

INDEPENDENT STATE OF PAPUA NEW GUINEA.

Goods and Services Tax Regulation 2005.

Being a Regulation,

MADE by the Head of State, acting with, and in accordance with, the advice of the National Executive Council under the *Goods and Services Tax Act 2003* to be deemed to have come into force on 1 January 2004.

PART I-PRELIMINARY

1. Prescribed Foreign Aid Providers.

For the purposes of Section 21(1)(c) of the Act, the organizations specified in Schedule 1 are prescribed foreign aid providers.

2. Prescribed Educational Institutions.

For the purposes of Section 25(6)(d) of the Act, the bodies specified in Schedule 2 are prescribed educational institutions.

3. Percentage of the consideration fixed for the supply of primary products by unregistered vendors.

For the purposes of Section 30(6) of the Act, the percentage of the consideration fixed for the supply of primary products by unregistered vendors shall be 1%.

4. Rules of supply to allocate revenue to provinces.

For the purposes of the Act and the *Goods and Services Tax Revenue Distribution Act 2003*, the following rules of supply shall apply to allocate revenue to provinces:—

(a) Goods and services shall be deemed to be supplied in a province as follows:—

(i) Services sold by providers of services:

The province in which the service is performed. If no service is physically performed in a province, the province in which the agreement to provide the service was made.

(ii) Goods sold by suppliers of goods:

(A) the province in which the sale is made. If goods are supplied to a purchaser in one province from a supplier in another province, the sale is made in the province from which the goods are actually supplied;

(B) if goods are supplied by a supplier in the province, the sale is made in that

province, regardless from where the supplier sources the goods.

(iii) Transport services:

- (A) for goods, the province to which the goods are consigned for shipment;
- (B) for aircraft or shipping passengers, the province in which the passenger boards the aircraft or ship.

(iv) Manufacturers:

(A) manufacturers who make sales in more than one province must arrive at the value added in manufacturing by calculating an ex-factory value added for the goods which are manufactured. That value must be equal to either—

(I) the value added to goods, materials and taxable services used in making a manufactured product; or

(II) at the option of the taxpayer, 60% of the ex-factory price.

(B) the value for taxable sales of manufactured goods by a manufacturer in each province, other than the province of manufacture of those goods, must be reduced by the amount the Regulation has “valued”;

(C) the total reduction is deemed to be taxable sales of the province in which the goods were manufactured and must be added to taxable sales in that province.

5. Registration.

- (1) A person who is registered for Value Added Tax purposes on 31 December 2003 shall be deemed, for the purposes of the Act, to be so registered on 1 January 2004.
- (2) Pursuant to Section 43(4) of the Act, the prescribed registration form for Goods and Services Tax shall be in Form 1 of Schedule 3.

6. Manner of making returns.

Except as otherwise prescribed, a return under this Act shall—

- (a) be made and furnished in such form as provided by the Commissioner; and
- (b) contain the information and particulars mentioned or referred to in that form; and
- (c) be verified by declaration as set forth in the form; and
- (d) be accompanied by such statements and other documents as are mentioned in the form or as are requisite.

PART II. - COLLECTION AND RECOVERY OF TAX.

7. How tax may be paid.

- (1) A taxpayer may pay amounts due as tax to the Commissioner under the Act—

(a) by delivery of cash, bank notes or cheques at an office of the Commissioner General in the National Capital District or such other place as approved by the Commissioner General from time to time; or

(b) by remitting the amount due to the Commissioner General by bank draft, cheque or any other method of payment as approved by the Commissioner General and payable at an office of the Commissioner General in the National Capital District or such other place as approved by the Commissioner General from time to time; or

(c) subject to the consent of the Commissioner (which consent may be withheld for any reason which appears to him sufficient) by transferring the title to real or movable property to the Commissioner.

- (2) The Commissioner may direct that any tax payable under the Act is to be paid in a currency other than in Kina.
- (3) The payment of the foreign currency equivalent at the official (inter-bank) closing rate of exchange fixed by the Central Bank under the *Central Banking Act 2000* on the day which is two banking days prior to the date of payment shall be a lawful discharge of the taxpayer's obligations to pay the tax.

8. Tax paid by the transfer of property.

When tax has been paid by the transfer of property—

(a) payment shall not be deemed to have been made until that property has been sold or otherwise disposed of by the Commissioner; and

(b) the amount of payment deemed to have been paid shall equal the net proceeds, after deducting the costs of disposal, received by the Commissioner from the sale or disposal of that property.

9. Post Office to be agent of remitter.

When a person posts a remittance addressed to the Commissioner, the Post Office shall be deemed to be the agent of the remitter, and payment shall be deemed not to have been made until the addressee has received the remittance.

10. Payment by cheque.

When a cheque has been delivered or remitted to the Commissioner in payment of an amount payable to the Commissioner, that amount shall (notwithstanding any receipt given for it) be deemed not to have been paid until the amount for which the cheque is drawn has been collected.

11. Receipts to be issued.

Receipts for amounts paid to the Commissioner shall be issued by such persons as the Commissioner may authorize.

12. Part payment of tax.

Except with the express consent of the Commissioner, money shall not be accepted on account, or in part payment, of an amount payable to the Commissioner.

13. Postage to be prepaid.

The postage on a return, statement, communication, remittance or other matter sent by post, addressed to the Commissioner, shall be fully prepaid by the sender.

14. Deficient postage.

When a sum is received as payment of tax, the Commissioner shall first deduct from that sum the amount of postage and surcharge (if any) paid upon any unstamped or insufficiently stamped matter received through the post from the taxpayer and shall credit in payment of tax only the net amount then remaining.

15. Notice to the State.

- (1) The person upon whom notice may be served in pursuance of Section 88(7) of the Act is the Paying Officer of any Department of the Government.
- (2) For the purposes of this Regulation, “Paying Officer” means any officer of the State who, by any law, regulation or appointment, is charged with the duty of disbursing or who does actually disburse any public moneys.

16. Certificate as to service of notice of assessment, etc.,

In an action against a person for the recovery of tax, a certificate in writing, signed by the Commissioner certifying that—

- (a) the person named in the certificate is a person subject to assessment of tax under Part X of the Act; and
- (b) an assessment of tax was duly made against that person under Part X of the Act; and
- (c) the particulars of the assessment are as stated in the certificate; and
- (d) notice of the assessment was duly served upon that person; and
- (e) the sum named in the certificate was at the date of the certificate due by him to the State in respect of tax,

is evidence of the facts stated in the certificate.

17. Evidence by affidavit.

In an action for the recovery of an amount payable to the Commissioner, evidence may be given by affidavit, but the court may require the deponent to attend for the purpose of being cross-examined.

PART III. - PENAL PROVISIONS AND PROSECUTIONS.

18. Certificate as to failure to furnish a return.

In any proceedings against a person for failing or neglecting duly to furnish a return, a certificate in writing signed by the Commissioner for Taxation or a prescribed delegate of the Commissioner, verifying that a return has not been received from that person by any officer authorized by the Commissioner to receive returns, is evidence that the defendant has failed or neglected duly to furnish the return.

19. Order to comply with requirement.

An order made by a court in pursuance of Section 97 of the Act may be served in the manner prescribed for service of notices in Section 22.

20. Right of trial in National Court. (Repealed)

21. Enforcement of orders for payment.

- (1) Where an order for the payment of a sum of money by a person to the Commissioner is made under Part XIV of the Act by a court of competent jurisdiction, the Commissioner may obtain from the Clerk or other proper officer of the court a certificate under Section 97(28) of the Act.
- (2) The certificate shall be in accordance with Form 3 of Schedule 3, and shall contain the following particulars:—
 - (a) the name and location of the court making the order;
 - (b) the name and address of the defendant; and
 - (c) the date and amount of the order and the section of Part XIV of the Act under which the order was made.
- (3) Upon production of the certificate to the prothonotary, registrar or other proper officer of a court having jurisdiction to entertain civil proceedings to the amount of the order, that officer shall register the certificate by entering the particulars of the certificate in a book to be kept by him.
- (4) A certificate shall not be registered after the lapse of 12 months from the date of the order to which it relates unless leave in that behalf has first been obtained from the court in which it is proposed to register the certificate.

PART IV. - MISCELLANEOUS.

22. Service of notices, etc.,

A notice or other communication by or on behalf of the Commissioner may be served upon a person—

- (a) by causing it to be personally served on him; or
- (b) by leaving it at his address for service; or
- (c) by posting it addressed to him at his address for service.

23. Signatures.

A notice to be given by the Commissioner may be given by any officer duly authorized by the Commissioner in that behalf, and a notice purporting to be signed by the authority of the Commissioner shall be as valid and effectual for all purposes as if signed by the Commissioner in person.

24. Appointment of prescribed delegate.

The Commissioner may, by notice published in the National Gazette, appoint a person to be a prescribed delegate of the Commissioner for the purposes of this Regulation.

25. Signature deemed to be duly signed.

- (1) A certificate, notice or other document, bearing the written, stamped or printed signature of the Commissioner, an Assistant Commissioner or a prescribed delegate of the Commissioner, shall, until the contrary is proved, be deemed to have been duly signed by the person by whom it purports to have been signed.

- (2) Judicial notice shall be taken of every such signature and of the fact that the person, whose signature it purports to be, holds or has held the office of Commissioner, Assistant Commissioner or prescribed delegate of the Commissioner, as the case may be.

26. Amount of penalty.

A person who is guilty of a contravention or failure to comply with a provision of this Regulation for which no penalty is expressly provided is guilty of an offence punishable upon conviction by a fine not exceeding K1,000.00.

27. Charges for photocopying.

- (1) The Commissioner may, at the request of any person entitled to receive the information, make photocopies of documents lodged with him for supply to that person.
- (2) The Commissioner-General may charge an amount not exceeding K2.00 per page for the supply of the photocopies referred to in Subsection (1).

28. Prices to be shown inclusive of Goods and Services Tax.

Any person registered for Goods and Services Tax shall, when displaying, quoting or advertising prices of goods or services sold by him, show or quote those prices inclusive of the Goods and Services Tax charged.

SCHEDULE 1

Reg. Sec. 1

Foreign Aid Providers

- (a) Specialized agencies of the United Nations.
 - (i) the International Labour Organisation (ILO)
 - (ii) the Food and Agriculture Organisation (FAO)
 - (iii) the International Civil Aviation Organisation (ICAO)
 - (iv) the United Nations Education, Scientific and Cultural Organization (UNESCO)
 - (v) the International Monetary Fund (IMF)
 - (vi) the International Bank for Reconstruction and Development (IBRD)
 - (vii) the World Health Organization (WHO)
 - (viii) the Universal Postal Union (UPU)
 - (ix) the International Telecommunications Union (ITU)
 - (x) the International Finance Corporation (IFC)
 - (xi) the World Meteorological Organization (IMO)
 - (xii) the International Development Association (IDA)
 - (xiii) the Inter-Government Maritime Consultative Organisation (GMCO)
 - (xiv) the World Trade Organisation (WTO).
- (b) Other organizations and agencies.
 - (i) the Commonwealth Secretariat
 - (ii) the Government of New Zealand
 - (iii) the Government of the United Kingdom
 - (iv) the Government of Australia
 - (v) the Japan International Co-operation Agency (JICA)
 - (vi) the Canadian International Development Agency (CIDA)
 - (vii) the Norwegian Agency for International Development (NORAD)
 - (viii) the Asian Development Bank
 - (ix) Commission of the European Communities
 - (x) German Agency for Technical Co-operation
 - (xi) Kreditanstalt Fur Wiederaufbau (KfW)
 - (xii) Overseas Economic Co-operation Fund (OECF)
 - (xiii) British Council
 - (xiv) Australian Agency for International Development (AusAID)
 - (xv) Save the Children Fund
 - (xvi) Project Concern International

- (xvii) International Planned Parenthood Federation
- (xviii) Friedrich Ebert Foundation
- (xix) Hans Seidel Foundation
- (xx) Volunteer Service Overseas (VSO)
- (xxi) Agence Francaise Development.

SCHEDULE 2

Reg. Sec 2

Prescribed educational institutions

Port Moresby Business Training Institute.

SCHEDULE 3

FORM 1.

Reg., Sec. 5

FORM 1

Application for registration for Goods and Services Tax

Internal Revenue Commission

APPLICATION FOR REGISTRATION FOR GOODS AND SERVICES TAX

You should complete this form once only. It will register you as a taxpayer of Goods and Services Tax. The necessary information on procedures and forms will be sent to you after you have been registered.

Carefully fill in the form and send it to: **The Commissioner General of Internal Revenue
Internal Revenue Commission, P O Box 777, Port Moresby, NCD.**

An incomplete form may be returned for completion.

PLEASE USE BLOCK LETTERS

FULL
NAME
OF
TAXPAYER

either
INDIVIDUAL
or
COMPANY
UNINCORPORAT
ED BUSINESS
GROUP
PARTNERSHIP
TRUST

SURNAME GIVEN NAMES

FULL AND CORRECT NAME OF
ENTITY

TRADING NAME UNDER
WHICH YOU RUN YOUR
BUSINESS

YOUR POSTAL ADDRESS TO
WHICH NOTICES CAN BE SENT

ADDRESS WHERE YOUR RECORDS CAN BE INSPECTED (TOWN, STREET, SECTION AND LOT)

IF COMPANY OR BUSINESS
GROUP, ADDRESS OF
REGISTERED OFFICE

CERTIFICATE
NUMBER

DATE OF START OF
BUSINESS
.....

DATE FROM WHICH
REGISTRATION
IS
REQUESTED
.....

INCOME
TAX FILE No.

HAVE YOU BEEN
REGISTERED FOR VAT OR
GST BEFORE?
IF YES

PREVIOUS
VAT OR GST
NUMBER
VT

ARE YOU
REGISTERED AS A
GROUP EMPLOYER
IF YES

GROUP
NUMBER
GP

APPROXIMATE SALES PER MONTH

**APPROXIMATE TAX LIABILITY
PER MONTH**

WHAT IS YOUR MAIN BUSINESS

NAME OF CONTACT PERSON NAME PHONE FAX

DECLARATION: I declare that the above is true and correct in every detail.

NAME: DATE:.....

OFFICE USE ONLY Date..... VT

Note: all businesses, including clubs, associations and other non-profit enterprises must be registered for Goods and Services Tax if their total sales exceed K100,000 per year.

Failure to register may incur substantial fines andor penalties.

You may voluntarily register for GST if your sales are less than K100,000 per year.

FORM 2. (Repealed)

FORM 3.

Reg. Sec. 21

FORM 3.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CERTIFICATE OF ORDER UNDER THE *GOODS AND SERVICES TAX ACT 2003.*

In pursuance of Section 97(28) of the *Goods and Services Tax Act 2003*, I, , the * Clerk of the [*insert name and location of Court*], hereby certify that on the day of20., the said Court, acting under Section , of that Act, ordered [*insert name and address of defendant*] to pay to the Commissioner General the sum of K.

Dated this day of , 20.

. *Clerk of the Court.

. *If the Clerk of the Court does not grant the Certificate, substitute title of the proper officer by whom it is granted.

MADE this day of , 2005.
