L.N. 5 of 1999

VALUE ADDED TAX ACT, 1998
(ACT NO. XXIII OF 1998)

Value Added Tax (Refund of Excise Tax on Trading Stock) Regulations, 1999

IN exercise of the powers conferred by sections 75 and 90 of the Value Added Tax Act, 1998, hereinafter referred to as "the Act", the Minister of Finance has made the following regulations:-

Citation and commencement.

1. (1) These regulations may be cited as the Value Added Tax (Refund of Excise Tax on Trading Stock) Regulations, 1999.

(2) These regulations shall be deemed to have come into force on the 1st January, 1999.

Interpretation.

2. (1) In these regulations unless the context otherwise requires –

"excise tax" means excise tax on imports or excise tax on products paid or payable in terms of the Customs and Excise Tax Act, 1997; Act XII of 1997.

"registered person" means a person who is registered in terms of the Act but shall not include a registered person who is classified as an exempt person or who is so classified up to the 30 June, 1999;

"trading stock" means stock held for resale by a registered person as on the 31 December, 1998 but shall not include stock on which no excise tax has been paid.

(2) Other terms and expressions shall have the meaning assigned to them in the Act.

Application for refund.

3. (1) Subject to the other provisions of these regulations, a registered person may make an application for a refund of excise tax to be determined in accordance with the other provisions of these regulations.

(2) An application for the purpose of these regulations must reach the office of the Commissioner, in the case of a registered person who avails himself of the option referred to in regulation 4, 5, 6, 7, or 8 of these regulations, by not later than 12 noon of the 30 June, 1999,

and in the case of a registered person who avails himself of the option referred to in regulation 9 of these regulations, by not later than 12 noon of the 30 March, 1999.

(3) An application by a registered person who avails himself of the option referred to in regulation 4, 5, 6, 7 or 8 of these regulations shall be made on the form prescribed in the First Schedule to these regulations.

(4) An application by a registered person who avails himself of the option referred to in regulation 9 of these regulations shall be made on the form prescribed in the Second Schedule to these regulations.

Contents of application.

4. (1) The application referred to in paragraph (3) of regulation 3 of these regulations shall include an itemised list of the goods held as trading stock by the applicant as on 31 December, 1998 and shall show the cost at which the applicant had acquired the said goods. Such goods shall be classified by category showing:

(a) Category A - goods on which excise tax on imports at the rate of 15% has been paid;

(b) Category B - goods on which excise tax on imports at the rate of 15% and excise tax on products at the rate of 5% has been paid;

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(c) Category C - goods which were subject to a levy under the Local Manufacturers (Promotion) Act, and on which only excise tax on products at the rate of 5% has been paid;

(d) Category D - locally manufactured goods on which only excise tax on products at the rate of 5% has been paid;

(e) Category E - locally manufactured goods on which excise tax on imports at the rate of 15% and excise tax on products at the rate of 5% has been paid;

(f) Category F - goods exempt from excise tax.

(2) It shall also:

(a) include trading stock belonging to the applicant and held on consignment by another person;

(b) not include, subject to the provisions of subparagraph (c) of this paragraph, trading stock held on consignment by the applicant and belonging to another person;

(c) include goods held on consignment by the applicant if they form part of the trading stock belonging to a person who does not have a place of business in Malta and if the goods are imported goods on which the applicant paid excise tax on imports.

Imported goods on which excise tax on imports has been paid.

5. This regulation shall apply in the case of imported goods on which excise tax on imports at the rate of 15% has been paid:

(a) where the applicant is an importer, such refund shall be at the rate of 15% of the invoice cost of the taxable goods paid on the importation of those goods by that importer, inclusive of the cost of freight and insurance, but excluding the excise tax on imports paid thereon;

(b) where the applicant is a wholesaler, such refund shall be at the rate of 11% of the invoice cost, exclusive of the excise tax on products paid thereon;

(c) where the applicant is a retailer, such refund shall be at the rate of 15% of the invoice cost, exclusive of the excise tax on products paid thereon.

Goods subject to levy in terms of the Local Manufacturers (Promotion) Act.

6. Where the applicant is a retailer and the trading stock on which refund is being claimed were subject to a levy in terms of the Local Manufacturers (Promotion) Act, and were therefore exempt from excise tax on imports, but on which excise tax on products at the rate of 5% has been paid, such refund shall be at the rate of 5% of the invoice cost, exclusive of the excise tax on products paid thereon.

Where applicant is a manufacturer.

7. Where the applicant is a manufacturer producing goods for the local market, and the trading stock consists of:

(a) goods directly imported by such manufacturer and on which excise tax on imports has been paid at the rate of 15%, including such goods incorporated in work in progress but excluding such goods as are incorporated in finished goods, such refund shall be at the rate of 15% of the invoice cost of the taxable goods paid on the importation of those goods, inclusive of the cost of freight and insurance, but excluding the excise tax on imports paid thereon;

(b) imported goods which were subject to excise tax on imports at the rate of 15% but which were purchased locally from

third parties, including such goods incorporated in work in progress but excluding such goods as are incorporated in finished goods, such refund shall be at the rate of 12% of the invoice cost, but exclusive of excise tax on products paid thereon.

Trading stock of locally manufactured goods held by a retailer.

8. Where the applicant is a retailer and the trading stock consists of locally manufactured goods:

(a) consisting of raw materials on which no excise tax on imports had been paid, such refund shall be at the rate of 5% of the invoice cost, but exclusive of excise tax on products paid thereon;

(b) consisting mainly or wholly of raw materials on which excise tax on imports has been paid, such refund shall be at the rate of 10% of the invoice cost, but exclusive of excise tax on products paid thereon.

Registered person's option.

9. Where a registered person so opts, he may, in lieu of the provisions of regulations 4, 5, 6, 7 and 8 of these regulations, apply for a refund of the excise tax on trading stock by computing such refund in the following manner:

(a) where the registered person is an importer, at the rate of 85% of the value of input tax refunded by that registered person in terms of the provisions of section 78 of the Customs and Excise Tax Act, 1997;

(b) where the registered person is a wholesaler, at the rate of 50% of the value of input tax refunded by that registered person in terms of the provisions of section 78 of the Customs and Excise Tax Act, 1997;

(c) where the registered person is a retailer, at the rate of 100% of the value of input tax refunded by that registered person in terms of the provisions of section 78 of the Customs and Excise Tax Act, 1997;

(d) where the registered person is a manufacturer, at the rate of 75% of the value of input tax refunded by that registered person in terms of the provisions of section 78 of the Customs and Excise Tax Act, 1997.

Refund to be effected within specified dates.

10. Where a valid application for a refund in terms of these regulations has been received by the Commissioner, such refund shall be effected:

(a) in the case of an application to which regulation 4, 5, 6, 7, or 8 of these regulations refers, by not later than three months from the end of the month during which such application was received by the Commissioner:

(b) in the case of an application to which regulation 9 of these regulations refers, within fifteen working days from the date on which such application was received by the Commissioner, but in any case not earlier than the 1 April, 1999:

Provided that in the case of a registered person who is eligible to be classified as an exempt person but does not apply to the Commissioner to be so classified, such refund shall not be effected earlier than 1 July, 1999.

Set off.

11. Where a registered person is a debtor to Government in terms of the Value Added Tax Act, 1994, in terms of the Customs and Excise Tax Act, 1997, or in terms of this Act, or where such person has failed to furnish a tax return in terms of any of the abovementioned Acts, the Commissioner may set off such debts against any refund due in terms of these regulations.

Act XII of 1994.

Interest.

12. Interest at the rate of 1% per month or part thereof shall be due by the Commissioner to a person to whom a refund is due in accordance with these regulations, from the date when the refund becomes payable until the date when it is paid or when a cheque or draft for the payment thereof is given or posted to that person by the Commissioner.

Signatures and certifications.

13. An application to which paragraph (3) of regulation 3 of these regulations refers:

(a) shall be signed, on every sheet thereof, by the registered person, or, in the case of a body of persons, by a principal officer of that body of persons and by the person responsible for the accounting functions of the business of the applicant;

(b) shall be certified by a certified public accountant and auditor in the manner specified in the First Schedule to these regulations, where the amount claimed as refund in such application exceeds five thousand liri.

Authorisation by applicant to the Commissioner of Inland Revenue.

14. Every application to which regulation 3 of these regulations refers, shall be accompanied by an authorisation signed by the applicant authorising the Commissioner of Inland Revenue to furnish any information in his possession relating to information declared or required to be declared in such application which the Commissioner of Value Added Tax may request for the purpose of verifying the said information.

Commissioner may request further information.

15. The Commissioner may request any applicant to give such information or clarification and to produce such import documents, purchase invoices, accounts and other records relating to the trading stock of that applicant, and may carry out such investigations as he may deem necessary for the purpose of determining or verifying the correctness or otherwise of the amount due or paid as a refund to that applicant in accordance with these regulations.

Revision of refund.

16. (1) Notwithstanding the other provisions of these regulations, where it results to the Commissioner at any time that any amount claimed as refund or paid by the Commissioner in accordance with these regulations has not been properly computed or that it was computed on the basis of incorrect information, the Commissioner may revise the amount and, subject to the provisions of paragraph (2) of this regulation, any amount which results to have been excessively paid by the Commissioner shall be repayable by the applicant to the Commissioner within thirty days from the date he is served with a notice by the Commissioner requesting the said repayment.

(2) Where the revision is occasioned by information which results to have been grossly misreported, the relative application for a refund shall be treated as having been invalidly made, and no refund shall be due to the applicant, and any amount paid by the Commissioner shall be repaid by the applicant to the Commissioner in full and immediately upon a demand by the Commissioner.

(3) Any person signing or certifying any application which results to be invalid in terms of paragraph (2) of this regulation shall be jointly and severally liable with the applicant for the repayment due by the applicant, unless such person proves that he was not aware and could not have been reasonably expected to be aware of such misreporting.

(4) Where any false or incorrect statement or claim constitutes an offence under the Act or under any other law, the liability to a repayment in terms of this regulation shall be without prejudice to any liability for any penalty which may be imposed for the said offence.

Validity of application for refund.

17. An application for refund in terms of these regulations shall not be deemed to have been submitted unless it is full and complete in all material respects, including the signatures required to be appended thereon in terms of these regulations.

FIRST SCHEDULE

Dipartiment tat-Taxxa fuq il-Valur Miżjud
Value Added Tax Department

Applikazzjoni ghal Hlas Lura tat-Taxxa tas-Sisa fuq Ħażniet Kummerċjali

Application for Refund of Excise Tax on Trading Stocks

skond l-artikolu 90 ta' l-Att ta' 1998 dwar it-Taxxa fuq il Valur Miżjud

in terms of section 90 of the Value Added Tax Act of 1998

Isem tan-Negozju: _____ Indirizz tan-Negozju: _____

Business Name: _____ *Business Address:* _____

VAT No: _____

Tel No: _____

Applikant *Applicant*	Kategorija *Category*	Valur *Value* Lm	Rata *Rate*	Talba *Claim* Lm
Importatur *Importer*	A		15%	
	F		NIL	NIL
Grossista *Wholesaler*	A		11%	
	F		NIL	NIL
Bejjiegh bl-Imnut *Retailer*	A		15%	
	C		5%	
	D		5%	
	E		10%	
	F		NIL	NIL
Manifattur *Manufacturer*	A		15%	
	B		12%	
	F		NIL	NIL
			Total:	

Dikjarazzjoni mill-Applikant / Direttur / Segretarju
Declaration by Applicant / Director / Secretary

Niddikjara li l-informazzjoni mogħtija hija sħiħa u korretta.
I declare that the above information is complete and correct. I also
Nawtorizza wkoll lill-Kummissarju tat-Taxxi Interni biex jagħti
authorise the Commissioner of Inland Revenue to furnish any
kull informazzjoni lill-Kummissarju tat-Taxxa fuq il-Valur
information to the Commissioner of VAT regarding this claim
Miżjud, rigward din it-talba.

Firma/*Signature*: _____

Isem/*Name*: _____

I.D. Card No: _____

Data/*Date*: _____

Dikjarazzjoni minn *Certified Public Accountant*
Declaration by Certified Public Accountant

Wara li għamilt il-verifikazzjonijiet xierqa, niċċertifika
Having made all reasonable verifications I certify that to
li sa fejn nista' nara jien, l-applikazzjoni suret skond
the best of my knowledge the application has been made
ir Regolamenti tal-1999 dwar Hlas Lura ta' Taxxa
and drawn up in accordance with the Value Added Tax (Refund
ta' Sisa fuq Ħażniet Kummerċjali maħruġa skond l-Att
of Excise Tax on Trading Stocks) Regulations 1999 in terms of VAT
tal-1998, dwar it-Taxxa fuq il Valur Miżjud u li
Act of 1998 and the information contained in the application
l-informazzjoni mogħtija fl-applikazzjoni u
and in the accompanying statements is correct.
fid-dikjarazzjonijiet meħmuża magħha hija korretta.

Firma/*Signature*: _____

Isem/*Name*: _____

Warrant No: _____

Data/*Date*: _____

Office Use Only

Application received on _____ Checking carried out _____

Supporting documents required Yes ___ No ___ Further information required Yes ___ No ___

Signature _____ Date _____

VAT Form 031/99

B 40

Dipartiment tat-Taxxa fuq il-Valur Miżjud

Value Added Tax Department

Applikazzjoni għal Ħlas Lura tat-Taxxa tas-Sisa fuq Ħażniet Kummerċjali

Application for Refund of Excise Tax on Trading Stocks

skond l-artikolu 90 ta' l-Att ta' 1998 dwar it-Taxxa fuq il-Valur Miżjud

in terms of section 90 of the Value Added Tax Act of 1998

Isem tan-Negozju: ______________________ **Indirizz tan-Negozju:** ______________________

Business Name: ______________________ *Business Address:* ______________________

VAT No: ______________________ ______________________

Tel No: ______________________ ______________________

Dettalji dwar ħażniet kummerċjali miżmuma fil-31 ta' Diċembru, 1998

Stock Details as at 31st December, 1998

Deskrizzjoni *Description*	**Kwantita'** *Quantity*	**Valur** *Value*	**Kategorija** *Category*	**Rata** *Rate*	**Talba** *Claim*

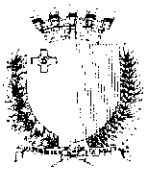
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Office Use Only

Totals Checked: ______________ Signature: ______________ Date: / /

Name ______________

SECOND SCHEDULE



DIPARTIMENT TAT-TAXXA FUQ IL-VALUR MIŻJUD
VALUE ADDED TAX DEPARTMENT
Applikazzjoni għal ħlas lura tat-Taxxa tas-Sisa fuq Ħażniet Kummerċjali skond artikolu 90 ta' l-Att ta' 1998 dwar it-Taxxa fuq il-Valur Miżjud.
Application for refund of Excise Tax on Trading Stock in terms of section 90 of the Value Added Tax Act, 1998.

Isem tan-Negozju
Business Name _____

Indirizz tan-Negozju
Business Address _____

VAT No. __ __ __ - __ __ __

Telephone No. _____

Fax No. _____

Tip Ta' Negozju *Type of Business*	Rata ta' Ħlas Lura *Rate of Refund*	Valur ta' '*input tax*' imħallas lill-Gvern skond l-Att ta' l-1997 dwar it-Taxxa tad-Dwana u tas-Sisa *Value of input tax refunded to Government in terms of the CET Act 1997*	Valur ta' Ħlas lura mitlub *Value of Refund claimed*
☐ **Importatur** *Importer*	85%		
☐ **Bejjiegħ bl-ingrossa** *Wholesaler*	50%		
☐ **Bejjiegħ bl-imnut** *Retailer*	100%		
☐ **Manifattur** *Manufacturer*	75%		

Nota - Persuni reġistrati li għandhom ħażniet kummerċjali taxxabbli jistgħu japplikaw biss taħt waħda mill-klassifiki msemmija fuq.
Note - Registered persons who hold taxable trading stock should apply under only one of the above classifications.

Dikjarazzjoni:
Declaration:

Jiena, _____ **niddikjara li d-dettalji u l-informazzjoni kollha huma korretti u shaħ u**
I, _____ *declare that all the details entered above are correct and complete and*

nawtorizza lill-Kummissarju tat-Taxxi Interni jagħti kull informazzjoni lill-Kummissarju
authorise the Commissioner of Inland Revenue to furnish any information to the Commissioner

tat-Taxxa Fuq il-Valur Miżjud rigward din it-talba.
of Value Added Tax regarding this claim.

Firma ta' l-applikant
Applicant's signature _____

Firma tal-uffiċjal li jżomm il-kotba tan-negozju
Accounts-keeper's signature _____

Nru tal-I.D. *I.D. Card No.* _____

Għall-użu tal-Uffiċċju
For Office Use

Application received on _____

Checking carried out ☐

Supporting documents required *Yes* ☐ *No* ☐

Further information required *Yes* ☐ *No* ☐

Signature _____

Date _____