

VALUE ADDED TAX ACT, 1989

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Third Session Third Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 37 of 1989

[L.S.]

AN ACT to provide for the imposition and collection of
a value added tax, to abolish certain taxes and other
impositions, and for related purposes.

[Assented to 19th September, 1989]

WHEREAS it is enacted by section 13(1) of the Constitution Preamble
that an Act of Parliament to which that section applies
may expressly declare that it shall have effect even though
inconsistent with sections 4 and 5 of the Constitution, and
if any Act does so declare it shall have effect accordingly:

And whereas it is provided in subsection (2) of the said section 13, that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

Enactment

ENACTED by the Parliament of Trinidad and Tobago as follows:

PART 1

PRELIMINARY

Short title

1. (1) This Act may be cited as the Value Added Tax Act, 1989.

(2) This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

Act binds State

2. This Act binds the State.

Interpretation

3. (1) In this Act—

“appointed day” means the day appointed under section 6;

“certificate of registration” means a certificate of registration issued under section 27;

“certificate of waiver” means a certificate of waiver given under section 45 or 46;

“commercial supply” means a supply that is a commercial supply in accordance with section 14;

“entered” has the meaning given to that expression by the Customs Act;

Chap. 78:01

“importer”, in relation to imported goods, means the person to whom the goods are delivered out of the charge of the officers and for the purposes of this definition “officers” has the same meaning as it has in the Customs Act;

“money” includes—

(a) any banknote or other negotiable instrument used or circulated or, intended for use or circulation, as currency; and

(b) any postal note, money order, promissory note, or bill of exchange, whether issued or given in Trinidad and Tobago or any other country, but does not include a collector's piece, investment article, or item of numismatic interest;

"prescribed services" means any services not listed as exempt services in Schedule 1;

"proforma invoice" means a proforma invoice given under section 46;

"recipient", in relation to a supply of goods or services, means the person to whom the goods or services are supplied;

"registered" means registered under this Act;

"registration number", in relation to a registered person, means the identifying number borne by the certificate of registration issued to that person;

"return" means a return required by section 31(1);

"supplier", in relation to a supply of goods or services, means the person by whom the goods or services are supplied;

"tax" means value added tax under this Act;

"tax invoice" means a tax invoice given under section 36;

"the Board" means the Board of Inland Revenue established by section 3 of the Income Tax Act;

Chap. 75:01

"zero-rated" means zero-rated under section 8.

(2) The Minister may by Order amend Schedule 1 and an Order under this subsection is subject to negative resolution of Parliament.

4. (1) In this Act "business" includes any trade, profession or vocation. What constitutes a business

(2) For the purposes of this Act—

(a) an activity that is carried on, whether or not for pecuniary profit, and involves or is intended to involve, in whole or in part, the supply of goods or services for consideration;

(b) the activities of a club, association or organiza-

Chap. 88:02

tion, other than a trade union registered under the Trade Unions Act, in providing, for a subscription or other consideration, facilities or advantages to its members;

(c) an activity involving the admission, for a consideration, of persons to any premises; or

(d) the activities of any department, instrumentality, or agency of the State,

shall be regarded as a business.

(3) A body having objects in the public domain that are of a political, religious, philanthropic, philosophical or patriotic nature shall not be regarded as carrying on a business by reason only that it provides to its members, for a subscription, the right to participate in its management or receive reports on its activities but no other facility or advantage.

(4) A person shall not be regarded as carrying on a business by reason only of any engagement, occupation or employment under a contract of service or as a director of a company except where, in carrying on any business, the person accepts an office and supplies services as the holder of that office in which case those services shall be regarded as being supplied in the course of, or furtherance of, the business.

(5) Anything done in connection with the commencement or termination of a business shall, for the purposes of this Act, be regarded as done in the course of, or furtherance of, the business.

Consideration in
foreign currency

5. For the purposes of this Act, the amount of any consideration that is in a currency other than the currency of Trinidad and Tobago shall be converted to the currency of Trinidad and Tobago at the rate at which the Central Bank would, at the time of supply or importation, as the case may be, have purchased that currency in the form of notes.

PART 2

IMPOSITION OF THE TAX

Value added tax

6. Subject to this Act, a tax, to be known as value added tax, shall be charged in accordance with this Act—

(a) on the entry of goods imported into Trinidad and Tobago; and

- (b) on the commercial supply within Trinidad and Tobago of goods or prescribed services by a registered person,

where that entry or commercial supply takes place on or after the day appointed for the purposes of this section by Order made by the President, being a day that is the first day of a calendar month and is not less than three months after publication of the Order.

7. (1) The amount of the tax shall be calculated in accordance with this Act at the rate of fifteen per cent or such other rate as the Minister by Order specifies, except in the case of an entry or a supply that is zero-rated. Rate of tax

(2) The Order made under subsection (1) is subject to affirmative resolution of Parliament.

8. (1) Where goods are prescribed in Schedule 2— Zero-rating
(a) the entry of any such goods imported; or
(b) the supply of those goods,
is zero-rated for the purposes of this Act.

(2) Where services are, or the supply of services is, prescribed in Schedule 2, the supply of those services is zero-rated for the purposes of this Act.

(3) Where the entry or supply of any goods or the supply of any services is zero-rated, the rate at which tax is regarded as being charged shall be nil, and consequently no tax shall be charged on the entry or supply.

(4) The Minister may by Order amend Schedule 2 and an Order under this subsection is subject to negative resolution of Parliament.

PART 3

TAX ON IMPORTS

9. Tax charged on the entry of imported goods shall be of an amount calculated by multiplying the rate of tax applicable under this Act by the value of the goods imported. Calculation of tax

10. Tax on the entry of imported goods shall be charged and payable as if it were a duty of customs and, for the purposes of applying the Customs Act and any other written law relating to the importation of goods, tax shall be regarded as a duty of customs. Tax to be treated as duty of customs

When tax due
and payable

11. Tax on the entry of imported goods becomes due and payable at the time when the goods are entered, and is the liability of the importer.

Value of import

12. For the purposes of this Act, the value of goods imported into Trinidad and Tobago is—

(a) the total of the amount of—

- (i) the value of the goods determined in accordance with the Sixth Schedule to the Customs Act (whether or not duty is payable under that Act); and
- (ii) any duties, taxes (other than value added tax charged under this Act) and other charges that are charged, paid or payable upon the entry of imported goods; or

(b) where the total amount under paragraph (a) is less than the amount of the open market value of the goods, the amount of the open market value of the goods.

Open market
value of goods

13. For the purposes of this Act, the amount of the open market value of goods is equal to the amount of the consideration, not including tax, that would, if the consideration were wholly in money, be expected to be payable for the goods in Trinidad and Tobago by a person standing in no such relationship as would affect that consideration.

PART 4

TAX ON SUPPLY

Division 1—The tax

Commercial supply

14. (1) A supply of goods or prescribed services that is made in the course of, or furtherance of, any business is a "commercial supply" for the purposes of this Act.

(2) Upon the sale, transfer or other disposition, whether for consideration or not, of a business as a going concern, the sale, transfer or other disposition of any stock in trade held for the purposes of the business shall be regarded as being a commercial supply, except for the

purposes of determining whether or not the Board has a discretion under section 25 to refuse an application by the person to be registered and, if the Board refuses such an application, section 20 does not apply in relation to the supply.

(3) Where any goods belonging to a person for the purposes of carrying on a business are appropriated to a use other than for the purposes of that business, the appropriation shall be regarded as a commercial supply.

(4) Where any goods belonging to a person for the purposes of carrying on a business are sold to satisfy a debt, the sale shall be regarded as a commercial supply on behalf of that person.

(5) Where a person carrying on business ceases to be registered but continues to carry on the business, any stock in trade that is on hand and has not been supplied by him at the time when he ceases to be registered shall be deemed to have, at that time, been supplied by him and for the purposes of this Act the deemed supply shall be regarded as a commercial supply and he shall be regarded as **both** the supplier and the recipient.

(6) Where, under a contract of insurance, a person receives an amount by way of an indemnity payment relating to a loss incurred in relation to goods or services in the course of, or furtherance of, any business, the person shall, for the purposes of the application of this Act to that person but not to the person by whom the payment is made, be regarded as having made a commercial supply of the goods or services to which the payment relates, at the time when the payment is made, and the amount of the payment shall be regarded as having been the consideration for the supply, including such amount, if any, as may be claimed in respect of tax.

15. (1) Schedule 3 applies for determining what is, ^{What constitutes a supply of goods or services} for the purposes of this Act, to be included as a supply of goods or services.

(2) The Minister may by Order amend Schedule 3 and an Order under this subsection is subject to negative resolution of Parliament.

Place of supply

16. (1) For the purposes of this Act, the supply of goods and services shall, subject to subsections (3) and (4), be regarded as taking place within Trinidad and Tobago if—

(a) the supplier is resident in Trinidad and Tobago;
or

(b) the supplier is not resident in Trinidad and Tobago but—

(i) in the case of a supply of goods, the goods supplied are in Trinidad and Tobago at the time of the supply; or

(ii) in the case of a supply of services, the services are physically performed in Trinidad and Tobago by a person who is in Trinidad and Tobago at the time the services are performed.

(2) For the purposes of this Act, the supply of goods or services shall, subject to subsections (1)(b) and (5), be regarded as not taking place within Trinidad and Tobago if the supplier is not resident in Trinidad and Tobago.

(3) Where, in the circumstances referred to in subsection (1)(b), the goods or services supplied are supplied to a recipient who is a registered person for the purposes of his carrying on a business in Trinidad and Tobago, the supply shall be regarded as not taking place within Trinidad and Tobago unless the supplier and recipient agree that the supply is to be regarded as taking place within Trinidad and Tobago.

(4) Where goods are imported into Trinidad and Tobago and either—

(a) have not yet been entered; or

(b) are supplied to a person in such circumstances that he is liable to pay tax on the entry of the goods,

the supply of the goods shall be regarded as not taking place within Trinidad and Tobago.

(5) The supply of international travel or international package tours shall be regarded as taking place within Trinidad and Tobago if the travel or package tour is paid for in Trinidad and Tobago.

17. (1) Except as otherwise provided in this section, ^{Time of supply} a supply of goods or services takes place, for the purposes of this Act, when—

- (a) an invoice for the supply is given by the supplier;
- (b) payment is made for the supply; or
- (c) the goods are made available, or the services are rendered, as the case may be, to the recipient,

whichever is the earlier.

(2) Where goods are supplied to a person—

- (a) under an agreement for hire-purchase or lease with an option to purchase; or
- (b) under an arrangement whereby the recipient has an option to return the goods to the supplier,

the supply takes place, for the purposes of this Act, when the goods are made available to the recipient.

(3) Where a supply of services, other than a supply to which subsection (2) or (4) applies, is continuous, the supply takes place, for the purposes of this Act, when an invoice for the supply is given by the supplier, but only to the extent of the supply to which the invoice relates.

(4) Where services are supplied under an agreement that expressly provides for the consideration to be paid in periodic payments, whether or not the services are provided periodically, the services, shall, to the extent that an invoice for the services is not given by the supplier, be regarded as being successively supplied at the times when the periodic payments are made or become due, whichever is earlier.

(5) Where goods are supplied progressively or periodically under an agreement that provides for the consideration for the supply to be paid from time to time upon the supplier giving invoices, the goods shall be regarded as being supplied at the time when—

- (a) an invoice for the supply of the goods is given by the supplier;
- (b) payment for the supply of the goods is made; or
- (c) payment for the supply of the goods becomes due,

whichever is earlier.

(6) Where a building, structure or other works is constructed under an agreement that expressly provides for the consideration to be paid at specified stages of the construction, the supply of the goods and services involved in the construction of the building to each stage shall be regarded as taking place when—

- (a) an invoice in respect of the construction of the building to that stage is given;
- (b) payment in respect of the construction of the building to that stage is made; or
- (c) payment in respect of the construction of the building to that stage becomes due,

whichever is the earlier, except that the proportion of the supply to which the deposit, if any, relates shall be regarded as taking place at the time the deposit is paid.

Value of supply

18. (1) Except as otherwise provided in this section, the amount of the value of the supply of goods or services is, for the purposes of this Act—

- (a) where the supply is for a consideration wholly in money, the amount of the consideration, not including tax;
- (b) where the supply is not for a consideration or is for a consideration that is not wholly in money, the amount of its open market value.

(2) Where the supply of goods or services is for a consideration wholly in money but the consideration is payable by a person standing in such a relationship as affects the amount of the consideration, the amount of the value of the supply is, for the purposes of this Act, the amount of its open market value.

(3) Where an employer supplies meals or temporary accommodation to an employee, the amount of the value of the supply is, for the purposes of this Act, the amount

of the consideration in money payable by the employee for the supply or, if no consideration in money is payable by the employee for the supply, nil.

(4) In subsection (3), "temporary accommodation" means accommodation for a continuous period not exceeding thirty days.

19. For the purposes of this Act, the amount of the open market value of the supply of goods or services is equal to the amount of the consideration, not including tax, that would, if the consideration were wholly in money, be expected to be payable for it by a person standing in no such relationship as would affect that consideration.

Division 2—Registration

20. (1) Subject to subsection (2), a person who, on or after the appointed day, makes a commercial supply is required to be registered.

(2) Subsection (1) does not apply to a person who—

(a) has, in accordance with section 24, made an application to be registered that has not yet been dealt with by the Board; or

(b) makes a commercial supply in the circumstances referred to in section 21.

(3) A person who, not being registered, makes a commercial supply by reason of which he is required by subsection (1) to be registered commits an offence and is liable on summary conviction to a fine of fifteen thousand dollars and imprisonment for one year.

21. (1) The circumstances referred to in section 20(2)(b) in which a person may make a commercial supply without being registered are—

(a) where—

(i) during the period of twelve months ending with the month immediately before the month in which the supply is made, the value of his commercial supplies was not more than one hundred and twenty thousand dollars; and

(ii) there are reasonable grounds for believing that the value of his commercial supplies during the period of

twelve months commencing with the month in which the supply is made will not be more than one hundred and twenty thousand dollars; or

- (b) where, at any time before the supply is made, the Board has declared, in writing, that it is satisfied that the value of his commercial supplies during the period of twelve months commencing with the month in which the supply is made will not be more than one hundred and twenty thousand dollars.

(2) Where a person has been carrying on a business for less than the period of twelve months referred to in subparagraph (i) of subsection (1)(a), the circumstance required by that subparagraph is deemed only to exist if, during that lesser period, the average monthly value of his commercial supplies was not more than ten thousand dollars.

Declarations

22. (1) The Board may, by notice in writing given to a person, declare, for the purposes of section 21, that it is satisfied that the value of his commercial supplies during the period of twelve months commencing with such month, after the notice is given, as the Board specifies in the notice will not be more than one hundred and twenty thousand dollars.

(2) The Board may, by notice in writing given to a person, declare that there are reasonable grounds for believing that the value of the commercial supplies to be made by that person during the period of twelve months commencing with such month, after the notice is given, as the Board specifies in the notice will be more than one hundred and twenty thousand dollars, and for the purposes of section 21 the giving of that notice constitutes reasonable grounds for so believing.

(3) Where the Board has given a person notice under subsection (1) or (2) it may, by a further notice in writing given to that person, revoke the notice under subsection (1) or (2) with effect from the commencement of such month, after the notice of revocation is given, as the Board specifies in the notice of revocation and the declaration in the notice revoked shall accordingly cease to have effect.

23. (1) Where a person who makes a commercial supply is, at the time the supply takes place, registered, he may recover from the person to whom the supply is made an amount calculated by multiplying the value of the supply by the rate of tax charged on that supply and, unless the supply is expressed to be for a consideration that includes an amount in respect of tax, that amount is recoverable in addition to any other consideration for the supply.

Registered person
may recover tax
from person
supplied

(2) A person who, other than in accordance with subsection (1), recovers or seeks to recover from any other person an amount represented to be in respect of tax commits an offence and is liable on summary conviction to a fine of thirty thousand dollars and imprisonment for two years.

24. A person who is not registered and intends to make a commercial supply may, in the manner and form approved by the Board, apply to the Board to be registered.

Application
for registration

25. Subject to section 26, where a person applies under section 24 to be registered, the Board—

Registration

(a) shall, if the applicant intends to make commercial supplies other than in the circumstances referred to in section 21; and

(b) may, if the applicant intends only to make commercial supplies in the circumstances referred to in section 21,

cause the applicant to be registered.

26. Where, upon a person ceasing to carry on business, any goods held by him for the purposes of the business are to be appropriated by him to his private use or to any other purpose or upon a person who continues to carry on business ceasing to be registered and thereupon being deemed to have made a supply, the appropriation or supply shall be disregarded for the purposes of determining whether or not the Board has a discretion under section 25 to refuse an application by the person to be registered and, if the Board refuses the application, section 20 does not apply in relation to the appropriation or supply.

Certain
self-supply may
be disregarded

27. (1) The Board shall cause each person registered to be issued with a certificate of registration and such number of copies of it, if any, as he requires for the purposes of subsection (3).

Certificate
of registration

(2) A certificate of registration shall bear an identifying number and shall show the date from which the registration is effective.

(3) A registered person shall cause his certificate of registration, or a copy of it issued by the Board, to be displayed in public view at the place from which the person carries on the business in connection with which he makes a commercial supply, or in each such place where there is more than one.

(4) A person who contravenes subsection (3) commits an offence and is liable on summary conviction to a fine of three thousand dollars and a further one hundred dollars in respect of each day during which the offence has continued.

(5) A person who, not being registered, displays a certificate of registration, a copy of a certificate of registration, or a document purporting to be a certificate of registration or purporting to be a copy of a certificate of registration, commits an offence and is liable on summary conviction to a fine of fifteen thousand dollars and imprisonment for one year.

Notification
of changes

28. (1) A registered person shall, within twenty-one days, give the Board notice in writing of—

- (a) any change affecting the accuracy of the particulars provided by him in his application to be registered;
- (b) the business in respect of which the person is registered closing down;
- (c) any other matter of which he is required by the regulations to give the Board notice.

(2) Where a registered person—

- (a) dies;
- (b) becomes bankrupt;
- (c) goes into liquidation or receivership; or
- (d) becomes a party to an amalgamation,

the registered person or the person responsible for the affairs of the registered person shall, within twenty-one days, give the Board notice in writing thereof.

(3) Where the Board has not been given notice as required by this section of any matter relating to a registered person, it may assess that person under this Act and otherwise exercise its powers under this Act as if the matter

of which it was not given notice had not taken place, and the registered person, or the estate of the registered person, is liable accordingly.

(4) A person contravening this section commits an offence and is liable on summary conviction to a fine of three thousand dollars.

29. (1) A registered person who is not required, or will not be required, by this Act to be registered may apply in writing to the Board to have his registration cancelled. ^{Cancellation of registration}

(2) Whether or not a registered person has applied to have his registration cancelled, the Board may cancel the registration of a person if it appears to the Board that the person will not be required to be, and should not continue to be, registered.

(3) Where a registered person has applied to have his registration cancelled the Board may refuse to cancel the registration solely on the grounds that the person has, within the last two years, made supplies by reason of which he has been required to be registered, but nothing in this subsection limits the grounds on which the Board may refuse to cancel the registration of a person.

(4) The Board shall give notice of the cancellation of the registration of a person personally to the person or his agent or by registered post addressed to the person and the cancellation shall not have effect before—

(a) where the notice is given personally, the day on which it was given;

(b) where the notice is given by registered post—

(i) the day on which it is received by the person; or

(ii) the day that is fifteen days after the day on which it was posted, whichever is the earlier.

(5) A person who, in accordance with subsection (4), is given notice of the cancellation of his registration shall, within fifteen days after the cancellation has effect, return to the Board his certificate of registration and any copies of it that have been issued in accordance with section 27.

(6) A person who contravenes subsection (5) commits an offence and is liable on summary conviction to a fine of fifteen thousand dollars and imprisonment for one year.

(7) The obligations and liabilities under this Act of a person in respect of anything done or omitted to be done while that person was a registered person are not affected by that person ceasing to be a registered person.

Division 3—Payment of the tax

Tax periods

30. (1) Each registered person shall, for the purposes of this Act, be in category A, category B, or category C, as the Board determines.

(2) Except as may be otherwise prescribed in the regulations—

- (a) the tax periods of persons in category A are the period of one month commencing on the appointed day, and each period of two months thereafter; and
- (b) the tax periods of persons in category B are the period of two months commencing on the appointed day, and each period of two months thereafter.

(3) The tax periods of a person in category C are such periods as the Board from time to time determines in relation to that person.

(4) The Board may determine that a person be transferred from any category referred to in this section to any other of those categories with effect from such time as the Board specifies, and that determination shall make such transitional provision relating to the tax periods of that person as is necessary to ensure that his tax periods follow one another continuously without any period of overlap.

Returns

31. (1) Every person shall, within the time required by this section, furnish to the Board a return, in a form approved by the Board and signed by him, relating to each tax period during which he was a registered person.

(2) A return shall be furnished to the Board at the address specified on the form—

- (a) within twenty-five days after the end of the tax period to which it relates; or
- (b) where the person ceases to be registered during a tax period, within twenty-five days after the person ceases to be registered,

or within such further time as the Board may, in writing, allow and is not so furnished until it is received at that address.

(3) A form approved by the Board under subsection (1) shall include particulars of the amount of tax payable, or the refund due, in respect of the tax period concerned and may include such other particulars as the Board sees fit, which may differ according to the circumstances in which the form is to be used.

(4) The amount specified in a return as being the amount of tax payable, or the amount of the refund due, in respect of a tax period shall be calculated in accordance with section 32.

(5) A person contravening this section commits an offence and is liable on summary conviction to a fine of five hundred dollars.

32. (1) The tax payable by, or the refund due to, a person in respect of a tax period is calculated by ascertaining the total amount of the output tax in respect of commercial supplies made by that person during the tax period, in accordance with section 33, and deducting from that amount the total amount of the allowable input tax of that person for the tax period, ascertained in accordance with section 34.

Calculation of
tax payable
or refund due

(2) Notwithstanding that the output tax in respect of a tax period may be less than the allowable input tax, or may be nil, the full amount of the allowable input tax may nevertheless be deducted, with the effect that, in respect of that period, a refund is due.

33. (1) Subject to this section, output tax in respect of commercial supplies made by a person during a tax period is calculated by multiplying the value of each such supply by the rate of tax charged on that supply, and taking the aggregate of the amounts so obtained.

Output tax

(2) Subject to subsection (3), a person may, if all the supplies he proposes to make are to be commercial supplies, apply to the Board for approval—

- (a) to use option A, if none of the supplies he proposes to make are to be zero-rated supplies;
- (b) to use option B, if he proposes to make supplies that are zero-rated and supplies that

are not zero-rated and to account separately for the total consideration that he receives for supplies in each of those categories;

- (c) to use option C, if he proposes to make supplies that are zero-rated and supplies that are not zero-rated and does not propose to account separately for the total consideration that he receives for supplies in each of those categories.

(3) A registered person is not eligible to make an application under subsection (2) if any return required to be furnished by him has not been duly furnished, or any amount required under this Act to be paid by him in respect of tax, interest, or a penalty has not been duly paid.

(4) An application under subsection (2) shall be in writing, in a form approved by the Board, stating—

- (a) the nature of the business in the course of which commercial supplies are to be made;
- (b) the type of supplies to be made;
- (c) the estimated value of the commercial supplies to be made by the applicant during the period of twelve months commencing on the day on which the application is made; and
- (d) the reason for making the application.

(5) Upon an application being made under subsection (2) by a person eligible to make the application, the Board may, in writing, approve the application and, by notice in writing given to the person, the Board may subsequently revoke the approval with effect from such time as is specified in the notice.

(6) Where a person has the approval of the Board under this section, subsection (1) does not apply to the calculation of output tax on supplies made by that person during a tax period in which he has that approval, and his output tax shall instead be calculated—

- (a) if he has approval to use option A, according to the formula:

$$OT = CT \times \frac{R}{(R + 100)}$$

where

OT is the output tax to be calculated;

CT is the total consideration for the commercial supplies he made during the tax period, including any amount claimed in respect of tax;

R is the number of per cent to which the rate of tax specified by or under section 7 is equal;

(b) if he has approval to use option B, according to the formula:

$$OT = CN \times \frac{R}{(R + 100)}$$

where

OT is the output tax to be calculated;

CN is the total consideration for the commercial supplies he made during the tax period that are not zero-rated, including any amount claimed in respect of tax;

R is the number of per cent to which the rate of tax specified by or under section 7 is equal;

(c) if he has approval to use option C, according to the formula:

$$OT = \frac{(VN + IN) \times CT \times R}{(VT + IT)(R + 100)}$$

where

OT is the output tax to be calculated;

VN is the value, at the time of such supply, of commercial supplies, not being zero-rated, made to the person during the tax period for the purposes of his carrying on business;

VT is the value, at the time of such supply, of commercial supplies, whether or not zero-rated, made to the person during the tax period for the purposes of his carrying on business;

IN is the value, at the time of such entry, of imported goods not being zero-rated, that are entered by the person during the tax period and are required for the purposes of his carrying on business;

IT is the value, at the time of such entry, of imported goods, whether or not zero-rated, that are entered by the person during the tax period and are required for the purposes of his carrying on business;

CT is the total consideration for the commercial supplies, whether or not zero-rated, made by the person during the tax period, including any amount claimed in respect of tax;

R is the number of per cent to which the rate of tax specified by or under section 7 is equal.

Input tax

34. (1) In relation to a person making commercial supplies during a tax period, the input tax for the period means the sum of—

- (a) any amounts claimed from that person under section 23 in respect of output tax in respect of commercial supplies made during that tax period, being output tax in respect of which there has been given a tax invoice; and
- (b) any tax on the entry into Trinidad and Tobago of goods imported by that person during that tax period,

but does not include output tax on supplies, or tax on the entry of imported goods, where or to the extent that the goods or services supplied or entered are required other than for the purposes of his carrying on a business in Trinidad and Tobago.

(2) Where a person is registered, the supply to him of any stock in trade that is on hand and has not been supplied by him when he becomes registered shall, if the person can produce an inventory audited by a chartered accountant showing that the stock in trade was on hand when he became registered, be regarded for the purpose of ascertaining his input tax for his first tax period as if it had been made to him during that tax period.

(3) The allowable input tax that a person may, under section 32, deduct from the output tax in respect of a tax period is—

(a) where all the supplies made by the person during the tax period are commercial supplies, the whole of the input tax;

(b) where some, but not all, of the supplies made by the person during the tax period are commercial supplies but subsection (4) does not apply—

(i) all of the input tax for the period that is in respect of supplies required solely for the purposes of the making, whether or not during that tax period, of commercial supplies;

(ii) none of the input tax for the period that is in respect of supplies required solely for the purposes of the making, whether or not during that tax period, of supplies that are not commercial supplies; and

(iii) such proportion of the input tax for the period that is not in respect of supplies referred to in subparagraph (i) or (ii) as the value of his commercial supplies during that period represents as a proportion of his total supplies during the period;

(c) where the person made no commercial supplies during the tax period, such proportion, if any, of the input tax for the period as the Board may consider to be fair and reasonable.

(4) Where, during a tax period, the value of supplies made by a person that are not commercial supplies is not more than—

(a) five per cent of the value of all supplies made by him during the period; or

(b) forty-eight thousand dollars,

whichever is less, the allowable input tax that a person may, under section 32, deduct from the output tax in respect of a tax period is the whole of the input tax.

35. (1) A person who is required by section 31 to furnish a return in respect of a tax period shall, within the time Payment or refund of tax

allowed by that section for furnishing the return, pay to the Board the amount of tax, if any, calculated in accordance with this Act as being payable in respect of that period.

(2) Where, in a return furnished to the Board in accordance with section 31, a refund of any amount is specified as being due, the Board shall satisfy the amount—

- (a) by paying the amount, or any of it, to the person to whom the refund is due; or
- (b) by applying the amount, or any of it, to the payment of any outstanding tax, interest or penalty payable under this Act by the person to whom the refund is due.

(3) Any amount of refund due that remains outstanding for more than a period of six months after—

- (a) the date by which the return in which the refund was specified as being due was required to be furnished to the Board; or
- (b) the date on which the return referred to in paragraph (a) was furnished to the Board,

whichever is the later, shall bear interest at the rate of one per cent per month or part of a month from the day after the expiration of that period until the amount outstanding is satisfied in accordance with subsection (2).

(4) Subject to Division 4, the amount specified in a return as being the amount of the tax payable, or the amount of the refund due, in respect of a tax period shall be conclusively deemed, for the purposes of this Act, to be correct.

(5) Notwithstanding anything in this section, where the amount of tax calculated in accordance with this Act as being payable to the Board in respect of a tax period, or the amount of any refund calculated as being due from the Board to a person in respect of a tax period, is not more than three dollars the amount calculated shall be deemed to be nil.

(6) Any amount that a person pays to the Board other than in accordance with subsection (1) may be applied by the Board to satisfy any outstanding amount that the person is required by this Act to pay to the Board and, where there is insufficient to satisfy all of the amounts outstanding, the priority in which it shall be applied shall be according to the length of time for which the amounts have been outstanding, those outstanding for the longest being satisfied first.

36. (1) A registered person making a commercial supply ^{Tax invoices} on or after the appointed day shall, if he is requested by the recipient to do so, at the time when the supply takes place, give the recipient a tax invoice, in accordance with subsection (2), in respect of the supply.

(2) A tax invoice shall include—

- (a) the words "tax invoice" shown conspicuously thereon;
- (b) an identifying serial number and the date on which the tax invoice was given;
- (c) the name, address and registration number of the supplier;
- (d) the name and address of the recipient;
- (e) a description of the goods or services supplied, including the quantity of goods or number of services supplied;
- (f) the consideration for the supply, not including tax;
- (g) the value of the supply;
- (h) the rate of tax applicable to the supply and the amount claimed from the recipient in respect of tax;
- (i) such other particulars, if any, as are required by the regulations to be included in the tax invoice.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of three thousand dollars.

37. (1) This section applies where a registered person ^{Credit and debit notes} has given a tax invoice in respect of a commercial supply and thereafter—

- (a) the supply is cancelled;
- (b) the consideration for the supply is altered, whether due to a discount (not being a discount for prompt payment) or otherwise; or
- (c) the goods or services, or any part of the goods or services, supplied are returned to the supplier.

(2) Where this section applies, the supplier shall give to the recipient a credit note or a debit note, as the case requires, to adjust the amount shown on the tax invoice as being in respect of tax to the amount, if any, that would have been so shown if—

- (a) the cancellation or alteration referred to in subsection (1)(a) or (b) had taken place before the tax invoice was given; or
- (b) the goods or services returned had not been supplied,

as the case requires.

(3) A credit note or debit note required by subsection (2) to be given shall include—

- (a) the words “credit note” or “debit note”, as the case requires, shown conspicuously thereon;
- (b) the name, address and registration number of the supplier;
- (c) the name and address of the recipient;
- (d) the date on which the credit note or debit note, as the case requires, is given;
- (e) the identifying number of the tax invoice to which it relates and the date on which it was given;
- (f) the amount shown on the tax invoice as being in respect of tax, the adjusted amount, and the amount of the credit or debit, as the case requires, that is necessary to make the adjustment; and
- (g) a brief explanation of the circumstances giving rise to the note being given.

(4) A supplier who gives a credit note or debit note under this section shall, in calculating the amount of tax payable, or the amount of the refund due, in respect of the tax period in which the note is given, add the amount of any adjustment in a debit note to, and deduct the amount of any adjustment in a credit note from, the tax charged on supplies made by him during the tax period.

(5) A recipient who—

- (a) being registered, is given a credit note or debit note under this section; and
- (b) in calculating tax payable by him, has taken into account as input tax the amount that, in the tax invoice to which the note relates, was shown as being in respect of tax,

shall, in calculating the amount of tax payable, or the amount of the refund due, in respect of the tax period in

which the note is given, add the amount of any adjustment in a credit note to, and deduct the amount of any adjustment in a debit note from, the tax charged on supplies made by him during the tax period.

(6) A supplier shall not give more than one credit note or debit note in respect of the same adjustment but this subsection does not prevent him from providing a copy, clearly marked to indicate that it is a copy, where the original of a note has been lost.

(7) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of three thousand dollars.

38. (1) Every registered person shall keep, at his principal place of business in Trinidad and Tobago or such other place as the Board may approve, such books and records, expressed in the English language and the currency of Trinidad and Tobago, as are appropriate to enable the Board to ascertain the liability of that person to tax. ^{Books and records to be kept}

(2) The regulations may make provision as to what books and records are required by subsection (1) to be kept, and the manner in which they are to be kept.

(3) Without limiting subsection (2), the records required by subsection (1) to be kept shall include tax invoices, proforma invoices, and certificates of waiver given to him and copies of tax invoices and proforma invoices given by him.

(4) A person required by subsection (1) to keep books and records shall, whether or not he continues to be registered, retain in Trinidad and Tobago those books and records for not less than six years after the end of the last tax period to which they relate, except that this subsection does not require the retention of any books or records—

- (a) where the Board has given notice in writing that such retention is not required; or
- (b) where the person has ceased to exist and the affairs of the person have been wound up.

(5) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of fifteen thousand dollars and imprisonment for one year.

Division 4—Assessments

Board may
assess tax

39. (1) Where—

- (a) a person fails to furnish a return in accordance with this Act;
- (b) a person requests the Board, in writing, to amend a return that the person has furnished under this Act; or
- (c) the Board is not satisfied with a return made by any person or as to any matter on the basis of which the return is prepared,

the Board may assess the amount of tax that should, in the opinion of the Board, be payable by that person, or the refund that should, in the opinion of the Board, be due to that person, in respect of the tax period concerned and the amount so assessed is payable in lieu of the tax that would otherwise be payable by that person, or the refund that would otherwise be due to that person, in respect of that tax period.

(2) Where a person makes any commercial supply contrary to section 20, the Board may assess the amount of tax that would, in the opinion of the Board, have been payable by that person in respect of any such commercial supply if he had been registered and his tax period had been such period as the Board may determine, and the amount so assessed is payable by that person as tax.

(3) Where a person who makes a supply—

- (a) falsely represents that tax is charged on that supply;
- (b) falsely represents the amount of tax charged on that supply; or
- (c) in contravention of section 23(2), recovers or seeks to recover an amount represented to be in respect of tax,

the Board may assess that person as being liable to pay an amount of tax on the basis of so much of the amount that it appears to the Board was represented to be charged as tax, or was recovered or sought to be recovered in respect of tax, as exceeds the amount, if any, that he is authorized by section 23 to recover in respect of the supply and, where the person is not registered, the assessment shall be made as if that person were registered and his tax period had been such period as the Board may determine.

(4) Where an assessment of the tax payable by a person is made or amended under this section wholly or in part as a result of any act or omission of that person that constitutes an offence against this Act, the assessment may include such additional amount by way of penal tax as the Board sees fit, but so that the additional amount does not exceed three times the amount of tax (other than penal tax) that is included in the assessment or amendment as a result of the act or omission that constitutes the offence.

(5) An assessment under this section may be amended or vacated by the Board notwithstanding that the tax or refund as assessed may already have been paid.

(6) The liability of a person to pay tax assessed under this section is not affected by the fact that the person may not have been registered at the relevant time nor by the fact that the person may have been convicted of, and punished for, the contravention concerned, and the liability of the person to be proceeded against or punished for an offence is not affected by an assessment under this section or the payment of an amount so assessed.

(7) The Board shall give to the person to whom the assessment relates notice in writing of an assessment, or the amendment or vacation of an assessment, and any amount required by an assessment or amended assessment to be paid by that person shall be paid within thirty days after the notice is given.

(8) An assessment under subsection (1) shall not be made, amended, nor vacated at any time after six years has elapsed since the end of the tax period to which the assessment relates.

(9) An assessment under subsection (2) shall not be made, amended, nor vacated at any time after six years has elapsed since the end of the month in which the supply to which the assessment relates was made.

(10) Subsections (8) and (9) do not apply where the Board is satisfied that there are reasonable grounds for believing that tax has been or may have been lost through the fraud, wilful default, or gross neglect of any person.

Objections
and appeals

40. (1) A person disputing an assessment, or the amendment of an assessment, under section 39 may apply to the Board by notice of objection in writing delivered to the Board to review and to revise the assessment and—

(a) section 86 of the Income Tax Act applies, with such modifications as are necessary and subject to subsections (2) and (3), for the purpose of enabling the application to be dealt with and the objection to be determined; and

Chap. 4:50

(b) section 87 of the Income Tax Act and the provisions of the Tax Appeal Board Act apply, with such modifications as are necessary, for the purpose of enabling the making of, and the hearing and determination of, appeals from decisions of the Board upon objections under this section.

(2) Except with the leave of the Board an application under subsection (1) to review and to revise an assessment shall not be made unless any amount required by the assessment to be paid has been paid to the Board or such security has been given for the payment of that amount as is acceptable to the Board.

(3) Where, within six months after a notice of objection is delivered to the Board, the Board fails to determine the objection, the objection shall be deemed to have been determined in favour of the person disputing his assessment and the assessment shall be amended accordingly.

*Division 5—Special Cases*Branches and
divisions

41. (1) A person carrying on business through several branches or divisions, each of which—

(a) can be separately identified by reason of the nature or location of its business activity; and

(b) maintains a separate system of accounting, may apply in writing to the Board for any such branch or division to be separately registered.

(2) The Board may, on application being made therefor under subsection (1), cause a branch or division to be separately registered, whereupon the business carried on through the branch or division shall be regarded as being carried on by a separate registered person and not by the person who made the application.

(3) Notwithstanding subsection (2), the obligations and liabilities of a branch or division separately registered under this section devolve upon the person upon whose application the branch or division was separately registered, but nothing in this subsection prevents the application of this Act to or in relation to supplies made to, or by, a branch or division separately registered as if it were a separate person.

(4) The Board may, on the application of the person referred to in subsection (3) or of its own motion, cancel the separate registration of a branch or division.

42. (1) In this section—

“body” means an unincorporated body of persons and includes a partnership, a joint venture, and the trustees of a trust;

Unincorporated
bodies

“member” means a member of a body and includes a partner, a joint venturer, and a trustee;

“partnership” and “partner” have the same meanings as in the Partnership Act.

Chap. 81:02

(2) Where a body carrying on business is registered—

(a) a supply of goods or services made or received in the course of, or furtherance of, the business (whether or not by a member of the body acting in his capacity as a member) shall, for the purposes of this Act, be regarded as made or received by the body and not by any member of the body; and

(b) a change in the membership of the body does not affect the continuity of the registration of the body.

(3) The members of a registered body are jointly and severally liable for any liability of the body and, for that purpose, a person who, in the case of a partnership or joint venture or the trustees of a trust, is a member or, in the case of any other unincorporated body, is a member involved in the management of the body does not cease to be a member of the body until the Board has been notified in writing of such cessation, but the doing by one member of any thing that the body is liable to do is sufficient to discharge that liability.

(4) For the purposes of this Act, any document given or served in accordance with this Act that is addressed to a body by the name in which it is registered is deemed to be given to, or served on, that body and all of its members.

Agents of absentee
principals

43. (1) In this section "absentee" means—

- (a) any person, not being a company, for the time being out of Trinidad and Tobago; or
- (b) a company, not incorporated in Trinidad and Tobago, that—
 - (i) does not have a fixed or permanent place in Trinidad and Tobago for the carrying on of business in its own name; or
 - (ii) is for the time being declared by the Board, by notice given to the company, to be an absentee for the purposes of this section.

(2) A person who, in Trinidad and Tobago, carries on a business on behalf of a principal who is an absentee may, with the approval of the Board, perform the functions under this Act of the principal.

PART 5

RELIEFS

Certain imports
exempt

44. Where a person imports—

- (a) goods that, under item 3 or item 29 of the Second Schedule to the Customs Act, are exempt from payment of customs duty; or
- (b) goods that are imported under section 40 of the Customs Act,

tax shall not be charged under this Act on the entry of the goods imported.

Certain imports by
fishermen

45. (1) A person importing any fishing boat, marine engine, fishing net, line or other capital equipment solely for the purposes of carrying on the business of commercial fishing may apply, in accordance with subsection (2), to the Minister to whom responsibility for marine exploitation is assigned (in this section referred to as "the Minister") for tax on entry of the imported goods to be waived.

(2) An application under subsection (1) shall be made in writing, in such form as the Board approves, requesting that tax on the entry of the imported goods be waived and declaring that the imported goods are required solely for the purposes of carrying on the business of commercial fishing, and shall be accompanied by the form required under the Customs Act for the entry of the imported goods.

(3) The Minister may, upon application being made to him in accordance with this section for tax on the entry of imported goods to be waived, give the applicant a certificate of waiver signed by him or on his behalf identifying the imported goods to which it relates and stating that—

- (a) he is satisfied that the applicant is a *bona fide* commercial fisherman and that the imported goods identified are required solely for the purposes of carrying on the business of commercial fishing; and
- (b) tax on the entry of the imported goods is waived.

(4) Where, under the Customs Act, an officer accepts the form required under that Act for the entry of imported goods and the form is accompanied by a certificate of waiver that is in accordance with subsection (3) and relates to the entry, the entry shall be regarded as zero-rated.

46. (1) A person intending to have any fishing boat, marine engine, fishing net, line or other capital equipment supplied to him solely for the purposes of carrying on the business of commercial fishing may apply, in accordance with subsection (2), to the Minister to whom responsibility for marine exploitation is assigned (in this section referred to as "the Minister") for tax on the intended supply to be waived. Certain supplies to fishermen

(2) An application under subsection (1) shall be made in writing, in such form as the Board approves, requesting that tax on the intended supply be waived and declaring that the supply is required solely for the purposes of carrying on the business of commercial fishing, and shall be accompanied by the original and one copy of a proforma invoice, in accordance with subsection (3), relating to the intended supply.

(3) The proforma invoice which is required by subsection (2) to accompany an application shall comply with all of the requirements of this Act for a tax invoice, including the requirement to show the rate of tax applicable to the intended supply and the amount to be claimed from the recipient in respect of tax, but shall be clearly identified as being a proforma invoice and is not a tax invoice for the purposes of this Act.

(4) The Minister may, upon application being made to him in accordance with this section for tax on an intended supply to be waived, give the applicant a certificate of waiver signed by him or on his behalf identifying the proforma invoice for the intended supply to which it relates, specifying the goods intended to be supplied, and stating that—

- (a) he is satisfied that the applicant is a *bona fide* commercial fisherman and that the goods specified in the proforma invoice are required solely for the purposes of carrying on the business of commercial fishing; and
- (b) the tax referred to in the proforma invoice is waived.

(5) Where a supplier who has given a proforma invoice is presented with a certificate of waiver that is in accordance with subsection (4) and relates to the supply for which the proforma invoice was given, he may make the supply as if no tax were payable on it, and for the purposes of this Act the supply shall be regarded as a zero-rated supply.

Bad debts

47. (1) Where—

- (a) the amount specified by a person in a return as being the amount of tax payable, or the amount of the refund due, has been calculated taking into account a commercial supply made by that person for a consideration in money; and
- (b) all or any of the consideration remains unpaid, despite its having become due and payable and reasonable efforts having been made for its recovery, and has been written off as a bad debt,

the person who furnished the return may, in calculating the amount of tax payable, or the amount of refund due, that is to be specified in the return for the period in which the amount was written off or, where a period of twelve months has not then elapsed since the amount became due and payable, the first return after that period of twelve months elapses, deduct the amount of tax included in the previous return that was attributable to the amount written off.

(2) Where an amount in respect of which a deduction has been made under subsection (1) is wholly or partly recovered by a registered person, that person shall include as tax payable in his return for the period during which the amount is recovered the amount previously deducted or, where only part of the amount written off is recovered, such proportion of the amount previously deducted as the amount recovered represents as a proportion of the amount written off.

PART 6

MISCELLANEOUS

48. (1) For the purposes of this section the expression "alteration of the law" means the coming into force of this Act, an Order under section 7, or any amendment to this Act, by which—

Effect of changes
in tax on existing
contracts

- (a) a supply of goods or services is charged with, or ceases to be charged with, tax; or
- (b) the rate of tax in respect of the supply of goods or services is increased or reduced.

(2) Where an alteration in the law is made and a supplier has, at any time, entered into a contract with a recipient in respect of the supply of goods or services, unless—

- (a) express provision for the exclusion of any such alteration in the law is contained in the contract; or
 - (b) the alteration in the law has been taken into account in entering into the contract,
- every such contract shall be deemed to be modified so that—
- (c) where the alteration in the law renders the supply liable to be charged with tax, or an increased amount of tax, the supplier may

add to the amount agreed to be paid to him by the recipient the amount of that tax, or increase in tax, as the case may be;

- (d) where the alteration in the law renders the supply no longer liable to be charged with tax, or liable to be charged with a reduced amount of tax, the supplier or the recipient may deduct from the amount agreed to be paid under the contract the amount of that tax, or reduction in tax, as the case may be.

Administration

49. The Board is responsible for the administration of this Act.

Authorized persons

50. (1) The Board may designate persons to be authorized persons for the purposes of this Act.

(2) The Board shall cause to be issued to each authorized person an authority in writing signed on behalf of the Board.

(3) An authorized person shall produce the authority issued to him under subsection (2) whenever required to do so by a person in respect of whom he has exercised, or is about to exercise, any power conferred on him by this Act.

Functions of authorized persons

51. (1) An authorized person shall comply with any direction given to him by the Board in connection with the performance of his functions under this Act.

(2) An authorized person may—

- (a) for the purposes of this Act, require a person to furnish to the authorized person, orally or in writing, as the authorized person may specify, such information as is in the knowledge of, or is reasonably available to, that person;
- (b) by notice in writing, require a person to produce to the authorized person any books, records, or other source from which information can be derived that is or may be relevant to the administration of this Act;
- (c) take samples of any goods in the possession of a person if it appears appropriate for the purposes of administering this Act;
- (d) make copies of anything produced pursuant to a requirement under paragraph (b) or

seized under section 118 of the Income Tax Act as applied by section 55 of this Act.

(3) A sample of goods taken under subsection (2)(c) shall be disposed of and accounted for as the Board authorizes except that, in the case of goods the open market value of which exceeds twenty dollars, the goods shall within a reasonable time, be returned in good order to the person from whom they were taken or the person shall be paid such compensation by the Board, being not less than the open market value of the goods, as the Board determines.

52. (1) A person who uses or discloses any information obtained under this Act other than for the purposes of this Act or the administration of any other tax administered by the Board commits an offence unless the use or disclosure is with the consent of the person from whom the information is obtained or is for the purpose of legal proceedings arising out of the administration of this Act or that other tax. Secrecy

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine of fifteen thousand dollars and imprisonment for one year.

53. The Board may, in any circumstances in which the Board considers it appropriate for the protection of the revenue to do so, require a person to give to the Board such security as the Board considers appropriate for the protection of the revenue. Board may require security

54. (1) Where any amount that a person is required to pay to the Board is not paid by the due date, the amount outstanding bears a penalty of eight per cent of the amount outstanding and interest at the rate of two per cent per month or part of a month. Interest and penalty

(2) The Board may, where it is satisfied that the circumstances of the case justify the reduction or waiver of a penalty or interest arising under subsection (1), reduce or waive the penalty or interest accordingly.

55. (1) Section 82(2) and (3) of the Income Tax Act shall apply as if references therein to taxes, interest and penalties under that Act included reference to taxes, interest and penalties under this Act. Certain provisions of Income Tax Act to apply

(2) Sections 104 to 115, section 118, and sections 121(2), 122, 123, 124, 131 and 132 of the Income Tax Act

shall, with the modifications set out in subsection (3) and such other modifications as the case requires, apply to and in relation to the administration of this Act and the collection and recovery of any amount payable under this Act as if that amount were payable under that Act.

(3) In applying the provisions of the Income Tax Act referred to in subsection (2), as required by that subsection—

- (a) the reference in section 109(3) of that Act to sections 86 and 87 of that Act shall be read as a reference to section 40 of this Act;
- (b) the reference in section 109(4) of that Act to the powers conferred on the Board by section 89 of that Act shall be read as a reference to any other power of assessment given by this Act to the Board; and
- (c) the references in section 118 of that Act to section 117 and 117(4) of that Act shall be disregarded but, upon a person who is aggrieved by notice of intended entry notifying the Board in accordance with section 118(2) of that Act that he is aggrieved, the person may, within seven days of receipt of notice of the intended entry, apply to a Judge in Chambers for a declaration of his rights in the matter and the Judge shall hear and determine the application and make such order as the justice of the case requires.

(4) The penalty for an offence under any provision of the Income Tax Act as applied by this section is the same as the penalty prescribed for that offence in the Income Tax Act.

General offences

56. A person who—

- (a) without lawful excuse fails to comply with a requirement made under this Act; or
- (b) knowingly provides any information required by or under this Act that is false or misleading in any material particular,

commits an offence and is liable on summary conviction to a fine of fifteen thousand dollars and imprisonment for one year.

57. Where a person by whom an offence against this Act is committed is a body corporate, every director or other officer concerned in any capacity in the management of the body corporate is guilty of the like offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

Additional liability
for offence by
body corporate

58. A complaint for an offence against this Act shall be made within three years from the time when the matter of the complaint arose.

Limitation period
for prosecutions

59. The President may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the purposes of this Act.

Regulations

PART 7

INITIAL REGISTRATION

60. (1) Where—

- (a) during the period of twelve months ending immediately before the day that is four months before the appointed day a person made commercial supplies the value of which was more than one hundred and twenty thousand dollars;
- (b) the average monthly value of the commercial supplies of a person who has been in business for a period ending immediately before the day that is four months before the appointed day that is less than twelve months was more than ten thousand dollars; or
- (c) there are reasonable grounds for believing that the value of the commercial supplies of a person during the period of twelve months commencing on the day that is two months before the appointed day will be more than one hundred and twenty thousand dollars,

Certain persons
required to register
by two months
before appointed
day

the person commits an offence if, by the day that is two months before the appointed day, he has not applied in accordance with this Act to be registered.

(2) A person who commits an offence against subsection (1) is liable on summary conviction to a fine of three thousand dollars.

PART 8

AMENDMENTS AND REPEALS

Schedule 4
to have effect

61. The written laws referred to in column 1 of Schedule 4 are amended or repealed as correspondingly set out in column 2 of that Schedule.

Transitional

62. (1) A written law referred to in Schedule 4, other than the Income Tax Act, shall, in so far as it relates to any entry or supply taking place before the appointed day, have effect as if it had not been amended or repealed as set out in that Schedule.

Chap. 76:01

(2) Without limiting subsection (1), the amendments to the Stamp Duty Act and the Stamp Duty Regulations set out in Schedule 4 have no effect in relation to an instrument signed or otherwise executed before the appointed day.

SCHEDULE 1

(Section 3)

EXEMPT SERVICES

Chap. 39:01

1. Medical, dental, hospital, optical and paramedical services, other than veterinary services.
2. Bus and taxi services.
3. Domestic travel between Trinidad and Tobago.
4. Training and education provided—
 - (a) in a public school or private school within the meaning of the Education Act, where that school—
 - (i) in the case of a private school, is registered under that Act; and
 - (ii) in any case, is approved for the purposes of this item by the Minister to whom responsibility for education is assigned; or
 - (b) through the University of the West Indies or the Hugh Wooding Law School.
5. Real estate brokerage.
6. Rental of residential property.
7. Accommodation in hotels, inns, guest houses for any period in excess of thirty days.
8. Public Postal Services.
9. Betting, gambling and lotteries.

10. Insurance services.
11. Banking services.
12. Hire purchase.
13. Stock brokerage.

SCHEDULE 2

(Sections 3, 8)

ZERO-RATING

1. (1) Any—

- (a) unprocessed food;
- (b) rice;
- (c) flour;
- (d) milk in any form, including processed and tinned milk;
- (e) margarine; or
- (f) bread.

(2) In this item "unprocessed" in relation to a food means that the food contains no additives and that it is not the result of the application of a process other than freezing, chilling or packaging, a mechanical process, or a process that solely employs the elements of the weather.

2. (1) Any live bird, fish, crustacean, mollusc or other animal of a kind generally used as, or yielding or producing, food for human consumption.

(2) Any draught animal.

3. Animal feeding stuffs suitable for any animal referred to in item 2.

4. Seeds and other means of propagation of plants that are used for providing—

(a) a food referred to in item 1(1)(a), (b) or (c); or

(b) a feeding stuff referred to in item 3,

except where the seeds or other means of propagation are imported or supplied in packs for retail sale.

5. Preparations formulated for agricultural use including fertilizers, insecticides, herbicides, and fungicides except where imported or supplied in containers for retail sale.

6. Self-propelled agricultural equipment, agricultural tractors and agricultural implements for attachment to agricultural tractors; agricultural implements propelled by draught animals; agricultural devices designed to be carried by the operator.

7. Water and sewerage services supplied by a public authority.

8. Medicines and drugs of a kind available only by prescription.

9. Aeroplanes and ships imported by or supplied to the State or State corporations.

10. Repair of aeroplanes and ships used in international commercial services (whether or not belonging to the State or a State corporation).

11. Any goods which are supplied to a destination outside the territory of Trinidad and Tobago.

12. Any services which are supplied for a consideration that is payable in a currency other than that of Trinidad and Tobago, to a recipient who is neither a resident of Trinidad and Tobago nor within Trinidad and Tobago at the time when the services are performed.

Chap. 75:04

13. Natural gas.
14. Crude Oil as defined in section 2 of the Petroleum Taxes, Act.
15. Veterinary services supplied in respect of animals referred to in item 2.
16. Pest control services supplied for the purposes of agriculture.

SCHEDULE 3

(Section 15)

MATTERS TO BE INCLUDED AS A SUPPLY OF GOODS OR SERVICES

1. The term "supply" includes all forms of supply and, in relation to services, includes the provision of any service.
2. The production of goods by applying a treatment or process to goods belonging to another person shall be regarded as a supply of services to that other person.
3. The supply of water other than in a container or the supply of natural gas, any form of power, refrigeration, or air-conditioning shall be regarded as a supply of services.
4. The hiring, rental or leasing of goods shall be regarded as the supply of services.
5. Subject to items 6 and 7, where the supply of anything for consideration is not a supply of goods, it shall be regarded as a supply of services.
6. The sale, transfer or other disposition of—
 - (a) an interest in land; or
 - (b) a building or other structure attached to land,
 shall be regarded as neither a supply of goods nor a supply of services.
7. The supply in the course of business of—
 - (a) any gift, the value of which does not exceed twenty dollars; generally available to customers of the business;
 - (b) a trade sample; or
 - (c) any securities, any patent or other right to intellectual property, or any other chose-in-action,
 shall be regarded as neither a supply of goods nor a supply of services.

SCHEDULE 4

(Section 61)

REPEALS AND AMENDMENTS

<i>First Column</i>	<i>Second Column</i>
<i>Written law</i>	<i>Repeal or amendment</i>
1. Cinematograph and video Entertainment Tax Act, Chap. 77:03	Repealed in whole.
2. Copra Products Control Act, Chap. 64:30	Sections 5 and 6 repealed.

<i>First Column</i>	<i>Second Column</i>
<i>Written law</i>	<i>Repeal or amendment</i>
3. Customs A.T.A. (Admission Temporaire/Temporary Admission) Carnet System Act, 1986	Section 17(c) deleted.
4. (a) Excise (General Provisions) Act, Chap. 78:50	Section 3 is amended in the definition of "Excise Act" by deleting the words "the Copra Products Control Act,".
(b) Excise Regulations	Regulation 5 repealed.
(c) Match (Excise) Regulations	Repealed in whole.
(d) Excise Duty (Deodorised Edible Oil) Order, 1983	Repealed in whole.
(e) Resolution under section 13 of the Excise (General Provisions) Act imposing excise duty on matches (Government Notice No. 342 dated 24th December, 1934, as amended)	Repealed in whole.
5. Finance Act, 1988	Part XXI repealed.
6. Hotel Accommodation Tax Act, Chap. 76:05	Repealed in whole.
7. Income Tax Act, Chap. 75:01	Section 3(2) amended by deleting the words "three Commissioners" and substituting the words "four Commissioners".
8. Miscellaneous Taxes Act, Chap. 77:01	Part I repealed. The heading to Part III amended by deleting the words "And Airline Ticket Tax". Sections 27A and 27B repealed. Section 32(1)(a) and (b) deleted. First, Second, Third, Fourth and Fifth Schedules deleted.
9. Motor Vehicles and Road Traffic Act, Chap. 48:50	Section 40A repealed.
10. Stamp Duty Act, Chap. 76:01	Section 10(1)(d), (e) and (f) deleted. Section 25 repealed.

*First Column**Second Column**Written law**Repeal or amendment*

Section 30 amended by deleting the words “; and the expression”, and all the words thereafter, and substituting a full-stop.

Sections 32 to 37 repealed.

Section 39, and the heading thereto, repealed.

Section 58 amended by deleting the words “, and upon the protest by a Notary Public of a bill of exchange or promissory note,”.

Sections 68 to 70, and the heading thereto, repealed.

First Schedule amended—

(a) by deleting the words “Bill of Exchange” where they first occur, and all the words thereafter that are before the words “Bill of Health” where they first occur;

(b) by deleting the words “Bill of lading of or for goods, merchandise or effects to be exported . . . 0.25 and see section 39”; and

(c) by deleting the words “Protest of any Bill of Exchange” and all the words thereafter that are before the words “Re-Grant of forfeited lands”.

11. Stamp Duty Regulations

Regulations 11 and 13 repealed.

Regulation 17 amended—

(a) by deleting the item commencing with the words “*Bill of Exchange*”; and

(b) by deleting the item commencing with the words “*Promissory Note*”.

Regulation 18 repealed.

Regulation 19 amended—

(a) by deleting the item “*Bill of Lading*”; and

(b) by deleting the item commencing with the word “*Protest*”.

Regulations 20 and 21 are repealed.

<i>First Column</i>	<i>Second Column</i>
<i>Written law</i>	<i>Repeal or amendment</i>
12. Trinidad and Tobago Electricity Commission Act, Chap. 54:70	Section 53A repealed.
13. Trinidad and Tobago Telephone Act, Chap. 47:30	Section 11A repealed.
14. Wireless Telegraphy Ordinance, Ch. 36/2	Schedule amended— (a) in Part I, by repealing regulation 1; (b) in Part II— (i) by deleting from the form of receiving licence the words "The payment of the fee of \$ is hereby acknowledged."; (ii) by deleting from the note "Additional Sets" relating to receiving licences the words "on payment of the prescribed fee"; and (iii) by deleting condition 8 relating to receiving licences; and (c) in Part IV— (i) by repealing regulations 1, 2, and 3 and the heading thereto; (ii) in regulation 4, by deleting the words "the fee for which shall be 60 cents"; (iii) in regulation 5, by deleting the words "the fee of which shall be 60 cents"; and (iv) by repealing regulation 6.

Passed in the House of Representatives this 18th day of August, 1989.

N. COX

Acting Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House that is to say by the votes of 25 members of the House.

N. COX

Acting Clerk of the House

Passed in the Senate this 31st day of August, 1989.

R. CUMBERBATCH
Acting Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate that is to say by the votes of 20 Senators.

R. CUMBERBATCH
Acting Clerk of the Senate

Senate amendments were agreed to in the House of Representatives this 8th day of September, 1989.

N. COX
Acting Clerk of the House