

# Finance Act 2017 Amendments to Value Added Act 1998

Presented By:

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*Partners in Progress and Prosperity*

Date: 29 January 2018

## AGENDA:

- **VAT Free Supplies – Section 2**
- **Credit for Input Tax (Bad Debts) – Section 21 (4)**
- **Tax Liability prior to date of registration – Section 23**
- **Penalty for Failure to join electronic system – Section 26A**
- **Penalty for Late Payment of Tax – Section 27 (1)**
- **Interest on tax unpaid or amount repaid – Section 27A (1)**
- **Act or Thing in respect of period before 3 years preceding last day of taxable period – Section 28A**

## AGENDA:

- **Director General may make assessments – Section 37 (3)**
- **Objection to assessment – Section 38**
- **Determination of objections – Section 39**
- **Representation to Assessment Review Committee – Section 40**
- **Priority of VAT charged by a registered person – Section 42-  
Refund of VAT to persons other than registered persons –  
Section 65A (2)**
- **Exempt bodies or persons – Section 66**

## **AGENDA:**

- **Rulings – Section 69A**
- **Transitional Provisions – Section 73**
- **First Schedule – q (i), (iv) to ( xviii)- 1 January 2017**
- **q (ii) and ( xix)- 9 June 2017**
- **Fifth Schedule- r (i), (iii) to (vii)- 1January 2017**
- **r ( viii) to (x)- 9 June 2017**
- **Ninth Schedule – s (ii) and (iv) – 8 September 2016**
- **Tenth Schedule – Part II -- 1 October 2017**
- **Twelfth Schedule**

## **New definition added**

**Departing citizen of Mauritius” means a citizen of Mauritius who holds –**

- (a) a valid passport; and**
- (b) a valid ticket for travel by air or sea to a foreign airport or port;**

***(Citizens of Mauritius are now entitled to VAT free supplies at the time of departing from Mauritius.)***

# Credit for Input Tax (Bad Debts)

## *Section 21 (4)*

### Existing legislation

The amount of any input tax or output tax shall be adjusted to take into account any debit note or credit note or a bad debt.

### Amendment to Existing Legislation:

By adding the words *“which is proved to have become bad and to have been actually written off as a bad debt”*

- *Alignment with Income Tax Act*
- *Guidelines in Statement of Practice (SP 9/11)*

# Tax Liability prior to date of Registration

## *Section 23*

### Existing Legislation:

“submit a statement, in a form approved by the Director-General, giving the information and particulars specified in section 22 in respect of the taxable periods commencing on the date the person was required to be registered and ending on the date immediately preceding the date of his registration, provided that such periods *do not exceed 5 years*; and”

### Amendment to Existing Legislation

By deleting the words “5 years” and replacing them by the words “4 years preceding the last day of the taxable period”;

# Penalty for Failure to Join Electronic System

## Section 26A

### Existing Legislation

Any registered person who fails to join the electronic system, shall be liable to pay to the Director-General, a penalty of 5,000 rupees, for every month or part of the month. The total penalty payable shall not exceed **50,000** rupees.

### Amendment to Existing Legislation

By deleting the figure “50,000” and replacing it by the figure “100,000”;

*Alignment with section 122C of Income Tax Act*



# Penalty for Late Payment of Tax

## *Section 27 (1)*

### Existing Legislation

Subject to subsection (3), where a taxable person fails to pay any tax due on or before the last day on which it is payable under section 21(7), 22, 23, 37, 39 or 67, he shall be liable to pay to the Director-General, in addition to the tax and any penalty under sections 15A, 24(9), 26(1), 26A and 37A, a penalty of 10 per cent of the tax.

### Amendment to Existing Legislation

By deleting the words “or 67” and replacing them by the words “, 66(4) or 67”;

*Penalty in respect of claim to be made to exempt person*

## Interest on Tax Unpaid or amount repaid or refund in excess *Section 27A (1)*

### **Existing Legislation:**

**Interest at the rate of one per cent per month or part of the month shall be paid to the Director-General on -**

- (a) any tax unpaid under section 9 or 21(7) from the date the tax remained unpaid to the date of payment;**

### **Amendment to Existing Legislation**

**By deleting the words “or 21(7)” and replacing them by the words “, 21(7) or 66(4)”;**

***Interest in respect of claim to be made to exempt person***

# Act or Thing in respect of Period before **3** years preceding Last day of taxable Period – *Section 28A*

## Existing Legislation

**(1) Notwithstanding this Act, the Director-General shall, in any taxable period, in relation to the tax liability of a person, not –**

- (a) require any information, statement or return;**
- (b) make any assessment or claim,**

**under this Act in respect of a period before **3** years preceding the last day of the taxable period, unless the Director-General applies ex parte for and obtains the authorisation of the Independent Tax Panel under the Mauritius Revenue Authority Act.**

## Amendment to Existing Legislation

- ✓ **in the heading, by deleting the figure “**3**” and replacing it by the figure “**4**”;**
- ✓ **in subsection (1), by deleting the figure “**3**” and replacing it by the figure “**4**”**  
*(Alignment with income tax act)*

# Director-General may make assessments

## *Section 37 (3)*

### ❖ Existing Legislation

Subject to subsection (5), an assessment under subsection (1) shall not be made in respect of a period before **3** years immediately preceding the last day of the taxable period in which the liability to pay tax arose.

### ❖ Amendment to Existing Legislation

✓ By deleting the figure **“3”** and replacing it by the figure **“4”**;

# Objection to Assessment *Section 38 (1) (b)*

## **Existing Legislation**

**The form referred to in paragraph (a), duly filled in, shall be sent by the person objecting, by registered post, to the Director-General Authority.**

## **Amendment to Existing Legislation**

**By inserting, after the word “post”, the words “or electronically”;**

# Objection to Assessment Section 38 (5)

## Existing Legislation

Where the person fails to comply with subsection (2) the objection shall be deemed to have lapsed and the Director-General shall, give notice thereof to that person.

## Amendment to Existing Legislation

- ✓ By inserting, after the words “subsection (2)”, the words “or (2A)”

# Determination of Objections Section 39

**After subsection (2), the following new subsection has been inserted**

**(2A) Where the person fails to comply with a notice under subsection (1) within the time specified in the notice, the Director-General may determine that the objection has lapsed and he shall give notice thereof to the person.**

# Determination of Objections Section 39

## Existing Legislation:

### Section 39 (3)

Where a notice of determination under subsection (2) is given, the tax specified in the notice together with any penalty under sections 15A, 24(9), 26, 26A, 27 and 37A and any interest under section 27A shall be paid within 28 days of the date of the notice, or the excess amount of input tax against output tax as determined shall be carried forward, as the case may be.

### Amendment to Existing Legislation

- ✓ By inserting, after the words “subsection (2)”, the words “or (2A)”;



# Representations to Assessment Review Committee

## Section 40

### Existing legislation Section 40 (1)(C)

- (1) Any person who is aggrieved by a decision of the Director-General –
- a) as to whether or not a supply of goods or services is a taxable supply;
  - b) relating to the registration or cancellation of any person;
  - c) under section 38(4) and (5), 39 or 67,
  - d) May lodge written representations with the Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act 2004.

### Amendment to Existing Legislation

To add section 66(4) after section 39

*Includes claim made to exempt person*

# Representations to Assessment Review Committee

## Section 40

### **New Provision**

#### **sub Section (1A) (a)**

**Where a person has lodged written representations under subsection (1) against a decision made under section 38 (5) and, prior to the date fixed for the hearing of his representations –**

- (i) he complies with the provisions of section 38(2) or (2A), as the case may be;**
- (ii) he informs the Assessment Review Committee in writing, with copy to the Director-General, that he has complied with section 38(2) or (2A), as the case may be, and wishes his objection to be considered anew by the Director-General; and**
- (iii) he withdraws his representations before the Assessment Review Committee,**

**the the Director-General shall consider the objection as from the date that person withdraws his representations before the Assessment Review Committee.**

**(b) Notwithstanding section 39 (4) the objection shall be determined within 4 months from the date the person withdraws his representations before the assessment Review Committee.**

# Priority of VAT Charged by a Registered Person

## *Section 42*

### **New Provision**

#### **Sub- Section (3)**

**In the case where a receiver is appointed by the chargee of a charge for the purpose of satisfying a debt secured by the charge as specified in section 204 of the Insolvency Act, any value added tax due and payable by the chargor shall, subject to section 204(5) of that Act, be paid by the receiver in accordance with section 204(4) of that Act .**

## **VAT Refund Scheme extended to tea cultivators –**

- ❖ **registered with the National Agricultural Products Regulatory Office set up under the National Agricultural Products Regulatory Office Act; or**
- ❖ **A co-operative society registered under the Co-operative Act 2016**

### **Equipment applicable**

**Hand –held plucking shear**

**Hand-held pruning machine**

**Motorised tea harvester**

# Exempt Bodies or Persons Section 66

## **Item 11 and 13 of the Ninth Schedule to the VAT Act**

### **Construction of purpose –built building for -**

- **the provision of tertiary education**
- **a private hospital, nursing home or residential care home.**

### **New Provisions**

#### **Liability to pay VAT where -**

- **An exempt person who has benefited from VAT exemption no longer uses the building for the specified purpose**
- **Sells or otherwise transfers the building & the building is no longer used for the specific purpose**

# Exempt Bodies or Persons Section 66

- **Exempt person/ transferee to give notice to Director-General specifying when building is no longer used for the specified purpose**
- **Amount payable computed as follows:**
  - VAT exempted x (20 years – period between date of completion and date of transfer)**  
**20 years**
- **Claim to be made by Director-General**
- **Penalty for late payment & interest applicable**
- **Objection and appeal procedures applicable**

## **New subsection (3A)**

**The Director- General shall not give a ruling where an application is in respect of –**

- **An issue which is the subject of an objection’**
- **Representations before the Assessment Review Committee, or**
- **An appeal before the Supreme Court or**
- **Judicial Committee of the Privy Council**

### Reduction of penalty by 100 per cent

Where **VAT arrears** outstanding as at **8 June 2017** are fully paid by a person on or before **31 May 2018**, any penalty and interest included in the VAT arrears shall be **reduced by 100 per cent**, provided that an application for the reduction is made to the Director-General on or before **31 March 2018**.



# Transitional Provisions

## *Section 73 (12)*

### ❖ Existing Legislation:

In subsection (11) -

“VAT arrears” -

(a) means tax in respect of -

(i) a return made under section 22;

(ii) a statement made under section 23; or

(iii) an assessment made under section 37,

**Before 30 June 2006** and tax and penalties in connection thereto have remained unpaid;  
but

(b) does not include tax due under an assessment which is pending before the Assessment Review Committee, Supreme Court or Judicial Committee of the Privy Council

### ❖ Amendment to Existing Legislation:

- ✓ By deleting the words “before 30 June 2006” and replacing them by the words “on or before **30 June 2015**”.

# First Schedule (Goods or services exempted)

## ➤ Alignment of HS codes with Customs Tariff Act

### ➤ item 26 (existing)

Goods (excluding merchandise for sale, tobacco in any form, wines, spirits, arms and ammunition) imported by post of a value for duty purposes not exceeding **2,000** rupees under item No. E11

Amended by deleting the figure ‘ 2,000’ and replacing it by the figure ‘**3,000**’

*(w.e.f 09 June 2017)*

### ➤ Addition of Item 82

Sterile water used before, during and after operation of H.S.  
Code 2201.90.20

*(w.e.f 09 June 2017).*

- **Alignment of HS codes with Customs Tariff Act**
- **Item 4(b)**
  - Extension of zero rating to –**  
**Goods supplied by an operator of a duty free shop situated at a place other than the port or airport, provided that the goods are delivered, under Customs control to the visitor or departing citizen of Mauritius**
- **Item 33-**  
**Clarification that burglar alarm system extend to patrol and monitoring (w.e.f 09 June 2017)**

➤ Item 31

**Fees payable for examination of vehicles under the Road Traffic Act extended up to June 2018**

***(w.e.f 9 June 2017)***

➤ New item 34

**Sanitary towels (pads) and tampons.**

***(w.e.f 09 June 2017)***

# Ninth Schedule (*Exempt bodies or persons*)

## Item 6

**Alignment with Customs Act**

## Item 11 & 13 – construction of purpose building

**Extension of exemption to –**

- **Person engaged in the construction of purpose built building to be leased exclusively to a person approved by TEC**
- **Person having obtained a letter of intent to run private hospital, nursing home, or residential care home.**

## Item 14

**Consequential amendment following abolition of CSR Committee.**

**Addition of new items**

## Item 18

**Person approved by Minister , engaged in implementation of project funded by foreign state to at least 50% of project value.**

## Item 19

**Person operating a food processing plant**

# Tenth Schedule (*Compulsory registration*)

**Compulsory registration of wholesale dealer in liquor and alcoholic**

***(Shall come into operation on 1 October 2017)***

# Twelfth Schedule

## *Refund of VAT to persons other than registered persons*

**Additions of new items under –**

**Part 1 – Equipment applicable to a planter or an horticulturist**

- **Fertigation pumps**
- **Green houses**
- **Hydroponic filters**
- **Shade greens**
- **Sharlon Shades**
- **Water tanks**

**Part II -Equipment applicable to a pig breeder**

- **Cooling fans**
- **Farrowing crates**
- **Gestation crates**
- **Heat lamps**
- **Hot blasts**
- **Incubators**
- **Nursery crates**
- **Pig drinkers**
- **Pig feeders**

# Twelfth Schedule

## *Refund of VAT to persons other than registered persons*

### Additions of new items under –

#### Part III - Equipment applicable to a breeder other than a pig breeder

- Cages
- Chicken crates
- Coops
- Feed grinders
- Ventilation fans
- Water tanks

#### Part VI – equipment and machinery applicable to a baker

Deleting the words ‘ AND MACHINERY’

Now it reads

**EQUIPMENT APPLICABLE TO A BAKER**



# THANK YOU

## Any Question?

