

# Inland Revenue Department

## Technical Note

### VAT Guidelines for Transition

August 29, 2012

**Overview** This Technical Note gives guidance on Transition under Section 112 of the *VAT Act No.7 of 2012*.

**Disclaimer** These notes are for guidance only. They reflect the Law and the Department's position at the time of publication. They do not replace the Legislation or affect your Rights of Appeal about your tax position. If in doubt, consult the Inland Revenue Department, VAT Section.

#### Transition

**112.—** (1) The repealed legislation, including the rules governing the levy, payment, assessment, reporting, and recovery of those taxes, continue to apply to a supply or import taking place prior to the date on which this Act comes into force pursuant to section 1.

- Even though the taxes have been repealed, all rules governing the levy, payment, assessment, reporting, and recovery of those taxes are still in effect, even after the commencement of the VAT Act.

(2) All appointments made under the repealed legislation and subsisting at the date of commencement of this Act are treated as appointments made under this Act; and an oath of secrecy taken under the repealed legislation is treated as having been taken under this Act.

- All appointments and oaths taken under the taxes that were repealed are treated as being taken under the VAT Act.

(3) All forms and documents used in relation to the repealed legislation may continue to be used under this Act, and all references in those forms and documents to provisions of and expressions appropriate to the repealed legislation are taken to refer to the corresponding provisions and expressions of this Act.

- All documentation used and referred to for the taxes that were repealed will continue to be used, where necessary, even after commencement of the VAT Act.

(4) Where a contract was concluded between two or more parties before the entry into operation of this Act, and no provision relating to tax was made in the contract, the supplier may recover

from the recipient tax due on any taxable supplies made under the contract after the date on which this Act came into operation.

- If a contract was concluded before the commencement date of the VAT Act, and no provision was made for VAT, the supplier can recover VAT from the recipient, after the commencement date of the VAT Act, as the VAT will now be due.

(5) Where a contract concluded after the date on which this Act came into operation does not include a provision relating to tax, the contract price is deemed to include tax and the supplier under the contract is required to account for the tax due.

- If a contract was concluded after the commencement date of the VAT Act, and no provision was made for VAT, the price of the contract is deemed to include the VAT that is chargeable, and the supplier must account for the VAT due.

(6) Subject to subsection (8), if, in connection with a supply of goods or services —

(a) title to goods passes, delivery of goods is made, or services are rendered after the date on which this Act came into operation, and

(b) payment is received or an invoice is issued within nine months before that date,

(c) for purposes of determining the tax period in which the supply occurs or an input tax deduction is allowable, the payment is treated as having been made or the invoice is treated as having been issued on the date on which this Act comes into operation.

- If payment is received within nine months before the commencement date of the VAT Act for a good or service supplied after the commencement date of the VAT Act, the payment is treated as being made after the commencement date of the VAT Act, and therefore, VAT is chargeable at that point.

However, if the title of the goods passes, or delivery is made before the implementation date, then there is no VAT due.

(7) Subject to subsection (8), if goods subject to consumption tax were supplied successively as provided under section 18(8) or (9), and the supply occurred during a period that began before and ended after this Act came into effect, tax under this Act is imposed on the portion of the consideration for the goods supplied after this Act came into effect.

- For goods that are supplied under a rental agreement or agreement that provides for periodic payments or installments, the VAT becomes due on the portion of the consideration for the goods after the commencement date of the VAT Act.

(8) Subsection (7) applies only if —

(a) the value of the consideration for the goods on the day before this Act came into effect is determined in a manner approved by the Comptroller; and

(b) the required documentation is submitted to the Comptroller in the form approved by the Comptroller by the end of the supplier's first tax period after this Act becomes effective.

- Subsection (8) applies to subsection (7), and states that value of the consideration of

those goods in subsection (7) must be approved by the Comptroller, and the required documentation that is to be submitted must also be approved by the Comptroller.

(9) Notwithstanding subsection (8), if construction, reconstruction, manufacture or extension of a building or civil engineering work is performed under a written agreement executed before this Act came into effect and the property is made available to the recipient after that date, tax is imposed only on the value of the work performed after that date if the value of the work on the day before this Act came into effect is determined in a manner approved by the Comptroller and is submitted to the Comptroller by the end of the supplier's first tax period after this Act becomes effective.

- If a contract period spans the timeframe that includes both pre and post commencement of the VAT Act, only the portion that is conducted after the commencement date of the VAT Act is subject to VAT.

(10) If immovable property is provided under a rental agreement for a period that commences before and ends after the effective date of this Act, the consideration for the rental must not include the amount attributable to the portion of the period that ends before the effective date.

- If a rental agreement spans the timeframe that includes both pre and post commencement of the VAT Act, only the portion that is conducted after the commencement date of the VAT Act is subject to VAT.

(11) For the purposes of section 30(1)(c), an amount paid as a prize or winnings does not include an amount attributable to obligations or contingent obligations that exist immediately before this Act comes into effect.

- Section 30(1)(c) of the VAT Act refers to the calculation of the input tax deduction for persons operating games of chance. Section 112(11) states that whatever obligations that exist prior to the commencement date of the VAT Act cannot be included in the calculation of that input tax deduction.

(12) A person who is required to register under section 12 as of the effective date of this Act must register no later than two months before the date that this Act comes into effect, and any such registration is effective as of the date that this Act comes into effect, even if the application for registration is filed up to three months before the effective date.

- A person who is required to register to charge and collect VAT, must do so no later than two months before the commencement date of the VAT Act.

(13) The Minister may make Regulations for other transitional measures relating to the end of any repealed tax under section 111, the start of value added tax, or the transition from a repealed tax under section 111 to value added tax.

- The Minister of Finance may by Regulations put other measures in place for other transitional issues relating to the taxes that are repealed by the VAT Act.

(14) In this section “repealed legislation” means the legislation referred to in section 111(1).

- The repealed legislation refers to the following:
  - Consumption Tax Act, Cap. 15.03;
  - Environmental Protection Levy Act, Cap.15.20;
  - Motor Vehicle Rental Fee Act, Cap.15.23;
  - Mobile Cellular Telephone (Tax) Act, Cap.15.36;
  - Hotel Accommodation Tax Act, Cap.15.10.

## **FOR FURTHER INFORMATION**

For further information please contact the VAT Section at the following address:

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