

L.N. 101 of 1994

**VALUE ADDED TAX ACT, 1994
(ACT NO.XII OF 1994)**

Value Added Tax (Deductions) Regulations, 1994

IN EXERCISE of the powers conferred by subsections (2) and (3) of section 25 and sections 28 and 61 of the Value Added Tax Act, 1994 hereinafter referred to as "the Act", the Minister of Finance has made the following regulations:—

1. (1) These regulations may be cited as the Value Added Tax (Deductions) Regulations, 1994. Citation and commencement.

(2) These regulations shall come into force on the 1st January, 1995.

2. Terms used in these regulations shall, unless the context otherwise requires, have the meaning assigned to them in the Act. Interpretation.

3. (1) No amount shall be treated as input tax of a person unless that person is a registered person at the time when that tax becomes chargeable. Eligibility for credit for input tax.

(2) For the purposes of paragraph (1) of this regulation, when a registration of a person made on a date is made effective as from an earlier date, that person shall be treated as a registered person as from the said earlier date.

(3) Except as the Commissioner may otherwise allow no credit for input tax for a tax period shall be allowed to a person unless a claim is made in the appropriate part on the form of the tax return delivered for that period.

4. (1) Subject to the other provisions of this regulation, where a company proves to the satisfaction of the Commissioner that tax was paid or payable on the supply or importation of goods made to or by a person for that company or on the supply of services supplied to a person for the benefit of the company or for the purpose of its formation and registration, the Commissioner may treat such tax as part of the input tax of that company for its first tax period. Input tax incurred before registration of a company.

(2) No account shall be taken of any supply or importation which took place earlier than six months before the registration of that company.

(3) This regulation shall not apply to a supply or importation made to or by a person —

(i) who was, at the time of the supply or importation, a taxable person;

(ii) who did not become a member, director or secretary of that company;

(iii) unless that person was reimbursed or received an undertaking to be reimbursed by the company for the whole amount of the price paid for the goods or services;

(iv) unless that person acquired the goods or services for the purpose of an economic activity to be carried on by that company and has not used them for any purpose other than for that economic activity.

(4) Save as the Commissioner may otherwise allow, a claim for the application of this regulation shall be made by a company by not later than the date on which it furnishes the tax return for its first tax period and shall be supported by such documents and evidence as the Commissioner may deem necessary.

Evidence of
input tax.

5. (1) No amount shall be treated as input tax of a person unless that person proves that the tax was chargeable on supplies of goods and services or importations of goods which have been or which will be used by him in the course or furtherance of his economic activity.

(2) Except as the Commissioner may otherwise allow, no amount shall be treated as input tax of a person unless:

(a) it is supported by a tax invoice or by a document of importation indicating the tax paid on that importation, held, in each case, by that person and produced, if requested, to the Commissioner;

(b) it is properly accounted for in the records held by that person for the purposes of the Act.

Tax which is
not to be treated
as input tax.

6. (1) Subject to paragraph (2) of this regulation, no amount shall be treated as input tax of a person to the extent to which it represents tax chargeable on:

(a) the supply to that person or importation by that person of:

(i) tobacco or tobacco products;

(ii) alcoholic beverages;

(iii) works of art and antiques;

(iv) motor vehicles, vessels or aircraft;

(v) energy products, including electricity, gas, kerosene, petrol and diesel;

(vi) cable telephony services;

(vii) goods and services for the purpose of repairing, maintaining and keeping any item to which item (iv) of this sub-paragraph applies;

(b) the supply of any goods and services used in the provision by that person of receptions, entertainment or hospitality except where the said provision is made for a consideration in the normal course of that person's economic activity;

(c) the supply of any goods and services used in the provision by that person to his employees or, in the case of a body of persons, to its officers or employees, of transport or entertainment: provided that this provision shall not apply to transport provided by that person to his employees on vehicles with a seating capacity of not less than seven.

(2) The provisions of items (i) to (v) of sub-paragraph (a) of paragraph (1) of this regulation shall not apply to:

(a) goods acquired by a person for the purpose of resale, whether in the state in which they were acquired or after treatment or processing or inclusion in other goods supplied by that person, in the normal course of that person's economic activity;

(b) motor vehicles, vessels or aircraft acquired by a person and used by him for the purpose of the carriage of goods or passengers for a consideration;

(c) vessels and aircraft acquired by a person for the purpose of being provided by him under a charter or hire agreement;

(d) motor vehicles acquired by a person for the purpose of being provided by him for hire with a driver or for self-drive hire, or of being used for driving instructions, provided they are so used, in each case, in the normal course of that person's economic activity;

(e) motor vehicles with a seating capacity of one or exceeding nine or which are not normally suitable for the carriage of passengers.

(3) In this regulation, "works of art" means —

(a) paintings, drawings and pastels executed by hand, other than hand-painted or hand-decorated manufactured articles;

(b) original engravings, prints and lithographs;

(c) original sculptures and statuary, in any material;

(d) antiques of an age exceeding one hundred years;

(e) collections and collectors' pieces of zoological, botanical, mineralogical, anatomical, historical, archaeological, paleontological and ethnographic interest.

Tax partially
treated as
input tax.

7. Where any goods or services are or will be used but not wholly used in the course or furtherance of an economic activity there shall be treated as input tax such proportion of the tax chargeable on the supplies or importations in question as the Commissioner may consider reasonable taking into account the proportion of the use of those goods or services in the course or furtherance of the economic activity to their total use.

Attribution of
input tax.

8. (1) Any input tax for a tax period which is exclusively attributable to supplies referred to in subsection (1) of section 25 of the Act shall be allowed as a credit for that period.

(2) Any input tax which is exclusively attributable to supplies other than those referred to in paragraph (1) of this regulation shall not be allowed as a credit.

(3) Any input tax for a tax period which is attributable both to supplies referred to in subsection (1) of section 25 of the Act and also to other supplies shall be partially allowed as a credit for that tax period, which portion shall be determined in accordance with regulation 9 or 10 of these regulations.

Partial attribution.

9. (1) Subject to the other provisions of these regulations, the portion of the input tax allowable as a credit for a tax period in accordance with paragraph (3) of regulation 8 of these regulations, shall be equivalent to such proportion of the said input tax as corresponds to the proportion which the value of the said supplies referred to in subsection (1) of section 25 of the Act, made during that tax period bears to the value of all the supplies made during that period.

(2) For the purposes of paragraph (1) of this regulation:

(a) the value of exempt supplies shall be determined in the manner applicable for the determination of the taxable value of taxable supplies;

(b) there shall be excluded from the value of the supplies made by that person during that period —

(i) the value of any supply of capital goods;

(ii) the value of any supply which under or by virtue of any provision of the Act that person makes to himself;

(iii) the value of any supply which is not made by a taxable person acting as such;

(iv) the value of any supply deemed to have been made by that person in terms of section 10 of the Act.

(3) The Commissioner may make such adjustments to the values to be taken into account for the purpose of an apportionment to which this regulation applies as to him may seem reasonable for the purpose of excluding distortions on account of seasonal, extraordinary, occasional or incidental supplies.

10. (1) Where the supplies made during a tax period do not include any supplies referred to in subsection (1) of section 25 of the Act and where a partial credit for input tax for that period is due to be made, were it not for the provisions of paragraph (1) of regulation 9, in virtue of paragraph (3) of regulation 8 of these regulations, the Commissioner may allow as a credit such portion of the input tax for that period as to him may seem reasonable, and may, in allowing such credit, impose such conditions and require such security as he may deem appropriate.

Alternative
methods of
partial
attribution.

(2) Where it is shown to the satisfaction of the Commissioner that the method of attributing input tax laid down in regulation 9 of these regulations does not give a fair and reasonable result, he may allow a registered person to adopt such other method as the Commissioner may approve.

(3) In giving an approval in terms of paragraph (2) of this regulation the Commissioner may —

(a) require that the same method shall continue to be used for such period he may specify;

(b) impose such other conditions and require such security as he deems appropriate.

11. (1) Within six months from the end of any calendar year the Commissioner may by notice in writing require or allow a registered person to whom a partial credit for input tax has been allowed for any tax period ending during the said year to make an adjustment to the total credits for input tax allowed for the tax periods ending during the said year, which adjustment shall consist of the difference between the total credits allowed as aforesaid and the credit resulting from an attribution based on annual results.

Adjustment of
partial attribution.

(2) The credit resulting from an attribution based on annual results means a proportion of the total input tax for the tax periods ending in the calendar year in question.

(3) The provisions of paragraphs (1) and (2) of regulation 9 and paragraph (2) of regulation 10 of these regulations shall apply for the purpose of an apportionment to which this regulation applies provided that references in the said paragraphs to a tax period shall be construed as references to the tax periods ending in the said year.

(4) The adjustment requested or allowed by means of a notice served on a registered person in accordance with paragraph (1) of this regulation shall be treated for all purposes of the Act as a further credit for input tax, or as a further liability for output tax, as the case may be, for the tax period immediately following that during which that notice is served on that person, and shall be reported on the relative return and accounted for accordingly.

12. (1) A fraction resulting from any computation made in accordance with these regulations shall be rounded up to the nearest lira.

Rounding up.

(2) Where the amount of input tax which results to be not allowable as a credit pursuant to an apportionment made in accordance with regulations 9, 10 or 11 of these regulations is less than Lm10 multiplied by the number of months or part thereof included in the tax period or periods to which that apportionment relates that amount shall, notwithstanding the other provisions of these regulations, be treated these as allowable as a credit for input tax.

Bad debt relief.

13. (1) Where a registered person shows to the satisfaction of the Commissioner that an amount due to him as consideration for a supply made to another person has, during a tax period, become bad and that output tax has been paid or is payable by the said registered person in respect of that supply, that registered person may claim the amount of the said output tax to be allowed as a deduction in addition to any other deduction allowable to him in accordance with the other provisions of these regulations for that tax period or for such subsequent tax period as the Commissioner may allow.

(2) A claim for a deduction in respect of a bad debt shall be subject to such directives as the Commissioner may give as to the circumstances in which it may be made and the documents or other evidence that should be produced.

(3) The recovery of a bad debt in respect of which a deduction has been allowed in terms of this paragraph or of a part of such a debt shall, to the extent of the amount recovered, be treated as a taxable supply taking place at the time the said debt or part thereof is paid and shall be accounted for accordingly by the person to whom the deduction has been so allowed.