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PART C

S1

LEGAL NOTICE NO. 53 OF 2012

THE VALUE ADDED TAX ACT, 2011 (Act No. 12 of 2011)

THE VALUE ADDED TAX REGULATIONS, 2012 (Under Section 84)

In exercise of the powers conferred by Section 84 of the Value Added Tax Act, 2011, the Minister for Finance makes the following Regulations.

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PART I
PRELIMINARY

In exercise of the powers conferred by section 84 of the Value Added Tax Act, 2011, the Minister for Finance makes the following Regulations-

Citation and Commencement

1. (1) These regulations may be cited as the Value Added Tax Regulations, 2012.
- (2) These regulations shall come into force on the 1st April, 2012.

Interpretation

2. In these Regulations, unless the context otherwise requires, words and expressions used in the Act have the same meaning as in these regulations and-

"Commissioner General" means the Commissioner General appointed under the Revenue Authority Act, 2008;

"entertainment" means the provision of food, beverages, tobacco, accommodation, amusement, recreation or hospitality of any kind;

"Government" means the Government of Swaziland;

"The Act" means the Value Added Tax Act No. 12 of 2011;

"passenger automobile" means a motor vehicle principally designed or adapted for the transport of less than ten seated persons, but not including a commercial truck designed and used primarily for the carriage of goods;

"charity" means charity arrangements or activities for the relief of poverty, for the advancement of education, religion or for other purposes beneficial to the community not falling under the previous heads (body corporate owned by charity whose profits are payable to charity);

"a qualified medical facility" means the office of a qualified medical professional, a hospital, maternity home, nursing home, convalescent home, hospice, or clinic;

"a qualified medical professional" means a general practitioner, physician, healer, nurse, health officer, physical therapist, or other health care provider who is required to register and is registered with the Ministry responsible for health;

"medical services" involve the diagnosis, treatment, prevention, or amelioration of a disease, including the promotion of dental health and mental health, and may involve nursing and personal care, and assistance with daily living activities to meet the needs of a resident or patient.

"a qualified educational institution" is an institution registered by the Ministry responsible for education to provide pre-primary, primary, secondary school or high school; college or university education; or institution established to promote adult education, vocational training, technical education, or education or training of physically or mentally handicapped persons registered with the Ministry responsible for education.

Adjustments

3. (1) A taxpayer shall, where an adjustment is in respect of fixed assets or capital goods acquired by a taxpayer to a value exceeding fifty thousand Emalangeni, be entitled to a credit for input tax equivalent to the extent to which the fixed asset or capital good is used for taxable purposes.

(2) The adjustments in respect of fixed assets or capital goods acquired for taxable purposes shall be made yearly for the life span of the such fixed assets or capital goods and at the expiry of which the adjustments shall cease where -

- (a) land and buildings, have a fixed life span of 10 ten years; and
- (b) plant, equipment and machinery have a fixed life span of 5 years.

(3) Where there is a change in the use of the goods, the right to deduction may also change in that-

- (a) the taxpayer is entitled to a deduction for subsequent years compared to the deduction in the year of acquisition save that the adjustment does not apply if the percentage change in use of the fixed asset or capital goods is not exceeding (5%) five percent;
- (b) a taxpayer is entitled to an increased deduction if the goods on which input tax at the time of acquisition was not deductible or partially deductible save that the right to adjust does not apply if the percentage change of use is not exceeding (5%) five percent;
- (c) the taxpayer shall be entitled to adjust the deduction by increasing deduction of input tax of the total value added tax which was paid at the acquisition of the goods subject to sub-paragraph (d);

(4) Where there is an agreement to take over a going concern and there is a signed agreement to the effect that a taxpayer takes over an obligation to adjust input tax, the taxpayer shall adjust the input tax if the input tax proportion decreases with the remaining period of adjustments.

(5) The buyer can also adjust if the input tax proportion increases.

Variation of consideration on a change in the rate of value added tax

4. (1) Where an agreement for the supply of taxable goods or services by a taxable person has been entered into; and subsequent to entering into the agreement, tax is imposed on the supply or the rate of tax applicable to the supply is increased, the supplier may, notwithstanding anything to the contrary in any agreement or law, recover from the recipient, in addition to the amounts payable by the recipient, an amount equal to the amount of tax imposed or the amount by which tax was increased, as the case may be.

(2) Where subsequent to entering into the agreement, tax on the supply is withdrawn or the rate of tax applicable to the supply is decreased, the supplier shall, notwithstanding anything to the contrary in any agreement or law, reduce the amount payable by the recipient by an amount equal to the amount of tax withdrawn or the amount by which tax was decreased, as the case may be.

(3) Subject to sub-regulations (4) and (5), where sub-regulation (1) or (2) applies in respect of a supply of goods or services subject to any fee, charge, or other amount, whether a fixed, maximum, or minimum fee, charge, or other amount, the fee, charge or other amount shall be increased or decreased, as the case may be, by the amount of tax no longer chargeable.

(4) Sub-regulation (3) does not apply where the fee, charge, or other amount has been altered in any Act, regulation, or measure having force of law to take account of any imposition, increase, decrease, or withdrawal of tax.

(5) Nothing in sub-regulation (3) shall be construed so as to permit any further increase or require any further decrease, as the case may be, in a fee, charge, or other amount which the fee, charge, or other amount is calculated as a percentage or fraction of another amount which represents the consideration in money for a taxable supply.

Alternative Tax Periods

5. (1) For purposes of section 31(2) of the Act, the Commissioner-General may, in writing, designate a registered person to be a Category A or Category B taxable person, depending on the annual turnover of that registered person, where-

(a) "Category A" means the category of registered persons whose tax periods are periods ending on the last day of each month and their turnover is not less than twenty million Emalangeni per annum;

(b) "Category B" means the category of registered persons whose tax periods are three months and do not qualify to be in "Category A".

(2) The Commissioner-General may, further upon written application by a registered person, grant a registered person within category A or B permission to change the tax period or category if -

(a) the change is consistent with that person's accounting procedures and globally accepted accounting principles and standards; and

(b) the applicant complies with the responsibilities imposed by the new categorization.

(3) The Commissioner-General may, in writing, designate any other tax period to any registered person.

Refund of Tax to the King and Ingwenyama, and Indlovukazi (Queen Mother), Diplomats, Diplomatic and Consular Missions and International Organisations

6. (1) This regulation shall apply to goods and services acquired by the King and Ingwenyama, the Indlovukazi (Queen Mother), Diplomats or other designated officials of an International Organisation or diplomatic mission for their personal use and enjoyment, or in the performance of their official duties as provided for in section 50 of the Act.

(2) The Commissioner-General may prescribe the form to be used for refund claims and may specify the frequency of submitting and processing the claims in any individual case, which frequency shall not be more than once a month.

(3) An application shall not be granted unless-

(a) the Commissioner-General is satisfied that there is sufficient evidence that the tax described in the application has been paid; and

(b) the application is made within two years of the date the tax was paid by the supplier.

(4) Any person specified in this category may submit a claim for refund monthly if the value added tax refund exceeds five hundred Emalangeni, otherwise the refund claim may be carried on to the following tax period.

Credit for input tax

7. (1) Credit for input tax may not be allowed in respect of goods and services acquired for purposes of entertainment where the goods and services are-

(a) staff refreshments like coffee, tea and other snacks;

(b) food and other ingredients purchased in order to provide meals for staff, clients and business associates;

(c) catering services acquired for staff canteens and dining rooms;

(d) equipment and utensils used in the kitchens;

(e) furniture and other equipment and utensils used in canteens and dining rooms, kitchens, excluding dining rooms in restaurant;

(f) christmas lunches and parties, including the hire of venues;

(g) beverages, meals and other hospitality and entertainment supplied to customers and clients at product launches and other promotional events;

- (h) entertainment of customers and clients in restaurants, theatres and night clubs; and
- (i) gifts used to celebrate social events.

(2) Credit for input tax shall not be allowed to a taxable person for goods or services acquired for the personal subsistence of an employee, director or partner, where the employee, director or partner is by virtue of their duties, and in furtherance of the taxable person's enterprise, to spend a night away from the place of business, or where the taxable person is obliged to attend a seminar or workshop in the course of that person's duties.

(3) Where credit is allowed under this regulation, calculation of the extent of that credit shall be subject to a threshold to be determined as only 50% credit of the tax on mobile telephone services.

(4) For purposes of this regulation, credit for input tax shall not be allowed-

- (a) in respect of tax paid for a non-commercial or passenger automobile by a taxable person, unless the taxable person is in the business of dealing in, or hiring of, passenger vehicles and that vehicle was acquired for the purposes of that business;
- (b) in respect of tax paid for a purported commercial vehicle which is not-
 - (i) a vehicle with an unladen mass of 3 500kg or more; or
 - (ii) a vehicle constructed for a special purpose other than that is incidental to the special purpose of the vehicle; and
- (c) a vehicle capable of accommodating only one person.

(5) In this regulation, "non-commercial vehicle" means a vehicle of a kind normally used on public roads, which has three or more wheels, and which is constructed or adapted wholly or mainly for the carriage of passengers.

Mixed supplies

8. (1) Where there is a single supply of goods or services and where section 12 (3) and (4) of the Act do not apply to the supply, each item of the goods or services provided in the supply shall be treated as the subject of a separate supply occurring at the same time of the primary supply.

(2) Where a single supply of goods or services (referred to as a 'single supply') would, if a separate consideration had been payable, consist of a supply-

- (a) charged at the standard rate,
- (b) charged at a zero rate,
- (c) charged to a different positive rate; or
- (d) an exempt supply,

and if section 12 (3) and (4) of the Act do not apply, each part of the supply shall be treated as a separate supply occurring at the time of the primary supply.

and if section 12 (3) and (4) of the Act do not apply, each part of the supply shall be treated as a separate supply occurring at the time of the primary supply.

(3) The taxable value of each separate supply under sub-regulations (1) and (2) shall be calculated according to the following formula-

$A \times B/C$ where-

A is the total consideration for the primary supply;

B is the fair market value of the separate supply at the time of supply; and

C is the sum of the fair market value of each separate supply at the time of the supply.

Used goods

9. (1) In terms of section 28 of the Act, where used goods are sold by a second hand dealer (who bought the goods from a private person or a non value added tax registered person), value added tax shall not be charged on the same goods, and the re-seller shall not show any amount of value added tax, or other statements from which value added tax may be calculated.

(2) Where a person is a second hand goods dealer or supplier of used goods in retail business, that person shall be liable to charge and pay value added tax only on the profit margin, and not on the full sale price.

(3) Where a second hand goods dealer is determined as being in possession of a tax invoice or paid value added tax by importation upon purchase of the goods, the second hand goods dealer shall be liable to value added tax on the full sale price.

Taxable value of used goods

10. (1) In this regulation, "used goods" means movable items excluding precious stones, precious metals, antiques and collectors' items, which can be re-used as they are or after repair in a manner that they are deemed to have kept their identity.

(2) The taxable value on the supply of used goods is calculated on the difference between sales price and purchase price.

(3) Where taxable value is so determined, the retailer shall not declare or show value added tax in the invoice.

(4) Where the purchase price exceeds the sales price, these regulations shall not apply and the purported "loss" shall not be deducted in future profits.

(5) Where a second-hand goods dealer invokes these regulations, the re-seller shall issue special invoices which clearly stipulate that the sale is being carried out under these regulations.

(6) The re-seller of goods under sub-regulation (5) is under an obligation to keep special accounts for the purchases and sales under these Regulations.

PART III GOODS AND SERVICES

Education Services

11. (1) Education services are exempt under section 19 and Schedule I (f) of the Act if the services are -

- (a) specified as exempt in these Regulations; and
- (b) provided to students by a qualified educational institution.

(2) An educational institution referred to in sub-regulation (1) is a qualified institution, whether it is a private school operating on a for-profit basis, or a non-profit organization, church, charity, or department of Government.

(3) An educational institution referred to in sub-regulation (1) is a qualified institution only if the institution is registered by the Ministry responsible for education or is being evaluated for registration by that Ministry at the time the services are rendered.

(4) The following categories of services rendered by a qualified educational institution are exempt education services -

- (a) subject to this regulation, courses of instruction provided to students;
- (b) qualified meal plans, and other associated goods or services provided in kind as part of the education program;
- (c) instruction in, or the administration of examinations to students;
- (d) instruction or tutoring related to a qualified course;
- (e) charges for tuition, facilities and curriculum-related activities and instruction;
- (f) compulsory levies for facilities that directly relate to the supply of exempt educational services;
- (g) student council fees, athletic fees, and other mandatory fees related to course registration;
- (h) charges for reports, library services, identity cards, record keeping and other administrative services provided by the educational institution and directly related to the supply of educational courses;
- (i) charges by a qualified educational institution for books and other course materials, for the rental of curriculum-related goods by the supplier of the education and for field trips directly related to the curriculum if not predominantly recreational; and
- (j) student accommodations for a long-term that are supplied by the qualified educational institution.

(5) School bus transportation to and from pre-primary, primary, or secondary schools and tertiary education is an exempt education service if it is provided by the school authority, but not if provided by a private company under contract with the school authority.

(6) Qualified facility charges include charges for buildings, grounds, libraries, and computer, science and other laboratories.

(7) The exemption for education services does not include -

- (a) courses in sports, games, video recording, photography or other hobbies or recreational pursuits, unless, they are taken as part of a degree or diploma-granting program;
- (b) courses, such as picture framing, cooking, and personal investment, that are designed to improve knowledge for personal purposes; and
- (c) music, dance, and similar lessons that are not part of a school curriculum.

(8) The exemption for education services rendered by a pre-primary, primary, secondary or high school include fees or charges for-

- (a) basic instruction, including special education courses;
- (b) a pre-school or after-school program operated by the school;
- (c) the use of school musical instruments or sports equipment;
- (d) services rendered by students or their teachers as part of the instruction program; and,
- (e) student attendance at a school play, dance, field trip, or other school-sanctioned activity primarily for the students.

(9) The exemption for education services rendered by a university or college includes courses that qualify for credit toward a degree or diploma, whether or not the student is pursuing a degree or diploma program.

(10) The exemption for adult education, vocational training, technical education, and education or training of physically or mentally handicapped persons includes charges for-

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

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

(12) The exemption for education services does not include-

- (a) charges for the rental of facilities by an educational institution to an outside group;
- (b) charges for admission to school athletic events open to the general public;
- (c) commissions and other fees earned from the placement of coin-operated machines on an educational institution's property; and
- (d) charges for non-course-related material, such as clothing with the school logo.

Financial Services

12. (1) Financial services regulated by the Financial Services Regulatory Act shall be exempt from tax.

(2) Where a financial institution is providing other services not covered by the Financial Services Regulatory Act for a specific fee, that supply is not covered by this exemption.

Medical and dental services

13. (1) Medical, dental or nursing services exempt under section 19 and Schedule I (g) of the Act whether provided with or without charge and whether paid for by the patient or resident, the government, an insurer, an employer, or any third party, shall satisfy the following conditions-

- (a) that they are rendered in a qualified medical facility or by a qualified medical professional, or both; and
- (b) that they qualify as exempt medical services in this regulation.

(2) For the purposes of sub-regulation (1), exempt medical services include the following goods or services rendered incidental to medical services-

- (a) medicine and drugs that are issued or administered by a qualified medical professional;
- (b) laboratory, x-ray, or other diagnostic services;
- (c) medical devices as defined in sub-regulation (3) that are provided as part of medical services;
- (d) the use of operating rooms, case rooms, or anesthetic facilities, including necessary equipment or supplies;
- (e) the use of radiotherapy, physiotherapy, or occupational therapy facilities;
- (f) accommodation and meals (except in a restaurant or cafeteria available to persons other than patients or residents) provided to patients or residents in the course of receiving medical services;
- (g) services rendered by the staff of a qualified medical facility (including orderlies and technicians);
- (h) dental, periodontal, and endodontal services, but not for cosmetic reasons other than in connection with a disease, trauma, or congenital deformity;
- (i) cosmetic surgery required to alter a defect in appearance caused by disease, trauma, or congenital deformity; and

(j) psychoanalytic services.

(3) For the purposes of sub-regulation (2)(c), medical devices are devices that are supplied to a patient in a qualified medical facility, supplied to a qualified medical facility, or supplied on prescription to a patient in connection with the rendition of qualified medical services, including-

- (a) a respiratory or heart monitor, dialysis machine, or feeding utensil for use by an individual with a disability;
- (b) a medical or surgical prosthesis or orthopaedic aid; and
- (c) medical or surgical equipment supplied to a qualified medical facility, or the sale or rental of that equipment to a patient or resident.

Other exemptions

14. (1) For purposes of section 19 and Schedule I of the Act, a supply by an amateur organization of sporting activities, where the activities are deemed for purposes of the Act to be non-professional and where the Commissioner-General considers them to be so, are exempt.

(2) An amateur organization of sporting activities shall be deemed to be non-professional-

- (a) where no remuneration, bonus or lump sum is paid to the players;
- (b) where a loan sought by a player from a financial institution is not guaranteed by the sporting organization with which the player is listed;
- (c) where activity, behaviour, association or relationship with the organization may not be construed by the Commissioner-General as professional-
 - (i) a sporting organization shall first apply for a value added tax exemption by the Commissioner-General in order to qualify for the exemption; and
 - (ii) the sporting organization shall submit audited accounts to the Commissioner-General within two months of its financial year end.

(2) For purposes of section 19 and Schedule 1 (r) of the Act, non-profit cultural activities and services are exempt, save that a supplier of non-profit cultural activities shall apply for value added tax exemption prior to the cultural activity and subsequently submit audited accounts and statements to the Commissioner-General, for determination by the Commissioner-General as to whether that activity is a non-profit making supplier of goods or services.

(3) A non-profit cultural activity may be a once off cultural activity or a regular activity.

(4) The annual number of cultural activities on which one organizer can be granted exemption shall not exceed twelve in one year.

(5) For purposes of section 19 of the Act and Schedule 1 (r) of the Act, a supply of goods and services in a charity arrangement is exempt if-

- (a) the Commissioner-General is satisfied that the department, body or organization making that arrangement is not masquerading as a charity organiser for purposes of tax evasion, and, if it were so discovered, that organizer commits an offence and will be held liable under the Act;

- (b) the organiser of a charitable arrangement obtains value added tax exemption from the Commissioner-General prior to the arrangement; or
 - (c) the organiser of the arrangement submits audited accounts for each arrangement on which a value added tax exemption has been granted,
- (6) The annual number of arrangements on which an organizer can be granted value added tax exemption cannot exceed twelve.

PART IV MISCELLANEOUS

Proof of export

15. (1) Where the Commissioner-General considers that there is doubt about the exportation of goods, the Commissioner-General may require any person exporting the goods to furnish the Commissioner-General within reasonable time, with a certificate signed and stamped by a competent customs authority outside Swaziland that the goods were duly landed and reported to the proper customs authority at the port or place of foreign destination, and the payment of any value added tax refund claim related to that transaction may be deferred until such a certificate has been produced and accepted as satisfactory by the Commissioner-General.

(2) Where the goods are supplied by a registered taxpayer to a person in another country and the goods are delivered by a registered taxpayer to a port of exit for exports, the goods may be invoiced at the zero rate if the registered taxpayer obtains documentary proof set out in this section.

(3) For an export to qualify for a zero rating, a registered taxpayer shall obtain and be able to show as proof of export in every export transaction-

- (a) a copy of the bill of entry or export certified by the customs authorities;
- (b) a copy of the invoice issued to the foreign purchasers with tax shown at zero rate;
- (c) evidence sufficient to satisfy the Commissioner-General that the goods have been exported, in the form of an order form, or signed contract with a foreign purchaser, or transport documentation which identifies the goods as-
 - (i) transit order or consignment note issued by the Swaziland Railways for goods exported by rail;
 - (ii) copy of an airway bill for goods exported by air; or
 - (iii) copy of a transport document for goods exported by road.

Simplified tax invoicing for retailers- abridged invoice

16. (1) A simplified tax invoice shall include the-

- (a) commercial name, address, TIN number of the person making the supply;
- (b) the date the invoice is issued;
- (c) the description of the goods;

- (d) the quantity of the goods; and
 - (e) the value of the supply and value added tax charged on the supply.
- (2) Where the Commissioner-General has authorized other methods of accounting for tax-
- (a) a registered person shall record the value and brief details of each supply as it occurs before the goods, or the customer, leave the business premises;
 - (b) a registered person shall keep a cash register, book or other suitable record at each point of sale in which shall be entered details of all cash received and cash payments made at any time they are made and at the time each day the record shall be struck;
 - (c) at the end of the day the output tax chargeable on supplies made and deductible input tax shown on the invoice in respect of the supplies received shall be recorded in the appropriate documents;
 - (d) if the value of the goods exceeds three thousand Emalangeni, the retailer is obliged to issue an ordinary tax invoice with the name of the retailer and details, and the buyer's name and address subject to Schedule 111 of the Act.

Transitional provisions

17. (1) In order to minimize double taxation resulting when both sales tax and value added tax are imposed on a taxable supply that occurs during the transition to value added tax, a person eligible for relief may be allowed to deduct qualifying paid sales tax as input tax credit or deduction in one or more tax periods after the commencement of value added tax.

(2) A registered taxpayer may be required to take a physical inventory of goods eligible for sales tax relief and submit a copy of that inventory with the return claiming the input tax.

(3) Any contract entered into before commencement of value added tax, implying either that the current tax on consumption does not tax the goods or services to be provided or the fact that the supplier is not registered under the Act at the time of the supply shall be amended to include value added tax.

(4) Where after the commencement of these Regulations, a person being registered has in stock, plant and machinery and other goods on which tax was paid prior to being registered, that person shall be entitled to claim a credit of the tax on goods which were purchased within four months before the date of registration and in the case of plant and machinery, within six months before the date of registration.

Reverse charge mechanism

18. (1) All the imported services listed in section 16(2) of the Act are covered by the reverse charge mechanism, according to which, the role to charge and remit value added tax is reversed from the foreign supplier of services to the local recipient of those services.

(2) Private individuals are subject to the reverse charge mechanism if the value of their imported services excludes a monthly threshold of Five thousand Emalangeni.

Tax on construction services

19. (1) Where a taxable supply is building and construction services, tax shall be collected at each stage of the work, when an invoice is issued or when payment is received or becomes due, whichever is the earliest, in respect of each stage completed.

(2) Where an invoice or a claim for payment by a contractor requires certification by an architect, building consultant or other person, the invoice or claim shall not be effective for tax purposes until it is certified as required, and the time of supply shall be the time of certification, and for purposes of the tax any claim or invoice under this regulation shall be certified within 30 days of the time of the invoice or claim.

(3) Where a contractor varies the cost of a contract during the course of execution, the variations to the original contract shall be deemed to include tax, and the tax shall become due and payable at the time payment is made for each stage completed.

Records to be kept by a registered person

20. (1) A registered person shall keep records and accounts of all supplies received or made by that person in the course of business, including zero-rated and exempt supplies.

(2) For purposes of accounting for input tax and output tax, a registered person shall keep-

- (a) tax accounts and records, which shall include total tax output and input tax in each period and net tax payable or the excess credit of tax refundable at the end of the tax period;
- (b) purchases records, showing details of all local purchases on which tax has been paid, imports on which tax has been paid, and of all purchases made without payment of tax including original tax invoices for all local purchases from registered suppliers, invoices for local purchases from unregistered suppliers and certified customs entries of all imports;
- (c) sales records showing exempt and taxable sales and where tax is chargeable, the rates applicable for each sale, including copies of tax invoices and receipts issued in respect of sales;
- (d) export records showing details of goods and services exported from Swaziland, including, in the case of goods, certified copies of customs export documents and evidence of exportation;
- (e) debit and credit notes issued and received;
- (f) cash records including cash books, petty cash vouchers and other accounts records showing daily takings such as till rolls or copy receipts;
- (g) computer records;
- (h) in the case of a person making exempt and taxable supplies, details of input tax calculations;
- (i) transitional relief claims and all related documents and records;
- (j) stock records showing movement of goods into or out of stock including, in the case of manufacturers, manufacturing stock records.

(3) In addition to records kept under sub-regulation (1), a registered person with a taxable turnover of five hundred thousand Emalangeni per annum shall keep the following records-

- (a) orders and delivery notes;
- (b) relevant business correspondence;
- (c) appointment and job books;
- (d) annual accounts including trading, profit and loss account and balance sheet; and
- (e) bank statements and pay-in-slips.

(4) The taxpayer shall keep records for a period of at least five years and shall be made available to the Commissioner General for audit or inspection if required.

Display of registration certificate

21. (1) A registered taxpayer shall display the registration certificate issued under the Act at a prominent place in the principal place of business of the registered taxpayer.

(2) The certificate shall show the effective date of registration.

Donor funded aid projects

22. (1) In this Regulation, "Donor funded aid projects" means projects funded by foreign donor agencies.

(2) Donor funded aid projects are exempt from value added tax.

(3) Sub-regulations (4), (5), (6), (7) and (8) shall apply to a donor agency and a contractor who is awarded donor funded projects.

(4) A person appointed by Government as responsible for the award of contracts under a donor funded project will apply to the Authority for an exemption from payment of value added tax for each donor funded project.

(5) A donor agency or the person authorised by Government for concluding financing agreements with donors and awarding contracts under a donor funded project shall submit copies of the financing agreements and contracts, and or other subsequent amendments to the contracts, as soon as possible after the award and signature of each contract to the Commissioner-General.

(6) The contractor shall issue value added tax invoices to the contracting authority with copies to the donor agency.

(7) The rate of value added tax charged on invoices shall be zero.

(8) The invoice shall refer to a specified aid-funded contract and shall include a contract title, contract number, the project number and the project under which the contract is financed and a copy of the invoice shall be attached to the contractor's monthly value added tax return.

Exempt imports

23. (1) The rebates for customs duty contained in the customs and excise tariff, under which no customs duty is payable under the Customs and Excise Act, do not apply to value added tax chargeable at importation.

(2) The following are exceptions to sub-regulation (1) and are subject to any qualifications indicated in the Customs and Excise Act-

- (a) 403.01 - importations by international organisations;
- (b) 405.04 - goods for disabled persons or for the upliftment of indigent persons;
- (c) 405.05 - goods for religious instruction or purposes;
- (d) 406.01 - goods for the personal or official use of the King and Ingwenyama and the Indlovukazi (Queen Mother);
- (e) 406.02, 406.03, 406.05, 406.06, 406.07 - goods for diplomatic and other foreign representatives;
- (f) 407.01 - personal effects, sporting and recreational equipment imported by none residents, new or used; residents will enjoy exemption only on used effects that were exported from Swaziland and are being re-imported;
- (g) 407.02 - goods imported as accompanied passengers' baggage other than personal effects, except for goods for personal use of a total value not exceeding two hundred and fifty Emalangeni per person;
- (h) 407.04 - a motor vehicle imported by a natural person on change of permanent residence;
- (i) 407.06 - household furniture, other household effects and other removable articles, including equipment necessary for the exercise of a calling, trade or profession of the person, other than industrial commercial or agricultural plant and excluding motor vehicles, alcoholic beverages and tobacco, the bona fide property of a natural person and members of his or her family, imported for own use on change of residence to Swaziland;
- (j) 412.03 - used personal or household effects (excluding motor vehicles) bequeathed to persons residing in Swaziland;
- (k) 412.04 - used property of a person normally resident in Swaziland who died while temporarily outside Swaziland;
- (l) 412.07 - goods unconditionally abandoned to the Commissioner- General by the owner of the goods or goods destroyed with the permission of the Commissioner-General (provided that the Commissioner- General may decline to accept abandonment or grant permission for destruction);
- (m) 412.10 - *bona fide* unsolicited gifts of not more than two parcels per person per calendar year and, of which, the value per parcel does not exceed four hundred Emalangeni (excluding goods contained in passengers' baggage, wine, spirits and manufactured tobacco) consigned by natural persons abroad to natural persons in Swaziland;

(n) 412.11 - goods imported-

- (i) for the relief or distress of persons in case of famine or other national disaster;
 - (ii) under any technical assistance agreement; or
 - (iii) in terms of any obligation under any multilateral international agreement to which Swaziland is a party;
- (o) 412.12 - goods imported for any purpose agreed upon between the Governments of Swaziland, Botswana, Lesotho, Namibia and South Africa;
- (p) 412.26 - goods (excluding goods for upgrading) supplied free of charge to replace defective goods which are covered by a warranty agreement;
- (q) 470.01, 470.02 - goods temporarily admitted for processing, repair, cleaning or reconditioning;
- (r) 480.05, 480.10, 480.15, 480.25, 480.30, 480.35 - goods temporarily admitted for specific purposes; and
- (s) 490.03, 490.10, 490.11, 490.12, 490.13, 490.14, 490.15, 490.20, 490.25, 490.35, 490.40, 490.50, 490.90 - goods temporarily admitted subject to exportation in the same state.

(3) The exceptions under sub-regulation (2) shall only apply if the conditions of the rebate for customs duty, contained in the customs and excise Tariff, are met.

MAJOZI V. SITHOLE
MINISTER OF FINANCE