

**THE TAX ADMINISTRATION AND PROCEDURES ACT
ACT NO. 7 OF 2009**

THE VALUE ADDED TAX REGULATIONS

(Made under section 6, 35 and 69)

IN EXERCISE of the powers conferred upon me under section 6, 35 and 69 of the Tax Administration and Procedures Act, 2009, **I OMAR YUSSUF MZEE**, Minister of State, Finance, Economy and Development Planning, Zanzibar make the following Regulations:-

Short title and commencement	1. These Regulations may be cited as the Tax Administration Act (Value added Tax Regulations), 2012 and shall come into operation on the 1 st day of July, 2012.
Interpretation	2. In these Regulations, unless the context requires otherwise:- “Act” means the Value added Tax Act, 1998; “Commissioner” means the Commissioner of the Zanzibar Revenue Board; “Minister” means the Minister responsible for Finance; “Taxable turnover” means a part of the turnover of a business applicable to taxable supplies.
Form of application.	3. -(1) An application for registration under this regulation shall be made in the form prescribed in the Schedule to the Tax Administration and Procedures Act (Regulations), and lodged in any manner with the Commissioner within thirty days of the taxable person becoming liable to make the application.
Taxable turnover requiring registration.	4. (1) Where the taxable turnover of any taxable person exceeds or is likely to exceed: (a) One Hundred millions shillings in a period of twelve consecutive months; or (b) twenty- five shillings in any period of three consecutive months, that taxable person shall make an application to the Commissioner to be registered under Value Added Tax.
Registration or of cancellation of registration.	5. (1) Where a person is not registered for the purpose of the Tax Administration and Procedures Act:- (a) imports any goods or services, or any goods or services are supplied to him for the purposes of any business carried on or to be carried on by him;

(b) becomes registered afterwards and continues carrying on that business, that person may claim input tax credit or deduction in respect of those goods or services; if:-

(i) the goods were in the ownership and possession of that person on the date of registration and such goods were received not more than six months prior to the registration; or

(ii) the services were received not more than six months prior to registration.

(2) Where services are supplied to a person who was previously registered under the Act, and those supplies are made for purposes directly connected with the reason his registration was canceled, that person may claim repayment of the input tax in respect of those services if the services were received within six months of the cancellation of the registration.

(3) A person to whom sub-regulation (2) applies shall retain and produce all records, invoices, accounts and any other information prescribed in the Act or the Regulations in relation to the supplies or importation.

(4) A claim under this regulation shall be allowed only to the extent and subject to conditions prescribed under section 16 of the Act.

Tax Invoice.

6.(1) A tax invoice shall prominently bear the words “tax invoice” on its face.

(2) A tax invoice for the supply of goods or services shall include the following particulars, namely:

(a) the taxable person’s name, address, TIN and VAT registration number;

(b) the date and time of supply;

(c) the customer’s name, address, TIN and his VAT registration number,

(d) a description sufficient to identify the goods or services supplied exclusive price for each description of goods or services supplied rate of tax; and

(e) the rate of any discount.

(3) A tax invoice shall indicate:

(i) the total charge exclusive of tax;

(ii) the total tax charge; and

(iii) the total charge inclusive of tax.

Obligation to provide a tax invoice.

7. (1) Save as otherwise provided in section 23 of the Tax Administration and Procedures Act and these Regulations, where a registered person:-

- (a) makes a taxable supply in Zanzibar to a taxable person, or
- (b) makes a supply of goods or services other than an exempt supply, or
- (c) receives a payment on account in respect of a supply he has made or intends to make from another,

he shall provide such persons as are mentioned above with a tax invoice.

(2) Where a registered person provides a document to himself which purports to be a VAT tax invoice in respect of a supply of goods or services to him by another taxable person, that document may, with the approval of the Commissioner, be treated as the tax invoice required to be provided by the supplier under sub regulation (1) above.

(3) Where the person who makes a supply gives an authenticated receipt containing the particulars required to be specified in a tax invoice in respect of VAT supply, that document shall be treated as the tax invoice required to be provided on condition that no tax invoice or similar document which was intended to be or could be construed as being a tax invoice for the supply to which the receipt relates is issued.

Requirements in Tax Invoice.

8. (1) Subject to sub regulation (2) and (3) below, a registered person providing invoice in accordance with this regulation shall state thereon the following particulars:-

- (a) the date of the issue of the document,
- (b) the name and address of the person to whom the goods or services are supplied,
- (c) the type of supply by reference to the following categories:-
 - (i) a supply by sale,
 - (ii) a supply on hire purchase or any similar transaction,
 - (iii) a supply by way of exchange,
 - (v) a supply on hire, lease or rental,
 - (vi) a supply of goods,

- (vii) a supply on sale or return or similar terms, or
 - (viii) any other type of supply which the Commissioners may at any time by notice specify,
- (d) the total amount of VAT chargeable;
- (i) taxable supply of goods or services to that customer;
 - (ii) Upon request by a customer who is not a taxable person, at the time of supply or not later than fourteen days after the time of supply.
- (2) A registered taxable person who has issued a tax invoice in respect of a taxable supply shall, unless the Commissioner otherwise allows, issue a credit note if:
- (a) the supply is cancelled;
 - (b) the goods are returned to the registered taxable person;
 - (c) the value of the supply is reduced;
- (3) The credit note mentioned under sub-regulation (2) shall contain;
- (a) the particulars prescribed for tax invoices;
 - (b) the amount of credit;
 - (c) a statement of the reason for credit.

Making of returns.

9. (1) Every person who is registered or was or is required to be registered shall, in respect of the prescribed accounting period, submit a return on the form TAPA 101 to the Tax Administration and Procedures Regulations showing the amount of VAT payable by or to him and containing full information in respect of the other matters specified in the form and a declaration, signed by him, that the return is true and complete;

provided that:-

- (a) the Commissioner may allow or direct a person in writing to make returns in respect of periods of three months and to make those returns within one month of the periods to which they relate;
- (b) where the Commissioner considers it necessary in any particular case to vary the length of any period or the date on which any period begins or ends or by which any return shall be made, they may allow or direct any person to make returns accordingly, whether or not the

period so varied has ended;

- (c) where the Commissioner considers it necessary in any particular case, he may allow or direct a person in writing to make returns to a specified address.

(2) Any person to whom the Commissioner gives any direction in pursuance of the proviso to sub regulation (1) above shall comply therewith.

(3) Any person who:-

(a) ceases to be liable to be registered, or

(b) ceases to be entitled to be registered under section 5 of the Tax Administration and Procedures Act,

shall, make to a final return and such return shall contain full information in respect of the matters specified in the form and a declaration, signed by him, that the return is true and complete and shall be made, in the case of a person who was or is registered, within one month of the effective date for cancellation of his registration, and in the case of any other person, within one month of the date upon which he ceases to be liable to be registered, and in either case shall be in respect of the final period ending on the date aforementioned and be in substitution for the return for the period in which such date occurs.

Credit and Debit
notes.

10. (1) Where goods are returned to the taxable person or, for good and valid reason the taxable person decides for business reasons to reduce the value of a supply after the issue of a tax invoice a credit note may be issued for the amount of the reduction.

Provided that a credit note is issued only within twelve months after the issue of the relevant tax invoice.

(2) Where a credit note is issued under this regulation it shall be serially numbered and shall include details of the name, address, registration number and personal identification number of the person to whom it is issued and sufficient details to identify the tax invoice on which the supply was made and the tax that was originally charged.

(3) A taxable person who issues a credit note under the conditions specified in this regulation may reduce the amount of his output tax in the month in which the credit note was issued by an amount that bears the same proportion to the tax originally charged as the amount credited bears to the total amount originally charged and the amount of tax so credited shall be specified on the credit note.

(4) A taxable person who receives a credit note for the supply in respect

of which he has claimed deductible input tax, shall reduce the amount of deductible input tax in the month in which the credit note is received, by the amount of tax so credited.

(5) Where the taxable person has issued a tax invoice in respect of a taxable supply and subsequently makes a further charge in respect of that supply, or any transaction associated with that supply, he shall in respect of the further charge being made, issue either a further tax invoice, or a serially numbered debit note containing all the details specified in regulation 6, and shall show on it the details of the tax invoice issued at the time of the original supply.

(6) A taxable person who receives a further tax invoice or debit note issued in compliance with paragraph (5) may, if the supply is eligible therefore and in so far as it has not previously been claimed, claim as deductible input tax such further amount of that is being charged, in the month in which the further charge was made, or in the next subsequent month.

Accounting method.

11. Where the Commissioner has authorized methods of accounting for the purpose of the Value Added Tax:-

- (a) The taxable person shall record the value and brief details of each supply, as it occurs and before the goods, or the customer, leaves the business premises;
- (b) The registered person shall keep a cash register, book, or other suitable record at each point of sale in which shall be entered details of all cash received and cash payments made at the time they are made and at the end of each day the record shall be totaled and a balance shall be struck;
- (c) At the end of each day the output tax chargeable on supplies made and the deductible input tax shown on tax invoices in respect of supplies received shall be recorded in the appropriate records.

Accounts and records.

12. (1) Unless the Commissioner authorizes otherwise in writing, every taxable person shall, in addition to any further requirements made under sections 22 and 23 of the Tax Administration and Procedures Act, keep following records of his business activities:

- (a) A VAT account, recording for each prescribed accounting period total VAT on outputs and inputs together with the net difference to be paid to or reclaimed from the Commissioner.
- (b) a record of each supply made related to the appropriate tax invoice or any other invoice;
- (c) a record of the value of each supply made excluding VAT, together

with the VAT, charged on each supply unless the taxable person is using one of the methods described in these Regulations in such case, the taxable person shall keep the records required under that regulation;

- (d) a record of each supply received related to the appropriate tax invoice, any other invoice or import document;
- (e) a record of the value of each supply received excluding VAT and the VAT charged;
- (f) a record of the total VAT recorded in paragraphs (c) and (e) for each prescribed accounting period;
- (g) a record of all goods appropriate or taken into personal use or into the use of others; the date of appropriation or taking into use, the description of the goods, the value of goods excluding VAT, and the VAT calculate on the goods

(2) For each prescribed accounting period the totals of VAT at paragraphs (c), (e) and (g) of sub-regulation (1) of this Regulation shall be transferred to the VAT account kept in accordance with paragraph (a) of sub-regulation (1) of this regulation.

Apportionment
of output Tax.

13. (1) A taxable person who;

- (a) makes supplies of goods or services by retail direct to the consumer; and
- (b) Has been notified to make apportionment by the Commissioner, in writing, may calculate tax on those supplies of the methods prescribed in this regulation, in respect of those supplies for consideration is wholly in money.

(2) A taxable person shall keep a record of all payments received each day in respect of supplied of goods and services, in a form and manner approved by the Commissioner.

(3) The record referred to in sub-regulation (2) shall include a record of payment received in respect of the following supplies made:-

- (a) by the taxable person which were taxable before he began to account for tax under these Regulations; or
- (b) before the tax commencement date in any relevant accounting period which would have been taxable;

(4) A registered taxable person may choose to use the first method described in sub-regulation (7) or the second method described in sub-regulation

(8) and the method which has been chosen by the taxable person shall continue to be used in all return lodged in the same accounting year.

(5) A taxable person who chooses the second method calculation under sub-regulation (8) shall at the end of each accounting year, recalculate his output tax in respect of supplies made during the accounting year, and shall on attributed to taxable supplies during that year.

(6) Upon occurrence of any of the following events:-

- (a) cancellation of registration;
- (b) a change in the rate of tax;
- (c) a change in the liability for tax that affects the business; or
- (d) cessation of the use of the chosen method of calculating output tax,

(6) a taxable person, using the second method of calculation under sub-regulation (8), shall recalculate the output tax in respect of the period commencing at the beginning of the accounting year and ending on the date of the occurrence of any of the said events and within thirty days after the date of that event, include any adjustment to the output tax previously attributed to taxable supplies during that period on his VAT return for the next prescribe accounting period.

(7) The first method of calculating tax shall be as follows:

Step 1. Separate gross taking at the point of sale between taxable and exempt supplies.

Step 2: Each day at the close of business total the records of gross taking.

Step 3: At the end prescribed accounting period, from the records of taxable daily gross taking, calculate the tax using the tax fraction for the rate of tax in force and include the amount on the VAT return for that period

(8) The second method of calculating output tax shall be as follows:

Step 1: Record total gross taking for each day.

Step 2: At the end of each prescribed accounting period, total daily gross taking for that period.

Step 3: Allocate those gross taking to taxable supplies in the same proportion that the value of taxable purchases made in the period bears to the value of total purchases in that period.

Step 4: From the gross taking allocated to taxable supplies calculate the tax for the prescribed accounting period using the tax fraction for the rate of tax in force and include the amount on the VAT return for that period

(9) For the purposes of sub-regulations (7) and (8) of this regulation tax fraction means the fraction calculate in accordance with the formula,

$$\frac{r}{r + 100}$$

Note “r” is the rate of the tax in force.

Claims for input tax.

14. (1) Subject to the Act, and save as the Commissioner may otherwise allow or direct either generally or specially, a person claiming deduction of input tax under section 16 of the Act shall do so on a return made by him for the prescribed accounting period in which the VAT became chargeable.

(2) At the time of claiming deduction of input tax in accordance with paragraph (1) above, a person shall, if the claim is in respect of:-

- (a) a supply from another taxable person, hold the document which is required to be provided under the tax invoice;
- (b) a supply hold the relative invoice from the supplier;
- (c) an importation of goods, hold a document authenticated or issued by the proper officer, showing the claimant as importer, consignee or owner and showing the amount of VAT charged on the goods;
- (d) goods which have been removed from warehouse, hold a document authenticated or issued by the proper officer showing the claimant's particulars and the amount of VAT charged on the goods;
- (e) for input tax an acquisition by him from another place of any goods other than a new means of transport, hold a document required by the authority in Zanzibar to be issued showing his registration number, the registration number of the supplier including the registration number in which the supplier is registered, the consideration for the supply exclusive of VAT, the date of issue of the document and description sufficient to identify the goods supplied; or
- (f) no part of the input tax on such of those goods or services as are used or to be used by him exclusively in making exempt supplies, or in carrying on any activity other than the making or taxable supplies, shall be attributed to taxable supplies, and

- (g) there shall be attributed to taxable supplies such proportion of the input tax on such or those goods or services as are used to be used by him in making both taxable and exempt supplies as bears the same ratio to the total of such input tax as the value of the taxable supplies made by him bears to the value of all supplies made by him in the period.

(3) in calculating the proportion under paragraph (2)(d) above, there shall be exclude:-

- (a) any sum receivable by the taxable person in respect of any supply of capital goods used by him for the purposed of his business,
- (b) any sum receivable by the taxable person in respect of any supplies made by him,
- (c) the value of any supply which, under or by virtue of any provision of the Act, the taxable person makes to himself.

Input tax not allowed
on motor car.

18.(1) Any input tax charged on the supply to, or importation by a taxable person of a motor car shall be excluded from any claim, deduction or credit made under section 16 of the Act.

(2) For the purposes of this regulation motor car means any motor vehicle which has three or more wheels and which:-

- (a) is constructed or adapted wholly or mainly for the carriage of passengers; or
- (b) has to the rear of the driver's seat roofed accommodation fitting with side windows, or is constructed or adapted for the fitting of side windows; but does not include;
 - (i) a vehicle capable of accommodating only one person;
 - (ii) a vehicle constructed or adapted for carrying twelve or more persons;
 - (iii) a vehicle of not less than three tons enlightened weight;
 - (iv) a vehicle of not less than three tons enlightened weight;

a vehicle constructed for a special persons and having no accommodation for carrying persons other than such as is incidental to that purpose.

(3) Sub-regulation (1) of regulation 3 shall not apply to:-

- (a) supply of a motor car by way of letting or hire;
- (b) importation or supply of a motor for the purposes of resale by a motor dealer.

(4) Where a motor car is resold otherwise than at a profit, such resale shall not constitute a supply of goods for the purposes of the Act.

Input Tax not allowed on business entertainment.

19.(1) Any tax incurred by a taxable on business entertainment shall, unless that business entertainment is in relation to:-

- (i) the ordinary course of a business which continuously or regularly supplies entertainment for a consideration; or
- (ii) the provision to an employee of food, non alcoholic beverage, accommodation or transportation for use wholly and exclusively for the purposes of the employers business, be excluded from any employers business and any claim, deduction or credit made under section 16 of Act.

(2) For the purpose of this regulation “business entertainment” means a provision to:-

- (a) a customer or prospective customer, of any form of food, beverages, tobacco, accommodation, amusement, recreation, transportation or hospitality;
- (b) an employee, of any form of alcohol beverage, tobacco, amusement, recreation, or hospitality;

Apportionment of input Tax.

20.(1) Where the supplies affected by a registered person comprise both taxable and exempt supplies, one of the partial exemption methods shall be used to determine the proper attribution.

(2) Where a registered person chooses the partial exemption methods in any return lodged the same methods shall be used thereafter in any return lodged in the same accounting year.

(3) A registered person shall at the end of each accounting year, using the partial exemption method, determine the attribution in respect of supplies effected during that accounting year, and shall on his next VAT return adjust any difference input tax previously attributed to taxable supplies during that year.

(4) Where registration cancelled, the previously registered person shall;

- (a) using the method he last chose determine the input tax attributable to taxable supplies in respect of the period commencing at the beginning of the current accounting year and ending on the date of cancellation of registration:
- (b) include any adjustment to the input tax previously attributed to the taxable supplies, resulting from the attribution at paragraph (a) of this sub-regulation on his final VAT return.

Transfer of a going concern.

21.(1) Where:-

- (a) a business is transferred as a going concern,
 - (b) on the transfer of the business the registration of the transferor is to be cancelled and either the transferee becomes liable to be registered or the Commissioner agrees to register him under the Act, and
 - (d) an application is made to these Regulations by or on behalf of both the transferor and the transferee of that business, the Commissioner may as from the date of the said transfer cancel the registration of the transferor and register the transferee with the registration number previously allocated to the transferor.
- (2) An application under paragraph (1) above shall constitute notification for the purposes of the Act.
- (3) Where the transferee of a business has been registered under the Act in substitution for the transferor of that business, and with the transferor's registration number:-
- (a) any liability of the transferor existing at the date of the transfer to make a return or to account for or pay VAT under the Act shall become the liability of the transferee,
 - (b) any right of the transferor, whether or not existing at the date of the transfer, to credit for, or to repayment of, input tax shall become the right of the transferee, and
 - (c) any right of either the transferor, whether or not existing at the date of the transfer, or the transferee to payment by the Commissioner under section 61 of the Act shall be satisfied by payment to either of them.
- (4) In addition to the provisions set out in paragraph (3) above, where the transferee of a business has been registered in substitution for, and with the registration number of, the transferor during a prescribed accounting period subsequent to that in which the transfer of the business took place but with

effect from the date of the transfer of the business, and any:-

- (a) return has been made,
- (b) VAT has been accounted for and paid, or
- (b) right to credit for input tax has been claimed,

either by or in the name of the transferee or the transferor, it shall be treated as having been done by the transferee.

Methods
apportionment
of input tax

of 22.(1) The first method of apportionment of input tax shall be as follows:-

Step 1: Calculate the value of taxable supplies made in the accounting period.

Step 2: Calculate the value of all supplies made in that period

Step 3: Calculate the amount of tax payable on supplies made to the Registered person in that period.

Step 4: Divide the amount obtained in step 1 by the amount obtained in step 2.

Step 5: Multiply the amount obtained in step 3 by the amount obtained in step 4.

(2) The amount of input tax to be claimed as Deduction or credit in the prescribed accounting period is the product obtained in step 5 described in sub-regulation (1) of this regulation.

(3) The Second method of apportionment of input tax shall be as follows:

Step 1: Calculate the value of taxable supplies made in the accounting period.

Step 2: Calculate the value of all supplies made in that period

Step 3: Calculate the amount of input tax that is directly attributable to taxable supplies;

Step 4: Category “C” input tax incurred for the purposes of the business but is not directly attributable either to taxable or exempt supplies;

Step 5: Divide the amount obtained in step 1 by the amount obtained in step 2.

Step 6: Multiply the amount obtained in step 4 by the amount obtained in step C.

(4) The amount which may be claimed as deduction or credit for the prescribed accounting periods is the amount in step 6 together with the amount of input tax in Category A in step 1 described in sub-regulation 3 of this regulation.

First method

$$\text{Input} = \frac{\text{taxable supplies}}{\text{Total supplies}} \times \text{total input tax}$$

Second method

$$\text{Input} = \frac{\text{taxable supplies}}{\text{Total supplies}} \times C \times A$$

Use of other methods.

23.(1) Subject to section 35 of the Tax Administration and Procedures Act and regulation 23 of this regulation, the Commissioner may approve or direct the use by a taxable person of a method other than that specified in regulation 23.

(2) A taxable person using a method as approved or directed to be used by the Commissioner under paragraph (1) above shall continue to use that method unless the Commissioner approve or direct the termination of its use.

(3) Any direction under paragraph (1) or (3) above shall take effect from the date upon which the Commissioners give such direction or from such later date as they may specify.

Exceptional claims
for VAT relief.

2. (1) Subject to the Act and Regulations, a claim made in accordance with section 16 of the Act, the Commissioner may authorize a taxable person to treat as if it was input tax:-

- (a) VAT on the supply of goods or services to the taxable person before the date with effect from which he was, or was required to be, registered, or paid by him on the importation or acquisition of goods before that date, for the purpose of a business which either was carried on or was to be carried on by him at the time of such supply or payment, and
- (b) in the case of a body corporate, VAT on goods obtained for it before its incorporation, or on the supply of services before that time for its benefit or in connection with its incorporation, provided that the person to whom the supply was made or who paid VAT on the importation or acquisition:-

- (i) became a member, officer or employee of the body and was reimbursed, or has received an undertaking to be reimbursed, by the body for the whole amount of the price paid for the goods or services,
- (ii) was not at the time of the importation, acquisition or supply a taxable person, and
- (iii) Imported, acquired or was supplied with the goods, or received the services, for the purpose of a business to be carried on by the body and has not used them for any purpose other than such a business.

(2) No VAT may be treated as input tax under paragraph (1) above:-

(a) in respect of goods or services which had been supplied, or, in respect of goods, save as the Commissioner may otherwise allow, consumed:-

(i) by the taxable person, or

(ii) in the case of paragraph (1)(b) above, by the person who imported, acquired or was supplied with the goods or services, before the date with effect from which the taxable person was, or was required to be, registered,

(b) in respect of services performed upon goods to which sub-paragraph (a) above applies, or

(c) in respect of services which had been supplied:-

(i) to the taxable person, or

(ii) in the case of paragraph (1)(b) above, to the person who received the services, more than 6 months before the date of the taxable person's registration.

(3) A claim under paragraph (1) above shall, save as the Commissioner may otherwise allow, be made on the first return the taxable person makes and, as the Commissioner may require, be supported by invoices and other evidence.

(4) A taxable person making a claim under paragraph (1) above shall compile and preserve for such period as the Commissioner may require:-

(a) in respect of goods, a stock account showing separately quantities purchased, quantities used in the making of other goods, date of purchase and date and manner of subsequent disposals of both such quantities, and

(b) in respect of services, a list showing their description, date of purchase and date of disposal, if any.

- (4) If a person who has been, but is no longer, a taxable person makes a claim in such manner and supported by such evidence as the Commissioner may require, they may pay to him the amount of any VAT on the supply of services to him after the date with effect from which he ceased to be, or to be required to be, registered and which was attributable to any taxable supply made by him in the course or furtherance of any business carried on by him when he was, or was required to be, registered.

Repeal

Inserted by L.N
Notice No.22 of 2014

25. The Value Added Tax Regulation 1998 are hereby repealed.

OMAR YUSSUF MZEE
THE MINISTER OF STATE, (PO) FINANCE, ECONOMY
AND DEVELOPMENT PLANNING

Signed this 5th day of July, of 2012.

ZANZIBAR.