

GOVERNMENT OF ZAMBIA

ACT

No. 2 of 1997

Date of assent: 12th April, 1997

An Act to amend the Value Added Tax Act

[18th April, 1997

ENACTED by the Parliament of Zambia.

1. (1) This Act may be cited as the Value Added Tax (Amendment) Act, 1997, and shall be read as one with the Value Added Tax Act, 1995, in this Act referred to as the principal Act.

(2) This Act shall come into force on the 1st April, 1997.

2. Section two of the principal Act is amended—

(a) in subsection (1), by the insertion immediately after paragraph (c) in the definition of "Government Agency", of the following new paragraph:

(d) any institution or body in which the Government has direct or indirect control or which is wholly or partially owned by the Government;

(b) by the deletion of the definition of "prescribed interest rate" and the substitution therefor of the following:

"prescribed interest rate" means the rate that exceeds, by two per centum per annum, the prevailing official discount rate, as published by the Bank of Zambia, that is in force on the twenty-second day of each month;

(c) by the addition at the end of the definition of "taxable value" of", unless the Minister by regulation, in relation to specified supplies or imports, declares a different value".

Enactment

Short title and commencement
Act No. 4 of 1995

Amendment
of section 2

(d) by the deletion of subsection (2) and the substitution therefor of the following:

(2) In this Act, a reference to supply of goods or services in the course of a business includes—

(a) a reference to supplies made by a supplier during any enterprise or activity which is carried on continuously or regularly, in the course of which, goods or services are supplied to any other person for a consideration, whether or not for profit, including any trade, profession or vocation and any concern of a continuing nature or in the form of an association or club;

(b) a reference to a supply of goods or services for the promotion of a business.

Amendment
of section 17

3. Section *seventeen* of the principal Act is amended by—
(a) the insertion immediately after subsection (1) of the following new subsection:

(2) A taxable supplier who has lodged a return but has not paid the tax due on the return within the time allowed, shall pay additional tax of one half of one per centum of the tax payable in respect of the prescribed accounting period covered by the return for each day following the day when the return was lodged to the date that payment of the tax is made.

(b) the re-numbering of subsection (2) as (3) and subsection (3) as (4);

(c) by the addition after subsection (4) of the following new subsection:

(5) Where the taxable supplier fails to make a tax return within the time allowed and did not intend to avoid or postpone liability to pay tax, the additional tax payable under this section may be remitted in whole or in part.

Amendment
of section 24

4. Section *twenty-four* of the principal Act is amended by the insertion—

(a) immediately after the figure "24" of the figure "(1)"; and

(b) immediately after subsection (1) of the following new subsection:

(2) Where a registered supplier continues to make taxable supplies beyond the time allowed by the Commissioner-General under paragraph (b) of subsection (1) as security or further security, the supplier shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

5. Section *twenty-five* of the principal Act is amended by the insertion, immediately after subsection (2), of the following new subsection: Amendment
of section 25

(3) Where a taxable supplier fails to make any payment required under subsection (1), the supplier shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

6. Section *twenty-eight* of the principal Act is amended— Amendment
of section 28

(a) by the insertion, immediately after subsection (5), of the following new subsection:

(6) The registration of a supplier shall take effect from—

(a) in the case of a new business, the date of commencement of trading; or

(b) in the case of a continuing business—

(i) within one month of an application being made or from the date the application was received by the Commissioner-General; or

(ii) if the application is not made within one month of the taxable turnover becoming due, the taxable turnover prescribed under subsection (1) shall apply; and

(b) by the re-numbering of subsection (6) as subsection (7).

Amendment
of section 32

7. Section *thirty-two* of the principal Act is amended by the deletion of subsection (4) and the substitution therefor of the following:

(4) A person aggrieved by a decision of the Tribunal may appeal to the High Court.

Insertion of
section 38A

8. The principal Act is amended by the insertion, immediately after section *thirty-eight*, of the following new section *thirty-eight A*:

Impounding
and removal
of goods

38A. (1) Where an officer of the rank of Assistant Commissioner or above who is authorised by the Commissioner-General, has reason to believe that a supplier is selling taxable goods without charging the tax due on such supplies, the officer may impound the goods either at the premises where the goods are being sold or at such place as the officer considers appropriate.

(2) Where an officer of the rank of Assistant Commissioner or above, who is authorised by the Commissioner-General, has reason to believe that a supplier has received taxable goods without having been charged the tax due on their supply or at importation, the officer may impound the goods either at the premises where the goods are or at such place as the officer considers appropriate.

(3) For the purposes of impounding goods under this section by an officer authorised by the Commissioner-General, a police officer may be present while the goods are being impounded.

(4) An officer authorised under subsections (1) and (2) may, at the cost of the taxpayer, employ such persons as the officer may think necessary to assist such officer in the execution of such officer's duty to ensure the security of the goods impounded or to assist with their removal.

(5) An officer who has been authorised under subsections (1) and (2) who impounds goods under subsection (1) or (2) shall issue a receipt for any such goods removed.

(6) If a taxable supplier from whom the goods have been impounded under subsection (1), fails to produce, within fourteen days, evidence that such a supplier has complied with the provisions of this Act, the Commissioner-General may declare any or all of the goods to be forfeited.

(7) If a taxable supplier from whom the goods have been

impounded under subsection (2) fails to produce, within fourteen days, evidence that tax has been paid at the time the goods are supplied or at importation, the Commissioner-General may declare any or all the goods to be forfeited.

(8) Where goods are forfeited under this section, the Commissioner-General shall, by notice in writing, specify the articles which have been seized and inform the person from whom the goods have been seized that proceedings for their recovery may be instituted within three months from the date the notice is given.

(9) If proceedings are not instituted under the provisions of subsection (8), any articles forfeited shall, by direction of the Commissioner-General, be sold at a public auction.

(10) Notwithstanding any other provision of this section, where goods which are of a perishable nature are impounded, the Commissioner-General may direct that the goods shall be destroyed or sold immediately by public auction if the officer who has been so authorised by the Commissioner-General can secure an offer of not less than fifty per centum of the market value.

(11) Where goods of a perishable nature have been sold and the supplier provides evidence that such supplier has complied with this section, the supplier shall immediately be paid—

- (a) the proceeds of the sale without deduction; and
- (b) such other restitution as is agreed with the Commissioner-General or the supplier may recover by restitution, in a court of competent jurisdiction.


