

Regulations No. 11 of 2005

Monday 31st October, 2005

GUYANA

Regulations No. 11 of 2005

REGULATIONS

Made Under

THE VALUE-ADDED TAX ACT 2005

No. 10 of 2005

**IN EXERCISE OF THE POWERS CONFERRED
UPON ME BY SECTION 95 OF THE VALUE-
ADDED TAX ACT 2005 I HEREBY MAKE
THE FOLLOWING REGULATIONS:-**

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
2. Rate of tax under section 9(1) of the Act.
3. Registration threshold.
4. Criteria for voluntary registration.
5. Sales invoices.
6. Form and manner of filing returns.
7. Credit carry forward and refund claims.
8. Refunds for International Organizations and departing nonresidents.
9. Recordkeeping requirements.
10. Printing and use of tax invoices.
11. Financial services.
12. Medical services.

Citation.

1. These Regulations may be cited as the Value-Added Tax Regulations 2005.

Rate of tax under section 9(1) of the Act.

2. The tax imposed under section 9(1) of the Act shall be at a rate of sixteen percent (16%).

Registration threshold.

3. For the purposes of section 11(1) (a) and (b) and Schedule IV, paragraph (1), of the Act the registration threshold shall be \$10,000.000.00

Criteria for voluntary registration.

4. An approval of an application for voluntary registration under section 11(5) of the Act may be granted by the Commissioner where the applicant satisfies the following conditions –
 - (a) that the applicants' business and business location are identifiable and the address and other information of the applicant or his agent are provided to the Commissioner's satisfaction;
 - (b) that the applicant demonstrates to the Commissioner's satisfaction that the recordkeeping requirements of section 60 of the Act have been or are likely to be met;
 - (c) that the applicant demonstrates to the Commissioner's satisfaction an intention to make taxable supplies. Where the applicant's business operations have not yet begun at the time of application, or if the applicant has carried on the business for less than a calendar year, evidence of bank loans and revenue projections, contracts or other details of arrangements to make taxable supplies, feasibility studies, purchase of capital equipment, and similar information may be accepted by the Commissioner as evidence that the applicant intends to make taxable supplies.

Sales invoices.

5. A sales invoice under section 28 of the Act is a document executed in the form required by the Commissioner that includes the following information -
- (a) the name, address, and VAT registration number of the registered person making the supply;
 - (b) a description sufficient to identify the goods supplied or services rendered;
 - (c) the price of the supply;
 - (d) the amount of VAT if separately stated; and
 - (e) the issue date of the sales invoice.

Form and manner of filing returns.

6. In addition to the information required by section 31(2)(b) of the Act, a VAT return shall be accompanied with the documentation determined by the Commissioner and shall include the following information—
- (a) the legal name of the registered person making the return, and the registered person's trade name, if different from the legal name;
 - (b) the VAT registration number.

Credit carry forward and refund claims.

7. (1) If a taxpayer in a credit position is entitled to claim a refund under section 35 of the Act, the claim shall be submitted in the form and with the documentation determined by the Commissioner, including the following information—
- (a) the legal name of the registered person making the claim, and the registered person's trade name, if different from the legal name;
 - (b) the VAT registration number of the registered person making the supply;
 - (c) the amount of the refund claimed, the period

or periods in which the credit arose, the periods, if any, to which the credit was carried and portions of it were claimed.

- (2) A person who provides false information under this regulation or regulation 6 or 8 commits an offence and is liable on summary conviction to a fine of \$25000.00 and to imprisonment for one month.

Refunds for international organizations and departing nonresidents.

8. (1) A claim for refund under section 37(1) of the Act, shall be submitted in the form and with the documentation determined by the Commissioner and shall include the following information—

- (a) the name of the person making the claim;
- (b) except in the case of claims made under section 37(1)(d) of the Act, the taxpayer's identification number; and
- (c) the amount of the refund claimed, with a list of the eligible supplies and imports giving rise to the claim, along with the related sales or tax invoices.

- (2) Tax on supplies and imports is refundable under section 37(1) of the Act only if the supplies and imports are related to the basis for the refund claimed under section 37(1) -

- a) In the case of refunds permitted by section 37(1)(a) of the Act, eligible supplies and imports that are customary under law;
- b) In the case of refunds permitted by section 37(1)(b) of the Act, eligible supplies and imports are those relating to the official purposes of the diplomatic or consular mission, including —
 - i) Office supplies and equipment;
 - ii) Furniture and equipment for use on consular or diplomatic premises;
 - iii) Official receptions and meals hosted at hotels and restaurants with a cost exceeding the amount specified in Schedule IV, paragraph (6);
 - iv) Vehicles and fuel for official use; and
 - v) Telephone, electricity, and other utility

services supplied to the mission's business premises.

- c) In the case of refunds permitted by section 37(1)(c) of the Act, eligible supplies and imports are those specified in the claimant's agreement;
- d) In the case of refunds permitted by section 37(1)(d) of the Act, eligible supplies of goods to a departing nonresident exporting the goods in accompanied baggage are supplies of any goods obtained while in Guyana, provided that the total tax on the exported supplies is greater than the amount specified in Schedule IV, paragraph (6).

- (3) Upon application in the form specified by the Commissioner, a person entitled to receive refunds under section 37(1) (a), (b), or (c) of the Act shall be issued a taxpayer's identification number for use in making VAT refund claims. The Minister may, after consultation with the Commissioner, from time to time publish by notice in the Gazette names of persons entitled to such refunds.

Recordkeeping requirements.

- 9. The accounting records relating to taxable activities carried on in Guyana under section 60(1) of the Act include the following -
 - (a) sales invoices issued under section 28(2) of the Act and a record listing and summarising sales transactions of less than \$10000.00;
 - (b) a record of supplies taken by the taxable person for personal use, or given free of charge for nominal considerations to other persons;
 - (c) records listing and summarising cash receipts and cash payments in respect of daily transactions;
 - (d) stock records in respect to opening and closing stock;
 - (e) purchases and sales ledgers;

- (f) income and expense accounts;
- (g) till rolls and tapes;
- (h) bank statements;
- (i) copies of customs import and export documents;
- (j) computer records;
- (k) any other records related to the business including correspondence and audit reports.

Printing and use of tax invoices.

10. In pursuance of the provisions of section 95 of the Act -

- (a) the Commissioner shall require a taxable person to first seek the Commissioner's permission in writing or in electronic form for the use of invoices before they are utilised;
- (b) invoices referred to in paragraph (a) shall bear the sequential numbers approved by the Commissioner;
- (c) only a registered person authorised by the Commissioner or a printing agency authorised by the Commissioner shall print and issue tax invoices in the form determined by the Commissioner;
- (d) invoices which contain particulars of goods and services, which are exempt or zero-rated along with taxable supplies, to show such goods and services separately on the invoice, along with a separate total for such goods and services;
- (e) a person not authorised to print tax invoices by the Commissioner commits an offence if he prints such invoices and shall be liable on conviction to a sum of fifty thousand dollars and six months imprisonment.

Financial services.

11. (1) A supply of financial services is exempt from tax under Schedule II, paragraph 2(a), whether provided for explicit or implicit fees.

- (2) The financial services exempt under Schedule II, paragraph (2) are the following -

- (a) granting, negotiating, and dealing with loans, credit, credit guarantees, and any surety for money, including management of loans, credit, or credit guarantees by the grantor; or
- (b) transactions concerning money (including the exchange of currency), deposit, savings, and current accounts, payments, transfers, debts, cheques, or negotiable instruments, other than debt collection and factoring; or
- (c) provision of credit under a hire purchase agreement or sale of goods, but only if the credit is provided for a separate charge, and the separate charge is disclosed to the recipient of the goods; or
- (d) the provision, or transfer of ownership, of an insurance policy, or the provision of reinsurance in respect of any such policy, whether the services are performed by insurers, brokers or insurance agents; or
- (e) the management of investment funds, including transactions involving an interest in a benefit fund, provident fund, pension fund, retirement annuity fund, or preservation fund; or
- (f) transactions by issuers, brokers, or dealers involving shares, stock, bonds, and other securities, but not including custody services.

(3) In this regulation -

"cheque" includes a postal order, a money order, a traveler's cheque, or any order or authorization (whether in writing, by electronic means, or otherwise) to a financial institution to credit or debit any account;

"currency" means any banknote or other currency of any country, other than when used as a collector's piece, investment article, item of numismatic interest, or otherwise than as a medium of exchange;

"insurance policy" means insurance cover under a policy treated as general insurance business or as long-term insurance business under the Insurance Act;

- (4) Financial services that are listed as exempt under this regulation are exempt, whether rendered by a registered bank or financial institution or by any other person.
- (5) Some services are not exempt under Schedule II, paragraph 2(a), whether or not they are rendered in connection with an exempt financial service. They include the following -
 - (a) legal, accounting and record package services, actuarial, notary, and tax agency services (including advisory services) when rendered to a supplier of financial services or to a customer of that supplier of financial services;
 - (b) Safe custody for cash, documents, or other items;
 - (c) data processing and payroll services;
 - (d) debt collection or factoring services;
 - (e) trustee, financial advisory, and estate planning services; and
 - (f) leases, licenses, and similar arrangements relating to property other than a financial instrument.
- (6) For purposes of sub-regulation (5) of this regulation, accounting and record package services include a financial clearing system that may be part of the settlement process, the posting of financial transactions to customers' accounts, the maintenance of customers' accounts, and the rendering of services ancillary to the services just described.
- (7) The mere acquisition of a debt is not a taxable transaction, including debt acquired by a factor. The services related to debt recovery, litigation, and the management of the recovery of the amount due from debtors are taxable, including sales accounting services under a factoring arrangement and other services related to factoring.

- (8) The exemption for financial services extends to the premiums for insurance cover under an insurance policy, but not to broker's fees or commissions charged on the premium.
- (9) The premium on an insurance policy is exempt only if the premium is charged on a policy issued by a person who is licensed to issue such policies under the Insurance Act.
- (10) An insurance policy does not include insurance cover on a warranty in respect of the quality, fitness or performance of tangible property.

Medical services.

12. (1) *Schedule II*, paragraph 2(b) exempts the supply of prescription drugs and medical services. Medical services are exempt, whether provided with or without charge and whether paid for by the patient or resident or any third party, if the medical services meet two conditions -
 - (a) they are rendered in a qualified medical facility or by a qualified medical practitioner (or under the supervision of a qualified medical practitioner), or both, and
 - (b) they qualify as exempt medical services in this regulation.
- (2) A qualified medical facility is the office of a qualified medical practitioner. It includes a registered hospital, maternity home, nursing home, convalescent home, hospice, clinic or clinical laboratory.
- (3) A qualified medical practitioner is a person who is registered as being qualified under the Medical Practitioner's Act. Persons qualified to perform medical, dental, nursing, convalescent, rehabilitation, midwifery, or paramedical services are deemed to be medical practitioners.
- (4) Medical services involve the diagnosis, treatment, prevention, or amelioration of a disease, including the promotion of mental health, but do not include

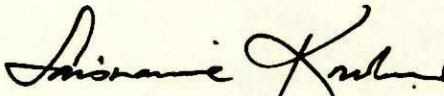
services for cosmetic reasons other than those required in connection with a disease, trauma, or congenital deformity.

- (5) The services provided to a resident or patient staying in a qualified medical facility are considered medical services for purposes of this regulation, including meals and accommodations, nursing and personal care, and assistance with daily living activities to meet the needs of the resident or patient, provided that the purpose of the residency is the provision of medical services.
- (6) The following services are exempt medical services –
 - (a) medicines and drugs that are administered in a hospital or clinic, or by hospice;
 - (b) laboratory, x-ray, magnetic resonance imagery, sonogram, or other imaging services or other diagnostic services;
 - (c) medical devices provided as part of the supply of qualified medical services;
 - (d) the use of operating rooms, case rooms, or anesthetic facilities, including necessary equipment or supplies;
 - (e) the use of radiotherapy, physiotherapy, or occupational therapy facilities in rendering exempt medical services;
 - (f) services rendered by the medical facility staff (including orderlies or technicians) in connection with exempt medical services;
 - (g) dental, periodontal, and endodontal services rendered in connection with a disease, trauma, or congenital deformity, but not for general dentistry or for cosmetic reasons; and
 - (h) psychoanalytic services.
- (7) Medical devices and their components are those supplied to a resident or patient in a qualified medical facility, or supplied on prescription in connection with the rendition of qualified medical services,

including—

- (a) a respiratory or heart monitor, dialysis machine, or feeding utensil for use by an individual with a disability;
 - (b) a medical or surgical prosthesis or orthopedic aid provided as part of the rendition of qualified medical services; and
 - (c) an item of medical or surgical equipment sold or rented by a qualified medical facility or a qualified medical practitioner to a patient or resident.
- (8) Drugs and medications are prescription drugs exempt from tax if they are—
- (a) prescribed by a doctor for treatment, prevention, or amelioration of a disease, including the promotion of mental health, and
 - (b) are available only by prescription.

Made this 31st day of October 2005


Minister of Finance