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L.N. 112 of 2012

VALUE ADDED TAX ACT
(CAP. 406)

Value Added Tax (Remittance of Interest and Administrative Penalties incurred under the Value Added Tax Act, 1998, the Customs and Excise Tax Act and the Value Added Tax Act, 1994) (Amendment) Regulations, 2012

IN exercise of the powers conferred by articles 21, 42 and 75 of the Value Added Tax Act, the Minister of Finance, the Economy and Investment has made the following regulations:-

Citation and commencement.

1. (1) The title of these regulations is the Value Added Tax (Remittance of Interest and Administrative Penalties incurred under the Value Added Tax Act, 1998, the Customs and Excise Tax Act and the Value Added Tax Act, 1994) (Amendment) Regulations, 2012, and these regulations shall be read and construed as one with the Value Added Tax (Remittance of Interest and Administrative Penalties incurred under the Value Added Tax Act, 1998, the Customs and Excise Tax Act and the Value Added Tax Act, 1994) Regulations, hereinafter referred to as "the principal regulations".

S.L. 406.18

(2) These regulations shall be deemed to have come into force on 16th March, 2011.

Substitutes Annex A to the principal regulations.

2. Annex A of the principal regulations shall be substituted by the following:

"ANNEX A

Conditions and procedures for the Remittance of Interests and Administrative Penalties incurred under the Acts

1. The following Conditions and Procedures shall apply to arrears of tax, interest and administrative penalties that are due by a registered person under any of the Acts as at 15 October 2011.

2. For the purposes of paragraph 3 of this Annex:

(a) the "total outstanding balance due" is the total balance of tax, interest and administrative penalties due under each of the Acts separately for the tax periods whose returns were due to be sent by the 15th October, 2011;

(b) the "total interest and administrative penalties accrued" is the total interest and administrative penalties

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accrued under each of the Acts separately for the tax periods whose returns were due to be sent by the 15th October, 2011, less any administrative penalties and interest which were reduced by any other scheme or adjustment.

3. The "interest and penalties amount", on which the remittance referred to in paragraph 5 of this Annex shall apply, shall be computed as follows:

(a) if the "total outstanding balance due" is equal to or greater than the "total amount of interest and administrative penalties accrued" then the amount, on which the remittance at paragraph 5 of this Annex shall apply, shall be the "total amount of interest and administrative penalties accrued";

(b) if the "total outstanding balance due" is less than the "total amount of interest and administrative penalties accrued" then the amount on which the remittance at paragraph 5 of this Annex shall apply shall be the "total outstanding balance due":

Provided that, for the purposes of computing the remittance in terms of paragraphs 6 and 8 of this Annex, sub-paragraphs (a) and (b) shall not apply.

4. A person registered under any of the Acts shall qualify for the remittance in accordance with this Annex if:

(a) arrears are due in accordance with paragraph 1 of this Annex;

(b) all tax returns which were not submitted and which were due to be furnished by the 15 October 2011 are furnished by not later than the 15 April 2012;

(c) all tax returns due on the 15 November 2011 and on the dates on which subsequent returns fall due after this date are furnished by due date, accompanied by full payment of the amount declared in the respective returns:

Provided that a registered person shall remain eligible for remittance under the scheme where a tax return due by 15 November 2011, 15 December 2011, 15 January 2012, 15 February 2012, 15 March 2012 or 15 April 2012 is furnished, with full payment if any, by not later than 15 April 2012, in which case the applicable date for the purposes of paragraph 1 of this Annex shall be deemed to be the due date of the last furnished tax return;

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(d) payments to the Commissioner are effected under the applicable conditions as prescribed in this Annex; and

(e) any pending appeal before the Appeals Board, the Administrative Review Tribunal or the Court of Appeal is withdrawn by not later than 15 April 2012.

5. Each remittance shall be made on the merits of each case and, except where otherwise applicable in this Annex, shall be subject to the following:

(a) where a person pays the resultant balance of tax, interest and penalties by not later than the 15 March 2012 or 31 May 2012 as extended, the interest and penalties amount defined at paragraph 3 of this Annex shall be remitted by 80%;

(b) where a person pays the resultant balance of tax, interest and penalties by not later than the 15 May 2012 or 31 July 2012 as extended, the interest and penalties amount defined at paragraph 3 of this Annex shall be remitted by 70% provided that a down payment of 30% of the resultant balance of tax, interest and penalties is made by not later than the 15 March 2012 or 31 May 2012 as extended and the rest is paid in equal instalments for each remaining month;

(c) where a person pays the resultant balance of tax, interest and penalties by not later than the 15 August 2012 or 31 October 2012 as extended, the interest and penalties amount defined at paragraph 3 of this Annex shall be remitted by 60% provided that a down payment of 30% of the resultant balance of tax, interest and penalties is made by not later than the 15 March 2012 or 31 May 2012 as extended and the rest is paid in equal instalments for each remaining month;

(d) where a person pays the resultant balance of tax, interest and penalties by not later than the 15 February 2013 or 30 April 2013 as extended, the interest and penalties amount defined at paragraph 3 of this Annex shall be remitted by 50% provided that a down payment of 30% of the resultant balance of tax, interest and penalties is made by not later than the 15 March 2012 or 31 May 2012 as extended and the rest is paid in equal instalments for each remaining month.

Any person who by 15 March 2012 made a payment in accordance with sub-paragraphs (b), (c) or (d) may make an additional payment by the extended date of 31 May 2012 to gain further remittance by reverting to another payment plan.

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6. Notwithstanding the provisions of paragraph 5 of this Annex, the resultant balance of tax, interest and penalties where applicable incurred under the Value Added Tax Act, 1994, and the Customs and Excise Tax Act shall be determined in accordance with the said paragraph 5 except for penalties which shall be payable at fifty euro (€50) per default:

Provided that, where the amount payable by the registered person after applying the remittance under paragraph 5 is less than as determined above, then the remittance as determined under paragraph 5 shall apply.

7. In addition, all interest and administrative penalties that would accrue during the time of payment of the arrears will also be remitted provided that the person furnishes in time by the due date, together with the respective return payment, any tax return that falls due after the date stipulated in paragraph 1 of this Annex.

8. Where a person was due to submit a declaration under article 11 or article 12 of the Value Added Tax Act, 1998, the administrative penalty shall be reduced to ten euro (€10) in respect of each default, provided that all pending declarations are submitted by not later than the 15 April 2012:

Provided that where a person registered under article 12 has a resultant balance of tax, interest and penalties that stand to be remitted in accordance with sub-paragraphs (b), (c) and (d) of paragraph 5 of this Annex, the penalties shall be calculated at ten euro (€10) in respect of each default.

9. The Commissioner shall reserve the right to withdraw any arrangement concerning the remittance of any interest and penalties in the event that:

(a) the registered person fails to pay in time at least any two instalments as prescribed unless there is a reasonable excuse;

(b) the registered person wishing to benefit from the arrangement has been convicted of any offence under article 77 of the Value Added Tax Act, 1998 (excluding minor convictions or non-issuance of fiscal receipts), or has been convicted of a criminal offence under any other law pursuant to VAT evasion or fraud;

(c) it is considered that such remittance could lead to unjustified gain contrary to or in excess of the purposes of the

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Acts or the avoidance of compliance with a judgement or order of a competent Court by any person who enters such arrangements.

10. No remittance shall have effect in the account of the registered person unless and before the person effects the final payment, as agreed, to the satisfaction of the Commissioner.".

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