

L.N. 102 of 1994

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

Value Added Tax (Tax Records) Regulations, 1994

IN EXERCISE of the powers conferred by sections 16, 37 and 61 of the Value Added Tax Act, 1994, hereinafter referred to as "the Act", the Minister of Finance has made the following regulations:-

1. Citation and Commencement

- (1) These regulations may be cited as the Value Added Tax (Tax Records) Regulations, 1994.
- (2) These regulations shall come into force on the 1st January, 1995.

2. Interpretation.

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

3. Records to be kept by Taxable Persons.

Every taxable person shall, for the purpose of accounting for the tax, keep the following records and documents:

- (a) proper accounts and records of his economic activity;
- (b) his value added tax account;

- (c) his annual value added tax account;
- (d) copies of all tax invoices issued by him;
- (e) all tax invoices received by him;
- (f) documentation relating to importations and ex~portations by him;
- (g) copies of all fiscal receipts issued in terms of the Value Added Tax (Fiscal Receipts) Regulations, 1994; and
- (h) all credit notes, debit notes and other documents issued by him or received by him which evidence an increase or a decrease in the consideration for any supplies or for importations.

4. Matters to be included in the Accounts

The accounts and records of every taxable person shall be kept be in such a way as to enable the following matters to be readily ascertained:

- (a) the total value of the supplies made by him during each tax period, and separate totals of the value of -
 - (i) Exports;
 - (ii) supplies other than exports referred to in Part Ori of the Second Schedule to the Act (exempt with cred supplies);
 - (iii) supplies referred to in Part Two of the Secon Schedule (other exempt supplies);
 - (iv) supplies made outside Malta;
 - (v) supphes chargeable at the rate of tax of 15% distinguishing between supplies deemed to have been made b~ him in terms of section 10 of the Act and other supplies;
 - (vi) supplies chargeable at the rate of tax of 10%;
- (b) the total value of his importations, purchases and other inputs for each tax period, and separate totals of the value of
 - (i) importations;

- (ii) taxable supplies; (iii) other inputs;
- (c) where the supplies made by him include supplies referred to in Part Two of the Second Schedule the apportionment or other method applicable in terms of the Act or any regulations made under the Act for the attribution of the input tax to the supplies made by him;
- (d) the tax paid or payable, the tax refunded or refundable and the excess credit carried forward, if any, for each tax period.

5. The Value Added Tax Account.

- (1) The Value Added Tax Account shall be a separate account held for each tax period of the taxable person and shall be divided into the "Output tax portion" and the "Input tax portion".
- (2) The output tax portion of the Value Added Tax Account shall show the total output tax chargeable for the relative tax period showing separate totals of output tax chargeable at different rates, and shall contain a cross reference to the accounts from which the values of the supplies to which the said output tax refers can be ascertained.
- (3) The input tax portion of the Value Added Tax Account shall show the total input allowable as a deduction for that period, distinguishing between input tax on importations and on supplies, and shall contain a cross reference to the accounts from which the values of the importations and supplies to which the said input tax refers can be ascertained.

6. Corrections of Mistakes.

- (1) Where a taxable person, in a return for a tax period furnished to the Commissioner -
 - (a) overstates or understates the output tax and the overstatement or understatement does not exceed five per cent of the output tax declared in the said return, and/or
 - (b) overstates or understates the credit for input tax and the overstatement or understatement does not exceed five per cent of the credit for input tax declared in the said return.

he may make an adjustment in the Value Added Tax Account for the tax period during which the overstatement or understatement is discovered by means of a deduction from or an addition to the total for that tax period of the output tax portion and/or the input tax portion, as the case may be, and the output tax and input tax for that period shall be deemed to be the respective totals thereof as adjusted.

- (2) No adjustment may be made in accordance with paragraph (1) of this regulation except where the overstatement or understatement of the output tax or the input tax results as a consequence of a mistake on the part of the taxable person.

7. Adjustments on account of change in consideration charged for or cancellation of supplies.

- (1) Where the output tax or the input tax declared by a person in a tax return results to have been understated or overstated on account of an increase or decrease in the consideration for a supply or a cancellation of a supply made to or by that person which is charged or allowed or made in any tax period subsequent to that during which the supply was accounted for, that person may make an adjustment in the Value Added Tax Account for the said subsequent tax period by means of a deduction from or an addition to the total for that tax period of the output tax portion and/or the input tax portion, as the case may be, and the output tax and input tax for that period shall be deemed to be the respective totals thereof as adjusted.(2)Nothing in this regulation shall be construed as allowing the determination of the taxable value of a supply in derogation of any provision contained in the Act in general and in the Fourth Schedule to the Act in particular.

8. Adjustments based on annual results.

Where any adjustment falls to be made pursuant to an attribution of input tax based on annual results in terms of the Value Added Tax (Deductions) Regulations, 1994, the said adjustment shall be made to the Value Added Tax Account in accordance with the said regulations.

9. Further provisions relating to adjustments.

- (1) Every adjustment to the Value Added Tax Account shall clearly make reference to the tax return to which it refers and to all the documents relating to the understatements and overstatements.

- (2) No adjustment may be made in accordance with regulations 6 or 7 of these regulations in the Value Added Tax Account for any tax period which commences later than six months from the expiration of the tax period for which the relative output tax or credit for input tax had been overstated or understated.(3)No adjustments may be made in the Value Added Tax Account for a tax period in respect of any supply or importation accounted for in a previous period except in accordance with these regulations.

10. Tax Returns.

The amount of output tax and credit for input tax to be declared by a person in a tax return for a tax period shall be the amount of output tax and credit for input tax shown in the records of that person in accordance with these regulations.

11. Annual Value Added Tax Account.

The annual value added tax account shall be an account drawn up for every calendar year and shall show the total of the totals shown in the output tax portion and in the input tax portion of the Value Added Tax Account for each of the tax periods ending during that calendar year.

12. Exceptions.

- (1) The Commissioner may, in any particular case or classes of cases, require such additional records or documents to be kept, or allow such variations to the records and documents to be kept in accordance with these regulations as he may deem appropriate for any of the purposes of the Act.
- (2) These regulations shall be subject to the general requirements of section 37 of the Act and of any special provision contained in the Act or in any regulations made under the Act.