

CHAPTER 50:03 - VALUE ADDED TAX: SUBSIDIARY LEGISLATION

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VALUE ADDED TAX (EXEMPTION) REGULATIONS

(under section 77)

(14th June, 2002)

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S.I. 44, 2002.

1. Citation

These Regulations may be cited as the Value Added Tax (Exemption) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires

"exempt supply" means goods or services exempt from tax in terms of section 11; and

"life insurance contract" means any contract of insurance made or agreed to be made by an insurer classified under section 37 of the Insurance Industry Act as transacting long term business.

3. Financial services

(1) The following financial services shall be exempt from tax, except to the extent that they are rendered for a fee, commission, or other similar charge other than discounting cost, in which case the fee, commission or other similar charge shall be subject to tax-

- (a) granting, negotiating, or dealing with loans, credit, credit guarantees, or any security for money;
- (b) the management of loans, credit, or credit guarantees by the grantor;
- (c) transactions concerning money, such as deposits, payments, transfers of money, debts or negotiable instruments;
- (d) transactions relating to financial derivatives, forward contracts, options, or similar arrangements;

- (e) transactions relating to shares, stocks, bonds, treasury bills, unit portfolios, or other debt or equity securities, other than custody services;
- (f) the provision, or transfer of ownership, of an interest in a scheme whereby provision is made for the payment or granting of benefits by a benefit fund (including a medical aid or other similar fund), provident fund, pension fund, retirement annuity fund, or preservation fund;
- (g) the arranging of any of the services referred to in subparagraphs (a) to (f) and paragraph 2; or
- (h) the provision of intermediation services by a medical aid fund or similar fund.

(2) Notwithstanding the provisions of subregulation (1), the provision of, or transfer of, ownership of a life insurance contract or the provision of reinsurance in respect of any such contract, shall be an exempt supply in terms of paragraph 2 (a) of the Second Schedule.

4. Medical services

(1) In this regulation, "public medical facility" means a the Government operated or Government aided medical facility; and

"exempt medical service" means a medical service which is exempt from value added tax.

(2) A public medical facility is Government operated if-

- (a) the facility is operated by the Government;
- (b) its employees are government employees; or
- (c) its budget is predominantly provided by Government.

(3) A public medical facility is Government aided if at least 50% of its budget comes predominantly from government grants or subsidies.

(4)The following goods and medical services are exempt supplies if supplied in the ordinary course of operating a public medical facility-

- (a) laboratory, x-ray or other diagnostic services;
- (b) drugs, biologicals, and other related preparations;
- (c) any medical or surgical prosthesis installed as part of the supply of an exempt medical service;
- (d) the use of operating rooms, intensive care units or other specialised facilities where a patient may be kept for observation or specialised treatment;
- (e) anaesthetic facilities;
- (f) such equipment or supplies as are necessary for the use of the facilities stated under paragraphs (d) and (e);
- (g) medical or surgical equipment or supplies when used by the public medical facility, or supplied to a patient or resident other than by sale, in connection with an exempt

medical service;

- (h) the use of radiotherapy, physiotherapy, or occupational therapy facilities, in rendering an exempt medical service;
- (i) accommodation provided to a patient or resident in the course of receiving an exempt medical service;
- (j) a meal provided to a patient or resident in the course of receiving an exempt medical service, except those meals provided in a restaurant or cafeteria available to persons other than patients or residents;
- (k) services rendered by the public medical facility staff in connection with exempt medical services;
- (l) dental, orthodontic, periodontal, or endodontal, procedures, other than for cosmetic reasons;
- (m) psychoanalytic services; and
- (n) ambulance services provided by a public medical facility.

(5) Where a service is provided for both medical and cosmetic reasons, it shall be treated as an exempt medical service.

5. Education services

(1) In this regulation, "exempt education institution" means an education institution referred to under subregulation (2).

(2) An education service shall be an exempt supply if it is specified under subregulation (3) and is supplied to students by-

- (a) a pre-primary, primary, or secondary school;
- (b) a tertiary institution; or
- (c) an institution established to promote-
 - (i) adult education;
 - (ii) vocational training;
 - (iii) technical education; or
 - (iv) the education or training of physically or mentally handicapped persons,

which is registered in accordance with the provisions of the Education Act or Tertiary Education Act, as the case may be, or

- (d) an institution for the education and training of religious workers.

(3) The following education services are specified as exempt supplies for purposes of paragraph 2(c) of the Second Schedule to the Act-

- (a) courses of instruction provided by an exempt education institution to its students;

- (b) instruction in courses leading to, or to maintain or upgrade, a professional or trade accreditation or designation recognised by government;
- (c) adult education courses provided by an exempt education institution;
- (d) correspondence courses provided by an exempt education institution;
- (e) school bus services provided by an exempt education institution to its students;
- (f) meals provided by an exempt education institution to its students;
- (g) services provided by primary or secondary school students or their teachers as part of or incidental to the instructional programme;
- (h) fees for administrative services relating to the provision of an education service;
- (i) charges for pre-primary, primary or secondary school students to use school facilities;
- (j) charges for admission to any activity or event organised by an exempt education institution;
- (k) tuition and tutoring provided by an exempt education institution;
- (l) curriculum related activities provided by an exempt education institution;
- (m) administrative services directly related to the supply of education courses, course materials, or the rental of curriculum-related goods by the supplier of the education;
- (n) field trips directly related to the curriculum in an exempt education institution; or
- (o) such other goods or services provided to students, as are part of the education program of an exempt education institution.

VALUE ADDED TAX (TAX PERIOD) REGULATIONS

(under section 77)

(1st July, 2002)

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Alternative tax periods

S.I. 48, 2002,
Act 15, 2006.

1. Citation

These Regulations may be cited as the Value Added Tax (Tax Period) Regulations.

2. Alternative tax periods

(1) For the purposes of these Regulations-

"Category A" means the category of registered persons whose tax periods are periods of two months ending on the last day of January, March, May, July, September and November, of each year;

"Category B" means the category of registered persons whose tax periods are periods of two months ending on the last day of February, April, June, August, October and December, of each year; and

"Category C" means the category of registered persons whose tax periods are periods of one month ending on the last day of each month.

(2) The Commissioner General shall determine whether a registered person falls within Category A or Category B, so as to ensure that approximately equal numbers of registered persons fall within each category, and shall, in writing, notify the registered person of the determination.

(3) The Commissioner General may from time to time, by notice in writing, direct that a registered person change from Category A to Category B, or vice versa, starting from the beginning of such future tax period as he may specify in the notice.

(4) A registered person shall fall within Category C if-

(a) the total value of his taxable supplies-

(i) at the end of any period of 12 months exceeds P12,000,000, or

(ii) at the beginning of any period of 12 months is reasonably expected to exceed P12,000,000,

unless the Commissioner General is satisfied that the value of the person's taxable supplies exceeds P12,000,000 solely as a consequence of a reason specified in section 16(3) of the Act;

(b) the Commissioner General, upon the written application to him by a registered person, authorizes the person to report on a monthly basis; or

(c) the Commissioner General requires that person to report on a monthly basis on the ground that the person has regularly defaulted in performing any obligations under the Act.

(5) Notwithstanding subregulation (2), and for the purposes of subregulation (4), the Commissioner General-

(a) may authorize a monthly tax period for a registered person on such terms and conditions as he may impose and shall give the registered person notice in writing of that authorisation;

(b) shall determine the date when monthly reporting begins in respect of a registered person; and

(c) may, by notice in writing, direct that a person in Category C shall fall within Category A or B, starting from the beginning of such future tax period as he may

specify in the notice, if-

- (i) the person applies, in writing, for such a change and the Commissioner General approves the change, and
- (ii) the Commissioner General is satisfied that because of a change in circumstances the person satisfies the requirements of Category A or B.

(6) The Commissioner General may, upon the written application to him by a registered person, grant a registered person within Category A, B or C permission to end a tax period within 10 days before or after the last day of a calendar month:

Provided that:

- (a) the change is consistent with that person's accounting procedures; and
- (b) the application complies with the conditions imposed by the Commissioner General.

(7) A registered person who is not satisfied with the Category which the Commissioner General has determined in respect of him under subsection (2) may, within 28 days of his being notified of the determination, appeal to the Minister.