employment;
- (b) a hobby or leisure activity of an individual; or
- (c) an activity of a person, other than an individual, which is essentially carried on as a hobby or leisure activity of a member, owner, or associate of the person.

(3) An activity done or undertaken in the commencement, termination, or reorganisation of an enterprise is done in the course or furtherance of the enterprise.

(4) If, in the case of an enterprise carried on by a taxable person, goods forming part of the assets of the enterprise are, under any power exercisable by another person, sold by the other person in or towards satisfaction of a debt owed by the taxable person, the goods are treated as supplied by the taxable person in the course or furtherance of the enterprise.

(5) An employment is an employer-employee relationship and includes activities performed as the holder of an office unless the office is held as part of a business of an office.

5.(1) The fair market value of a supply at a particular time is the consideration the supply would fetch in an open market transaction freely made between persons who are not associates at that time.

Fair Market
Value

(2) If it is not possible to determine the fair market value of a supply at a particular time under subsection (1), the fair market value is the consideration a similar supply would ordinarily fetch in an open market transaction freely made between persons who are not associates at that time, adjusted to take account of the differences between the similar supply and the actual supply.

(3) A supply is similar to another supply if it is the same as, or closely resembles, the other supply in character, quality, quantity, functionality, materials, or reputation.

(4) If the fair market value of a supply cannot be determined under subsection (2), the fair market value is the amount determined by the Revenue Commissioner that is an objective approximation of the consideration the supply would fetch in an open market transaction freely made between persons who are not associates.

(5) If a provision of this Act requires the fair market value to be determined at a particular time for particular goods or services, or for an asset held by a person, that value is worked out by reference to the fair market value of a supply of those goods or services, or that asset, as determined under this section, at that time.

PART II - IMPOSITION OF TAX

Imposition and
liability
for Value
Added Tax

6.(1) Subject to this Act, value added tax at the rate specified in subsection (3) is levied on—

- (a) taxable supplies made by a taxable person;
- (b) taxable imports.

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

(3) The rate of VAT is—

- (a) in the case of a taxable supply that is a zero-rated supply, zero percent; or
- (b) in any other case, the rate specified in the Fourth Schedule.

(4) The liability for VAT on a taxable supply arises at the time of the supply and must be accounted for to the Revenue Commissioner by the taxable person making the supply in accordance with section 35(1).

(5) The liability for VAT imposed on a taxable import arises at the time of the import and is paid by the importer in accordance with section 35(2).

(6) Notwithstanding anything contained in any law, the VAT paid by a taxable person on a taxable supply is recoverable by the supplier from the recipient of the supply.

PART III - REGISTRATION

7.(1) A person must apply to the Revenue Commissioner for registration for VAT —

Application
for
Compulsory
Registration

- (a) at the beginning of any 12 month period, if there are reasonable grounds to expect that the person will exceed the registration threshold in that period; or
- (b) at the end of any 12 month or lesser period, if in that period the person exceeds the registration threshold.

(2) A person exceeds the registration threshold in a particular period if the total value of taxable supplies made or reasonably expected to be made by the person during the period is equal to or greater than the amount specified in the Fifth Schedule.

(3) In determining whether a person exceeds the registration threshold for a period, the value of the following taxable supplies is ignored —

- (a) a taxable supply by way of the sale of a capital asset of the person; and
- (b) a taxable supply made solely as a consequence of the person selling the whole or a part of the person's enterprise or permanently ceasing to carry on the person's enterprise.

(4) For the purposes of determining whether a person exceeds the registration threshold, the Revenue Commissioner may treat the value of taxable supplies made by the person as including the value of taxable supplies made by an associate of the person if the Revenue Commissioner is satisfied that it is appropriate to do so having regard to —

- (a) the enterprises carried on by the persons;
- (b) the way in which those enterprises are carried on;
- (c) the connections between the persons and their enterprises; or
- (d) any other relevant matter.

(5) Every person engaged in any business or profession specified in the Third Schedule irrespective of the value of taxable supplies made by the person must apply to the Revenue Commissioner for compulsory registration

(6) An application for registration made by a person must be in the prescribed form and must be lodged with the Revenue Commissioner within fourteen days of the person becoming required to apply for registration.

(7) A capital asset is a tangible or intangible asset of an enterprise having a useful life of longer than one year, but does not include trading stock.

Compulsory
Registration

8.(1) The Revenue Commissioner must register a person who has applied for registration under section 7, if satisfied, that the person is required to apply for registration under that section.

(2) The Revenue Commissioner shall, where an application for registration has not been made under section 7, but is of the opinion having regard to the nature of the activities carried on or carried out by such person, that such person is required to be registered under this Act, and after affording such person an opportunity of being heard, register such person with effect from such date as may be determined by the Revenue Commissioner.

(3) The Revenue Commissioner must issue a person

registered under this section with a VAT registration certificate in the prescribed form.

(4) Subject to subsection (5), registration under this section takes effect from the beginning of the first VAT period after the person was required to apply for registration or such later time as set out in the person's VAT registration certificate.

(5) If a person required to apply for registration has applied within the time specified in section 7 and the person has not been registered by the Revenue Commissioner by the beginning of the first VAT period after the person was required to apply for registration, the person's registration takes effect from the beginning of the first VAT period after the person was registered.

9.(1) Notwithstanding section 7, any person who, in the course of his enterprise makes or intends to make taxable supplies may apply to the Revenue Commissioner in prescribed form for voluntary registration.

Voluntary
Registration

(2) The Revenue Commissioner must register a person who has applied for registration under subsection (1) if satisfied that —

- (a) the person is making, or will make taxable supplies;
- (b) the person has a fixed place from which the person's enterprise is conducted;
- (c) if the person has commenced carrying on an enterprise, the person —
 - (i) has kept proper records of its enterprise; and
 - (ii) complied with its obligations under other revenue laws; and

- (d) there are reasonable grounds to believe that the person will keep proper records and furnish regular and reliable VAT returns.

(3) The Revenue Commissioner must issue a person registered under this section with a VAT registration certificate in the prescribed form.

(4) Registration under this section takes effect from the date set out in the person's VAT registration certificate.

Registration by
VAT
Representatives
of Non-resident
Persons

10.(1) A non-resident person who is required to apply for registration under section 7 but who does not carry on an enterprise through a fixed place in Seychelles must —

(a) appoint a VAT representative in Seychelles; and

(b) if required to do so by the Revenue Commissioner, lodge a security with the Revenue Commissioner in accordance with section 25 of the Revenue Administration Act.

(2) The VAT representative of a non-resident person is responsible for doing all things required of the non-resident person under this Act, including applying for registration, the furnishing of VAT returns, and the payment of VAT.

(3) The registration of a VAT representative must be in the name of the non-resident person they represent.

(4) A person may be a VAT representative for more than one non-resident person, in which case the person must have a separate registration for each such non-resident person.

(5) The Revenue Commissioner may prescribe the mode, manner, and requirements for appointment of a VAT representative and the responsibilities of the representative.

(6) In this section, “non-resident person” has the same meaning as in the Business Tax Act and “VAT representative” has the same meaning as “representative” in the Revenue Administration Act.

11.(1) A registered person must display in a conspicuous place —

Obligation of
Registered
Person

- (a) the original copy of its VAT registration certificate at the principal place at which the person carries on its enterprise; and
- (b) a certified copy of the certificate obtained from the Revenue Commissioner at every other place at which the person carries on its enterprise.

(2) A registered person must notify the Revenue Commissioner, in writing, of any change in the name (including business name), address, place of business, or nature of the enterprise of the person within 21 days of the change occurring.

12.(1) A registered person who ceases to make taxable supplies must apply to the Revenue Commissioner in the prescribed form for cancellation of the person's Registration within seven days of the date on which the person ceased to make taxable supplies.

Cancellation
of registration

(2) A registered person other than a person to whom section 7(5) applies who continues to make taxable supplies but does not exceed the registration threshold, may apply to the Revenue Commissioner in the prescribed form for cancellation of the person's registration.

(3) The Revenue Commissioner must, by notice in writing, cancel the registration of a person if —

- (a) the person has applied for cancellation under subsection (1) and the Revenue Commissioner

is satisfied that the person has ceased to make taxable supplies; or

- (b) the person has not applied for cancellation but the Revenue Commissioner is satisfied that the person has ceased to make taxable supplies and is not otherwise required to be registered.

(4) If a person applies for cancellation of registration under subsection (2) and the Revenue Commissioner is satisfied that the person is not required to be registered —

- (a) if the person has been registered for a period of more than twelve months, the Revenue Commissioner must, by notice in writing, cancel the registration of the person; or
- (b) if the person has been registered for a period of twelve months or less, the Revenue Commissioner may, by notice in writing, cancel the registration of the person if the Revenue Commissioner is satisfied that it is appropriate to do so.

(5) The Revenue Commissioner may, by notice in writing, cancel the registration of a person who is no longer required to be registered, if the Revenue Commissioner is satisfied that —

- (a) the person has not kept proper records;
- (b) the person has not furnished regular and reliable VAT returns; or
- (c) the person has not complied with its obligations under other revenue laws, and there are reasonable grounds to believe that the person will not keep proper records or furnish regular and reliable VAT returns.

(6) The cancellation of a person's registration takes effect from the date set out in the notice of cancellation.

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

- (a) immediately cease to hold out that the person is a registered person, including on any documentation used by the person;
- (b) furnish a final VAT return and pay all VAT due, including the VAT due as a result of section 13, within 15 days after the date of cancellation of the person's registration; and
- (c) immediately return the person's VAT registration certificate and any certified copies thereof to the Revenue Commissioner.

(8) Notwithstanding the cancellation of registration under subsection (3), a registered person shall be liable for any act done or omitted to be done while he remained a registered person in respect of the taxable supplies made by such person under this Act.

13.(1) A person whose registration is cancelled but only if the person was allowed an input tax credit is treated as having made a taxable supply of any goods, other than capital goods, on hand at the time the registration is cancelled—

Deemed Taxable
Supply on
Cancellation of
Registration

- (a) for the acquisition or import of the goods, or
- (b) in respect of the acquisition or import of goods that have been subsumed into those goods.

(2) The taxable supply under subsection (1) is treated as having been made immediately before the person's registration is cancelled and the output tax paid in respect of the

supply is the amount of the input tax credit described in paragraphs (a) or (b) of subsection (1).

PART IV - RULES RELATING TO SUPPLIES

Mixed
Supplies

14.(1) Unless the context requires otherwise —

- (a) a supply of a particular kind that is ancillary or incidental to a supply of another kind is treated as part of the principal supply; and
- (b) a supply of services that is ancillary or incidental to an import of goods is treated as part of the import of goods.

(2) The sale of goods under a hire purchase agreement is treated as a supply of goods and a supply of credit under the agreement provided the credit is specified as a separate charge and is disclosed to the recipient of the supply.

Time of
Supply

15.(1) Subject to this Act, a supply of goods or services occurs on the earlier of —

- (a) the date on which the invoice for the supply is issued; or
- (b) the date on which any payment (including part payment) for the supply is made.

(2) A supply between associates or by way of a gift occurs —

- (a) in the case of a supply of goods, on the date the goods are delivered; or
- (b) in the case of a supply of services, on the date the performance of the services is complete.

(3) A supply of goods by means of a vending machine, meter, or other device operated by a coin, note, or token occurs

on the date the coin, note, or token is taken from the machine, meter, or other device by or on behalf of the supplier.

(4) If services are supplied —

- (a) by way of a lease of goods; or
- (b) progressively under an agreement or law that provides for periodic payments,

the supply of services is treated as a series of separate, successive supplies of services corresponding to the successive parts of the period of the lease or agreement, or as determined by law, and each successive supply is treated as occurring on the earlier of the date on which the payment for successive supply is due or received.

16. A supply of goods occurs in Seychelles if the goods are delivered or made available in Seychelles by the supplier or, if the delivery or making available involves transportation, the goods are in Seychelles when the transportation commences.

Place of supply
of Goods

17.(1) Subject to this Act, a supply of services occurs in Seychelles if the enterprise of the supplier from which the services are supplied is in Seychelles.

Place of supply
of Services

(2) A supply of services not covered by subsection (1) occurs in Seychelles if the recipient of the supply is not a taxable person and —

- (a) the services are physically performed in Seychelles by a person who is in Seychelles at the time of supply;
- (b) the services are directly related to immovable property in Seychelles;
- (c) the services are radio or television broadcasting services received at an address in Seychelles;

- (d) the services are electronic services delivered to a person in Seychelles at the time of supply;
- (e) the supply is a transfer or assignment of, or grant of a right to use, a copyright, patent, trademark, or similar right in Seychelles; or
- (f) the services are telecommunication services and the supply is initiated by a person in Seychelles at the time of the supply, other than
 - (i) a telecommunications supplier; or
 - (ii) a person who is global roaming while temporarily in Seychelles.

(3) The person who initiates a supply of telecommunications services is the person who appears first in the following paragraphs —

- (a) the person who —
 - (i) controls the commencement of the supply;
 - (ii) pays for the services; or
 - (iii) contracts for the supply; or
- (b) the person to whom the invoice for the supply is sent.

(4) In this section —

“electronic services” means any of the following, when provided or delivered on or through a telecommunications network —

- (a) websites, web-hosting, or remote maintenance of programmes and equipment;

- (b) software and the updating thereof;
- (c) images, text, and information;
- (d) access to databases;
- (e) self-education packages;
- (f) music, films, and games, including games of chance;
- (g) political, cultural, artistic, sporting, scientific and other broadcasts and events including broadcast television.

18.(1) Except other than a person who is global roaming while temporarily in Seychelles, a supply of telecommunication services occurs in Seychelles if the telecommunication supply is initiated by the person is physically in Seychelles at the time the supply is initiated.

Place of
Supply of
Telecommunications
Services

(2) Notwithstanding subsection (1), if it is impractical for the supplier to determine the physical location of the person who initiates the supply due to —

- (a) the type of service; or
- (b) the class of customer to which the person belongs,

the supply occurs in Seychelles, if the billing address of the person who initiates the supply for receiving invoices from the supplier is in Seychelles.

(3) If subsection (2) applies, the supplier must apply the subsection to all supplies of telecommunications services made for that type of service or class of customer.

(4) Subsections (1) and (2) do not apply to supplies made between telecommunications suppliers.

(5) For the purposes of subsections (1) and (2), the person who initiates a supply of telecommunications services is the person who —

- (a) controls the commencement of the supply;
- (b) pays for the services; or
- (c) contracts for the supply,

and if persons are identified under more than one paragraph for the same supply, the person who initiates the supply is the person who appears in highest listed paragraph.

(6) The billing address of a person who initiates a telecommunications supply is —

- (a) the address to which invoices for the supply are mailed; or
- (b) if invoices are not mailed —
 - (i) in the case of an individual, the place where the individual resides; or
 - (ii) in the case of any other person, the place where the person who initiates the supply undertakes an enterprise or other activity.

“global roaming”, in relation to a supply of telecommunication services to a person means the extension of the telecommunication connection service to a location different from where the person is registered.

Value of a
Supply

19.(1) Subject to this Act —

- (a) the value of a taxable supply made by a taxable person is the consideration for the supply

reduced by an amount equal to the consideration multiplied by the tax fraction; and

- (b) the value of any other supply is the consideration for the supply.

(2) If —

- (a) a taxable supply is made by a taxable person to an associate for no consideration or for a consideration that is less than the fair market value of the supply; and
- (b) the recipient is not entitled to an input tax credit for the input tax paid in respect of the supply,

the value of the supply is the VAT exclusive fair market value of the supply determined at the time of the supply.

(3) Except as provided in this Act, the value of a supply of goods or services for no consideration is zero.

20.(1) An application of goods or services by a taxable person wholly or partly to a private or exempt use is a taxable supply of the goods or services, but only if the taxable person has been allowed an input tax credit in respect of the acquisition or import of the goods or services, or that part of the goods or services applied to a private or exempt use.

Deemed Taxable
Supply on
Application of
Goods or
Services for
Own Use

(2) A taxable supply referred to in subsection (1) occurs on the date the goods or services are first applied to private or exempt use.

(3) Subject to subsection (4), the VAT paid on the taxable supply referred to in subsection (1) is the amount of the input tax credit allowed to the person in respect of the acquisition or import of the goods or services.

(4) If part of the goods or services were applied to a private or exempt use, the amount determined under subsection (3) is reduced by an amount reflecting the extent to which the goods or services were not so applied.

(5) Goods or services are applied to an exempt use if they are used to make an exempt supply.

Reverse Charge
in Respect of
Supplies of
Services from
Abroad

21.(1) If a supply of imported services is made to a taxable person —

- (a) the supply is treated as a taxable supply made by the taxable person to itself, but only to the extent the taxable person would not have been entitled to a credit for the full amount of input tax paid if the recipient had acquired the services in a creditable acquisition;
- (b) the taxable supply is made by the taxable person at the time the services are performed; and
- (c) the value of the taxable supply is equal to —
 - (i) if the supplier and recipient are associates, the fair market value of the supply; or
 - (ii) in any other case, the amount determined under section 19(1)(b).

(2) A supply of imported services is a supply of services —

- (a) which is made by a person who is not a taxable person to a taxable person;
- (b) which the supply is not a taxable supply because the supply is not made in Seychelles;

- (c) which the supply would have been a taxable supply if it had been made in Seychelles; and
- (d) in respect of which the taxable person would not have been entitled to a credit for the full amount of input tax paid if the person had acquired the services in a creditable acquisition.

(3) For the purposes of this section if a taxable person carries on an enterprise both in and outside Seychelles —

- (a) that part of the enterprise carried on outside Seychelles is treated as if it were carried on by a person (referred to as the “overseas person”) separate from the taxable person;
- (b) the overseas person is not a taxable person; and
- (c) an internal provision of services from the overseas person to the taxable person is treated as a supply of services made outside Seychelles.

PART V - RULES RELATING TO IMPORTS

22. An import of goods occurs —

Time of
import

- (a) if the goods are entered for home consumption under the Customs legislation, on the date on which they are so entered; or
- (b) in any other case, on the date the goods are brought into Seychelles.

23.(1) Subject to subsection (2), the value of an import of goods is the sum of —

Value of
Import

- (a) the value of the goods for the purposes of customs duty under the Customs legislation, whether or not any duty is paid on the import;
- (b) to the extent not included under paragraph (a)—
 - (i) the cost of insurance and freight incurred in bringing the goods to Seychelles; and
 - (ii) the cost of services treated as part of the import of the goods under section 14(1)(b); and
- (c) the amount of any customs duty, excise, levy, or other fiscal charge (other than VAT), or any fee or other charge paid in respect of the import.

(2) If goods are re-imported after being exported for the purpose of undergoing repair, renovation, or improvement, the value of the import is the amount of the increase in value of the goods as a result of the repair, renovation, or improvement provided—

- (a) the form or character of the goods has not changed; and
- (b) ownership of the goods has not changed since the goods were exported.

PART VI - INPUT TAX CREDITS

Credit for
Import Tax

24.(1) Subject to this Act, a taxable person is allowed an input tax credit for the input tax imposed on a creditable acquisition by the person to the extent that the acquisition was for the purposes of making taxable supplies.

(2) A creditable acquisition made in a VAT period relates to making a particular kind of supply is determined on the basis of the taxable person's intention at the time of the acquisition, when—

- (a) a change in intention occurs before the date on which the VAT return for that period is required; or
- (b) the taxable person takes account of actual use.

(3) Subject to this Act, if a taxable person makes creditable acquisitions during a VAT period that relate partly to making taxable supplies and partly to making other supplies, the sum of the input tax credits allowed for such acquisitions during the VAT period is calculated according to the following formula—

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

where—

- A is the total amount of input tax paid in respect of creditable acquisitions made by the person during the period that relate partly to making taxable supplies and partly to making other supplies;
- B is the value of all taxable supplies made by the taxable person during the period; and
- C is the value of all supplies made by the taxable person during the period in Seychelles.

(4) If the fraction $\frac{B}{C}$ in subsection (3) for a VAT period—

- (a) is more than 0.90, the taxable person is allowed an input tax credit for all of the input tax comprising component A of the formula in subsection (3); or

- (b) is less than 0.10, the taxable person is not allowed any input tax credit for the input tax comprising component A of the formula in subsection (3).

(5) Subject to subsection (6), an input tax credit is allowed in the VAT period in which the input tax is paid.

(6) If, at the time a taxable person furnishes a VAT return for a VAT period in which an input tax credit would otherwise be allowable under this Act, the person does not hold the documentation referred to in subsection (7), the input tax credit is not allowed in that VAT period but instead is allowed in the first VAT period in which the person holds such documentation.

(7) The documentation required for the purposes of subsection (6) is—

- (a) in the case of a creditable acquisition that is a taxable import, a bill of entry or other document prescribed under the Customs legislation for the import;
- (b) in the case of a creditable acquisition that is a taxable supply, the VAT invoice for the taxable supply to which the acquisition relates;
- (c) in the case of an input tax credit allowed in respect of input tax treated as paid under section 27(3), the VAT debit note required to be issued under those sections; or
- (d) in the case of an input tax credit allowed under section 27(4), a copy of the VAT credit note issued to the recipient of the supply.

Disallowable
Input Tax
Credits

25.(1) No input tax credit is allowed under this Act for input tax paid in respect of a creditable acquisition by a taxable person—

- (a) of a passenger vehicle, or spare parts or repair and maintenance services for such vehicle, unless the person's enterprise involves the dealing in, or hiring of such vehicles and the vehicle was acquired for such purpose;
- (b) of petroleum products, unless those products are wholly for use in the enterprise of the person;
- (c) to the extent that the acquisition is used to provide entertainment, unless —
 - (i) the entertainment was provided in the ordinary course of the enterprise carried on by the person to provide the entertainment and the entertainment was not supplied to an associate or employee; or
 - (ii) the entertainment was provided while the recipient of the entertainment was away from home for the purposes of the enterprise of the recipient or the recipient's employer;
- (d) to the extent to which the acquisition is used to provide accommodation, unless —
 - (i) the person's enterprise involves providing accommodation and the accommodation was provided in the ordinary course of the enterprise; or
 - (ii) the accommodation was provided while the recipient of the accommodation was away from home for the purposes of the enterprise of the recipient or the recipient's employer; or

- (e) if the acquisition provides membership or entrance for any person in a sporting, social, or recreational club, association, or society.

(2) Section 24 applies in determining whether an input tax credit is allowed for a creditable acquisition that is an exception to the denial of input tax credits under subsection (1)(a), (b), (c), or (d).

(3) In this section—

“passenger motor vehicle” is a road vehicle designed or adapted for the transport of nine or fewer seated passengers; and

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

Input Tax Credit
for Newly
Registered
Person

26.(1) Subject to this Act, a taxable person may claim, in the first VAT return furnished by the person after the person is registered, an input tax credit determined in accordance with sections 24 and 25 for the input tax paid in respect of goods held at the date of registration for the purpose of making taxable supplies, if—

- (a) at the end of the last day before the date of the person's registration, the person held the goods as trading stock;
- (b) the trading stock was acquired by the person in a creditable acquisition by the person;
- (c) the creditable acquisition occurred no more than six months prior to the date of registration; and
- (d) the person can provide documentary evidence satisfactory to the Revenue Commissioner

that input tax has been paid on the creditable acquisition.

(2) Section 24(6) does not apply for the purposes of an input tax credit allowed under this section.

PART VII - POST-SUPPLY ADJUSTMENTS

27.(1) This section applies if—

Post-supply
Adjustments
for Supplies

- (a) a supply is cancelled;
- (b) the nature of a supply is fundamentally varied or altered;
- (c) the consideration for a supply is altered; or
- (d) the goods (or part thereof) the subject of a supply are returned to the supplier.

(2) If subsection (1) applies, and the VAT properly chargeable in respect of the supply exceeds the VAT actually accounted for by the supplier, the supplier must treat the amount of the excess as output tax paid on a taxable supply made by the supplier in the VAT period.

(3) If subsection (2) applies, and the supplier has issued a VAT debit note to the recipient of the supply in accordance with section 29(3), the recipient must treat the additional VAT specified in the debit note as input tax paid on a taxable supply made to the recipient in the VAT period in which the debit note is received.

(4) Subject to subsection (6), if the VAT actually charged for by the supplier exceeds the VAT properly chargeable in respect of the supply, the supplier is allowed an input tax credit for the amount of the excess in the VAT period.

(5) If subsection (4) applies, and the supplier has issued a VAT credit note to the recipient of the supply in accordance

with section 29(1), the recipient must treat the additional VAT specified in the credit note as output tax paid on a taxable supply made by the recipient in the VAT period in which the credit note is received.

(6) If the recipient of a supply to which subsection (4) applies is not a taxable person, no input tax credit is allowed under that subsection until the supplier has repaid the excess VAT to the recipient of the supply, whether in cash or as a credit against any amount owing to the supplier by the recipient.

PART VIII - VAT DOCUMENTATION

Vat Invoice

28.(1) A taxable person making a taxable supply to another taxable person must, at the time of the supply, issue that other person with the original VAT invoice for the supply.

(2) In this section a VAT invoice means, a tax invoice for the purposes of section 98 of the Revenue Administration Act and shall contain the following additional particulars—

- (a) the words “VAT INVOICE” in a prominent place;
- (b) the name, address, and Taxpayer Identification Number of the supplier;
- (c) the description of the goods (including quantity or volume) or services supplied and the date on which the supply was made;
- (d) the consideration for the supply and the amount of VAT charged; and
- (e) the name of the recipient of the supply.

VAT Credit Note and Debit Note

29.(1) A taxable person making a taxable supply to which section 27 applies to another person, where the VAT charged

exceeds the VAT chargeable in respect of the supply, shall issue the other taxable person with an original VAT credit note.

(2) A VAT credit note must contain the following particulars —

- (a) the words “VAT CREDIT NOTE” in a prominent place;
- (b) the name, address, and Taxpayer Identification Number of the supplier;
- (c) the name, address, and Taxpayer Identification Number of the recipient;
- (d) the individualized serial number and the date on which the VAT credit note is issued;
- (e) a brief description of the circumstances giving rise to the issuing of the VAT credit note, including information sufficient to identify the taxable supply to which the VAT credit note relates;
- (f) if section 27(1)(a),(c) or (d) applies, the consideration shown on the VAT invoice for the supply, the correct amount of the consideration, the difference between those two amounts, and the amount of VAT that relates to the difference; and
- (g) if section 27(1)(b) applies the VAT originally paid, the VAT paid as a result of the circumstances giving rise to the issuing of the VAT credit note, and the difference between those amounts.

(3) A taxable person making a taxable supply to which section 27 applies to another person where the supply exceeds

the VAT chargeable in respect of the supply, shall issue the other taxable person with an original VAT debit note.

(4) A VAT debit note must contain the following particulars—

- (a) the words “VAT DEBIT NOTE” in a prominent place;
- (b) the name, address, and Taxpayer Identification Number of the supplier;
- (c) the name, address, and Taxpayer Identification Number of the recipient;
- (d) the individualized serial number and the date on which the VAT debit note is issued;
- (e) a brief description of the circumstances giving rise to the issuing of the VAT debit note, including information sufficient to identify the taxable supply to which the VAT debit note relates;
- (f) if section 27(1)(a),(c) or (d) applies, the consideration shown on the VAT invoice for the supply, the correct amount of the consideration, the difference between those two amounts, and the amount of VAT that relates to the difference; and
- (g) if section 27(1)(b) applies, the VAT originally paid, the VAT as a result of the circumstances giving rise to the issuing of the VAT debit note, and the difference between those amounts.

30.(1) If a taxable supply is made by or to an agent on behalf of a principal and both the agent and principal are taxable persons, any VAT invoice, VAT credit note, or VAT

debit note required to be issued by or to the principal may be issued by or to the agent, using the name, address and Taxpayer identification number of the agent.

(2) If a taxable supply is made by or to an agent on behalf of a principal and the principal is a taxable person but the agent is not, any VAT invoice, VAT credit note, or VAT debit note required to be issued by or to the principal may be issued by or to the agent, but using the name, address and Taxpayer identification number of the principal.

(3) If a taxable supply is made by or to an agent on behalf of a principal, any VAT invoice, VAT credit note, or VAT debit note required to be issued under this Act can be issued once only and must not be issued by or to both the agent and the principal.

(4) A VAT invoice, VAT credit note, or VAT debit note issued by or to an agent in accordance with this section is treated as issued by or to the principal, as the case may be, for the purposes of the Act.

31.(1) A taxable person who, for any reason, has not been issued with an original VAT invoice, VAT credit note, or VAT debit note as required under this Act may make a written request to the supplier to issue the document.

Requests for
VAT
Documentation

(2) A request under subsection (1) must be made —

- (a) in the case of a VAT invoice, within 60 days of the date of the supply; or
- (b) in the case of a VAT credit note or VAT debit note, within 60 days of the date of the event under section 27 to which the VAT credit note or VAT debit note relates.

(3) A taxable person receiving a request under

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

Maintenance of
VAT
Documentation

32.(1) A taxable person must issue only one original VAT invoice for a taxable supply, or one original VAT credit note or VAT debit note for an event under section 27, but a copy clearly marked as such may be provided to a taxable person who claims to have lost the original.

(2) A person must not issue a VAT invoice, VAT credit note, or VAT debit note other than in the circumstances specified in this Act.

(3) The following documents must be maintained by a taxable person for the purposes of the Act—

- (a) original or copies issued under subsection (1) of all VAT invoices, VAT credit notes, and VAT debit notes received by the person;
- (b) a copy of all VAT invoices, VAT credit notes, and VAT debit notes issued by the person;
- (c) documentation relating to imports and exports of goods by the person; and
- (d) in relation to all services to which section 21 applies, sufficient written evidence to identify the supplier and the recipient, and to show the nature and quantity of services supplied, the time of supply, the place of supply, the consideration for the supply, and the extent to which the supply has been used by the recipient for particular purposes.

(4) The documents referred to in subsection (3)(b) must be maintained in chronological order.

PART IX - VAT PROCEDURE**General Provisions Related to VAT Computation,
Assessment and Payment****VAT Returns**

33.(1) A taxable person must furnish a VAT return, in the prescribed form and manner, for each VAT period within 21 days after the end of the period.

VAT
Returns

(2) A VAT return required to be furnished under subsection (1) is a self-assessment return for the purposes of the Revenue Administration Act.

34. The amount that a taxable person must remit to the Revenue Commissioner for a VAT period is the net VAT paid for the period computed according to the following formula

Net VAT
Paid for a
VAT Period

$$A - B$$

where —

A is the total output tax paid in respect of taxable supplies made or deemed to be made in the period; and

B is the total input tax credit allowed to the person for the period.

35.(1) The net VAT paid by a taxable person for a VAT period, as computed under section 34, shall be paid not later than 21 days following the end of the VAT period. Any VAT not so paid shall be in default and the person by whom such VAT is paid or where any VAT is paid by more than one person, each person shall be deemed to be a defaulter for the purpose of this Act.

Due Date
for Payment
of VAT

(2) The VAT paid by an importer in respect of a taxable import is paid at the time of the import.

Collection
of VAT on
Imports

36.(1) The Director General of Customs —

- (a) must collect VAT paid under this Act on an import of goods at the time of import and must, at that time, obtain the name and Taxpayer identification number of the importer, the customs declaration, and invoice values in respect of the import; and
- (b) may make arrangements for such functions to be performed on behalf of the Director General of Customs in respect of imports through the postal service.

(2) Except when the contrary intention appears, the provisions of the Customs legislation relating to the import, transit, coastwise carriage, and clearance of imported goods, and the payment and recovery of duty, in so far as relevant and with such exceptions and modifications as necessary, apply in relation to VAT paid on a taxable import.

(3) For the purposes of this section, the Director General of Customs may exercise any power conferred on the Director General by the Customs legislation as if the reference to customs duty in that legislation included a reference to VAT paid on taxable imports under this Act.

Refunds

37.(1) Subject to subsection (3), if, for any VAT period, the total input tax credit allowed to a taxable person exceeds the person's total output tax for the period —

- (a) the excess is carried forward and allowed as an input tax credit in the following VAT period and any amount of the excess not credited in that period is carried forward to the next following VAT period and allowed as an input tax credit in that period; and

- (b) any amount of the excess not credited under paragraph (a) is, upon written application by the person, refunded to the person.

(2) If a taxable person has an excess input tax credit carried forward under this section for more than one VAT period, the excess credit of the earliest VAT period is allowed first.

(3) If the excess referred to in subsection (1) is due to excess input tax credits that are a regular feature of the taxable person's enterprise, the Revenue Commissioner must, upon application in writing, refund the excess within 45 days after the person has furnished the VAT return for the period.

38.(1) If a taxable person has, in consequence of misrepresentation or fraud by the recipient of a supply, incorrectly treated the supply as —

Assessment by
Recipient of
Supply

- (a) an exempt supply; or
- (b) a zero-rated supply,

the Revenue Commissioner may assess the recipient of the supply for payment of the VAT due in respect of the supply and any interest and additional tax imposed as a result of the late payment of the VAT.

(2) The Revenue Commissioner must serve notice of an assessment under subsection (1) on the recipient specifying—

- (a) the reason for the assessment as provided for in subsection (1);
- (b) the VAT payable under the assessment;
- (c) the date on which the VAT payable under the assessment is due, which must be at least thirty

days after the date on which the notice is served; and

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

(3) Subsection (1) does not preclude the Revenue Commissioner from recovering the whole or part of the VAT due in respect of the supply together with any interest and additional tax from the taxable person who made the supply and—

- (a) any amount recovered from the recipient of the supply is credited against the liability of the supplier in respect of the supply; and
- (b) any amount recovered from the supplier is credited against the liability of the recipient of the supply,

but the Revenue Commissioner cannot recover more than the total amount of VAT, interest, and additional tax paid in relation to the supply.

(4) Any supplier who pays VAT, interest, or additional tax referred to in subsection (1) may recover the amount from the recipient of the supply.

PART X - RECOVERY AND COLLECTION OF VAT

Extension of time
to pay VAT

39.(1) A taxable person may apply, in writing to the Revenue Commissioner for the extension of time to pay VAT due and the Revenue Commissioner may, having regard to the circumstances—

- (a) grant the person an extension of time for payment of the VAT; or
- (b) Require the taxable person to pay the VAT due

in such instalments as the Revenue Commissioner may determine.

(2) The Revenue Commissioner shall serve the taxable person with the written notice of the decision on as soon as it is practicable after making the decision.

(3) If the taxable person permitted to pay the VAT in instalments defaults in the payment of an instalment, the whole balance of the VAT outstanding, at the time of the default is immediately payable.

(4) The grant of an extension of time or permission to pay the VAT instalments does not preclude the liability of interest arising under section 41 from the original date the VAT was payable.

40. Where the payment of VAT is in default and the Revenue Commissioner has reason to believe that the taxable person may default in making the payments, or intends to carry on the enterprise for a limited period only, or that the taxable person may leave Seychelles, the provisions of sections 20 to 28 of the Revenue Administration Act shall, *Mutatis Mutandis*, apply to the collection and recovery of the VAT.

Collection and
Recovery of
VAT

41. Where a taxable person fails to pay the VAT on the due date or fails to pay on the date the Revenue Commissioner had extended for payment, is liable for interest and additional tax, provisions of sections 41, 44 and 45 of the Revenue Administration Act shall, *Mutatis Mutandis*, apply to such payment of interest and additional interest.

Payment of
Interest and
Additional
Interest

42. A person who, without reasonable excuse, fails to apply for registration as required under section 7 is liable for additional tax equal to double the amount of VAT payable for the period commencing on the day on which the person was first required to apply for registration and ending on the earlier of the day —

Additional Tax
for Failure to
Apply for
Registration

- (a) the person lodges an application for registration; or
- (b) the person is registered by the Revenue Commissioner on the Revenue Commissioner's own motion.

PART XI - OFFENCES

Offences

43.(1) Any person who —

- (a) applies for cancellation of registration when required to be registered;
- (b) fails to apply for cancellation of registration as required by section 11; or
- (c) fails to comply with section 10, 11 or 12 (7)(a) or (c),

commits an offence and on conviction is liable to a fine of no less than SR 20,000 and a fine of SR5,000 for each additional month.

(2) Any registered person who fails to provide a VAT invoice, VAT credit note, or VAT debit note as required under this Act commits an offence and on conviction is liable to a fine not exceeding SR5,000 or to imprisonment for not more than 6 months or to both fine and imprisonment.

(3) Any person who issues a VAT invoice, VAT credit note, or VAT debit note otherwise than as provided for under the Act commits an offence and on conviction is liable to a fine not exceeding SR20,000 or to imprisonment for not more than 1 year or to both fine and imprisonment.

(4) Any registered person who fails to comply with a request under section 32 commits an offence and on conviction is liable to a fine not exceeding SR20,000 or to

imprisonment for not more than 2 years or to both fine and imprisonment.

PART XII - MISCELLANEOUS PROVISIONS

44.(1) An enterprise conducted by a person in branches or divisions is treated as a single enterprise for the purposes of this Act.

Branches and
Divisions

(2) A person who conducts an enterprise in branches or divisions must be registered in the name of the person and not in the names of the branches and divisions.

45.(1) Notwithstanding anything in this Act, if the Revenue Commissioner is satisfied that —

Tax
Avoidance
Schemes

- (a) a scheme has been entered into or carried out;
- (b) a person has obtained a tax benefit in connection with the scheme; and
- (c) having regard to the substance of the scheme, it would be concluded that a 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 referred to in paragraph (b) to obtain a tax benefit,

the Revenue Commissioner may determine the VAT liability of the person who obtained the tax benefit as if the scheme had not been entered into or carried out.

(2) If the Revenue Commissioner makes a determination under subsection (1), the Revenue Commissioner must issue an assessment giving effect to the determination.

(3) A determination under subsection (1) must be made within five years from the last day of the VAT period to which the determination relates.

(4) In this section —

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

“tax benefit” means —

- (a) a reduction in the liability of a person to pay VAT;
- (b) an increase in the entitlement of a person to an input tax credit;
- (c) an entitlement to a refund;
- (d) a postponement of a liability for the payment of VAT;
- (e) an acceleration of an entitlement to an input tax credit;
- (f) any other advantage arising because of a delay in payment of VAT or an acceleration of the entitlement to an input tax credit;
- (g) anything that causes a taxable supply or taxable import not to be a taxable supply or taxable import, as the case may be; or
- (h) anything that gives rise to an input tax credit entitlement for an acquisition or import that is used or to be used other than in making taxable supplies.

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

- (a) in the case of an import of goods, the amount must be converted into Rupees at the exchange rate applicable under the Customs legislation for the purposes of computing the customs duty paid on the import; or
- (b) in any other case, the amount must be converted to Rupees at the Central Bank of Seychelles mid-exchange rate applying between the foreign currency and Rupees on the date the amount is taken into account for the purposes of this Act.

(3) For the purposes of subsection (2)(b), if there is no applicable exchange rate for the currency in question used by the Central Bank of Seychelles, the rate is to be computed on the basis of the Central Bank's rate for the U.S. dollar, and a published cross-rate for the currency in question against the U.S dollar.

47. For purpose of administering the Revenue law regarding assessment, objection to appeals, recordkeeping, and information collection shall be in the same manner as is provided in the Revenue Administration Act.

Assessment
record keeping
and information
collection

48. A taxable person dissatisfied with a reviewable decision may apply to the Review Tribunal for the review of the decision and the procedures related to the review therein, shall be in the same manner as provided in the Revenue Administration Act.

Review
procedure

49. An unpaid VAT may be a sued for and recovered in any court of competent jurisdiction by the Revenue Commissioner or by the Attorney General suing on behalf of the Government.

Recovery of
unpaid VAT

Revenue
Proceedings
and Ruling

50. Notwithstanding anything else provided in this Act, provisions relating to Revenue Proceedings, Rulings, set out in the Revenue Administration Act, shall be applicable to matters related thereto.

Application
of Act

51.(1) This Act binds the Republic of Seychelles.

(2) Notwithstanding any other Act or agreement made before or after the commencement of this Act, an exemption of tax on a statutory corporation or any other person shall not be construed as an exemption from the payment of VAT under this Act.

PART XIII - FINAL PROVISIONS

Regulations

52.(1) The Minister may make regulations —

- (a) prescribing rules for particular types of supplies;
- (b) prescribing forms and fees or other matters as required under this Act;
- (c) amending schedules; and
- (d) prescribing all matters that are by this Act to be prescribed, or which are necessary or convenient to be prescribed to give effect to this Act.

(2) Without limiting the general effect of subsection (1), the regulations made under that subsection may —

- (a) contain provisions of a saving or transitional nature consequent on the making of this Act; or
- (b) prescribe penalties for the contravention of the regulations.

(3) Regulations of a transitional nature made under this section within six months after the day the Act receives assent may have effect retrospectively from that day.

53.(1) The Goods and Services Tax Act, 2001 (Act No. 10 of 2001) and subsidiary legislation made thereunder are hereby repealed.

Repeal

(2) Notwithstanding subsection (1), the repealed legislation continues to apply for all purposes whatsoever in respect of goods and services subject to the Act before the commencement date.

54.(1) A person must apply to the Revenue Commissioner for registration under this Act no later than the transitional registration day if—

Transitional
Rules
Relating to
Registration

- (a) considering the total value of taxable supplies made or to be made by the person in the course or furtherance of the person's enterprise, the person would have been required to apply for registration under section 7 on or before that day if this Act had come into force at least 12 calendar months before that day; or
- (b) the person is a Government body making taxable supplies.

(2) A person who is not required to be registered under subsection (1) is required to apply for registration under this Act on any subsequent day before the commencement date, if on that day section 7 would have applied to that person if this Act had come in force at least 6 calendar months before that day.

(3) Notwithstanding section 8, if a person is required to apply for registration under subsection (1) or (2), the registration takes effect from the commencement date.

(4) If, prior to the commencement date—

- (a) a person purported to lodge an application for registration under this Act;
- (b) the Revenue Commissioner purported to register a person under this Act; or
- (c) the Revenue Commissioner purported to issue a VAT registration certificate under this Act,

the application, registration, or certificate, as applicable, is treated for all purposes of this Act and the Revenue Administration Act as if it were made on the commencement date.

(5) If the Revenue Commissioner is satisfied that a person is required to apply for registration under subsection (1) or (2) and the person has not applied for registration as required, the Revenue Commissioner may register that person.

(6) In this section, “transitional registration day” means the day that is two calendar months before the commencement date.

General
Transitional
Rules

55.(1) Subject to subsection (2), if—

- (a) at the end of the last business day before the commencement date, a taxable person held goods as trading stock;
- (b) the goods were acquired not more than six months before the beginning of that day; and
- (c) the Revenue Commissioner is satisfied that goods and services tax has been paid on the acquisition or import of those goods,

the taxable person may claim an input tax credit for the goods and services tax in the first VAT period after the

commencement date.

(2) A taxable person is not allowed an input tax credit under subsection (1) for any goods and services tax paid in respect of the acquisition of trading stock if, and to the extent that, because of the application of sections 24 and 25, the person would not have been allowed an input tax credit if the acquisition had occurred after the commencement date.

(3) A person claiming an input tax credit under subsection (1) in respect of trading stock on hand at the end of the last business day before the commencement date must submit a list of trading stock with the person's first VAT return, supported by documentary evidence of the payment of goods and services tax.

(4) If a registered person under the Goods and Services Tax Act—

- (a) is not required to apply for registration under section 7 and does not voluntarily apply for registration;
- (b) holds goods as trading stock at the beginning of the first VAT period after the commencement date; and
- (c) did not pay goods and services tax under the Goods and Services Tax Act in respect of the purchase of the goods,

the person is treated, for the purposes of the Goods and Services Tax Act, as having sold the goods on the day immediately before the commencement date.

(5) Subject to subsection (6), if a taxable person concluded a contract before the commencement date, the person is, after the commencement date, entitled to increase the price of a taxable supply made under that contract by an

amount equal to the price multiplied by the tax fraction, notwithstanding that the contract contained no provision relating to increasing the price because of the imposition of VAT.

(6) Subject to section 15(4) if , the actual supply begins before and ends after the commencement date, and the supply is treated as having been made continuously and uniformly throughout that period and the consideration for that supply is apportioned accordingly in determining the value of the supplies.

(7) Subsection (6) does not apply to the supply of a warranty in relation to goods or a service if the value of the warranty has been included in the price of the goods or service.

SCHEDULES

FIRST SCHEDULE

EXEMPTIONS

PART I - IMPORTS

The following are exempt imports for the purposes of this Act—

1. An import of goods, if a supply of those goods in Seychelles would be an exempt or zero-rated supply.

2. An import of goods accompanying a person arriving by air or sea in Seychelles as per the tables below —

(a) Maximum tax exemption allowance for passengers aged 18 years and above

Column 1	Column 2	Column 3
Item	Description of goods	Exempted Quantity / Value
1	Perfume and Toilet Waters	200 ml
2	Alcoholic beverages (for example wine, beer) where the alcoholic level is less than or equal to 16%	2 litres
3	Alcoholic beverages (for example fortified wine, whisky, spirit, rum, gin, liqueur, aperitif, fermented or distilled liqueur, alcoholic beverages) where the alcoholic level is greater than 16%	2 litres
4	Cigarettes or tobacco products	200 cigarettes or 100 cigarillos or 50 cigars or 250 grams of any other Tobacco products
5	Other goods	SR 5,000

(b) Maximum tax exemption allowance for passengers under the age of 18

Column 1	Column 2	Column 3
Item	Description of goods	Exempted Quantity /Value
1	Perfume and Toilet Waters	200 ml
2	Other goods	SR3,000

(c) Maximum tax exemption allowance for ship or airline personnel

Column 1	Column 2	Column 3
Item	Description of goods	Exempted Quantity / Value
1	Any beverages containing alcohol	1litre
2	Any cigarettes containing tobacco	200 cigarettes
2	Other goods	SR1,500

3. An import of goods not accompanying a person, arriving by air or sea in Seychelles as per the table below:

Maximum tax exemption allowance for low value consignments

Column 1	Column 2	Column 3
Item	Description of goods	Exempted Quantity / Value
1	Goods imported for the personal and exclusive consumption or use of the consignee	SR1500
2	Other goods excluding alcohol or tobacco	SR500

4. Goods imported for the personal and exclusive consumption or use of a person identified to the extent required by the Privileges and Immunities (Diplomatic, Consular and International Organisations) Act or a person recognized by the Minister of Foreign Affairs as being a foreign dignitary.

5. Educational equipment (excluding motor vehicles), construction materials and reference books (not for resale) as authorized by the Ministry of Education, imported into Seychelles by a person carrying on the business as a licensed educational institution (excluding government schools).

6. Goods imported into Seychelles under the following HS Codes:—

- (a) Electric bulb under Heading:
8539.2910 (Energy savings electric bulb)
- (b) Rice under Heading **1006**
- (c) Flour under Heading **1101**
- (d) Milk Powder under Headings:
0402:1000 (Milk and cream in powder, granules or other solid forms, of a fat content, by weight, not exceeding 1.5%; in powder, granules or other solid forms, of a fat content, by weight, exceeding 1.5%); **0402:2100** (Milk and cream not containing added sugar or other sweetening matter);
0402:2910 (Full cream powder);
- (e) Infant Formulae under Heading:
0402:9110 (Baby Milk formulae, in any form)
- (f) Meat (fresh, frozen or chilled) under chapter 2 of the trades Tax Regulations, 2009
- (g) Fish (fresh, frozen, chilled, salted or smoked) under chapter 3 of the Trades Regulations, 2009

- (h) Vegetables (fresh or chilled) under headings 0701-0709 of chapter 7 of the Trades Tax (Amendment) Regulations, 2009
- (i) Fruit (fresh or dried) under headings 0801.1111-0801- 1992 and 0803-0810 of chapter 8 of the Trades Tax (Amendment) Regulations, 2009
- (j) Edible Oils Headings:
15.07 (Soya-bean oil);
15.08 (Ground-nut Oil);
15.09 (Olive Oil) and
15.12 (Sunflower-seed, safflower or cotton-seed oil)
15.17 (Margarine, excluding liquid margarine)
- (k) Lentils under Heading 0713:4000
- (l) Salts under Heading 2501
- (m) Sugar under Heading: 1701
- (n) Pharmaceutical products under chapter 30 of Trades Tax Regulations 2009 and Chapter 29, Section VI of the Trades Tax (Amendment) Regulations, 2009.
- (o) Reagents under Heading:
3822.0000 (Diagnostic or laboratory reagents on a backing and prepared diagnostic or laboratory reagents whether or not on a backing)
- (p) Prepared animal fodder under headings:
2308.0000 (Vegetable materials and vegetable waste, vegetable residues and by-products, whether or not in the form of pellets, of a kind used in animal feeding, not elsewhere specified or included); and under headings 2309.1000 to 2309.15

(q) Human remains under heading 9907

7.(1) Goods re-imported after exportation for repair or processing or replacement or under warranty or personal use.

(2) The importer of goods described in sub-clause (1) shall give prior notice of exportation of the goods to the Revenue Commissioner with a statement of particulars of the repair or processing or replacement required.

(3) Goods described in sub-clause (1) may be assessed for tax on the cost of the repair or processing including the cost of materials or parts used.

(4) The importer of the goods shall declare upon the bill of entry at re-importation the nature and cost of the repair or process or replacement, and satisfy the Revenue Commissioner as to the identity of the goods.

8.(1) Containers of imported merchandise which after discharge are returnable to the senders.

(2) The Revenue Commissioner may, in his discretion, require the importer to give security by bond or deposit in a sum sufficient to cover the tax on the value of the containers.

(3) The containers shall be suitably identified and produced for examination by a custom officer at the time of re-exportation.

(4) The importer shall keep a record of the receipt and disposal of the containers.

9. Materials and equipment supplied by other Governments or International Organizations under Technical Aid or Assistance programmes approved by the Government in terms of this Schedule.

10.(1) The personal effects including all clothing or other articles, other than alcohol and tobacco, new or used which a tourist may reasonably require, taking into consideration all the

circumstance of his visit provided the Revenue Commissioner has no reason to fear abuse and is satisfied that the said personal effects will be re-exported by the tourist on leaving Seychelles.

(2) Personal effects may not include merchandise imported for commercial purposes nor an unreasonable quantity as deemed by the Revenue Commissioner, of any one item in sub-clause (2).

(3) Travel souvenirs carried by a tourist if the Revenue Commissioner has no reason to fear abuse and are satisfied that the said travel souvenir will be re-exported by the tourist on leaving Seychelles.

11.(1) Goods imported provided the Revenue Commissioner is satisfied that the articles will be re-exported within 12 months of their importation or such longer period that the Revenue Commissioner may accept providing he or she is satisfied that it is to be re-exported notwithstanding this further period.

(2) Subject to sub-clause (3) when goods referred to are imported, the Revenue Commissioner may, if he or she thinks fit, require a deposit sufficient to cover the VAT on the goods.

(3) The goods or articles must be re-exported within a period of 12 months from the date of importation or such longer period that the Revenue Commissioner may accept providing he or she is satisfied that it is to be re-exported notwithstanding this further period.

12.(1) Newspapers, magazines, journals and periodicals imported for personal use and not for sale.

(2) Documents of no commercial value such as invoices, blank application forms, bills of lading or similar documents provided these are not imported for sale.

(3) Trade advertising and promotional materials not exceeding SR1000 and not intended for sale.

13.(1) Goods imported by the President for his personal use or for official purposes in his capacity as President.

(2) Goods imported for the personal and exclusive use of a former President of the Republic of Seychelles.

(3) The importer of the items exempted under sub-clause (2) shall declare upon the bill of entry for the items that, they are for his or her personal and exclusive use, and furnish it to the Revenue Commissioner.

14.(1) Goods, motor vehicles and other articles imported by churches, presbyteries or other religious organizations registered or established under any written laws if the goods, motor vehicles or any other articles are to be used only for the purpose of —

(a) construction, repairing, decorating and furnishing in connection with the duties of a place of worship; or

(b) discharging religious functions.

(2) The importer of goods, motor vehicles or other articles exempted under sub-clause(1) shall provide to the Revenue Commissioner a bill of entry signed by an officer of the Ministry of Finance authorized to discharge duties under this regulation stating that the Minister is satisfied that the goods, motor vehicles or other articles are to be used only for the purposes specified in sub-clause(1).

15.(1) All articles which are permitted to be imported for the first time tax free under or by virtue of any agreement to that effect made between the Seychelles Government and any other Government, body, organization or persons or by virtue of the provisions of Articles 50 and 62 of the Vienna Convention on Consular Relations 1968 or any Convention modifying or replacing that Convention.

(2) Goods, supplies, material and equipment imported

into Seychelles in connection with the purposes of an agreement entered into with the Government of Seychelles either before or after the commencement of Regulations, the import of which is specifically provided for under that agreement as not being subject to any tax, charge or duty.

16.(1) Goods imported to be used in the process of—

- (a) conservation, generation or production of renewable or environment friendly energy sources as endorsed by the Seychelles Energy Commission; or
- (b) conservation of fresh or potable water resources or re-use or recycling of waste water as endorsed by the Ministry responsible for Environment; or
- (c) solid waste recycling or reduction or re-use as endorsed by the Ministry responsible for Environment.

(2) An application for an exemption under sub-clause(1) shall be accompanied by a Bill of Entry endorsed by an authorized officer of the Seychelles Energy Commission, or an authorized officer of the Ministry responsible for Environment.

17.(1) Goods imported into Seychelles by the Seychelles People's Defence Forces, National Arts Council and National Sports Council solely for use in the conduct of their activities, functions, and duties as provided for under their respective Act.

(2) An application for an exemption under sub-clause (1) shall be accompanied by a Bill of-Entry endorsed by an authorised officer of the office of the President in relation to People's Defence Forces, Ministry responsible for Social Development and Culture in relation to National Arts Council and Ministry responsible for Community Development and Sport in relation to National Sports Council, respectively.

18.(1) Goods imported into Seychelles by the Seychelles Pension Fund, solely for use in the conduct of their activities, functions, and duties as provided for under their respective Act.

(2) An application for an exemption under sub-clause (1) shall be accompanied by a Bill of-Entry endorsed by an authorised officer of the Ministry responsible for Finance and Trade.

19. Import of goods as consumable stores for use outside Seychelles on—

- (a) an aircraft or ship going to a destination outside Seychelles; or
- (b) a fishing craft going outside the fishery waters of Seychelles;

PART II - SUPPLIES

1. The following are exempt supplies for the purposes of this Act—

- (a) a supply of financial services by a person carrying on a business as a financial institution as defined in the Financial Institutions Act and any subsequent amendment to the said Act;
- (b) a supply of education services, including any textbooks or stationery supplied in relation to such services;
- (c) a supply of internationally donated goods or services to a non-profit body;
- (d) a supply of life insurance premiums or a reinsurance contract by a person carrying on the business of a licensed insurer or reinsurer;
- (e) a supply of government hospital, medical and

dental services including government ancillary services.

- (f) a supply of goods intended for further processing or resale which are exempted at point of import;
- (g) a supply of service provided by a non-resident if the Supply of goods are not situated in Seychelles at the time of supply and are not to be entered for home consumption in Seychelles pursuant to the Customs legislation by the supplier of the goods;
- (h) a supply of a right or option to receive a supply that is an exempt supply under paragraphs (a) (g).

2. If a supply is both a zero-rated supply under the Third Schedule and an exempt supply under this Schedule, it is treated as a zero-rated supply.

3. In this Schedule—

“Donated goods or services”, in relation to a non-profit body, means goods or services that are gifted to the body and that are intended for use in the carrying out of the purposes of the body;

“Education services” means education provided by—

- (a) a pre-primary, primary, or secondary school;
- (b) a technical college, university or equivalent tertiary institution; or
- (c) an institution established for the promotion of adult education, vocational training, technical

education, or the education or training of physically or mentally handicapped persons; and

- (d) provided that an education service provider as per (a), (b) and (c) and is recognised by the Ministry responsible for Education;

“Financial institution” means —

- (a) any bank; or
- (b) any Bureau de Change,

and, for the purposes of this Act, all branches and agencies of a financial institution in Seychelles are deemed to be one financial institution;

“Financial services” means —

- (a) the 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;
- (b) transactions concerning money, deposit and current accounts, payments, transfers, debts, cheques, or negotiable instruments, other than debt collection and factoring;
- (c) transactions relating to financial derivatives, forward contracts, options to acquire financial instruments, and similar arrangements;
- (d) transactions relating to shares, stocks, bonds, and other securities, other than custody services;
- (e) the management of investment funds;

- (f) the provision, or transfer of ownership, of an insurance contract or the provision of reinsurance in respect of any such contract;
- (g) the provision, or transfer of ownership, of an interest in a scheme for the payment or granting of benefits by a benefit fund, provident fund, pension fund, retirement annuity fund, or preservation fund;
- (h) a supply of credit under a hire purchase agreement, if the credit for the goods is provided for as a separate charge and the charge is disclosed to the recipient of the goods; or
- (i) the arranging of any of the services in paragraphs (a) to (h);

“life insurance premiums” means consideration given or to be given in return for undertaking liability under a contract to pay annuities on human life.

“Non-profit body” means a society, association, or organisation, whether or not incorporated, that is carried on for charitable or religious purposes and none of the income or assets of which confers, or may confer, a private benefit on any person;

“Reinsurance” has the same meaning as in the Insurance Act 2008;

SECOND SCHEDULE ZERO-RATED SUPPLIES

1. The following are zero-rated supplies for the purposes of this Act—

- (a) a supply of any goods manufactured in Seychelles for the purpose of export and a supply of goods if the supplier has entered the goods for export under the Customs legislation and the goods have been exported from Seychelles by the supplier;
- (b) a supply of services directly in connection with temporarily imported goods;

For the purposes of this Part, goods are exported from Seychelles if the goods are delivered to, or made available at, an address outside Seychelles, and for this purpose evidence of—

- (i) the consignment or delivery of goods to an address outside Seychelles; or
- (ii) the delivery of the goods to the owner, charterer, or operator of a ship or aircraft supplying international transport services for the purposes of carrying the goods outside of Seychelles,

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

- (c) a supply of services provided by a licensee, licensed under the International Corporate Service Providers Act
- (d) a supply of goods or services by a business involved in the manufacture of tobacco, alcohol or petroleum products
- (e) a supply of telecommunications services if—
 - (i) the supply is made by a resident telecommunications supplier to a non-

resident telecommunications supplier;
or

(ii) the person who initiates the supply (including when the person initiates the supply on behalf of another person) does so while physically present outside Seychelles;

(f) a supply of services to a person who is outside Seychelles if —

(i) the services are directly related to land located outside Seychelles;

(ii) the services are physically performed on goods located outside Seychelles; or

(iii) the services are advertising services in relation to an enterprise carried on by the person outside Seychelles;

(g) a supply of services to a non-resident person who is outside Seychelles at the time of supply if —

(i) the services are physically performed outside Seychelles;

(ii) the services are radio or television broadcasting services received at an address outside Seychelles; or

(iii) the services are electronically supplied services delivered to a person who is outside Seychelles;

(h) a supply that is a grant, transfer, or assignment of a copyright, patent, licence, trademark, or similar right for use outside Seychelles;

- (i) a supply of services if the Revenue Commissioner is satisfied that the services are for use or consumption outside Seychelles;
- (j) a supply of international transport services; and
- (k) A supply of goods or services as part of the transfer of an enterprise, or part of an enterprise, as a going concern by a registered person to another registered person is a zero-rated supply if—
 - (i) all the goods or services necessary for the continued operation of the enterprise or part of the enterprise are supplied to the transferee;
 - (ii) the transferor carries on the enterprise until the day of transfer;
 - (iii) the transferee will not carry on the enterprise to make exempt supplies and will not use the goods or services for private use; and
 - (iv) the transferor and transferee agree in writing, on or before the date of the transfer, that it will be treated as a transfer of an enterprise or part of an enterprise as a going concern for the purposes of this Act.
- (l) a supply of a right or option to receive a supply that will be a zero-rated supply under paragraphs (a)-(k);
- (m) a supply of public utility services;

- (n) a supply of goods made by an operator of a Duty Free shop;
- (o) a supply of animal feed;
- (p) a supply of maritime services including maintenance and repairs of vessels as defined under the Harbour Act (Chapter 90) as new materials, spare parts and aids to manufacture;
- (q) a supply of Port Services, as defined by the Seychelles Ports Authority Act, 2004;
- (r) a supply of management and maintenance of facilities at aerodromes, as defined by the Seychelles Civil Aviation Authority Act, 2005;
- (s) a supply of goods by a person being an individual farmer or fisherman as registered with the Ministry responsible for Agriculture or Fisheries;
- (t) a supply of services by a Companies Special Licence registered under the Companies Special Licence Act.

2. In this Schedule—

“Ancillary transport services” means stevedoring services, lashing and securing services, cargo inspection services, preparation of customs documentation, container handling services, and the storage of transported goods or goods to be transported, but does not include such services supplied directly in connection with an aircraft or ship that is temporarily imported goods;

“Companies Special Licence” has the same meaning in the Companies Special Licence Act.

“Consumable stores” means —

- (a) goods for consumption by passengers or crew on board an aircraft or ship; or
- (b) goods that are necessary to operate or maintain an aircraft or ship, including fuel and lubricants, but not including spare parts and equipment;

“Fishery waters” has the meaning in Territorial Sea and Exclusive Economic Zone Act;

“Fishing craft” has the meaning in the Territorial Sea and Exclusive Economic Zone Act;

“Goods” includes unassembled goods which consist of the constituent parts of goods;

“International transport services” means the services, other than ancillary transport services, of transporting goods or passengers by land, sea, or air—

- (a) from a place outside Seychelles to another place outside Seychelles, including, if relevant, any part of the transport that takes place across the territory of Seychelles;
- (b) from a place outside Seychelles to a place of final destination within Seychelles; or
- (c) from a place within Seychelles where the transportation commences to a place outside Seychelles;

“Non-resident telecommunications supplier” means a supplier of telecommunications services who is a non-resident person as defined in the Business Tax Act;

“Resident telecommunications supplier” means a supplier of telecommunications services who is a resident person as defined in the Business Tax Act; and

“Temporarily imported goods” means goods temporarily imported into Seychelles under the Customs legislation.

THIRD SCHEDULE
POSITIVE LIST

The positive list for the purposes of section 7(5) includes:
Business or profession of

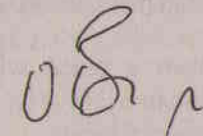
FOURTH SCHEDULE
RATE OF VAT

The rate of VAT for the purposes of section 6 is []%.

FIFTH SCHEDULE
REGISTRATION THRESHOLD

The registration threshold for the purposes of section 7 is [].

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 21st December, 2010.



Veronique Bresson
Clerk to the National Assembly