CHAPTER 370A

VALUE ADDED TAX

S.I. 68/2015

VALUE ADDED TAX RULES

(SECTION 17)

[Commencement 29th September, 2015]

Citation.

1. These Rules may be cited as the Value Added Tax Rules.

Interpretation.

2. In these Rules —

Ch. 370A.

"Act" means the Value Added Tax Act;

"input VAT credit" means the amount of input tax deduction claimed by a registrant or allowed by the Comptroller under section 50 of the Act;

"Comptroller" means the Comptroller of VAT;

"registrant business" means a business registered for VAT under section 19 or section 20 of the Act;

"Regulations" means the Value Added Tax Regulations;

"TIN" means taxpayer identification number.

Application.

3. Unless otherwise expressly stated, these Rules apply to taxable transactions taking place on or after January 1st, 2015.

2014-001 : Transitional treatment of hotel bookings made in 2014.

4.[†] (1) Pursuant to sections 98(10) and 99 of the Act, this rule applies in relation to —

(a) the treatment of hotel bookings made prior to September 1st, 2014;

(b) the time of supply as it relates to the application of VAT for transactions preceding, but concluded on or after, January 1st, 2015;

(c) the treatment of hotel bookings made on or after September 1st, 2014 through to December 31st, 2014, where the service is provided on or after January 1st, 2015 but no later than June 30th, 2016;

[†] This Rule expired on June 30th, 2016.

(d) deposits that have been made towards securing the accommodation;

(e) services which are included as part of a package that also involves hotel room accommodation and payment of hotel occupancy taxes.

(2) A hotel may treat as exempt from VAT any secured booking for which a payment, in part or whole, has been received before September 1st, 2014 where the vacation takes place on or after January 2015, but no later than June 30th, 2016.

(3) Where a hotel treats a secured booking as exempt from VAT under paragraph (2), the booking —

(a) remains subject to hotel room taxes; and

(b) must have been notified to the VAT Department by October 15th 2014.

(4) Service providers must, in respect of hotel bookings secured under grandfathered provisions of the hotel occupancy tax regime for which no VAT will be charged, submit details of the monthly value of the paid bookings to the VAT Department.

(5) Services that commenced prior to January 1st, 2015, and whose delivery continue after January 1st, 2015, shall be subject to VAT only in respect of the portion of the stay continuing after January 1st, 2015.

(6) Hotel reservations for accommodations are subject to VAT at the standard rate where —

(a) a payment, in part or in whole, was received on or after September 1st, 2014 but prior to January 1st, 2015; and

(b) the service is delivered on or after January 1st, 2015.

(7) A hotel that received a deposit for accommodations to be supplied in the future —

(a) shall not treat receipt of the deposit as the point of supply; and

(b) shall account for VAT when the deposit is forfeited or when it is applied to the value of the occupied accommodation.

2015-001: VAT free shopping.

5.[‡] (1) Pursuant to regulation 15(3) of the Regulations, the purpose of this rule is to prescribe the

[‡] This Rule expired on June 30th, 2015.

conditions under which a registrant, on or after the date the Act comes into operation, may make taxable supplies of goods inside The Bahamas at a zero rate to a retail customer who is a visitor to The Bahamas.

(2) This rule applies to the zero-rated or VAT free treatment of purchases of goods specified in the tax free goods listing —

(a) made by a visitor to The Bahamas; and

(b) where such purchases are made at merchants or retailers registered under the Act and approved by the Comptroller to offer VAT free shopping to visitors in accordance with the provisions of this rule.

(3) The Comptroller shall establish a VAT free shopping scheme for registrant businesses operating in The Bahamas in respect of the sale of goods to visitors VAT free.

(4) A registrant business shall not offer VAT free shopping unless such business is granted approval in writing by the Comptroller to participate in the VAT free shopping scheme.

(5) Application for approval to participate in the VAT free shopping scheme must be made by a registrant business to the Comptroller in writing, providing such details of the business as the Comptroller may require.

(6) The Comptroller may on application made under paragraph (5) grant the applicant approval in writing for VAT free shopping and the Comptroller may specify an amount of increase that must be made to the applicant's customs bond in respect of potential VAT liability.

(7) An approval granted by the Comptroller under paragraph (6) —

(a) is conditional upon the business being in good standing on all VAT filings, payments and reporting obligations and in relation to payment of business licence tax;

(b) is site specific and may be granted only to vendors located in areas of high visitor traffic who sell the majority of their goods to visitors;

(c) authorizes VAT free sales to be made only to visitors to The Bahamas.

(8) For the purposes of this rule, a visitor is an individual —

(a) whose normal place of residence is not The Bahamas;

(b) who does not have a Bahamas passport;

(c) who is leaving The Bahamas within 45 days of arrival; and

(d) who has not worked in The Bahamas in the last 6 months.

(9) Subject to paragraph 10, items eligible for VAT free sales under the VAT free shopping scheme are —

(a) leather bags,

(b) jewelry and watches,

(c) articles of clothing over $ 100,

(d) shoes,

(e) cosmetics and perfumes,

(f) fountain pens, and

(g) sunglasses.

(10) A sale of less than $25 per item is not eligible for VAT free sales under the VAT free shopping scheme.

(11) Under the VAT free shopping scheme referred to in paragraph (3) —

(a) a visitor making a VAT free purchase must present to the approved registrant business travel or other documents to show residency status and proof of pending departure from The Bahamas and such documents may include but are not limited to a —

(i) passport,

(ii) driver's licence,

(iii) Government issued photo ID,

(iv) cruise ID,

(v) airline ticket,

(vi) boarding card;

(b) the approved registrant business shall not charge the visitor VAT on eligible goods listed under paragraph (9) but shall deduct a Processing fee of ten percent from the amount of VAT that is refundable to the visitor under the scheme, remitting the same to the Comptroller of Customs on a monthly basis; and

(c) the approved registrant business must —

(i) produce receipts for VAT free purchases in triplicate, with one copy to be kept by the business and the other two copies issued to the visitor;

(ii) instruct the visitor to deposit one of the copy receipts at the Customs check point on their departure from The Bahamas as proof of exportation of the item and its entitlement to VAT free treatment;

(iii) report VAT free sales as zero-rated supplies on its VAT return;

(iv) maintain visitor specific records in support of zero-rated sales.

2015-002: Charities.

6. (1) This Rule establishes the qualifying criteria and process to be followed for a charity to obtain a refund of VAT on the acquisition of specified goods and services stated herein.

(2) On or after the date the Act comes into operation—

(a) pursuant to sections 58(l)(b)(i) and (4) of the Act and regulation 35(13) of the Regulations, a charity approved by the Minister that wishes to apply for a VAT refund must apply for registration by the Comptroller and the Comptroller shall issue to the registered charity a Taxpayer Identification Number (TIN);

(b) the inputs on which VAT may be refunded to an approved and registered charity are —

(i) utility services inclusive of electricity, water, and telecommunication services; and

(ii) construction of and repairs to occupied promises;

(c) applications for refunds by an approved and registered charity shall

(i) be made using the Bahamas Online Tax Administration System;

(ii) not be made for amounts less than $500;

(iii) be filed on a quarterly basis; and

(iv) be accompanied by a supporting schedule of purchases.

2015-004: VAT groups.

7. (1) This rule applies in relation to group registration pursuant to sections 22(3) and (4), and 23(7), of the Act and regulation 7 of the Regulations.

(2) For the purposes of this rule, the words or phrases —

(a) "affiliate", "parent", and "subsidiary" have the respective meanings assigned them in section 2 of the Companies Act;

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(b) "entity" means —

(a) a company;

(b) any other body corporate that is regulated under one or more of the regulated companies legislation;

(c) a Port licensee;

(c) "regulated company" means a body corporate that is regulated pursuant to the provisions of any companies law in force in The Bahamas; and

(d) "VAT group" means two or more registrants who are related persons, or a single registrant consisting of related entities carrying on a business in branches or divisions, approved by the Comptroller to register as a group and to file a single VAT return.

(3) An application pursuant to section 22 of the Act for group registration must be made to the Comptroller jointly by the entities proposing to form and become members of the group in the form set out in the Schedule and—

(a) the applicant shall propose one of the entities to be designated by the Comptroller as the representative entity of the group; and

(b) the Comptroller may request an entity to provide such additional information or documents as the Comptroller may require in order to evaluate the application.

(4) The Comptroller may grant an application for group registration if the Comptroller is satisfied that the entities comprising a proposed VAT group are related persons that—

(a) are affiliated with each other;

(b) have a parent/subsidiary relationship, or an identical share structure, or are otherwise

structured in such a way that satisfies the Comptroller that the VAT group's financial and operational integration justifies grouping;

(c) do not consist of Port Licensees and non-Port Licensees, except where the Port Licensees and non-Port Licensees produce Consolidated financial statements and the Port Licensees agree to waive any rights to differential VAT treatment for inputs and supplies afforded to Port Licensees under section 3 of the Act;

(d) do not consist of both residents and non-residents;

(e) do not consist of regulated companies and non-regulated companies, or regulated companies not regulated by the same regulatory body, where —

(i) regulated activities include securities and investments operations, banking, insurance, telecommunications or web-shop gaming;

(ii) regulated companies include registrants operating under any one or more of the following —

(A) Banks and Trust Companies Regulation Act; Ch. 316.

(B) Investment Fund Act; Ch. 369A.

(C) Insurance Act; Ch. 347.

(D) Securities Industry Act; Ch. 363.

(E) Communications Act; Ch. 304.

(F) Gaming Act; Ch. 388.

(f) have the same accounting basis for VAT;

(g) notwithstanding sub-paragraph (f), where the combined turnover of the entities in the VAT group exceeds a threshold of $1,000,000 the Comptroller shall change the accounting basis to the accrual basis;

(h) do not consist of an entity that forms part of any other VAT group; and

(i) do not have outstanding liabilities for revenue payable under the Act, the Business License Act, the Real Property Tax Act, or the Customs Management Act. Ch. 329. Ch. 375. Ch. 293.

(5) The Comptroller shall, where the Comptroller approves registration of a VAT group under this rule —

(a) designate a member within the VAT group as a representative entity of the VAT group;

(b) notify in writing the designated representative entity of the Comptroller's decision and of the date that the designation shall come into effect.

(6) The Comptroller shall, where the Comptroller refuses an application for group registration, notify in writing each applicant entity of the decision, stating the reasons for the refusal.

(7) A taxable activity carried on by a member of a VAT group shall be deemed to be a taxable activity carried on by the representative entity of the VAT group and not carried on by any other member of the group.

(8) A supply of goods or services made to or by a member of a VAT group shall be deemed to be a supply made to or by the representative entity of the group.

(9) Notwithstanding paragraphs (7) and (8), a VAT group need not account for VAT on inter-group supplies of goods or services which supplies shall be treated as neither taxable nor exempt for the purposes of the Act.

(10) Paragraphs (7), (8) and (9) shall apply in respect of a supply of goods and services made by or to a member of the VAT group only for the duration of the period when that member is a member of the VAT group.

(11) The inputs and outputs of members of a VAT group shall receive a similar VAT treatment notwithstanding the place of supply or importation within The Bahamas.

(12) The VAT group shall file a single VAT return for the group and the filing period of the VAT group shall be monthly.

(13) The representative entity of a VAT group may claim as a deduction or credit such input tax paid or payable that the members of the VAT group would, were they not members of the VAT group, be entitled to claim.

(14) Pursuant to paragraph (13), any deduction or credit that would otherwise be due to a member of the VAT group, in respect of the period during which the member is a member of the VAT group, shall instead be due and accorded to the representative entity of the VAT group.

(15) Each member of the VAT group is jointly and severally liable for taxes payable by the representative entity of the VAT group.

(16) The joint and several liability for taxes incurred, during the tax periods while an entity was a member of a VAT group, continues notwithstanding that the entity has ceased to be a member of the VAT group.

(17) The representative entity of a VAT group is responsible to ensure compliance with the Act, the Regulations and these Rules by and on behalf of all members of the VAT group.

(18) Subject to this rule, the provisions of the Act and the Regulations apply to a representative entity equally as they apply to each registrant member of a VAT group.

(19) The representative entity of a VAT group must—

(a) ensure that proper records of all transactions of members of the VAT group are kept in accordance with the Act, the Regulations and these Rules;

(b) file a single VAT return as required under the Act on behalf of all members of the VAT group;

(c) pay any tax or other amount under this Act and the Regulations that the VAT group, and each member of the VAT group, is jointly and severally liable to pay;

(d) make records, in respect of the VAT group and each member, available for inspection by the Comptroller for the purposes of this Act;

(e) notify the Comptroller in writing if a member ceases to meet the requirements referred to in paragraph (4) or of any other circumstances that would disqualify the member from continuing as a member of the VAT group;

(f) notify the Comptroller in writing of any other circumstance that would require the Comptroller to revoke registration as a VAT group; and

(g) ensure that business licenses of the members of the VAT group are current and, as far as possible, consolidated within the VAT group regime.

(20) The representative entity of a VAT group may apply in writing to the Comptroller to —

(a) approve the addition to a VAT group of an entity that meets the criteria for grouping;

(b) revoke the membership of an entity in the VAT group;

(c) designate another proposed member to be the representative entity of the VAT group; or

(d) revoke the registration of the VAT group.

(21) The representative entity shall, where any circumstance arises pursuant to paragraph (19)(e) or (f) that requires the Comptroller to be notified, notify the Comptroller within 30 days of such circumstance.

(22) Where a representative entity notifies the Comptroller of a circumstance, the Comptroller —

(a) in case of a notification under paragraph (19)(e), may revoke the membership of the relevant member or revoke registration as a VAT group;

(b) in case of a notification under paragraph (19)(f), shall revoke registration as a VAT group; and

(c) where the membership of the representative entity is revoked pursuant to sub-paragraph (a), may designate a new representative entity for the VAT group.

(23) The obligation to notify the Comptroller pursuant to paragraph (19)(e) and (f) remains in respect of any tax period in which the VAT group exists, notwithstanding that the membership in the VAT group of the representative entity may have been revoked.

(24) Where a new representative entity has been designated by the Comptroller, the obligation to notify the Comptroller under this rule will be the obligation of the new representative entity.

(25) Notwithstanding any provision of this rule, the Comptroller may revoke registration as a VAT group where the Comptroller is satisfied that the representative entity has not complied with any of its obligations under the Act, the Regulations or these Rules.

(26) The Comptroller shall, where the Comptroller intends to revoke a VAT group registration, notify the representative entity within thirty days of his intentions in writing and allow the representative entity an opportunity to respond.

(27) The representative entity shall, within 14 days of receipt of a notification under paragraph (26), make representation in writing to the Comptroller giving the reasons why the registration as a VAT group should not be revoked.

(28) The Comptroller shall, where the Comptroller is satisfied that a revocation of registration as a VAT group should be made, notify the representative entity in writing of his decision.

(29) Where the Comptroller decides that a revocation of registration as a VAT group should not be made, the Comptroller shall notify the representative entity in writing of his decision.

(30) A notice delivered to the representative entity of a VAT group under these Rules shall be deemed to be delivered to each member of the VAT group.

2015-005: Deferral of VAT on the importation of goods.

8. (1) Pursuant to section 44(4) of the Act, a registrant may defer payment of VAT on the importation of taxable supplies of goods in accordance with the VAT deferment scheme as provided for in this rule.

(2) A person shall not operate under the VAT deferment scheme unless such person has been approved by the Comptroller as an approved registrant.

(3) Persons eligible to apply to the Comptroller for approval as approved registrants are resellers of automobiles and persons who import goods under incentives available under or in relation to —

(a) the Hotels Encouragement Act; Ch. 289.

(b) the Industries Encouragement Act; Ch. 326.

(c) goods listed under paragraph (9) of rule 5 as eligible for VAT free sales under the VAT free shopping scheme; and

(d) the Hawksbill Creek Grand Bahama Act in respect of Port licensees. Ch. 261.

(4) An eligible person wishing to operate under the VAT deferment scheme may apply to the Comptroller in writing for approval as an approved registrant and the Comptroller may, in the Comptroller's discretion, grant such approval in accordance with these Rules.

(5) At the time of making an application under paragraph (4), an eligible person must be a VAT registrant and compliant with all the requirements of the VAT Act, Ch. 370A.

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the Business Licence Act, the Customs Management Act and their respective regulations.

(6) Under the VAT deferment scheme, an approved registrant —

(a) may defer the payment of VAT on the importation of goods;

(b) will not pay VAT to the Comptroller of Customs on the eligible listed goods at the time of their importation;

(c) shall account for the deferred amount on the VAT return for the tax period in which the goods were imported or any other period of time as may be approved by the VAT Comptroller;

(d) shall report the deferred VAT on the VAT return as a deferred tax liability that is payable;

(e) may claim an input tax credit for the deferred liability, or a lesser amount, in accordance with section 50 of the Act and Part 5 of the Regulations;

(f) shall file the VAT return by the due date for the relevant tax period and, where there is a payment to be made as per the return, shall make the payment on time.

(7) Payment of deferred VAT payable shall not, unless separate application is made to and approved by the VAT Comptroller, exceed six months after the importation of the goods.

(8) Approved registrants under the VAT deferment scheme shall not have access or be allowed to file under the fiat rate scheme.

(9) The VAT Comptroller may revoke the VAT deferral privileges of an approved registrant under the VAT deferment scheme where the Comptroller determines that the approved registrant is not fully compliant with the Act, the Customs Management Act, the Business Licence Act and their respective regulations.

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(10) An approved registrant must deposit with the Comptroller of Customs security in such form and amount and upon such terms as the Comptroller may determine in accordance with rule 9.

2015-006: Requirement for security.

9. (1) This rule applies in relation to —

(a) deferment of VAT on the importation of goods (section 44 of the Act);

(b) deferment of VAT on the importation of services (section 45 of the Act);

(c) the registration for VAT by the holder of a temporary business license in respect of output VAT that may become payable (section 64 of the Act);

(d) potential output VAT payable by a promoter of public entertainment (section 65(3) of the Act);

(e) the release of goods and vehicles seized by the Comptroller (section 67(8) of the Act); and

(f) the lodging of an objection to an assessment of VAT by the Comptroller (section 81 of the Act).

(2) Where the Comptroller requires security to be given in relation to the deferment of VAT on the importation of goods and services —

(a) and a bond has not yet been lodged with the Comptroller of Customs, the value of the security shall be equivalent to 100% of the estimated VAT payable over the approved tax period(s);

(b) the security shall be in the form of a bank guarantee, bond or cash;

(c) and the bond held by the registrant extends over a period of time, the bond may be utilized as often as necessary provided it is sufficient to cover 100% of the potential VAT due;

(d) a security shall not be accepted for the VAT due where the amount is less than $3,000; and

(e) where the VAT due is not paid within the specified time, the security shall be called in immediately.

(3) The Comptroller may, in the Comptroller's discretion, request the lodgement of a security to cover the potential output VAT payable by a promoter of public entertainment or the holder of a temporary business licence.

(4) Where the Comptroller requires security to be given for the release of goods and vehicles that were subject to seizure —

(a) the value of the security shall be equivalent to 100% of the VAT payable;

(b) the security shall be in the form of a bank guarantee, bond or cash; and

(c) the security shall be lodged with the VAT Comptroller before the goods or vehicles can be released.

(5) Where a person lodges an objection to an assessment of VAT made by the Comptroller —

(a) the security must be lodged with the objection in accordance with the Act;

(b) the value of the security shall be at least 50% of the amount objected to;

(c) the security shall be in the form of a bank guarantee, bond or cash; and

(d) the objection to the assessment will not be processed until the security has been provided.

(6) The Value Added Tax Department shall in accordance with section 91 of the Act apply a security given in the form of cash that is no longer required in order of priority —

(a) to outstanding penalty, fine, interest and tax payable by the giver of the security; and

(b) thereafter, if any amount remains, to outstanding liability and arrears in payment in other areas of Government and the balance, if any, to a refund in favor of the giver of the security.

2015-007: New business input tax credit.

10. (1) This rule applies in relation to sections 19(12), 20 and 51 of the Act to a person wishing to claim an input tax deduction or tax credit on business expenditure made for a new business prior to that person becoming a registrant and prescribes the procedures that apply.

(2) A person wishing to make a claim referred to in paragraph (1) —

(a) prior to the commencement of the new business, must register under section 51 of the Act as a new business registrant; and

(b) must also register under section 19 or section 20 of the Act.

(3) A new business registrant under section 51 of the Act must —

(a) on application made under the section, supply the operating name of the project or the trading

name that will be used upon the start of business;

(b) maintain and submit to the VAT Department for recordation adequate records detailing the supplies and importations made in the course or furtherance of the trade to be carried on by the new business and the VAT paid on such supplies and importations;

(c) notify the Comptroller a minimum of 14 days prior to the commencement of trading (and provide the trading name of the business if not yet furnished); and

(d) not file VAT returns or claim tax credits for VAT paid on taxable supplies or imports until registered under Part IV of the Act.

(4) Upon registration of a new business registrant under section 19 or section 20 of Part IV of the Act —

(a) the Comptroller shall in accordance with section 23(3) of the Act issue the registrant a TIN and notify the registrant of his effective date of registration, tax period and filing frequency;

(b) the registrant may claim and the Comptroller may allow a deduction for input taxes paid or payable in respect of—

(i) capital goods and trading stock acquired or imported prior to registration;

(ii) construction goods and services acquired for the purposes of constructing or repairing premises from which the taxable activity will operate; and

(iii) trading stock or goods to be used for the purpose of conducting the taxable activity which are on hand at the date registration takes effect;

(c) the Comptroller may allow an input tax credit only for items specified in sub-paragraph (b) which were acquired within a twenty-four month period immediately preceding registration under section 19 or section 20;

(d) the registrant may claim the input tax deductions on his first VAT return;

(e) no tax credit will be allowed if the registrant does not hold adequate and sufficient records to

establish the particulars relating to the deduction to be made; and

(f) invoices in support of the registrant's claim for tax credits must be made in the name of the new business or the operating name of the project.

(5) Where supplies were acquired in the operating name of the project, the appropriate officer of the new business must make a declaration that —

(a) the taxable transactions were made for and on behalf of the taxable activity intended to be carried out by the new business; and

(b) the goods and services have not been used for any purpose other than in the course or furtherance of the taxable activity referred to in paragraph (a).

(6) The Comptroller may, on a case by case basis, allow a claim in whole or in part as the Comptroller determines to be appropriate.

2015-008: Public entertainment.

11. (1) The purpose of this rule is to prescribe the registration thresholds in respect of certain promoters of public entertainment, and licensees and proprietors of places of public entertainment, and the circumstances and procedures that apply in relation to liability to VAT.

(2) Pursuant to sections 2, 19 and 22 of the Act, this rule applies in relation to public entertainment and for the purposes of this rule —

(a) a promoter of public entertainment includes a non-profit organization, religious organization or a charity; and

(b) public entertainment includes any cultural event, concert, dinner party, ball or sporting event to which the public is invited involving a musical, theatrical, dance or comedic performance.

(3) Pursuant to section 21(b) of the Act, the registration threshold shall be $50,000 per annum for a promoter of public entertainment who engages in public entertainment activities on a regular and continuous basis, or a licensee or proprietor of a place of public entertainment, and such a promoter or licensee or proprietor who reasonably expects to exceed the threshold annually must —

(i) register under section 19(1)(c) of the Act;

(ii) in addition to registration, notify the Comptroller a minimum of forty-eight hours prior to an event being promoted; and

(iii) file VAT returns regularly and continuously in accordance with Section 47(1) of the Act.

(4) A promoter of public entertainment who engages in public entertainment activities as a one-off, occasional or sporadic venture shall, in accordance with sections 19(3)(b) and 21 (b) of the Act —

(a) a minimum of forty-eight hours before the event is advertised, advise of the circumstances by submitting to the Comptroller a notification of a public entertainment event;

(b) include in the notification referred to in sub-paragraph (a) relevant details of the proposed public entertainment including, but not limited to —

(i) the number of tickets printed and the capacity of the venue for the event;

(ii) the price and classification of tickets available (i.e. VIP, general admission, backstage, etc.);

(iii) the number of promotional tickets to be issued for no consideration or less consideration than the market value;

(iv) information of past revenue, if any, generated by the promoter from similar previous public entertainment events;

(v) an estimate on expected revenue from the public entertainment event;

(c) before advertising the event, apply for a TIN; and

(d) satisfy all licensing requirements under the Business Licence Act. Ch. 329.

(5) The Comptroller shall, on receipt of a notification of a public entertainment event, pursuant to paragraph (4), which the Comptroller reasonably expects to exceed the registration threshold of $50,000 per annum, require the promoter to —

(a) register under section 19(l)(c) of the Act;

(b) prior to the event taking place, pay any security required by the Comptroller in accordance with rule 13; and

(c) file a VAT return within fourteen calendar days following the completion of the event.

(6) A promoter of public entertainment, or a licensee or proprietor of a place of public entertainment, who does not meet the registration threshold prescribed under this rule —

(a) is not subject to mandatory registration under section 19 of the Act;

(b) may apply for voluntary registration under section 20 of the Act;

(c) unless registered under section 20 of the Act, is not a taxable person and must not charge, collect, advertise or quote VAT in respect of the supply by him of the public entertainment; and

(d) must still notify the Comptroller of the event.

2015-010: Content of VAT invoices and VAT sales receipts.

12. (1) This rule is made pursuant to section 54 of the Act and regulation 33 of the Regulations and applies in relation to the contents of VAT invoices and VAT sales receipts.

(2) A VAT invoice shall contain the following information —

(a) the words "VAT Invoice" in a prominent place;

(b) the registrant supplier's TIN, name and address;

(c) the invoice identification (serial) number;

(d) the registrant recipient's TIN, name and address;

(e) date of the invoice;

(f) date of supply, if the supply was concluded or payment made prior to the issuing of the invoice;

(g) the quantity or volume, description and unit price of the goods;

(h) in the case of services, the description and the value of the service;

(i) the rate and amount of any cash discount offered;

(j) the total consideration, excluding VAT;

(k) the VAT rate;

(1) the total VAT charged; and

(m) the total price, inclusive of VAT, payable by the recipient.

(3) The unit price and value stated on a VAT invoice shall be stated exclusive of VAT.

(4) Where a VAT invoice includes taxable supplies and other supplies, the invoice shall indicate which item is taxed at the standard rate, zero-rate or is exempt from tax and symbols or letters may be placed adjacent to items to indicate their VAT treatment.

(5) Where a registrant supplier makes a taxable supply to a person who is not a registrant, the registrant supplier shall indicate the consideration for the taxable supply separately from the amount of tax charged.

(6) A VAT sales receipt shall contain the following information —

(a) the words "VAT Sales Receipt" in a prominent place;

(b) the registrant supplier's TIN, name and address;

(c) the sales receipt identification (serial) number;

(d) date of the receipt;

(e) the quantity, description and unit price of the goods;

(f) in the case of services, the description and the value of the service;

(g) the rate and amount of any cash discount offered;

(h) the VAT rate;

(i) the total tax charged; and

(j) the total price, inclusive of tax, payable by the recipient.

(7) The price stated on a VAT sales receipt may be VAT-inclusive or VAT- exclusive.

(8) A supplier may, in place of a VAT sales receipt, issue a VAT invoice to a non-VAT registrant in possession of a TIN.

(9) Where a registrant supplier changes the use of a good or makes a self-supply, the registrant supplier shall maintain documentary evidence of such supply containing the —

(a) date of the change of use or self-supply;

(b) description, quantity/volume of goods;

(c) in case of services, description of services;

(d) value of the goods or services; and

(e) amount of tax.

(10) A recipient of imported services must, to enable the Comptroller to establish the correct value at which VAT is chargeable, maintain adequate and sufficient records containing the —

(a) name and address of the supplier;

(b) TIN, name and address of the recipient;

(c) date on which, or the period during which, the supply was received;

(d) description of the services supplied;

(e) consideration, exclusive of tax, for the supply; and

(f) time by which payment of the consideration for the supply is due.

(11) Notwithstanding paragraphs 2, 6, 9, and 10 —

(a) financial institutions may issue VAT invoices and VAT sales receipts in the form and containing the particulars specified in rule 20;

(b) gas stations may issue a VAT invoice or VAT sales receipt on the request of the customer but must display notices at their establishments indicating that prices are VAT inclusive;

(c) periodic billing statements issued by utility companies shall be acceptable as VAT invoices provided —

(i) they include the TIN information of the recipient and issuer;

(ii) the billing for the utility service is exclusive of VAT;

(iii) the VAT amount is shown separately on the statement;

(d) where "Tax" is stated on the invoice or sales receipt instead of the word "VAT", it shall be understood that the word "Tax" means "VAT";

(e) where the word "Invoice", "Sales Receipt" or "Receipt" is not preceded by the word "Tax" or "VAT", such document shall be accepted as a valid VAT invoice or VAT sales receipt only where it contains ail other required fields and has received the Comptroller's permission for its use.

(12) Subject to paragraph (13), a registrant business which has a difficulty complying with a requirement of

paragraphs 2, 6, 9 or 10 may apply to the Comptroller for a waiver of the requirement and include sufficient justification for the request of a waiver.

(13) The Comptroller shall not grant a waiver under paragraph (12) in respect of the requirements to display the VAT ("Tax") rate and the amount of VAT ("Tax") on the VAT invoice or VAT sales receipt.

2015-011: Input tax credit for passenger vehicles.

13. (1) This rule elaborates and clarifies circumstances under which input tax deduction may not be claimed on a passenger vehicle under section 50 of the Act.

(2) The Comptroller shall not allow a claim for input tax deduction under section 50 in respect of a passenger vehicle where the passenger vehicle—

(a) was not acquired for the purpose of, or is not to be used exclusively for, the furtherance of the claimant's business activity;

(b) is to be used for the personal benefit, in whole or in part, of the directors or employees of the business or persons and are allowed the use of the vehicle as part of their compensation;

(c) is not registered or licensed in the name of the registrant business;

(d) is not hired in the name of the registrant business.

(3) A claim for input tax deduction in respect of input tax paid on a passenger vehicle, where allowed by the Comptroller, is recoverable in full.

2015-012: Flat rate accounting scheme.

14. (1) This rule prescribes a flat rate reporting method using the cash accounting basis, as approved by the Comptroller, for the submission of VAT returns by an approved applicant under regulation 19 of the Regulations and the conditions that apply to the scheme.

(2) Subject to paragraph (3), the flat rate accounting scheme is a cash basis accounting scheme acceptable to the Comptroller whereby—

(a) the flat rate fixed by the Comptroller for VAT is 4.5%;

(b) the method of reporting for VAT returns requires a business simply to apply a net rate of 4.5% VAT to its turnover to calculate the amount of VAT to be paid to the VAT Department; and

(c) the flat rate of 4.5% VAT is determined by the Comptroller to be the average rate that a business would pay if the business used its business records to determine the amount of VAT payable to the VAT Department each tax period.

(3) Subject to exceptions from the flat rate accounting scheme which the Comptroller may allow from time to time, the scheme is approved by the Comptroller for registrants, other than Port licensees, with an annual turnover at or below $400,000.

(4) A registrant who applies under regulation 19(1) for approval to use the flat rate accounting scheme —

(a) must be a start-up business that expects taxable turnover within the following 12 months to not exceed $400,000 as declared upon registration or an existing business with turnover below $400,000 as declared upon registration and for business license purposes;

(b) must use the scheme for a minimum period of one year even if the taxable turnover exceeds $400,000 during such year;

(c) must charge its customers 7.5% on standard rated supplies, but remit 4.5% of their total VAT inclusive sales to the VAT Department at the end of the filing period;

(d) unless zero-rated, must declare output VAT on sales of capital items at the standard rate of 7.5% and not the flat rate of 4.5%;

(e) is entitled to claim separately, provided it has available the relevant VAT invoice, input VAT paid on capital purchases subject to depreciation, including the purchase of—

(i) commercial real property such as hotels, commercial rental establishments and restaurants;

(ii) industrial real property, including buildings in which goods are manufactured or processed or used for the purpose of trade consisting of the storage of goods;

(iii) plant and machinery of a value of at least $5,000 to be used in furtherance of trading activities;

(iv) office equipment including computers, printers and cash registers of a value over $1000 per item;

(f) must not be a Port licensee;

(g) must not be an approved registrant under the VAT deferment scheme; and

(h) may use the scheme for such maximum period of time as the Comptroller shall state in the approval.

2015-013: Menu pricing for dine-in establishments.

15. (1) This rule applies to, and prescribes requirements for, the display of the menu pricing for dine-in restaurants and hotel restaurants in accordance with section 10 of the Act and regulation 37 of the Regulations to ensure that customers can identify, prior to entering a transaction, whether VAT has been included in the price of the supply.

(2) Dine-in facilities at restaurants or within hotels—

(a) may display VAT exclusive prices on menu boards and menu sheets;

(b) must include an additional column on menu boards and menu sheets, or some other form of indication, to disclose the additional amount of VAT that will be added to the bill; and

(c) must ensure that VAT invoices and VAT sales receipts issued comply with the requirements of rule 16.

2015-014: Treatment of input tax credits on insurance services.

16.[§] (1) Pursuant to regulation 51(4)(b) of the Regulations and section 50 of the Act, this rule applies to and clarifies the treatment by the Comptroller of a claim for input tax deductions (or input tax credits) by insurance companies in relation to the period January 1st to June 30th, 2015 when insurance services are exempt supplies under the Act.

(2) The Comptroller shall treat claims referred to in paragraph (1) as follows—

(a) input VAT may, from January 1st to June 30th, 2015, be accumulated against insurance claims settled on exempt policies which, in accordance with the Act, become taxable on or after July 1st, 2015;

[§] This Rule expired on June 30th, 2015.

(b) insurance claims referred to in sub-paragraph (a) shall be deemed to include VAT, when settled against VAT invoices or VAT sales receipts issued to or on behalf of policy holders by registrant services providers;

(c) insurers may not claim, prior to July 1st, 2015, input tax deductions in repsect of accumulated input VAT;

(d) input tax deductions must be claimed in instalments over a period of 12 months, commencing with the July, 2015 tax period;

(e) accumulated input VAT credits shall not exceed the amount of the gross premium taxes paid or assessed on premiums collected during the same six months period of accumulation;

(f) insurers must provide a quarterly report on claims settlements;

(g) input VAT credits shall not be accumulated on exempt policies after June 30th, 2015, including non-life policies that are exempt on a grandfathered basis; and

(h) verification of claims paid out must be certified in writing by an external auditor or a senior Financial officer of the company at the level of financial controller or above.

2015-015: Continuous journey for international transport.

17. (1) This rule applies to and prescribes the treatment for VAT liability by the Comptroller of an international transport service under regulation 15(4) of the Regulations in a case where the service comprises one or more domestic segments.

(2) An international journey shall be zero-rated under regulation 15(4) only where the journey is a continuous one involving one or more domestic transportation segments.

(3) For the purposes of this rule —

(a) an international journey is a trip that originates outside The Bahamas and terminates inside The Bahamas or that terminates outside The Bahamas from a point of departure inside The Bahamas;

(b) an international journey is continuous, notwithstanding stopovers or connections

through multiple carriers or multiple ports inside The Bahamas, provided —

(i) the trip into or out of The Bahamas is both booked and paid for on a single itinerary;

(ii) the connecting parts of the journey inside The Bahamas are completed within forty-eight hours;

(c) where the stopover parts of an international journey are not completed within forty-eight hours, the journey is not continuous and the travel inside The Bahamas shall be treated as domestic; and

(d) where an international journey is not continuous, the international part of the journey is subject to VAT at a zero rate and the domestic part of the journey is subject to VAT at the standard rate of 7.5 percent.

2015-017: Apportionment formula for financial institutions.

18. (1) This Rule applies to and prescribes the variables that apply to financial institutions in their operations in respect of input tax deductions (input VAT credits) and apportionment under section 50 of the Act and regulations 21 and 32 of the Regulations.

(2) The variables that apply are as follows —

(a) where input VAT paid by a financial institution can be directly identified or allocated to a zero rated (offshore) activity or a standard rated activity, total recovery of input VAT paid will be allowed;

(b) where input VAT paid can be directly allocated to an exempt activity by a financial institution, no input VAT paid may be recovered;

(c) input VAT paid by a financial institution which cannot be directly allocated to a supply shall be apportioned based on the following formula —

(i) input VAT credits for zero rated supplies will be approved in direct portion to the share of annual labour or man hours allocated to zero-rated supplies as a percentage of total labour hours directed to ail categories of supplies (zero, exempt and standard); and

(ii) input VAT credits for standard rated supplies will be approved in direct proportion to fee income as a fraction of fee

plus net-interest income from domestic supplies.

(3) For the purposes of this Rule, annual man hour allocations will be based on the number of employees engaged in making a taxable supply based on forty hours per week over fifty-two calendar weeks.

2015-018: Contents of VAT debit notes and VAT credit notes.

19. (1) Pursuant to section 55 of the Act and regulation 33 of the Regulations, this rule applies to and prescribes the contents of a tax debit note and tax credit note and further clarifies the circumstances in which they are to be issued.

(2) This Rule applies where there has been a post supply adjustment transaction for which the supplier or recipient will be entitled to a debit or credit, including in particular situations where —

(a) a registrant supplier charges tax in excess of the tax properly chargeable to another registrant recipient; or

(b) a registrant supplier charges taxes less than the tax properly chargeable to another registrant recipient.

(3) Post supply adjustment transactions shall be reported by a registrant on the VAT return in accordance with sections 52 and 53 of the Act.

(4) For the purposes of this rule —

(a) the expressions "VAT debit note" and "VAT credit note" mean, respectively, a tax debit note and a tax credit note under section 55 of the Act and regulation 33 of the Regulations; and

(b) where the word "Tax" is stated on a debit note or credit note, it shall be construed and understood that the word "Tax" means "VAT".

(5) A VAT debit note and a VAT credit note shall contain the —

(a) words "VAT Debit Note" or "VAT Credit Note" written in a prominent place on the document, as the case may be;

(b) registrant supplier's TIN;

(c) registrant recipient's TIN;

(d) VAT invoice identification (serial) number to which the VAT debit note or VAT credit note relates;

(e) date on which the VAT debit note or VAT credit note was issued;

(f) date of the original VAT invoice to which the VAT debit note or VAT credit note relates;

(g) value of supply on the invoice;

(h) correct amount of the transaction;

(i) difference between the original value of the supply and the correct amount of the transaction;

(j) VAT charge associated with the difference; and

(k) the reason, by way of a brief explanation, for issuing the VAT debit note or VAT credit note.

(6) A registrant supplier that issues a VAT credit note must reflect the post supply adjustment by reducing the output tax reported on the VAT return in the period in which it was issued.

(7) A registrant business that receives a VAT credit note must reflect the post supply adjustment by reducing the input tax reported on the VAT return in the period in which it was received.

(8) A registrant supplier that issues a VAT debit note must reflect the post supply adjustment by increasing the output tax reported on the VAT return in the period in which it was issued.

(9) A registrant business that receives a VAT debit note must reflect the post supply adjustment by increasing the input tax reported on the VAT return in the period in which it was received.

2015-019: VAT invoices and VAT sales receipts issued by financial institutions.

20. (1) This rule, pursuant to section 54 of the Act and regulation 33 of the Regulations, prescribes the form and particulars of a VAT invoice and a VAT sales receipt to be issued by a registrant domestic financial institution.

(2) A periodic statement issued by a registrant domestic financial institution to its customers shall be deemed to be a VAT invoice or VAT sales receipt for the purposes of the Act, the Regulations and these Rules provided that the statement contains the —

(a) name, address and TIN of the issuing financial institution;

(b) name, address and TIN of the registrant recipient (customer);

(c) date of issuance;

(d) description and the value of each transaction listed;

(e) total consideration, excluding tax for the listed transactions;

(f) VAT rate (standard, exempt, or zero) and total VAT charged; and

(g) total price payable by the registrant recipient (customer).

(3) It shall not be mandatory for a statement referred to in paragraph (2) to contain the words "VAT Invoice" or "VAT sales receipt" in the header or to have sequential numbering.

(4) A registrant domestic financial institution —

(a) has a period of six months commencing from January 1st, 2015 to ensure that its IT systems are adjusted to permit the issuance of statements that qualify as VAT invoices or VAT sales receipts in compliance with paragraph (2); and

(b) during the six months period referred to in sub-paragraph (a), must issue periodic VAT only invoices or statements to registrant recipients (customers) on a monthly basis or upon request by the registrant recipient (customer).

(5) A registrant domestic financial institutions shall maintain and publish a VAT inclusive fee schedule listing ail taxable fees and the VAT inclusive price of each fee.

2015-020: Fair market value for employees of financial institutions.

21. (1) This rule prescribes the VAT treatment of supplies made to employees within a registrant domestic financial institution and applies where a service is supplied for no consideration, or for consideration less than the fair market value, and where identical supplies are also made to non-employees.

(2) In accordance with section 37(1) of the Act and regulations 3(2)(c) and 22(2) of the Regulations—

(a) taxable supplies offered by a financial institution registered under the Act to employees for no consideration or less than the fair market value are subject to VAT at the fair market value;

(b) the fair market value for output VAT in respect of taxable supplies referred to in sub-paragraph (a) shall be the lowest rate charged on the identical supply to a recipient customer of the financial institution who is not an employee.

22. (1) This rule prescribes the treatment of mandatory gratuities collected for the delivery of services and applies where a gratuity is paid in restaurants, hotels and similar service entities and is itemized on the bill issued to the customer.

2015-022: Treatment of mandatory gratuities.

(2) Pursuant to regulation 17(5)(6) of the Regulations, a gratuity is eligible for exemption from the charge of VAT where —

(a) the gratuity is itemized separately from the total on the overall bill;

(b) the entire amount of gratuity is paid into a pool for the distribution to employees exclusively;

(c) the gratuity is paid to employees who are directly involved in the delivery of the service;

(d) other than contributions to the National Insurance Board, service charges and other fees are not deducted from the amounts paid to the employees; and

(e) the gratuity forms a part of the insurable wages for contributions made to the National Insurance Board.

23. (1) This rule prescribes the VAT treatment of condominiums and homeowners' association fees and applies to a condominium and/or homeowner association registered or required to register for VAT pursuant to sections 5, 19(2) and 31(9) of the Act and regulation 11 of the Regulations.

2015-024: Treatment of condominiums and homeowners associations.

(2) Subject to paragraph (3), a condominium and/or homeowners association—

(a) is subject to VAT at the standard rate in respect of the fees collected for services to their members; and

(b) may on application to the Comptroller use a cash basis accounting scheme.

(3) VAT shall not be charged on any portion of fees of a condominium and/or homeowner association to the extent such fees are applied to the payment of common real property taxes or insurance premium charges to the extent and for any period in which such charges are exempt from VAT under the Act.

(4) A condominium and/or homeowner association must issue VAT invoices and receipts which must group charges into their taxable and exempt components.