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S T A T U T O R Y I N S T R U M E N T S

2013 No. 28.

**THE VALUE ADDED TAX (DEFERMENT OF TAX ON PLANT AND
MACHINERY) REGULATIONS, 2013.**

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The Value Added Tax (Deferment of Tax on Plant and Machinery) Regulations, 2013.

(Under section 34 (8) of the Value Added Tax Act Cap. 349)

IN EXERCISE of the powers conferred upon the Minister by section 34(8) of the Value Added Tax Act, these Regulations are made this 28th day of June, 2013.

1. Title.

These Regulations may be cited as the Value Added Tax (Deferment of Tax on Plant and Machinery) Regulations 2013.

2. Commencement.

These Regulations shall come into force on 1st July 2013.

3. Interpretation.

In these Regulations unless the context otherwise requires—

“Act” means the Value Added Tax Act; and

“deferment” means postponement of payment of the value added tax under the Act in respect of imported plant and machinery.

4. Application for deferment.

(1) An importer of plant and machinery may apply to the Commissioner General to defer the payment of tax due in respect of imported plant and machinery.

(2) An application for deferment shall be in the form prescribed by the Commissioner General and shall be accompanied with a declaration by the applicant that the goods are for use in the business of the applicant and shall not be disposed of during the deferment period without prior approval by the Commissioner General.

(3) Subject to regulation 5, the Commissioner General may if satisfied that the imported plant and machinery is for use in the manufacture of goods or provision of value added services defer the payment of the tax to a specified period.

(4) Where an application is in respect of phased importation of plant and machinery, the application shall be accompanied with a schedule indicating the phases and the list of the plant and machinery included in each phase.

5. Period of deferment.

(1) The period of deferment shall, in the case of—

- (a) a person making taxable supplies, be fifteen days after the tax period;
- (b) a person not yet making taxable supplies, be one year from the commencement of the deferment; and
- (c) of phased importations, be fifteen days after the tax period.

(2) A person under subsection 1(b) may apply for extension of time to the Commissioner General not exceeding one year.

6. Conditions for approval.

(1) The Commissioner General shall not approve an application for deferment unless—

- (a) the applicant is registered under Part III of the Act;
- (b) the plant and machinery in respect of which the application is made is imported for use in the business of the applicant;
- (c) the tax due and in respect of which a deferment is sought is at least USD 4,000; and
- (d) the applicant has complied with section 31 of the Act.

(2) The Commissioner General may require the applicant to furnish security for the tax proposed to be deferred before approving the deferment.

7. Sale of plant and machinery during or after the deferment period.

Where the plant and machinery that is the subject of deferment is sold, re-exported or disposed of before or after expiry of the deferment period or utilized for any other purpose other than the purpose declared in the application, the importer shall pay in addition to any tax for which he or she is liable on such sale, re-export or disposal, the outstanding deferred amount and interest in accordance with the VAT Act.

8. Inspection.

(1) The Commissioner General may at any time during the period of deferment, inspect the plant and machinery specified in the application for deferment to ascertain whether it is duly installed and utilised for the purpose specified in the application.

(2) Where the Commissioner General ascertains that the plant and machinery is installed or utilised for the purpose specified in the application for deferment, the Commissioner General shall allow the taxable person to cause adjustments to the respective returns to reflect that the deferred tax has been accounted for.

9. Termination of deferment.

Deferment shall terminate—

- (a) when the period of deferment specified in accordance with regulation 5 ends; or
- (b) where the Commissioner General ascertains under regulation 8 that the imported machinery is not installed or utilised for the purpose specified in the application.

10. Payment of tax due.

Where the period of deferment terminates in accordance with these Regulations, the tax due shall become payable in accordance with the Act.

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