

COMMISSIONER GENERAL'S RULES N° 01/2001 OF 01/08/2001 GOVERNING VAT

(Made under law No06/2001 of 20/01/2001 on the code of value added tax and the Ministerial Orders made thereunder).

CHAPTER ONE: PRELIMINARY PROVISIONS

Rule 1 :

(As modified and completed by article one of the commissioner general's rules n° 3 of 26//07/2004 modifying and completing the Commissioner General's rules n° 01/2001 of 01/08/2001 governing value added tax):

“For the purposes of these rules and unless otherwise specified, the following words carry the meaning ascribed to them. .

1. "Commissioner General means the Commissioner General of Rwanda Revenue Authority.
2. "Commissioner means the commissioner of Large Txpayers Department, the Commissiner of Internal Revenue Department or the Commissioner of customs.
3. "Collector of VAT” means the Head of Account and Enforcement Division.
4. "The law “means the law on the code of value added tax.
5. "Ministerial Order means” the Ministerial Order providing for VAT Rules and taxation procedure.
6. “Department of VAT” means Department of Large Taxpayers or Internal Revenue Department.”

CHAPTER TWO : REGISTRATION AND DE-REGISTRATION RULES

Rule 2.

In the exercise of the powers conferred by Article 79(2) of the Law, the Commissioner General hereby makes rules for the taxpayers' registration and de-registration for Value Added Tax (VAT) purposes.

Rule 3.

As provided for in Article 64 of the Law and the Ministerial Orders made thereunder, suppliers of taxable goods and services with an actual or anticipated annual turnover exceeding 15 million Rwandan Francs are required to register. Suppliers with an annual turnover below the above mentioned amount may apply for voluntary registration. However, once registered, such suppliers shall become subject to all provisions of the Law relating to VAT.

All persons qualifying for relief under the investment Code (law No. 14/98 of 8/12/1998) are required to register.

Rule 4.

The prescribed turnover referred to in Rule 3 above, is calculated by reference to the turnover in taxable supplies by a business during the relevant year or relevant quarter as appropriate.

For the purposes of this rule the relevant year is any period of 12 consecutive months in which supplies of taxable goods or services or both mounting to 15 million Rwandan Francs or more were made.

The relevant quarter is any period of 3 consecutive months in which supplies of taxable supplies of goods or services or both amounting to 3,750,000 Rwandan Francs or more were made.

Rule 5: Registration shall be carried out by registering:

1. In the case of a natural person carrying on business involving the supply of goods and services on their own name, in the name of the sole proprietor.
2. In the case of two or more people carrying on business collectively as a partnership, in name of the firm.
3. In the case of an incorporated company, in the name of the company.
4. In the case of an association, any organization not being an incorporated company, club, or any other person or organisation engaged in supply of taxable goods or services or both by way of business, in the name of the organization.

5. Any person carrying on a business making supplies of taxable goods or services or both, not being resident in or having a permanent place of business in Rwanda, shall appoint another person (in these Rules referred to as a VAT representative) to act on his behalf in relation to VAT.

In such a case the VAT representative shall not be liable to be registered by virtue of appointment but his name will be recorded in the VAT register against the name of their principal. The VAT representative will be responsible for his principal's compliance with the requirements of the VAT Law save that; he will not be guilty of any offence except in so far as the VAT representative has consented to or connived in the commission of an offence of his principal or, the commission of the offence by his principal is attributable to any neglect on the part of the VAT representative.

6. Where several companies operate in the form of a group makes supplies of taxable goods or services or both may, if they so request and the Commissioner General sees fit, shall be registered in the name of the representative member of the group. In such a case all members of the group shall be jointly and severally liable for any VAT due from the representative member.

7. In the case of an incorporated company carrying on business in several divisions involving the supply of taxable goods or services or both may, if so requests and the Commissioner-General sees fit, may be registered in the names of those divisions.

Every registered person shall, within 14 days of any changes being made in the name, constitution or ownership of his business, or of any other event occurring which may necessitate the variation of the register or cancellation of his registration, notify the Commissioner VAT in writing of such change or event and provide him with full particulars thereof.

Rule 6.

The form to be used for VAT registration purposes shall be the UNG 1 annexed to these rules.

Rule 7.

Without prejudice to the generality of rule 3 of this chapter, the Commissioner General or any other designated officer may, if it is considered necessary to do so, register any supplier of taxable goods or services or both who has failed to apply for registration.

Rule 8.

Notwithstanding the provisions of rule 5, (2), (3) and (4) of this chapter, the Commissioner-General, if he sees fit, may direct that two or more persons be registered and treated as single entity.

Rule 9.

The Commissioner General or any other designated officer may refuse to register any person making taxable supplies where that person:

- 1) has no place of abode or business or has no VAT representative in Rwanda or,
- 2) has a turnover in taxable supplies below the level at which registration is compulsory and it is considered that registration is not justified..

Rule 10.

The Commissioner General may by notice exempt at his request, any supplier from the requirement to be registered if, all the supplies dealt in by such a supplier would be zero rated and, or exempt.

The exemption from registration referred to in the proceeding paragraph may at any time be withdrawn if the Commissioner General considers it no longer applicable.

Rule 11.

The effective date of registration in the case of an existing or a continuing business shall be the one on which the Commissioner General receives the registration application from the supplier or VAT representative if, such an application was made within one month of qualifying for registration, or on the day following the first period during which the supplier's taxable supplies amounted to or exceeded the threshold prescribed under article 64 of the law.

If the registration application is not made within the period prescribed above, the effective date of registration will be that date on which the applicant's turnover in taxable supplies exceeded the threshold fixed under article 64 of the law.

In case of a new business, the effective date of registration shall be the date of commencement of the business activities or on the date trading commences.

Rule 12.

1) Where a registered taxable business or part of business capable of separate operation is transferred to another person as a going concern and with no break in trading and the transferee is not registered under the law at the time of transfer, then subject to (2) below, he becomes liable to be registered at that time if the value of his taxable supplies exceed the amounts specified in article 64 of the law.

2) Where-

- (a) a business is transferred in its entirety as a going concern;
- (b) the registration has not already been cancelled,
- (c) 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 General agrees to register him voluntarily, and
- (d) an application is made in the form UNG 1.

The Commissioner General 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 transferee.

3) With the exception of any criminal liability already incurred by the transferor, the transferee shall upon the transfer be answerable to any liability of the transferor. 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. Failure to notify the Commissioner General of the transfer of a business may be treated as an offence and may result into penalties.

Rule 13.

Every registered supplier shall be issued with a certificate of registration and shall display it in a visible place at his principal place of business. A registered supplier shall not transfer the certificate of registration except under the provisions of Rule 12 above.

The Commissioner General may require a registered supplier to surrender to him the certificate of registration at any time.

Rule 14.

1) A person who has become liable to be registered under article 64 of the law shall cease to be so liable at any time when the Commissioner General is satisfied in relation to that time that he –

- a) has ceased to make taxable supplies; or
- b) is not at that time a person to whom the conditions of article 64 of the law apply.

2) Any registered supplier ceasing to be liable for registration shall notify the Commissioner General within a period of 30 days of the time when he is no longer required to be registered. The Commissioner General may, if he is satisfied that the person is no longer liable to be registered, cancel his registration.

3) Failure to notify the Commissioner General as required by paragraph 2) above may be treated as an offence and result into penalties.

CHAPTER 3: TAX RETURNS AND PAYMENT RULES

(Under articles 36 to 39, and 48 of the law)

Section 1: Submission of Returns.**Rule 15:**

Every registered person must submit a VAT return, every month, to the collector of VAT. The return must be accompanied by full payment of all the tax shown as due on the return form.

Rule 16:

The return referred to in rule 15 above must be on the official form designated for that purpose (Form UNG. 11) Copies are available from the VAT Department.

Registered persons must follow the instructions given in the notes that appear on the forms.

Rule 17:

VAT returns must be submitted to the collector of VAT not later than the 15th day of the month following the month in which the taxable supplies were made unless the Commissioner General issues a notice to the contrary.

Rule 18:

The prescribed accounting period for the purpose of VAT returns is the calendar month.

Where a registered person has commercial accounting periods that do not coincide with calendar months he may apply in writing to the Commissioner General for permission to have his commercial accounting periods accepted as prescribed accounting periods for VAT.

The application should give the reasons for the request and details of the accounting arrangements proposed.

Consideration will be given to the acceptance of commercial accounting periods as prescribed accounting periods for VAT purposes. If accepted, approval will be given in writing setting out the terms of the approval including a schedule of dates for the VAT return periods.

Approval will not be given in any case where the number of weeks in an accounting period is more than four and where the total number of accounting periods in any period of twelve months exceeds thirteen.

Returns made under an approved system must be submitted by the fifteenth day following the last date of each accounting period.

Approval will be given for a period of twelve months and renewed approval must be sought every twelve months. Failure to make returns in accordance with the approval or to pay any tax due in full by the due date will result in the approval being withdrawn.

Rule 19:

In order to be acceptable, a return form must provide the following information:

- 1) name and address of the registered person,
- 2) the VAT registration number,
- 3) the return period,
- 4) the total monetary value (in RWF) of the taxable goods sold or services rendered or both, together with the value of any zero rated and exempt supplies during the accounting period of the return.
- 5) The total amount of VAT due.
- 6) The value of taxable purchases together with the amount of tax claimed as a credit in the period.
- 7) The amount of tax payable or credit claimed for the accounting period of the return.

Rule 20:

A registered person who, in the course of the month, makes no taxable supplies and has no taxable purchases for which credit is claimed or where the amount of tax due is equal to the amount of credit claimed is still required to make a return showing his net VAT liability as nil.

Rule 21:

A registered person failing to submit a tax return within fifteen days of the end of the prescribed accounting period or failing to pay in full the tax shown as due on the return, shall, in addition to being liable for full payment of the tax due and other penalties, be liable to a charge for interest of 1.5% per month.

Rule 22:

A correctly completed return must be submitted to the VAT office nearest to the place of business of the registered person.

Rule 23:

The VAT office will not accept a return form that contains errors or with insufficient or incomplete information until the registered person has rectified the errors or omissions.

Rule 24:

The signatory to the declaration on a VAT return shall be one of the following:

- 1) The proprietor in the case of a sole proprietorship;
- 2) A partner in the case of a partnership.
- 3) A director or company secretary in the case of an incorporated company.

- 4) A senior official with authority to act on behalf of any other club, society or other organisation.
- 5) A person specifically authorised in writing by my of the above to sign VAT returns on their behalf.

Section 2: Payment of VAT

Rule 25:

Where payment is required to accompany a VAT return it must be in form of either:

- 1) cash,
- 2) cheque certified by the bank on which it is drawn, or
- 3) a combination of both.

Rule 26 :

Cash payments accompanying the return must not exceed one hundred thousand francs (1 00.000 fm). Any cheque, in addition to being certified, must :

- 1) be crossed, with two parallel lines on its face,
- 2) show a corresponding amount in both figures and words,
- 3) be payable to the collector of VAT,
- 4) bear the registered persons name as the drawer, - .
- 5) be signed by the drawer and not post dated.

Rule 27:

Taxpayers intending to pay their VAT in cash, where the amount exceeds one hundred thousand francs (1 00.000 frw), are required to deposit the money to the credit of the collector of VAT, in the account operated by the Rwanda Revenue Authority in the commercial banks recognised for that purpose, where an official receipt will be issued to the depositor to be presented to the VAT office together with the VAT return to which it relates.

Rule 28:

Upon presentation of the correctly completed return form and acceptable evidence of payment to the authorised officer, the registered person shall be issued with an original copy of a VAT receipt, the other copies being retained by the VAT office. As proof of acceptance, the authorised officer shall stamp and sign the return form.

CHAPTER 4: VALUE ADDED TAX REFUND PROCEDURE

(Under articles 41 to 45, 49, 67 and 83 of the law and the Ministerial Orders made thereunder)

Section 1: Basis of claiming'and processing a refund.

Rule 29:

A refund claim may arise in my prescribed accounting period when:

- 1) the total input tax claimed in respect of purchases in the period exceeds the total output tax due on sales in that period, or;
- 2) any amount paid in respect of a previous prescribed accounting period was in excess of the amount due and has been carried forward as a credit, or;
- 3) an amount has been carried forward from a previous accounting period.

Rule 30:

A refund claim shall be administered as follows.

- 1) By the claimant submitting a VAT return for the prescribed accounting period concerned.
- 2) Scrutiny of the claim will be carried out by the VAT department and any verification considered necessary will be undertaken.
- 3) If verification is to be carried out the claimant will be notified that this is to be done. The notice has an effect of delaying the payment of 1.5% interest due under article 58 of the law until the expiry of three months from the date on which the refund was to be effected.
- 4) If, after scrutiny, and any verification considered necessary, the claim is approved, authority will be given for payment of the refund claimed.
- 5) If it appears to the Commissioner General that the return appears to be incomplete or incorrect, an assessment will be issued under Article 50(a) of the Law.
- 6) In any case where, as a result of an assessment made under (5) above, there remains an amount due as a refund to the claimant, authority will be given for payment of that amount.

Rule 31:

Payment of a refund claim shall be made by cheque or other payable instrument specially designated for this purpose.

Section 2: Returns claiming a refund of VAT

Rule 32:

A return on which a refund of VAT is claimed is to be filed in the normal manner required by article 36 of the law.

Rule 33:

To establish a claim to refund, the return referred to under rule 32 above must show :

- 1) the amount by which input tax exceeds the output tax together with;
- 2) any amount brought forward from a preceding tax period.

Rule 34:

1) The Commissioner General, on receipt of the relevant return, shall, within thirty days following:

- a) the end of the period specified in article 37 of the law for filing returns; or
- b) the date of receipt of the return; whichever is the later; remit to the claimant the amount determined as payable under Rule 33 above.

2) Save where the Commissioner General considers that verification under article 49 of the law is required, the time within which any refund is to be made shall be extended to three months following the date specified under (1) above.

Rule 35:

Where the Commissioner General requires verification of a refund claim to be carried out prior to payment the purpose of the verification will be to ensure that;

- 1) the claimant is a taxable person;
- 2) the purchases relate to the prescribed accounting period for which the return has been made;
- 3) the goods imported or acquired by or the services received by the claimant for which refund of input tax is claimed are attributable to taxable supplies made or to be made by the claimant;
- 4) where the claimant makes supplies that are taxable (including those that are liable at the zero rate of tax) and supplies that are exempt, that the input tax claimed has been attributed correctly in accordance with the requirements of article 45 of the law and any rules made there-under and,
- 5) the refund is claimed against documents conforming with requirements of article 67 of the law;

Rule 36:

1) Where the Commissioner General is not satisfied that a valid claim to refund has not been established he will issue a notice of rejection to the claimant specifying the reasons for rejection.

2) In other cases an assessment will be issued as at rule 30 above.

Rule 37:

Crediting refund against: other taxes.

1) Where the claimant owes any tax, additional tax, penalty, or interest, levied under any law administered by the Rwanda Revenue Authority, the Commissioner General may set off against the amounts so owing, any amount of refund together; with any interest due to the taxable supplier.

2) The set-off so made shall be deemed as a recovery measure taken under the law governing the tax for which the taxable supplier stands in arrears.

Section 3 : Claims relating to ICHA-paid stock

Rule 38:

Claims made under article 83 of the law relating to goods on which ICHA has been paid, held in stock on the commencement day of VAT.

1) To establish a claim for a refund under article 83 of the law, the claimant is required to keep a stock account relating to the goods subject to the claim showing:

- a) the entry in the stock account;
- b) the date of receipt of each consignment;
- c) the stock number allocated to it;
- d) any marks or other means of identification on the goods or packages;
- e) the location of the item, if still in stock;
- f) the weight or other quantity of the goods;
- g) details of the invoice relating to the goods and,
- h) if no longer in stock, the date of delivery to production or customer together with details of delivery invoice or production records.

2) Records required to be held to support the stock account for each item claimed:

- a) the original invoice showing payment of ICHA together with any delivery and packaging notes;
- b) purchase records (purchase day book, purchase ledger and cash book) recording details of the above invoices and,
- c) a summary of the claim, based on the stock account and commercial records of purchase is to be prepared showing the total amount claimed.

All such records must be made available for inspection and kept for ten years.

Section 4 : Limitations

Rule 39:

In relation to all claims made under article 49 and 83 of the law no refund of VAT shall be made, unless:

- 1) the provisions these rules are complied with;
 - 2) the claim for refund is submitted within one year after the end of the tax period in which the claim originated;
- or

3) the refundable amount exceeds 50,000Frw, claims not exceeding 50,000 Frw shall be carried forward as a credit to a subsequent tax period;

4) the claimant provides documentary evidence or any other information in support of the claim that may be required by the Commissioner General or any authorised officer and that is satisfactory to them;

5) the taxable supplier complies with any obligation to submit a VAT return for the prescribed accounting period.

Section 5 : Cancellation of registration

Rule 40:

Final tax period refund;

1) At the time of cancellation of the registration of a taxable supplier tax is to be accounted for under article 12 (2) of the law on all stocks of materials and finished goods and assets of the business.

2) Where, at the time of cancellation of registration of a taxable supplier, after taking into account the requirements of 1) above there is an amount shown as a credit due on the final return, then, subject to any verification and to the provisions of these Rules, repayment shall be made to that person or, if deceased or incapacitated to his legal representative or, if insolvent to the person responsible for the insolvency proceedings.

Section 6: Privileged persons

Rule 41:

Persons qualifying under article 87 of the law who are entitled to zero rating of goods imported by them or supplies otherwise received are required to pay VAT at the time of importation or receiving the supply.

Refund of the value added tax paid shall be made in accordance with the procedures and subject to the conditions set out in Rules 42 and 43 below.

Rule 42:

1) Claims for refund by privileged persons shall be made in writing to the Commissioner General on a form prescribed for that purpose available from the VAT Department.

2) The claim is to incorporate a certificate that the importation or purchases of goods were obtained for the official purposes of the mission or agency and acknowledge that disposal of them in any way for other purposes will require VAT to be accounted for on them.

3) Treasury credit cheques (T.C.Cs) or any other letters of credit issued by the government of Rwanda may, upon the minister's approval, be allowed as a means of payment for VAT purposes. In any such case, refund claims arising out of such payments shall automatically be disallowed.

4) Claims are to be signed;

a) in the case of a diplomatic mission by an official of at least First Secretary grade;

b) in the case of an organisation with diplomatic status by the head of mission or his deputy;

c) in the case of other organisations by the project manager or his deputy.

5) Claims are to be supported by the following:

a) evidence of the claimant's entitlement to zero rating under article 87 of the law;

b) original customs bills of entry or purchase invoices showing details of the purchases on which a claim is based;

c) the vendor's VAT registration number in the case of domestic purchases;

d) details of the use to which the goods or services acquired were put;

e) in the case of non-consumable items, their location and,

f) such other information as the Commissioner General may require.

Rule 43:

Save for where the rules provide otherwise, the general procedures provided for in these rules relating to refunds shall apply to privileged persons in the same manner as to registered suppliers.

Rule 44:

Where in any case it appears that the persons entitled to zero rating under article 87 of the law have made a claim for a refund to which they are not entitled, consideration will be given to treating the circumstances as an offence under article 73 of the law. In such circumstances the facts will be reported to the government department or Ministry responsible for or sponsoring the mission or agency concerned.

Rule 45:

Notwithstanding the provisions stipulated in rules 41-44 above and any other Law or Ministerial Orders' provision(s) connected therewith, refund will be effected in consideration of quotas.

CHAPTER 5 : RULES FOR RETAILERS**Section I: Preliminary and interpretation****Preliminary****Rule 46 :**

The purpose of these Rules is to enable persons making supplies of taxable goods or services by retail to account for the value added tax due on them without having to issue the invoices required under the Law and the Ministerial Orders made thereunder unless required by another taxable person purchasing from them for business purposes. Retail schemes provide an alternative method of accounting for retailers who find it difficult to issue invoices for a large number of supplies made direct to the public. All retail schemes require a record of the value of retail supplies, this is called the daily gross takings.

Interpretation**Rule 47:**

1) In these Rules "retailer" means any business making supplies of goods or services mainly or exclusively directly to private consumers.

2) "Retail Scheme" and "Scheme" means one of the methods of accounting for value added tax set out in these Rules.

3) "Daily gross takings" means:

a) all payments including VAT received by or on behalf of a taxable business from cash customers for retail supplies made to them;

b) the full value, including VAT of all credit or other non-cash retail sales at the time the supply is made;

c) any adjustment (see 60 (d), and other adjustments to daily gross takings) made to the record of daily gross takings.

A more detailed definition of daily gross takings is given in Rule 60.

4) "VAT fraction". is the figure to be used to calculate the amount of VAT included in a tax-inclusive amount. If something is sold for RWF 200 the amount of VAT at the rate of 15% is RWF 30 making the total tax-inclusive price RWF 230. However RWF 30 is not 15% of RWF230, it is 3/23 of RWF230.

This fraction is arrived at as follows: $\frac{\text{rate of tax}}{100+\text{rate of tax}}$ or

$$\frac{15}{115} = \frac{3}{23}$$

Section 2: Conditions for use of retail schemes

Permission to use a Retail Scheme

Rule 48:

The Commissioner General may permit the value which is to be taken as the value, in any prescribed accounting period or part thereof, of supplies by a retailer which are taxable to be determined by one of the methods described in these Rules.

Rule 49:

The Commissioner General may vary the terms of any of these methods by -

- 1) publishing a notice made under these Rules,
- 2) publishing a notice which amends an existing notice, or
- 3) adapting the method in question by agreement with any retailer.

Rule 50:

The Commissioner General may refuse to permit the value of taxable supplies to be determined in accordance with a scheme if it appears to him:

- 1) that the use of any particular scheme does not produce a fair and reasonable valuation during any period,
- 2) that it is necessary to do so for the protection of the revenue,
- 3) or that the retailer could reasonably be expected to account for VAT in accordance with the Ministerial Orders made under Chapter 2 of the Law.

Rule 51:

No retailer may at any time use more than one scheme except as provided for in any notice or as the Commissioner General may otherwise allow.

Notification of use of a scheme

Rule 52:

Any retailer using any scheme shall notify the Commissioner General in writing on every return made by him which scheme he is using.

Changing schemes.

Rule 53.

Save as the Commissioner General may otherwise allow, a retailer who accounts for VAT on the basis of taxable supplies valued in accordance with any scheme shall, so long as he remains a taxable person, continue to do so for any period of not less than one year from the adoption of that scheme by him, and any change by a retailer from one scheme to another shall be made at the end of any complete year reckoned from the beginning of the accounting period in which he first adopted the scheme.

Ceasing to use a scheme

Rule 54:

1) A retailer shall notify the Commissioner General before ceasing to account for VAT on the basis of taxable supplies valued in accordance with these rules.

2) A retailer may be required to pay VAT on such proportion as the Commissioner General may consider fair and reasonable of any sums due to the retailer at the end of the prescribed accounting period in which he last used a scheme.

Change in VAT

Rule 55.

Where pursuant to any enactment there is a change in the VAT charged on any supply, including a change to or from no VAT being charged on such supply, a retailer using any scheme shall take such steps relating to that scheme as are directed in any notice applicable to him or as may be agreed between him and the Commissioner General.

Section 3: Description of the schemes

Retail Scheme A (The basic scheme)

Rule 56.

This scheme may be used where all the retail sales made by a retailer are liable to VAT. A record of daily gross takings is to be maintained for each day's trading. At the end of the accounting period (normally a calendar month) the daily gross takings for the month are to be totaled. The amount of tax due is calculated by applying the VAT fraction to this figure and including the resulting amount in the box on the VAT return for tax due.

Records required to be kept including those of credit and non-cash sales are listed.

Retail Scheme B (Point of sale scheme)

Rule 57.

This scheme may be used where some sales are liable to VAT and some are exempt. A record of daily gross takings is to be maintained for each day's trading. The correct tax liability must be identified at the time the sale is made. This may be possible by using a cash register that can distinguish between sales liable to tax and those that are exempt. An alternative method such as using separate tills is acceptable.

Once the system has produced the total of sales liable to VAT the amount of tax due can be calculated by applying the VAT fraction to the taxable portion of the total daily gross takings for the return period.

Retail Scheme C (Apportionnement scheme)

Rule 58.

This scheme also may be used where some sales are liable to VAT and some are exempt and it is not possible to record these at the point of sale. A record of daily gross takings is to be maintained for each day's trading. The scheme is based on a calculation of the proportion of sales that are exempt from tax. This calculation must be sufficient to satisfy an audit officer that it produces a fair and reasonable result.

The calculation must be based on total of the actual sales for a representative period. The representative period will depend on the nature of the business but must take account of hourly, daily and seasonal fluctuations. Details of the total sales during the representative period, including the dates and times at which it took place must be retained.

A new calculation must be carried out for each tax period.

Once the system has produced the total of sales liable to VAT the amount of tax due can be calculated by applying the VAT fraction to the taxable portion of the total daily gross takings for the return period.

Section 4: Accounting by retailers

General

Rule 59:

1) Retailers are for the purpose of accounting for VAT, bound to keep the following records:

- a) his business and accounting records,
- b) his VAT account,
- c) copies of all VAT invoices issued by him,
- d) all VAT invoices received by him,
- e) documentation relating to importations and exportations by him, and
- f) all credit notes, debit notes, or other documents which evidence an increase or decrease in consideration that are received, and copies of all such documents that are issued by him.

2) Where a retailer makes sale to taxable businesses and a tax invoice is requested by the purchaser one must be issued conforming with the requirements of article 19 of the above mentioned Ministerial Order and a copy retained.

Record of daily gross takings

Rule 60:

1) The record of daily gross takings may be retained in any convenient form provided the retailer is able to calculate his tax liability correctly and satisfy an authorised officer as to its completeness and accuracy. This record will be regarded as a business and accounting record.

2) The record of daily gross takings must include the following as far as they apply:

- a) Cash received from customers.

- b) Cheques received in payment from customers.
 - c) Debit or credit card vouchers.
 - d) Amounts received by electronic cash transfer.
- 3) Any of the following must be added to the record of daily gross takings on the day the supply is made:
- a) The full value of any credit sales (excluding any charge for interest)
 - b) The value of any goods taken from the business for personal use.
 - c) The cash value of any payment in kind for retail sales.
 - d) The face value of any voucher redeemed.
 - e) Any other payments for retail sales.
- 4) Any of the following will require adjustments to be made to the record of daily gross takings as explained:
- a) Business entertainment or gifts. If goods are purchased specifically to consume in the course of business entertainment or to supply as gifts, or are supplied from the stock of the business tax due on them must be accounted for by adding their value to the daily gross takings.
 - b) Cash discounts.
 - c) Credit transactions
- If goods are offered on cash discount or for early settlement the discounted value should be included in the daily gross takings at the time of supply.
- Include the full value of retail supplies made on credit terms at the time the supply is made. Subsequent payments are not to be included in the daily gross takings at the time payment is made.
- Additional rules for credit sales are as follows.
- If credit is arranged through a finance company include the full value paid by the customer at the time the supply is made.
- If a separate charge for credit is made additional to the cash price and it is disclosed to the customer the credit charge is exempt and should be excluded from the daily gross takings.
- d) Delivery charges
- If an additional charge is made to deliver goods the amount of the charge should be included in the daily gross takings.
- e) Deposits
- Most deposits are an advance payment for a supply and must be included in the record of gross takings when the deposit is made. If a deposit is taken for another reason, for example to secure the safe return of goods or containers, this amount should be excluded from the daily gross takings (regardless of whether it is eventually refunded or forfeited).
- f) Disposal of business assets
- VAT on disposals of a business asset, such as shop equipment or a van, should be accounted for outside a retail scheme.
- g) Exports.
- If any exports are arranged these are to be accounted for outside a retail scheme. Zero rating of such sales will be subject to the production of satisfactory evidence of exportation in the usual way.
- h) Gift vouchers.
- (i) When gift vouchers are redeemed their face value must be included in the daily gross takings.
 - (ii) Gift vouchers which are sold at their face value should not be included in the daily gross takings.
 - (iii) If gift vouchers are sold at a value higher than their face value, the excess is a consideration for a service and should be accounted for outside the retail scheme.
- i) Goods supplied on sale or return or similar terms
- A separate record is to be kept of such sales. The amount due for these goods is only to be included in the daily gross takings when the goods are deemed to be accepted by the customer.
- j) Private or personal use of goods
- VAT is due on any goods purchased for resale and taken for business or personal use. Their value must be added to the record of daily gross takings.
- k) Sale or assignment of debts
- No adjustment is necessary because VAT will have already been included in the record of daily gross takings when the supply was made.
- l) Second hand goods:
- Sales of second hand goods should be accounted for within a retail scheme in the same way as new goods.

Rule 61:

Other adjustments to daily gross takings

The till roll or other registered sales together with the additions explained at Rule 61(c) above constitute the record of daily gross takings. It is this figure that must be used when calculating the tax due under a retail scheme. However the amount of daily gross takings may be reduced for the following:

- 1) Amounts refunded or credited to customers, to a maximum of the amount originally charged.
- 2) Void transactions (where an incorrect transaction has been voided at the time of error).
- 3) Illegible credit card transactions (where a customer's account details are not legible on the credit card voucher and therefore cannot be presented and redeemed at the bank).
- 4) Unsigned or dishonoured cheques from cash customers (but not from credit customers).
- 5) Counterfeit notes.
- 6) Supervisor's float discrepancies.
- 7) Till breakdowns (where incorrect till readings are recorded due to mechanical faults). In such cases alternative means must be adopted to account for payments received.
- 8) Inadvertent acceptance of foreign currency that cannot be paid into the bank.
- 9) Receipts for goods or services which are to be accounted for outside the scheme.
- 10) Refunds given to customers in respect of taxable supplies to cover accidental overcharges or where goods are unsuitable or faulty.
- 11) Installments in respect of credit sales.

In all cases evidence must be available to support any adjustments to daily gross takings figures. If an adjustment is made and a payment is subsequently received the amount must be included in the daily gross takings.

Section 5: Input tax deduction

Rule 62:

General to all VAT registered taxpayers:

(As modified and completed by article 4 of the commissioner general's rules n° 3 of 26/07/2004 modifying and completing the Commissioner General's rules n° 01/2001 of 01/08/2001 governing value added tax):

“1) The VAT paid on purchases for the business may be deducted in the normal way in Accordance with the Law. However, VAT paid on such business overheads as in the case of telephones, electricity and fuel whose use can not be practically separable from private or non business shall be 40% of the input tax”.

2) VAT paid on business overheads in respect of goods or services exported, may only be claimed as an input tax deduction refundable upon presentation of the following documents:

- a) a copy of the bank export declaration issued by a recognised bank and certified by the National Bank of Rwanda,
- b) a copy of the customs export declaration issued and certified by the customs department.
- c) Acknowledgement from a recognized Rwandan bank or financial institution that a transfer of money corresponding to the value of the export has been received

Rule 63:

Normal commercial accounting records are to be maintained for the purpose of accounting for purchases and claiming input tax deduction.

Rule 64. De minimis rule

If, after calculating the exempt proportion of sales under Retail Schemes B and C above, it is found that the proportion does not exceed five per cent of the total amount of gross takings OR is less in amount than RWF 65,000 per month the taxpayer may deduct all input tax paid on purchases for the business.

CHAPTER 6: ENFORCEMENT PROCEDURES

Section 1 : Preliminary to enforcement proceedings.

Rule 65: Enforceable title

The VAT law and the Ministerial Orders made there-under provide that the duty to pay VAT imposed under article 28 of the law shall extend to the following circumstances:

- 1) The tax declared as due to the government on a return submitted under Section 3 of Chapter 2 of the law.

- 2) Any amount of interest due under article 47 of the Law.
- 3) Any amount of tax and any interest due shown on an assessment issued under the provisions of articles 40 and 50 of the Law.
- 4) Any amount required to be paid under any relevant Ministerial Order provisions (Requirement for early payment).
- 5) Any amount ordered to be paid under article 73 of the law. I
- 6) Any amount to be paid in lieu of penalty under article 75 of the law.
- 7) Any amount ordered to be paid as the result of an appeal under article 61 of the law and the Ministerial Orders made thereunder.

Rule 66:

Warnings and restrictive measures

Before commencement of the enforcement action the collector of VAT shall serve a final warning to a tax debtor requiring payment within a period not exceeding 5 days.

Rule 67:

At the end of the period specified in Rule 67 above the tax debtor will be required to attend in person at the office of the VAT collector either to pay the amount demanded or make proposals for payment. Failure of the tax debtor to attend will result in VAT enforcement officers visiting his place of business where ever it is located.

Rule 68:

If, after a period of seven days payment in full has not been made or an arrangement to pay has not been negotiated, the names of tax debtors will be published in the press together with a warning that distress proceedings may be commenced if payment of the outstanding amount of tax together with any interest due is not made or an arrangement acceptable to the collector of VAT is reached.

Rule 69:

a) During the period specified in Rule 69 above VAT Enforcement officers may be authorised to proceed with the temporary closure of the business premises of the debtor. Closure may be carried out by displaying a notice on the front door and securing the entrance or entrances to the premises .

b) Removal or attempted removal of the locks, seals or other methods of securing the premises or attempting to gain entry by other means on the part of the tax debtor or person or persons acting under his instructions will be treated as an offence under article 69 of the law. In any other case or cases of violations of the secured place, the provisions of the penal code will apply.

Rule 70:

Reopening of the premises will be conditional on payment in full of the amount due, or acceptance of an agreement signed by the debtor to pay the amount due over a time approved by the VAT administration and upon provision of acceptable security for the payment of the amount due.

Rule 71:

Failure to pay will result in the closure of the premises followed by a formal distraint upon the contents therein. If no payment of the tax outstanding together with any bailiff's costs incurred is made within a further three months the movable and immovable property of the debtor will be sold. Any amount received as a result of the sale in excess of the sum owing to the VAT department will be paid to the debtor.

Section 2: Alternative means of recovery of a VAT debt

Rule 72:

The means by which a VAT debt may be recovered are the following:

- 1) Distress.
- 2) Proceedings against proprietors, partners or officials of a company.

- 3) Garnishment notice to his debtors, bankers and other parties holding funds on his behalf.
- 4) Mortgage of the debtor's property by the Treasury.
- 5) Petition for bankruptcy.

The following sections set out the procedures concerned.

Section 3: Distress proceeding on movable property

Rule 73:

Distress proceedings are undertaken by VAT or court bailiffs at the request of the VAT Commissioner. The VAT commissioner delivers warrants of distress.

Rule 74:

At the end of the period in rule 72 above, an immediate demand notice is served to the VAT debtor requiring payment within seven days. Failure to comply with this demand will entail his movable and immovable property being attached and sold.

Rule 75:

The immediate demand notice will specify the circumstances leading to the proceedings including details of the amount of the VAT debt and is to be served by certified post or delivered by hand in which case acknowledgement of receipt will be required.

Rule 76:

At the end of the period provided for in the immediate demand notice if the debtor has failed to pay, the bailiff will proceed to seize the movable property of the debtor. A distress inventory for this action will be completed, signed by the bailiff, two witnesses, guardians and the tax debtor if he is present and agrees to do so. In the event that the tax debtor refuses to sign, the bailiff will make an observation to that effect.

Rule 77:

- 1) If the security of the bailiff is likely to be compromised, he may request the assistance of the police.
- 2) If the movables to be seized are in lockable premises or safes, cupboards or otherwise secured, the bailiff, if necessary, may proceed to break open the premises, safes, cupboards or other containers in the presence of the police at the cost of the tax debtor.

Rule 78:

If they are not to be removed from the premises of the tax debtor, the debtor will be held responsible for the custody of the movables seized. Interference with or removal of seized movables without the permission of an authorised officer will be treated as an offence under article 69 of the law. The Seized movables may be removed from the premises of the debtor and stored at any other place at the discretion of the bailiff. The costs of storage shall be the responsibility of the debtor.

Rule 79:

- 1) If, at the end of 15 days from the date of the seizure, the defaulter fails to pay the debt due, the bailiff may undertake a public auction of the goods seized up to a limit of the sum due by the debtor including the proceedings' costs.
- 2) If the proceeds of the sale are insufficient to discharge the amount pursued and the proceedings costs, the bailiff shall prepare a statement of the shortcomings. The tax debtor shall be deemed to be in debt up to the amounts he have not been covered by the proceeds of the sale
- 3) If the proceeds of the sale exceed the amount pursued together with any costs incurred, the excess shall be repaid to the former tax debtor.

Rule 80:

The public auction may be postponed as many times as the bailiff considers necessary provided that the debtor agrees. On each occasion the bailiff shall prepare a note of the reasons of the postponement. This note is to be signed by him, 2 witnesses and the debtor if he is present and agrees to the postponement.

Section 4 : Enforcement involving distraint on immovable property

Rule 81:

The immediate demand notice preliminary to the seizure of immovables must specify:

- 1) the identity and description of the immovable;
- 2) an extract from the immovable property registration book or public deed confirming that the immovable truly belongs to the debtor;

3) a warning to the effect that if payment is not made within 7 days the summons will be converted into a seizure and consequent sale.

Rule 82:

- 1) The immediate demand notice shall be made public by publication of a notice in at least 2 newspapers. Publication charges shall be the responsibility of the debtor.
- 2) a copy of the notice is to be posted at the place of the canton or first instance tribunal where the immovable is located.

Rule 83:

The seizure of the immovable is to be undertaken at the expiry of the period provided for by the immediate demand notice and notice of the seizure given to the head of the immovable property registration department for registered immovable and to the relevant bourgmestre for other immovables. The bailiff shall forward the formal notification of the seizure to them.

Rule 84:

Where immovable property belongs to several undivided owners, the VAT administration shall petition the Court for the partition or sale by division,

Rule 85:

Fifteen days after the date of the drawing up of the notification of seizure, the date and the day of the sale by public auction of the immovable property is to be published. Publication is to be carried out by posting a notice at the place of the canton or the first instance tribunal where the immovable property is located and by announcements in the press and on the radio. The charges of publication are to be borne by the debtor.

Rule 86:

Three months after the publication of the conditions of the sale, the immovable property may be sold by public auction.

Rule 87:

The safe of the registered immovable property shall be carried out by the commissioner of oaths while that of other buildings is to be carried out by the bailiff.

Rule 88:

- 1) At the close of the public auction, the acting agent shall draw up a deed of adjudication an authentic copy of which is to be sent to the adjudicator upon full payment in cash of the price obtained for the sale and the costs.
- 2) The provisions of Rule 80 b) and c) above shall apply to sales of immovable property.

Section 5 : Proceedings against partners and officials

Rule 89:

The VAT administration may petition the court to establish the responsibility of managers, directors, partners and share holders, agents and legal representatives of companies, associations and other bodies for payment of the VAT liability of a taxable person when it is found that they have been responsible for fraudulent actions in relation to the fulfilment of tax obligations in their duties of management that have given rise to tax debts or difficulties in recovering payment in respect of the tax liability of a debtor.

Rule 90:

If the decision of the court is that any of the persons referred to in Rule 90 above has a liability in relation to the tax debt, proceedings may be commenced against them under these Rules as if they were themselves VAT debtors.

Section 6: Proceedings against third parties, garnishment notice

Rule 91:

The VAT Commissioner may address an order to a debtor, depositor, banker, insurance agent, tenant or any other third party holding any money owed to the VAT debtor to deposit that money in the hands of the VAT collector for the discharge of the VAT debt due by the beneficiary up to a limit of the amount owed to the VAT debtor.

Rule 92:

1) If that third party fails to deposit the amount demanded within 10 days of the service of the notice he shall be treated as if he was the VAT debtor and distress proceedings may be commenced in relation to his movable and immovable property in proportion to the amount he owes to the VAT debtor.

2) On receipt of the notice, the recipient is obliged to make a declaration to the VAT administration of any outstanding commitments to the VAT debtor and reveal any other outstanding obligation to that person.

Section 7: The mortgage of the Treasury

Article 93:

The Treasury has a right to the legally mortgaged immovables of the tax debtor. This right also applies to the immovables of third parties declared jointly responsible for the payment of the tax.

Rule 94:

An endorsement may be made by the collector of VAT in the registry of titles for registered properties and with the Boulmestre for others.

Any mortgage is effective from the date of the signature of the enforceable title and remains valid as long as the tax debt exists.

Section 8: Conservatory measures

Rule 95: Field of application

Conservatory seizures are applied when

- 1) the taxpayer is likely to leave the country without either leaving behind distrainable movable or immovable property or a representative or,
- 2) there occurs any other cause that can compromise Treasury interests when the enforceable title is not yet enacted or when preliminary bailiff's writs are not yet served.

Rule 96:

1) Conservatory seizures may be carried out by VAT authorised office or court bailiffs upon request by the collector of VAT and without any other preliminary bailiff's writs.

2) Bailiff's are required to make formal reports of any provisional seizures carried out. Provisional seizures must be converted into substantive seizures in enforcement within 7 days.

Section 9: Business disposal or transfer

Rule 97:

1) The transferors and recipients of businesses are jointly liable to payment of any tax due from the transferee and their movable and immovable property may be subject to distress action under these Rules.

2) Inheritors and legatees are jointly liable to payment of any VAT debt outstanding in relation to the portion of their heritage or legacy.

Section 10 : Civil recovery action

Rule 90:

For the purpose of VAT recovery, the Commissioner General may petition court if the VAT debtor refuses or neglects to pay any debt arising from his liability to tax.

Rule 99:

For the purpose of the VAT recovery, the Commissioner General may petition court for the cancellation of acts and deeds carried out by the VAT debtor leading to fraud in the payment of the VAT liability.

Section 11: Petition to the court for bankruptcy

Rule 100:

The Commissioner General may petition court to consider the insolvency of a VAT debtor.
In case of liquidation, the VAT liability is given priority over other debts proven against the insolvent.

Section 12: Claim and oppositions to distress proceedings

Rule 101: The enforcement committee.

There is hereby established an Enforcement Committee composed of the:

- 1) Head of Collection and Enforcement,
- 2) Head of Arrears and Accounts reconciliation,
- 3) Head of Enforcement, the reporter
- 4) VAT Lawyer.

Rule 102:

The committee is responsible for:

- 1) receiving and studying the taxpayers' claims and requests in VAT recovery matters,
- 2) drafting administrative decisions,
- 3) analysing and recognising the time to pay agreements,
- 4) analysing and recognising the guaranties and securities provided by taxpayers,
- 5) dealing with any other enforcement matters assigned to it by the Commissioner of VAT.

Rule 103:

Administrative claims relating to enforcement are addressed to the Commissioner for VAT. They cannot, in any case, lay on the base and the liquidation of the tax.

Rule 104: Other avenues of appeal.

Taxpayers not satisfied by an administrative decision relating to enforcement matters may follow the procedures for appeals provided for in the law and the Ministerial Orders made there-under.

Section 13: Obstruction of enforcement officers in the performance of their duties

Rule 105:

- 1) Where any enforcement officer is obstructed, prevented or assaulted while executing his duties by the tax debtor or persons acting under his instructions or with his agreement, he will record the facts and the names of the persons obstructing or otherwise interfering with his duties.
- 2) The offending person or persons will be subject to the provisions provided for by article 69 of the law concerning the obstruction of authorised officers. In any other cases of obstruction, the provisions of the penal code will apply.

Section 14: Final provisions

Rule 106:

Officers of the VAT Department deployed to Enforcement section are appointed as VAT bailiffs and are empowered to lay down acts and deeds in enforcement and proceedings.

Rule 107:

The provisions of the Code of Civil and Commercial Procedure remain applicable in as far as they do not conflict with the law on the code of VAT.

CHAPTER 7 : MISCELLANEOUS PROVISIONS

Rule 108 :

(As modified and completed by article 2 of the commissioner general's rules n° 3 of 26/07/2004 modifying and completing the Commissioner General's rules n° 01/2001 of 01/08/2001 governing value added tax):

“The Commissioner General sub- delegates the discharge of the day to day functions or duties of the value Added Tax to the Commissioner of Large taxpayers Department and the Commissioner of Internal Revenue Department.

However, for the purposes of VAT collected upon importation, the Commissioner General sub-delegates such powers to the Commissioner of Customs”

Rule 109 :

The Commissioner of VAT in a bid to execute the functions or duties prescribed in the preceding rule, have powers to authorise any officer(s) to perform certain duties.

However, the Commissioner of VAT have no powers to sub-delegate.

Rule 110:

The following list constitute forms to be used for purposes of administering the VAT:

The Registration Certificate, UNG 1, UNG 2, UNG 3, UNG 4, UNG 5, UNG 6, UNG 7, UNG 8, UNG9, UNG 10, UNG 11, UNG 12, UNG13, UNG14, UNG15, UNG16, UNG 17, UNG 18, UNG 19, UNG 20, UNG 21, UNG 22, UNG 23, UNG 24 and UNG 25.

The Commissioner General may issue any other form meant for the same purpose.

Rule 111:

These rules shall be in force from the date of commencement of value added tax.

Kigali, on 01/08/2001

MUSONI James

Ag, Commissioner General, Rwanda Revenue Authority

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