

## Interpretative Notes to the Value Added Tax Act

These notes are issued by the Comptroller of Inland Revenue to assist with the interpretation of the various provisions of the Value Added Tax Act No. 7 of 2012. They do not replace the provisions of the Act, and where there appears to be any variance, the Act Prevails.

These notes are to be read in conjunction with the Act and the Regulations.

### 1. Rate of tax

- 1.1 ***Reduced rate of tax for goods and services provided by hotels.*** Section 10(2) of the Act provides for a reduced rate of tax on the value of taxable goods and services provided by hotels.
- 1.2 ***Qualifying establishment.*** The reduced rate of tax under section 10(2) of the Act applies to the value of taxable goods and services provided by hotels. An establishment is considered to be a hotel if it is a building or group of buildings in the State occupied together comprising not less than five bedrooms for the purpose of providing hotel accommodation for reward. Further, it is an establishment that provides sleeping accommodation facilities for individuals for overnight or short term not exceeding 45 calendar days. If in a rare circumstance a guest stays more than 45 calendar days, this does not cause the establishment to fail to be considered a similar establishment.

### 2. Registration and Cancellation of Registration

- 2.1 ***Application for registration.*** The application for registration under section 13(1) for persons required to be registered shall be in the form approved by the Comptroller and, apart from such other information the Comptroller may require, shall contain at least the following particulars:
  - (a) the name, address and contact information of the applicant;
  - (b) identification of the business activity undertaken by the applicant;
  - (c) the date taxable activity commenced or will commence;
  - (d) whether the applicant is a sole trader, partnership, company or other entity;
  - (e) the total value of the applicant's supplies for such period required by the Comptroller in accordance with the Act;
  - (f) name and address of applicant's bank and applicant's bank account number.
- 2.2 ***Waiver of registration.*** Section 12(4) allows for a person to not apply for registration, or the Comptroller himself may, without a request, decide not to register an applicant if the person's taxable supplies exceeded or will exceed the threshold solely as a result of:
  - (a) the cessation;
  - (b) substantial and permanent reduction in the size or scale; or

(c) the replacement of old capital goods;  
of a taxable activity carried on by the person.

For example, a person may request the waiver if the person discontinues selling a line of products and sells the remaining inventory of that line, producing substantial sales that will not recur in the future.

- 2.3 **Threshold already satisfied.** Section 13(6)(a) of the Act provides that if a person must register because that person's taxable supplies exceeded the threshold in the prior 12 or fewer months, registration is effective at the beginning of the tax period immediately following the end of the period of 12 or fewer months. For example, if during an 8-month period from 1 February to 30 September, a person's taxable supplies exceeded the threshold, the person must apply for registration no later than 10 working days after 30 September. The person should apply in September. The person's registration is effective 1 October, so the person must account for the tax on 1 October.
- 2.4 **Threshold to be satisfied in future.** Section 13(6)(b) of the Act provides that if a person must register because that person is expected to have taxable supplies exceeding the threshold in the next 365 calendar days, registration is effective from the beginning of the 365-day period. For example, if as of 31 March, a person expects to have taxable supplies above the threshold in the next 365 calendar days, the person must apply no later than 10 working days after 31 March and registration is effective 1 April.
- 2.5 **Voluntary Registration.** Under section 12(5) of the Act, a person not required to register may apply for registration. There is no automatic right to be registered for voluntary applicants. Whether the application is granted and the person is registered is at the Comptroller's discretion. However section 13 (8) makes the Comptroller's decision appealable.
- 2.6 **Certificate of Registration.** The Certificate of Registration under section 13(9) shall be in the form approved by the Comptroller and shall contain at least the following particulars:
- (a) the name of the registered person;
  - (b) the taxpayer identification number (TIN);
  - (c) the effective date of registration;
  - (d) the date of issue of the certificate;
  - (e) the certificate number;
  - (f) the location of the business, outlet, branch or similar at which the certificate is to be displayed.
- 2.7 **Failure to register.** Under section 13(5) of the Act, if a person required to register fails to register, the Comptroller may register the person and specify the effective date of the registration. For example, assume that a person fails to register, but was required to do so because taxable supplies exceeded the threshold on 31 December, 2012. If the Comptroller discovers on 15 July, 2013

that the person was required to register as of 31 December, 2012, the Comptroller may register the person, effective 1 January, 2013.

- 2.8 ***Change of information.*** The notification of change of information under section 13 (12) of the Act shall be in the form approved by the Comptroller and shall contain at least the following particulars:
- (a) the name of the registered person;
  - (b) the taxpayer identification number;
  - (c) the change of name under which the person will conduct taxable activity (if applicable);
  - (d) the change of place of business or address from which the person will conduct taxable activity (if applicable);
  - (e) the change in the nature of taxable activity in which the person will engage (if applicable);
  - (f) the change in the constitution of the person's business or activity (if applicable);
  - (g) any other information required by the Comptroller.
- 2.9 ***Cancellation of registration.*** Section 14(13) of the Act provides that a person who expects to sell a going concern must notify the Comptroller of that intent at least 5 calendar days before the sale closes, the purchaser acquires a legal interest in the assets to be acquired, or the assets of the going concern are transferred, whichever occurs first. The seller must also apply for cancellation of their registration under section 14(1) of the Act if the seller, as a result of the sale of a going concern, ceases to engage in taxable activity. The seller must state whether or not he intends to make taxable transactions within 12 months from the date he has stated on his application for cancellation. For example, a person who sells his existing business may decide to start a new business and make taxable supplies. This information may assist the Comptroller's decision whether or not to grant the application for cancellation. The Comptroller can initiate a cancellation without any application unless, under section 14(2) of the Act, the Comptroller has reasonable grounds to believe that the person will engage in taxable activity within 12 months from the date of cessation.
- 2.10 ***Notification of cancellation.*** A notification of cancellation of registration shall be in the form approved by the Comptroller and in addition to the information specified in section 14(3) shall contain at least the following particulars:
- (a) the name, address and contact details of the registered person;
  - (b) the taxpayer identification number;
  - (c) the reason for application for cancellation;
  - (d) the date that taxable activity will cease (if applicable);
  - (e) the value of stock on hand;
  - (f) the value of assets on hand.
- 2.11 ***Effective date of cancellation.*** Under section 14(1) of the Act, the cancellation of registration generally takes effect at the end of the last day of the tax period

during which taxable activity ceases. The Comptroller has the authority to specify a different effective date. If the Comptroller initiates cancellation because he or she is satisfied that a taxable person is not engaged in a taxable activity or is not required or entitled to apply for registration, under section 14(4) of the Act, the Comptroller may cancel the person's registration, effective on the last day of the tax period during which the Comptroller becomes so satisfied or on another date the Comptroller specifies. For example, under section 14(6) of the Act, if the Comptroller is satisfied that the registered person did not make taxable transactions from the date the registration took effect, the Comptroller can cancel the registration retroactive to that effective date. The Comptroller must provide written notice of the date that the cancellation takes effect.

2.12 ***Deemed supply of goods on hand when the registration is cancelled.*** When registration is cancelled, under Section 4 (21) a registered person is deemed to have made a taxable supply in Saint Lucia of the goods on hand on the date of cancellation, but only if an input tax deduction was claimed with respect to the goods and services on hand. This ensures that the newly unregistered person is not in a more advantageous position than other unregistered persons who would not have been able to claim input tax.

2.13 ***Tax obligations after cancellation of registration.*** Under section 14(10) of the Act, a taxable person's obligations or liability under the Act while registered, including the furnishing of returns and payment of tax, is not affected by cancellation of the person's registration. The person remains liable and the Comptroller can take action to enforce the person's obligations or tax liability.

### 3. Time of Supply

3.1 ***Repossession of goods.*** Section 4(7) of the Act treats the repossession of goods under a credit agreement as a supply of the goods. Under section 18 (5) of the Act, the supply occurs on the day that the goods are repossessed. The date of the supply may be later if the debtor may under any law be reinstated in his rights and obligations under the credit agreement. In this situation, the date of the supply is the day after the last day of any period during which the debtor may under such law be so reinstated. For example, if after goods are repossessed the debtor can have his rights to recover his goods reinstated by paying installments in default, then even if the debtor does not make payments and has the right to recover his goods, the supply occurs on the day after the debtor loses his right to pay arrears and have his rights reinstated.

3.2 ***Transfer of a going concern.*** Section 4(2) of the Act treats, as a supply of goods, the transfer of a taxable activity (or a portion of a taxable activity capable of separate operation) as a going concern. For example, a business person who is retiring may sell his flower shop, or a computer store owner who is downsizing might sell the retail portion of his business and retain and concentrate on the repair portion or department. These transfers would fall within the scope of

section 4(2) and would be deemed a supply of goods. The transfer may be zero rated under the First Schedule, if the conditions of the First Schedule, paragraph 2(1)(i) are met. If the buyer uses some of the acquired assets for purposes other than to make taxable supplies, according to section 4(18) of the Act, the buyer is treated as making a taxable supply on the acquisition of the going concern to the extent that the buyer uses the goods or services acquired for purposes other than to make taxable supplies. Under section 18(10) of the Act, the taxable supply by the buyer occurs when the supply of the going concern under section 4(2) of the Act occurs.

- 3.3 ***Advance receipt for services or a deposit.*** Consideration, as defined in section 2 of the Act, does not include a deposit given in connection with a supply of goods or services unless and until the supplier applies the deposit as consideration for the supply or such deposit is forfeited. In contrast, an advance payment for the rendition of services in the future is included as part of the consideration for a supply for services. Section 18 (1) of the Act provides that a supply of services occurs at the earliest of the date the services are completed, an invoice covering the services is issued, or any consideration for services received. The classification of a receipt as a deposit or advance payment depends on the facts and circumstances of the case. For example, an advance payment received by a hotel or other service provider for specific accommodations or other services to be provided in the future is presumed to be consideration for the service to be supplied and not a deposit for purposes of the definition of consideration in Section 2 of the Act.

#### 4. Value of supply

- 4.1 ***Price discounts and rebates provided at time of supply.*** The consideration for a supply and therefore the value of a supply is reduced by any price discounts or rebates allowed and accounted for at the time of the supply of goods or the rendition of services. For example, discounts taken at the cash register for goods on sale reduce the value of a supply subject to tax. Post-supply price adjustments do not affect the tax imposed on the supply. For example, if a retailer sells computer software and the manufacturer of the software offers a rebate to a purchaser of the software upon proof of purchase (such as submission of a tax invoice), the manufacturer's rebate does not reduce the consideration subject to tax when the retailer sells the software. Those adjustments must be accounted for by a registered seller and registered purchaser in accordance with section 32 of the Act.
- 4.2 ***Tax not accounted for separately.*** Where a portion of the price of a supply represents tax imposed by the Act that is not accounted for separately, the value of the supply is the price reduced by the amount of tax, determined as an amount equal to the product of the tax fraction multiplied by that price (section 20(2)). The tax fraction under the definition in section 2 of the Act is  $R/(1 + R)$ , where "R" is the rate of tax (expressed as a percentage) under section 10(1) of the Act.

For example, where the price (including tax that is not accounted for separately) is \$115 and the tax rate is 15%, then the amount of tax is determined as follows:

$115 (.15) / (1.15) = 100 (.15) = 15$ , and the value of the supply is \$115 less \$15, or \$100.

- 4.3 ***Transfers for no consideration or for less than fair value.*** Section 20(3) of the Act provides that the value of a supply of goods without consideration or for less than fair market value is the fair market value of the goods. This special valuation rule applies only if the supplier and recipient are related persons or if the recipient is an approved charitable organisation. This rule is designed, in part, to prevent tax avoidance on transfers to purchasers who are not entitled to claim input tax deductions on purchases. When fair market value applies, a reduction for the amount of tax included in the fair market value must be computed as is explained under paragraph 4.2 above.
- 4.4 ***Change of use of goods or services.*** If a registered person converts an entire good or service from use in a taxable activity to a different use and the person was allowed an input tax deduction in respect of the acquisition of that good or service, section 4(6) of the Act generally treats the change in use as a supply of goods or services in the course or furtherance of a taxable activity. Under section 20(4) of the Act, the value of the deemed supply is the lesser of the consideration paid or payable on the acquisition of those goods or services, or the fair market value of the goods or services when they are converted to a different use. For example, if a computer acquired by a registered person for business use for \$1,000 now is worth \$400, the transfer of that computer to an employee for personal use is a taxable supply with a value of \$400.
- 4.5 ***Change of use of goods or services - special rule.***
- 4.5.1 ***Input tax deduction disallowance.*** Under section 4(17) of the Act, the change in the use of goods or services by a taxable person is not a taxable supply if that person was not entitled to claim a deduction for input tax imposed and paid on the acquisition of those goods or services. As a result, the valuation rules under section 20(4) of the Act do not apply to a change in the use of such goods or services.
- 4.5.2 ***Cancellation of registration.*** Under section 4(21) of the Act, the cancellation of registration does not produce a taxable supply of goods and services on hand on the date of cancellation to the extent that input tax on the acquisition of those goods or services was not deductible. As a result, the valuation rules under section 20(4) of the Act do not apply to a change in the use of those goods upon cancellation of registration.
- 4.6 ***Change of use of goods and services - conversion of less than the entire goods or services to a different use.*** This paragraph governs the value of a supply

under section 20(5) of the Act, when less than an entire good or service is applied to a different use. If, in a transaction governed by section 4(6) of the Act, a registered person changes any part of the use of goods or services from use in a taxable activity to a different use, then generally, the change is treated as a conversion of the entire good or service to a different use unless the registered person establishes to the satisfaction of the Comptroller that less than the entire good or service was converted. There is an exception. If a registered person converts 10 percent or less of a good or service to a different use, the change in use is not treated as a supply under section 4(6) of the Act. Changes within a 12-month period are aggregated for purposes of determining the portion of a good or service that was converted to a different use under this paragraph.

- 4.7 ***Balance of the cash value.*** The balance of the cash value of the supply under section 20(8) of the Act is the amount remaining after deducting from the cash value so much of the sum of the payments made by the debtor under the credit agreement as, on the basis of an apportionment in accordance with the rights and obligations of the parties to such agreement, may properly be regarded as having been made in respect of the cash value of the supply. For example, assume that the seller of goods is a dealer who finances the purchase, the consideration for the sale was \$5,000, and the payments by the buyer properly attributable to the principal were \$1,500. For purposes of section 20(7) of the Act, the value of the goods repossessed is \$5,000 less \$1,500, or \$3,500.
- 4.8 ***Reporting of Deposits.*** The consideration and therefore the value of a supply does not include a deposit given by the purchaser in connection with a supply unless and until the deposit is forfeited or the supplier applies the deposit as part payment for the supply. This rule applies to refundable and non-refundable deposits, including payments under a lay-away plan, but does not apply to deposits on returnable containers. Deposits on returnable containers are treated as part of the consideration for a supply (see definition of consideration in section 2 of the Act), and are included in the value of the supply.
- 4.9 ***Calculation of value of a supply incident to transfer of going concern.*** The value of the goods and services treated as a supply by the recipient under section 4(18) of the Act shall be the consideration for the acquisition of the taxable activity, reduced by an amount which bears to the amount of such consideration the same ratio as the intended use or application of the taxable activity for making taxable transactions bears to the total intended use or application of the taxable activity. For example, assume that the consideration for a zero rated supply of a going business is 1,000,000 and that the recipient will use 80 percent of the acquired goods and services in making taxable supplies, the value of the acquisition deemed to be supplied by the recipient is \$1,000,000 – (80% x \$1,000,000), or \$200,000.
- 4.10 ***Supplies of goods used partly in taxable and partly in exempt activities.*** When goods are used by a taxable person in mixed activities, the value of the supply of

the goods must be apportioned between or among the multiple uses. For example, if goods used 60 percent in taxable activities and 40 percent in exempt activities are sold for a tax-exclusive price of \$10,000, and the portion of the goods used in exempt activities is treated as a supply not in the course or furtherance of taxable activities under section 4(17), then unless section 20(3) of the Act or another exception applies, the value of the taxable supply for purposes of section 20 is 60 percent of \$10,000 or \$6,000.

## 5. Import of services.

- 5.1 ***In general.*** Imported services are reportable by the recipient under section 28 of the Act. Under the definition of an import in section 2 of the Act, imported services are taxable only if they are supplied to a Saint Lucian resident who does not use or consume the imported services in making taxable supplies in Saint Lucia. For example, an import of services is taxed if imported by a person that renders exempt services such as a school rendering exempt educational services.

## 6. Input tax deduction rules.

- 6.1 ***Period in which an input tax deduction is claimed.*** A taxable person deducts input tax in the tax period in which the tax on a domestic acquisition is payable. For example, if an invoice issued on 28 January is received on 5 February, and tax is payable by the recipient when the invoice is issued, the taxable person claims the input tax deduction in the tax period that includes 28 January.
- 6.2 ***Commencement or termination of a taxable activity.*** Activity involved in commencing or terminating a taxable activity is considered to be related to taxable activity under section 6(3) of the Act. The costs incurred to begin or terminate a taxable activity therefore are costs taken into account in calculating the allowable input tax deductions under section 30 of the Act.
- 6.3 ***Input tax deductions on vehicles carrying goods.*** In accordance with section 31(1)(a) of the Act denies a deduction for input tax on the acquisition of a passenger vehicle, unless the person acquires the vehicle for purposes of that person's business of dealing in, or hiring, such vehicles. "Passenger vehicles," according to section 31(7) of the Act, include motorcars and other motor vehicles principally designed to transport people. This disallowance rule does not apply to a commercial truck, a double cab truck designed to carry goods, a pickup truck, or other vehicle used exclusively for the transport of goods. If a passenger vehicle acquired by a person in the business of dealing in, or hiring passenger vehicles, is provided by that person directly or indirectly for the benefit of an owner, officer or employee, the person is denied an input tax deduction on the acquisition of the vehicle to the extent of the tax on the portion of the passenger vehicle used by or for the benefit of such individual, or the person (while owning the vehicle) is deemed to have changed the use of the vehicle under section 4(6) of the Act. For example, if an employee of a car rental

company will use for personal purposes a newly-acquired motor car usually rented to customers, the car rental company is denied an input tax deduction on the acquisition of the car for the portion of the tax on the rental car to be used for such purposes. The same rule applies if the car rental company permits a related person who does not work for the company to use a car usually rented to customers.

- 6.4 ***Input tax deductions on entertainment.*** For purposes of section 31(1)(b) of the Act, an input tax deduction is not allowed for tax paid on the purchase or import by a taxable person of goods or services for the purpose of entertainment. “Entertainment” is defined in section 31(7) of the Act as provision of food, beverages, tobacco, accommodation, amusement, recreation, or other hospitality. Entertainment includes restaurant meals for executives, employees, or customers, the rental of a lodge, the charge for satellite or cable television services, and the charge for food at a retreat for employees. Under section 31(1)(b)(i) of the Act, the disallowance rule does not apply to purchases of “entertainment” by a registered person engaged in the business of selling “entertainment” (such as a restaurant or disco) if the purchases are used directly in the supply of taxable entertainment in the ordinary course of business.
- 6.5 ***Input tax deductions on membership in a sporting, social, or recreational club, association, or society.*** Section 31(1)(c) of the Act denies a deduction for input tax on fees or subscriptions for membership in a club, association, or society of a sporting, social or recreational nature. While not an exhaustive list, the disallowance rule applies to input tax on a membership in a hunting, drinking, dining, smoking, or similar establishment.
- 6.6 ***Input tax allocation rules.*** Under section 31(2)(a) and (b) of the Act, the input tax on acquisitions directly allocable to the making of taxable supplies is deductible in full, and the input tax on acquisitions directly allocable to the making of exempt supplies is disallowed in full. Input tax on acquisitions used in making both taxable and exempt supplies (dual-purpose acquisitions) must be allocated between them in accordance with the formula  $A \times B/C$  (section 31(2)(c);) that is, allocated in proportion to total taxable sales during the current tax period divided by total supplies in that period. For example, if during the month of August, the input tax not directly allocable to either taxable or exempt supplies is \$10,000, the total taxable supplies in August are \$6,000,000 and the total supplies in August are \$10,000,000 the input tax allocable to taxable supplies under this formula (and therefore deductible for August) is  $\$10,000 \times 6,000,000/10,000,000$ , or \$6,000.
- 6.7 ***De minimis rule.*** If a taxable person’s ratio of taxable supplies to total supplies under the formula  $A \times B/ C$  in section 31(2)(c) of the Act is more than 0.90, under section 31(3) of the Act, the taxable person may deduct the entire input tax on dual-purpose acquisitions used to make both taxable and exempt supplies. In other words, if more than 90 percent of total supplies are taxable supplies, the

ratio in section 31(2)(c) of the Act is deemed to be 100%, and all input tax on the dual-purpose acquisitions is deductible.

- 6.8 ***Allocation rule for financial institutions.*** Section 31(4) of the Act provides that a bank or other financial institution making both taxable and exempt applies in a tax period can deduct, under section 31(2) of the Act, only the input tax on acquisitions that are directly allocable to the making of taxable supplies. There is no deductible input tax under the formula in section 31(2)(c) of the Act on dual-purpose acquisitions used in making both taxable and exempt supplies.

## 7. **Bad Debts**

- 7.1 ***In general.*** This applies if a registered person makes a supply of taxable goods or services, accounts for the supply in a tax return, and in a subsequent tax period, it is determined that the registered person will not be able to recover all or part of the consideration from the customer. If a registered person claims relief for a bad debt and the customer subsequently pays all or a portion of the amount claimed as a bad debt, the registered person must report as output tax the presumed tax element in the recovered debt.
- 7.2 ***Claiming bad debt deductions.*** Section 32(9) to (13) of the Act provides rules for registered persons to account for bad debts on supplies reported for VAT purposes. Under section 32(9) of the Act, a registered person can deduct, as an input tax deduction, the tax on a prior taxable supply to the extent that the consideration for the supply is treated as a bad debt. The deduction (a bad debt deduction) is treated as an input tax deduction under section 30(1) of the Act in calculating the net tax liability for the tax period.
- 7.3 ***Circumstances for allowance of bad debt.*** Under section 32(13) of the Act, the bad debt deduction is allowed in two cases. The deduction is allowed if the taxable supply that gave rise to the bad debt was made to an unregistered person. The deduction also is allowed if the taxable supply was made to a registered person and the supplier issues a tax credit note to the registered defaulting customer, listing the amount claimed as bad debt deduction. The tax credit note must contain the relevant particulars. The registered, defaulting purchaser must report as output tax the tax reported on the tax credit note. It is only the registered person that makes the supply that can claim an input tax deduction for the bad debt. An exception applies if a going concern is transferred and the transferee writes off an acquired account as a bad debt.
- 7.4 ***Calculation of input tax deduction – bad debt.*** Under section 32(10) of the Act, the input tax deduction for the bad debt is equal to the tax fraction (definition in section 2 of the Act) multiplied by the portion of the taxable supply written off as a bad debt. The tax fraction is the one applicable when the original taxable supply was made. For example, if \$2,300 of a customer's account is written off

and the tax rate at the time of the supply was 15%, the input tax deduction is  $15/115 \times 2,300$ , or \$300.

7.5 **Requirements for claiming input tax deduction – bad debt.** The bad debt deduction arises when the bad debt is written off by the seller on its books. Under section 32(11) of the Act, to be entitled to this deduction for a bad debt, the registered person must satisfy the Comptroller that reasonable efforts have been made to recover the debt due and payable, and at least one year has elapsed. In order to claim an input tax deduction for a bad debt written off, a registered person must retain a copy of the tax invoice for the supply on which the deduction is claimed. The person also must establish a separate bad debt account for each bad debt for which an input tax deduction is claimed. That account must include a record of the name of the customer, and the date and number of the invoice originally issued, the amount written off as a bad debt, the tax period in which the supply was reported, and the tax period in which the input tax deduction is claimed. If a tax credit note is issued, a copy must be retained.

7.6 **Recovery of bad debt.** If a registered person recovers any portion of a debt that gave rise to a bad debt deduction, under section 32(12) of the Act, the registered person must report the following amount as tax on a taxable supply (output tax) in the tax period in which the debt is wholly or partially recovered. The amount reportable is calculated according to the formula  $A \times B/C$ , where: **A** is the allowable input tax deduction for the bad debt, **B** is the amount of the recovered bad debt, and **C** is the total bad debt written off. For example, if the original input tax deduction for the bad debt was \$1,500, the recovery was \$3 000, and the bad debt written off was \$10 000, the output tax reportable on the recovered bad debt is  $1,500 \times 3,000 / 10,000$ , or \$450. A drawback of VAT resulting from a recovery of a previously-deducted bad debt is required, even if the supplier is no longer registered for VAT purposes.

## 8. Tax invoices and sales receipts

8.1 **Tax invoice.** A tax invoice under section 34(1) of the Act is a pre-numbered document executed by the registered supplier and must contain at least the following particulars:

- (a) the words “Value Added Tax Invoice” or “VAT Invoice” in a prominent place;
- (b) the name, address and TIN of the supplier;
- (c) the name, address and TIN of the recipient;
- (d) the date on which the VAT Invoice is issued;
- (e) a description of the goods or services supplied, including the quantity or volume, as applicable, and the date on which the supply was made;
- (f) the consideration for the supply; and
- (g) the amount of VAT charged.

8.2 ***Sales receipt.*** A sales receipt under section 34(2) or (7) of the Act is a document executed by the registered supplier and must contain at least the following particulars:

- (a) the words “VAT Sales Receipt” in a prominent place;
- (b) the name, address and TIN of the supplier;
- (c) the date on which the sales receipt is issued;
- (d) a description of the goods and services supplied, including the quantity or volume as applicable and, if necessary to identify the supply, the date on which the supply was made;
- (e) the total consideration for the supply (including VAT); and
- (f) the amount of VAT charged.

## 9. Refund of tax

9.1 ***Claim for refund of tax.*** A person entitled to file a claim for a refund of tax under section 57 of the Act must file their claim in such form approved by the Comptroller and shall contain at least the following particulars:

- (a) name, address and contact details of the applicant for refund;
- (b) taxpayer identification number of the applicant;
- (c) amount of refund claimed;
- (d) period in which excess input tax occurred;
- (e) customs declaration or receipt number that relates to the excess input tax.

The claim for refund shall be accompanied by such documentary proof as will establish the payment of the excess amount.

## 10. Due date for filing a return and for payment of tax.

10.1 ***In general.*** Under section 89 of the Act, a person who fails to file a return within the required due date, is liable to a penalty of \$250. Under section 46(4) of the Act, a person who fails to pay the tax that is due and payable by the required due date, is liable to a penalty of 10 percent of the amount due. Under section 46(1) of the Act, a person who fails to pay tax payable under the Act by the date it is due and payable is liable for interest at a rate of 1.25 percent per month or part thereof, for the period during which the tax remains unpaid. For tax payable with the filing of a regular VAT return, this date is the due date of the return. For example, a VAT registered business is liable to pay \$10,000 on 21 December, 2012. If the business fails file a return and fails to pay the VAT that is due on 21 December, 2012, (i.e. \$10,000), then the business is liable to:

- (a) penalty of \$250 (for failing to file the return – section 89 of the Act);
- (b) a penalty of 10 percent of the \$10,000 (amounting to \$1,000) (for failing to pay the tax that is due and payable as at the due date – section 46(4) of the Act); and
- (c) pay interest at a rate of 1.25 percent of the \$10,000 (\$125) per month or part of a month for which the tax remains unpaid (as interest on unpaid tax – section 33(1) of the Act).

## 11. Refunds of excess input tax deductions and other overpayments

- 11.1 ***Carryover of excess deductions.*** Under sections 57(1) to 57(3) of the Act, except as provided in section 57(5), the general rule is that a taxable person must carry forward excess input tax deductions to three consecutive tax periods before the person is eligible to apply for a refund of any unused excess input tax deductions. For example, except as provided under this clause, if a taxable person has excess input tax deductions for March, the person must carry forward those excess input tax deductions to April. If the excess deductions are not fully used up against output tax in the April through June tax periods, the person may file a claim for a refund of the excess deductions remaining. The oldest carryover is used first. For example, if a taxable person has excess deductions for March and April, the excess deductions from March are used against the output tax in May before the excess deductions from April are used against the output tax in May. The Comptroller generally has one calendar month to pay the refund upon application; that is, the Comptroller has until the end of July to pay the refund. However, under section 57(4) of the Act, if the Comptroller orders an audit of the refund claim, then the Comptroller has until the end of 10 working days after the conclusion of the audit to pay the refund. The time provided for the payment of a refund of excess input tax deductions is subject to an overall limit. Under section 57(4) of the Act, the Comptroller is required to pay the refund only to the extent that the Comptroller is satisfied that the taxpayer is entitled to the amount of the refund claimed.
- 11.2 ***Refund claims related to the commencement of a taxable activity.*** Section 57(4) of the Act provides that the Comptroller is required to pay a refund of excess input tax deductions only to the extent the Comptroller is satisfied that the taxpayer is entitled to the amount of the refund claimed. Generally, when a taxable person claims a refund of excess deductions under section 57(4) of the Act that is attributable to the commencement of a taxable activity, the Comptroller will not be satisfied that the taxable person is entitled to the refund claimed unless, from the available evidence, the Comptroller is satisfied that the taxable person will be using the goods and services giving rise to the excess deductions to engage in the making of taxable supplies.
- 11.3 ***Refund claims under section 57(8) of the Act.*** If a person overpays tax other than in circumstances specified in section 57(1)(a) of the Act, then under section 57(8) of the Act, the person may file a claim for a refund of the excess. This procedure may apply, for example, to a person who is registered or not registered, and later discovers that a calculation error resulted in the overpayment of VAT on previously-reported transactions. However, if a person pays more tax on the import of goods or services than is imposed by the Act, the person must apply for a refund to the Comptroller. An application for refund to the Comptroller may also be made in the circumstance when goods are consigned to a returning resident in care of a local representative, who pays the tax due as a deposit. When the returning resident arrives, he or she can process

an import declaration and apply for a refund of the deposit to the extent that the returning resident meets the conditions of the exemption for the import of goods by returning residents in the Third Schedule of the Act.

- 11.4 ***Refund claim form.*** A person entitled to file a claim for a refund of tax under section 57 of the Act must file the claim on the refund form required by the Comptroller, together with documentary proof required by the Comptroller to support the claim for refund.

## **12. Approved Charitable Organisations eligible for refund of tax**

- 12.1 ***Documentation for refund.*** An application by an approved charitable organisation for a refund of tax under section 59 (3) of the Act must include documentation to support the refund request. The refund application must be in the form approved by the Comptroller and contain the information required by the Comptroller.
- 12.2 ***Processing of refund.*** An application for refund by an organisation specified in paragraph 12.1 may be processed by the Comptroller as and when any such application for request is approved by the Minister.

## **SCHEDULES**

### **13. First Schedule - Zero Rated Supplies**

- 13.1 ***Application of zero rating.*** Where a registered person has applied the rate of zero percent to a supply under the First Schedule of the Act, the registered person must obtain and retain documentary proof acceptable to the Comptroller substantiating the person's entitlement to apply the zero rate to the supply. The registered person also must comply with all other conditions or restrictions that the Comptroller may impose for the protection of the revenue.
- 13.2 ***Minister's designation that foreign country is not an export country.*** The Minister may designate a country as one that is not an export country, but it is anticipated that this power will be exercised only in exceptional circumstances. The power may be exercised if another country discriminates against Saint Lucia in the treatment of exports to Saint Lucia under its value added tax or comparable tax.
- 13.3 ***Substantiation of zero rating.*** To obtain zero rating for the export of goods and related services under this paragraph, the exporter, at the port of exit, must identify the goods and present documentary proof required by the Comptroller. The export must comply with the requirements of the First Schedule, paragraph 3(1) of the Act.

- 13.4 **Fuel.** The First Schedule, paragraph 2(1)(h) of the Act zero rates the supply of fuel. Fuel is inclusive of the oils, gases and other preparations included in the Customs Tariff Headings specified in the definition of “fuel” in the First Schedule which include, for example, illuminated kerosene, liquefied natural gas, liquefied propane, liquefied butane, ethylene and propylene, among others. Fuel does not include any other petroleum, gas or other products not covered in the said Tariff Headings.
- 13.5 **A going concern – explanation of term.** A going concern is an income-producing activity capable of separate operation that is in fact operational and capable of being carried on without interruption after the transfer, but not a dormant or prospective business. A transfer qualifies if it constitutes the entire taxable activity of the supplier that is a going concern or a portion of a taxable activity of the supplier if capable of being carried on as a going concern as required by section 4(3). A supply can be of a going concern even if the transferred business is not profitable, or is being transferred to a liquidator, receiver, trustee in bankruptcy, or other person appointed upon the insolvency of a registered person. The supply is zero rated only if it takes place on or after the effective date of the VAT Act. A supply of a going concern comes within the zero rating of the First Schedule, paragraph 2(1)(i) of the Act, even if the supply is to a person with no previous interest in the business. Zero rating applies to a supply of an existing business that involves only a change of legal entity or form of doing business, such as from a partnership to an incorporated company. It is not necessary for the transferee to operate the particular income-producing activity acquired, so long as it is capable of separate operation. To illustrate the concept of a going concern, the supply of a vacant factory building held as an investment does not qualify for zero rating as the transfer of a going concern. The transfer of machinery and a factory building that have been used to manufacture shipping boxes is a supply of a going concern that can qualify for zero rating.
- 13.6 **Post-supply notice requirement.** The First Schedule, paragraph 2(1)(i)(ii) requires the transferor and transferee to furnish the Comptroller a notice in writing within 21 calendar days after the supply takes place. Unless the transferor and transferee both are registered persons and both sign and file in a timely manner the post-supply notice expressing their intent to treat the transfer as a supply of a going concern under the First Schedule, paragraph 2(1)(i) of the Act, the transfer is not zero rated, even if in fact it is a transfer of a going concern. The 21 calendar day period within which the notice must be filed is determined under the time of supply rules in section 18 of the Act. If the transferee previously was not a registered person, the supply can qualify for zero rating only if the transferee is registered by the date the transfer takes place. If the parties satisfy the notice requirements in the First Schedule, paragraph 2(1)(i) and the transfer does not qualify as a zero rated supply of a going concern under section 4(2) of the Act, the consideration charged for the supply is treated as being exclusive of VAT, the transfer is subject to tax, the value of the supply

for tax purposes is the consideration charged, and the transferee can claim an input tax deduction to the extent allowable under the Act. If under the agreement between the parties the selling price is increased to include VAT in the event of non-qualification of the transfer, then the value of the supply is determined on the basis of the adjusted selling price under the contract (reduced, under the general rules, by the amount of VAT).

- 13.7 ***Details of the transfer.*** Under the First Schedule, paragraph 2(1)(i)(ii), the required notice to the Comptroller must include the details of the supply. To satisfy this requirement, the notice must include a complete list of the assets transferred, the market value of each asset transferred, the nature of the business conducted by the transferor and the business to be conducted by the transferee with the acquired assets, and the length of time the transferor's business has been operated with the assets transferred. The transferor must report any assets that will be used in making supplies that are not taxable supplies. The Comptroller may require additional information from the transferor or transferee, or both, or may waive the requirement to value individual assets of nominal value.
- 13.8 ***Supply upon cancellation of transferor's registration.*** If the transferor's registration is cancelled by the Comptroller as part of the transfer of a going concern, then under section 4(21) of the Act the goods not transferred as part of the going concern generally constitute a supply of the goods by the transferor at their market values, except that this rule does not apply to goods for which the transferor has not been allowed an input tax deduction under section 30 of the Act.
- 13.9 ***Specially designed ventilated boxes.*** The First Schedule, paragraph 2(1)(k) of the Act zero rates supplies of ventilated boxes that are specifically designed for use in transporting unprocessed agricultural products. The zero rating extends to boxes designed to transport flowers. Other types of boxes are not zero rated, even if used to transport unprocessed agricultural products.

#### **14. Second Schedule - Exempt Supplies**

- 14.1 ***Financial services.*** A supply of financial services is exempt from tax under the Second Schedule, paragraph 2(a) of the Act. Financial services as specified are exempt, whether provided for explicit or implicit fees.
- 14.2 ***Invoicing finance charges.*** For purposes of "financial services" as defined in the Second Schedule (1), if a supplier makes a taxable supply of goods on credit and includes the finance charges in the total amount payable by the buyer in installments, the total amount payable for the goods (including any finance charges) is subject to tax. If, on the other hand, the seller lists the consideration for the goods and the finance charges separately on the tax invoice, tax is imposed at the time of the supply only on the consideration for the goods.

- 14.3 **Definitions of specific terms.** For purposes of “financial services” as defined in the Second Schedule (1), the following definitions apply:  
“cheque” includes a postal order, a money order, a traveller’s cheque, or any order or authorisation (whether in writing, by electronic means, or otherwise) to a financial institution to credit or debit any account;  
“insurance policy” means insurance cover under a policy treated as general insurance business or as long-term insurance business under the Insurance Act, Cap. 12.08.
- 14.4 **Financial services rendered by businesses that are not registered as banks or financial institutions.** Financial services that are defined as exempt in the Second Schedule (1) are exempt, whether rendered by a registered bank or financial institution or by any other person.
- 14.5 **Taxable services, even if associated with financial services.** Some services are not exempt under the Second Schedule, paragraph 2(a) of the Act, whether or not they are rendered in connection with an exempt financial service. They include, but are not limited to the following:  
(a) Legal, accounting and record package services, actuarial, notary, and tax agency services (including advisory services) when rendered to a supplier of financial services or to a customer of that supplier of financial services;  
(b) Safe custody for cash, documents, or other items;  
(c) Data processing and payroll services;  
(d) Debt collection or factoring services;  
(e) Trustee, financial advisory, and estate planning services;  
(f) Leases, licenses, and similar arrangements relating to property other than a financial instrument; and  
(g) Any other explicit fee, including administrative fees.
- 14.6 **Accounting and record package services.** Accounting and record package services are services provided to a financial institution rendering exempt financial services that include a financial clearing system that may be part of the settlement process, the posting of financial transactions to or the maintenance of the accounts of the financial institution’s customers, and the rendering of services ancillary to the services just described.
- 14.7 **Factoring.** The mere acquisition of a debt is not a taxable transaction, including debt acquired by a factor. The services related to debt recovery, litigation, and the management of the recovery of the amount due from debtors are taxable, including sales accounting services under a factoring arrangement and other services related to factoring.
- 14.8 **Mixed supplies.** If an exempt or taxable financial service is incidental to a main supply, or if such a financial service is the main service, the rules in section 4 of the Act on mixed and incidental supplies apply.

- 14.9 ***Input tax deduction allocation rules.*** Banks and other financial institutions that make both taxable and exempt supplies may claim input tax deductions under section 31(2) of the Act only on domestic acquisitions (including rentals) and imports used directly in making taxable transactions (section 31(4) of the Act). This means that input tax deductions are only allowable for purchases that are used directly for taxable transactions. Other providers of financial services are subject to the allocation rules in section 31 of the Act.
- 14.10 ***Records and other data.*** Regardless of method used to allocate input tax deductions under section 31 of the Act, the registered person must retain records to substantiate the method used. The Comptroller may require financial service providers to submit statistical data on various product lines.
- 14.11 ***Insurance exemption.*** The exemption for financial services extends to the premiums for insurance cover under an insurance policy.
- 14.12 ***Riders to insurance policies.*** The premium attributable to riders attached to an insurance policy that is exempt from tax constitutes exempt services if the riders are only incidental to the provision of the insurance cover. Services covered in riders to exempt insurance policies that are not incidental to the insurance coverage are taxable to the extent that the independent supply of those services would be taxable. The Comptroller shall have the sole discretion to determine whether a non-insurance rider is incidental to the main insurance policy.
- 14.13 ***Issuer of an insurance policy.*** The premium on an insurance policy is exempt only if the premium is charged on a policy issued by a person who is registered to issue such policies under the Insurance Act, Cap 12.08.
- 14.14 ***No exemption for warranties.*** An insurance policy does not include insurance cover on a warranty in respect of the quality, fitness or performance of tangible property. A supply customarily provided in the form of a warranty that goods or services will perform as promised or the items can be returned or repaired is not an exempt supply if structured as an insurance policy.
- 14.15 ***Medical services.*** The Second Schedule, paragraph 2(b) of the Act exempts the supply of medical services. Medical services are exempt, whether provided with or without charge and whether paid by the patient or resident or any third party, if the medical services meet two conditions:
- (a) they are rendered in a qualified medical facility or by a qualified medical practitioner, or both; and
  - (b) they qualify as exempt medical services as defined in the Second Schedule.
- 14.16 ***Qualified medical facility.*** For a service rendered in a facility to be an exempt medical service, the service must be rendered in a qualified medical facility. A qualified medical facility is the office of a qualified medical practitioner. It also

includes a licenced hospital, maternity home, nursing home, convalescent home, or clinic.

- 14.17 ***Qualified medical practitioner.*** A qualified medical service is exempt if it is provided by a qualified medical practitioner or under the supervision and control of a qualified medical practitioner. A qualified medical practitioner is a person who is registered as being qualified under the Health Practitioners Act 2006, No. 36 or under the Registration of Nurses and Midwives Act, Cap. 18.01 to perform medical, dental, nursing, convalescent, rehabilitation, midwifery, paramedical, and other services.
- 14.18 ***Qualified medical services in general.*** To qualify for the exemption, medical services must consist of qualified medical services, in a qualified medical facility, or medical services rendered by a qualified medical practitioner, or both. Medical services involve the diagnosis, treatment, prevention, or amelioration of a disease, including the promotion of mental health, but do not include services for cosmetic reasons other than those required in connection with a disease, trauma, or congenital deformity.
- 14.19 ***Qualified services in a qualified medical facility.*** For purposes of paragraph 14.16 above, exempt medical services include the services provided to a dweller or patient by a qualified medical practitioner in a qualified facility, as well as meals and accommodations, nursing and personal care, and assistance with daily living activities to meet the needs of the resident or patient.
- 14.20 ***Exempt medical services.*** For purposes of paragraph 14.15 above, exempt medical services include the following:
- (a) medicines and drugs that are administered in a hospital, maternity, nursing, or convalescent home, or clinic, for which there is no separate charge;
  - (b) laboratory, x-ray, or other diagnostic services;
  - (c) the use of operating rooms, case rooms, or anesthetic facilities, including necessary equipment or supplies;
  - (d) the use of radiotherapy, physiotherapy, or occupational therapy facilities in rendering exempt medical services;
  - (e) accommodation and meals (except in a restaurant or cafeteria available to persons other than patients or residents) provided to patients or residents in the course of receiving exempt medical services;
  - (f) services rendered by the medical facility staff (including orderlies or technicians) in connection with exempt medical services;
  - (g) dental, periodontal, and endodontal services rendered in connection with a disease, trauma, or congenital deformity, but not dentistry for cosmetic reasons;
  - (h) ambulance services; and
  - (i) psychoanalytic services.
- 14.21 ***Cosmetic medical services.*** As defined by the Ministry of Health, cosmetic medical services constitute the following, and are therefore taxable:

- (a) Brow lifts
- (b) Botox when used for anti-wrinkling
- (c) Laser skin rejuvenation
- (d) Cosmeceuticals
- (e) Eyelash Enhancement
- (f) Arm Lift (Brachioplasty) (Except for skin reduction after significant weight reduction)
- (g) Breast lift (Mastopexy)
- (h) Skin fillers -Collagen, Juvederm, Restylane
- (i) Face lift (Rhytidectomy)
- (j) Facial peels used for wrinkle reduction
- (k) Mineral Cosmetics
- (l) Laser hair removal (exception clinical hirsutism)
- (m) Spider veins removal
- (n) Thigh lift
- (o) Neck lift (Cervicoplasty, platysmaplasty)
- (p) Cosmetic dentures (meaning with jewels or made of gold/silver)
- (q) Invisalign
- (r) Lumineers
- (s) Take home teeth whitening kits
- (t) Zoom in-office teeth whitening
- (u) Eyelid Surgery
- (v) Microderm Abrasion
- (w) Breast Reduction (except for medical conditions such as large breast lumps, breast cancer, chronic back pain)
- (x) Breast Augmentation
- (y) Ear Surgery (Pinnaplasty)
- (z) Liposuction
- (aa) Nose surgery

14.22 ***Services provided by a facility to aged, indigent or disabled persons that need care.*** The Second Schedule, paragraph 2(c) of the Act exempts services provided directly by a home to described categories of persons that need care. The exemption applies to the care provided to aged, indigent, infirm, or disabled persons. It covers meals and accommodations provided in kind by the facility, for example, services provided directly by a home for the aged or an institution for disabled persons, are exempt.

14.23 ***Veterinary services.*** The Second Schedule, paragraph 2(e) of the Act exempts the supply of veterinary services in respect of any live bird, livestock or other animal of a kind generally used as food for human consumption. The exemption covers the professional services rendered by a veterinarian registered under the Health Practitioner's Act 2006, No. 36. The exemption does not cover services rendered for domesticated animals like dogs, cats, and birds.

- 14.24 ***Education services.*** The Second Schedule, paragraph 2(h) of the Act exempts education services as defined in the Second Schedule, paragraph 1 of the Act. Qualified charges for education services are exempt if the services meet two conditions:
- (a) they are specified in the Schedules; and
  - (b) they are provided to students by a qualified educational institution.
- 14.25 ***Qualified educational institutions.*** To qualify for the exemption, the services must be provided to students by a duly recognised:
- (a) pre-primary, primary, or secondary school;
  - (b) technical or vocational school or college, community college or university;
  - (c) educational institution established for the promotion of adult education, vocational training, technical education;
  - (d) institution established for the education or training of physically or mentally handicapped persons; or
  - (e) institution established for the training of sports persons.
- 14.26 ***Public and private institutions.*** An educational institution within paragraph 14.25 above is qualified, whether it is a private school operating on a for-profit basis, or a non-profit organisation, church, charity, or a department of government.
- 14.27 ***Accreditation of educational institutions.*** An educational institution within paragraph 14.25 above is a qualified institution only if the institution is recognised by the Ministry of Education. “Recognised” in this context means registered to the extent that there is registration in place for the institution in question. Otherwise “recognised” means accepted by the Ministry of Education as being a proper institution capable of providing and approved to provide education services.
- 14.28 ***Exempt education services.*** The Second Schedule defines “education services” to include “tuition and instruction” The following categories of services qualify under this definition and are exempt education services:
- (a) courses of instruction provided to students at a qualified educational institution;
  - (b) the administration of examinations, if provided by the educational institution or the State; and
  - (c) charges for tuition, school facilities, and curriculum-related activities and instruction under part 14.29 below.
- 14.29 ***Qualified charges for tuition, facilities, and curriculum-related activities and instruction.*** Qualified charges for tuition, facilities, and curriculum-related activities and instruction are:
- (a) instruction or tutoring related to a qualified course;
  - (b) compulsory levies for facilities as part of a supply of exempt educational services;

- (c) student council fees, athletic fees, and other mandatory fees related to course registration;
- (d) charges for reports, library services, identity cards, record keeping and other administrative services provided by the educational institution and directly related to the supply of education courses; and
- (e) charges for course materials, the rental of curriculum-related goods by the supplier of the education (e.g., the rental of musical instruments), field trips directly related to the curriculum if not predominantly recreational.

14.30 **Facility charges.** Qualified facility charges are charges for buildings, grounds, libraries, and computer, science and other laboratories.

14.31 **Education services not covered by the exemption.** The exemption for education services does not cover the following education courses –

- (a) courses in video recording or photography or other hobbies, unless they are part of a degree- or diploma-granting program; and
- (b) courses, such as picture framing, cooking, and personal investment, that are designed to improve knowledge for personal purposes.

14.32 **Education of religious workers.** Religious workers receiving education are treated as students for the purposes of education services exemption.

14.33 **Day care, after-school**

14.33.1 **Day care and after school programmes.** The Second Schedule, paragraph 2(i) of the Act exempts a supply of services by a day care business for pre-school children or older persons with physical or mental handicaps, after-school care provided in a pre-primary or primary school, and summer camp services for children under 18 years of age.

14.33.2 **Services covered.** Supplies by a day care provider are exempt from tax to the extent that the charges are for the care of the pre-school child or the handicapped person while at the day care facility, and any meals and supplies provided at the facility. For example, if a person provides day care for a pre-school child and charges hourly, daily or other periodic rates that include the care of the child and meals at the facility, the charges are exempt from tax. Charges for the care of a child and meals in a pre-primary or primary school before or after school hours are exempt. Summer camp charges for accommodations, meals, and activities for children under 18 years of age are exempt from tax. Supplies of clothing, equipment, travel, and other goods or services not specifically listed as exempt herein are not covered by this exemption.

14.34 **Exempt education services provided by a pre-primary, primary, or secondary school.** In addition to the aforementioned services exempt, exempt education services rendered by a pre-primary, primary, or secondary school include –

- (a) basic instruction, including special education courses;
- (b) fees or charges for a program before or after school that is operated by the school to the extent exempt as after-school care under the Second Schedule, paragraph 2(i) of the Act;
- (c) charges for the use of school musical instruments or sports equipment;
- (d) services rendered by students or their teachers as part of the instructional programme; and
- (e) charges for students to attend a school play, dance, field trip, or other school-sanctioned activity primarily for the students.

14.35 ***Exempt education services rendered by a university, community college, or technical college.*** Exempt education services rendered by a university, community college, or technical college include in class and correspondence courses that qualify for credit toward a degree or diploma, whether or not the student is pursuing a degree or diploma program.

14.36 ***Exempt adult education, vocational training, technical education, and education or training of physically or mentally handicapped persons.*** The education exemption for adult education, vocational training, technical education, and for the education or training of physically or mentally handicapped persons covers charges for –

- (a) adult education courses leading to a degree or diploma or courses that are likely to enhance employment-related skills of the students enrolled in the courses;
- (b) courses of study at a vocational school that develop or enhance a student's occupational skills;
- (c) courses leading to, or to maintain or upgrade, a professional or trade accreditation or designation recognised by the appropriate government accrediting agency; and
- (d) a certificate or examination in a course or program for accreditation or designation.

14.37 ***Employment-related skills.*** Courses enhance employment-related skills if the course objectives specify those skills that students will acquire, and there is a reasonable expectation that the skills taught will be used by the students in their employment, businesses, professions or trades, rather than for recreational, hobby, artistic, or cultural purposes.

14.38 ***Supplies, other than course, not covered by the exemption.*** The exemption for education services does not include –

- (a) the rental of facilities by an educational institution to an outside group;
- (b) commissions and other fees received from the placement of coin-operated machines on the institution's property; and
- (c) the sale of non-course material, such as items containing the school logo.

14.39 ***Dwelling and leases of land***

- 14.39.1 ***Dwellings and leases of land for dwellings or agricultural purposes.*** The Second Schedule, paragraph 2(k) of the Act exempts from tax the sale of a residential accommodation (a dwelling), including the land attributable to the residential accommodation. The lease of a residential accommodation (including land for a residential accommodation) or the grant by an employer of a residential accommodation to an employee or officer holder is exempt under the Second Schedule, paragraph 2(l)(iii) of the Act. The sale or lease of land used or to be used for agricultural purposes is exempt under the Second Schedule, paragraph 2(m) of the Act. Other leases of real property, including land, are taxable.
- 14.39.2 ***Dwelling.*** A “dwelling,” defined in the Second Schedule, paragraph (1) of the Act includes buildings, structures, and other places or parts thereof that are used or intended to be used predominantly as places of residence or abode of natural persons, including appurtenances, but not commercial rental establishments. The land surrounding a dwelling complex, including the driveway, paths, gardens and landscaped grounds for the use and enjoyment of residents is part of the dwelling. A commercial rental establishment is defined in the Second Schedule, paragraph (1) of the Act.
- 14.39.3 ***Input tax deductions.*** Under section 31 of the Act, a registered person who leases new or used property as a dwelling is denied input tax deductions for tax on any costs attributable to the exempt lease of the dwelling.
- 14.39.4 ***Employer-provided dwelling.*** When an employer provides a dwelling to an employee or office holder, and the benefit is limited to the recipient’s period of employment, term of office, or other agreed period, the supply of the dwelling is exempt from tax. However, the same fringe benefit may be treated as a taxable supply by the employer in the course or furtherance of a taxable activity. The exemption takes priority. As a result, the employer under section 31 of the Act is denied input tax deductions for tax on costs attributable to this exempt fringe benefit.
- 14.39.5 ***Sale or lease of parking space in a dwelling complex.*** The lease of a parking space in a dwelling complex as part of a lease of a dwelling is exempt.
- 14.39.6 ***Sales and leases of land for agricultural purposes.*** Under the Second Schedule, paragraph 2(n) of the Act exempts the sale or lease of land if it is used or to be used principally for agricultural purposes. To qualify for the exemption, the supplier must receive and retain written documentary evidence that the land will be used for an agricultural purpose. Any portion of the land used for a taxable activity is not covered by the

exemption. An agricultural purpose includes activities related to livestock, and the cultivation of crops, seeds, plants, and trees. This exemption does not apply to the disposition or sale of the lease. The sale of agricultural land is exempt if the purchaser certifies in writing that the land will be used for agricultural purposes. The certification must be in the form approved by the Comptroller. The seller must submit this certification with the return for the period covered by the sale in the form and in the manner provided by the Comptroller.

14.40 ***Lotteries and games of chance.*** The Second Schedule, paragraph 2(o) of the Act exempts from tax supplies of games of chance conducted by non-profit organisations and lotteries operated by two lottery commissions. The lotteries that are exempt from tax are those conducted by the Saint Lucia National Lottery and the Windward Islands Lotteries Commission. The bets placed at the games of chance conducted by non-profit organisations and the sale of lottery tickets by these commissions are not subject to tax, and the non-profit organisations and lottery commissions are not entitled to deduct input tax on winnings paid out or on acquisitions used in making these exempt supplies.

14.41 ***Transportation of goods and passengers by land.***

14.41.1 ***Scope of exemption for transport of passengers supplied locally.*** The Second Schedule, paragraph 2(q) of the Act exempts the supply of transportation of passengers within Saint Lucia by any mode of transport. The exemption applies whether the transport is by land, sea or air once it is from one point within Saint Lucia to another point within Saint Lucia. It also applies regardless of whether the passenger is resident or not. The exemption applies when the major element of a supply is transport from one place to another. A tourist taking a taxi ride from an airport to a hotel is exempt from tax. If the transportation represents an incidental component of the main supply and is not an aim in itself, the supply is classified on the basis of the main supply. For example, the supply of a sightseeing tour within Saint Lucia is a taxable supply. The domestic transport is treated as incidental to the taxable sightseeing activity, and therefore no portion of the tour or sightseeing charge is considered as attributable to exempt local transportation.

14.42 ***Trade Unions***

14.42.1 ***Services by trade union to members.*** The Second Schedule, paragraph 2(s) of the Act exempts a supply of services by a Trade Union to a member or to another trade union of services if the supply is made in the ordinary course of its trade union activities. For example, the exemption applies to the representation of members in arbitration, but not to any commercial activities by a union that compete with private enterprise. The exemption also covers organisations that perform services in the

nature of the services supplied by a trade union, but because of legal restrictions cannot be constituted as trade unions, such as the Police Welfare Association and the St. Lucia Fire Service Association for example, as well as any other organisations accepted as falling within this description by the Ministry of Labour.

14.42.2 ***Supplies not covered.*** Services supplied by outside suppliers directly or indirectly to the union or a union member are not exempt. Goods supplied by the union to its members are not covered by the exemption.

14.43 ***Supplies of specified Agricultural inputs:***

- (a) The Second Schedule, paragraph 2(v)(i) of the Act exempts the supply of agricultural inputs classified as seedlings, cuttings, and fertilizers. These items are exempt if supplied in a form used for cultivation. This category includes not only seeds, but bulbs and roots when provided for cultivation. Fertilizers formulated for agricultural use are exempt as well.
- (b) Pesticides, insecticides, and other treatments approved for agricultural use. The Second Schedule, paragraph 2(v)(ii) of the Act exempts pesticides, insecticides, and other treatments that the Ministry of Agriculture declares to be one of these preparations formulated for agricultural use that qualify under this paragraph.
- (c) Herbicides, fungicides and nematicides. The Second Schedule, paragraph 2(v)(iii) of the Act exempts agricultural inputs that are declared as herbicides and fungicides by the Ministry of Agriculture.
- (d) Animal feed other than for pets. The Second Schedule, paragraph 2(v)(iv) of the Act exempts animal feed. The exemption is limited to products intended and sold for the feeding of livestock, poultry, fish, or wild animals (including wild birds not generally kept as household pets). Stock lick and substances used as a stock lick are exempted, whether or not they possess medicinal properties. The exemption does not apply to food for domesticated animals generally held as pets. For example, this exemption does not apply to food sold for dogs, cats, and birds.
- (e) Packing film. The Second Schedule, paragraph 2(v)(v) of the Act exempts supplies of packing film that are specifically designed for use in transporting unprocessed agricultural products.
- (f) Agricultural and horticultural machinery. The Second Schedule, paragraph 2(v)(vi) of the Act exempts the supply of machinery and equipment that is specifically designed or adapted for use in agriculture and horticulture.

- 14.44 ***Supplies of specified fishing inputs.*** The Second Schedule, paragraph 2(w) of the Act exempts a list of inputs used in the fishing business. The inputs listed as exempt supplies include: fibreglass and wooden boats, anchors, grapnels, G.P.S., compass, V.H.F. radio, fish finder, flare guns and flares, life vests, life ring, buoys and floats, monofilament fishing lines, gaff, harpoons, outboard engines up to 100 hp., inboard diesel engines, winches, spools, line haulers, jigging reels and propellers. The exemption applies to the listed items used in the fishing trade. It is the Ministry of Agriculture that may declare or disallow a fishing input as being for use in the fishing trade.
- 14.45 ***International transport services pertaining to goods or passengers.*** The Second Schedule, paragraph 2(x) of the Act exempts the supply of international transport services. The Second Schedule, paragraph 1 of the Act, defines “international transport services.” They involve the service, including ancillary transport services, of transporting passengers or goods by road, water, or air on an international journey. Services, including ancillary transport services within the definition of international transport services, includes the storage of goods within Saint Lucia by an export freight company (to be transported by air or ship) until the goods are accumulated from a number of domestic exporters and then transported in bulk to the dock or airport.
- 14.46 ***Bread.*** The Second Schedule, paragraph 2(cc) of the Act exempts the sale of bread. The exemption covers bread and rolls that do not contain any added ingredients or sweeteners. For example, the exemption covers basic bread and dinner rolls, but not bread like bagels or pita bread or bread with icing, fruit, or chocolate added on top or inside the product.

## 15. Third Schedule – Exempt Imports

- 15.1 ***Passengers.*** The exemption of the tax granted in the Third Schedule in respect of goods and other items such as professional tools and instruments for passengers and the extent of the exemption is to be administered in accordance with Paragraph X of the List of Conditional Duty Exemptions Second Schedule of the Customs Import and Export Tariffs as may be amended from time to time. The relevant goods will be exempt from VAT to the extent the Tariff exempts the said goods from tax.