

maintains an independent system of accounting and can be separately identified by the nature of its activities or its location.

- (4) The registration of a branch or division under subsection (3) is subject to such conditions and restrictions as the Minister may deem fit.

Bodies of persons
(other than
incorporated
companies).

56. (1) This Act applies to a partnership as if the partnership were a person separate from the partners of the partnership, except that —
- (a) obligations that would be imposed on the partnership are instead imposed on each partner, but may be discharged by any of the partners;
 - (b) the partners are jointly and severally liable to pay any amount due under this Act that would be payable by the partnership; and
 - (c) any offence under this Act that would otherwise be committed by the partnership is taken to have been committed by each of the partners.
- (2) This Act applies to a partnership, unincorporated association or body as if it were a person separate from the members of the association or body, but the obligations that would be imposed on the association or body are instead imposed on each member of the committee of management of the partnership, unincorporated association or body, but may be discharged by any of those members.
- (3) Where —
- (a) a partnership, or unincorporated association or body is dissolved, referred to as the “dissolved entity”, 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 association or body comes into existence, referred to as the “new entity”, 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, for the purposes of this Act, are deemed to be one and the same, unless the Commissioner, having regard to the circumstances of the case, otherwise directs.

Death or
insolvency of
taxable person;
mortgagee in
possession.

57. (1) 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 or trustee of the person's estate or anything is done in connection with the termination of the taxable activity, the estate of the taxable person, as represented by the executor or trustee, is deemed for the purposes of this Act to be the taxable person in respect of the taxable activity.
- (2) Where a mortgagee is in possession of any land or other property previously mortgaged by a mortgagor who is a taxable person, and the mortgagee carries on a taxable activity in relation to the land or other property, the mortgagee is deemed, from the date the mortgagee took possession of that land or property until such time as the mortgagee ceases to be in possession of the land or property, to be the taxable person carrying on the taxable activity.

Trustee.

58. 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.

PART XIII – Records and Investigation Powers

- Interpretation. 59. In this Part, “records” means accounting records, accounts, books, computer-stored information, or any other documents.
- Record-keeping. 60. (1) Every taxable person or any other person liable for tax under this Act is required to maintain in Guyana—
- (a) original tax invoices, tax credit notes, and tax debit notes received by the person;
 - (b) a copy of all tax invoices, 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 Guyana; and
 - (e) any other records as may be prescribed by regulations.
- (2) Records required to be maintained under subsection (1) are required to be retained for seven years after the end of the tax period to which they relate.
- Access to records, computers, goods, and vehicles. 61. (1) Notwithstanding anything in the other provisions of this section, a taxation officer having a writ of assistance issued from the High Court (which is hereby authorised and requested to grant such writs upon application by the Commissioner) may by day or night, enter into and search any premises or place where records are kept and seize and bring away any such records which in the taxation officer’s opinion, may afford evidence that may be material in determining the liability of any person for tax payable under this Act, and may exercise all other powers that are exercisable under the provisions of this section by a taxation officer with a warrant.
- (2) Where the Commissioner 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 therein, he shall apply to the Magistrate for a warrant to allow a taxation officer –

- (a) without any 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 taxation officer suspects that any records are kept;
 - (c) to seize any records which in the taxation 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 they 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 therein;
 - (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 necessary to copy the information required; and
 - (g) to stop and board a vehicle which the taxation officer has reasonable cause to believe is importing goods into Guyana, search any such vehicle or any person found in the vehicle and question the person with respect to any matter dealt with in this Act.
- (3) A taxation officer who attempts to exercise a power under subsection (1) on behalf of the Commissioner 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 taxation officer does not produce an authorisation in writing from the Commissioner to the effect that the taxation officer is authorised to exercise that power under this section.
- (4) The owner, manager, or any other person lawfully on the premises or at the place entered or proposed to be

entered under this section is required to provide all reasonable facilities and assistance for the effective exercise of power under this section.

- (5) A person whose records or computer has been removed and retained under subsection (1) may examine them and make copies or extracts from them during regular office hours under such supervision as the Commissioner may determine.
- (6) A taxation officer exercising a power under subsection (1) may request the assistance of a police officer as the taxation officer may consider reasonably necessary and any such police officer shall render such assistance as may be required by the taxation officer.

Records not in
official language.

62. Where a record referred to in section 60 or 61 is not in English, the Commissioner may, by notice in writing, require the person keeping the record to provide at that person's expense a translation into English by a translator approved by the Commissioner for this purpose.

Notice to obtain
information or
evidence.

63. (1) The Commissioner may, by notice in writing, require a person, whether or not liable for 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 Commissioner (or any other taxation officer specifically authorised for this purpose by the Commissioner) concerning the tax affairs of that person or any other person, and at that time to produce any record or computer in the control of the person and relevant to the examination.
- (2) Where the notice requires the production of any record or computer, it is sufficient if such record or computer is described in the notice with reasonable certainty.
- (3) A notice issued under this section is required to be served by or at the direction of the Commissioner by a signed copy delivered–
- (a) by registered post;

entered under this section is required to provide all reasonable facilities and assistance for the effective exercise of power under this section.

- (5) A person whose records or computer has been removed and retained under subsection (1) may examine them and make copies or extracts from them during regular office hours under such supervision as the Commissioner may determine.
- (6) A taxation officer exercising a power under subsection (1) may request the assistance of a police officer as the taxation officer may consider reasonably necessary and any such police officer shall render such assistance as may be required by the taxation officer.

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 - (b) to attend at the time and place designated in the notice for the purpose of being examined on oath before the Commissioner (or any other taxation officer specifically authorised for this purpose by the Commissioner) concerning the tax affairs of that person or any other person, and at that time to produce any record or computer in the control of the person and relevant to the examination.
- (2) Where the notice requires the production of any record or computer, it is sufficient if such record or computer is described in the notice with reasonable certainty.
- (3) A notice issued under this section is required to be served by or at the direction of the Commissioner by a signed copy delivered—
- (a) by registered post;

- (b) by hand to the person to whom it is directed; or
- (c) left at the person's last and usual place of abode,

and the certificate of service signed by the person serving the notice is evidence of the facts stated therein.

- (4) 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.

PART XIV - Offences and Penalties

Division I: Criminal Offences

Power to bring criminal charges.

64. (1) Subject to the powers of the Director of Public Prosecutions under the Constitution, no criminal proceedings in respect of any offence under this Act shall be commenced except where the Commissioner determines to bring charges and prosecute.
- (2) Criminal proceedings under this Act shall be commenced in the name of the Commissioner in a court of summary conviction.

Time limits for proceedings to be taken.

65. Proceedings under this Division may be commenced –
- (a) where the offence alleged involves the doing of any act in violation of this Act, within three years after the discovery of the act;
- (b) where the offence alleged involves the failure to do any act as required under this Act, within three years after the Commissioner has become aware of such failure; or
- (c) where the offence alleged has involved the non-disclosure or incorrect disclosure by any person of information relating to that person's liability to tax for a tax period, within one year after his correct liability to tax has become final for that tax period.

Failure to apply for VAT registration.

66. A person who knowingly or recklessly fails to apply for VAT registration as required by section 11 (1), (7), or (8) commits an offence and is liable on conviction to a fine not exceeding twenty-five thousand dollars and imprisonment for a term not exceeding two years.

Improper VAT documentation.

67. (1) A person who knowingly or recklessly fails to furnish any import declaration as required by section 22 commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars and to imprisonment for a term not exceeding three years.
- (2) Where a person convicted of an offence under subsection (1) fails to furnish the import declaration within a further period specified by the Commissioner

by notice in writing, that person commits an offence and is liable on conviction to a fine of one thousand dollars for each day during which the failure continues and to imprisonment for three months.

- (3) A registered person who knowingly or recklessly fails to provide a tax invoice as required by section 28 commits an offence and is liable on conviction to a fine not exceeding fifteen thousand dollars and to imprisonment for a term not exceeding six months.
- (4) A person who knowingly or recklessly provides a tax invoice otherwise than as provided for in section 28 commits an offence and is liable on conviction to a fine not exceeding fifteen thousand dollars and to imprisonment for a term not exceeding two years.
- (5) A registered person who fails to provide a tax credit note or tax debit note as required by section 29 commits an offence and is liable on conviction to a fine not exceeding fifteen thousand dollars and to imprisonment for a term not exceeding six months.
- (6) A person who knowingly or recklessly provides a tax credit note or tax debit note otherwise than as provided for in section 29 commits an offence and is liable on conviction to a fine not exceeding fifteen thousand dollars and to imprisonment for a term not exceeding two years.
- (7) A person who knowingly or recklessly uses a false VAT registration number, including the VAT registration number of another person, on a return, notice, or other document prescribed or used for the purposes of this Act commits an offence and is liable on conviction to a fine not exceeding fifty thousand dollars and to imprisonment for a term not exceeding two years.
- (8) Subsection (7) does not apply to a person who uses the VAT registration number of another person with the permission of that other person on a return, notice, or other document relating to the tax affairs of that other person.

- False claim for VAT refund.
68. A person who knowingly or recklessly makes a false claim for refund under section 35 commits an offence and is liable on conviction to a fine not exceeding fifteen thousand dollars and to imprisonment for a term not exceeding six months.
- Failure to notify Commissioner of cessation of taxable activity.
69. (1) A person who fails to notify the Commissioner of a change in circumstances as required by section 12 (10) commits an offence and is liable on conviction—
- (a) where the failure was made knowingly or recklessly, to a fine not exceeding fifty thousand dollars and to imprisonment for a term not exceeding two years; or
- (b) in any other case, to a fine not exceeding twenty-five thousand dollars.
- (2) A person who fails to notify the Commissioner as required by section 13 (1) commits an offence and is liable on conviction —
- (a) where the failure was made knowingly or recklessly, to a fine not exceeding fifty thousand dollars and to imprisonment for a term not exceeding two years; or
- (b) in any other case, to a fine not exceeding twenty-five thousand dollars.
- Failure to comply with third-party payment notice.
70. (1) A person who fails to comply with a third-party payment notice under section 51 commits an offence and is liable on conviction to a fine not exceeding twenty-five thousand dollars and to imprisonment for a term not exceeding one year.
- (2) Where a person is convicted of an offence under subsection (1), the Court may, in addition to imposing a fine and imprisonment, order the convicted person to pay to the Commissioner an amount not exceeding the amount which the person failed to pay as required under section 51.
- (3) A person who fails to comply with a notice issued under section 63 commits an offence and is liable on conviction to a fine not exceeding fifteen thousand dollars and to imprisonment for a term not exceeding six months.

- Failure to comply with duties as receiver.
71. (1) A person who fails to comply with the requirements of section 52(4) commits an offence and is liable on conviction to a fine not exceeding twenty-five thousand dollars and to imprisonment for a term not exceeding one year.
- (2) Where a person is convicted of an offence under subsection (1) for failing to set aside an amount as required under section 52 (4), the Court may, in addition to imposing a fine and imprisonment, order the convicted person to pay to the Commissioner an amount not exceeding the amount which the person failed to set aside as required under section 52(4).
- Failure to file VAT return.
72. (1) A person who knowingly or recklessly fails to lodge a return as required by section 31 commits an offence and is liable on conviction to a fine not exceeding fifteen thousand dollars.
- (2) Where a person convicted of an offence under subsection (1) fails to lodge the return within a further period specified by the Commissioner by notice in writing, that person commits an offence and is liable on conviction to a fine of two thousand dollars for each day during which the failure continues and to imprisonment for three months.
- Failure to maintain proper records.
73. A person who knowingly or recklessly fails to maintain proper records in accordance with section 60 commits an offence and is liable on conviction to a fine not exceeding fifteen thousand dollars.
- Disclosure of confidential information.
74. A person who knowingly or recklessly contravenes the secrecy requirements of section 8 commits an offence and is liable on conviction to a fine not exceeding fifteen thousand dollars.
- False or misleading statements.
75. (1) A person who –
- (a) makes a statement to a taxation officer that is false or misleading in a material particular; or
- (b) omits from a statement made to a taxation officer any matter or thing without which the statement is misleading in a material particular,
- commits an offence and is liable on conviction –

- (c) where the statement or omission was made knowingly or recklessly, to a fine not exceeding fifteen thousand dollars and to imprisonment for a term not exceeding two years; or
 - (d) where the statement or omission was not made knowingly or recklessly, to a fine not exceeding fifteen thousand dollars.
- (2) A reference in this section to a statement made to a taxation officer is a reference to a statement made orally, in writing, or in any other form to that taxation officer acting in the performance of the taxation officer's duties under this Act, and includes a statement made —
- (a) in an application, certificate, declaration, notification, return, objection, or other document made, prepared, given, filed, lodged, or furnished under this Act;
 - (b) in any information required to be furnished under this Act;
 - (c) in a document furnished to a taxation officer otherwise than pursuant to this Act;
 - (d) in an answer to a question asked of a person by a taxation officer; or
 - (e) to another person with the knowledge or reasonable expectation that the statement would be conveyed to a taxation officer.
- (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.

Obstructing
taxation officers.

76. (1) A person who obstructs a taxation officer in the performance of the taxation officer's duties under this Act commits an offence and is liable on conviction to a fine not exceeding fifteen thousand dollars and to imprisonment for a term not exceeding two years.
- (2) A person who fails to provide a taxation officer with reasonable facilities and assistance as required by subsection 61 (3) commits an offence and is liable on

conviction to a fine not exceeding fifteen thousand dollars.

Offences by
taxation officers.

77. A taxation officer in carrying out the provisions of this Act who —

- (a) directly or indirectly asks for, or takes in connection with any of the taxation officer's duties a 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 taxation officer was lawfully entitled to receive; or
- (b) enters into or acquiesces in an agreement to do, abstain from doing, permit, conceal, or connive at an 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 taxation officer's duty,

commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars and to imprisonment for a term not exceeding five years, and the Court may, in addition to imposing a fine, order the convicted person to pay to the Commissioner an amount of tax that has not been paid as a result of the taxation officer's wrongdoing and which cannot be recovered from the person liable for the tax.

Offences by
companies, aiders
and abettors.

78. (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 a representative officer, director, general manager, secretary, 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 shall also be guilty of that offence and liable to the same penalties as the person committing the offence.

Compounding of offences.

79. (1) Where a person has committed an offence under this Act other than an offence under sections 74 or 77, the Commissioner may, with the approval of the Minister, at any time prior to the commencement of the court proceedings relating thereto, compound such offence and order the person to pay such sum of money as specified by the Commissioner, not exceeding the maximum amount of the fine prescribed for the offence.
- (2) The Commissioner may compound an offence under this section only if the person concerned admits in writing that the person has committed the offence, or requests in writing that the Commissioner so deal with the offence.
- (3) Where the Commissioner compounds an offence under this section, the order referred to in subsection (1) –
- (a) shall be in writing and shall have attached the written admission or request;
 - (b) shall specify –
 - (i) the offence committed;
 - (ii) the sum of money to be paid; and
 - (iii) the due date for the payment;
 - (c) shall be served on the person who committed the offence; and
 - (d) shall be final and not subject to any appeal.
- (4) When the Commissioner compounds an offence under this section, the person concerned shall not be liable for prosecution in respect of such offence or for a civil penalty under section 80, 82, 83, or 84.
- (5) The amount ordered to be paid under subsection (1) is recoverable as if it were tax due and payable.

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- (2) The Commissioner may compound an offence under this section only if the person concerned admits in writing that the person has committed the offence, or requests in writing that the Commissioner so deal with the offence.
- (3) Where the Commissioner compounds an offence under this section, the order referred to in subsection (1) –
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 - (d) shall be final and not subject to any appeal.
- (4) When the Commissioner compounds an offence under this section, the person concerned shall not be liable for prosecution in respect of such offence or for a civil penalty under section 80, 82, 83, or 84.
- (5) The amount ordered to be paid under subsection (1) is recoverable as if it were tax due and payable.

Division II: Civil Penalties

Civil penalty for failure to apply for VAT registration.

80. (1) A person who fails to apply for registration as required by subsection 11 (1), (7), or (8) is liable for 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 Commissioner.
- (2) No penalty is payable under subsection (1) where the person has been convicted of an offence under section 66 in respect of the same act or omission, or where an offence has been compounded under section 79.
- (3) If a penalty under subsection (1) has been paid and the Commissioner institutes a prosecution proceeding under section 66 in respect of the same act or omission, the Commissioner shall refund the amount of the penalty paid; and that penalty is not payable unless the prosecution is withdrawn.

Civil penalty for failure to declare or pay VAT on import.

81. (1) A person who fails to furnish any import declaration within the time required under this Act is liable for a penalty which is the greater of –
- (a) one thousand dollars per day for each day or part thereof that the import declaration remains outstanding; or
- (b) an amount equal to ten percent of the tax payable for the period of such import declaration, for each month or part thereof that the import declaration remains outstanding.
- (2) The penalty imposed under subsection (1) shall not exceed the amount of tax payable in respect of the import declaration.
- (3) A person who fails to pay tax payable on an import in accordance with section 22 on or before the due date is liable for a penalty in an amount equal to the greater of –
- (a) one thousand dollars per day for each day or part thereof that the tax remains outstanding; or
- (b) an amount equal to ten percent of the tax outstanding, for each month or part thereof that the tax remains outstanding.

- (4) The penalty imposed under subsection (3) shall not exceed the amount of unpaid tax.
- (5) A penalty paid by a person under subsection (3) shall 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.
- (6) A penalty imposed under subsection (3) is in addition to any interest payable under section 27.

Civil penalty for failure to file VAT return.

82. (1) A person who fails to lodge a return within the time required under this Act is liable for a penalty, which is the greater of –
- (a) one thousand dollars per day for each day or part thereof that the return remains outstanding; or
 - (b) an amount equal to ten percent of the tax payable for the period of such return, for each month or part thereof that the return remains outstanding.
- (2) The penalty imposed under subsection (1) shall not exceed the amount of tax payable in respect of the return.
- (3) No penalty is payable under subsection (1) where the person has been convicted of an offence under section 72 in respect of the same act or omission, or an offence has been compounded under section 79.

Civil penalty for failure to maintain proper records.

83. (1) A person who fails to maintain proper records in a tax period in accordance with the requirements of section 60 is liable for a penalty of one hundred dollars per day for each day or portion thereof that the failure continues.
- (2) No penalty is payable under subsection (1) where the person has been convicted of an offence under section 73 in respect of the same act or omission, or an offence has been compounded under section 79.
- (4) If a penalty under subsection (1) has been paid and the Commissioner institutes a prosecution proceeding under section 73 in respect of the same act or omission, the Commissioner is required to refund the

amount of civil penalty paid; and that civil penalty is not payable unless the prosecution is withdrawn.

Civil penalty for making false or misleading statements.

84. (1) Where a person knowingly or recklessly –
- (a) makes a statement to a taxation officer that is false or misleading in a material particular; or
 - (b) omits from a statement made to a taxation officer any matter or thing without which the statement is misleading in a material particular,
- and 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, the person is liable for a penalty equal to an amount determined by the Commissioner.
- (2) Section 75 (2) applies in determining whether a person has made a statement to a taxation officer.
- (3) No penalty is payable under this section where the person has been convicted of an offence under section 75 in respect of the same act or omission, or where an offence has been compounded under section 79.
- (4) If a penalty under this section has been paid and the Commissioner institutes a prosecution proceeding under section 75 in respect of the same act or omission, the Commissioner shall refund the amount of the penalty paid; and that penalty is not payable unless the prosecution is withdrawn.

Recovery or remission of penalties.

85. (1) Where good cause is shown, in writing, by the person liable for a civil penalty, the Commissioner may remit in whole or part any civil penalty payable.
- (2) Except as otherwise provided in this Act, the imposition of a civil penalty is in addition to any fine and imprisonment imposed as a result of a conviction for an offence under Division I of Part XIV.
- (3) Penalties may be assessed and collected as if the amount of penalty is tax due under this Act.
- (4) A person dissatisfied with a decision of the Commissioner under subsection (1) may challenge the decision only under Part X.

Temporary closure
of business
premises.

86. (1) Where a person repeatedly violates —

- (a) section 67 in relation to tax invoices,
- (b) section 67 in relation to tax debit notes or tax credit notes;
- (c) section 72 by failing to file returns;
- (d) section 68 by falsely claiming tax refunds;
- (e) section 76 by obstructing taxation officers; or
- (f) section 22 or 42 by failing to pay tax when due;

after obtaining an order of a court having jurisdiction in respect of the person, the Commissioner may forcibly close one or more business premises of the person for a period of between three and thirty days.

(2) For purposes of subsection (1), the Commissioner 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 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 —

- (a) that a violation of such kind has been committed more than once within the year preceding the year of the warning, and
- (b) that repetition may result in closure under this section.

PART XV – Miscellaneous

- Vat registration number.
87. The Commissioner may require a person to include the Tax Identification Number (TIN) issued to the person as the VAT registration number issued by the Commissioner to that person, or may require the use of a different number as the VAT registration number, in any return, notice, or other document prescribed or used for the purposes of this Act.
- Forms and notices; authentication of documents.
88. (1) Forms, notices, returns, and other documents prescribed or published by the Commissioner may be in such form as the Commissioner determines for the efficient administration of this Act.
- (2) The Commissioner is required to make the documents referred to in subsection (1) available to the public.
- (3) A notice or other document issued, served, or given by the Commissioner under this Act is sufficiently authenticated if the name or title of the Commissioner, or authorised taxation officer, is printed, stamped, or written on the document.
- Services of notices.
89. (1) Unless otherwise provided in this Act, a notice required by this Act to be in writing shall be served on the recipient of the notice.
- (2) A notice mentioned in subsection (1) is considered sufficiently served –
- (a) on a person being an individual other than in a representative capacity, if it is –
- (i) personally served on that person;
- (ii) left at the person's usual or last known place of abode, office, or place of business in Guyana; or
- (iii) 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 Guyana; or
- (b) on any other person, if it is –
- (i) personally served on the representative of the person;

- (ii) left at the registered office of the person or the person's address for service of notices under this Act; or
- (iii) where there is no such office or address, left at or sent by registered post to an office or place of business of the person in Guyana.

Tax-inclusive
pricing.

90. (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), 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 is required to include tax and to state in the advertisement or quotation that tax is included.
- (3) A taxable person may advertise or quote a price in respect of a taxable supply as exclusive of tax provided –
- (a) the advertisement or quotation also states the amount of tax charged on the supply and the price inclusive of tax; and
 - (b) the price inclusive of tax and the price exclusive of tax are advertised or quoted with equal prominence or impact.
- (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 Commissioner may in the case of a taxable person or class of taxable person approve any other method of displaying prices of goods or services by such persons.

Schemes for
obtaining tax
benefits.

91. (1) In this section –
- "scheme" includes an agreement, arrangement, promise, or undertaking whether express or implied and whether or not legally enforceable, and a plan, proposal, course of action, or course of conduct; and

- (ii) left at the registered office of the person or the person's address for service of notices under this Act; or
- (iii) where there is no such office or address, left at or sent by registered post to an office or place of business of the person in Guyana.

Tax-inclusive
pricing.

90. (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), 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 is required to include tax and to state in the advertisement or quotation that tax is included.
- (3) A taxable person may advertise or quote a price in respect of a taxable supply as exclusive of tax provided –
- (a) the advertisement or quotation also states the amount of tax charged on the supply and the price inclusive of tax; and
 - (b) the price inclusive of tax and the price exclusive of tax are advertised or quoted with equal prominence or impact.
- (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 Commissioner may in the case of a taxable person or class of taxable person approve any other method of displaying prices of goods or services by such persons.

Schemes for
obtaining tax
benefits.

91. (1) In this section –
- "scheme" includes an agreement, arrangement, promise, or undertaking whether express or implied and whether or not legally enforceable, and a plan, proposal, course of action, or course of conduct; and

"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 credit or refund;
 - (c) any postponement of liability for the payment of value-added tax;
 - (d) any acceleration of a deduction for input tax; or
 - (e) any other avoidance or benefit from the delay in payment of tax or acceleration of a deduction for input tax.
- (2) Notwithstanding anything in this Act, if the Commissioner 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 Commissioner 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 Commissioner considers appropriate for the prevention or reduction of the tax benefit.

Currency
conversion.

92. (1) For the purposes of this Act, all amounts of money are to be expressed in dollars.
- (2) Where an amount is expressed in a currency other than dollars --
- (a) in the case of imports, the amount shall be converted at the exchange rate as determined in accordance with section 22 (2)(c) of the Customs Act; or

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- (b) in all other cases, the amount shall be converted at the exchange rate applying between the currency and the dollar at the time the amount is taken into account under this Act.

Registration of certain goods prohibited in certain circumstances.

93. (1) For purposes of this section, “registering authority” means a person appointed under a law to issue a licence, permit, certificate, concession, or other authorisation.
- (2) Where a form of registration is required under a law in respect of goods consisting of an aircraft, boat, fishing vessel, ship, yacht, motor cycle, motor vehicle, tractor, caravan, 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 Guyana of registrable goods unless the person applying for registration produces to such registering authority –
- (a) in the case of registrable goods that –
- (i) form the subject of any supply, or
- (ii) are imported into Guyana,
- a document issued by the Commissioner showing that tax which is payable under this Act has been paid in respect of such supply or importation into Guyana, or a receipt or certificate showing that no tax is payable under this Act in respect of such supply or importation, as the case may be, of the registrable goods in consequence of which the registration is required;
- (b) a declaration, in such form as the Commissioner 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; or

- (c) a certificate issued by the Commissioner, or other documentation acceptable to the Commissioner, to the effect that the supply or import of the registrable goods was an exempt supply or exempt import, as the case may be.

Auctioneer and agent.

94. (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 is required to 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 is required to recover that tax from the purchaser.
95. (1) The Minister may make regulations —
- (a) for matters that under this Act are to be prescribed by regulations, as specified in sections 4(13), 9(1), 11(5), 30(2), 35(3), 35(5), 37(1), 49(4), 60(1)(e), 100(12), Schedule II paragraph 2(a), Schedule II paragraph 2(b), Schedule IV paragraph 1, or
 - (b) whether or not to be prescribed by regulations under this Act, for any matters necessary or convenient to be prescribed for the better carrying out or giving effect to this Act, including revisions to the Schedules hereto,
- and without prejudice to the generality of the foregoing, such regulations may contain provisions of

a saving or transitional nature consequent on the coming into force of this Act.

- (2) Regulations made under this Act may prescribe specific offences for breach of the regulations, and the penalties therefor, but such penalties may not exceed a fine of one hundred thousand dollars and imprisonment for a term of five years.
- (3) Subject to subsection (4), regulations made under this Act are subject to an affirmative resolution of the National Assembly.
- (4) Regulations pertaining to the description of the nature and form of filing and documentation requirements, including but not limited to those specified in 35(3), 35(5), and 60(1)(e), may be issued by the Minister by way of notice in the Gazette.

Variation of
consideration on a
change in rate.

96.

(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, notwithstanding anything to the contrary in any agreement or law, 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, notwithstanding anything to the contrary in any agreement or law, is required to 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 pursuant to, any Act, regulation, or measure having force of law, that fee, charge, or other amount may be increased or shall 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 an Act, regulation, or measure having force of law to take account of an imposition, increase, decrease, or withdrawal of tax.
- (5) Nothing in subsection (3) shall be construed so as to permit a further increase or require a 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.

Application of interested or reduced rate.

97. (1) Where goods, other than immovable property, are provided by a supplier before the date on which a change in the rate of tax levied under section 9(1)(a) becomes effective in respect of the supply of the goods or the date on which the tax is imposed or withdrawn in respect of the supply, and the supply is treated under section 14 as having been made on or after the said date, then in the case of -
 - (a) a change in rate on the said date, the rate of tax applicable to the supply is the rate applicable immediately before the said date;
 - (b) the imposition of tax on the said date, the supply is treated as not being subject to tax; or
 - (c) the withdrawal of the tax on the said date, the supply is deemed to be subject to tax as if the tax had not been withdrawn.

(2) Where –

- (a) services are performed; or
- (b) goods, other than immovable property, are provided in respect of a successive supply contemplated in section 14 (8) or (9),

during a period beginning and ending before the date on which a change in the rate of tax levied under section 9 (1) (a) becomes effective in respect of the supply of the goods or the date on which the tax is imposed or withdrawn in respect of the supply, and the supply is deemed under section 14 to have been made on or after the said date, then in the case of –

- (c) a change in rate on the said date, the rate of tax applicable to the supply is the rate applicable immediately before the said date;
- (d) the imposition of tax on the said date, the supply is treated as not being subject to tax; or
- (e) the withdrawal of the tax on the said date, the supply is deemed to be subject to tax as if the tax had not been withdrawn.

(3) Where –

- (a) services are performed; or
- (b) goods, other than immovable property, are provided in respect of a successive supply contemplated in section 14 (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) becomes effective in respect of the supply of the goods or the date on which the tax is imposed or withdrawn in respect of the supply, and the supply is deemed under section 14 to have been made on or after the said date, the value of the supply shall, on the basis of a fair and reasonable apportionment, be deemed to consist of a part, referred to as the “first part”, relating to the performance of services or provision of goods before the said date and a part, referred to as the “second part”, relating to the performance of services or provision of goods on or after the said date.

- (4) For purposes of subsection (3), in the case of –
- (a) a change in the rate on the said date, the tax payable in respect of the first part shall be determined at the rate applicable before the said date and the tax payable in respect of the second part shall be determined at the rate applicable on the said date;
 - (b) the imposition of tax on the said date, the first part shall not be subject to tax; or
 - (c) the withdrawal of the tax, the first part shall be subject to tax as if the tax had not been withdrawn.
- (5) For the purposes of subsections (1), (2), and (3), 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.
- (6) Subject to section 100, where, before the date on which an increase in the rate of tax becomes effective, a written agreement is concluded for –
- (a) the sale of immovable property consisting of –
 - (i) a dwelling together with land on which it is erected, or of any real right conferring a right of occupation of a dwelling; or
 - (ii) land, or of any real right conferring a right of occupation of land for the sole or principal purpose of the erection by or for the purchaser of a dwelling or dwellings on the land, as confirmed by the purchaser in writing; or
 - (b) the construction of a new dwelling by a taxable person carrying on a construction business, and –
 - (c) the price of the sale or construction in question was determined and stated in the agreement which was in operation before the said date and signed by the parties thereto before that date; and

- (d) the supply of such immovable property or construction services under the said agreement is deemed under section 14 to have been made on or after the said date,

the rate of tax levied under section 9 on that supply shall be the rate at which tax would have been levied had the supply taken place on the date on which such agreement was concluded.

Orders to amend Schedules or change amounts.

98. (1) The Minister may by order –
- (a) amend the Schedules; or
- (b) increase or decrease any monetary amount set out in this Act.
- (2) An order under subsection (1) shall be subject to affirmative resolution of the National Assembly.

Repeal of laws and interpretation.

99. The Acts specified in Schedule V and any regulations made thereunder are hereby repealed, except to the extent and for the purposes set forth in the transitional rules of section 100 or regulations made under this Act.

Transitional.

100. (1) In this section –
- “qualifying goods” means any stock held for sale in the ordinary course of business;
- “repealed legislation” means the legislation referred to in section 99; and
- “consumption tax” means the tax imposed under the Consumption Tax Act.

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- (2) The repealed legislation, including the laws 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 operation pursuant to section 1.
- (3) An oath of secrecy taken under the repealed legislation is treated as having been taken under 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