

Import declaration
and payment of
tax.

22. (1) Where tax is payable on an import of goods, the importer is required, upon entry of the goods, to furnish the Commissioner with an import declaration and pay the tax due on the import in accordance with the arrangements referred to in subsection (4).
- (2) Where tax is payable on an import of services, other than where section 4(12) applies, the person liable for the tax under section 9(2)(c) is required to—
- (a) furnish the Commissioner with an import declaration; and
 - (b) pay the tax due in respect of the import, within twenty days after the time of the import.
- (3) An import declaration under subsection (1) or (2) shall—
- (a) be in the form prescribed by the Commissioner;
 - (b) state the information necessary to calculate the tax payable in respect of the import; and
 - (c) be furnished in the manner prescribed by the Commissioner.
- (4) Except where the contrary intention appears, whether in this Act or in regulations made under this Act, the provisions of the Customs Act, relating to the import, transit, coastwise carriage, clearance of goods, and payment and recovery of duty apply, so far as relevant, to the tax charged under this Act on the import of goods, with such exceptions, modifications, and adaptations as the Minister may by regulation prescribe.

PART VII – Calculation of Tax Payable

Tax payable for
tax period.

23. (1) The tax payable by a taxable person for a tax period in respect of taxable supplies is the total amount of output tax payable by the person in respect of taxable supplies made by the person during the period, less the total input tax credit allowed to the person under section 24 for the period.
- (2) Where the total amount of input tax credit allowed to a taxable person for a tax period under subsection (1) exceeds the total amount of output tax payable by the person for that period, the amount of the excess credit is dealt with in accordance with section 35.

Input tax credit.

24. (1) Subject to this section, the total amount of input tax allowed as a credit for purposes of section 23 is the sum of –
- (a) the input tax payable in respect of taxable supplies made to the person during the tax period, and paid in respect of any import of goods by the person during the tax period, where the supply or import is for use in a taxable activity carried on by the person;
 - (b) any input tax credit allowed under section 26 for the tax period;
 - (c) any input tax to which subsection (4) applies for the tax period;
 - (d) an amount equal to the tax fraction of any amount paid during the tax period by the taxable person as a prize or winnings to the recipient of services under section 4(9);
 - (e) an amount equal to the tax fraction of any amount paid during the tax period by the taxable person to a supplier in respect of the redemption of a token, voucher, gift certificate, or stamp referred to in section 16(11) by the supplier; and
 - (f) any amount carried forward under section 35(2).
- (2) Subject to this section, no credit for input tax is allowed in respect of a supply or import unless –

Cap. 82:01

- (a) a tax invoice, or tax debit or tax credit note, as the case may be, in relation to the supply, has been provided in accordance with sections 28 or 29 and is held by the taxable person taking the credit at the time a return in respect of the supply is lodged, other than when a tax invoice is not required to be provided; and

Cap. 82:01

- (b) a bill of entry or validating bill of entry under the Customs Act, or a document issued by the Commissioner evidencing payment of tax in relation to an import that has been delivered in accordance with the Customs Act or this Act and is held by the taxable person taking the credit at the time a return in respect of the import is lodged.

- (3) Where a taxable person does not have a tax invoice evidencing the input tax paid, the Commissioner may allow an input tax credit in the tax period in which the credit arises where the Commissioner is satisfied –

- (a) that the taxable person took all reasonable steps to acquire a tax invoice;
- (b) that the failure to acquire a tax invoice was not the fault of the taxable person; and
- (c) that the amount of input tax claimed by the taxable person is correct.

- (4) Subject to subsection (5), a taxable person, in the first tax period in which the person is registered, is allowed a credit for input tax paid or payable by the person in respect of–

- (a) any taxable supplies of goods, including capital goods, made to the person; and
- (b) any import of goods, including capital goods, by the person,

prior to becoming registered, to the extent that the goods are for use or re-supply in a taxable activity carried on by the person after registration.

- (5) Subsection (4) applies where –

- (a) the supply or import occurred not more than three months prior to the date the registration takes effect;
- (b) the goods are on hand at the date the registration takes effect; and

- (c) the subsection (2) substantiation requirements are satisfied.

Input tax credit
allocation and
disallowance
rules.

25. (1) In this section –

"entertainment" means the provision of food, beverages, tobacco, accommodation, amusement, recreation, or other hospitality by a taxable person whether directly or indirectly to any person; and

"passenger vehicle" means a road vehicle, including a double cab vehicle, designed or adapted for the transport of nine or fewer seated persons.

(2) No amount may be deducted under section 24 by a taxable person for input tax paid or payable in respect of –

(a) a taxable supply to, or import by, the person of a passenger vehicle, unless the person is in the business of dealing in, or hiring of, such vehicles, and the vehicle was acquired for the purposes of such business;

(b) a taxable supply to, or import by, the person of goods or services acquired for the purposes of entertainment or providing entertainment, unless–

(i) the person is in the business of providing entertainment and the taxable supply or import relates to the provision of taxable supplies of entertainment in the ordinary course of that business; or

(ii) the person is in the business of providing taxable supplies of transportation services and the entertainment is provided to passengers as part of the transportation service; or

(c) any fees or subscriptions paid by the person in respect of membership of any person in a club, association, or society of a sporting, social, or recreational nature.

(3) Subject to subsection (5), where only a part of the supplies made by a taxable person during a tax period are taxable supplies, the amount of the input tax allowed as a credit under section 24(1)(a) for that period is determined as follows –

- (a) in respect of a supply or import received which is directly allocable to the making of taxable supplies, the full amount of input tax payable in respect of the supply or import shall be allowed as a credit;
- (b) in respect of a supply or import received which is directly allocable to the making of exempt supplies, no amount of input tax payable in respect of the supply or import shall be allowed as a credit; or
- (c) in respect of a supply or import received which is used for the making of both taxable and exempt supplies,

the amount calculated according to the following formula –

$$A \times B/C$$

where –

- A** is the total amount of input tax payable in respect of supplies and imports received during the period for which a credit is allowed under section 24(1)(a), less the input tax accounted for under paragraphs (a) and (b);
- B** is the total amount of taxable supplies made by the taxable person during the preceding financial year of the taxable person; and
- C** is the total amount of all supplies made by the taxable person during the preceding financial year of the taxable person.

- (4) For purposes of the fraction **B/C** in subsection (3)(c), for the first financial year during which the person is a taxable person, the period referred to in **B** and **C** shall be the total number of tax periods, including the current tax period, during which the person has been a taxable person.
- (5) Where the fraction **B/C** in subsection (3)(c) is more than 0.90, the taxable person may deduct the total amount of input tax on supplies and imports described in that paragraph.

- (6) Notwithstanding subsection (3), where a taxable person makes both taxable and exempt supplies during a tax period, the Commissioner may determine the amount of input tax allowed for the tax period on such other basis as the Commissioner considers reasonable.
- (7) A taxable person dissatisfied with a decision of the Commissioner under subsection (6) may challenge the decision only under Part X.

Post-sale
adjustments.

26. (1) This section applies where, in relation to a supply by a registered person –
- (a) the supply is cancelled;
 - (b) the taxation of the supply changes because the nature of the supply is fundamentally varied or altered;
 - (c) the previously agreed consideration for the supply is altered, whether due to an offer of a discount or for any other reason; or
 - (d) the goods or services or part thereof are returned to the supplier.
- (2) Subsection (1) applies only where the registered person making the supply has –
- (a) provided a tax invoice in relation to the supply and the amount shown on the invoice as the tax charged on the supply is incorrect as a result of the occurrence of one or more of the events described under subsection (1)(a) - (d); or
 - (b) lodged a return for the tax period in which the supply occurred and has accounted for an incorrect amount of output tax on that supply as a result of the occurrence of one or more of the events described under subsection (1)(a) - (d).
- (3) Where subsection (1) applies, the registered person making the supply is required to make an adjustment as specified under subsection (4) or (6).
- (4) Where the output tax properly chargeable in respect of the supply exceeds the output tax actually accounted for by the registered person (the supplier), the amount of the excess is deemed to be output tax charged by the supplier in relation to a taxable supply made in the tax

period in which the event referred to in subsection (1) occurred.

- (5) For purposes of section 23, where a registered person issues a tax debit note to rectify the output tax charged to a registered recipient in the circumstances specified under subsection (4), the additional tax specified in the tax debit note is deemed to be input tax payable by the registered recipient in the tax period in which the tax debit note is received.
- (6) Subject to subsection (8), where the output tax actually accounted for by the registered person exceeds the output tax properly chargeable in relation to the supply, the registered person is allowed an input tax credit under section 24 for the amount of the excess in the tax period in which the event referred to in subsection (1) occurred.
- (7) Where a supplier issues a tax credit note to rectify the output tax charged to the recipient who is a registered person in the circumstances specified under subsection (6), the additional tax specified in the tax credit note is treated as output tax payable by the recipient in respect of a taxable supply made by the recipient in the tax period in which the tax credit note is received.
- (8) Where the supply has been made to a person who is not a registered person, a credit under subsection (6) is not allowed, unless the amount of the excess tax has been repaid to the recipient of the supply, whether in cash or as a credit against an amount owing to the registered person by the recipient.

Interest on unpaid
tax.

27. (1) A person who fails to pay tax by the due date for payment under section 42 is liable for interest at the rate specified in paragraph 2 of Schedule IV on the amount unpaid, calculated from the date on which the payment was due until the date on which payment was made.
- (2) Interest under subsection (1) is calculated as simple interest for each month, or part of a month, during which it remains unpaid.
- (3) Interest paid by a person under subsection (1) shall be refunded to the person to the extent that the tax to which it relates is subsequently determined not to have been due and payable.

- (4) The provisions of this Act relating to the payment, collection and recovery of tax apply to any interest charged under this section as if the interest were tax due under this Act.

Tax invoices and
sales invoices.

28. (1) Subject to subsection (2), a registered person, referred to as the "registered supplier", making a taxable supply to a person, referred to as the "recipient", is required to provide the recipient with an original tax invoice for the taxable supply containing such particulars as specified in paragraph 1 of Schedule III.
- (2) A registered supplier making a taxable supply is authorized to issue a sales invoice in lieu of a tax invoice if the total consideration for the taxable supply is in cash and does not exceed the amount specified in paragraph 3 of Schedule IV.
- (3) A person is prohibited from providing a tax invoice in circumstances other than those specified under this section.
- (4) Subject to subsection (6), a registered supplier shall issue only one tax invoice for each taxable supply.
- (5) Where, within forty days after the date of a supply, a registered recipient who has not received a tax invoice as required by subsection (1) requests the registered supplier, in writing, to provide a tax invoice in respect of the taxable supply, the supplier is required to comply with the request within ten days after receiving it.
- (6) Where a registered recipient claims to have lost the original tax invoice for a taxable supply, the registered supplier may provide a copy clearly marked "copy."

Tax credit and
debit notes.

29. (1) Where a tax invoice has been issued in the circumstances specified under section 26(2)(a) and the amount shown as tax charged in that tax invoice exceeds the tax properly chargeable in respect of the supply, the registered person making the supply is required to provide a registered recipient of the supply with a tax credit note containing the particulars specified in paragraph 2 of Schedule III.
- (2) A person may not provide a tax credit note in any circumstances other than those specified under subsection (1).

- (3) Where a tax invoice has been issued in the circumstances specified under section 26(2)(a) and the tax properly chargeable in respect of the supply exceeds the amount shown as tax charged in that tax invoice, the registered person making the supply is required to provide a registered recipient of the supply with a tax debit note containing the particulars specified in paragraph 3 of Schedule III.
- (4) A person may not provide a tax debit note in any circumstances other than those specified under subsection (3).
- (5) A registered person may issue only one tax credit note or tax debit note for the amount of the excess stated in subsection (1) or (3) respectively.
- (6) Notwithstanding the provisions of this section, where a registered person claims to have lost the original tax credit note or tax debit note, the registered person who made the supply may provide a copy clearly marked "copy".

Tax Administration Provisions

PART VIII – Tax Period, Returns and Assessments

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| Tax period. | 30. | <ul style="list-style-type: none">(1) Subject to subsection (2), the tax period applicable to a taxable person under this Act is the calendar month.(2) The Minister may, by regulations, authorise a different tax period for specific categories or classes of taxable persons. |
| Returns. | 31. | <ul style="list-style-type: none">(1) Every taxable person is required to lodge a tax return for each tax period with the Commissioner within fifteen days after the end of the period, whether or not tax is payable in respect of that period.(2) A tax return is required to –<ul style="list-style-type: none">(a) be in the form prescribed by the Commissioner;(b) state the information necessary to calculate the tax payable in accordance with section 23 for the period; and(c) be lodged in the manner prescribed by the Commissioner.(3) In addition to or instead of any return required under this Act, the Commissioner may by notice in writing require a person, whether or not a taxable person, to lodge with the Commissioner, whether on that person's own behalf or as agent or trustee of another person, such fewer, additional, or other returns in the prescribed form as and when required by the Commissioner for the purposes of this Act.(4) A person dissatisfied with a decision of the Commissioner under subsection (3) may challenge the decision only under Part X. |
| Extension of time. | 32. | <ul style="list-style-type: none">(1) Upon application in writing by a person, the Commissioner may, where good cause is shown by the person, extend the period within which a return required under section 31 is to be lodged.(2) The granting of an extension of time under subsection (1) does not alter the due date for payment of tax under section 42. |

- (3) A person dissatisfied with a decision of the Commissioner under subsection (1) may challenge the decision only under Part X.

Assessments.

33. (1) Where —

- (a) a person fails to lodge a return as required by section 31 or fails to furnish an import declaration as required by section 22 (1) or (2);
- (b) the Commissioner is not satisfied with a return or import declaration furnished by a person;
- (c) the Commissioner has reason to believe that a person will become liable for the payment of an amount of tax but is unlikely to pay such amount;
- (d) a person, other than a taxable person, supplies goods or services and represents that tax is charged on the supply;
- (e) a taxable person supplies goods or services and the supply is not a taxable supply or is a taxable supply charged with tax at the rate of zero percent and, in either case, the taxable person represents that a positive rate of tax is charged on the supply; or
- (f) the Commissioner has determined the liability of any person under section 91(2),

the Commissioner may make an assessment of the amount of tax payable by the person or of the amount of tax represented by the person as payable in respect of a supply.

(2) The person assessed under subsection (1) —

- (a) in the case of an assessment under subsection (1) (d) or (e), is the person making the supply; or
- (b) in the case of an assessment under subsection (1) (f), is the person whose liability has been determined under section 91(2); or
- (c) in any other case, is the person required to account for the tax under this Act.

(3) An assessment under subsection (1) (a), (c), (d), (e), or (f) may be made at any time.

- (4) An assessment under subsection (1) (b) –
 - (a) where the default was due to fraud, or gross or wilful neglect committed by, or on behalf of, the person who furnished the return or import declaration, may be made at any time; or
 - (b) in any other case, may be made within three years after the date the return or import declaration was furnished.
- (5) The Commissioner may, based on the information available, estimate the tax payable by a person for the purposes of making an assessment under subsection (1).
- (6) Where a taxable person is not satisfied with a return lodged by that person under this Act, that person may apply to the Commissioner to make an addition or alteration to that return.
- (7) An application under subsection (6) is required to be in writing, to specify in detail the grounds upon which it is made, and to be submitted within three years after the date the return was lodged by the taxable person or, in the event an assessment is made by the Commissioner after such three year period, within forty days after the date that notice of such assessment is served on the taxpayer.
- (8) After considering an application under subsection (6), the Commissioner shall make an assessment of the amount that, in the Commissioner's opinion, is the amount of tax payable under this Act.
- (9) Where an assessment has been made under this section, the Commissioner is required to serve a notice of the assessment on the person assessed, which notice shall state—
 - (a) the tax payable;
 - (b) the date the tax is due and payable; and
 - (c) the time, place, and manner of objecting to the assessment.
- (10) The Commissioner may, within three years after service of the notice of assessment, or in the case of assessments described in subsection (4), within the deadline specified therein, amend an assessment by making such alterations or additions to the assessment as the Commissioner considers necessary, in which

case, the Commissioner is required to serve notice of the amended assessment on the person assessed.

(11) An amended assessment is treated in all respects as an assessment under this Act.

(12) An amount assessed under subsection (1) (d), (e) or (f) is treated, for all purposes of this Act, as tax charged under this Act.

General provisions
relating to
assessments.

34. (1) The original or a certified copy of a notice of assessment is receivable in any proceedings as conclusive evidence that the assessment has been duly made and, except in proceedings under Part X relating to the assessment, that the amount and all particulars of the assessment are correct.

(2) No assessment or other document purporting to be made, issued, or executed under this Act shall be —

(a) quashed or deemed to be void or voidable for want of form; or

(b) affected by reason of mistake, defect, or omission therein,

if it is, in substance and effect, in conformity with this Act and the person assessed, or intended to be assessed or affected by the document is designated in it according to common understanding.

PART IX – Refund of Tax and Tax Relief

Carry forward of
excess credits and
refund of tax.

35. (1) Where –
- (a) the total amount of input tax creditable by a taxable person under section 24 for a tax period exceeds the person's output tax for that period; or
 - (b) the amount of tax paid by a person, other than in circumstances specified under paragraph (a), was in excess of the amount properly charged to tax under this Act,
- the amount of the excess shall be treated in the manner provided in this section.
- (2) Except as provided in subsection (5), the excess described in subsection (1)(a) is carried forward to the next tax period and treated as input tax creditable in that period.
 - (3) Subject to this section, if any of the excess referred to in subsection (1)(a) for a tax period remains after being carried forward and used as input tax creditable in six consecutive tax periods, the taxable person may file with the Commissioner a claim for refund for the amount remaining, in the form and with the documentation specified in regulations.
 - (4) By the end of the second calendar month following the date the claim for refund described in subsection (3) is filed or, where the Commissioner orders an audit of the claim for refund described in subsection (3), within ten days after conclusion of the audit, if later, the Commissioner, to the extent satisfied that the taxpayer is entitled to the amount of the refund claimed –
 - (a) may apply the amount of the refund claimed under subsection (3) in reduction of any tax, levy, interest, or penalty payable by the person in terms of this Act, other taxes collected by the Commissioner, and any unpaid amounts under the repealed Consumption Tax Act; and
 - (b) is required to refund any excess remaining to the taxable person.
 - (5) Where at least fifty percent of the amount of the taxable supplies of a taxable person for the taxable

period is taxed at a zero rate, and the person reports an excess described in subsection (1) (a) for a taxable period, the person may file with the Commissioner a claim for refund for the excess credits attributable to the zero-rated supplies in the form and with the documentation specified in regulations.

- (6) By the end of the first calendar month following the date the return described in subsection (5) is filed or, where the Commissioner orders an audit of the claim for refund described in subsection (5), within ten days after conclusion of the audit, if later, the Commissioner, to the extent satisfied that the taxpayer is entitled to the amount of the refund claimed –

(a) may apply the amount of the refund claimed under subsection (5) in reduction of any tax, levy, interest, or penalty payable by the person in terms of this Act, other taxes collected by the Commissioner, and any unpaid amounts under the repealed Consumption Tax Act; and

(b) is required to refund any excess remaining to the taxable person.

- (7) Notwithstanding subsection (4) (b) or (6) (b), if the amount of the excess to be refunded is not more than the amount specified in paragraph 4 of Schedule IV, the excess shall be carried forward to the next succeeding tax period and be accounted for as provided in section 24 (1) (f).

- (8) Where a person has overpaid tax in the circumstances specified under subsection (1) (b), the person may apply in writing to the Commissioner for a refund of the excess amount of tax, accompanied by documentary proof of payment of the excess amount.

- (9) For purposes of subsection (8), if the claim for refund is filed by a taxable person –

(a) the Commissioner is required to deal with the claim as if it were a claim under subsection (3); and

(b) to the extent that any output tax claimed to be refundable is an amount borne by a recipient who is not a registered person, the output tax is refundable only to the extent that it will be repaid by the taxable person to that recipient, whether in cash or as a credit against an

amount owing to the taxable person by the recipient.

- (10) Where a taxable person has failed to lodge a return for any tax period as required under this Act, the Commissioner may withhold payment of any amount refundable under this section until the taxable person lodges such return as required.
- (11) To be considered, a claim for a refund specified in subsection (3), (5), or (8) must be made within three years after the date the person has the right to apply for the refund under this section.
- (12) The Commissioner is required to serve on a person claiming a refund, a notice in writing of the decision in respect of the claim.
- (13) A person claiming a refund under this section who is dissatisfied with a decision referred to in subsection (12) may challenge the decision only under Part X.

Interest on
overpayment.

- 36. (1) Where the Commissioner fails to pay a refund of tax relating to an excess under section 35 by the date specified under that section, the Commissioner is required to pay the taxable person entitled to the refund an additional amount as interest at the rate specified in paragraph 5 of Schedule IV, commencing from the date on which the refund was due and ending on the date the payment of the refund is made.
- (2) Where the Commissioner is required to refund an amount of tax to a person as a result of—
 - (a) a decision of the VAT Board of Review under section 39; or
 - (b) a decision of the High Court under section 40,the Commissioner is required to pay interest at the rate specified in paragraph 5 of Schedule IV on the amount of the refund for the period commencing from the date the person paid the tax refunded and ending on the date the refund is made.

Others eligible for
tax refund.

- 37. (1) The Minister may, in accordance with regulations made by him in consultation with the Minister of Foreign Affairs, authorise the granting of a refund of tax paid or borne on a supply to or import by —

Cap. 18:01

- (a) a person to the extent provided under the Diplomatic Immunities and Privileges Act, an international convention having force of law in Guyana, or the recognised principles of international law; or
 - (b) a diplomatic or consular mission of a foreign country established in Guyana, relating to transactions concluded for the official purposes of such mission; or
 - (c) an organization or government to the extent provided under a technical assistance or humanitarian assistance agreement entered into with the Government of Guyana; or
 - (d) a non-resident individual on goods specified in the regulations that are exported from Guyana as accompanied baggage, but only if the total tax on such goods exceeds the amount specified in paragraph 6 of Schedule IV .
- (2) The refund provided for in subsection (1) (a) and (d) is not available to a citizen or a permanent resident of Guyana.
 - (3) The Minister may authorise any relief under this section on such conditions and subject to such restrictions as the Minister may deem fit.
 - (4) A claim for a refund of tax under this section is to be made in such form and at such time as the Minister may prescribe and shall be accompanied by proof of payment of tax.
 - (5) The Minister may, by notice in the Gazette, apply the provisions of this section to a public international organisation and its officials and employees.

Cap. 18:01

- (a) a person to the extent provided under the Diplomatic Immunities and Privileges Act, an international convention having force of law in Guyana, or the recognised principles of international law; or
 - (b) a diplomatic or consular mission of a foreign country established in Guyana, relating to transactions concluded for the official purposes of such mission; or
 - (c) an organization or government to the extent provided under a technical assistance or humanitarian assistance agreement entered into with the Government of Guyana; or
 - (d) a non-resident individual on goods specified in the regulations that are exported from Guyana as accompanied baggage, but only if the total tax on such goods exceeds the amount specified in paragraph 6 of Schedule IV .
- (2) The refund provided for in subsection (1) (a) and (d) is not available to a citizen or a permanent resident of Guyana.
 - (3) The Minister may authorise any relief under this section on such conditions and subject to such restrictions as the Minister may deem fit.
 - (4) A claim for a refund of tax under this section is to be made in such form and at such time as the Minister may prescribe and shall be accompanied by proof of payment of tax.
 - (5) The Minister may, by notice in the Gazette, apply the provisions of this section to a public international organisation and its officials and employees.

PART X – Objections and Appeals

Objections.

38. (1) A person dissatisfied with an appealable decision may lodge an objection to the decision with the Commissioner within twenty days after the service of the notice of the decision.
- (2) Where the Commissioner is satisfied that owing to absence from Guyana, sickness, or other reasonable cause, the person was prevented from lodging an objection within the time specified under subsection (1) and there has been no unreasonable delay by the person in lodging the objection, the Commissioner may accept an objection lodged after the time specified under subsection (1).
- (3) An objection to an appealable decision is required to be in writing and to specify in detail the grounds upon which it is made.
- (4) Where tax determined to be paid is disputed in part, then the part which is not disputed should be paid in full before any objection to the Commissioner on the disputed sum is considered.
- (5) After considering the objection, the Commissioner may allow the objection in whole or part and amend the assessment or the decision objected to accordingly, or disallow the objection.
- (6) The Commissioner is required to serve the person objecting with notice in writing of the decision on the objection.
- (7) A person dissatisfied with a decision of the Commissioner under subsection (2) may challenge the decision only under Part X.

Appeal to VAT
Board of review.

39. (1) In this section “VAT Board of Review” means a VAT Board of Review appointed by the Minister to hear and decide any matter in dispute between the Commissioner and any person in respect of the person’s liability or assessment for value-added tax.
- (2) A person dissatisfied with the Commissioner’s decision on an objection under section 38(6) may, within twenty days after being served with notice of the decision —

- (a) lodge a notice of appeal with the VAT Board of Review;
 - (b) serve a copy of the notice of appeal on the Commissioner; and
 - (c) pay to the Commissioner tax equal to two-thirds of the tax which is in dispute.
- (3) Upon application in writing by a person dissatisfied with a decision under section 38(5), the VAT Board of Review may, where satisfied that owing to absence from Guyana, sickness, or other reasonable cause, the person was prevented from lodging a notice of appeal within the time specified under subsection (2) and there has been no unreasonable delay by the person in lodging the notice, accept a notice of appeal lodged after the time specified under subsection (2).
- (4) If the Commissioner has not made an objection decision, and forty days have passed since the objection was lodged, an appeal may be made under subsection (2) at any time, as if the Commissioner had made a decision to disallow the objection.
- (5) In an appeal to the VAT Board of Review against an objection decision, the person is limited to the grounds set out in the person's objection, unless the VAT Board of Review grants the person leave to add new grounds.
- (6) In deciding an appeal, the VAT Board of Review may make an order —
 - (a) affirming, reducing, increasing, or varying the assessment under appeal; or
 - (b) remitting the assessment for reconsideration by the Commissioner in accordance with the directions of the VAT Board of Review.
- (7) A person dissatisfied with a decision of the VAT Board of Review under subsection (3) may challenge the decision only under Part X.

Appeal to High
Court.

40. (1) A party who is dissatisfied with the decision of the VAT Board of Review mentioned in section 39 may, within twenty days after being notified of the decision, appeal to a judge in Chambers; and the party so appealing shall serve a copy of the notice of appeal on the other party to the proceeding before the VAT

Board of Review.

- (2) An appeal under subsection (1) may be made only on a question of law, including a question of mixed fact and law, and the notice of the appeal shall state the question of law that will be raised on the appeal.
- (3) No appeal shall lie under this section unless the full amount of tax which is in dispute is paid to the Commissioner.

Burden of proof.

- 41. The burden of proving that an assessment is excessive or that a decision of the Commissioner is wrong is on the person objecting to the assessment or decision.

PART XI – Payment, Collection and RecoveryDue date for
payment of tax.

42. (1) Tax payable under this Act is due and payable –
- (a) by a taxable person for a tax period, by the due date for the return for the tax period;
 - (b) by a person assessed under an assessment issued under this Act, on the date specified in the notice of assessment;
 - (c) by an importer of goods or a recipient of an import of services, by the due date specified under section 22 in respect of the import; or
 - (d) by any other person, by the date the taxable transaction occurs as determined under this Act.
- (2) Where an objection to, or a notice of appeal against, an assessment has been lodged, the tax payable under the assessment is due and payable under subsection (1), and may be recovered, notwithstanding that objection or appeal.
- (3) Upon application in writing by a person liable for tax, the Commissioner may, where good cause is shown, extend the time for payment of tax by the person beyond the date on which it is due and payable under this section, or make such other arrangements as appropriate to ensure the payment of the tax due, and any such extension does not alter the due date for purposes of section 27.
- (4) A person dissatisfied with a decision of the Commissioner under subsection (3) may challenge the decision only under Part X.

Allocation of
payments.

43. Where, in addition to any amount of tax which is due and payable by a person under this Act, an amount of interest or penalty is payable, a payment made by the person in respect of such tax, interest, or penalty which is less than the total amount due is deemed to be made –

- (a) first in respect of such penalty;
- (b) to the extent that such payment exceeds the amount of such penalty, then in respect of such interest; and
- (c) to the extent that such payment exceeds the sum of such penalty and interest, then in respect of such tax.

Recovery of tax as

44. (1) An amount of tax due and payable under this Act shall

debt due.

be recoverable by the Commissioner as a debt due to the State from the person liable therefor in the manner provided in this section.

- (2) Where a person fails to pay tax when it is due and payable, referred to as the “defaulter”, the Commissioner may file, with the clerk or registrar of a court of competent jurisdiction, a statement certified by the Commissioner setting forth the amount of the tax due and payable by that person, and that statement shall have the effect of a civil judgment lawfully given in that court in favour of the Commissioner for a debt in the amount specified in the statement; and the court shall issue a writ of execution in respect thereof against the defaulter.
- (3) A writ of execution under subsection (2) shall not be issued until ten days after service by the court on the defaulter of a notice informing the defaulter that a writ of execution will be issued by the court in respect of tax owed by the defaulter, and unpaid, unless before the expiration of that period of ten days the defaulter produces proof of payment thereof satisfactory to the court.
- (4) The Commissioner may, without prejudice to re-instituting proceedings under subsection (2), by notice in writing addressed to the clerk or registrar of the court, withdraw the statement referred to in subsection (2) and such statement shall thereupon cease to have any effect.
- (5) Except where the contrary intention appears, the provisions of the Customs Act on imported goods shall, with such exceptions, modifications, and adaptations as the Minister may by Order prescribe, apply in relation to any tax chargeable on imported goods.

Cap. 82:01

Recovery of
monies from
persons leaving
Guyana.

45. (1) Where the Commissioner has reasonable grounds to believe that a person may leave Guyana without paying all tax due under this Act, the Commissioner may issue a certificate to the Chief Immigration Officer containing particulars of the tax due and request that the Chief Immigration Officer take the necessary steps to prevent the person from leaving Guyana until the person makes –
 - (a) payment in full; or

(b) an arrangement satisfactory to the Commissioner for the payment of the tax.

(2) A copy of the certificate issued under subsection (1) shall be served by the Commissioner on the person named in the certificate if it is practicable to do so.

(3) If a certificate is issued under subsection (1), proof of payment to the Commissioner of the tax specified in the certificate or the production of the certificate signed by the Commissioner stating that the tax has been paid or satisfactory arrangements for payment have been made shall be sufficient authority for any immigration officer to allow the person to leave Guyana.

Security. 46. (1) Where it is reasonable to do so for the protection of the revenue or as provided for in this Act, the Commissioner, by notice in writing, may require a person to give security for the payment of tax that is or may become payable by the person under this Act.

(2) Security required under subsection (1), including security required from a promoter of public entertainment, shall be for such amount, in such form, and furnished within such period as the Commissioner may specify in the notice.

(3) Where security under subsection (1) is in cash and the Commissioner is satisfied that the security is no longer required, the Commissioner is required to apply the amount of the security as specified under section 35 (4).

(4) A person dissatisfied with a decision of the Commissioner under subsection (1) may challenge the decision only under Part X.

(5) A promoter of public entertainment is not permitted to allow the public entertainment to take place unless the promoter has paid the amount required under subsection (2) and has received the Commissioner's written approval.

Preferential claim to assets. 47. From the date on which tax becomes due and payable under this Act, the Commissioner has a preferential claim upon the assets of the person liable to pay the tax until the tax is paid.

48. (1) Where the Commissioner is satisfied on reasonable

Seizure of goods
and vehicles.

grounds that tax on a supply or import of goods has not been paid, the Commissioner may seize the goods.

- (2) The Commissioner may seize a vehicle used in the removal or carriage of goods liable to be seized under subsection (1), unless it is shown that such vehicle was so used without the consent or knowledge of the owner of that vehicle or other person lawfully in possession or charge thereof; and at the discretion of the Commissioner, the vehicle may be sold by public auction or may be dealt with in such other manner as the Commissioner may direct.
- (3) Goods seized under subsection (1) shall be stored in a place approved by the Commissioner for the storage of such goods.
- (4) Where goods are seized under subsection (1), the Commissioner is required to serve on the owner of the goods or the person who had custody or control of the goods immediately before seizure, a notice in writing as soon as practicable after the seizure—
 - (a) identifying the goods;
 - (b) stating that the goods have been seized under this section and the reason for seizure; and
 - (c) setting out the terms of subsections (7), (8), and (9).
- (5) The Commissioner is not required to serve notice under subsection (4) if, after making reasonable enquiries, the Commissioner does not have sufficient information to identify the person on whom the notice should be served.
- (6) Where subsection (5) applies, the Commissioner may serve a notice under subsection (4) on a person claiming the goods, provided the person has given the Commissioner sufficient information to enable such a notice to be served.
- (7) Subject to subsection (8), the Commissioner may authorise the delivery of goods seized under subsection (1) to the person on whom a notice under subsection (4) has been served, where that person pays or gives security, in accordance with section 46, for the payment of tax due and payable or that will become due and payable in respect of the supply or import of the goods.

- (8) The Commissioner is permitted to detain the goods seized under subsection (1) –
- (a) in the case of perishable goods, only for such period as the Commissioner considers reasonable having regard to the condition of the goods; or
 - (b) in any other case, until the later of –
 - (i) ten days after the seizure of the goods; or
 - (ii) ten days after the due date for payment of the tax on the supply or import of the goods.
- (9) Where the detention period in subsection (8) has expired, the Commissioner may sell the goods in the manner specified under section 49 (4) and apply the proceeds of sale as set out in section 49(5).
- (10) Notwithstanding the provisions of this section, the Commissioner may proceed under section 44 with respect to any balance owed if the proceeds of sale are not sufficient to meet the costs thereof and the tax due.

Distress
proceedings.

49. (1) The Commissioner may recover unpaid tax by distress proceedings against the movable property of the person liable to pay the tax, referred to as the "person liable", by issuing an order in writing, specifying the person liable, the location of the property, and the tax liability to which the proceedings relate.
- (2) For the purposes of executing distress under subsection (1), the Commissioner may –
- (a) at any time enter any house or premises described in the order authorising the distress proceedings; and
 - (b) require a police officer to be present while the distress is being executed.
- (3) Property upon which a distress is levied under this section, other than perishable goods, must be kept for ten days either at the premises where the distress was

levied or at such other place as the Commissioner may consider appropriate, at the cost of the person liable.

- (4) Where the person liable does not pay the tax due, together with the costs of the distress –
- (a) in the case of perishable goods, within such period as the Commissioner considers reasonable having regard to the condition of the goods; or
 - (b) in any other case, within ten days after the distress is levied,
- the property distrained upon may be sold by public auction, or in such other manner as provided in regulations.
- (5) The proceeds of a disposal under subsection (4) shall be applied by the auctioneer or seller first towards the cost of taking, keeping, and selling the property distrained upon, then by the Commissioner towards the tax due and payable, and the remainder of the proceeds, if any, shall be restored to the person liable.
- (6) Nothing in this section precludes the Commissioner from proceeding under section 44 with respect to any balance owed if the proceeds of the distress are not sufficient to meet the costs thereof and the tax due.
- (7) All costs incurred by the Commissioner in respect of a distress may be recovered by the Commissioner from the person liable as tax due under this Act.

Recovery of tax
from recipient of
supply.

50. (1) Where, in respect of a taxable supply by a taxable person, the taxable person has, in consequence of a fraudulent action or misrepresentation by the recipient of the supply, incorrectly treated the supply as an exempt or zero-rated supply, the Commissioner may raise an assessment upon the recipient for the amount of unpaid tax in respect of the supply together with any interest or penalty that has become payable under sections 27 and 44.
- (2) The Commissioner is required to serve notice of an assessment under subsection (1) on the recipient specifying–
- (a) the tax payable;
 - (b) the date the tax is due and payable; and
 - (c) the time, place, and manner of objecting to the assessment.

- (3) An assessment raised under subsection (1) is treated as an assessment for all purposes of this Act.
- (4) Subsection (1) does not preclude the Commissioner from recovering the tax, interest, or penalty from the taxable person making the supply.
- (5) For purposes of subsection (4) —
 - (a) any amount recovered from the recipient is to be credited against the liability of the taxable person; and
 - (b) any amount recovered from the taxable person is to be credited against the liability of the recipient.
- (6) Where an amount of tax, interest, or penalty referred to in subsection (1) is paid by the taxable person, the taxable person may recover the amount paid from the recipient.
- (7) An amount assessed under this section is treated, for all purposes of this Act, as tax charged under this Act.

Recovery of tax
from third parties.

51. (1) Where a person liable to pay tax under this Act, referred to as the “person liable”, fails to do so by the due date, the Commissioner may, by notice in writing, require any other person—
- (a) owing or who may owe money to the person liable;
 - (b) holding or who may subsequently hold money for, or on account of, the person liable; or
 - (c) having authority from some other person to pay money to the person liable,
- to pay the money to the Commissioner on the date set out in the notice, up to the amount of the tax due.
- (2) The date specified in the notice under subsection (1) shall not be a date before the money becomes due to the person liable to pay tax, or held on the person's behalf.
 - (3) A copy of a notice issued under subsection (1) shall be served on the person liable.
 - (4) A person making a payment pursuant to a notice under

subsection (1) is deemed to have acted under the authority of the person liable and of all other persons concerned and is indemnified in respect of the payment.

- (5) The provisions of this Act relating to the payment, collection and recovery of tax apply to any amount due under this section as if the amount were tax due under this Act.

Duties of
receivers.

52. (1) In this section, "receiver" means a person who, with respect to an asset in Guyana is –

- (a) a liquidator of a company;
- (b) a receiver appointed out of court or by a court;
- (c) a mortgagee in possession;
- (d) an executor of the estate of a deceased person;
or
- (e) any other person conducting business on behalf of a person legally incapacitated.

- (2) A receiver is required to notify the Commissioner in writing within ten days after being appointed to the position or taking possession of an asset in Guyana, whichever first occurs.

- (3) The Commissioner may in writing notify a receiver of the amount which appears to the Commissioner to be sufficient to provide for any tax which is or will become payable by the person whose assets are in the possession of the receiver.

- (4) A receiver –

- (a) is required to set aside, out of the proceeds of sale of an asset, the amount notified by the Commissioner under subsection (3), or such lesser amount as is subsequently agreed on by the Commissioner;
- (b) is liable to the extent of the amount set aside for the tax of the person who owned the asset.

- (5) A receiver is personally liable to the extent of any amount required to be set aside under subsection (4) for the tax referred to in subsection (3) if, and to the extent that, the receiver fails to comply with the requirements of this section.

PART XII – Representatives and Special Cases of Taxable Persons

Persons acting in a representative capacity.

53. (1) In this section,
“representative”, in relation to a taxable person, means –
- (a) in the case of a corporation, the treasurer or other designated officer or officers;
 - (b) in the case of an unincorporated association or body, any member of the committee of management;
 - (c) in the case of a company –
 - (i) for a company other than a company in liquidation, the secretary of the company; or
 - (ii) for a company in liquidation, the liquidator;
 - (d) in the case of the State, any person responsible for accounting for the receipt and payment of money under the provisions of any law or for the receipt and payment of public funds or of funds voted by Parliament;
 - (e) in the case of a local authority or board, any person who is responsible for accounting for the receipt and payment of money or funds on behalf of the local authority or board;
 - (f) in the case of a partnership, any partner in the partnership;
 - (g) in the case of a trust, any trustee; or
 - (h) in the case of a non-resident person or a person referred to in paragraph (d) of the definition of “resident person” in section 2, any person controlling the non-resident person’s affairs in Guyana, including any manager of a taxable activity of the non-resident person in Guyana.
- (2) Every representative of a taxable person is responsible for performing any duties, including the payment of tax, imposed by this Act on the taxable person.
- (3) Every representative who in that capacity pays any tax payable under this Act by a taxable person is entitled to recover the amount so paid from the taxable person

or to retain the amount so paid out of any money of the taxable person that is in the representative's possession or under the representative's control.

- (4) Every representative is personally liable for the payment of any tax payable by the representative in his representative capacity if, while the amount remains unpaid, the representative –
- (a) alienates, charges, or disposes of any money received or accrued in respect of which the tax is payable; or
 - (b) disposes of or parts with any fund or money belonging to the taxable person which is in the possession of the representative or which comes to the representative after the tax is payable if such tax could legally have been paid from or out of such fund or money.
- (5) Nothing in this section shall be construed as relieving a taxable person from performing any duties imposed by this Act on the taxable person which the representative of the person has failed to perform.

Power to appoint agent.

54. (1) The Commissioner may, if the Commissioner considers it necessary to do so, declare a person to be an agent of a taxable person and the person declared to be agent is deemed to be a representative of the taxable person for the purposes of section 53.
- (2) A person dissatisfied with a decision referred to in subsection (1) may challenge the decision only under Part X.

Branches.

55. (1) Where a taxable activity is conducted by a taxable person in branches or divisions, the taxable person is deemed to be a single person conducting the taxable activity for purposes of this Act.
- (2) Subject to subsection (3), a taxable person who conducts a taxable activity in branches or divisions is required to register in the name of the taxable person and not also in the names of its branches and divisions.
- (3) Upon application in writing, the Commissioner may authorise a taxable person to register one or more of its branches or divisions as separate taxable persons if the Commissioner is satisfied that the branch or division