

Zambia

Value Added Tax Act, 1995

Chapter 331

Legislation as at 31 December 1996

FRBR URI: /akn/zm/act/1995/4/eng@1996-12-31

There may have been updates since this file was created.

PDF created on 18 March 2024 at 07:34.

Collection last checked for updates: 31 December 1996.

[Check for updates](#)



About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

www.laws.africa
info@laws.africa

There is no copyright on the legislative content of this document.
This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

Value Added Tax Act, 1995
 Contents

Part I – Preliminary 1

 1. Short title 1

 2. Interpretation 1

 3. Application of this Act to partnerships 3

 4. Application of this Act to unincorporated organisations 3

 5. Application of this Act to groups of companies 4

 6. Application of this Act to Government agencies 5

Part II – Value added tax 5

 7. Taxable supplies 5

 8. Imposition and scope of tax 5

 9. Rate of tax 6

 10. Taxable value of supplies and importations 6

 11. Place of supply of goods 6

 12. Place of supply of services 7

 13. Time of supply of goods or services 8

 14. Time of importation 8

 15. Exemptions and zero-ratings 8

Part III – Accounting for and payment of tax 9

 16. Tax returns 9

 17. Late lodgment of returns 9

 18. Tax deductions and credits 9

 19. Payment of tax or credit 10

 20. Interest on overdue tax 11

 21. Assessment of tax 11

Part IV – Default in payment of tax 11

 22. Recovery of tax and interest 11

 23. Attachment of debts, etc. 12

 24. Security and production of evidence 12

 25. Requirement for early payment 12

 26. Distress 13

Part V – Registration of suppliers 13

 27. Register of suppliers 13

 28. Registration 14

 29. Failure to register, etc. 14

Part VI – Appeals	14
30. Value Added Tax Appeals Tribunal	14
31. Appeals to Tribunal	15
32. Determination of appeals	16
Part VII – Administration and enforcement	16
33. Functions of Authority	16
34. Delegation by Commissioner-General	16
35. Authorised officers	16
36. Taking of samples	16
37. Furnishing of information and production of documents	17
38. Entry and search	18
39. Obstruction of authorised officers	18
40. Impersonation of authorised officers	18
41. Immunity of authorised officers	19
Part VIII – Miscellaneous	19
42. Records and accounts	19
43. False returns and statements	19
44. Evasion of taxation	19
45. Fine in lieu of prosecution	19
46. Advertised retail prices to include tax	20
47. Adjustment of contracts on changes in tax	20
48. Priority of tax debts in bankruptcy	20
49. Evidence by certificate	20
50. Schemes for obtaining undue tax benefits	21
51. Regulations	21
52. Administrative rules	22
53. Transitional registration provisions	22
54. Other transitional provisions	23
55. Repeal of Cap. 663 of the 1971 edition and Act No. 25 of 1990	23
First Schedule (Section 15)	23
Second Schedule (Section 15)	27

Zambia

Value Added Tax Act, 1995

Chapter 331

Published

Commenced on 1 May 1995

[This is the version of this document as it was at 31 December 1996 to 31 March 1997.]

[Amended by [Value Added Tax \(Exemptions\) Order, 1996 \(Statutory Instrument 22 of 1996\)](#) on 27 January 1996]

[Amended by [Value Added Tax \(Exemptions\) \(No. 2\) Order, 1996 \(Statutory Instrument 25 of 1996\)](#) on 27 January 1996]

[Amended by [Value Added Tax \(Exemptions\) \(No. 3\) Order, 1996 \(Statutory Instrument 27 of 1996\)](#) on 1 April 1996]

[4 of 1995; Statutory Instruments 88 of 1995; 91 of 1995; 103 of 1995; 108 of 1995; 122 of 1995; 146 of 1995; 150 of 1995; 22 of 1996; 27 of 1996; 79 of 1996; 110 of 1996; 11 of 1997; 16 of 1997]

An Act to impose a tax on the supply of goods and services in Zambia and the importation of goods into Zambia; to repeal the Sales Tax Act and the Insurance Levies Act; and to provide for matters connected with or incidental to the foregoing.

Part I – Preliminary

1. Short title

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

*The Value Added Tax Act came into operation on 1st May 1995. For the purposes of this Act, 1st July, 1995 is appointed as the tax commencement day. (S.I. No. 58 of 1995)

2. Interpretation

(1) In this Act, unless the context otherwise requires—

"**authorised officer**" means a person appointed under section thirty-five to be an authorised officer for the purposes of this Act;

"**Authority**" means the Zambia Revenue Authority established by the Zambia Revenue Authority Act;

"**Commissioner-General**" means the Commissioner-General appointed under the Zambia Revenue Authority Act;

"**exempt importation**" means an importation of goods described in the First Schedule;

"**exempt supply**" means a supply of goods or services described in the First Schedule;

"**goods**" means any article or substance of value, any immovable property and any interest in land, but does not include money, securities or any chose in action;

"**Government agency**" means—

- (a) any Ministry or Department of the Government;
- (b) any statutory corporation or board; or
- (c) any local authority.

"**importation of goods**" includes any dealing with goods that renders the goods liable to any duty or other impost under the Customs and Excise Act;

"**input tax**" has the meaning ascribed to it in section eighteen;

"**prescribed accounting period**", in relation to a taxable supplier, means the accounting period determined under section sixteen that is applicable to that supplier;

"**prescribed interest rate**" means the rate that exceeds, by two *per centum per annum*, the commercial bank lending rate for the time being determined by the Bank of Zambia, except where the Minister, by statutory order, determines a lower rate;

"**registered**" means registered under Part V;

"**supplier**" means—

- (a) a person, corporation, partnership or organisation that supplies goods or services; or
- (b) any Government agency.

"**supply of a service**" includes—

- (a) the provision of goods on lease, hire or loan;
- (b) a treatment of any goods;
- (c) any other activity which the Minister, by regulation, declares to be the supply of a service for the purposes of this Act;

but does not include—

- (i) the provision of any service without consideration, except in so far as the Minister, by regulation, otherwise determines; or
- (ii) any other activity which the Minister by regulation declares not to be a supply of a service for the purposes of this Act.

"**supply of goods**" means—

- (a) a sale of goods;
- (b) a gift of goods;
- (c) where goods are obtained by a taxable supplier for the purposes of a business carried on by him or are, in the course of such a business, manufactured or produced for supply, an appropriation or transfer of possession of the goods—
 - (i) for his own use or consumption, or for use or consumption by him and others; or
 - (ii) for use or consumption by his employees or partners, or otherwise in connection with a business carried on by him; or
- (d) any other dealing with the goods (other than the supply, in relation thereto, of a service) which the Minister, by regulation, declares to be a supply of the goods for the purposes of this Act;

but does not include an importation of the goods, or any dealing with the goods which the Minister, by regulation, declares not to be a supply of the goods for the purposes of this Act;

"**tax**" means value added tax imposed by section eight or additional tax payable under section seventeen, and "taxation" shall be construed accordingly;

"**tax commencement day**" means such day, being the first day of a month, as the Minister may, by statutory order, appoint;

"**tax invoice**" means an invoice, showing such particulars as the Commissioner-General may, by administrative rule, prescribe, relating to a taxable supply of goods or services;

"**tax return**" means a return referred to in section sixteen;

"**taxable importation**" means an importation of goods that takes place in Zambia after the tax commencement day, other than an exempt importation;

"**taxable supplier**" means a person who is required by this Act to be registered;

"**taxable supply**" has the meaning ascribed to it in section seven;

"**taxable value**", in relation to goods or services supplied, or goods imported, means their taxable value ascertained in accordance with section ten;

"**Tribunal**" means the Value Added Tax Appeals Tribunal established by this Act;

"**zero-rated supply**" means a supply of goods or services described in the Second Schedule.

- (2) In this Act, a reference to a supply of goods or services in the course of a business includes a reference to a supply of goods or services for the promotion, or otherwise in furtherance of a business.

[Cap. 321; Cap. 322]

3. Application of this Act to partnerships

- (1) Where a firm consisting of two or more individuals in partnership is a registered supplier, the firm shall be taken, for the purposes of this Act, to be the supplier of any goods and services supplied in the course of the business of the firm; but in default of such registration, each partner shall be deemed to be the supplier of any such goods and services.
- (2) Without prejudice to any other law providing for the sufficiency of any means of giving notice to a partnership, any notice of assessment or other notice given under this Act to a partnership may be addressed to the partnership in the name under which it is registered under this Act.
- (3) Subject to this section, in determining for the purposes of this Act whether any goods or services are supplied to, or by, a partnership, no account shall be taken of any change in the partnership.
- (4) Without prejudice to the operation of any law providing for the imposition of liability on members of a partnership, until the date on which a change in the partnership is notified to the Commissioner-General, a person who has ceased to be a member of a partnership shall be regarded as continuing to be a partner for the purposes of this Act and, in particular, for the purpose of any liability for tax or interest due from the partnership under this Act.
- (5) Where a person ceases, for the purposes of this Act, to be a member of a partnership, any notice of assessment or other notice given to the partnership under this Act that relates to any matter—
- (a) arising within or in connection with the prescribed accounting period during which he so ceased to be a member of the partnership; or
- (b) arising within or in connection with any earlier prescribed accounting period during which, or during any part of which, he was for the purposes of this Act a member of the partnership;
- shall be deemed to have been served on him.

4. Application of this Act to unincorporated organisations

- (1) Where a club, association or other unincorporated organisation is a registered supplier, the organisation shall be taken, for the purposes of this Act, to be the supplier of any goods and services supplied in the course of the business of the organisation; but in default of such registration, every member of the organisation shall be deemed to be the supplier of such goods and services.

- (2) The names and other particulars of the members of the management committee of an unincorporated organisation that is a registered supplier shall be recorded in the register, and such members shall bear the liabilities of the organisation under this Act.
- (3) Until the date on which a change in the management committee is notified to the Commissioner-General, a person who has ceased to be a member of the management committee of an unincorporated organisation that is a registered supplier shall be regarded as continuing to be such a member for the purposes of this Act and, in particular, for the purpose of any liability for tax or interest due from the organisation under this Act.
- (4) Where a person ceases, for the purposes of this Act, to be a member of the management committee of an unincorporated organisation that is a registered supplier, any notice of assessment or other notice given to the organisation under this Act that relates to any matter—
 - (a) arising within or in connection with the prescribed accounting period during which he so ceased to be a member of the management committee; or
 - (b) arising within or in connection with any earlier prescribed accounting period during which, or during any part of which, he was for the purposes of this Act a member of the management committee;shall be deemed to have been served on him.
- (5) Where a person is a member of the management committee of an unincorporated organisation during part only of a prescribed accounting period, his liability for tax on the supply by the organisation of goods or services during that period, and any liability for payment of any interest or additional tax as a consequence, shall be limited to such proportion of the organisation's liability as may be just in the circumstances.

5. Application of this Act to groups of companies

- (1) For the purposes of this Act, two or more companies incorporated in Zambia are eligible to be treated as a recognised group if—
 - (a) one of them controls each of the others;
 - (b) one person, whether a company or an individual, controls them all; or
 - (c) two or more individuals carrying on a business in partnership control them all.
- (2) On application made by a company naming itself and other companies in the application, or by the person or persons controlling the companies named in the application, the Commissioner-General, if satisfied that the companies named in the application are eligible to be treated as a recognised group, may by notice in writing—
 - (a) declare that, as from a date specified in the order, they shall form a recognised group for the purposes of this Act; and
 - (b) designate the representative member for the group.
- (3) Where two or more companies form a recognised group, then, for the purposes of this Act, any business carried on by a member of the group shall be regarded as carried on by the representative member, and—
 - (a) any supply of goods or services by a member of the group to another member of the group shall be disregarded;
 - (b) any other supply of goods or services by or to a member of the group shall be regarded as a supply by or to the representative member; and

- (c) any tax paid or payable by a member of the group on the importation of any goods shall be regarded as paid or payable by the representative member, by whom the goods shall be deemed to have been imported.
- (4) Notwithstanding sub-section (3), all members of a recognised group shall be jointly and severally liable for any tax due from the representative member.
- (5) The Commissioner-General may, on application made on behalf of a recognised group, by notice declare that, as from a date specified in the notice—
 - (a) a further eligible company shall be included in the group;
 - (b) a specified member of the group shall be excluded from the group;
 - (c) another member of the group shall be substituted as the representative member; or
 - (d) the group shall no longer be a recognised group for the purposes of this Act.
- (6) An application under this section shall not be refused unless the Commissioner-General considers it necessary to refuse it for the protection of the revenue.
- (7) The Commissioner-General may, of his own motion, by notice exclude from membership of a recognised group any company which has ceased to be eligible to be a member.
- (8) For the purposes of this section—
 - (a) one company shall be taken to control another if it is empowered by any written law to control the other's activities or if it is the other's holding company within the meaning of the Companies Act; and
[Cap 388]
 - (b) one or more individuals shall be taken to control a company if, apart from being individual, he or they satisfy the criteria for being its holding company under that Act.

6. Application of this Act to Government agencies

- (1) Except to the extent to which provision is otherwise made by or under this Act, this Act applies to a Government agency as though a supply of goods or services to it for the purposes of the performance of its official functions were a supply of the goods or services for the purposes of a business carried on by it.
- (2) The Minister may, by regulation, provide for the modification of any provision of this Act, or of any regulation or rule made under this Act, in its application to a Government agency.

Part II – Value added tax

7. Taxable supplies

- (1) For the purposes of this Act, any supply of goods or services made by a taxable supplier, in the course of a business, that takes place in Zambia on or after the tax commencement day, other than an exempt supply, is a taxable supply.
- (2) Although tax is not payable on a zero-rated supply, the provisions of this Act, apart from section eight, shall otherwise apply to a zero-rated supply in the same way as to all other taxable supplies.

8. Imposition and scope of tax

- (1) A tax, to be known as value added tax, shall be charged, levied, collected and paid in respect of—
 - (a) every taxable supply of goods or services in Zambia, other than a zero-rated supply; and

- (b) every taxable importation of goods into Zambia;
that takes place on or after the tax commencement day.
- (2) The reference in sub-section (1) to a supply of goods or services in Zambia includes a reference to a supply that, by the operation of section eleven or twelve or of any rule made under those sections, is to be regarded as taking place in Zambia.
- (3) Tax on a supply of goods and services is payable by the supplier of the goods or services and, subject to any other provision made by or under this Act in relation to accounting, is due and payable at the time of supply.
- (4) Tax on an importation of goods shall be charged as if it were a duty of customs under the Customs and Excise Act, and is payable, accordingly, by the importer of the goods.

[Cap. 322]

9. Rate of tax

- (1) Tax on a taxable supply of goods or services shall be charged on their taxable value, at the prescribed rate of tax.
- (2) Tax on a taxable importation of goods shall be charged on their taxable value, at the prescribed rate of tax.
- (3) The prescribed rate of tax shall be seventeen and a half *per centum*, unless the Minister, by statutory order, determines a lower rate.
- (4) For the purposes of any provision of this Act, or of the regulations or rules made under this Act, the prescribed rate of tax in the case of a zero-rated supply shall be regarded as zero.

[As amended by S.I. No. 11 of 1997]

10. Taxable value of supplies and importations

- (1) Subject to this section, where goods or services are supplied for a monetary consideration, the amount by which that consideration exceeds the tax payable in respect of the supply shall be the taxable value of the goods or services.
- (2) Where goods or services are supplied—
- (a) otherwise than for a monetary consideration;
 - (b) for a consideration that consists only partly of money; or
 - (c) for a consideration that is less than the open market value of the goods or services;
- the amount by which their open market value exceeds the tax payable in respect of the supply shall be the taxable value of the goods or services.
- (3) The taxable value of imported goods shall be determined as for a duty of customs, but shall be taken to include the amount of any duty or other impost payable otherwise than under this Act in respect of the importation.
- (4) In this section, "open market value" means the price at which the goods or services concerned would have been supplied, in the ordinary course of business, to a person independent of the supplier.

11. Place of supply of goods

- (1) This section shall have effect for determining whether goods shall be regarded, for taxation purposes, as being supplied in Zambia.

- (2) Goods shall be regarded—
 - (a) as supplied in Zambia if they are exported from Zambia or if their supply does not involve their removal from or to Zambia;
 - (b) as supplied in Zambia if their supply involves their installation or assembly at a place in Zambia to which they are removed; and
 - (c) as supplied outside Zambia if their supply involves their installation or assembly at a place outside Zambia to which they are removed.
- (3) For the purposes of the preceding provisions of this section, where goods, in the course of their removal from a place in Zambia to another place in Zambia, leave and re-enter Zambia, the removal shall not be regarded as a removal from or to Zambia.
- (4) Where the Commissioner-General is of the opinion that, in relation to any case or class of cases—
 - (a) the place at which goods are regarded, for taxation purposes, as supplied is doubtful; or
 - (b) the application of the provisions of this section gives rise to inequity or anomaly, whether because of the taxation laws of any other country or for any other reason appearing to the Commissioner-General to be significant;

he may, in relation to that case or class of cases, make provision, by administrative rule, for or with respect to the determination, for taxation purposes, of the place of supply in a manner calculated to avoid any such doubt or rectify or mitigate any such inequity or anomaly; and any provision so made shall have effect in the relevant case or cases, instead of the foregoing provisions of this section.

12. Place of supply of services

- (1) This section shall have effect for determining whether services shall be regarded, for taxation purposes, as being supplied in Zambia.
- (2) Where a service consisting of the lease, hire or loan of any goods does not involve the removal of the goods from or to Zambia, the service shall be regarded as supplied in Zambia.
- (3) For the purposes of sub-section (2), where goods, in the course of their removal from a place in Zambia to another place in Zambia, leave and re-enter Zambia, the removal shall not be regarded as a removal from or to Zambia.
- (4) Services shall be regarded supplied in Zambia if the supplier of the services—
 - (a) has a place of business in Zambia and no place of business elsewhere;
 - (b) has no place of business in Zambia or elsewhere but his usual place of residence is in Zambia; or
 - (c) has places of business in Zambia and elsewhere but the place of business most directly concerned with the supply of the services in question is the one in Zambia.
- (5) Where the Commissioner-General is of the opinion that, in relation to any case or class of cases—
 - (a) the place at which services are regarded, for taxation purposes, as supplied is doubtful; or
 - (b) the application of the provisions of this section gives rise to inequity or anomaly, whether because of the taxation laws of any other country or for any other reason appearing to the Commissioner-General to be significant;

he may, in relation to that case or class of cases, make provision, by administrative rule, for or with respect to the determination, for taxation purposes, of the place of supply in a manner calculated to avoid any such doubt or rectify or mitigate any such inequity or anomaly; and any provision

so made shall have effect in the relevant case or cases, instead of the forgoing provisions of this section.

13. Time of supply of goods or services

- (1) This section shall have effect for determining, for taxation purposes, the time at which goods or services are supplied.
- (2) The time at which any goods are supplied, or at which any service consisting of the lease, hire, loan or treatment of, or other activity in relation to, any goods, is supplied, shall be whichever is the earliest of the following times:
 - (a) the time when goods are removed from the premises of the supplier;
 - (b) the time when the goods are made available to the person to whom they are supplied;
 - (c) the time when payment for the supply is received;
 - (d) the time when a tax invoice is issued.
- (3) Where, in respect of the supply of any goods, or of any service referred to in sub-section (2), payment is received or a tax invoice is issued in respect of part of the supply, paragraph (c) or (d) of that subsection shall apply to that part of the supply, and tax thereon shall be payable accordingly.
- (4) Where electricity, water or any other commodity measured by meter is supplied, the time of supply shall be the time when the meter is next read after consumption of the commodity, except to the extent that payment is sooner made, or a tax invoice is sooner issued, in respect of the supply.
- (5) Subject to the preceding provisions of this section, the time of supply of services shall be whichever is the earliest of the following times:
 - (a) the time when payment for the supply is received;
 - (b) the time when a tax invoice is issued; or
 - (c) the time when they are actually rendered or performed.
- (6) Where the Commissioner-General is on the opinion that, in relation to any case or class of cases—
 - (a) the time at which goods or services are regarded, for taxation purposes, as supplied is doubtful; or
 - (b) the application of the provisions of this section gives rise to some inequity or anomaly;he may, in relation to that case or class of cases, make provision, by administrative rule, for or with respect to the determination, for taxation purposes, if the time of supply in a manner calculated to avoid any such doubt or rectify or mitigate any such inequity or anomaly; and any provision so made shall have effect in the relevant case or cases, instead of the foregoing provisions of this section.

14. Time of importation

For taxation purposes, goods shall be taken to be imported into Zambia at the time when they are regarded as so imported under the Customs and Excise Act.

[Cap. 322]

15. Exemptions and zero-ratings

- (1) A supply of goods or services, or an importation of goods, that is described in the First Schedule shall be exempt from taxation.

- (2) A supply of goods or services that is described in the Second Schedule shall, unless it is an exempt supply, be a zero-rated supply.
- (3) The Minister may, by statutory order, vary, add to or replace the First or Second Schedule.

Part III – Accounting for and payment of tax

16. Tax returns

- (1) Every taxable supplier shall, in respect of each prescribed accounting period, lodge with the Commissioner-General a tax return, in a form approved by the Commissioner-General, containing such information as the form requires in relation to the supply by him of goods or services, and the importation of goods, during that period, any tax deductions or credits and any other matter concerning his business.
- (2) The return shall be lodged within twenty-one days after the end of the prescribed accounting period to which it relates or within such other time as the Commissioner-General may in a particular case determine by notice.
- (3) For the purposes of this Act, the prescribed accounting period for a taxable supplier shall be the month next succeeding the month in which he was registered and each succeeding calendar month, unless the Commissioner-General, by notice in writing to a particular supplier, determines another prescribed accounting period for that supplier.
- (4) A form of return approved by the Commissioner-General for the purposes of sub-section (1) shall, on request, be made available to any taxable supplier.

17. Late lodgment of returns

- (1) A taxable supplier who fails to lodge a return within the time allowed by or under this Act shall pay additional tax consisting of—
 - (a) one thousand penalty units; or
 - (b) one-half of one *per centum* of the tax payable in respect of the prescribed accounting period covered by the return;whichever amount is the greater, for each day the return is late.
- (2) Additional tax prescribed by this section is payable twenty-one days after the date on which it is incurred.
- (3) The imposition or payment of additional tax prescribed by this section does not affect any liability of the supplier to pay any interest or penalty elsewhere prescribed in this Act.

18. Tax deductions and credits

- (1) The amount of any tax (in this Act referred to as "input tax") of the following character:
 - (a) tax payable in respect of the supply of goods or services supplied to a registered supplier during a prescribed accounting period for the purposes of a business carried on or to be carried on by him; and
 - (b) tax paid by a registered supplier on the importation, during a prescribed accounting period, of any goods used or to be used for the purposes of a business carried on or to be carried on by him;may, so far as not previously deducted and subject to the exceptions contained in or prescribed under this section, be deducted from his tax liability or otherwise credited to him in respect of that prescribed accounting period or a later prescribed accounting period.

- (2) Subject to the exceptions prescribed under this section, the input tax that may be deducted by, or credited to, a registered supplier shall be—
 - (a) the whole of that tax, if all the supplies effected by him in the course of his business are taxable; or
 - (b) such proportion of that tax as, in accordance with administrative rules made by the Commissioner-General, is attributable to taxable supplies, if some but not all of the supplies effected by him in the course of his business are taxable.
- (3) Input tax shall not be deducted, credited or claimed unless the registered supplier, at the time of lodgment of the return in which the deduction or credit is claimed, is in possession of a tax invoice, or other evidence satisfactory to the Commissioner-General, relating to the goods or services in respect of which the tax is claimed or, in the case of imported goods, such documentary evidence of the payment of tax as the Commissioner-General may, by administrative rule, prescribe; and a person claiming input tax in contravention of this section shall, unless he satisfies the court to the contrary, be deemed to have taken steps for the fraudulent recovery of tax in contravention of section forty-four.
- (4) Input tax may not be deducted or credited after a period of three years from the date of the relevant tax invoice or other evidence referred to in sub-section (3), except in such circumstances as may be allowed by administrative rules made by the Commissioner-General.
- (5) The Minister may, by regulation, determine cases in which a deduction or credit of input tax shall not be allowed, any such determination being made by reference to—
 - (a) the goods or services supplied or the goods imported; or
 - (b) the supplier or importer, or the person supplied; or such other factors as the regulations may prescribe.
- (6) Without limiting the generality of paragraph (b) of sub-section (2), rules made by the Commissioner-General for the purposes of that paragraph may—
 - (a) determine a proportion of supplies in any prescribed accounting period which is to be taken as consisting of taxable supplies; and
 - (b) provisionally attribute input tax in accordance with the proportion so determined and adjust the attribution over two more prescribed accounting periods.
- (7) The Minister may make regulations for or with respect to enabling a taxable supplier who was not a registered supplier at the time of supply or payment to claim, as input tax, tax on the supply to him of goods or services, or paid by him on the importation of goods.

19. Payment of tax or credit

- (1) A taxable supplier whose tax liabilities in respect of a particular prescribed accounting period are not exhausted by allowable deductions shall, within the time allowed for lodgment of his tax return for that period, remit the tax amount due to the Commissioner-General.
- (2) Where, in respect of a particular prescribed accounting period, a registered supplier's allowable credits exceed what would have been his tax liabilities, if any, for the period, the Commissioner-General shall, within twenty-one days after—
 - (a) the end of the quarter that includes the last day of that period; or
 - (b) receipt of the last outstanding tax return due for any prescribed accounting period falling within the quarter;

whichever is later, remit to him the amount to which he stands in credit by reason of the excess.

20. Interest on overdue tax

- (1) Where any tax due and payable under this Act is not paid within the time allowed, interest at the prescribed interest rate shall be payable on the amount for the time being due and unpaid.
- (2) Interest payable under sub-section (1) shall, while it remains unpaid, attract interest as if it formed part of the tax owing.
- (3) Interest payable under this section shall be compounded at each prescribed accounting period for the supplier concerned, according to the number of such periods, or part of any such period, during which the tax, and any interest overdue and payable, remains unpaid.

21. Assessment of tax

- (1) Where, in the opinion of the Commissioner-General, a taxable supplier has failed to pay any of the tax payable by him by reason of—
 - (a) his failure to keep proper books of account, records or documents as required under this Act, or the incorrectness or inadequacy of any such books, records or documents; or
 - (b) his failure to make, or delay in making, any return required under this Act or the incorrectness or inadequacy of any such returns;the Commissioner-General may assess the tax due and any interest payable thereon.
- (2) Notice of an assessment shall be sent to the taxable supplier concerned; and the notice shall inform him of his rights of appeal under Part VI.
- (3) Subject to any rights of appeal conferred by this Act or any other law, the assessment of the Commissioner-General is conclusive as to the amount of tax payable, the time when it was due and ought to have been paid, the amount of any interest payable thereon and all other matters incidental thereto.
- (4) Notwithstanding the foregoing provisions of this section, an assessment based on the incorrectness or inadequacy of a return shall be void and of no effect if it is not made within two years after the Commissioner-General first had reason to believe it was incorrect or inadequate.
- (5) On sufficient cause shown to the Commissioner-General within the appeal period, or within such further time as the Commissioner-General may allow, the Commissioner-General may make a revised assessment of tax and interest due from any taxable supplier, and such an assessment shall for all purposes rescind and replace any assessment formerly made in respect of the same liability.
- (6) Tax and interest due in accordance with an assessment shall not be recoverable until the expiry of the appeal period.
- (7) In this section, "the appeal period" means the time limited under Part VI for lodgment of an appeal against an assessment.

Part IV – Default in payment of tax

22. Recovery of tax and interest

- (1) Tax and any interest due under this Act is a debt due to the Republic and shall be recoverable at the suit of the Commissioner-General, or any officer authorised by him, in any court of competent jurisdiction.
- (2) Any amount shown on an invoice as tax chargeable on a supply of goods or services shall be recoverable as tax due from the person issuing the invoice, regardless of whether—
 - (a) the invoice is made out in a form prescribed under this Act;

- (b) tax is chargeable in respect of the supply to which the invoice relates; or
 - (c) the person issuing the invoice is a registered supplier;
- and interest on the amount concerned may, in an appropriate case, be recovered accordingly.
- (3) For the purposes of any provision of this Act or the regulations or rules under this Act relating to the collection or recovery of tax or interest, a reference in any such provision to a registered or taxable supplier shall include a reference to any person from whom tax or any interest is recoverable by virtue of this section.

23. Attachment of debts, etc.

- (1) Where any tax or interest due from a taxable supplier remains unpaid, the Commissioner-General may, by notice in writing, require any other person—
- (a) from whom any money is due, or is accruing or may become due, to the supplier;
 - (b) who holds, or may subsequently hold, money on account of some person for or on account of, or for payment to, the supplier; or
 - (c) having authority from any person to pay money to the supplier;
- to pay that money, or so much as is sufficient to discharge the tax or interest due from the taxable supplier, in the manner directed by the Commissioner-General as and when it would, but for the notice, be or become payable to the supplier.
- (2) Upon service of a notice under this section, the money concerned, to the extent necessary to discharge the tax or interest due from the supplier, is a debt due to the Republic and shall be recoverable at the suit of the Commissioner-General, or any officer authorised by him, in any court of competent jurisdiction; and all claims by the supplier to such money shall, to the like extent, be thereby extinguished.
- (3) A person on whom a notice under this section has been served and who fails to comply with the notice shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding five thousand penalty units or ten *per centum* of the amount demanded by the notice, whichever is the greater.

24. Security and production of evidence

Where the Commissioner-General considers it necessary to do so for the protection of the revenue, he may, as a condition of allowing or repaying any input tax to any registered supplier, require the supplier—

- (a) to produce any documents, relating to any such tax, that were supplied to that supplier; or
- (b) to give security, or further security, of such amount and kind as the Commissioner-General may determine, for the payment of any tax which is due from him.

25. Requirement for early payment

- (1) Where the Commissioner-General has reason to believe that any tax or interest due under this Act from a taxable supplier may not be paid within the time allowed by or under this Act by reason of the loss, transfer or disposition by the supplier of his assets, the Commissioner-General may, by notice in writing to him, require payment of the money forthwith.
- (2) Upon service of a notice under this section, the provision of this Act shall apply as though the time allowed by or under this Act for payment by the supplier of the tax or interest concerned had expired.

26. Distress

- (1) Where any tax or interest due from a taxable supplier remains unpaid, an authorised officer may, under warrant by the Commissioner-General, levy distress upon the goods and chattels of the supplier.
- (2) The officer executing the warrant, with a police officer or such other assistants as he may consider necessary, may, at any time between sunrise and sunset, break open any premises of the supplier.
- (3) Goods and chattels on which distress has been levied under this section shall be kept for ten days either at the premises at which distress was levied or at such other place as the officer executing the warrant may consider appropriate, at the cost of the supplier.
- (4) If the supplier does not pay the amount due under this Act, together with any costs under sub-section (3), within the period of ten days mentioned in that subsection, the goods and chattels shall be sold by public auction.
- (5) The proceeds of a sale under sub-section (4) shall be applied towards payment of those costs and any further costs of, or incidental, to the sale, and the surplus, if any, shall be applied towards payment of the amount due and the balance, if any, shall be paid to the supplier, after deduction of any further tax or interest by then due from him.
- (6) A person on whose goods and chattels distress has been levied or is to be levied, or any other person, who fraudulently removes and takes away any such goods and chattels to prevent the Commissioner-General from distraining them or completing the distress so levied, or assists in the same, shall be guilty of an offence and shall be liable, upon conviction, to—
 - (a) a fine not exceeding ten thousand penalty units or three times the value of the goods taken away, whichever is the greater; or
 - (b) imprisonment for a term not exceeding twelve months; or to both.

Part V – Registration of suppliers

27. Register of suppliers

- (1) There shall be a register of suppliers, in which shall be recorded such particulars of taxable suppliers and their businesses as the Commissioner-General may determine.
- (2) Where two or more individuals in partnership carry on a business involving the supply of goods or services, registration may be effected in the name of the firm.
- (3) Where a club, association or other unincorporated organisation carries on a business involving the supply of goods or services, registration may be effected in the name of the organisation.
- (4) Where several companies constitute a recognised group for the purposes of this Act, registration may be effected in the name of the group, and such registration displaces any requirement under this Part to apply for, or effect registration of, any corporate member.
- (5) The registration of a company carrying on business in several divisions may, if the company so requests and the Commissioner-General sees fit, be effected in the names of those divisions, and such registration displaces any requirement under this Part to apply or effect registration of the company.
- (6) The Commissioner-General may, by administrative rule, make provision for requiring registered suppliers to notify the Commissioner-General of such particulars of changes in circumstances relating to them, or any business carried on by them, as appear to him necessary for the purpose of keeping the register up to date.

28. Registration

- (1) Every supplier who is carrying on a business in Zambia whose taxable turnover exceeds the turnover prescribed by the Minister, by statutory order, shall make application to be registered.
- (2) An application for registration shall be made in such manner and form as the Commissioner-General may, by administrative rule, prescribe.
- (3) Subject to this section, the Commissioner-General shall register every applicant for registration who is carrying on a business in Zambia whose taxable turnover exceeds the turnover prescribed by sub-section (1).
- (4) Where the Commissioner-General considers that there is good reason to do so, he may—
 - (a) register any supplier, whether or not an application for registration has been made; or
 - (b) refuse to register any supplier;regardless of the turnover of the business conducted by the supplier.
- (5) Where the Commissioner-General is satisfied that all the supplies effected in the course of a supplier's business would be zero-rated supplies, he may, by notice in writing, exempt a supplier from the requirement to be registered:

Provided that such an exemption may in like manner be rescinded by the Commissioner-General at any time whereupon the supplier shall apply for registration within such time as the Commissioner-General may allow.
- (6) In this section, "taxable turnover" means that part of the turnover of a business that is attributable to taxable supplies, calculated in a manner, and in respect of a period, prescribed by the Minister by statutory order.

29. Failure to register, etc.

A supplier who—

- (a) being required to apply for registration under this Part, fails to do so within one month after becoming liable to apply;
- (b) contravenes any term or condition of his registration; or
- (c) not being a taxable supplier, holds himself out as such;

shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding twelve months, or both.

Part VI – Appeals

30. Value Added Tax Appeals Tribunal

- (1) For the purpose of hearing and determining appeals as provided for in this Part, there shall be a Value Added Tax Appeals Tribunal, consisting of three persons appointed by the Minister on the recommendation of the Judicial Service Commission.
- (2) A member of the Tribunal shall, subject to sub-section (3), hold office for a period of four years from the date of his appointment but shall be eligible for reappointment for one further term.
- (3) The Minister may at any time remove a member from office and a member may resign his office by giving one month's notice to that effect in writing to the Minister.

- (4) The Minister may appoint deputy members of the Tribunal, who shall have and may perform the functions of a member during the member's illness or absence.
- (5) There shall be a Registrar of the Tribunal, who shall have such functions as may be conferred on him by regulations made under sub-section (6).
- (6) The Minister may, by regulation—
 - (a) prescribe the requisite qualifications or experience for appointment as a member of the Tribunal;
 - (b) regulate the organisation, administration and procedure of the Tribunal; and
 - (c) empower the Tribunal to summon and compel the attendance of witnesses, to require the production of documents, to award costs and to do and require all such matters and things as may be necessary, in the opinion of the Minister, for the due performance of its functions.
- (7) Subject to any regulations made under this Act, the Tribunal may regulate its own procedure.
- (8) A member of the Tribunal shall be entitled to receive such allowance as the Minister may determine.

31. Appeals to Tribunal

- (1) Any person aggrieved by a decision or determination made by the Commissioner-General under this Act, or any regulations or rules made under this Act, in respect of any of the following matters:
 - (a) the registration or cancellation of registration of, or a refusal to register, a supplier;
 - (b) the tax assessed to be payable on any supply of goods or services or the importation of any goods;
 - (c) the amount of any input tax that may be credited to any taxable supplier;
 - (d) the application of any administrative rule providing for the apportionment or disallowance of input tax;
 - (e) any notice under section twenty-five;
 - (f) the requirement of the Commissioner-General for the provision of security;
 - (g) any matter prescribed by the Minister, by regulation, to be a matter against which an appeal shall lie under this section;may, in such manner and within such time as the Minister may, by regulation, prescribe, appeal to the Tribunal.
- (2) No appeal shall be heard unless—
 - (a) any and all tax returns required under this Act to be made by the appellant at the time the appeal is lodged have by that time been made; and
 - (b) where the appeal is against an assessment of the Commissioner-General or otherwise involves a dispute over an amount of tax or interest allegedly due and unpaid by the appellant, the amount in dispute is lodged with Tribunal.
- (3) The Tribunal may waive the requirements of paragraph (b) of sub-section (2) on the provision of such security by the appellant as it considers acceptable or may, in cases of hardship, waive the requirement absolutely or on such terms as it thinks fit.

32. Determination of appeals

- (1) The Tribunal, having regard to the provisions of this Act and to the circumstances of the case, shall hear and determine the appeal and may confirm, reverse or vary the decision of the Commissioner-General, as justice may require.
- (2) The decision of the Tribunal shall be binding on the parties to the appeal, and in cases where the appeal is allowed, it shall be the duty of the Commissioner-General to give effect to the decision of the tribunal.
- (3) Interest shall be paid by the Authority, compounded in the manner prescribed and at the prescribed interest rate, in respect of the whole or part of any month during which a deposit was lodged by the applicant as a condition of the hearing of the appeal, to the extent to which that deposit exceeded any amount recovered against the appellant.
- (4) Nothing in this section precludes the issue of any of the prerogative writs or limits any jurisdiction of the courts.

Part VII – Administration and enforcement

33. Functions of Authority

- (1) The Authority shall be responsible for the administration of this Act and for the charging, levying and collection of tax.
- (2) The Minister may approve the establishment by the Authority of a reserve account with the Bank of Zambia for the payment therefrom of any credits under section nineteen, and from tax collected under this Act, the Authority shall from time to time appropriate sufficient funds to meet the requirements of the reserve account.
- (3) Except as provided by sub-section (2), tax collected under this Act shall be credited to the Treasury as soon as is reasonably practicable, and the provisions of sections twenty-four and twenty-five of the Zambia Revenue Authority Act, shall apply in respect of revenue derived from tax under this Act.

[Cap. 321]

34. Delegation by Commissioner-General

- (1) The Commissioner-General shall have and may exercise and perform the powers and functions conferred on him by or under this Act.
- (2) The Commissioner-General may delegate any of his functions under this Act to the Commissioner of Value Added Tax or other officers of the Authority.

35. Authorised officers

- (1) Sufficient persons shall be appointed as authorised officers for the purpose of exercising and performing the powers and functions of authorised officers under this Act.
- (2) Every authorised officer shall be issued with means of identification as to his appointment as such, and shall, when exercising any power under this Act, on demand, produce the same to any person of whom a requirement is made in the course of the exercise of that power.

36. Taking of samples

- (1) Where an authorised officer has reason to believe that it is necessary to do so for the protection of the revenue, he may take, from goods in the possession of any person who supplies goods, such

samples as may be reasonably necessary to determine how the goods or the materials from which they are made ought to be or to have been dealt with for taxation purposes.

- (2) No sample shall be taken under this section without the issue by an authorised officer of a receipt to the person from whom it was taken, and every sample shall be disposed of and accounted for in such manner as the Commissioner-General may direct.
- (3) Where a sample taken under this section is not returned, within a reasonable time and in good condition, to the person from whom it was taken, the Authority shall pay him, by way of compensation, a sum equal to the cost of the sample to him or such larger sum as the Commissioner-General may determine.

37. Furnishing of information and production of documents

- (1) Every person who is concerned, in any capacity, in the supply of goods in the course of a business or to whom any goods are, in the course of a business, supplied shall—
 - (a) furnish to the Commissioner-General, within such time and in such form as he may require, such information as he may specify, being information to which the person has legitimate access and which concerns the goods or their supply; and
 - (b) upon demand made by an authorised officer, produce or cause to be produced any documents for inspection by the officer, being documents to which the person has legitimate access and which concern the goods or their supply, and permit the officer to make copies, of, or to take extracts from, them or to remove them at a reasonable time and for a reasonable period.
- (2) Every person who is concerned in any capacity in the supply of any services for a consideration or to whom any services are, for a consideration, supplied, shall—
 - (a) furnish to the Commissioner-General, within such time and in such form as he may require, such information as he may specify, being information to which the person has legitimate access and which concerns the consideration for the supply or the name and address of the person to whom the services are supplied; and
 - (b) upon demand made by an authorised officer, produce or cause to be produced any documents for inspection by the officer, being documents to which the person has legitimate access and which concern any such consideration, and permit the officer to make copies of, or to take extracts from, them or to remove them at a reasonable time and for a reasonable period.
- (3) The Commissioner-General or an authorised officer may, for the purpose of receiving any information or document under the foregoing provisions of this section, or for the purpose of examining the person concerned in relation to any such information or document, require the attendance of the person at the offices of the Commissioner-General or at such other place, and at such time or times, as the Commissioner-General or authorised officer may specify.
- (4) For the purposes of this section, the documents relating to the supply of goods, or to the consideration for the supply of services, in the course of a business, shall be taken to include any profit and loss account and balance sheet or other book of account, and any correspondence or other writing, relating to that business and any certificate evidencing registration under this Act.
- (5) Where any information or document is electronically stored, sub-sections (1) and (2) shall be deemed to empower the authorised officer, for the purpose of exercising the powers conferred by that subsection in relation to it—
 - (a) to view the information or document and to copy or take extracts from it by electronic means; or
 - (b) to require that it be reproduced in hard copy, or copied on to computer diskette or reduced to some other portable form suitable for removal and capable of reproducing the information or document for viewing.

- (6) Where any documents, computer diskettes or other things removed under the powers conferred by this section are lost or damaged, the Authority shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing them.

38. Entry and search

- (1) For the purpose of exercising any power conferred on him by or under this Act, an authorised officer may, at any reasonable time, enter any premises which he has reason to believe are used for or in connection with the carrying on of a business, including any premises used only for the storage of goods or documents, and shall have full and free access therein to open any packaging, take stock of any goods and do all such things as are reasonably necessary for the performance of his duties.
- (2) Where a magistrate is satisfied on sworn information that there is reason to suspect that any premises contain goods in respect of whose supply tax has been evaded, or tax deductions or credits have been wrongly made, or contain documents or other evidence of an offence against this Act, he may issue a warrant authorising an authorised officer to enter and search those premises, and the authorised officer executing the warrant may—
 - (a) take with him such persons as appear to him to be necessary for its due execution;
 - (b) search for and seize and remove any goods, documents or other things found on the premises which he has reason to believe to be evidence for the purpose of proceedings in connection with such an offence or for the assessment of any tax; and
 - (c) search or cause to be searched any person found on the premises who he has reason to believe has committed such an offence or to be in possession of any such goods, documents or other things:

Provided that no person shall be searched by a person of the opposite sex.

- (3) The authorised officer shall provide to the person apparently in charge of anything taken in execution of a warrant under this section a receipt for the thing taken.
- (4) The authorised officer may seal off, lock up or in any other physical manner prevent access to any premises for the purpose of the exercise of any power under this section or for the safeguarding of evidence from tampering.
- (5) The provisions of section thirty-seven relating to documents and to the electronic storage of documents shall apply in respect of the exercise by an authorised officer of a power conferred under this section.

39. Obstruction of authorised officers

A person who—

- (a) fails to comply with any requirements made of him under section thirty-seven; or
- (b) assaults, obstructs, hinders or resists an authorised officer in the exercise or performance of any of his powers or duties under this Act;

shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

40. Impersonation of authorised officers

A person who impersonates an authorised officer shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

41. Immunity of authorised officers

No action or other proceedings shall lie or be instituted against an authorised officer for, or in respect of, any act or thing done or omitted to be done in good faith in the exercise or purported exercise of his functions under this Act.

Part VIII – Miscellaneous

42. Records and accounts

- (1) A taxable supplier shall keep such records relating to the business carried on by him, and preserve them for a period of five years or such longer period as the Commissioner-General may, by notice in writing, require in any particular case.
- (2) A supplier who fails to keep any records required by or under this section to be kept by him, or who fails to keep them for the time so required, shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding twelve months, or both.

43. False returns and statements

Any person who, in purported compliance with any requirement under this Act, makes a return or other declaration, furnishes any document or information or makes any statement, whether in writing or otherwise, that is false in any material particular shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

44. Evasion of taxation

- (1) Any person who is concerned in, or takes steps with a view to, fraudulent evasion of tax or fraudulent recovery of tax shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding thirty thousand penalty units or six times the amount of the tax sought to be evaded or recovered, whichever is greater, or to imprisonment for a term not exceeding three years, or to both.
- (2) A person who deals in or accepts the supply or importation of any goods, or the supply of any services, having reason to believe that the proper tax has not been or will not be paid or that any deduction or credit has been or will be falsely claimed in relation thereto shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding thirty thousand penalty units or six times the amount of the tax, whichever is greater, or to imprisonment for a term not exceeding three years, or to both.
- (3) Any goods which are the subject of an offence under this section shall, if the court convicts and so orders, be forfeited.

45. Fine in lieu of prosecution

- (1) If a person alleged to be an offender under this Act (hereinafter called the alleged offender) agrees to pay a specified fine proposed by the Commissioner-General, which does not exceed the maximum penalty provided by this Act for the offence in question, the Commissioner-General may impose that fine on the alleged offender:

Provided that, if criminal proceedings have been instituted against the alleged offender for such offence, the power conferred by this subsection shall not be exercised without the written consent of the Director of Public Prosecutions.

- (2) The Commissioner-General shall furnish the alleged offender with a certificate setting out the nature of the offence, the date of its occurrence, and the fine imposed under sub-section (1), and such certificate may be used by the alleged offender as *prima facie* proof of the facts stated therein.
- (3) If any fine imposed in terms of sub-section (1) is not paid on demand, the Commissioner-General may take steps for, or towards, its recovery in any manner permitted by this Act with respect to the recovery of unpaid tax.
- (4) The imposition of a fine under sub-section (1) shall not be treated as a conviction of the alleged offender of a criminal offence, but no prosecution for the offence in question shall thereafter be instituted or maintained.
- (5) Nothing in this section shall in any way affect liability for the payment of tax or interest due under this Act.

46. Advertised retail prices to include tax

- (1) An advertisement made or published in respect of the supply by retail of any goods or services shall, if it mentions the price at which such goods or services may be obtained, state the price inclusive of tax.
- (2) A person who causes or permits any advertisement to be made or published in contravention of this section shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding ten thousand penalty units.
- (3) In this section, "advertisement" includes any label attached to the goods and any sign displayed in connection with the goods or services and any quotation of their price.

47. Adjustment of contracts on changes in tax

Where, after the making of a contract for the supply of goods or services and before the goods or services are supplied—

- (a) there is a change in the tax charged on the supply; or
- (b) tax chargeable on the supply is introduced or abolished;

then, unless the contract otherwise provides, there shall be added to or deducted from the consideration for the supply an amount equal to the tax adjustment.

48. Priority of tax debts in bankruptcy

Where an individual has been declared bankrupt, any tax or interest due under this Act shall have priority over other debts proven against the bankrupt.

49. Evidence by certificate

A certificate of the Commissioner-General that—

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

shall be sufficient evidence of that fact until the contrary is proven.

50. Schemes for obtaining undue tax benefits

- (1) Notwithstanding any other provision of this Act, where the Commissioner-General is satisfied that any scheme that has the effect of conferring a tax benefit on any person was entered into or carried out—
 - (a) solely or mainly for the purpose of obtaining that benefit; and
 - (b) by means or in a manner that would not normally be employed for *bona fide* business purposes, or by means of the creation of rights or obligations that would not normally be created between persons dealing at arm's length;

the Commissioner-General may determine the liability for any tax imposed by this Act, and the amount thereof, as if the scheme had not been entered into or carried out, or in such manner as, in the circumstances of the case, he considers appropriate for the prevention or diminution of the tax benefit sought to be obtained by the scheme.

- (2) A determination under sub-section (1) shall be deemed to be an assessment, and the provisions of section twenty-one and of Part VI, and any other provision made by or under this Act in relation to assessments, shall apply accordingly.
- (3) In this section—

"*bona fide* business purposes" does not include the obtaining of a tax benefit;

"scheme" includes any transaction, operation, understanding or arrangement, whether entered into or carried out before or after the commencement of this Act, whether or not involving the alienation of any property and whether or not enforceable, and all acts and things done or performed in furtherance thereof;

'tax benefit" includes—

- (a) any avoidance or reduction in the liability of any person to pay tax;
- (b) any increase in the entitlement of any registered dealer to a refund of tax;
- (c) any reduction in the consideration payable by any person in respect of any supply of goods and services or the importation of any goods; or
- (d) any other avoidance or postponement of liability for the payment of any tax;

51. Regulations

- (1) The Minister may make regulations for or with respect to any matter that by this Act is required or permitted to be prescribed, or that is necessary or expedient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting the generality of sub-section (1), regulations may be made for or with respect to—
 - (a) the application of this Act in relation to supplies in the course of a business conducted by the administrator of a bankrupt or deceased estate;
 - (b) de-registration of suppliers;
 - (c) the transfer of businesses from one supplier to another;
 - (d) the imposition, in prescribed circumstances, of liability for taxes and charges on taxation agents;
 - (e) the issue and display of certificates of registration;
 - (f) relief from taxation on account of bad debts; and
 - (g) the service of notices or other documents for the purposes of this Act.

- (3) the Regulations may create offences, and prescribe penalties not exceeding ten thousand penalty units, for any contravention of the regulations or of the rules made under this Act.

52. Administrative rules

- (1) The Commissioner-General may, by notification published in the *Gazette*, make administrative rules for or with respect to—
 - (a) the keeping of accounts, the making of returns and accounting for tax for the purposes of this Act; and
 - (b) any matter which he is authorised, by this Act or any regulations made under this Act, to prescribe or regulate by administrative rule.
- (2) Rules under this section may require the keeping of accounts and the making of returns in such form and manner as may be prescribed by the rules and may require taxable suppliers supplying goods or services to other taxable suppliers to provide them with tax invoices containing statements of such particulars as may be so prescribed of the supply, the tax chargeable on it and the persons by and to whom the goods or services are supplied.
- (3) Rules under this section may make provision for methods of tax accounting and, in particular, for special methods of tax accounting by such retailers or other suppliers of goods or services or any description of goods or services as may be prescribed by or under the rules.
- (4) Rules under this section may make provision—
 - (a) for treating tax chargeable in one prescribed accounting period as chargeable in another such period;
 - (b) for the adjustment of accounts in cases where tax has become chargeable by reference to a consideration and the amount of the consideration is reduced or no consideration becomes payable and in such other circumstances as may be prescribed by the rules;
 - (c) for the rounding-off of figures in tax returns; and
 - (d) for the correction of errors.
- (5) The Commissioner-General may, in addition to notifying administrative rules in the *Gazette*, publish them in such other manner as he considers desirable for the information of persons affected by them or of the general public.

53. Transitional registration provisions

- (1) Every supplier who, on a date prescribed by the Minister by statutory order, is carrying on a business in Zambia whose taxable turnover exceeds or is likely to exceed the turnover prescribed by that order shall make application to be registered.
- (2) An application for registration shall be made in such manner and form as the Commissioner-General may, by administrative rule, prescribe.
- (3) The Commissioner-General shall register every applicant for registration who, on the date prescribed for the purposes of subsection (1), was carrying on a business in Zambia whose taxable turnover exceeds or is likely to exceed such turnover as the Minister may, by statutory order, prescribe for the purposes of this subsection.
- (4) Sub-sections (4) and (5) of section twenty-eight apply in respect of registration under this section in the same way as they apply in respect of registration under that section.
- (5) In this section, "taxable turnover" has the same meaning as in section twenty-eight.
- (6) A supplier required to apply for registration under this section who fails to do so within one month after becoming liable to apply shall be guilty of an offence and shall be liable, on conviction, to

a fine not exceeding one thousand penalty units for each day that passes, after the expiry of that month, during which he fails to apply.

54. Other transitional provisions

- (1) A registered supplier who, immediately before the tax commencement day, was registered as a dealer under the Sales Tax Act shall be entitled to such relief from tax under this Act as may be determined by the Minister, by regulation, in respect of goods in stock immediately before that day that were eligible for tax relief under that Act.
- (2) A taxable supplier shall be entitled to such relief from tax under this Act as may be determined by the Minister, by regulation, in respect of goods that were imported on or after the date prescribed under sub-section (1) of section fifty-three and that were in stock on the tax commencement day.

[Cap. 663 of the 1971 edition]

55. Repeal of Cap. 663 of the 1971 edition and Act No. 25 of 1990

On the tax commencement day, the Sales Tax Act and the Insurance Levies Act shall stand repealed.

First Schedule (Section 15)

Exempt supplies and imports

1. Water supply services

The supply of mains water and sewerage services, excluding sewerage pump out services.

2. Health supplies

- (a) The supply of health and medical services by a registered medical practitioner, optician, dentist, hospital or clinic.
- (b) Articles designed for use by the blind or disabled.

3. Educational supplies

- (a) Educational services provided to primary or secondary students.
- (b) Educational services provided to other students otherwise than for profit.

4. Books and newspapers

- (a) Books, Booklets, school exercise books, maps and charts.
- (b) Newspapers, journals and periodicals.

5. Transport services

- (a) Transportation of persons by road in a bus or coach licensed under the Roads and Road Traffic Act and having a seating capacity for fourteen or more adult persons.
- (b) Transportation of persons by air on any scheduled flight.
- (c) Transportation of persons by rail.
- (d) Transportation of persons or vehicles by boat.
- (e) Aircraft of an unladen weight exceeding 2000kgs and which is licensed for carrying 14 or more passengers.

6. Conveyance, etc. of real property

- (a) The sale or lease of an interest in land, other than the lease or rental of commercial property.
- (b) The sale or lease of domestic buildings.
- (c) Any fee, royalty or similar right to explore or remove any natural resource.

7. Financial and insurance services

- (a) The issue, transfer, receipt of or other dealing with, money (including foreign exchange) or any note or order for the payment of money.
- (b) The provision of credit.
- (c) The operation of any account at a bank or other financial institution.
- (d) The issue, allotment or transfer of ownership of shares in a company listed on a Stock Exchange approved under the Securities Act.

[As amended by S.I. No. 16 of 1997]

8. Metals

The supply to a bank of gold in bullion form.

9. Funeral services

The supply of any goods or services in the course of a person's burial or cremation, including the provision of any licence or certificate.

10. Gaming and betting supplies

- (a) Acceptance of any lawful bet or wager.
- (b) Issue of any lottery ticket in a lawful lottery.
- (c) Use of any lawful gaming machine.

11. Reliefs at importation

- (a) Goods which are imported duty free under regulations 6, 7, 9, 11, 13, 14, 15, 16, or 23 of the Customs and Excise (Rebates, Refunds and Remissions) (General) Regulations, 1996, subject to the same limitations and conditions as pertain to such a rebate.

[S.I. No. of 1996]

[Please note: incomplete reference as in original.]

- (b) Import goods in respect of which a funding of duty is available under the Customs and Excise (School, Hospital, Church and General Public Good) (Funding) Regulations, 1996, subject to the same limitations and to such modification as may be specified therein.

[S.I. No of 1996]

[Please note: incomplete reference as in original.]

12. Domestic kerosene

Domestic kerosene (paraffin).

13. Trade Union Subscriptions

Trade union subscriptions.

14. Goods under an Investment Certificate

Eligible goods specifically enumerated under the special incentives of an Investment Certificate which provides relief from import duties and sales tax, when imported on or before 31st December, 1996, by an investor holding an Investment Certificate issued before 1st July, 1995, under the Investment Act.

In this Schedule, unless the context otherwise requires—

"eligible goods" means those goods not previously imported as certified by the Director-General of the Investment Centre and such certification is accepted by the Commissioner-General of the Zambia Revenue Authority.

[As amended by S.I. No. 110 of 1996 and S.I. No. 16 of 1997]

The Statutory Instruments listed below are hereby revoked:

Revoked Statutory Instruments

	Statutory Instrument	Number
1.	Value Added Tax Exemptions and Zero-Rating Order, 1995	88 of 1995
2.	Value Added Tax (Exemptions) Order, 1995	91 of 1995
3.	Value Added Tax (Exemptions) (No. 2) Order, 1995	103 of 1995
4.	Value Added Tax (Exemptions) (No. 3) Order, 1995	108 of 1995
5.	Value Added Tax (Exemptions) (No. 4) Order, 1995	122 of 1995
6.	Value Added Tax (Exemptions) (No. 5) Order, 1995	146 of 1995
7.	Value Added Tax (Exemptions) (No. 6) Order, 1995	150 of 1995
8.	Value Added Tax (Exemptions) Order, 1996	22 of 1996
9.	Value Added Tax (Exemptions) (No. 2) Order, 1996	27 of 1996
10.	Value Added Tax (Exemptions) (No. 4) Order, 1996	79 of 1996

[As amended by S.I. No. 110 of 1996]

Second Schedule (Section 15)

Zero-rated supplies and imports

1. Foods and agriculture

- (a) Agricultural products-fresh edible vegetables, fruit and nuts; maize and mealie meal; soya bean, millet, cassava, sorghum and flours produced from them; wheat and other cereals; except when any of the above products is:
 - (i) canned; frozen or freeze dried; or
 - (ii) supplied by a restaurant, cafeteria, canteen or like establishment.
- (b) Animal products-meat and offal of cattle, swine, sheep, goats, and poultry (including eggs), except —
 - (i) any of the above products that is supplied by a restaurant, cafeteria, canteen or like establishment; or
 - (ii) cooked or smoked meats, meat processed beyond cutting, grinding or mincing including sausages, pate, and the fatty livers of geese or ducks; and any other product prescribed by the Minister by regulation; or
 - (iii) pet foods.
- (c) Milk-milk, except when canned or when supplied by a restaurant, cafeteria, canteen or like establishment.
- (d) Fish-uncooked, frozen or dried fish, except shellfish, ornamental fish or any fish supplied by a restaurant, cafeteria, canteen or like establishment.
- (e) Agricultural supplies—
 - (i) bulbs, seeds and plants for producing agricultural products of sub item 1;
 - (ii) fertilizers, insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant growth regulators and similar products for agricultural use;
 - (iii) live cattle, swine, sheep, goats, and poultry;
 - (iv) stockfeeds for cattle, swine, sheep, goats or poultry.
- (f) Infant cereals-When prepared and labelled as such.

2. Exports

- (a) Export of goods from Zambia by or on behalf of a taxable supplier, where such evidence of exportation is produced as the Commissioner-General may, by administrative rule, require.
- (b) The supply of services, including transport and ancillary services, which are directly linked to the export of goods under sub item 1.
- (c) The supply of freight transport services from or to Zambia, including transshipment and ancillary services that are directly linked to the transit of goods through Zambia to destinations outside Zambia.
- (d) The supply of goods by a duty free shop, approved under the Customs and Excise Act, for export by passengers on flights to destinations outside Zambia.
- (e) The supply of goods, including meals, beverages and duty free goods; for use as aircraft stores on flights to destinations outside Zambia.

- (f) The supply of aviation fuel.
- (g) The supply of services which are physically rendered outside Zambia.
- (h) The supply, by a tour operator or travel agent, licensed as such by the Zambia Tourist Board, to a tourist of an inclusive tour, subject to such conditions as the Commissioner-General may require.
- (i) Exportation of goods by a tourist, subject to such evidence and conditions as the Commissioner-General may require.

[Cap. 3:]

[Please note: incomplete reference as in original.]

3. Supplies to privileged persons

- (a) Goods imported by the President.
- (b) Goods imported by diplomats or a diplomatic mission that is accredited by the Republic of Zambia for official purposes of that mission, but only, in the case of any diplomat or diplomatic mission of a foreign country, to the extent that the foreign country grants reciprocal privileges to diplomats and to the diplomatic mission of Zambia in that country.
- (c) The supply of goods or services to a donor in Zambia for the official purposes of that donor where evidence of purchase by that donor is produced as the Commissioner-General may require.
- (d) Goods or services supplied or imported under a technical aid programme or project which are—
 - (i) paid through donor funding; and
 - (ii) provided by the donor, or by a contractor of the donor, under a written agreement with the Republic of Zambia where evidence of purchase under that agreement is produced as the Commissioner-General may require.
- (e) Eligible goods or services supplied to a diplomat or designated official where evidence of purchase by that diplomat or designated official is produced as the Commissioner-General may require.
- (f) Supplies or imports under a technical aid agreement or project providing for exemption from Zambia taxation which is either—
 - (i) dated on or before 30th June, 1996; or
 - (ii) approved by the Minister of Finance.

4. Medical supplies

- (a) Medical supplies and drugs.
- (b) The supply to, or importations by, a registered medical practitioner, optician, dentist, hospital or clinic, or to a patient, of equipment designed solely for medical or prosthetic use.

[As amended by S.I. No. 109 of 1996]