



Tuvalu

CONSUMPTION TAX REGULATION 2009

LN 7 of 2009



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Arrangement of Regulations

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CONSUMPTION TAX ACT 2008

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MADE UNDER SECTION 40 OF THE CONSUMPTION TAX ACT 2008

Commencement [1 July 2009]

In exercise of the power conferred by section 40 of the Consumption Tax Act 2008 the Minister of Finance, with the consent of Cabinet, makes the following regulations, —

1 Short title and commencement

- (1) These Regulations may be cited as the Consumption Tax Regulations 2009.
- (2) These Regulations shall come into force on 1 July 2009.

2 Interpretation

In these Regulations, unless the context requires otherwise —

“**Act**” means the Consumption Tax Act 2008;

“**tax fraction**” has the same meaning as in section 12(1) of the Act;

“**Taxation Officer**” has the same meaning as in section 2 of the Act; and

“**taxpayer identification number**”, in relation to a registered person, means the taxpayer identification number that has been allocated to that person for the purposes of the Act.

3 Rate of Consumption Tax

The rate of Consumption Tax to be levied on taxable supplies by a taxable person made on or after 1 July 2009 and on taxable imports made on or after 1 July 2009 under section 5 of the Act shall be 3%.

4 Exempt supplies

The following shall be added to the list of goods and services that are exempt from TCT under section 6(1) of the Act:

- (1) Distillate fuels that have been imported by the Tuvalu Electricity Corporation for the purpose of running the main electricity generators on each of the islands of Tuvalu;
- (2) Spare parts for machinery that is used in connection with Tuvalu Electricity Corporation's running of the main electricity generators on each of the islands of Tuvalu.

5 Financial leases

A supply of goods under a financial lease shall occur on the date of commencement of the lease.

6 Lay-by sales

- (1) In this regulation, “lay-by agreement” means any purchase agreement for goods under which —
 - (a) the purchase price is payable by at least one additional payment after the payment of a deposit;
 - (b) delivery of the goods takes place at any time after payment of the deposit; and
 - (c) ownership of the goods is transferred by delivery.
- (2) A supply of goods under a lay-by agreement shall occur on the date the goods are delivered to the purchaser.
- (3) Where a lay-by agreement is cancelled and the seller retains any amount paid by the purchaser or recovers any amount owing by the purchaser under the agreement —
 - (a) the cancellation of the agreement shall be a supply of services by the seller at the time of cancellation; and
 - (b) the value of the supply shall be the amount retained or recovered by the seller reduced by an amount equal to the amount retained or recovered multiplied by the tax fraction.

7 Vouchers

- (1) In this regulation, “**voucher**” means any voucher, stamp or similar article that can only be redeemed by the holder for supplies of goods or services, other than a postage stamp.
- (2) Where —
 - (a) a voucher is issued entitling the holder to receive supplies of goods or services up to a monetary amount on redemption of the voucher; and
 - (b) the voucher is issued for a consideration in money,the issue of the voucher is not a supply.
- (3) Where a voucher referred to in sub-regulation (2) is redeemed for a supply of goods or services, the value of the supply shall include the consideration for the voucher.
- (4) Where —
 - (a) a taxable person issues a voucher for no consideration; and
 - (b) the voucher entitles the holder to a discount on the price of goods or services supplied by another person,the value of the supply of goods or services shall include the monetary value of the voucher reduced by an amount equal to the monetary value multiplied by the tax fraction.
- (5) A taxable person is entitled to an input tax credit in respect of any amount paid to a supplier in respect of the redemption by the supplier of a voucher referred to in sub-regulation (4).
- (6) The amount of the input tax credit is the amount paid to the supplier multiplied by the tax fraction.

8 Phone cards

The supply of telecommunications services through the use of a phone card acquired in Tuvalu that can be used either in or outside Tuvalu shall occur at the time the phone calls are made with the card.

9 Vending machines

A supply of goods by means of a vending machine, meter or other device operated by a coin or note shall occur on the date the coin or note is taken from that machine, meter or other device by or on behalf of the supplier.

10 Used goods

The value of a taxable supply of used goods purchased from a person who is not a taxable person by a taxable person whose enterprise involves the re-supply of such goods in substantially the same state shall be equal to the excess (if any) of —

A - B

where,

A is the consideration for which the goods are supplied by the vendor; and

B is the consideration for which the goods were acquired by the vendor.

11 Refunds

(1) In this regulation—

“**charitable activities**” means activities consisting of the free distribution of food, meals, board, lodging, clothing, necessities or amenities to any persons in necessitous circumstances, but not including any activities relating to the conduct of a business;

“**international agreement**” means an agreement between the Government of Tuvalu and a foreign government or public international organization for the provision of financial, technical, humanitarian, or administrative assistance to the Government; and

“**non-profit organization**” means an institution, body, or trust of a public character that the Taxation Officer has certified as conducting activities exclusively for charitable purposes, which includes the relief of poverty, advancement of education or religion beneficial to the community.

(2) The Taxation Officer may authorize the granting of a refund in respect of Consumption Tax paid or borne on a taxable supply to, or taxable import, by —

(a) a public international organization, foreign government, or any other person to the extent that organization, government, or person is entitled to exemption from Consumption Tax under an international agreement; or

(b) a non-profit organization in respect of a taxable supply to, or taxable import by the organization of goods or services acquired for the purposes of providing charitable activities.

(3) The Taxation Officer may authorize any relief under this regulation on such conditions and subject to such restrictions as he may consider appropriate.

(4) Any claim for a refund of tax under this regulation shall be made in such form and at such time as the Taxation Officer may prescribe and shall be accompanied by proof of payment of Consumption Tax or such other certification as the Taxation Officer may require.

12 Short form tax invoice

Where the value of a taxable supply by a taxable person to another taxable person is less than \$500, the Consumption Tax invoice for the supply may be limited to the following particulars —

- (a) the words “Consumption Tax invoice” in a prominent place;
- (b) the date the Consumption Tax invoice is issued;
- (c) the name of the supplier;
- (d) the taxpayer identification number (TIN) of the supplier and the purchaser, where the latter has been issued with such a number; and
- (e) a brief description of the goods or the services supplied.

13 Forms

The Taxation Officer may specify forms for the purposes of any return, application, notice, or other document to be lodged under the Act.

14 Consumption Tax registration before commencement date

- (1) The Taxation Officer may register persons for the purposes of Part III of the Act before the coming into force of that Act.
- (2) Any registration certificate issued by the Taxation Officer pursuant to sub-regulation (1) shall be deemed to have been issued under the provisions of Part III of the Act.

15 Progressive or periodic supplies

- (1) If the period of a supply referred to in section 10(4) of the Act begins before and ends after the commencement date of the Act, the supply shall be treated as having been made continuously and uniformly throughout that period and the supply shall be apportioned accordingly.
- (2) Sub-regulation (1) shall not apply to the supply of a warranty in relation to goods or a service if the value of the warranty was included in the price of the goods or service.