



Seychelles Revenue Commission

VAT Manual

2013

TABLE OF CONTENTS

Definitions	2
Chapter 1: Introduction	3
1. What is VAT	3
2. How does VAT work	3
3. How is VAT collected	5
Chapter 2: Scope of VAT "taxable operations"	6
1. Taxable supplies	6
2. Taxable persons	8
3. VAT rates	9
Chapter 3: VAT Computation	11
1. The output tax	11
2. The input tax	15
3. VAT Liability Computation	19
4. Refunds	22
Chapter 4: Importation	23
1. Principles	23
2. Issues	23
Chapter 5: Exempt supplies	27
1. Principles	27
2. Issues	27
Chapter 6: Place of Supply	29
1. Principles	29
2. Issues	33
Chapter 7: Time of Supply	37
1. Principles	37
2. Issues	38
Chapter 8: Taxpayers rights and obligations	40
1. Registration	41
2. VAT documentation	43
3. Filing a VAT return	45
4. Remitting VAT	47
5. Offences and penalties	48
6. Audit	50
7. Collection Enforcement	55
8. Disputes and Arbitration	58
Chapter 9: Transitional issues	60
1. Identification of existing business for VAT purposes	60
2. Deduction of GST input credit	60
3. Transitional rules to avoid double or non taxation	61
ANNEXES	64
APPENDIX	66

DEFINITIONS

Enterprise	An enterprise is an activity, whether of a business, trade, commerce, manufacture, profession, vocation, or occupation, carried on continuously or regularly by an independent person, whether for monetary profit or not, if the activity involves or is intended to involve the supply of goods or services to another person, including a business, trade, commerce, manufacture, profession, vocation or occupation of any kind.
	However an enterprise does not include an employment, hobby or leisure activity of a person or a member or an associate of the person.
Goods	Immovable or tangible movable property, including animals but does not include money.
Minor operating equipment	Minor operating equipment means articles and materials used in course of the business which has a CIF value of less than SR 100,000 or a useful life expectancy of less than 2 years but does not include office supplies.”
Outside Seychelles	More than 13 nautical miles from the Seychelles coastline at low water.
Person	Is an individual, entity, partnership, trust, estate, government body, or public international organization.
Registered business	A business registered compulsorily or voluntarily for VAT
Services	Anything that is not goods or money.
Seychelles territory	As defined under Article 2 of the Constitution of Seychelles
Supplies:	Supplies of goods and services.
Taxable Person:	VAT-registered taxpayer who is conducting taxable operations as part of his business.
Taxable Supplies:	Supplies of goods and services that are standard rated and zero-rated. A supply of an exempt good or service is not a taxable supply.
Taxpayer Identification Number (TIN)	A number issued to taxpayers upon registration with SRC to identify taxpayers and their transactions with SRC (assessment & payment of taxes).
Threshold	Level of turnover required to be mandatorily register for VAT

CHAPTER 1: Introduction

Value Added Tax (VAT) allows for a simple and transparent system of taxation.

This manual includes definitions of the most common terms used in the VAT law and regulations; provides explanations and interpretations of the VAT Act 2010 and its subsequent regulations and describes procedures governing VAT, including registration, filing, payment and refunds. It also provides basic understanding of taxpayers' rights and obligations with regards to VAT.

1. What is VAT?

VAT is a general, broadly based consumption tax charged on the value added to goods and services. It applies to almost all goods and services that are imported, bought and sold for use or consumption. Conversely goods exported supplied to customers abroad are zero-rated. VAT is an indirect tax paid by the customer as part of the price and remitted to the Seychelles Revenue Commission (SRC) by the “seller”.

VAT is a **general tax** that applies, in principle, to all commercial activities involving the production and sale of goods and the supply of services.

VAT is a **consumption tax** borne ultimately by the final consumer. In principle VAT is not a charge on businesses.

VAT is charged as a **percentage** of the selling price of goods and services at each stage of production in a distribution chain.

Example of a simple distribution chain:



Figure 1

Although VAT is charged at each stage of the distribution chain, double taxation and cascading effects (of the GST for example) are avoided because **VAT is only paid on the value added** at each stage of production and distribution.

VAT is collected **fractionally**, via a system of partial payments, whereby taxable persons (i.e., VAT-registered businesses) deduct the amount of tax they have paid to other taxable persons on purchases for their business activities from the VAT they have collected. This mechanism ensures that the tax is **neutral** regardless of how many transactions are involved.

2. How does VAT work?

The VAT due on any sale (output tax) is a percentage of the selling price. Taxable persons are entitled to deduct all the VAT already paid (input tax) at the preceding stage, so that VAT is only paid on the value added at each stage of production and distribution. In this way, the final VAT paid is made up of the sum of the VAT paid at each stage.

- **Input tax** is the VAT paid by taxable persons on purchases (and imports) made for their business activity.
- **Output tax** is the VAT charged by taxable persons on their sales.

A VAT registered person making taxable supplies, can claim input tax credit (see chapter 3, section 3) which is offset against the output tax collected from the sales of goods and services. The difference between the output tax and input tax is paid to the SRC. Below is a formula which shows the calculation of the final payment to the SRC:

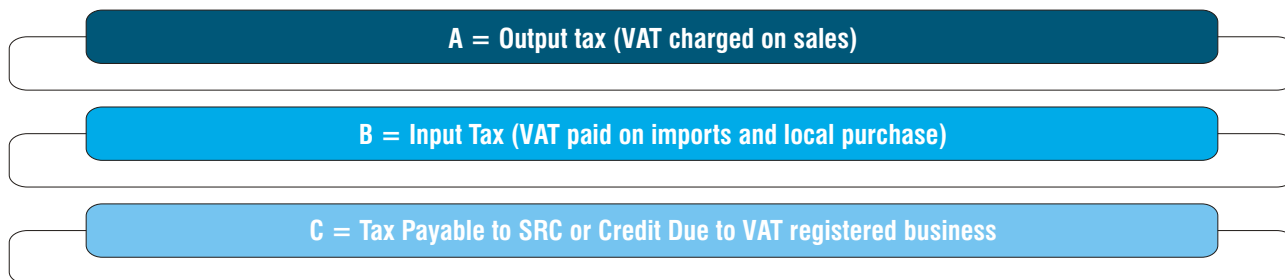


Figure 2

If output tax exceeds input tax ($A > B$), the VAT return shows a VAT payable. The VAT payable is remitted to SRC.

If input tax exceeds output tax ($B > A$), the VAT return shows a VAT credit. There are two options - either:

- a) the credit is carried forward to the next tax period (chapter 3) or
- b) a VAT refund is claimed.

If input tax is equal to the output tax ($A = B$), the VAT return is nil. No VAT is remitted to SRC nor is there any credit or refund given.



Figure 3

Example:

A is an importer, B is a manufacturer, C is a wholesaler and D is a retailer. A, B, C are VAT registered taxpayers. D is not.

1. A imports a good for a value of SR 100 (insurance, transportation and Customs duties included); VAT will be charged on this value. A will pay $100 \times 15\% = \text{SR } 15$ to Customs.
2. A charges the good for a value of SR 130 and applies the VAT at 15% on the value ($130 \times 15\% = 19.5$). A sells the good to B for SR 149.5 ($130 + 19.5$). The VAT return submitted by A will show the following:

Output tax (VAT collected from B)	19.5
Input tax credit (VAT paid to Customs)	15
VAT payable or credit	4.5

Table 1

A could also get the same result by multiplying the margin $(130 - 100) \times 15\% = 4.5$.

3. B sells the same good to C. The selling price is SR 180 (VAT-inclusive) (see Chapter III for VAT Computation). On the VAT return B will report:

Output tax (VAT collected from C)	23.5
Input tax credit (VAT paid to B)	19.5
VAT payable or credit	4

Table 2

4. **C** sells the good to **D** SR 300 (VAT-inclusive). On the VAT return **C** will report:

Output tax (VAT collected from D)	39.1
Input tax credit (VAT paid to C)	23.5
VAT payable or credit	15.6

Table 3

5. **D** is not a VAT taxpayer therefore cannot charge VAT on his/her sales. As a result, **D** does not get any input credit.

To summarize

	Purchases VAT incl.	Sales VAT incl.	Input tax credit	Output tax	VAT liability
Importer A	115	150	15	19.5	4.5
Manufacturer B	150	180	19.5	23.5	4
Wholesaler C	180	300	23.5	39.1	15.6
Retailer D	300	400	0	0	0
Total VAT collected					24.1 + 15 = 39.1

Table 4

The total amount collected by the SRC is SR 39.11 (SR 15 by Customs Division and SR 24.1 by Domestic Tax Division). This amount corresponds to the output tax on the last taxable sale made by the wholesaler to the retailer.

If a business is not VAT registered then it does not charge VAT on output and cannot claim input tax credit or refund. In contrast, a VAT registered person can claim input tax credit on all of its input taxes incurred, for example on VAT incurred on its telephone bills, insurance and other goods and services used in the business to make a taxable supply.

3. How is VAT collected?

VAT on imports is charged at the point of entry by Customs while VAT on domestic transactions is charged by any taxable person at the time of supply and remitted to SRC.

VAT is paid to SRC by the VAT registered persons. Taxable persons in the distribution chain act as tax collectors on behalf of the SRC by collecting VAT at each distribution stage.

CHAPTER 2: Scope of VAT: “Taxable Operations”

VAT is a tax on consumption. It is collected on business transactions and imports. VAT is charged on any supply of goods or services made in Seychelles by a taxable person in the course or furtherance of any business unless they are specifically exempted as per Annex 2.

1. Taxable supplies

1.1 Principles

A taxable supply is a supply of taxable goods or services (other than exempt), made for payment by a taxable person in the course of an enterprise (for business purposes) in Seychelles.

A transaction is therefore within the scope of VAT if the following conditions are met.

- It is made by a taxable person;
- It is made for payment in the course or furtherance of any business carried on or carried on by that person;
- It takes place in Seychelles.

1.1.1 Made by a taxable person (see section 2)

A person is a taxable person for the purposes of this Act, if he/she is or is required to be - registered as a VAT taxpayer.

1.1.2 Made for payment in the course of an enterprise

For a sale to be taxable, it must be made for payment. This is usually monetary but can also be another form of payment, such as barter transaction:

Example: A plumber who is registered for VAT installs an electrician's new spa. The electrician is also registered for VAT and wires the plumber's new shed as payment for installing the spa. Although no money changes hands:

- the plumber must pay VAT on the value of the spa installation; and,
- the electrician must pay VAT on the value of the electrical wiring service for the shed.

Similarly, for the sale of goods and services to be taxable, it must be part of conducting a business. This includes all sales of business assets, including items such as office plant and equipment. It also includes things done in the course of setting up or winding down a business.

Example: If a business provides electrical services and sells some electrical cable left over from a job for its copper content, the sale is part of the business activities.

Generally, private sales are not considered to be supplies made in the course of doing business.

Example: If the sale concerns a private vehicle that is not used in the business, the sale is private.

1.1.3 Takes place in Seychelles

VAT applies to sales that take place in Seychelles. A sale of goods takes place in Seychelles if the goods are any of the following:

- Locally supplied - delivered or made available in Seychelles to the purchaser;
- Exported - removed from Seychelles;
- Imported - brought to Seychelles, provided the seller either imports the goods into Seychelles or installs or assembles the goods in Seychelles.

For the supply of service the destination principle is applied. The service is deemed to be provided in Seychelles when at least one of these conditions is met:

- the supplier of service carries on a business in Seychelles;
- the service is physically made in Seychelles and;
- the purchaser of the service is located in Seychelles.

For specific issues related to the place of supply refer to (Chapter 6: Place of Supply).

1.2 Issues

1.2.1 Specific supplies that business needs to charge VAT on

In addition to charging VAT on the goods and services that are supplied to the customers, VAT is also chargeable on:

- items sold to staff
- sales of business assets
- hiring or loaning of goods to someone else
- commission received from selling something on behalf of someone else
- business gifts
- goods that staff takes out of the business for personal use, whether on a temporary or permanent basis
- services supplied to the business but then used privately
- barter
- part-exchange

The table below shows the list of activities that were previously not subject to GST but are now subject to VAT.

Activities that were not subject to GST and that are subject to VAT

- (i) Renting or leasing of office, shop accommodation, plant, vessel, aircraft
- (ii) Building Contractor and all other form of contracting activities such as painting, electrical wiring, air conditioning work, etc
- (iii) Garages, such as mechanical or body work on any vehicle
- (iv) Ship repair facilities
- (v) Sporting and other Club facilities which are Not for charitable or religious functions
- (vi) Quarrying and other type of mining related activities.
- (vii) Retail and wholesale business

1.2.2 Supplies that business do not need to charge VAT on

Only VAT registered businesses can charge VAT on the sale of goods and services. However, they do not have to account for, or pay VAT on the following:

- supplies that are exempted from VAT or are outside the scope of VAT;
- free samples of goods for trade advertising or promotional activities not exceeding SR1000 and not intended for sale;
- free loans of business assets, as long as the cost of hiring the asset is included in the price of something else sold to the customers (the customer does not have to pay extra for that);
- non-commercial activities of broadcasting organizations (television and radio), postal services.

2. Taxable person/business

2.1 Principles

A taxable person/business under the VAT Act means a person who is registered for VAT or is required to be registered for VAT and who is conducting taxable operations as part of the business.

In order to be able to charge VAT on supplies the business must be registered for VAT. Businesses with an annual turnover exceeding or equal to the threshold of SR 5 million must mandatorily register for VAT. However a business that is below the threshold may choose to become a taxable person by applying for voluntary registration.

A new business can become a taxable person providing that the business will be making taxable supplies, and the owner has a fixed place for doing business.

2.2 What is 'business' for VAT purposes?

In VAT terms, business means any independent and continuing activity which is mainly concerned with making supplies to other persons for a consideration. The activity must have a degree of frequency and scale and continued over a period of time. Isolated transactions are not normally considered as a business activity for VAT purposes. Private or personal activities are also non-business activities.

A person can register for VAT when in **business** and is one of these:

- an individual;
- a partnership;
- a company;
- a club;
- an association;
- a charity;
- any other organisation or group of people acting together under a particular name, such as a private health institution, exhibition, conference, etc.

A person is in business when, for example, he/she earns an income by carrying on a trade, vocation or profession - by being self-employed or through another entity such as a limited company:

It includes:

- the way in which self-employed people carry on any trade, vocation or profession, as well as companies, earn an income;
- the provision of membership benefits by clubs, associations and similar bodies in return for a subscription or other consideration; and
- admission to premises for a charge.

It may also include:

- the activities of clubs and other recreational bodies; and
- some of the activities of charities and non-profit making bodies.

Even if these activities have some or all the characteristics of a business, they may not be considered a business for VAT purposes if they are essentially a recreation or hobby, or an isolated transaction.

For instance, if a person only makes occasional VAT taxable supplies, or the supplies are minimal, it may be that the person does not need to register for VAT.

Example: The one-off or infrequent sale of personal belongings at a car boot sale or auction would fall into this category - but buying goods for resale on a regular basis is definitely a business activity.

Likewise an activity which is carried out mainly as a hobby, such as stamp collecting, is not a business. However, the sale of collected items on a regular and is continued time, under the rules outlined above, could become a business for VAT purposes.

Many charities, philanthropic and voluntary bodies, and other non-profit making organisations have non-business activities.

Example:

- providing free services or information;
- maintaining museums, parks or historic sites (unless there is an admission or other charge); and
- publicising religious or political views.

2.3 Issues

Although a business importing goods is also liable to pay VAT at Customs, this does not imply that the business is taxable. Under the VAT Act a business is taxable only as far as it is VAT registered and it makes taxable supplies.

Similarly, any individual can import goods for personal consumption. If these goods are subject to VAT, this individual will have to pay the VAT directly to Customs at the time of the import. The importation of goods is taxable and not the individual itself.

Grants or donations - Non-business activities are often financed largely from grants or donations. As long as those making the grants or donations receive no direct benefit in return, this income is not the consideration for any supply and is outside the scope of VAT.

Activities carried out by local authorities and similar bodies - Supplies made by local authorities or public entities can be liable to VAT if the same activities can be conducted by private sector - unless specifically exempted.

3. VAT rates

Two rates are applied on a taxable supply:

- the standard rate at 15%
- the zero rate at 0%

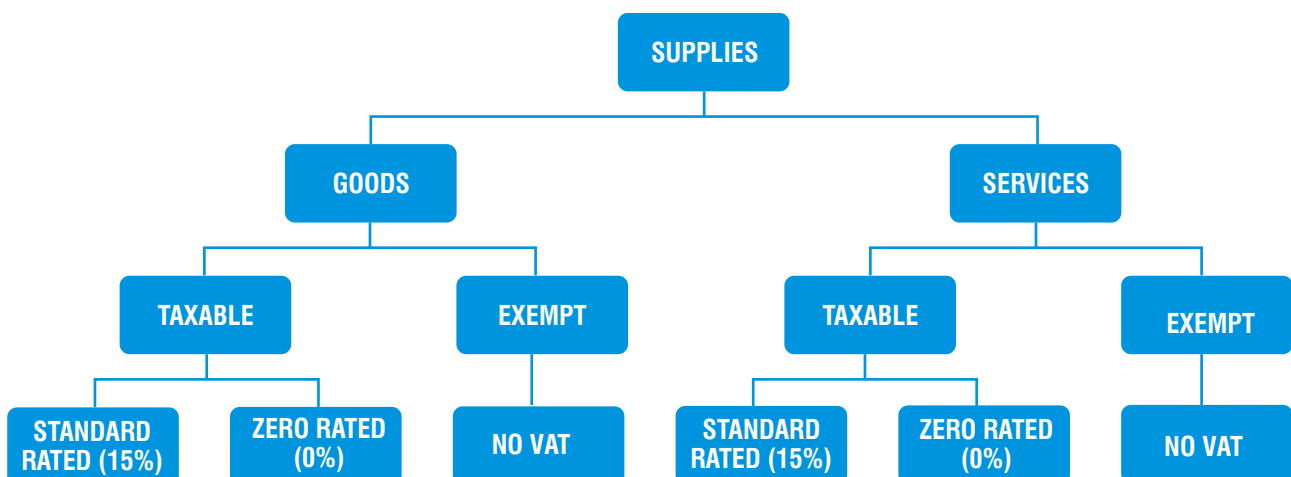


Figure 4

3.1 Standard-rated supplies

Standard rated supplies include:

- Most of the goods and services supplied in Seychelles which are neither zero-rated nor exempted;
- Supplies of goods such as computers, house appliances, clothes, machinery, equipments, motor vehicles and spare parts etc... which are subject to the standard rate of 15%;
- Supplies of services such as repairs (by plumbers, electricians), hair cut, spa, restaurant, hotel, security are also subject to the standard rate of 15%.

Credit sales where finance is provided to the customer by the supplier

If goods are sold on credit to a customer without involving a finance company, the credit is considered to be financed by the supplier. If the credit charged is shown separately on the invoice issued to the customer then it will be subject to VAT. Other fees relating to the credit charged such as administration, documentation or acceptance fees will also be subject to VAT.

In these cases, VAT is declared on the full selling price including additional fees/interests.

3.2 Zero-rated supplies

Zero-rated supplies are strictly enumerated in schedule II of VAT Act 2010

Concept of zero-rated supplies

Zero-rated supplies are taxable, even though no VAT is actually collected (VAT is equal to zero) on transactions involving such supplies. However input tax incurred in the making of zero-rated transactions is fully deductible (unless otherwise provided in the VAT Act 2010). This is the main difference with exempt supplies that are not in the scope of the VAT. Exempt supplies do not create any deduction right of the input tax attributable to transactions involving such exempt supplies. For example, educational institutions will not be able to deduct any VAT they incur on their monthly telephone bills.

CHAPTER 3: VAT Computation

1. The output tax

VAT-registered persons must account for output tax on the taxable supplies that they make in the course of their business.

1.1 Principles

The tax base for VAT purpose is the value of a supply. In other words, the tax base (taxable amount) is everything which constitutes the consideration obtained or to be obtained by the supplier from the purchaser, the customer or a third party for such supplies including subsidies directly linked to the price of such supplies.

General rules

Supplies of goods or services are usually made in return for money. For a taxable supply, it is the value of supply multiplied by the VAT fraction. As a result, the value of a taxable supply is the consideration for the taxable supply before VAT is charged.

- The value for VAT is normally the price paid or payable excluding the VAT. It is only the VAT itself that is excluded from the value upon which VAT is calculated.
- The taxable amount or consideration is the amount of money paid or payable for a supply, inclusive of all taxes, duties and charges where applicable, therefore, taxes, duties and charges will be part of the price subject to VAT (including the VAT itself).

“It is a fundamental principle of VAT law that VAT on a supply of goods should be calculated on the price paid less the VAT itself. If other taxes or duties have been paid on the goods, they will be reflected in the price paid. There are a number of taxes and duties which have to be paid on goods before they reach the retail stage and which are reflected in the retail selling price. These include import duties and Excise tax on beer, wine, spirits, tobacco and petrol.

These duties tend not to be identified separately at the point of sale but, if already paid, they do form part of the value on which VAT is charged.

Valuation on a VAT-inclusive basis - the value for VAT is that part of the payment which, when added to the VAT itself, gives a total equalling the payment.

VAT-inclusive consideration where the price was intended to be VAT-exclusive, the VAT-inclusive consideration is generally used- even if the trader had intended his charges to be on a VAT-exclusive basis.

“Where an invoice shows a supply of goods or services as taking place with VAT chargeable on it, there shall be recoverable from the person who issued the invoice an amount equal to that which is shown on the invoice as VAT or, if VAT is not separately shown, to so much of the total amount shown as payable as is to be taken as representing VAT on the supply.”

1.2 Issues

1.2.1 Non-monetary consideration

In some cases there may be a non-monetary consideration in addition to the monetary consideration.

- Non-monetary consideration or “barter transaction” valuation rule to be applied to the non-monetary consideration is exactly the same, whether or not any monetary consideration has also been provided.

- When goods or services are provided for no payment in any form, there has been no consideration. It is only necessary to value such a provision of goods or services in certain circumstances in which the Value Added Tax Act 2010 deems a taxable supply to have taken place.

Common cases:

- disposal of goods forming part of the assets of a business for no consideration;
- private use of goods held or used for the purposes of the business for no consideration;
- deemed supply of goods forming part of the assets on hand at the time of de-registration;
- services supplied to a business have been applied to non-business use under the VAT Act 2010.

SRC will use the fair market value of a taxable good or service if it is supplied to a non-VAT registered associate for no consideration or for a consideration that is less than its fair market value.

Except as provided in the Act, the value of a supply of goods and services for no consideration is zero.

1.2.2 Particular rules on promotions

Discounts on goods and services - If any of the goods or services are discounted, VAT is chargeable on the discounted price not on the full price.

When an offer is made to a customer such as 'we will pay your VAT', VAT is actually payable on the amount the customer would have paid on the discounted price, not the amount the customer would have paid at the full price.

Free gifts - as regards to give away products, VAT is payable on the full value or cost of the gift, although there are some exceptions (such as buy one-get one free, VAT is chargeable on the combined price).

Where the manufacturer supports a promotion - Payments made by manufacturers or suppliers to retailers to support promotions are treated as discounts and the manufacturers or suppliers' VAT can be reduced accordingly.

For the retailer, the amount of the support payment is considered as additional income as if that income were from the retailer's customer. If the retailer is using a retail VAT accounting scheme, the amount received must be included in their takings figures.

Where a manufacturer or supplier pays a retailer for a specific promotion - the promotion is deemed to be a service supplied by the retailer. The retailer must charge the manufacturer VAT on the cost of the promotion, and the manufacturer can reclaim this VAT on the next VAT return. An example might be a manufacturer paying a retailer to display their goods in the shop window.

Where the manufacturer gives retailers a reward - for a minimum amount or volume of order this reward is usually treated as a free gift for VAT purposes.

1.2.3 Costs passed on to clients: "disbursements"

If a registered taxpayer pays suppliers on behalf of his/her customers, and passes on the cost to those customers when he/she invoices them, then the registered taxpayer might be able to leave out these payments from the VAT calculation. In this situation it is the customer, not the registered taxpayer, who buys and receives the goods or services the registered taxpayer is acting as their agent. This type of payment is known as a 'disbursement' for VAT purposes.

VAT is not charged when the payments are passed, but VAT cannot be claimed back on the cost either, if the following apply (see below):

- the supplier has been paid on his/her customer's behalf and the registered taxpayer acted as the agent of his/her customer;
- the customer received, used or had the benefit of the goods or services paid for on their behalf;
- it was the customer's responsibility to pay for the goods or services, not the registered taxpayer;
- permission was given by the customer to make the payment;
- the customer knew that the goods or services were from another supplier;
- the costs were shown separately on the invoice;
- the exact amount of each cost was passed on to the customer when invoiced;
- the goods and services the registered taxpayer paid for are additional to whatever he/she is billing the customer.

It is usually only an advantage to treat a payment as a disbursement for VAT purposes if the supplier did not charge VAT on it, or if the customer cannot reclaim the VAT.

Example:

A manufacturer paying the transportation costs on his/her client's behalf when delivering a machine.

What is not a disbursement for VAT purpose?

There are many incidental costs that a registered taxpayer cannot exclude from the VAT calculation when he/she invoices his/her customers. These could include travelling expenses and postage costs. They are not treated as disbursements for VAT purposes.

If they are shown separately on the invoice (**see appendix 1**) then they are known as 'recharges', and not disbursements, for VAT. VAT will be charged on them whether any VAT is paid or not.

Example:

- An airline ticket that a registered taxpayer buys to visit a client if the cost is recharged to the client, VAT must be charged.
- Postage costs, incurred when letters are sent to the customers. These are normal business costs and a VAT taxpayer must add VAT if he/she recharges them.

Disbursements excluded from the VAT calculation must be itemised separately on the invoices.

1.2.4 Specific Rules regarding Customs Valuation

Customs Value

The basic principle for determining the Customs value is based on the World Trade Organisation (WTO) Valuation Agreement. It is based on the price actually paid or payable for goods when sold for export to the country of importation with certain adjustments. Where the buyer and the seller are related, the price can only be accepted if the relationship did not influence the price.

However, the methodologies are not exactly the same and a transfer price which has been accepted for direct tax purposes cannot be assumed to be acceptable for Customs valuation purposes.

Balancing Payments connected to Transfer Pricing Adjustments may need to be considered in ascertaining whether there has been an under or over valuation of the import price of a particular transaction, and hence whether an adjustment is required to the import duty/VAT paid at the time of importation.

A Transfer Pricing Adjustment is not in itself a supply nor consideration for a supply. It is an indication that transactions or arrangements may not have been at 'arm's length' values. It may therefore point to an under valuation of the subject supply for VAT purposes. E.g. the transfer price to be based on an "arm's length" price, in accordance with the provision of Article 9 of the OECD Model Tax Convention.

1.2.5 Specific arrangements for second hand goods

In principle, the amount on which VAT is charged is the full consideration which the seller has received from the customer less the amount of VAT relating to the consideration.

However, the **margin scheme** can be used by a taxable seller in the following special circumstances (second-hand goods, works of art, collectors' items and antiques):

- Where the second hand goods were supplied to the taxable seller by a non-taxable person;
- Where the second hand goods were supplied to the taxable seller by a taxable person whose supplies are exempt from VAT because he/she engages in an exempt activity;
- Where the second hand goods were supplied to the taxable seller by a taxable person whose supplies are exempt from VAT in accordance with the special scheme for small undertakings;
- Where the second hand goods were supplied by another taxable person applying the margin scheme in respect of the goods.

If the margin scheme is applied, the amount on which VAT is charged is the profit margin which is treated as a VAT-inclusive amount. In each of the circumstances outlined above, the taxable seller would, in the absence of the margin scheme, be obliged to charge VAT on the full consideration he/she would be entitled to receive from the customer and he/she would not be able to deduct any VAT.

1.3 Adjustment to Output Tax

There are various reasons whereby an adjustment might be required to be made to the output tax. These adjustments must be accounted for in the VAT return for the particular VAT period in which the increase or decrease in considerations occurred. For that reason a credit or debit note is issued to indicate that an adjustment has been done.

1.3.1 Accounting for VAT Credit Note and VAT Debit Note

A VAT credit or VAT debit note is used for the purpose of making correction in relation to mistakes on VAT invoices. At a particular stage of the transaction, a customer might return goods; an overcharge or undercharge might be discovered relating to the supply on a VAT invoice. To correct such eventualities either a credit or debit note will need to be issued.

If an adjustment has been made for a VAT credit or a VAT debit note, all records of the taxable supplies made must be adjusted and the output must reflect the VAT credits or VAT debits that have been done.

It is very important that an appropriate change is done to all specific or related records when changes are made to VAT. There must be adequate and specific information on the VAT debit or VAT credit to be able to identify the VAT invoice that it relates to.

The following details must be shown on a VAT debit or VAT credit note issued by a VAT registered person:

- The words VAT DEBIT or VAT CREDIT note must appear in a prominent place;
- The name, address, and VAT registration number of the supplier;
- The name, address and VAT registration number of the recipient (purchaser);
- The VAT Invoice serial number;
- Date on which the VAT debit or VAT credit note was issued;
- The value of supply on the invoice, the correct amount of the transaction difference between the two amounts and the VAT charged on the difference;
- Brief explanation of the reason for issuing the debit or credit note.

1.3.2 Issuing VAT Debit and VAT Credit Notes

Circumstances where VAT debit or VAT credit may be issued:

- Where supply of goods or service is cancelled or goods are returned to the supplier;
- Where an incorrect price was charged on the tax invoice;
- Where a discount is granted to the purchaser;
- Where the nature of the goods or services changed resulting in a change in the transaction;
- Bad debts;
- Mistake in the amount on the invoice.

When a VAT credit note is issued

When the VAT charged on the invoice exceeds the VAT that is supposed to be charged after the price is reduced whereby the transaction has been partially cancelled or a reduction has been granted.

When a VAT debit note is issued

When additional VAT needs to be charged because the price has increased the VAT charged on the invoice is less than the VAT that is supposed to be charged.

2. The input tax

2.1 Principles

When a VAT registered business purchases or imports goods or services, the VAT incurred on these goods and services is called input tax. A VAT registered business can offset this input tax against the output tax.

A business will be able to claim an input tax credit if the following conditions are met:

- these goods or services have incurred VAT;
- the supply took place in Seychelles;
- the supplier was a taxable person at the time of the supply i.e. someone who was registered, or who was required to be registered, for VAT;
- the supply was made to the person claiming the deduction;
- the recipient was a taxable person at the time the tax was incurred or the tax was eligible for relief;
- the recipient intends to use the goods or services for the purposes of his business;
- these goods or services are used for the making of taxable supplies.

Input tax may be allowed only where the above conditions are met. However in some cases **acquisitions** or services from non registered taxpayers can be taxed using the Reverse Charge Mechanism (RCM) and this VAT can be claimed as an input tax credit by the recipient. (See RCM)

Taxable supplies not allowed as input tax credit

There are a number of specific categories of expenditure upon which the VAT incurred by a VAT registered business meets the definitions and requirements of input tax but which may not be deducted due to the provisions of the Value Added Tax ACT 2010. VAT does not automatically become input tax credit simply because it has been incurred by a VAT registered person.

Input tax credit will not be allowed for the following taxable supplies, unless they are used for the making of taxable supplies related to the activity of the business:

- pursuit of personal interests, e.g. sporting and leisure activities;
- expenditure for the personal benefit of company directors, proprietors etc;
- expenditure in connection with non-business activities;
- Passenger vehicle, spare part or repair and maintenance for such vehicle unless the person business activities involves the dealing in or hiring of passenger vehicles; entertainment including food, beverage, amusement;
- accommodation of any kind that is provided for employers, family, or associates for private and public purposes;
- expenditure related to residential accommodation free membership or entrance in any club.

The above are not considered as business activities and therefore no deduction on such activities are allowed as input tax. Input tax credit can only be claimed or is deductible if the goods and services on which VAT was incurred are directly connected with the making of taxable supplies.

Evidence for claiming Input Tax

Input tax credits are allowed for a taxable import at the time of importation (see chapter 4) and for a taxable supply at the time of the supply (see chapter 7). If the person does not have the required documents, an input tax credit will not be allowed for that VAT period regardless of the time of supply.

The documentations needed to be kept as evidence for a creditable taxable supply are:

- VAT Invoice/ Credit Note/ Debit Note issued by a VAT registered person;
- A certified copy of Customs import document (i.e. Bill of Entry) showing the amount of VAT paid at importation;
- Evidence of payment.

2.2 Issues

Making of non taxable supplies - VAT incurred must be for the purpose of making a taxable supply to qualify as input tax. When a VAT registered business makes both taxable and non taxable supplies, not all the input tax can be claimed as a credit. The business needs to know what is the relative share of its taxable supplies on its total turnover to be able to determine the proportion of input tax claimable as a credit. Only the VAT incurred on goods and services for making of taxable supplies is deductible. In such a case the input tax credit needs to be apportioned (using the formula described in box below).

The input tax credit allowed is calculated according to the following formula:

$$ax \frac{b}{c}$$

Where:

- 'a' is the total amount of input tax incurred from the purchase and expense used for both the taxable and exempted supply;
- 'b' is the value of all taxable supplies made; and
- 'c' is the value of all supplies made by the taxable person during that VAT period in Seychelles.

However, if:

- $\frac{b}{c}$ is more than 0.90 - the taxable person is allowed credit on the whole value of the input tax,
- $\frac{b}{c}$ is less than 0.10 - the taxable person is not allowed any input tax credit on the whole value of input tax.

This rule mainly concerns:

- Traders that sell both taxable and exempted goods;
- Construction companies that build commercial buildings (taxable) and individual dwellings (exempted);
- DMCs that supply their own services (taxable) and buy-in to resell accommodation of transportation tickets (commissions are exempted);
- Insurance companies that supply general insurance as well as car insurance (taxable) and life or health insurance (exempted).

The apportionment of the input tax credit applies across the board for goods and/or services that are indiscriminately used for the making of taxable and non taxable supplies, and it concerns:

- the general expenses (rent, telephone, internet, insurance, security, etc...),
- construction and or renovation of premises, furniture, equipments, transportation means.

The apportionment rule does not apply on input tax incurred on goods and services that are exclusively used for the making of taxable supplies.

Business use - VAT is not automatically an input tax simply because it has been incurred by a VAT registered person. VAT incurred by the VAT registered business must be for the purpose of performing a business activity but not for private or other non-business purposes to qualify as input tax. VAT incurred in respect of non-business activities is not allowed for deduction as input tax.

Typical examples of where claims are likely to be made but not for the “purpose of the business” include:

- expenditure related to accommodation;
- pursuit of personal interests e.g. sporting and leisure activities;
- expenditure for the personal benefit of company directors, proprietors etc; and
- expenditure in connection with non-business activities.

“Business use” requires determining whether the expenditure relates directly to the function and carrying-on of the business or merely provides an incidental benefit to it.

Mixed purposes - there will be situations where persons receive goods and services that they then use for both business and non-business or private purposes. A person may purchase a good or service and use it for both his business and personal use.

- An example of such a good might be a new computer purchased by a trader and used to both run their business and also for their personal purposes;
- A common example of such a service is a telephone line used by a trader who works from home for both his business and private calls.
- The input tax credit allowed is calculated according to the following formula:

$$ax \frac{b}{c}$$

Change in the use of goods

Goods put to private or non-business use - Goods have been supplied to a taxable person and full input tax was claimed on the basis that they were obtained wholly for business purpose there will be a charge to output tax if the use of the goods subsequently changes.

Services put to private or non-business use - Services are acquired for a business purpose but there is a subsequent permanent change of use to a private or non-business use. In such cases there is an output tax liability on the part of the person who originally claimed the associated input tax.

Examples:

- (1) A sole proprietor accountant has an extension built onto his home and claims full input tax on the grounds that the extension will be used exclusively to accommodate the business practice. Two years later the business expands to such an extent that the business relocates to commercial premises and the extension is then used for purely domestic purposes.
- (2) A husband and wife partnership carrying on a wholesale business claim full input tax in respect of the conversion of the building which is to be used for holiday lettings. After 4 years, the partnership decides to separate the business activities, disaggregate the holiday lettings business which continues to trade under the registration threshold with one of the partners acting as sole proprietor. In this example the services continue to be used for a business purpose, but not of the business that recovered the input tax.

How to calculate the tax due

Permanent change

Where a permanent change occurs in the use of a capital good, whether:

- The capital good is no longer used for business purpose;
- The business deregisters for VAT or terminates its operation;
- The capital good is used for a period of time which is shorter than its normal duration of use, according to the depreciation method;

The VAT registered business should account for the full amount of tax due in the period the capital good was effectively used.

A part or the total of the credit initially deducted may have to be remitted to SRC using the following formula: $d = a \times b/c$; and $e = d - a$

Where **a** is the credit initially deducted;

b is the period of effective use;

c is the normal duration of use (generally 5 years for a machine, 20 years for a building);

d is the credit deductible;

e is the credit to be remitted.

Alternatively “e” can be obtained using the following formula: $e = a \times f/c$

Where **a** is the credit initially deducted;

c is the normal duration of use;

e is the credit to be remitted;

f is the number of years corresponding to the remaining period of use.

Example:

In 2012 a machine has been purchased for SR 250 000 VAT inclusive. The VAT deducted is SR 32 608. In 2014 this machine is given to a non profit organisation.

Given that this machine has been used for a period shorter than the normal duration of use which is five years, a part of the VAT initially deducted has to be remitted as follows:

a) First formula

$$\frac{SR\ 32\ 608 \times 3}{5} = SR\ 19\ 564$$

SR 19654 is the amount of VAT deductible corresponding to 3 years on a total of 5 years. The difference between SR32 608 and SR19 564 is the amount to be remitted to SRC = SR 13 044.

b) Second formula

Using the alternative formula SR 32 608 is multiplied by 2/5 (two years remaining on five initially expected) = SR 13 044.

Temporary change

Where a significant temporary change of use occurs, the taxpayer should account for tax at the end of each period in which private or non-business use occurs. The taxpayer should not account for tax beyond the point at which the asset is depreciated to nil value, or when the accumulated output tax equals the amount of input tax attributable to the non-business use of the relevant service, whichever is the earlier.

Input Tax Credit for Newly Registered Business

The basic rule requires that input tax is claimed in the accounting period in which the tax relating to the relevant goods or services became chargeable (the proper period). There are nevertheless circumstances when a claim cannot be made at the appropriate time e.g. due to non-receipt or loss of supporting evidence.

Late claims for input credit

If a trader does not deduct tax in the proper period due to an error, he/she can be entitled to correct that error and recover the tax in a later period. In all other circumstances where a trader does not, or cannot, deduct the tax in the proper period (e.g. because he does not hold the proper evidence), recovery is subject to the Revenue Commissioner's discretion.

3. VAT liability computation

At the end of each tax period, VAT remitted to the SRC has to be computed.

Input tax has to be offset against output tax to determine the tax liability (or tax due). The output tax is the VAT collected from customers on each taxable supply (including zero-rated ones). The input tax allowed as credit is the tax paid on business purchases and attributable to taxable supplies.

Where the output tax exceeds the input tax for the taxable period, the differences must be paid to Seychelles Revenue Commission. If the input tax exceeds the output tax, a VAT credit occurs.

While credits are in most cases, carried forward on the next VAT return, they can be refunded if a certain number of conditions are met.

3.1 VAT chain

A imports a good for a customs Value CIF (Cost, Insurance and freight) + customs duties of SR 100 and pays VAT at 15%: $(100 \times 15\%) = \text{SR } 15$

- A processes the good and adds his profit at 1.2 on the VAT exclusive amount $(100 \times 1.2 = 120)$. The selling price of the good is now SR 120 VAT exclusive.
- A then applies VAT at 15% on the sale price: $(120 \times 15\% = 18)$, VAT is SR 18
- A sells the good to B for SR 138 VAT inclusive

A's VAT Return

Output tax (VAT collected from B)	$120 \times 15\% = 18$
Input tax credit (VAT paid to Customs)	$100 \times 15\% = 15$
VAT payable to SRC	$15 - 18 = 3$

Table 5

- B purchased the good from A for SR 138 (VAT inclusive)
- B adds his own margin at 1.3 on the purchase price (VAT excl) of the good $120 \times 1.3 = 156$ and applies the VAT at 15% =179.4
- B sells it to C for SR 180 (VAT-inclusive)

B's VAT Return

Output tax (VAT collected from C)	$180 \times 15/115 = 23.5$
Input tax credit (VAT paid to B)	$120 \times 15\% = 18$
VAT payable	$23.5 - 18 = 5.5$

Table 6

- C purchased the good from B for SR 180
- C adds his margin and sells the good to consumer for SR 250(VAT-inclusive)

C's VAT Return

Output tax (VAT collected from Consumer)	$250 \times 15/115 = 32.6$
Input tax credit (VAT paid to B)	$180 \times 15/115 = 23.5$
VAT payable	$32.6 - 23.5 = 9.1$

Table 7

SUMMARY					
	Purchases VAT Incl.	Sales VAT Incl.	Input Tax Credit	Output Tax	VAT Liability
Manufacturer A	115	138	15*	18	3*
Wholesaler B	138	180	18	23.5	5.5*
Retailer C	180	250	23.5	32.6	9.1*
Total VAT collected					17.6 + 15 = 32.6*

Table 8

3.2 VAT Inclusive / VAT Exclusive Prices

A VAT registered taxpayer selling goods and services that are taxable for VAT, will need to make a VAT calculation in the following situations:

- If the prices are advertised exclusive of VAT, the taxpayer will need to work out how much VAT to add.
- If the prices are advertised inclusive of VAT, the taxpayer will need to work out how much VAT to record in his/her VAT account.
- If the taxpayer wants to claim VAT back on purchases, he/she will need to calculate the amount of VAT from the VAT-inclusive price.

Calculating the VAT-Inclusive Price

After the selling price of a good or a service has been decided without VAT, the VAT needs to be added to the selling price by multiplying it by 15% to get the VAT-inclusive price.

Adding VAT	
Sale	SR 100
	X 15%
VAT	15
Sale	SR 100
Plus VAT	15
VAT-inclusive	115

Table 9

Using the VAT fraction to calculate the VAT in a VAT-inclusive price

When VAT is calculated from a VAT-inclusive price, the following fraction (price x 3/23) or (price x 15/115) will be applied to calculate the VAT amount. By using the 'VAT fraction' ($3 \div 23$) the VAT-registered business will be able to find the exact amount of VAT that has been included in a VAT-inclusive price.

Fractions for calculating the standard-rate VAT in VAT-inclusive prices	
Rate of VAT	VAT fraction
Standard rate - 15%	$3 \div 23$ or $15 \div 115$
Example at 15% - using the VAT fraction $3 \div 23$ for calculating the VAT in inclusive prices	
Step	Amount
VAT-inclusive price	SR 115
$SR 115 \times 3 \div 23$	SR 15

Table 10

Calculating the VAT-Exclusive Price

The standard rate of VAT is 15 per cent. Using a SR 115 VAT-inclusive price with standard rate VAT at 15 per cent, the VAT-exclusive price will be obtained by dividing the VAT-inclusive price by 1.15.

Example at 15% - calculating the VAT-exclusive price	
Rate of VAT	Calculating VAT-Exclusive price
Standard rate - 15%	VAT-Exclusive Price $\div 1.15$
Example at 15% - for calculating the VAT-exclusive prices	
Step	Amount
Price including VAT	SR 115
Price excluding VAT ($SR 115 \div 1.15$)	SR 100

Table 1

4. Refunds

4.1 Principles

Most business activities supplies of goods and services do not give rise to refunds since VAT collected on supplies (*output VAT*) generally exceeds VAT paid on purchases (*input VAT*). This is particularly true for services where most of the value-added comes from labor, and wages are not taxable to VAT.

The most likely source of credit claims for refunds will be in the case of businesses that are mostly engaged in zero-rated sales, which is typically the case for exporters. While a business exclusively engaged in export transactions does not collect VAT (output tax is 0), it is entitled to claim VAT credit on its *inputs*.

For exporters, any amount of input tax is potentially refundable.

Conditions for claiming a VAT refund

- The VAT taxpayer's activity mainly consists in exports: a minimum 85% of its total turnover is attributed to export sales;
- The VAT taxpayer's activity mainly consists in zero-rated supply (other than exports), a minimum of 85% of its turnover is attributed to zero-rated supplies;
- The credit reported on a (monthly or quarterly) VAT return (see appendix 2) must be at least equal to SR 10 000;
- Credits lower than SR 10 000 are not refundable. The credit will be carried forward on the next VAT return. For taxpayers, other than exporters refunds will be due only when that credit has been carried forward for a period of 3 months.
- The VAT taxpayer is able to justify with sufficient evidences and proper records the reality of exports or zero-rated supplies upon SRC's request.

Claim for refund

To claim a refund the taxpayer must fill in the corresponding box at the bottom of the VAT return and must indicate the amount to be reimbursed. This amount cannot be more than the credit calculated line 11B of VAT return.

4.2 Issues

VAT refunds will be processed within a statutory period of 45 days from the date the claim for refund is made. However, the given deadline may be extended in special circumstances, where:

- (i) a filed VAT return is incomplete;
- (ii) the taxpayer has outstanding tax returns;
- (iii) the taxpayer has failed to respond within a reasonable period for verification enquiries; or
- (iv) SRC suspects, on reasonable grounds that the VAT return is inaccurate and/or the taxpayer is engaged in fraudulent activity, in which case the taxpayer will be subjected to audit and/or investigations.

Exporters will receive a VAT refund in the same VAT period.

Excess VAT credits should be primarily offset against VAT and other tax arrears, except where an outstanding amount is subject to a genuine dispute. This is supported either by the taxpayer's accounting and the debt management system.

VAT refunds can be made:

- By cheque or;
- Bank to bank transfer

CHAPTER 4: Importation

1. Principles

All importers, irrespective of their status (VAT registered and non VAT registered businesses as well as private individuals) and irrespective of the purpose of the import (for commercial and private/personal use), must pay VAT on imports.

- All imported goods are liable to VAT at the point of entry, unless exempted under the First Schedule of the Value Added Tax Act 2010 (see Annex 1);
- VAT is not chargeable on importation of exempt and zero-rated goods;
- VAT is chargeable only on importation of taxable items whether by a private individual or by a business regardless of the purpose, status or nature of the importation.

The value of the VAT at importation is the tax levied on the transaction of importation. The VAT on importation of goods is assessed by Customs on each import and is payable together with Customs duties, unless otherwise provided by the Customs legislation (example: when tax and duty is payable at another stage such as a bonded warehouse).

2. Issues

2.1 Time of Imports

An importation of goods occurs on the date the goods are entered for home consumption under the Customs Legislations or on the date the goods are brought into Seychelles whichever comes last. (See chapter 7: Time of supply)

2.2 Value of Imports

VAT on imported goods is applied on the total of the:

1. CIF Value which is the Cost, Insurance and Freight **plus**
2. Trade tax and/or other Customs duties, (where applicable) **plus**
3. Excise tax (if applicable) depending on the type of goods.

Levy is not included in the calculation of VAT at importation.

Example:

An item with a **Total CIF value** of SR 4 000 with **Trades tax** at 25%:

VAT collected by Customs will be:

Value of Imports = Total CIF Value + Trades tax
= 4 000 + 1 000 (4 000 X 25%)
= 5 000

VAT at 15% applies on the SR 5 000 = SR 750

2.3 VAT Base

It is to be noted that levy does not form part of the VAT base. The VAT base is:

1. Customs Value (C.I.F)
2. Customs duties (trade tax + excise if applicable)
3. VAT Base = (1+2)

Example:

The calculation below shows VAT applied on the importation of a vehicle until its sale, and at what stage the levy is added to the price and paid by the consumer.

CIF of the vehicle = SCR 735,216

VAT at port of Entry = (CIF + Duty) x 15% VAT
Customs Duty = SCR 735,216 x 75% = SCR 551,412
(SCR 735,216 + 551,412) x 15%
VAT = SCR 192,994.20

Selling Price = (CIF + Duty) x 10% Mark Up
(735,216 + 551,412) x 10%
Mark up = 128,662.80
Sale Price = 735,216 + 551,412 + 128,662.80
SCR 1,415,290.80

VAT = 1,415,290.80 x 15%
SCR 212,293.62

Vehicle Levy = SCR 50,000

Therefore Net Price = 1,415,290.80 + 50,000
Net Price = 1,465,290.80
VAT (output) = SCR 212,293.62
Gross price = 1,677,584.42

VAT Return

Input VAT = 192,994.20
Output VAT = 212,293.62
VAT Payable to SRC = 19,299.42

2.4 Warehouse Goods

Goods entering a bonded warehouse are not subject to VAT. The VAT is due when the same goods leave the bonded warehouse. This event is considered as the time of importation because the goods are going to be consumed.

- *Bonded goods released for home use (domestic market)* are liable to VAT at 15% (if taxable) together with other applicable taxes (trade tax, excise, levy).
- *Bonded goods released for exportation* are subject to a VAT at 0%, as exports are zero-rated.

2.5 Transit and Transshipment of goods

Transit and transshipment of goods are directly imported for export and these goods stay in Seychelles for a short amount of time. Transit and transshipment of goods are taxed at 0% because the goods are not going to be consumed in Seychelles.

2.6 Temporary Importation of Goods

Temporary importation is exempted under VAT provided the Revenue Commissioner is satisfied that the goods will be re-exported within a specific time, usually a maximum of 12 months from the date of importation.

2.7 Re-Importation of Goods

If goods are re-imported after being exported for any repair, renovation, or improvement, the value of the import is considered to be the amount of the added value charged for repair and/or renovation only. Consideration is taken that the goods have not undergone physical changes in the form or character and the goods must have not changed owner before being exported for the purpose of repair, renovation or improvement.

2.8 Deferment system

Under the VAT Act 2010 a VAT registered taxpayer may be allowed to defer the payment of VAT on the importation of capital goods.

What are capital goods?

Capital goods are any tangible item, not being construction materials, which would normally be treated as an asset on the balance sheet of a business and of which an individual or grouped purchase has a CIF Value of SR100, 000 or more and has a useful life expectancy of 2 years or more.

In line with the general principle on the deferment system (VATDS), VAT payable on such capital goods and is not paid at the point of entry (to Customs) but deferred until the submission of the next VAT return.

Qualifying Conditions

In order to qualify for the VATDS, the following conditions have to be met:

- a) the business must be VAT-registered;
- b) the business must be active;
- c) the business must file VAT returns on a monthly or quarterly basis;
- d) the capital goods with an individual CIF Value of 1000,000 or more: or
- e) a group of identical goods (with same HS code) featuring on the same invoice whose individual CIF value is less than SR 100,000 but is more than SR 100,000 together;
- f) If the capital good is imported with some accessories which forms part of the main import using the same HS code it is considered as an individual purchase;
- g) the business has a good compliance record (has not committed any violation or offences under both the Revenue Administration and the Customs laws and/or regulations in the past 3 years);
- h) the business received a formal authorisation from the Revenue Commissioner to enter the VAT deferment system.

In addition, a bank guarantee may be required before the deferred payment is granted, as maybe deemed necessary by RC. Taxpayers will be notified in writing when a bank guarantee is required.

How does the deferment system work?

Instead of being paid to Customs at the point of entry, the VAT payable on the imported capital good is declared on the next VAT return. VAT payable is reported as an output tax and an input tax on the same VAT return. Input tax is immediately offset against output tax, so that no payment is required from the importer for this transaction and no refund is required from SRC.

Example 1:

If a VAT-registered construction company imports a mixer at a total import value of SR 1, 000 000, the VAT payable will be SR 150,000. The construction Company can defer the payment of SR 150 000 at Customs and report the VAT amount in the next VAT return both as an input tax and as output tax collected.

Example 2:

A boat charter imports a boat including a dinghy with a CIF value of SR6, 000, 000. The price of the boat and the dingy will feature on the same invoice and priced as one item amounting to SR6, 000, 000. The business will be able to defer the payment of VAT at Customs and report the VAT amount in the next VAT return.

Application for the deferred payment system

A VAT registered taxpayer who wishes to obtain a deferred payment authorization must apply to SRC. The application form must be submitted for each consignment or importation of the capital good at least 2 weeks before the capital good for which the deferred payment is being requested is expected to enter the Seychelles territory.

Once the authorization is granted the taxpayer must present the following documents to Customs along with the authorization letter:

- Bill of entry;
- Copies of document showing the date/ quantity/ description of goods received;
- Copies of import permits, transshipment permits etc;
- Copies of shipping documents such as Airway Bill or Bill of Lading;
- Copies of commercial invoices accompanying the goods, if available;
- Copies of insurance documents accompanying the goods, if available;
- Copies of correspondences from overseas principals.

The identity of the overseas supplier as well as the value and description of the goods must be readily identifiable / verifiable.

CHAPTER 5: Exempt Supplies

1. Principles

A VAT exemption means that supplies of exempt goods and services are out of the scope of the VAT and are therefore sold to the buyer without any VAT being applied to the sale. However, as the supply is exempt from VAT, deduction of the VAT paid on the input is not possible. The price for the sale of these supplies will be deemed as VAT-exclusive.

Exemptions apply to services specifically designated in the First Schedule of the Value Added Tax Act 2010 (Refer to Annex 1 Part 1). It includes activities in the public interest (government medical care, education) or certain financial services and insurance transactions. It also includes a supply of goods intended for further processing or resale which are exempted at the point of import, individual fisherman and farmers and supply of internationally donated goods or services to a non profit body.

Exemptions apply also to a certain number of imported (basic necessity) goods such as rice, flour, milk powder, infant formulae, meat, fish, poultry, fruits, vegetables, lentils, edible oils, sugar, salt, pharmaceutical products; agricultural and fishing supplies done by farmers and fishermen, respectively; materials and equipments supplied by other governments or international organizations under technical aid; goods to be used in the process of conservations, generation and production of renewable or environment friendly energy, conservation of fresh water, solid waste recycling.

Furthermore, there are a group or category of people who are also exempted, such as farmers and fisherman on some of their import. (Refer to Annex 1 Part 2.) The full list of exemption can be downloaded on the website. (www.src.gov.sc)

2. Issues

There is a significant difference between exempt supplies and zero-rated supplies.

As previously mentioned, while exempt supplies are out of the scope of VAT, zero-rated supplies are taxable but subject to a zero rate. This means that the final price charged to the customer does not include VAT in both situations. However, when making zero-rated supplies, the taxable person is allowed to deduct the input tax attributable to those transactions, while exempt supplies do not.

A typical example of zero-rated supplies is provided by exports. Goods sold to consumers located overseas are zero-rated. But the VAT paid on the inputs needed to produce these goods is deductible.

Another example of zero-rated supply is provided by the supply of goods by a maritime service including maintenance and repair of vessel. This means that the final price charged to the consumer does not include VAT but it also means that the VAT paid on the inputs which make up the service is deductible, so there is no residual VAT in the final price.

A taxpayer who exclusively carries out exempt supplies should not be a VAT registered business.

Input tax is creditable if it is attributable to the making of taxable supplies. However, most taxpayers would inevitably make some exempt supplies in the course of their business. The general input tax deduction rule is that input tax claims can only be made if it is incurred for the making of taxable supplies. Hence, a partially exempt taxpayer would not be able to claim 100% of the input tax incurred. The deduction right is limited. In cases where the input tax cannot be directly identified as incurred in the making of either taxable or exempt supplies, the input tax has to be apportioned. This is known as Input Tax Apportionment.

Input tax apportionment is calculated as follows:

$$\text{Input tax apportionment} = \frac{\text{Value of taxable supplies}}{\text{Value of total supplies (taxable (*) + exempt supplies)}}$$

() Taxable supplies include supplies on which both the standard and the zero-rated applied.*

De minimis rules

If the outcome is more than 90% the deduction right will be 100%, the partially exempt business may claim all the input tax incurred including input tax incurred in the making of exempt supplies.

If the outcome is less than 10% the deduction right will be 0%, the partially exempt business will not be entitled to claim any input tax incurred including input tax incurred in the making of taxable supplies.

CHAPTER 6: Place of Supply

Overview

For VAT purposes, it is essential to know the “place of supply”. This determines which country's VAT rules should be used and how the VAT-registered business has to account for the VAT on the sale. The following sections explain the rules generally used to work out the place of supply of services.

The place of supply is the place where a supply is made and where VAT may be charged and paid.

There are three types of supplies:

- Supplies of goods;
- Importations of goods;
- Supplies of services.

1. Principles

Although the difference between supplying goods and services is purely theoretical, there is a valid reason for distinguishing between them concerning the place of supply. According to the destination principle, transactions are subject to the conditions and rates applicable at the time and at the place they have been made.

However, different rules apply on services involving intangible such as copyrights and advertising, advice, information, etc. The location where these services are rendered is the place where the person to whom the services are rendered has his/her establishment or residence.

1.1 Supplies of goods

With respect to goods, the place of taxation is determined by where the goods are supplied. This not only depends on the nature of the goods supplied, but also on how the supply is made. The place of supply is defined as the place where the goods are physically located at the time of the transaction. It is generally the place where they are delivered (where the transfer of property takes place). An exception is made for goods transported in connection with the supply. In such cases, the place of supply is where the transportation began. Another exception is made for imported goods. For imported goods, the place of supply is Seychelles.

With the exception of natural gas and electricity the place of supply of goods is largely based on the physical location of the goods.

- a) The supply of goods is taxed in Seychelles if the goods are **located** (delivered or made available by the supplier) in Seychelles at the time the supply takes place, if they are **not dispatched or transported**;
- b) The supply of goods is taxed in Seychelles if the goods are **located** in Seychelles when the **dispatch or transportation** to the customer **begins**, if they are **dispatched or transported** by the supplier, by the customer, or by a third person;
- c) The supply of goods is taxed in Seychelles if the goods are being **installed or assembled in Seychelles** by the supplier.

Goods shall be treated as:

- a) Supplied in Seychelles where their supply involves their installation or assembly at a place in Seychelles to which they are removed;
- b) Supplied outside Seychelles where their supply involves their installation or assembly at a place outside Seychelles to which they are removed.

Example: « exported goods »

Goods exported from Seychelles are subject to VAT in Seychelles (and zero-rated) if located in Seychelles at the time when dispatch or transport begins whoever carries out dispatch or transport (the supplier, the customer or a transporter).

1.2 Importation of goods

When goods are imported, the place of importation is where the goods arrive. Goods imported are **in principle** taxed in Seychelles, upon their arrival in Seychelles. All importations are supposed to arrive on Mahe (by airport or seaport).

1.3 Supply of services

With services, deciding the place of supply can be complicated. There are various rules that apply, depending on: **where the services are supplied, the nature of the service** supplied but also on the **status of the customer** receiving the service.

A distinction must be made between a **taxable person** such business acting in its business capacity) and a **non-taxable person** (a private individual who is the final consumer).

Taxable person

A taxable person under the VAT act means a person who is registered for VAT or is required to be registered for VAT and who is conducting taxable operations as part of the business.

When the exact nature of the service and the status of the customer are known the place where the services are supplied can be correctly determined.

General rules

The place of supply of services shall be deemed to be the place where the supplier has established his/her business or has a fixed establishment from which the service is supplied, or, in the absence of such a place of business or fixed establishment, the place where the supplier has a permanent address or usually resides.

However different rules apply depending on the service provided to a taxable business (B2B) or to a non-taxable person (B2C).

Business to business (B2B)

- The supply of services **between businesses** (B2B services) is **in principle** taxed at the **customer's place of establishment**.

The place of supply of services to a taxable person acting as such, shall be the place where the taxable person who receives such services has an established business, meaning has a fixed an establishment, has a permanent address, or where the person usually resides.

The business status of the customer is key to determining the place of supply. In most cases a supplier will be able to rely on a valid TIN provided by SRC (the supplier should be satisfied that it is the customer's TIN and should check with the SRC where there are doubts).

Example:

An accountancy or advertising services supplied by Australian companies to a company in Seychelles (which is identified for VAT purposes), are taxed in Seychelles. If the Australian suppliers are not established in Seychelles, the Seychellois customer will account for VAT under the reverse charge mechanism.

Reverse Charge Mechanism (RCM)

The Reverse Charge Mechanism (RCM) applies in situations where a VAT registered business receives a service from a non-registered business (in a Business to Business (B2B) transaction). While such a transaction should be subject to VAT, in some circumstances it is difficult to require the supplier to register for VAT (because it is an isolated transaction performed by an overseas company or by a small local business and it is preferable to be out of the scope of VAT).

Example:

Services received from overseas

A taxable person A receives consultancy services from an overseas and non registered company B for a total amount of SR 50 000 (with no VAT).

A will only pay this amount to the consultant but will calculate the VAT on this transaction $50\,000 \times 15\% = \text{SR } 7\,500$.

A will report SR 7500 on his next VAT return as an output tax. A is also entitled to claim this amount as an input tax credit on the same VAT return as follows:

Output tax: **7 500**
Input tax: **7 500**
Tax due = **0**

RCM applies in the following situations:

- Insurance: between insurance company and agents/brokers, overseas re-insurer;
- Work on moveable goods;
- Supply of staff;
- Engineering and provision of advice services;
- Services relating to cultural, artistic, sporting, scientific, educational, entertainment or similar activities (including fairs and exhibitions);
- Telecommunication-Network or access supplied by a foreign and non registered company
- Construction.

In the insurance sector: Policies sold by agents/brokers

Insurance companies frequently use the services of agents or brokers to sale their policies. These agents/brokers act as intermediaries. An intermediary is a person who acts on behalf of a principal for the purpose of bringing his principal into contractual relations with third parties. He acts under his name but on behalf of the insurance company. For this service the agent generally receives a commission.

VAT on the insurance policy

The premium of the policy written by the Insurance Company and sold by the agent/brokers includes VAT at 15%. The payment made by the insured person is generally received by the insurance company (in practise a cheque is directly established at the order of the insurance company for the payment of the premium and depending on the agreement between the agent and the insurance company a second check corresponding to the commission might be established at the order of the broker). The VAT corresponding to the premium is actually collected (and remitted to SRC) by the insurance company not by the agent.

VAT on the agent's transaction (VAT on commission)

VAT on the commission due to non registered agent's commission included or not in the premium is withheld at source and is remitted to SRC by the insurance company using the reverse charge mechanism. Insurance company only pay the commission VAT exclusive to the agent and directly remits the corresponding VAT to SRC.

As described below this VAT is reported as an output tax and input tax for the same amount on the same VAT return.

For example the commission is SR 1 500 VAT exclusive. The VAT corresponding at 15% is SR 225. The VAT return submitted by the insurance company will show the following:

OUTPUT TAX (Supply of services and goods by you)		A	B
		Value in SR (exclusive of VAT)	VAT in SR
1	Taxable supplies (Standard Rate @15%)	1500	225
4	TOTAL OUTPUT TAX = (1B + 1.3B + 3B)		225
INPUT TAX (Imports and Purchases)			
5	Input tax allowed as a credit		
5.2	On goods and services purchased locally		225
9	Input tax credit (5.1B + 5.2B + 5.3B + 7B + 8B)		225
VAT LIABILITY		VAT due	VAT Credit
10	VAT payable (4 B > 9B)	0	
11	VAT credit (9B > 4B)		0

The insurance also deducts this VAT for the same amount 225 in the same conditions that VAT was charged by any VAT registered supplier.

In the particular case where an agent/broker is registered for VAT he is entitled to charge the VAT from the insurance company. In this case this VAT will be an output tax from him and an input tax credit for the insurance company.

Example of Reverse charge mechanism in the construction industry

- A taxable person (principal contractor) hires the services of a non registered business (sub-contractor). The subcontractor's invoice is SR 100 000 expressed VAT exclusive;
- The principal will account to SRC for the VAT. He will calculate the VAT on this transaction $100\ 000 \times 15\% = 15\ 000$;
- He will only pay the VAT exclusive amount to the subcontractor SR 100 000 and will report SR 15 000 as an output tax on his next VAT return; in the same VAT return, this VAT will be also claimed as an input tax credit for the same amount SR 15 000.

The principal's VAT return will reflect the following:

Output tax= 15 000
 Input tax= 15 000
 Tax due = 0

Note that projects related to the construction of private houses are not subject to VAT, so is not subject to RCM.

Business to Customer (B2C)

- Services supplied to private individuals (B2C services) are taxed at the supplier's place of establishment.

The place of supply of services to a non-taxable person shall be the place where the supplier has established his/her business. A supply of services occurs in Seychelles if the supplier's business is in Seychelles.

Example:

A guest staying in a hotel in Seychelles will have to pay VAT in Seychelles on the hotel accommodation.

A supply of services occurs abroad if the supplier's business is not in Seychelles.

Example:

For legal services provided by a supplier established in the United Kingdom to a private customer who resides in Seychelles, VAT in the UK must be charged

2. Issues

2.1 Rules to ensure that Supply of Services are taxed in the Country of Consumption

In order to ensure that VAT revenue accrues to the country of consumption, several **exceptions** have been introduced. If the supplier's business is not in Seychelles, the supply of services occurs in Seychelles and is taxed in Seychelles when:

- Services are **physically performed** in Seychelles by a person in Seychelles at the time of supply;
- **B2C services** consisting of **work on movable tangible property** are physically delivered in Seychelles;
- **B2C Services provided by an intermediary** who carries out its main transaction (intervenes) in Seychelles;
- **B2B and B2C services connected with immovable property** located in Seychelles. For example: An architect based in Mauritius hired to design a house in Seychelles will charge the Seychelles' VAT to his/her customer;
- **B2B and B2C cultural, artistic, sporting, scientific, educational, entertainment and similar events** take place in Seychelles;
- **B2B and B2C restaurant and catering services**, when physically carried out in Seychelles;
- **B2B and B2C short-term hiring of means of transport** when the means of transport are actually put at the disposal of the customer in Seychelles;
- **B2C radio, television broadcasting and telecommunication services are received** and enjoyed by the customer in Seychelles;
- The supply is a transfer or assignment of, or a grant of right to use, a **copyright, patent, trademark** or similar right in Seychelles;
- It is not possible to identify the physical location of the person who initiated the supply, the supply is considered to have occurred in Seychelles if the billing address of the person who initiated the supply is in Seychelles.

2.2 Specific rules

Services supplied by an intermediary (agents, brokers)

The place of supply of services by an intermediary acting in the name and on behalf of another person shall be the place where the underlying transaction is supplied.

An intermediary business acting under its own name is deemed to act for itself in the absence of a formal mandate or an equivalent contract. When the underlying transaction is a sale of goods, the transaction shall not be treated as a service and the undisclosed agent acting for him/her self will be treated as a trader (buyer and re-seller) and VAT will apply on the sale price of the goods.

International transport of passengers

The place of supply of passenger transport services is determined according to where the transport physically takes place. If it takes place:

- inside Seychelles the supplies are all within the scope of VAT in Seychelles;
- boat inside Seychelles, the element that takes place within Seychelles is within the scope of VAT in Seychelles; or
- outside Seychelles the supplies are outside the scope of VAT in Seychelles;
- transports that take place both inside and outside Seychelles;
- to the extent that international passengers transport takes place within Seychelles, it is zero-rated, irrespective of the carrying capacity of the ship or aircraft. The zero rate applies to single journeys, round trips; outside Seychelles territorial waters (as long as the transport is scheduled to stop, put-in or land in another country).

Transports occurring outside Seychelles

Outside Seychelles	Status regarding VAT
in other countries	liable to account for any tax in those countries that is applicable on these services
in international airspace or waters	not liable to any tax on that part of the supply in any country

International transport of goods

Are considered as international transport (by sea, air, or land including the services of a pilot or crew in delivering a ship or aircraft) and are zero-rated in Seychelles:

- The transport of goods from a place outside Seychelles to another place outside Seychelles;
- The transport of goods from a place in Seychelles to a place overseas;
- The transport of goods from a place abroad to a place in Seychelles.

The vendor supplying the services of transporting of the goods must be responsible for the entire movement of the goods from the point of origin to the point of destination.

Local transport provided as part of an international transport service

Local transport services are zero-rated provided:

- the local transport service is provided as an integral part of the supply of an international transport service; and
- the local transport service is provided by the same supplier as the international transport service;
- in order to qualify for a zero-rating the local transport service must be provided as an integral part of the international transport service and must therefore be provided as part of the same contract;
- the local transport service must furthermore be provided by the supplier of the international transport service in the contractual sense. It is important to note that the supplier of a transport service in the contractual sense is not necessarily the person who physically performs the service, although this may be the case.

Example:

A freight forwarder contracts with an exporter to deliver the exporter's goods from a factory in Victoria to a customer in London. The freight forwarder is acting as a principal and subcontracts with other parties in order to provide the total service. The forwarder subcontracts with a local transporter to move the goods from the factory in Victoria to the airport and subcontracts with a courier to move the goods to London.

The local transporter will charge VAT at 15% to the freight forwarder on its services of transporting the goods from Victoria to London as it is providing a local transport service to the freight forwarder. The freight forwarder will be entitled to claim a deduction of input tax in respect of the local transport service.

The Cargo line, if registered, will charge VAT at zero % on its services of transporting the goods from Seychelles to London as it is providing an international transport service to the freight forwarder.

The freight forwarder when charging the exporter for the entire service of transporting the goods from Seychelles to London will charge VAT at zero %. Whilst the forwarder is supplying both an international and a local transport service, the local transport service is also subject to the zero rate as it is provided as part of the same supply as the international transport service and is provided by the same supplier, i.e. the freight forwarder.

Ancillary transport service

Ancillary transport services are services which are rendered directly in connection with the transportation of goods, but which are merely incidental to or subsidiary to the transportation service. Ancillary transport services include loading, unloading, handling and similar services (stowing, opening for inspection, cargo security services, preparing or amending bills of lading, airway bills, and certificates of shipment, packing necessary for transportation, and, storage in connection with transportation).

B2C ancillary services to the transport of goods are taxed in the country where those services are physically carried out.

Supplies of ancillary transport services are as a general rule subject to VAT at the standard rate. There are two exceptions to this general rule.

Ancillary transport services provided as part of an international transportation of goods

Two conditions must be met before any ancillary transport service is zero-rated:

- the ancillary transport service must be provided as an integral part of the supply of an international transport service; and
- the ancillary transport service must be supplied by the same supplier as the international transport service.

In order to qualify for zero-rating the ancillary transport service must be provided as an integral part of an international transport service and must therefore be provided as part of the same contract.

The ancillary transport service must furthermore be provided by the supplier of the international transport service in the contractual sense. The supplier of the ancillary transport service in the contractual sense is not necessarily the person who physically performs the service, although this may be the case.

Example:

Clearing agent (A) contracts with an importer to have goods transported from the importer's supplier in Dubai to the importer's warehouse in Victoria. The clearing agent (A) is acting as a principal and subcontracts with other parties in order to provide the total service. (A) subcontracts with a freight company to transport the goods from Dubai to Victoria. (A) subcontracts with a local supplier, (B), to have the goods unloaded from the cargo. (B) prepares the Customs documentation and clears the goods through Customs. (B) subcontracts with a local transporter, (C), to transport the goods from the Airport to the importer's premises in Victoria.

The Airline company, if registered, will charge VAT at zero % to the clearing agent (A) on its services of transporting the goods from Dubai to Victoria.

(B) will charge VAT at the standard rate of 15% to (A) on the services of unloading the goods from the cargo. Whilst the services are supplied as part of the international transport of the goods, (B) is not responsible for the transportation of the goods from Dubai to Seychelles. (B) will thus not zero rate the services.

The local transporter (C) will charge VAT at the standard rate of 15 % to (A) on its services of transporting the goods from the airport to Victoria. Whilst the local agent services are supplied as part of the international transport of the goods, the local agent is not the supplier of the international transport service and will thus not zero rate its services.

(A) will charge VAT at zero % on its entire service of moving the goods from Dubai to the importer's premises in Victoria. The fact that the various charges for the different steps of the entire transport service are separately itemised on the invoice to the importer does not affect the position at all. The VAT charged by (B) and (C) will, of course, qualify as input tax in the hands of (A) as he/she is acting as a principal and the services rendered by (B) and (C) are acquired in order to perform his service of transporting the goods from Dubai to Victoria.

Electronically supplied services

OECD principles on the taxation of e-commerce

The Organisation for Economic Co-operation and Development (OECD) designed a simplified framework for consumption taxes on e-services. The OECD principles on the taxation of e-commerce were agreed at a 1998 conference in Ottawa. These principles establish that the rules for consumption taxes (such as VAT) should result in taxation in the jurisdiction where consumption takes place. The OECD also agreed that a simplified online registration scheme is the only viable option today for applying taxes to e-commerce sales by non-resident traders.

Electronically supplied services, provided by suppliers established abroad to a non-taxable persons (**B2C**) established in Seychelles, must be taxed in Seychelles meaning at the place where the customer resides or has a permanent address.

Consequences: the supplier must have a fixed establishment in Seychelles or designate a VAT registered representative in Seychelles. The network provider can be the supplier's representative.

Example:

If a private person residing in Seychelles downloads US digital products, VAT will have to be paid on the amount the US company charges.

Electronically supplied services - include services delivered over the Internet or an electronic network such as:

- a) the supply of digitised products (including software and changes to or upgrades of software);
- b) services providing or supporting a business or personal presence on an electronic network such as a website or a webpage;
- c) services automatically generated from a computer via the Internet or an electronic network, in response to specific data input by the recipient;
- d) the transfer for consideration of the right to put goods or services up for sale on an Internet site operating as an online market on which potential buyers make their bids by an automated procedure and on which the parties are notified of a sale by electronic mail automatically generated from a computer;
- e) Internet Service Packages (ISP) of information in which the telecommunications component forms an ancillary and subordinate part (i.e. packages going beyond mere Internet access and including other elements such as content pages giving access to news, weather or travel reports; playgrounds; website hosting; access to online debates etc.

CHAPTER 7: Time of Supply

1. Principles

This section explains the rules for working out the time when a supply of goods or services is treated as taking place.

A VAT-registered business is required to examine each transaction to determine when to treat a supply as having been made, and when to report the supplies and account for VAT in the VAT return. It is thus critical to identify the time of supply or the “**basic tax point**”.

1.1 General time of supply or “basic tax point”

- A supply of goods generally takes place when the goods are physically removed, sent, taken away and/or made available for the customer to use.
- A supply of services takes place when the service is performed, when all the work is completed.

1.2 Special rules that do not coincide but override the “basic tax point”

The VAT Act 2010 introduces a different event for determining when the tax is due and when to account for it. For VAT purposes, a **specific tax point** is different from the “**basic tax point**” which overrides it. For goods and services the **tax point** is the date the **payment** in respect of the supply is received.

1.3 Option for VAT on accrual (VAT on invoice)

According to the VAT ACT (amended) the VAT is due when the payment is received (cash rule). However some businesses feel more comfortable to declare VAT on accrual basis, meaning when the invoice is issued. This is why, to facilitate compliance and to align the VAT rules with business practices, SRC may allow businesses that make a formal demand to the Revenue Commission to report VAT on invoices (accrual). The method can only be used upon authorization by SRC. The business must maintain one method for at least 12 months before it considers switching to the other method. It is important to note that the invoices must be issued (available for the customer) within 28 days after the sale of the good or the completion of the service.

Payment - A supply is anything done for a consideration. Therefore, the term “payment” refers to the payment of anything that constitutes a consideration.

There are various modes of payment:

- **Cash:** payment is treated as received on the date the cash is received from the customer;
- **Bank transfer:** payment is treated as received on the date which banks credit the money in SRC account;
- **Cheques:** payment is stamped as received on the date it is submitted to the SRC Office either directly to cashier or by mail;
For cheque that is dishonoured: payment is treated as received when the cheque is represented to the bank and it is cleared or is replaced by cash.

Payment can also include payment by book entry, for example, the off-setting of supplies or mutual debts. The tax point is when the entry is made. If the payment by book entry is in the form of an adjustment in the annual accounts, the tax point is the date the accounts are approved, provided no previous tax point has occurred.

2. Issues

In most cash transactions, the delivery of the goods, the issuance of the cash receipt by the cash register (or the invoicing), and the payment are made at the same time.

It can frequently happen that the delivery of the goods and/or the completion of the services are not immediately followed by the issuance of the invoice and in a number of cases payment is received after several days or weeks.

A third frequent situation is when full or parts of the payments (including deposits) are made before the goods and services are physically supplied.

Goods supplied on approval - Businesses may supply goods under approval or sale or return or similar terms to their customer. In such cases, although the goods have been sent to the customer, the sale does not take place until the customer approves the goods and confirms the sale. The time of supply is treated as taking place when any payment in respect of the supply is received.

The payment received must be to discharge an obligation to pay for the supply arising from the adoption of the sale. The mere receipt of payment will not be regarded as consideration received if it is held as security pending the adoption of the sale. If such security deposit is collected upfront, payment is received only when the deposit is applied as all or part of the consideration for the supply, following the adoption of the sale. Once there is a payment received, VAT has to be accounted for based on the full selling price of the goods.

Deposit and booking fee - It is common for suppliers to require the payment of a deposit and/ or booking fee when an order is placed with them. This may be intended to indicate good faith on the part of the customer or to provide some funding to the supplier to allow the manufacture to commence.

Depending on the contract, the deposit/booking fee may be:

- refundable if the contract is subsequently cancelled;
- liable, either wholly or in part, to forfeiture.

Security deposit - With the exception of security deposits, a pre-payment or deposit intended by the payer and recipient to eventually form part of the consideration for an identifiable supply, will create a tax point.

A supply of goods through a vending machine - a meter, or other device operated by a coin, note or token occurs on the date the coins, notes or tokens are collected from the machine.

A supply of a lease of goods - or under any agreements of law where payments are made periodically, is treated as separate, successive supplies of services which corresponds to the successive parts of the period of the lease or agreement, or as determined by law. Each supply is considered as occurring on the earlier of the date on which payment is due or received.

Payments by instalments - When customers are authorized by the supplier to pay by instalment (the seller provides himself financing services), the goods remain the property of the seller until the full price is paid. This is known as a 'conditional sale'. A basic tax point for a conditional sale is created at the time the goods are supplied to the customer.

In such situations the supplier/financier has to account for output tax on the value of each payment he receives from the customer.

Example:

A sells a machinery to B under an instalment credit financing arrangement. The credit arrangement is to finance the purchase amount of SR30, 000 including 15% VAT. The terms of the

financing arrangement are such that B is to make monthly payment of SR 3000 starting from 1/3/2013. Invoice for the first instalment payment is issued on 15/2/2013. B takes delivery of the machinery on 1/2/2013. The event triggering the time of supply is the payment and the VAT has to be accounted at the time and for the amount of each payment SR 3000.

Credit sales

A credit sale means the sale of goods which immediately become the property of the customer but where the price is paid in instalments. The basic tax point for a credit sale is created at the time the goods or services are supplied to the customer. But the basic tax point may be over-ridden and an actual tax point created if:

- a payment is received before supplying the goods or services.

Credit sales involving a finance company - when credit sales involve a finance company, the finance company either:

- becomes the owner of the goods - for example when a purchase is financed by a hire-purchase agreement;
- does not become the owner of the goods - for example when a purchase is financed by a loan agreement.

Hire purchase agreements: If the finance company becomes the owner of goods, the goods are deemed to be supplied to the finance company and not to the customer. VAT is accounted on the value of the goods at the time the supply takes place to the finance company. Any commission received from the finance company for introducing them to the customer may be subject to VAT.

Loan agreements: If the finance company does not become the owner of the goods, goods are directly supplied to the customer not to the finance company, even though the finance company may pay the supplier directly. VAT is due on the selling price to the customer, even if the amount received from the finance company is lower. The contract between the customer and the finance company for credit is a completely separate transaction.

Supplies in the Construction Industry under Contracts providing for Stage Payments or not - Supplies, including design, advisory and supervisory services, under such contracts, the tax point is the time any payment is received.

However, in some areas, there is a final tax point when the work is completed.

2.1 Rules when the basic tax point is considered for VAT purposes.

Transfer of assets - When a VAT-registered business transfers or disposes goods forming part of the assets of the business without consideration, it is making a supply of goods for VAT purposes. The time of supply is treated as taking place when the goods are transferred or disposed of (the reverse charge mechanism will be used: VAT will be reported as an output on the next VAT return).

Private use of goods - When a VAT-registered business withholds or uses goods for its business for private purposes (or for the purpose of a business not carried on by him/her) without consideration, it is making a supply of services for VAT purposes when the goods are to be used. The time of supply is treated as taking place on the day the goods are made available or used. (The reverse charge mechanism will be used: VAT will be reported as an output on the next VAT return).

De-registration - A VAT-registered business supplies a service before it's de-registration date but receives payment for that service only after it ceases to be registered for VAT. In this case the performance of service (Basic Tax Point) takes place before the business de-registered but no VAT is accounted for at the date of deregistration. The supply of service shall to the extent that it is not covered by any payment, **be treated as taking place on the day immediately before** it ceases to be registered for VAT.

CHAPTER 8: VAT taxpayers rights and obligations

Overview

Taxpayers have an obligation to calculate their own VAT liability and pay VAT according to the requirements of the law.

They must:

- register for VAT;
- correctly determine the amount of tax they have to pay;
- when required, deduct or withhold the correct amount of tax from payments or receipts;
- file their returns and pay tax on time;
- keep all necessary information (including books and records) and maintain all necessary accounts or balances;
- disclose all information that SRC requires in a timely and useful way;
- cooperate with SRC as required by the Revenue Administration Tax Act 2009 and the Value Added Tax Act 2010;
- comply with any other specific tax obligations.

SRC routinely audits and investigates the tax affairs of VAT registered taxpayers. When taxpayers are not meeting their obligations, they can be charged with penalties.

1. VAT registration

1.1 Principles

In principle, persons engaged in a business must advise the SRC on commencement, and report change(s) or cessation. When starting its activity, each business is allocated with a Taxpayer Identification Number (TIN) by SRC.

The TIN provided by the SRC is valid for all tax purposes including VAT.

Registering for VAT

Chapter two of this manual introduces the notion of taxable person and provides the following definition: for VAT purpose, a taxable person is a person who is registered for VAT and who is conducting taxable operations as part of the business.

A **VAT registered** taxpayer is a business who meets the following conditions:

- has been allocated with a valid TIN
- is identified as a VAT taxpayer with SRC
- has provided sufficient evidence of the physical address or place of establishment

VAT threshold

Under the VAT Act 2010, a person may need to register for VAT, or may be able to choose to register voluntarily. Among the conditions required by the Law to be mandatorily registered for VAT, one is related to the minimum turnover that has to be performed by the business during a certain period of time. This condition is also called «VAT threshold ». VAT threshold is designed to relieve small business from the burdens of complying with the VAT administrative requirements.

By law, the VAT threshold has been set at SR 5 Million. Subsequently, businesses whose turnover is above the VAT threshold must compulsorily register for VAT. Businesses whose turnover is below the VAT threshold may voluntarily register for VAT. If the person's turnover for the previous 12 months is more than SR 5 Million, the person must compulsorily register for VAT.

When determining the threshold the following are considered:

- Annual turnover tax exclusive (total receipts, money received for consideration of sales of goods and/or services in the course of the business).

When determining the threshold the following are **not** considered:

- The sale of capital assets;
- Tax (GST, Excise tax, Trades tax, levies, VAT) included in the sale price;
- The sale of a whole or part of a person's enterprise.

Voluntary registration

A business with a turnover below the threshold may consider to voluntarily register for VAT. The business has the same obligation under the law as a compulsory registered business including keeping all required VAT records, issuing proper VAT invoices, completing and submitting VAT returns and remitting VAT on due time.

Benefits of registering for VAT

Only a VAT registered person can charge VAT on supplies and offset input tax against VAT collected (output tax). There are thus potential cashflow advantages of being able to charge VAT on sales and claim back VAT on purchases. For example:

- if the person sells zero-rated items and buys standard-rated items the person would receive a VAT refund from SRC;
- if the person has not yet sold anything or does not sell anything during a VAT accounting period, the person may still be able to claim VAT back on its purchases.

1.2 Issues

New business

When applying for registration a person starting a business is unable to determine the turnover with sufficient precision. However, in the registration form, the turnover needs to be estimated turnover based on the best knowledge. In the case where the estimated turnover falls below the threshold the business can opt for voluntary registration.

Transfer of businesses

A person taking over a VAT-registered business from someone else has to register the business including registration of VAT if the turnover of the business will be more than SR 5 million for the previous 12 months, or if the sum of the two businesses was more than SR 5 million for the previous 12 months.

A Business that does not have a place of business in Seychelles

If a business has to register for one of the reasons described above, but does not have a place in Seychelles, then it must register as a Non-Established Taxable Person (NETP). It may also want to appoint a tax agent to keep VAT records and accounts on its behalf.

When advising SRC on changes and/or cessation

Within 21 days of any change in status, a registered person must notify the Revenue Commissioner, in writing of such changes including any change in the name (business name), address, place of business, or nature of the business of the person.

Measures to prevent frequent registrations/de-registrations

It may happen that a person, when starting and applying for registration, over-estimated or under-estimated his/her turnover. This could result in an unnecessary registration or

conversely a registration default.

These situations have to be reported to SRC within 21 days of the person becoming aware of this.

However to prevent against frequent registration and/or de-registration the following rules will be applied:

- A non-registered person whose turnover crosses the threshold (even though a financial year or substituted financial year has not been completed) will be registered for VAT upon his statement/declaration;
- A registered person whose turnover has dropped below the threshold will be registered for at least 12 months following his declaration/statement;
- A Voluntary registered person will not be allowed to de-register before the end of a 12 months period following his/her registration.

Any registered person will be at least registered for a minimum period of 12 months, unless otherwise considered by SRC.

Cancellation of Registration

A person wishing to be VAT deregistered can choose to do so. Request for VAT deregistration can be made when:

- the person no longer makes taxable supplies;
- the business is sold as a going concern (meaning that the business is sold with the knowledge that the business will continue to be in operation in the future);
- the business terminates to change its legal status (e.g transformation of an individual business in corporate); and
- the business has not exceeded the threshold and is not likely to exceed it in the future.

Application for cancellation must be made within 21 days of the date on which the person stopped making taxable supplies. The Revenue Commissioner can by notice in writing cancel the registration.

The cancellation of a person's registration takes effect from the date set out in the notice of cancellation. Upon cancellation a person shall:

- cease charging VAT;
- submit a VAT return reflecting required adjustments on assets and stocks; and
- return the VAT certificate to the Revenue Commissioner.

Regardless of cancellation a person is still liable for any acts done or not done while being registered in respect of making taxable supplies; including the VAT due as a result of *deemed taxable supply on cancellation*.

Closure of a business is treated the same as cancellation of VAT registration.

Deemed Taxable Supply on Cancellation

At the time of cancellation some of the taxable goods which have not been sold will be treated as taxable if:

- These goods were purchased or imported and the business had received an input tax credit; or
- Other taxable goods and services were used to manufacture the product of the business and an input tax credit had been given.

In both circumstances mentioned above, VAT will have to be paid on the goods

Cancellation of registration by SRC

The Revenue Commissioner may cancel a Registration even when a person has not expressed the wish to do so under the following circumstances:

- the person no longer makes taxable supplies, even if the person has not applied for cancellation;
- the person is unable to maintain proper records or to issue reliable VAT invoices;
- the person has failed to comply with the VAT requirements and regulations in the case for example of frequent stopfiling or delinquent accounts.

2. VAT Documentation

2.1 Record keeping

A registered person has an obligation to meet the requirements and regulations of the VAT Act. A person who fails to comply with the given law is committing an offence under the law.

A VAT registered business must keep full and true records of all business transactions which affect the liability to VAT. There is no set format for keeping records but they must be kept up to date. The records need to be detailed to enable accurate calculation of liability or repayment. All records and accounts must be preserved for a period of 7 years from the date of the latest tax period to which they refer to.

VAT Invoice

Only VAT-registered businesses can issue valid VAT invoices.

A VAT-registered taxpayer, when supplying goods or services to another VAT-registered taxpayer must give him/her a VAT invoice. A VAT registered retailer does not have to issue an invoice, unless requested by his/her customer.

A VAT-registered taxpayer can only claim VAT back on purchases made for his/her business when he/she has a valid VAT invoice for those purchases.

A VAT invoice is an important document in the VAT system. It shows indispensable VAT details of a sale or other supply of goods and services. It can be either in paper or electronic form.

A VAT invoice must display the following specific information:

- VAT invoice clearly indicated in a prominent or visible space;
- the name, address and TIN of the supplier;
- the name, business name, physical address;
- the serial number of the invoice;
- a sufficient description to identify the goods or services supplied to the customer;
- the total price excluding VAT;
- the amount of VAT applicable to the sales;
- the total price including VAT;
- the date of issuance.

The following are not VAT invoices:

- pro-forma invoices;
- invoices that state 'this is not a tax invoice';
- statements;
- delivery notes;
- orders;
- letters, e-mails or other correspondence.

For each different type of item listed on the invoice, it must show:

- the unit price or rate, excluding VAT;
- the quantity of goods or the extent of the services;
- the rate of VAT that applies to what's being sold;
- the total amount payable, excluding VAT;
- the rate of any cash discount;
- the total amount of VAT charged.

If a VAT invoice that includes zero-rated or exempt goods or services is issued, it must show:

- clearly that there is no VAT payable on those goods or services;
- the total of those values separately.

When a VAT invoice must not be issued:

- when the supplier is not registered for VAT;
- when the customer uses self-billing arrangements;
- cash register machines are used for **B2C** transactions;
- a gift of goods on which VAT is due is made;
- a 'proforma' invoice is issued.

Use of cash register:

AT registered retailers using cash registers will issue a receipt (see appendix 3) for each sale. These tickets will indicate:

- The date;
- The identification of the items sold their quantity and price per unit price VAT exclusive;
- The sub-total VAT exclusive;
- The VAT applying on the sub total;
- The total to be paid VAT inclusive.

Time limitation for issuing VAT invoices (to a VAT-registered customer) is 28 days from the date of the supply - or if an advance payment has been made, 28 days from the date the payment was received.

■ *Records that must be kept*

A VAT registered taxpayer had to present his/her records when requested by the Seychelles Revenue Commission officers. Obligated records that must be kept by a VAT registered business are:

- Original or certified copy of VAT invoices, debit and credit notes (where applicable);
- Documents related to import (BOE, payment or release receipts) and export (evidence of the funds repatriation, export certificate from customs);
- Documents related to a specific service showing adequate information such as the nature of service; the quantity of service supplied; the time and place of the supply; the extent to which the supply has been used; and the consideration for the supply.

Documents must be kept in chronological order (in order of time).

2.2 Requests for VAT Documents

If, for any reason, an original VAT invoice, VAT credit note or VAT debit note, has not been received the taxable person may require the supplier to provide these documents. The request has to be sent within 60 days from the date of the supply and/or transaction. The supplier must comply with the request within 14 days of receiving it.

If the supplier refuses to issue the requested document upon request, the customer can inform SRC of this.

Lost or Misplaced VAT Invoices, VAT Credit and Debit Note

If a VAT invoice, VAT credit and/or debit note is lost or misplaced, the supplier cannot issue another VAT invoice, VAT credit and/or VAT debit note. Only a copy from the original may be issued for the same taxable supply. In that case, the supplier will indicate that the document issued is a 'copy' of the original one.

No claim for input tax is allowed unless supported by a VAT invoice or VAT credit or VAT debit note.

3 Lodging a VAT return

3.1 Principles

Deadline for submission of the VAT return

Compulsory registration - The VAT return must be filed on a monthly basis by the 21st following the tax period in which the taxable transactions occurred.

Example: 1

A sale of taxable good (SR 2000 VAT inclusive) is made on January 12th 2013, VAT collected on this sale (SR 260) is to be declared and remitted to SRC before February 21st (which is the deadline for both lodging and paying VAT).

Voluntary registration - The VAT return must be filed on a quarterly basis by 21st of April, July, October and January of any year.

How to fill in a VAT Return

- for negative amounts the figure must be put in brackets ();
- 'NONE' is used for 'none' or 'not applicable'.

Filing the VAT Return line by line

Line 1: Taxable supplies

Column A: This is the total amount (**exclusive VAT**) charged on sales to customers during the taxable period.

Column B: This is the VAT applied on taxable supplies and charged on sales to customers during the taxable period.

Is also included, the VAT to be paid for certain other supplies, such as:

- sales to staff;
- sales of business assets, such as commercial vehicles or machinery;
- hiring or loaning of goods to someone else;
- commission received from selling something on behalf of someone else;
- goods or services, such as products or computer software, taken out of the business for personal use by staff;
- gifts or samples given to someone that cost more than SR 500;
- anything bartered, exchanged or part-exchanged;
- any goods **bought** that the reverse charge procedure applies to;
- deferred payment when applied on capital goods imported.

Credit notes issued or debit notes received are taken away from this total and will be reported on line 3 adjustments.

On exports: as exports are zero-rated, no VAT has been charged on them, column A will show the total value of exports made during the taxable period.

On other zero-rated supplies: column A will show the total amount of sales of zero-rated goods and/or services (except exports). Example: sale of animal feed.

On sales of capital assets: Column A will reflect the sale price of any fixed asset sold by a business and column B the VAT charged on this sale.

Line 2: Exempt supplies

Column A: As exempt supplies are not taxable, column A will show the total value of exempt goods and services sold during the taxable period. Example: sale of infant formulae, rice and lentils by a retailer.

Line 3: Adjustments

Column B: reflects adjustments increasing or reducing the amount of output VAT. It includes correction of errors made during the last period (example an editing error).

Adjustments also include credit notes issued when the price of a supply has reduced after a tax invoice was issued, eg, the return of faulty goods; debit notes issued when the price increases after a tax invoice has been issued.

Line 4: Total output tax

Column B: Reflects the total amount of VAT collected on taxable sales (line 1B + 1.3B + 3B). This is the total output tax against which the deductible input tax will be offset.

Line 5: Input tax allowed as credit (VAT reclaimable on business purchases)

Column A: reflects the amount of goods and services **exclusive VAT** purchased locally and/or imported during the taxable period.

Column B: reflects the VAT paid on purchases/imports made for use in the business during the taxable period.

Line 5.1: Input tax on imported goods includes:

- VAT paid to Customs on imports
- VAT paid on goods removed from a bonded warehouse or free zone.

Line 5.2: Input tax credit on goods and services purchased locally. It corresponds to the goods and services purchased on the domestic market (column A is the price of these goods/services, column B is the VAT charged by the saler).

Line 5.3: Input tax credit on capital goods. The value (tax base) and the VAT corresponding to the fixed assets purchased or imported.

Line 6: Input tax not allowed as credit

Column A: reflects purchases on which VAT credit cannot be claimed, even though VAT is included in the price. These include:

- anything outside the scope of VAT entertainment, accommodations, motor vehicles expenses;
- purchases related to private use; interest, bank fees.

Line 7: Adjustments

Column A: reflects adjustments reducing or increasing the input tax on purchases and expenses.

(-) may correspond to a reduction of the agreed price of the supply following the issuance of a credit note; it can be a reduction of the deduction right related to the private use of a good initially purchased for business purpose.

(+) corresponds to an increase of the agreed price following the issuance of a debit note.

Line 8: reflects the VAT carried forward from prior taxable period line **11B** of your last VAT return).

Line 9: reflects the total input tax credit, all VAT deductible (**line 5.1B + 5.2B + 5.3B + 7B + 8B**).

VAT liability

Line 10: VAT payable.

This is the difference between output tax and input tax (**line 4B - 9B**) when output tax is superior to input tax. The amount is positive and VAT is due to SRC.

Line 11: VAT credit.

This is the difference between output tax and input tax (**line 4B-9B**) when input tax is greater than output tax. The amount is negative and a VAT credit as either to be carried forward or claimed for refund.

Claim for refund.

This box is used when the taxpayer is entitled to get a VAT refund. When filling the box the taxpayer indicates the amount he wants to get refunded (this amount can be equal or less to the credit reported **line 11B**, but neither greater).

3.2 Issues

Non-lodgement and late-lodgement

Failure to submit a VAT Return on time is subject to penalties under the VAT Act, 2010 (see section offences and penalties). When a VAT return has not been filed before the deadline a reminder letter is issued by SRC.

From the day the reminder letter is received, the tax payer has a period of 14 days to submit the VAT return.

After the expiration of this additional timeframe, when no VAT return has been submitted, SRC is entitled to carry out an estimated assessment of the VAT liability by any means (desk or field audit).

4. Remitting VAT

Important notice: registered taxpayers involved in the VAT chain, solely act as VAT collectors on behalf of SRC. The VAT collected is not a profit, but temporarily in their possession until the due date for payment. When the input tax is offset against the output tax, then the VAT due/payable reported on the return, has to be remitted to SRC no later than the legal filing date.

4.1 Principles

The deadline for remitting VAT owed to SRC is the same as the due date for filing a VAT return and BAS form. VAT is to be remitted to Seychelles Revenue Commission by VAT registered businesses on the 21st of each month or on a quarterly basis, by 21st of April, July, October and January of any year.

Payments accepted

Payments can be made either by cheques or via bank to bank transfers.

Payment by cheques are remitted to the cashier office or sent by mail. For cheques sent by mail the valid date is the day they are received by SRC.

4.2 Issues

Failure to pay VAT due on time is subject to penalties under the VAT ACT 2010.

When facing difficulties for paying VAT, the taxpayer should submit his/her VAT return on time, and let SRC know about his/her payment problems.

SRC is entitled to make payment arrangements.

5. Offences and penalties

5.1 Offences

Offences under the Revenue Administration Act and VAT Act include:

- Failure to register when required by law;
- Failure to inform SRC of any change impacting registration or VAT status;
- Failure to display a VAT certificate;
- Failure to issue proper VAT invoice;
- Irregular issuance of VAT invoice, credit or debit notes;
- Issuance or use of false invoice, credit and debit notes;
- Irregular invoicing and/or collection of VAT by non registered taxpayer;
- Failure to lodge a VAT return on time;
- Failure to pay VAT on time;
- Underreporting of VAT liability;
- Overreporting of input credit;
- Failure to maintain proper records, book keeping;
- Failure to present proper records, book keeping when required by SRC.

5.2 Sanctions

Negligence or unreasonable behaviour resulting in non compliance and/or underpayment are considered as offences and, hence upon conviction will be subject to sanctions.

Under the VAT Act, there are four types of sanctions: Fines, penalties, interests and penal sanctions.

- Fines are lump sums generally applied when no tax liability is directly involved or when the offence does not directly result in a underreporting of the tax liability;
 - Penalties are calculated as a percentage of tax due. While penalties sanction a failure to comply, interest applies on late payment and reflect the time value of money;
 - Interests are not subject to waiver or compromise. The interest rate applied reflects the full cost of money by reference to the 365 day Treasury Bills as published by Central Bank;
- Penal sanctions may comprise additional fines and imprisonment.

Fines apply on the following offences under VAT Act:

Offences	Penalties
<ul style="list-style-type: none">● Failure to register if turnover exceeds the threshold.● Failure to display the VAT certificate● Failure to apply for cancellation of registration● Failure to report any change impacting the registration and failure to provide SRC with required information.	<ul style="list-style-type: none">● Failure to apply for registration under section 7, additional tax equals to double the amount of VAT payable.● A fine of not less than SR 20,000 and SR 5,000 for each additional month.● A fine of not less than SR20,000 and SR 5,000 for each additional month.● A fine of not less than SR20,000 and SR 5,000 for each additional month.

<ul style="list-style-type: none"> ● Irregular issuance of credit or debit notes for any reason which is not provided under the VAT Act. 	<ul style="list-style-type: none"> ● A fine not exceeding SR20, 000 or imprisonment for not more than 1 year or both fine and imprisonment. <p>In addition VAT irregularly collected has to be remitted to SRC.</p>
<ul style="list-style-type: none"> ● False issuance of invoice, VAT credit or debit notes. 	<ul style="list-style-type: none"> ● A fine not exceeding SR20,000 or imprisonment for not more than 2 years or both fine and imprisonment. <p>In addition, VAT is not allowed as credit</p>
<ul style="list-style-type: none"> ● Additional Tax for failure to issue Tax Invoice 	<ul style="list-style-type: none"> ● Small business: SR 500 plus SR 50 for each week or part week the invoice is not furnished ● Medium business: SR 1,000 plus SR 100 for each week or part week that the invoice is not furnish; ● Large business: SR 5,000 plus SR 500 for each week or part week that the tax invoice is not furnished.
<ul style="list-style-type: none"> ● Failure to maintain proper records 	<ul style="list-style-type: none"> ● SR 10,000 small business ● SR 50,000 medium business ● SR 100,000 large business
<ul style="list-style-type: none"> ● Failure to provide SRC with required information 	<ul style="list-style-type: none"> ● Fine no less than SR 50,000
<ul style="list-style-type: none"> ● Late filing and inaccuracy of return 	<ul style="list-style-type: none"> ● Small Business: SR 500 plus SR 50 each week or part week that the return is not furnished; ● Medium Business: SR 1,000 plus SR 100 each week or part week that the return is not furnished; ● Large Business: SR 5,000 plus SR 500 each week or part week that the return is not furnished; ● Any Other Case: SR 500 plus SR 50 each week or part week that the return is not furnished.

Penalties for late filing and inaccuracy of return

(i) Late filing

Interest will be calculated as a percentage of the unpaid VAT. The rate of interest applicable (only when the taxpayer has not paid revenue on the due date) is the quarterly average prime lending rate on the first day of the period (meaning when the payment was due) as published by the central bank of Seychelles increased by three percentage points.

No penalty will be applied in case of late filing of:

- nil return (no VAT charged or to pay)
- return with a VAT credit

(ii) Inaccuracy of VAT return

A VAT Return that is inaccurate and incorrect means tax is unpaid, understated, overclaimed or under-assessed

Voluntary disclosure on inaccuracies as soon as detected may reduce any penalty that is due, leading in some cases to zero.

The penalty rate for inaccurate VAT returns is 10% of the revenue unpaid for.

Interest on late payments

Interest will be calculated as a percentage of the unpaid VAT (plus penalties).

- The starting point is the day after the original due date for paying the tax;
- The arrival point is the day when the full payment is recorded by SRC.

3 % the first month and 1% the following months until full payment with a minimum of 14% per year (by reference to the 365 day Treasury Bills as published by Central Bank).

6. Audit

6.1 Principles

SRC has the right to audit any VAT registered business so as to ensure that the taxpayer has complied with his/her tax obligations.

General definition of a VAT audit

A VAT audit is an evaluation to correctly assess a taxpayer to ensure that all VAT liabilities have been fulfilled and also other VAT-related obligations have been met.

Typology of one-site audits conducted by the SRC

Issue-oriented audits - Are limited scope audits confined to specific items of potential non-compliance or directed at correcting errors that may have been detected on a tax return. It is also used to reconcile specific information on the tax return (e.g. purchases and sales) to the taxpayer's records. An issue-oriented audit should focus on not more than one to two returns at a time and should not cover an entire fiscal year. These audits should not last more than three to four days. Typical example of issue-oriented audit is a VAT refund audit.

VAT refund audits - *Refund audits focus on verifying the refund for the period covered by the claim.*

Comprehensive audits - the scope of a comprehensive audit is all-encompassing. A comprehensive audit is conducted in all cases where serious underreporting is detected (e.g. during registration checks or the conduct of issue-oriented audits). The objective is to determine the correct tax liability for all tax returns including VAT, Excise, PAYG, and Income tax. They may be extended to cover several years, up to the limit allowed under the law. In the most serious cases fraud investigation may be necessary.

Other types of Operations

Registration checks and educational visits - Mainly for new businesses, particularly small and medium-sized ones. These are unannounced visits to the premises of a business to ensure that it has registered for VAT with SRC and to confirm that:

- a) The taxpayer has a clear understanding of its VAT obligations;
- b) The appropriate records are maintained in accordance with the law; and
- c) Proper invoices and other transactional documents (e.g., debit/credit notes) are prepared and issued.

In most cases, these types of visits should not take more than half a day and serious cases of anomalies detected and referred for other forms of audits.

Desk examinations - This is to ensure that mathematical and clerical errors on the VAT return are detected and corrected. The correction of such anomalies could result in additional assessments or selection of cases for a field audit. These examinations will concentrate on:

- a) Cross-checking information from all taxes and duties (e.g. turnover reported for income tax and VAT and value of imports and exports customs returns) to ensure consistency; and
- b) Comparing data for similar periods using the same criteria (e.g. profit margins, capital expenses, and personnel).

Tax fraud investigations - these involve the most serious cases of noncompliance which may have criminal implications. Such investigations require searching of premises, seizure of evidence, testimony from witnesses, etc. These types of investigations are normally carried out by specialized investigators in accordance with criminal procedure law. The investigators may be assigned to audit department or a separate department within the SRC for criminal tax offenses.

Procedures

Unless otherwise decided by SRC (in response to particular risks), SRC will give a written notification to a taxpayer of a pending audit or investigation. The time of notification of an audit or investigation will be the date the written notice is issued to the taxpayer.

Notification of Audit

SRC will notify businesses when they will be audited for a particular VAT period.

Notification of an audit informs the taxpayer:

- that he/she is going to be audited;
- indicates the date, the place and the time for the first meeting;
- precisely which taxes and which taxable periods are going to be reviewed, unless it is specifically mentioned that the audit will be a comprehensive audit.

The taxpayer will be notified if the focus of the audit widens during the audit and other issues and periods are to be reviewed.

Representation during an Audit

You may represent yourself, have someone accompany you, but it is preferable that the owner of the public officer of the company is present during an audit interview as they are the ones who know the business and are in a better position to answer questions/queries. One of the obligations of the taxpayer is to be truthful and provide accurate and honest answers to any queries. If the owner does not know how an expense has been accounted for, SRC usually liaises with the tax agent.

Any person representing the taxpayer must have proper written authorization (power of attorney) from the taxpayer to act on his/her behalf.

Notice of Assessment

When adjustments are proposed and/or shortfall penalties are considered, a detailed notice of assessment is usually issued.

The notice of assessment will set out:

- information of the procedures involved;
- the items subject to the proposed re-assessment;
- a concise statement of the key facts;
- a statement of how the law applies to the facts;
- the legal grounds for the proposed re-assessment;
- When the taxpayer agrees with SRC proposed adjustment he/she will be asked to confirm his/her agreement in writing. Adjustment agreed in writing cannot be challenged in court anymore;
- When the taxpayer disagrees with all or a part of the proposed adjustment(s) he/she must send a response to the SRC within 14 days of the issue date on the notice of assessment;

- If the taxpayer does not reply within 14 days of the date of issue he is considered by law to have accepted the proposed adjustment. SRC will accept a late response only if there is an exceptional circumstance and it is late because of factors outside the taxpayer or his /her agent's control;
- For example, where a notice of assessment is issued on 30 September 2012, the last day of the response period is 14 October 2012.

Taxpayer's Response

The taxpayer's response must give brief reasons why he/she rejects the proposed adjustment and specify where possible how the proposed adjustment could be altered so SRC will agree with it.

The response must contain the following:

- the facts or legal arguments in the notice of assessment you disagree with;
- why you consider those facts or legal arguments are wrong;
- further facts and legal arguments you rely on;
- how the legal arguments apply to the facts;
- the quantitative adjustments referred to in the proposed adjustment that could change as a result of the facts and legal arguments you rely on.

If SRC accepts all the arguments developed in the taxpayer's response, the agreement will be recorded and will not make the proposed adjustment. If SRC disagrees with some or all of the taxpayer's arguments, he/she will be informed that SRC initial re-assessment will be maintained. A notice of collection will be issued within 21 days while the dispute may then move to the next stage.

When the burden of the proof is borne by SRC

In most of the cases, when re-assessing a VAT liability, SRC will bear the burden of the proof.

When the burden of the proof is borne by the taxpayer

VAT liability will be based on SRC best estimation and the taxpayer will bear the burden of the proof in the following cases:

- when the taxpayer failed to file his VAT return within the delay of 14 days following the date of issue of a reminder letter;
- when the taxpayer failed to respond to a formal request sent by the SRC;
- when the taxpayer failed to present a valid book keeping reflecting the reality of its operations (when book keeping is altered, when operations are missing, when the book keeping is not reliable, regular or relevant);
- when the taxpayer, by his behaviour, obstructs SRC when carrying out an audit.

To reverse the burden of proof SRC will have to describe accurately, clearly and concisely these facts in the notice of assessment.

Obstructing the Auditor

It is a serious matter if a taxpayer obstructs an SRC auditor or officer as they carry out their audit.

Obstruction can mean:

- refusing reasonable access to business premises;
- destroying relevant information;
- lying and falsifying details;
- creating deliberate delays to frustrate SRC enquiries.

In addition to reversing the burden of proof, a shortfall penalty may be increased by 100% for obstruction.

Access to Bank Information by Tax Auditors

As a general rule, SRC has a statutory authority in the tax law to request information from the banks to verify VAT.

- Information requests shall only be in respect of specific taxpayers;
- The taxpayer being audited shall be asked for a list of his/her bank accounts at the commencement of an audit. The taxpayer shall also be informed that enquiries will be made at the banks to verify the information disclosed in his/her tax returns;
- Information must only be obtained for the purpose of the **on-site audit** of tax returns; If the tax auditor has reason to suspect the existence of other bank accounts not disclosed by the taxpayer, he/she is entitled to make enquiries about the existence of these accounts;
- Information collected from banks include:
 - Whether the taxpayer has a bank account or bank accounts at this bank;
 - Whether the taxpayer's immediate family (wife and children) has bank accounts at this bank;
 - At which branches these accounts are held;
 - A list of transactions (bank statements) that have gone through individual bank accounts;
 - The origin or destination of specific transactions going through bank accounts
- The banks are entitled to make information available only to auditors who carry a warrant to identify them as an accredited auditor when seeking information. The warrants will contain a description of the authority that they are acting under and the specific powers that they can exercise;
- Information requests to a bank shall be in writing and signed by the Revenue Commissioner. They should ask for specific information;
- Banks should be required by law to comply with requests for information by a tax auditor. Reasonable time should be given to the banks to comply with the requests. Penalties should be provided for in the law if the tax auditors' requests are not complied with.

6.2 Issues

Voluntary Disclosure

A voluntary disclosure is when a taxpayer informs SRC that a clear and genuine error has been made with a tax return before SRC finds it out in some other way. It may involve such things as omitted output tax or overstated input tax.

The Taxpayer then needs to inform SRC:

- the period containing the error;
- the amount of tax in error;
- the nature of the error;
- how the error occurred;
- how and why the error was identified;
- what the amended figures in the return should be to ensure a correct assessment is made.

The Taxpayer will still have to pay any tax owing because of the mistake, but if he pays it by the due date, there will be no late payment penalty.

SRC will send the taxpayer an assessment that will tell him how much he has to pay and when to pay it.

Taxpayers can make a voluntary disclosure in any one of the following ways (by completing a *Voluntary disclosure* form, by telephone call, by letter, fax or email, by visiting SRC's offices, during an interview) at any time before before an audit begins.

Consequences of a voluntary disclosure the taxpayer will have to pay the tax outstanding plus interest on unpaid tax, and a shortfall penalty.

Making a voluntary disclosure has several advantages including no prosecution in court (when disclosure is before the notification of a pending audit) and a significant reduction in the shortfall penalty.

- Full and complete voluntary disclosures made before SRC tells the taxpayer that he/she is going to be audited or investigated, will reduce any shortfall penalty by 75% or 100% (except in cases of fraud or evasion);
- Full and complete voluntary disclosures made before SRC begins an audit (but after notification of a pending audit) will reduce any shortfall penalty by 40%.

Statute Limitation

The statute of limitations on SRC's right to assert additional tax due, is 4 years after a return was filed, beyond which SRC may not assess any tax above what is reported on a return. A written consent to extend the statute of limitations must be obtained prior to expiration of the limitations period. The statute of limitations does not apply, however, for any period during which a taxpayer failed to file a return, filed a false or fraudulent return to evade tax.

Other time limitations for audit

When already covered by a prior comprehensive or punctual audit, SRC cannot audit the same tax liability a second time for the same period.

The only exemption is in the case where SRC conducted an issue-oriented audit covering a period shorter than one year., In this case the tax liability can be audited a second time in the frame of a comprehensive or partial audit covering at least one fiscal year.

Audit Duration

For large taxpayers whose turnover is above SR25 Million the duration of an audit should not extend beyond 6 months.

For medium and small taxpayers the duration of an audit should be within 3 months.

This duration can however be widened in the following circumstances:

- the first meeting has been delayed;
- the taxpayer obstructed SRC during its audit;
- audit has been interrupted by external circumstances.

Communication of Information required by SRC

Businesses registered taxpayers or not have a general obligation to provide any type of information requested by SRC. This is known as the inquiry right of SRC.

To collect this information, SRC needs to issue a formal request, usually a written notice. In this notice, SRC advises the taxpayer when and how it intends to collect this information either (during a visit within a taxpayer's premises or through an invitation of the taxpayer's to SRC's offices), what are the documents requested and which period is concerned.

Following such a formal request, taxpayers will have to comply and provide all information, and/or documents required by SRC.

In exercising of his/her inquiry right, the Revenue Commissioner may request the taxpayer to furnish any required documents such as issued or received invoices, issued or received credit/debit notes, book keeping (including: journal of receipts, journal of expenses, balance sheet, customers/supplier's balances and accounts, etc). Failure to provide these documents upon request is an offence subject to sanctions.

7. Collection enforcement

VAT owed has to be remitted immediately to SRC by the due date, no later than the 21st of each month.

When a taxpayer has difficulty doing this, he/she should contact SRC as soon as possible - preferably before the due date - to discuss his/her situation. In any case interest will be charged on late payments.

Under a limited number of circumstances SRC may grant extra time to pay or to settle an instalment payment.

Reminder notice

Three days after the tax debt arises, a reminder notice is sent to the taxpayer. If, after 10 days, the tax remains unpaid, the collection officer will call the debtor and request payment. (If the debtor has a history of late payments the officer would notify a demand notice to third parties).

Enforcement measures

After another 10 days, the collections officer may visit the debtor's place of business to make arrangement for payment.

Enforcement measures comprise:

- Issuance of third party liabilities notice;
- Warrants;
- Freezing bank accounts;
- Closure of business;
- Ceasing assets etc;
- Auction.

In addition, interest for late payments will be applied.

Third party liabilities

The bank of the taxpayer is notified of the tax debt and information on the status of the accounts is requested. If funds are available, a demand for payment is immediately sent to the bank.

Unless the debt is paid within three days, the taxpayer is advised through a Demand notice that money payable to the customer will now be paid to the SRC. Demand notices are prepared for each third party to be notified. The notices are signed by the Revenue Commissioner and sent immediately upon the expiration of the three-day period for payment (if payment was not received), with copies to the tax debtor.

Money received from third parties is credited to the tax account of the tax debtor, who is notified of this action.

When sufficient money is received to satisfy the debt, the recipients of the demand are advised that the demand is withdrawn. Any money in excess of the debt is retained in the account of the debtor, and the debtor is advised of the status of his tax account.

Release of third party liability (TPL)

SRC will release a third party liability on all or part of the bank account, and send a notice of the release, if:

- the underlying liability is paid or becomes unenforceable by lapse of time;
- an installment payment has been agreed that specifically provides for release of the TPL.

Closure of business

If the debt remains unpaid, the tax office closes the business premises and issues a letter of confiscation of assets.

Seizure of assets and or real property

Assets and or real properties that are not exempt by law may be seized and sold at a tax auction. SRC will only initiate a seizure if it believes that the proceeds from a sale at public auction will at least cover the estimated expenses for the seizure and sale.

During a seizure, SRC officials may have the locks changed at the place of business, denying access to the place of business and business assets. Alternatively, SRC officials may remove all of the merchandise from the business and store it elsewhere until the sale.

After a seizure, SRC will advise the debtor of the date of the intended sale. At any time before the sale begins, the property will be released and returned to the debtor if he/she fully pays the tax, penalty, and interest owed, along with the expenses SRC incurred in the seizure and the preparation for the sale.

The debtor has the right to request that any seized property be sold within 60 days of the request or within some longer specified period. His/her request will be honored unless it is in the SRC's best interest to retain the property for a longer period, in which case the debtor will be notified.

Assets and or property will be sold at the fair market value of such assets and or property sold in an auction sale in accordance with the Civil Practice Laws and Rules.

Once the assets are sold at a public auction, SRC will send an accounting of the disbursement of sale proceeds. If the proceeds exceed the debt and the expenses, the surplus will be returned to the debtor.

If the fair market value of the seized property exceeds the tax liability, a release of part of the property can be made.

If the department seizes property essential to a trade or business, SRC will determine expeditiously whether the property can be released on the grounds stated above.

If SRC releases the lien on a property, it does not prevent it from starting a new procedure **and put a new lien upon the property** in the future if it is necessary to collect VAT. If property is wrongfully levied on, SRC may return the property seized money equal to its fair market value or the amount of money seized, with interest.

Auction

Two weeks after a seizure, a notice of intent to auction assets is notified. One week later, the auction of physical assets is organized.

Offsets

Any payment the state may owe a taxpayer (debtor) for goods or services sold or provided to any state agency or entity may be withheld and instead applied against any tax liability owed to SRC.

Thus, rather than receiving payment from the state for the goods or services, the debtor's payment may be automatically diverted to SRC and applied against existing tax liability. If any payment due to a debtor is the subject of this kind of offset, SRC will send him/her prior written notification about the money that will be sent to SRC to cover the tax liability.

Also, any tax refund due may be offset to pay unpaid tax liabilities

Responsible Person Assessments

For VAT, so called *responsible persons* of a business may be held personally liable for the business debts. A *responsible person may be deemed an officer, director, or employee of a corporation or dissolved corporation, or employee of a partnership or sole proprietorship who was under a duty to act for the business to comply with the relevant provisions of the VAT Act.*

Factors that will be considered in determining whether a person under a duty to act on behalf of a business includes whether the person signs the tax returns or maintains the books or records for the business or is responsible for the business' management.

If SRC issues a responsible person assessment against a person that does not agree with it, the person has 90 days from the issuance of the assessment to appeal.

The appeal entitles the person to a hearing to present any information available to refute the assessment.

Once a responsible person assessment is final, all collection methods available to SRC can be used against the responsible person's assets. The responsible person can be personally assessed for the full amount of the tax the business owes, even if there are other entities or persons involved who may be similarly assessed. In most cases, responsible person tax debts cannot be discharged by bankruptcy of the business.

Payment Installment

Taxpayers may occasionally experience cash flow or other difficulties that prevent them from paying their tax debts on time. SRC will, in certain circumstances, consider a request from a taxpayer to accept payment of the debt by installments over a period of time as an alternative to more formal recovery procedures.

Eligibility - In order to be eligible, taxpayers should:

- formally propose a realistic installment arrangement;
- demonstrate their financial viability;
- have a reasonable record of compliance;
- demonstrate that full and immediate payment would result in a genuine burden (rather than a mere inconvenience);
- show they are treating their tax debts with the same or greater priority as they are treating other payment obligations; and
- provide all necessary financial records and information.

Conditions for approval - Taxpayers will need to adhere to the following conditions:

- the payment of all penalties and interest as prescribed by law;
- the full and timely payment of all new tax obligations;
- the provision of security (if required in certain cases);
- cancellation of the arrangements and application of enforced collection procedures in the event of default.

Write-off of uncollectible tax arrears

In the process of collecting tax arrears, situations arise where it is appropriate to discontinue collection activity because the amount is uncollectible. Generally, the decision not to pursue recovery of a tax debt is made when the amount is deemed as "bad debt" to be written-off under government accounting procedures.

Before write-off takes place (which removes the tax debt from the books of account), SRC must be satisfied that it has taken all reasonable steps to collect the debt.

Write-off action is generally limited to three situations:

- The tax debt is not economical to pursue typically, these cases involve small amounts or situations where the taxpayer cannot be located;
- The taxpayer has no funds or other assets (e.g., where a company has ceased operations and there are no assets or where a debtor has died and left no assets);
- The debt is not legally recoverable (e.g., where the amount represents the balance outstanding after a final dividend has been paid under bankruptcy or liquidation proceedings).

8. Disputes and Arbitration

The tax dispute resolution process is made in three connected and chronological phases: during the first step also called the “administrative appeal”, taxpayers’ objections must be mandatorily submitted to SRC; in a second step the administrative decision is submitted to the Revenue Tribunal and in a third step the Revenue Tribunal order can be appealed to the Judicial Supreme Court.

Objections

Objections by the taxpayer against assessments should be in writing within 60 days following SRC’s decision. The objection letter should set out the full grounds of the objection, including the matters of fact and law that are disputed.

- The taxpayer should be required to pay 50 percent of the tax in dispute immediately or to present a bank guarantee in order to interrupt collection enforcement;
- The balance of the tax in dispute is not required to be paid until the legal avenues for resolving the dispute are exhausted;
- To reduce incentives to artificially delay the collection process, and to compensate for use of money, interest is payable. If the dispute is subsequently decided in favor of the tax administration, the taxpayer is required to pay interest on the balance from the date of the assessment until the date of payment. If the dispute is resolved in favor of the taxpayer, the tax administration is required to pay interest on the 50 percent of the tax in dispute that was paid by the taxpayer from the date of payment to the date of refund;
- Taxpayer objections are considered by an officer of the appeals unit. The appeals officer may interview the taxpayer and auditor to clarify matters subject to the dispute;
- The appeals officer makes a recommendation on the appeal to the head or deputy head of the appeals unit who makes the final adjudication on the appeal, deciding whether to allow, partially allow or disallow. The Revenue Commissioner’s decision is referred to as an ‘objection decision’. The objection decision is binding on SRC;
- The decision and the grounds on which it is made are given to the taxpayer in writing within 90 days.

Appeals to the Revenue tribunal

- The taxpayer may appeal an objection decision to the revenue tribunal. The appeal should be lodged within 30 days of the objection decision;
- Appeals can be on questions of either facts or laws;
- The Revenue Tribunal states on the case and makes an order to confirm or reject the SRC decision;
- The Revenue tribunal issues its decision within four months of filing.

Appeals to the Supreme Court

- Either the taxpayer or the tax administration may appeal the decision of the Revenue tribunal to the Supreme Court;
- Only decisions of the Revenue tribunal can be submitted to the Supreme Court;
- Only questions of law should be appealable to the court;

- If the business is not satisfied with the decision of the Supreme Court it may appeal to the *Court of Appeal* as last recourse. The Court of Appeal will hear and consider the appeal and make an order as it deems appropriate;
- While the objection or appeal is still pending and ongoing the VAT registered business must continue to meet its VAT liabilities.

Written guidance

A written guidance is issued upon the taxpayer's request by the Revenue Commissioner to provide certainty and clarity or to interpret revenue laws. In order for the Revenue Commissioner to provide the business with an accurate and relevant guidance all enquiries to the Revenue Commissioner have to be specific and detailed.

Public Ruling

A public ruling is an interpretation on the application of a revenue law set out by the Revenue Commissioner. Until the public ruling is withdrawn, it is binding on the Revenue Commissioner. Public rulings are published on the Seychelles Revenue Commission's website, with a number and subject heading and it is applied from the date it is specified. A public ruling can be removed from the website by way of notice.

Advanced or Private Ruling

A private ruling is an application by the taxpayer of an interpretation of a revenue law by the Revenue Commissioner to a specific transaction. The private ruling is binding to the Revenue Commissioner if the taxpayer has made a full and true disclosure. The Revenue Commissioner may withdraw a private ruling which will apply from the date the private ruling is withdrawn. The Revenue Commissioner may refuse to provide the taxpayer with a private ruling when circumstances are not clearly or sufficiently described by the taxpayer or when the taxpayer is voluntarily ambiguous. The taxpayer will be informed of this decision by written notice.

CHAPTER 9: Transitional Issues

1. Identification of existing business for VAT purposes

In the months preceding the introduction of the VAT, taxpayers already allocated with a valid TIN shall be required to update their initial registration form in order to determine their VAT status. They will be notably asked to:

- indicate their 2011 turnover and /or their 2012 turnover based on their best estimation, or alternatively;
- confirm whether they want to register for VAT or not (if their turnover is below the threshold).

In that respect, taxpayers will be required to fill in a VAT registration form issued by SRC (sent by mail or available in SRC' offices)

Filing this questionnaire will be mandatory.

2. Deduction of GST input credit

There is a concern that tax will be paid twice on the same goods in view that GST would have been paid on the goods purchased prior to 31st December 2012 and VAT will apply on the sale of the same goods if still in stock when VAT is introduced.

For goods imported by VAT registered taxpayers before the introduction of the VAT that are still in the inventory after January 1st 2013, the GST paid on these goods can be offset against VAT collected if the following conditions are met:

- they are used for business purpose;
- they are used for making taxable supplies;
- the same goods are not exempt under the VAT law;
- there are satisfactory documents to prove to SRC that GST has been paid.

Businesses will need to ensure that:

- They carry out an inventory of goods in stock by the end of December 2012 so as to claim input tax credits the following month which will be 21st February 2013;
- They must keep relevant records / documents which correlates with the stock on the Bills of Entry;
- All the relevant records / documents are made available if and when requested by SRC.

When GST has not been fully offset against output VAT, the credit can be carried forward during a minimum period of three months.

For exporters or supplier of zero-rated goods or services, GST can be refunded in the same conditions provided for VAT.

As there was no GST on the domestic sales of goods, for VAT registered retailers who purchased goods for resale on the domestic market, there is no GST on the invoices issued by the suppliers. However prices while expressed GST free, have potentially a GST component which is the GST paid at the point of entry passed on the retailer (customer) by the importer /wholesaler (supplier).

This GST component has to be neutralized to avoid a cascade of tax on tax in other words the application of the VAT on the "GST".

Deduction mechanism

Retailers registered for VAT by 1 January 2013 will be exceptionally allowed to deduct a notional credit of 10 % on the price of all taxable(*) goods—purchased locally and remaining in the handling stock on December 31, 2102—as mentioned on the invoice issued by their local supplier.

(*) GST exempted goods are excluded from this mechanism.

This deduction will be made according to the general conditions prescribed for GST on imported goods. It will be a one-off deduction made on the first VAT return due for February 21, 2103 (or for the 21 of April 2013 for voluntary registered taxpayers).

For example

During 2012 a **retailer A** has purchased from a local **wholesaler B** the following taxable goods that remain unsold on December 2012.

The inventory reflects the following

- 10 packs of detergent SCR 4,000 invoiced July 10, 2012
- 250 bottles of wine SCR 30,000 invoiced September, 23, 2012
- 17 packs of aluminium paper SCR 3,500 November 2012
- 30 toys for kids SCR 12,000 invoiced December 11, 2012.

Total amount charged for these goods (4000+ 30 000+ 3500 + 12000)= SCR 49,500.

Notional credit allowed as an input tax credit $49\,500 \times 10\% = \text{SCR } 4,950$

3. Transitional rules to avoid double or non-taxation

The GST Act will be repealed on 31 December 2012. The last return is due by 21 January, 2013. GST is payable on payments received. As per the VAT Act 2010, VAT is payable on payments received (and in some cases, under option, on invoices issued).

Transitional issues may arise to determine whether GST or VAT applies for example on uncollected debts at 31 December 2012 by GST payers. Example, bills raised from 1 January will be subjected to VAT (if registered business).

Explanation of the rules regarding the tax point are as follows:

To be taxable an event must have happened and have generated tangible effects (transfer of property for a good, completion/reception for a service). **This event is called time of supply.**

To determine when the tax is due (time called the **tax point**) different rules apply:

- the tax point for GST is (GST is due) when the **payment is received**,
- the tax point for VAT is (VAT is due) when the **payment is received** (or subject to a prior option) when the **invoice is issued**.

To address the transitional issues, the following rules will apply:

1. When supplies (delivery for goods and completion of the work for services) are made and invoiced before the 1st of January 2013 but no payment has been made/received before: **the tax point for GST** has not occurred (no payment has been made) before January 1, 2013.

Payments received after the 31st of December 2012 for a situation borne (delivery of goods, completion of service) before this date, are subject to GST.

The GST will be due upon reception of the payment even in January, February, and March 2013 or later), therefore no VAT will be applicable. For example: a GST-liable business not registering for VAT and having unsettled bills at 31 December 2012: Payments received in January and after will be liable to GST.

If the supply is not subject to GST: Neither GST nor VAT will apply (the transaction is not taxed at all).

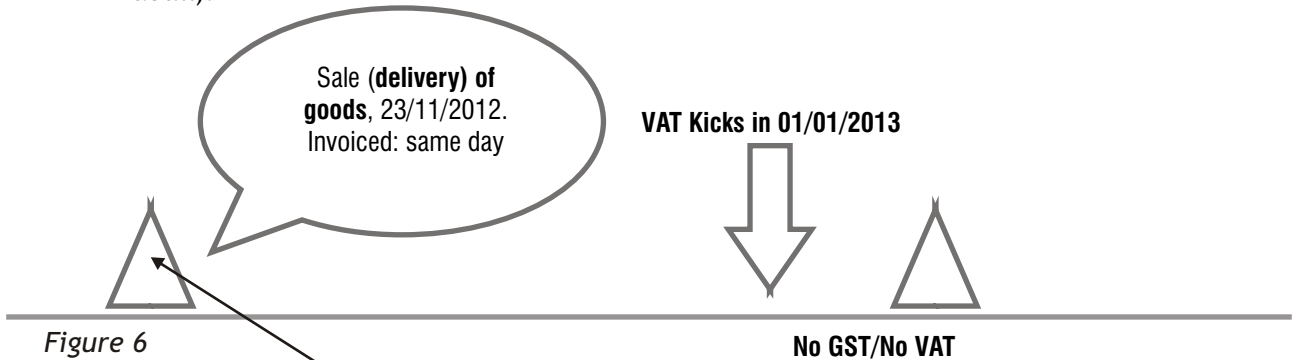


Figure 6

Time of supply November, tax point January (but transaction GST free)

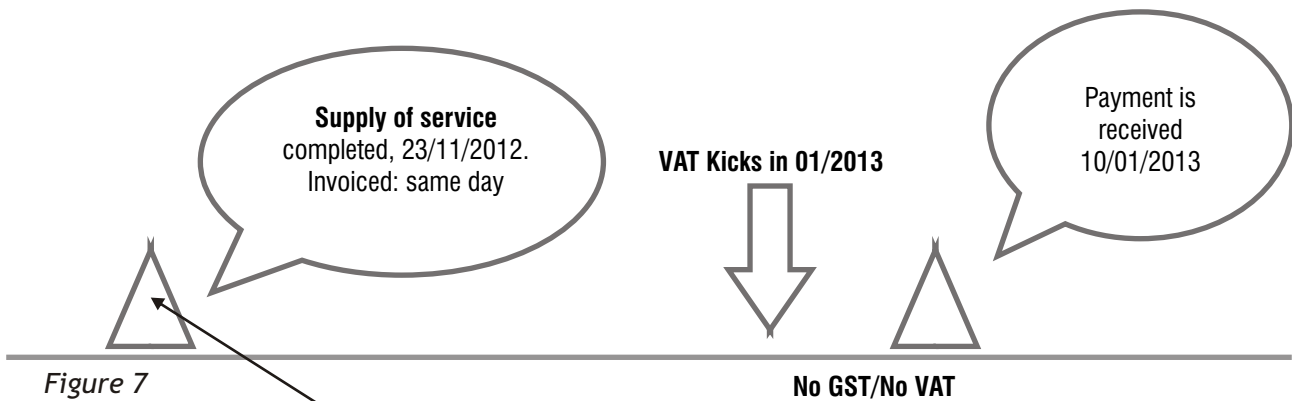


Figure 7

Time of supply November (service delivery), tax point January (payment) GST is due on payment received in January

For specific deliveries such as telephone the consumption is determined afterwards, the invoice creates the situation (the time of supply), so the tax which is applicable is the one in place at the time of the invoice (not the time of the consumption which remains undetermined/unknown before the last hour of the last day = in practice before the final bill is established).

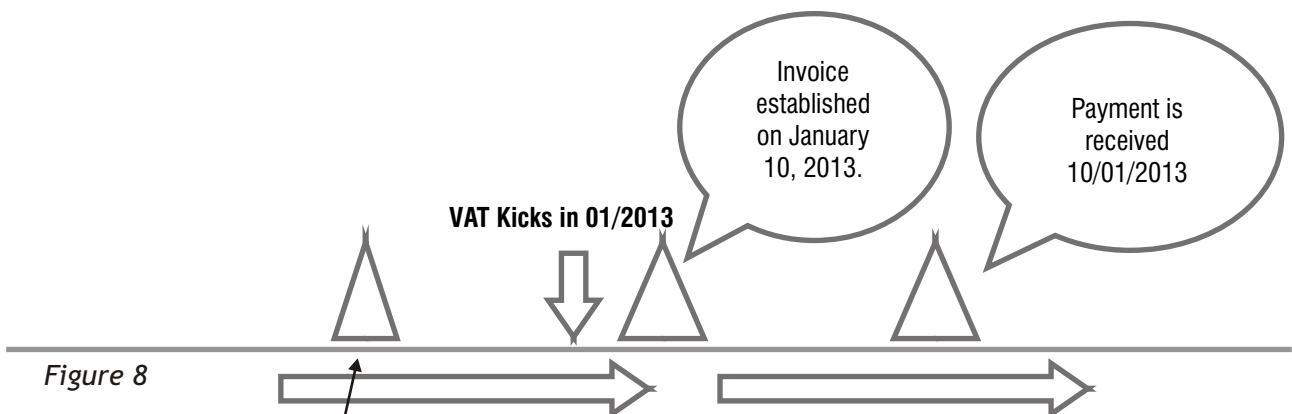
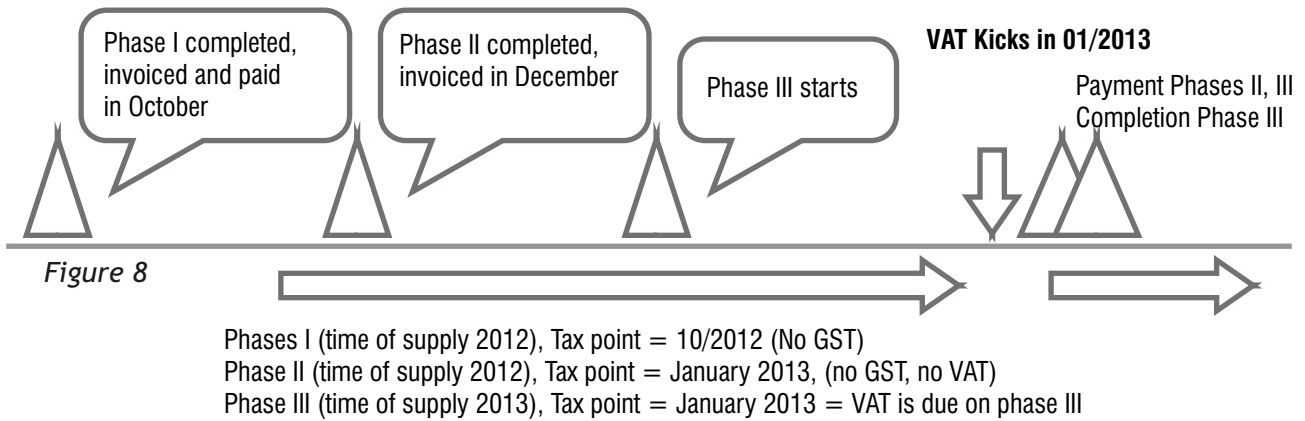


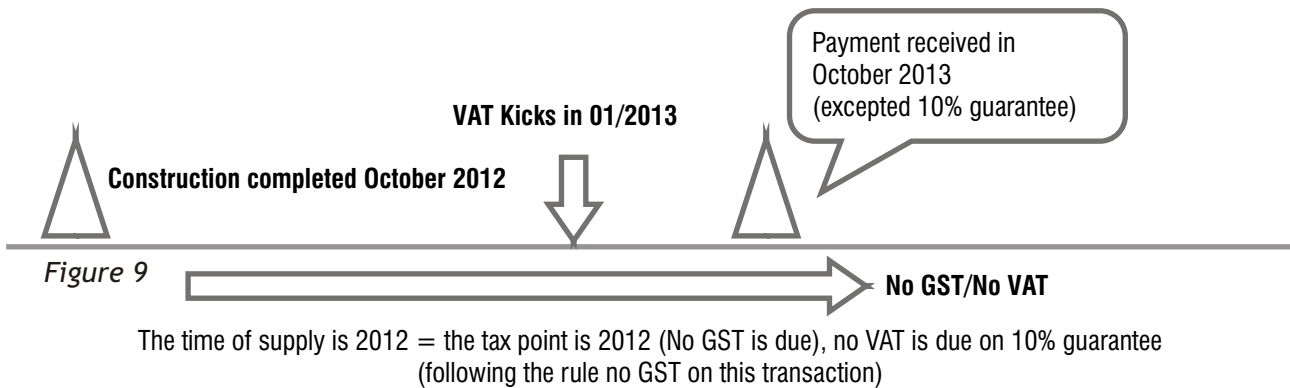
Figure 8

Consumption of telephone, internet December 2012, the time of supply is January (only the invoice reflects the consumption) = the tax point is then January (VAT is due on payment received or invoice established)

In the construction sector the different phases of the building construction are reflected by invoices. Each of these phases (each invoice) represent a specific time of supply.



Specific rule regarding the 10% guarantee hold 12 months after the completion.



- Supplies are made and invoiced before January 1 2013, and a partial payment has been made/ received before January 2013, the rest of the payment will be made after.

If the supply is subject to GST, the following rule will apply:

- GST applied on the partial payment;
- GST will apply on the remaining payments when received including those received after January 1 2013.
- VAT will apply on the partial payment if the supply is VATable.

ANNEXES

Annex 1: Exempt Imports

Part 1 Exempt Goods

An import of goods if a supply of those goods would be exempt or zero-rated in Seychelles

Goods imported accompanied by a person arriving by air or sea as per tax exemption allowance for passenger (duty allowance for personal use only)

Goods imported not accompanied by a person arriving by sea or air, as per tax exemption for allowance of low value consignment with an exempted quantity value of SR3000 and other goods excluding alcohol or tobacco with an exempted value of SR500.

Goods imported under specific HS code, such as goods consider being the basic nessecity. (see First Schedule of VAT Act 2010, section 6)

Goods re-imported after exportation for repair or processing or replacement or under warranty or personal use subject to the particularity of the nature and cost of repair, or process or replacement and satisfy the Revenue Commissioner as to the identity of the goods.

Goods imported as consumable to use out of Seychelles.

Contianers of imported merchandise which after discharge are return to the sender

Materials and equipment supplied by other Governments or International organisation under technical aid or Assistance programme approved in Government terms of this schedule.

Personal effects including all clothing or other articles, other than alcohol and tobacco, new or used which a tourist may reasonably require, taking into consideration all the circumstance of the visit.

Goods imported provided that the Revenue Commission is satisfied that the goods will be re-exported within 12 months of thier importation.

Newspapers, magazines, journals and periodicals imported for the personal use and not for sale. Goods which have no commercial value such as invoices, blank application forms or similar documents, those are not imported for sale. Trade advertising and promotional materials not exceeding SR1000 and not intended for sale.

Goods to be used in any conservation activities or solid waste recycling, reduction or re-use which have been endorsed by the Ministry of Environment.

Goods as consumable stores to be used outside Seychelles on an aircraft, ship or fishing craft

Capital goods and minor operating equipment used only in the airport retail outlet that are imported by an operator of duty free shop.

Capital good and minor operating equipment used only in the airport retail outlet that are imported by an operator of duty free shop

Part 2: Exempt catergy and group of People

Goods imported for the personal and exclusive use by diplomats, consuls and international organizations or a person recognized by the Ministry of Foreign Affairs as being a foreign dignitary

Educational Equipment, construction materials and reference books (not for resale), excluding motor vehicles as authorized by the Ministry of Education by a person carrying on the business of a licensed educational institution (excluding government schools)

Materials and equipment supplied by other Governments or International organisation under technical aid or Assistance programme approved in Government terms of this schedule.

Goods imported by the President for personal and official use

Goods imported by a former president for personal and exclusive use only

Goods imported by registered religious organization, churches or presbyteries for specific use in conducting their religious activities or duties.

Goods imported for the first time tax free under or by virtue of any agreement made between Seychelles and other governments, bodies, organizations, persons or under the Vienna Convention on Consular Relations 1960

Goods imported by the Seychelles People's Defence Forces, National Arts Council, and National Sports Council solely for the use in conduct of their specific duties

Goods imported by the Seychelles Pension Fund solely for the use in conduct of their specific duties

Imports approved by the Ministry responsible for Agriculture and /or Fisheries for farmers and fisherman to use in their business activities.

Goods imported by Public utilities Corporation for use as raw materials or as an aid to manufacture in the production of tap water and electricity.

Annex 2: Exempt Supplies

Financial services	By any bank or any Bureau de Change. All branches and agencies of a financial institution
Education services	Includes textbooks and stationeries. Education services have to be approved by the Ministry of Education
Donated goods and services	The supply has to be from an international organization and made to a non-profit organization only
Life insurance, health or a reinsurance contact ^a	^a by a person carrying on the business of a licensed insurer or reinsurer
A supply of fresh bread	Locally made.
Commissions	Receive by Destination Management Companies (DMC) acting as intermediaries under their name and for their own account
Government hospital, medical and dental services	Includes government ancillary services
Goods for resale or further processing	This is for goods that have been exempted at the point of import
Service	Only those provided by a non-resident
Goods consumed abroad	As well as goods that are situated outside of Seychelles at the time of supply
Petroleum products	Only supplies made by Seychelles Petroleum Company
Exempt Imports	Any good exempted on importation is also exempted on its supply on the domestic market
Animal feed	Supplied on the domestic market
Public Utility Services	As supplied by the Public Utility Corporation
Construction	Only on construction of Residential Dwelling

Annex 3: Zero-Rated Supplies

Export of goods

Goods imported as unassembled goods which will be exported as manufactured goods

Goods delivered to an operator of International transport services for the purpose of carrying the goods outside Seychelles

Supply of goods by a Duty free operator

Supply of maritime services

Supply of Port Services under the Seychelles Port Authority Act, 2004

Supply of management and maintenance of facilities at aerodromes under the Seychelles Civil Aviation Authority Act, 2005

A supply of goods directly in connection with temporarily imported goods

Supply of services to an individual outside Seychelles

Supply of services to a non-resident outside of Seychelles at the time of supply

Companies qualified as a company's special license

Supply of services provided by someone holding license under the International Corporate Service Providers Act

Supply of telecommunication services if the supply is made by a resident telecommunication supplier to a non-resident telecommunication supplier or is initiated by the person who is physically present outside the Seychelles

Supply that is a grant, transfer, or copyright, patent, licence, trademark, or similar right for use outside Seychelles

Supply of services to be used or consumed outside Seychelles

Supply of goods and services as part of the transfer of an enterprise, or part of an enterprise, as a going concern by a registered person to another registered person

Appendix 1: Sample of Invoice

VAT INVOICE

LOGO

Seller Company Name
Address:
Email:
Phone:

Billing Company Name
Billing Company Address

Contact Number
Email:
Vat No.

Invoice no
Invoice date

Date	Description	Quantity	VAT%	Price	Net
				Total amount due	

Appendix 2: Sample of VAT Return

OUTPUT TAX		A	B
		Value in SR (exclusive of VAT)	VAT in SR
1	Taxable supplies (Standard Rate @15%)		
1.1	On exports		
1.2	On zero-rated supplies (other than exports)		
1.3	On sale of capital asset		
2	Exempt Supplies		
3	Adjustments (+ or -)		
4	TOTAL OUTPUT TAX = (1B + 1.3B + 3B)		
INPUT TAX (Imports and Purchases)			
5	Input tax allowed as a credit		
5.1	On imported goods (excluding capital goods)		
5.2	On goods and services purchased locally		
5.3	On capital goods		
6	Input tax not allowed as credit		
7	Adjustment (+ or -)		
8	VAT credit carried forward from prior taxable period		
9	Input tax credit (5.1B + 5.2B + 5.3B + 7B + 8B)		
VAT LIABILITY		VAT due	VAT Credit
10	VAT payable (4 B > 9B)		
11	VAT credit (9B > 4B)		

Appendix 2: Sample of Cash Receipt

XYZ SUPERMARKET	
Tax Receipt	
VAT Registration 2005/12/123456	
1 x Vanilla Cookie	25.25
*1 x Basmati Rice (5kg)	75.00
1 x J P Cheney wine	119.00
*1 x Powdered Milk	149.50
VAT exclusive	347.11
VAT @ 15%	21.64
VAT inclusive	368.75
Subtotal	368.75
Cash	400.00
Change	31.25
(* Exempted goods)	
THANK YOU! PLEASE COME AGAIN!	

Further information may be obtained from,
The Advisory Center
Seychelles Revenue Commission
Oceangate House, Room 2, Victoria, Tel: 4293742