

The background features a decorative graphic consisting of three blue circles of varying sizes, each with a lighter blue ring around its center. These circles are arranged in a triangular pattern. Two thin blue lines intersect at the top left, forming a large 'V' shape that frames the circles. The overall color palette is shades of blue on a white background.

VALUE ADDED TAX, 2052 & VALUE ADDED TAX REGULATIONS, 2053

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Chaitanya CA, CAP II

Value Added Tax Act, 2052
Chaitanya CA

Value Added Tax Act, 2052

Preamble: Whereas, it is expedient to increase the mobilization of revenue needed for the economic development of the country, by making the process of revenue recovery effective and to levy the revenue in effective manner by systematizing the process of recovering the Value Added Tax on all kinds of transaction including sale, distribution, transfer, import and export of goods and services and to realize the tax;

Therefore, Parliament has enacted this Act.

1. Short Title and Commencement: (1) This Act may be called as the "Value Added Tax Act, 2052 (1996)".

(2) It shall come into force on such date as Government of Nepal by publishing a notification in the Nepal Gazette may appoint.

2. Definitions: Unless the subject or the context otherwise requires in this Act, -

(a) "Tax" means the value added tax levied pursuant to this Act.

(b) "Transaction" means the act of supplying any good or services.

(c) "Taxable Transaction" means the Transactions as referred to in Sub-section (1) of Section 5.

(d) "Taxable Amount" means the value to be determined pursuant to Section 12 or Section 12A in relation to any goods or services.

(e) "Goods" means both movable and immovable property.

(f) "Service" means anything other than goods.

(f1) "Group of Company/ Entity" means the group of companies or entities having under the following circumstances:

(1) Conducting a business by an associated person or representative of the group;

(2) Permanent address of two or more entity in the same place; or

(3) Having a direct or indirect control in the entity by a person or persons.

(g) "Supply" means the act of selling, exchanging/ transferring of any goods or services or the act of licensing or the act of contracting by taking consideration.

(g1) "Loan agreement" means hire purchase or finance lease agreement.

(h) "Consideration" means anything to be received for the value of supply.

(i) "Import" means the act of importing of any good or service into the Nepal in accordance with the prevailing laws.

(j) "Export" means the act of exporting of any goods or services outside of Nepal pursuant to the prevailing law.

(k) "Market Value" means the value determined pursuant to Section 13.

(k1) "Electronic Media" means computer, internet, email, facsimile, Electronic Cash Register, fiscal printer or similar approved media. This phrase covers any media prescribed by the Department having similar characteristics.

(l) "Person" means any person, firm, company, association institution, partnership institution, co-operative, joint venture, trust or fund and this term also includes the government body which are involved in the taxable transaction with or without the objective of profit making, religious organization, charity association or other similar association and their branch or sub-branch thereof.

(m) "Registered Person" means the person registered pursuant to Section 10 to carry out the transaction.

(n) "Registration Number" means the number provided to the registered person pursuant to Section 10.

(o) "Supplier" means the person who supplies any goods and services.

(p) "Recipient" means the person who receives any goods and services.

(q) "Taxpayer" means the person involved in the taxable transaction.

(r) "Department" means any Department under the Ministry of Finance designated by Government of Nepal as to be responsible for tax administration.

(s) "Director General" means the Director General of the Department.

(t) "Tax Officer" means the tax Officer, Chief Tax Officer, Chief Tax Administrator, Director General appointed by Government of Nepal for the purpose of this Act or any Officer designated by Government of Nepal authorizing to exercise the powers of Tax Officer under this Act.

(u) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules made under this Act.

3. Tax Officer may be appointed or Designated : For the propose of this Act Government of Nepal may appoint Tax Officers in required numbers and, Government of Nepal, if deems necessary, may designate any Officer in Government service to act as a Tax Officer.

4. Jurisdiction of a Tax Officer: (1) The jurisdiction of a Tax Officer shall be as prescribed by the Government of Nepal.

(2) DG may order the Tax Officer to inspect, monitor and assessment of transaction of Taxpayer in addition to his own jurisdiction.

5. Value added Tax to be levied: (1) Notwithstanding anything contained in this Act, the value added tax shall be levied on the following transactions:-

- (a) On goods and services supplied within Nepal,
- (b) On goods and services imported into Nepal,
- (c) On goods and services exported outside of Nepal.

(2) The tax shall be levied on the value of each taxable transaction.

(3) Notwithstanding anything contained in Sub-section (1), the tax shall not be levied on the transaction of goods and services as referred to in Schedule -1. In addition, the tax paid before the purchase of such goods and services shall not be allowed to deduct pursuant to Section 17 and refund pursuant to Section 24.

5A. Tax not to be levied on Transfer of ownership: (1) Notwithstanding anything contained elsewhere in this Act, no tax shall be levied on transfer of business by a registered person to another registered person by sale or transfer of ownership of the business to legal heir due to the death. Such transfer or sale has to be informed to the Department as prescribed.

(2) Notwithstanding anything contained in sub- section (1), tax obligation of so transferred industry of business, either registered or requires to be registered, shall be borne by the transferee.

(3) Subject to Sub-Section (2), transferee shall retain the documents of industry or business to the prescribed period including pre- transfer.

5B. Power to order for registration: In cases where the Tax Officer has a reasonable ground to believe that a person required to be registered is carrying out any transactions without getting registered, he/she may order such person to get registered.

Provided that, a person who claims that he/she is not required to get registered for carrying out transactions valued up to the amount prescribed pursuant to Section 9, shall have the burden to furnish evidence thereof within 30 days from receipt of such order.

6. Place and Time of supply: (1) For the purpose of assessment or realization of tax pursuant to this Act, the matter whether the supply of any goods or services has taken place within or outside of Nepal shall be determined as prescribed.

(2) For the purpose of assessing and realizing the tax pursuant to this Act, the time of supply of any good or service shall be considered to have taken place at the earliest of the following:-

- (a) At the time the invoice is issued by a supplier,
- (b) In case of supply of goods, at the time in which the recipient receives or takes possession of the goods from the place of transaction of supplier,
- (c) In case of supply of service, at the time when the service is rendered, and
- (d) At the time when the supplier receives consideration for the goods or services.

(3) Notwithstanding anything contained in Sub-section (2), the following time shall be considered as the time of supply in the following circumstances:-

- (a) In case of the telecommunication service to be supplied continuously and other similar type of public services, the time when the invoice is issued.
- (b) Where according to the Contract, if the mode of payment of the value of any good or service is made in installment or partial basis in more than one day, the time of supply shall be earliest of the payment day mentioned in the Contract in which the payment has to be made or on which day the payment is made.
- (c) In case of goods and services where one does not get the tax deduction facility pursuant to this Act for their use, the time when such goods or services are used.
- (4) If more than one provision is applicable as prescribed in Sub-section (2) regarding the time of supply in any transaction, the time of supply shall be as prescribed by the Director General on an objective basis.

7. Rate of Tax: (1) The rate of tax to be levied under this Act shall be single rate of 13 percent.

(2) Notwithstanding anything contained in Sub-section (1), in the transaction of goods or services as mentioned in Schedule-2, the tax rate shall be zero.

8. Assessment of Tax and Collection: (1) A registered person shall assess and collect tax at the taxable value in accordance with the provisions of this Act and Rules framed thereunder.

(2) The recipient of services in Nepal, whether registered person or not, from a unregistered person outside of Nepal shall have to assess and collect the tax at the taxable value in accordance with this Act and Rules framed thereunder.

(3) In case of construction of building or apartment or shopping complex and similar structure as prescribed by the Department for business purpose constructed by unregistered person and value more than Rs. 50 lacs, tax shall be deposited as if

construction has been done by a Registered Person. In failure to deposit such tax, it shall be recovered from the owner of such structure.

Explanations: For the purpose of this sub-section, “business purpose” means construction of building, apartment, shopping complex or similar structure as prescribed by the Department to sale or accounted as current or permanent asset to use.

8A. Provision for Bank Guarantee: (1) Tax on import of Goods for raw materials for producing exportable goods by the industry having export more than 60% of total sales in last 12 months or import of Goods for duty-free shop under Bonded Warehouse may be made by providing Bank Guarantee in the concern Customs Office.

Provided, except for export from duty free shop under bonded warehouse, there should be value addition of at least 10 percent on exporting finished goods from those raw materials.

(2) Imported liquor and cigarette under bonded warehouse facility under sub section (1), shall be sold to the diplomats and duty privileged person accredited by Ministry of Foreign Affairs of GoN.

(3) Liquor and cigarette in stock at duty free shop in Tribhuvan International Airport, at the time of enactment of this section, may be transferred to own bonded warehouse or may be sold paying tax.

(4) The bank guarantee under sub – section (1) shall be released by the Customs Office as per the procedure prescribed by the Department.

(5) The facility of refund under sec 24(4) shall not be availed to the person obtaining facility under this section.

9. Exemption for Small Vendor: Notwithstanding anything contained in this Act, an exemption may be provided to a small vendor, having a prescribed annual taxable transaction threshold, from the requirements of registration and filing of tax returns and from such requirements as may be prescribed.

Provided that, a small vendor may, if desires to be registered voluntarily, get registered as per the process as referred to in Section 10.

10. Registration: (1) Every person engaged in any transactions at the time of commencement of this Act shall apply within Ninety days from the date of commencement of this Act to the Tax Officer, in the prescribed format for registration.

(2) Every person, who intends to engage into a transaction after the commencement of this Act, shall apply to the Tax Officer in the prescribed format for registration, before the commencement of such transactions.

(3) Notwithstanding anything contained in Sub-section (1) and (2), a person who carries out the transaction of goods or services as mentioned in Schedule 1, shall not be required to get registered.

(4) The Tax Officer shall register each person who has duly submitted an application under Sub-section (1) or (2) and shall issue registration certificate in a prescribed format along with the registration number within the prescribed time frame.

(5) The registered person shall display the registration certificate in a conspicuous place at his/her principal place of transaction and if there are more than one places of transaction, it shall be displayed in a conspicuous manner at each place, other than the principal one, a copy of the registration certificate attested by a Tax Officer.

(6) A registered person shall use his/her registration number for all transactions relating to value added tax, excise and customs duty and to other prescribed transactions as well.

(7) Every registered person shall inform the Tax Officer within Fifteen days of any changes in the information pertaining to the application for registration as required under Sub-section (1) and (2).

10A. Temporary Registration Special: (1) Sponsor and unregistered business dealing temporarily Taxable Transaction of Goods and Services in exhibition, fair and similar shall be registered prior to such event as prescribed.

(2) Registered person may transfer goods in the events for the purpose of event under sub- sec (1).

(3) Temporarily Registered Person under sub sec (1) shall cancel its registration upon filing its Tax Return and payment of tax within 7 days from closure of exhibition or fair.

Rule 3. Application for Registration: (1) Any person engaged in any transaction at the time of the commencement of the Act shall submit an application for registration to the concerned tax officer, in the format as set forth in Schedule -1 within 90 days of the commencement of the Act.

(2) A person intended to engage in any transaction after the commencement of the Act shall submit an application for registration to the concerned tax officer, in the format as set forth in Schedule -1 prior to the commencement of such transaction.

(3) In case a person making application for registration pursuant to sub-rule (1) or (2) is a partner, the application must be submitted along with the details of the partnership in the format as set forth in Schedule -2.

Rule 4. Investigation into Application: (1) The concerned tax officer may ask an applicant to produce such other additional details and the documents which are deemed necessary in making investigations into the details and documents attached with the

application submitted pursuant to Rule 3. It shall be the duty of the applicant to submit such additional details and documents to the concerned tax officer within seven days of such demand.

(2) In cases where anyone has happened to submit an application for registration of the transaction which is not required to be registered as set forth in sub-section (3) of Section 10 of the Act, the concerned tax officer shall give a notice setting out that he is not required to be registered, to the applicant within seven days of the receipt of the application.

Rule 5. To Grant Certificate of Registration: The concerned tax officer shall, if he deems it proper to register, upon making investigations pursuant to Rule 4 into the application submitted for registration pursuant to Rule 3, register the transaction which the applicant has carried out or intends to carry out the transaction and grant the certificate of registration bearing Registration Number as well in the format as set forth in Schedule -3 to the applicant, within thirty days of the date on which the application was submitted.

Rule 6. Entrepreneur Carrying out Small Transactions Need not to be Registered:

(1) Notwithstanding anything mentioned in Rule 3, any person carrying out transactions not exceeding 2 million rupees and for services or mix of goods and services not exceeding 1 million rupees within the last twelve months as set forth in Section 9 of the Act need not have registered his transactions.

Provided that any person who imports into Nepal goods valued more than Rs. 10,000 except for own consumption have to get registered.

(2) Notwithstanding anything contained in sub-rule (1), any person carrying out small transactions may submit an application pursuant to Rule 3 if he wishes to register his transactions voluntarily. If an application has been submitted to register the transactions voluntarily, the tax officer shall register the transactions by completing the procedures of investigation referred to in Rule 4.

Rule 6A. Contract Special: Paying the tax to the respective contractor, the contracting governmental institutions, public institutions or Registered Person shall inform the IRO regarding the contract entered into and payment of tax. On contracting more than Rs. 2 million or service more than Rs. 1 lac, such governmental institutions, public institutions or Registered Person shall purchase from Registered Person only.

Rule 6B. Construction Work Special: In case of constructions of building or apartment or shopping complex and similar structure as prescribed by the Department for business purpose, any person require to construct through Registered Person.

Rule 7. Special Conditions on which Transactions are to be Registered: (1) In case any person has reason to presume that his transactions shall exceed 2 million rupees in the coming three months, he shall submit an application setting out such conditions, to the concerned tax officer in the format as set forth in Schedule -1 for the registration of the transactions.

(2) If the amount of the transactions carried out by any person exceeds 2 million rupees in absence of the conditions where presumption could not be made as set forth in sub-rule (1), the person carrying out such transactions shall submit an application to the concerned tax officer in the format set forth in Schedule -1 for registration of the transactions within thirty days of the date on which such excess occurs.

(4) Person, dealing the goods or services those to be registered u/s 10(2) shall apply within 30 days from enactment of this Sub- rule.

(5) Notwithstanding anything elsewhere in this Regulation, the business in the Office shall register if dealing taxable goods or services and in the following cases:

(a) In the inspection by TO, if excess stock than prescribed limit found.

(b) Expense per year on telephone and rent is more than Rs. 1 lacs.

(c) Business place in the prescribed market or road with specified area occupied as prescribed by the Department.

(d) Obtaining business loan from any bank more than Rs. 1 million.

(6) If any person found doing business without registration, TO shall issue an order for registration within 30 days with stating basis and reasons for that. In case such order received, the business has to be registered by the Person.

Rule 7A. Special Provisions for Temporary Registration: (1) An application from the Unregistered Person involving for exhibition, fair or similar event unser section 10 with the recommendation of host shall be filed to the concerned IRO or TSO.

(2) The estimated transaction from the event shall be disclosed with the application under sub rule (1) along with 2% of it as dharauti.

(3) Upon receiving such application under sub rule (1), TO of IRO or TSO shall register and certificate with registration number shall be issued.

(4) Within 7 days from closure of event, Person registered under sub- rule (3) shall file VAT return and pay tax along with original certificate of registration and tax clearance letter to IRO or TSO for cancellation.

(5) Within 15 days from receipt of such application of cancellation, TO shall inform Taxpayer for deregistration after examining the return and other documents.

(6) Dharauti under sub rule (2) can be adjusted with tax payable under sub rule (4).

(7) A 3 days notice shall be issued to pay additional tax after examining the documents under sub rule (5). In case, tax is not paid within stipulated period, it may be offset with dharauti and balance, if any shall be recovered from the host.

11. Cancellation of Registration: (1) The Tax Officer may cancel the registration of a registered person in any of the following circumstances:

(a) In the case of body corporate, if the body corporate is closed down, sold or transferred or if the body corporate otherwise ceases to exist;

(b) In the case of an individual ownership, if the owner dies;

(c) In the case of a partnership firm, if it is dissolved;

(d) If a registered person ceases to be engaged in taxable transactions;

(d1) In case zero return or non- filer continuously for one year;

(e) If registered mistakenly.

(1a.) In circumstances other than those mentioned in Subsection (1), any entrepreneur carrying out small transactions who has got his/her transactions registered voluntarily shall not be entitled to cancel such registration of his/her transactions voluntarily until completion of one year from the date of registration of the transaction. An entrepreneur carrying out a small transaction who intends to get registration of such transactions to be canceled after completion of one year from the date of registration of the transaction may file an application as prescribed to the concerned Tax Officer for cancellation of registration. If such an application is so filed, the concerned Tax Officer shall cancel registration of such transaction.

(1b) Within 15 days from date of filing Tax Return for deregistration, Taxpayer require to submit accounts for tax audit. Within 3 months, Tax Officer require to inform taxpayer deregistration or deny for that after tax audit. In case, tax officer has not decided to deregister or deny it, Tax Return is not required to be filed thereafter.

(2) The cancellation procedure of a registration shall be as prescribed.

(3) All the goods and services that remain available for use at the time of the cancellation of registration (capital goods as well) on which tax deduction facility has already been taken, tax shall be assessed and recovered as prescribed.

Rule 9. To Give Notification of the Change of Place: (1) Any registered person who has to change the place of his transactions shall inform the concerned tax officer thereof prior to fifteen days of such change.

(2) The concerned tax officer shall, upon receipt of the information referred to in sub-rule (1), if he deems that the place of transactions to be changed falls within the scope of another Tax Office, notify the concerned office thereof within seven days of the receipt of such information.

Rule 10. To Notify for the Change of Nature or Object of the Transactions: (1) Any registered person shall prior to fifteen days of the change of the nature or object of his transactions notify the concerned tax officer thereof.

(2) Upon receipt of the notice referred to in sub-rule (1), the concerned tax officer shall change the nature or object of the transactions of the registered person and inform such registered person thereof.

Rule 11. Transfer of Transaction: (1) In case any registered person has fully or partially transferred the transaction being carried out by him to any person, he shall supply the information thereof by setting out all the details in the format set forth in Schedule -4 to the concerned tax officer within seven days of the date on which the transaction was so transferred.

(2) In case the transaction has been transferred pursuant to sub-rule (1), the rights, powers and obligations of the transferor shall be transferred to the transferee.

(3) The concerned tax officer may, get both the parties related to a transfer in his presence to give them necessary instructions in regard to the obligations to be fulfilled by them under the Act and these Rules. It shall be their duty to follow the directions so given.

Rule 12. Cancellation of Registration Process: (1) In case the registration of any registered person be cancelled due to the conditions referred to in sub-section (1) of Section 11 of the Act and such a registered person or his successor in the event of his absence submits to the concerned tax officer an application, setting out the conditions for cancellation of registration, accompanied by the Tax Return referred to in Schedule -11 as well as the payable tax amount, for the cancellation of registration, within thirty days of the date on which the condition for cancellation of registration occurred, or the concerned tax officer is satisfied that the registration of a registered person in existence of the conditions set forth in sub-section (1) of Section 11 is to be cancelled, the tax officer shall cancel the registration of such person, upon getting him to pay the remaining tax amount, and give notice thereof to the concerned registered person or his successor and the Department.

(2) After filing application for deregistration, Tax Return upto the date of deregistration or upto 3 months shall be filed.

(3) It is the duty of TO that decision of deregistration or denial to it b given within 3 months from date of application.

Rule 13. Use of Registration Number: A registered person shall use his registration number in the following documents related to the transactions which he carries out, in addition to the transactions referred to in sub-section (6) of Section 10 of the Act:

- (a) Documents relating to income tax;
- (b) Documents relating to applications to be submitted to banks and financial institutions for loans exceeding one hundred thousand rupees for commercial and industrial purposes;
- (c) Documents relating to import and export.

Rule 14. To Issue Duplicates: (1) In case the certificate of registration of transaction obtained by a registered person under Rule 5 is torn, lost or otherwise destroyed, he must submit to the concerned tax officer accompanied also by one hundred rupees for the duplication fees payable to obtain such certificate, to obtain a duplicate copy of such certificate.

(2) Upon receipt of an application pursuant to sub-rule (1), the concerned tax officer must give a duplicate copy of the certificate of registration of transaction within fifteen days of receipt of the application.

Rule 14A. Tax Plate: Within 30 days from commencement of this rule, Taxpayer shall fix a tax plate in the openly place.

Tax Periods

18. Tax Returns to be filed: (1) Every taxpayer shall, upon making assessment of the tax payable by him/her in every month, submit the tax description, as prescribed, to the Tax Officer within Twenty Five days of completion of that month. Such description shall be submitted whether or not a taxable transaction was carried out in that month or not.

(1a) Notwithstanding anything in Sub sec (1), Taxpayer from the district not having an Inland Revenue Office may file Tax Return and pay tax to District Treasury Comptroller Office within 15 days from closure of month. Within 7 days, DTCO require to send the details of Tax Return and tax payment to Inland Revenue Office.

(2) Notwithstanding anything contained in Sub-section (1), taxpayers, as prescribed, may submit a description of a period that is longer or shorter than one month.

Rule 26. To Submit Tax Return of Tax Period: (1) A registered person shall submit to the concerned tax officer the tax return of one-month tax period according to the Bikram Sambat, in the format referred to in Schedule -10, within 25 days of the expiry of that period.

(2) Notwithstanding anything contained in sub-rule (1), in case any registered person applies to the tax officer to have the tax period fixed for a tax period other than the tax period mentioned in sub-rule (1), having maintained the accounts by him using a computer system, the tax officer may, if he so deems proper after investigations, fix, as per necessity, a separate tax period in respect of such registered person.

(3) The tax period of a taxpayer who has registered voluntarily pursuant to Section 9 of the Act and whose annual turnover is of value up to 2 million rupees or brick industry may be fixed at four months. *Eg. Shrawan-Kartik, Mangsir- Falgun and Chaitra-Ashadh.*

(3a) In case hotel or tourism entrepreneur intend for, the Department may fix their Tax Period of two months. *Shrawan- Bhadra and so on.*

(3b) In case newspaper or its publisher opted for trimester tax period, the Department may allow.

(4) A registered person whose tax period has been so fixed to be more or less than one month shall submit his tax return of that period to the tax officer in the format referred to in Schedule-10 within 25 days of the date of expiry of that period.

(5) A taxpayer shall, when submitting the tax return for the first time, submit the tax return for the remainder of the period as if the remaining period was the full tax period.

Rule 27. Filing Tax Return through the Heir or Legal Representative: In case any registered person dies or becomes mentally or physically incapacitated to submit the tax return, the tax officer may, considering him to have supplied the goods or services till the day preceding his death or becoming mentally or physically unable, require his heir or legal representative to submit a tax return for that period.

Rule 28. Filing Tax Return Individually or Jointly: The following persons shall submit the tax return individually or jointly in the following circumstances:

(a) In cases where any taxpayer becomes incapable to submit a tax return or he dies; his heir or guardian,

(b) In cases where any taxpayer is a legal person, any director, executive chief or any employee appointed by the management, on behalf of such a taxpayer,

(c) In case any taxpayer is a legal person and such legal person is dissolved or liquidated by the liquidator,

(d) In other circumstances other than those mentioned above, the person concerned with the taxpayer and prescribed by the tax officer.

Schedule-1

(Relating to Sub-section (3) of Section 5)

List of VAT exempt goods and services

Group 1. Basic Agricultural Products

Group 2. Goods of Basic Needs:

- (a) Petroleum oil.
- (b) Drinking water to be supplied openly through taps and tankers.
- (c) Fire wood and Coal.
- (d) Kerosene (except air fuel).
- (e) Salt.
- (f) Electrical energy.

Group 3. Live Animals and their products:

Group 4. Agricultural inputs:

- (a) Seeds of plants as mentioned in group 1.
- (b) Manure, fertilizer and soil conditioners.
- (c) General tools to be used in agriculture acts (hand tools to dig and clear the land, hand tools to cut wood and grasses except hand file, tools to be used for thrashing granular, tools for cutting grasses for animal and tool to be used in ploughing share).
- (d) Pesticides to be used mainly or absolutely in crops.
- (e) Handheld tractors and semi trailer tractors upto 1800 cc.

Group 5. Medicine, Medical cure and Similar Health services:

- (a) Services provided by operation of hospitals, clinics and health institutions to provide medical treatment conducted with the approval of government of Nepal without registering under VAT.
- (b) Professional services to be provided on institutional or personal basis by health workers (doctor, nurse, *vaidya*, *kaviraj*, compounder, etc.).

- (c) Goods to be supplied to the recipient necessary in the process of making available the service as mentioned in Clause (a) and (b) above.
- (d) Human blood and products derived from human blood.
- (e) Human or animal organs or tissue to be used in medical research.
- (f) Professional services to be provided by veterinary surgeons and veterinary doctors.
- (g) Medicine for the treatment of human being and animals and means of family planning.
- (h) Means made or suitable only for the use of disabled persons. Cane for blind people, side car for disable person.
- (i) Oxygen gas to be used in the treatment and X-ray films.
- (j) Raw-materials, for the production of medicine, imported or purchased by the medical industry own-self or prescribed by the Department of Drug management in the prescribed limit.

Group 6: Education:

- (a) Acts relating to research in a school or university.
- (b) Vocational or refresher trainings given by institutions fully owned by GoN..
- (c) Educational service to be provided by schools and universities.

Group 7: Books, news papers, printed materials and printing and publishing:

- (a) Books, booklets and pamphlets.
- (b) News paper, journals and periodicals.
- (c) Pictures and maps.
- (d) Printing and publishing.
- (e) News prints.

Group 8: Artistic, cultural and carving services:

- (a) Artistic and carving services (fine art, sculpture, architecture and similar kinds of other arts and services relating thereto.)
- (b) Entry fee of library, museum, art gallery, zoo.

Group 9: Passenger transportation and transportation services:

Public passenger transportation and transportation services like air transport, public transport , cargo services except Cable car.

Group 10: Business or Professional services:

Professional services to be rendered institutionally or personally by artists, sportsmen, writers, designers, translators, interpreters etc and services of overseas manpower.

Group 11: Other goods and services:

(1) Postal services (only conducted by the Government of Nepal)

(a) Service relating to transportation or handing over of letters, money and postal packets.

(b) Other services to be necessary for the transportation or handing over of letters, money and postal packets.

(c) Postage stamps.

(2) Financial and insurance services, reinsurance services and Clearing House.

(3) Electricity.

(4) Battery for usage in Safa Tempo.

(5) Materials received for Natural Disaster Management and Relief approved from Ministry of Finance.

(6) Materials for usage in scientific research.

(7) Materials and equipment for usage in hospitals.

(8) Materials and equipment imported for usage by Nepal Army and Police.

(9) Precious metals and metals clad with precious metals

(10) Jewellery, goldsmiths and silversmiths wares and other articles.

(11) Cold storage.

(12) On the recommendation of Alternative Energy Promotion Center items used in generation of bio- gas, solar or wind energy.

(13) Others

Exempt goods	Condition	Exempt %
Match box(woods only), Dhoop and Tyre Tube Industry	VAT collected from sales of the products	Full refund
Maida industry	VAT collected from sales less	25%

	VAT paid on purchases	refund
Mustard Oil produced by IIDomestic Industry, Domestically produced Vanaspati ghee or other refined oil.	VAT collected from sales to the VAT registered person. (however, import and packaging of refined oil is not eligible)	50% refund
Dairy Products	VAT collected from sales of the products	50% refund
Domestically tea producing and processing industry	VAT collected from sales to the VAT registered person.	50% refund
Domestic cloth industry	VAT collected from sales to the VAT registered person.	50% refund
Cellular mobile phone manufacturing industry or exporting industry	VAT collected from sales to the VAT registered person.	60% refund
Sugar producer	VAT collected from sales to the VAT registered person.	70% refund

Group 12: Building and Land:

Transaction of house and land and rental thereof (except service to be rendered by the institution operating professionally as hotel, guest houses).

Group 13: Gambling, casino and lottery:

(1) Activities relating to facility to be provided for gambling.

(2) Lottery.

Note:

- The Department, as prescribed, and in consultation with the Department of customs may change the interpretation of the goods and services enjoying tax exemption and the Harmonized Code of Commodities as necessary.
- If the Government of Nepal considers reasonable to grant any exemption to any taxable goods or to refund tax, it may grant such exemption by publishing a notice in the Nepal Gazette.
- The procedure of VAT refund shall be as per guideline issued by the Department.

Schedule-2
(Relating to Sub-section (2) of Section 7)
Goods and services subject to zero rate

1. Goods exported from Nepal: If it is proved that goods are supplied as follows:

- (a) Goods exported outside Nepal, or
- (b) Goods shipped for use as stores on an international flight of which destination is outside Nepal, or
- (c) Goods put on board an international flight of which destination is outside Nepal for retail sale or supply or consumption.

2. Services to be supplied to persons outside Nepal:

- (a) A supply of services by a person residing in Nepal to a person outside Nepal, who has no business transaction, business representative or legally recognized agent in Nepal.
- (b) A supply of goods or services by a person who is residing and is registered in Nepal to a person who is residing outside Nepal.

3. Goods or services imported by a person or mission enjoying diplomatic facility and a person serving in a diplomatic mission enjoying tariff facility, on the recommendation of the Ministry of Foreign Affairs, Government of Nepal.

4. If any previous treaty or agreement provides for the sales tax exemption on imports, and local purchase is made from the registered taxpayers, on the recommendation of the concerned project, the facility of zero rate shall be provided on such supplies, so long as such treaty or agreement is in effect.

5. Raw materials to be sold to and goods manufactured by any industries established pursuant to the laws in force and operated in the special economic zone.

6. If, on the recommendation of the Alternative Energy Promotion Centre, the battery used in the equipment and mechanism generating energy from solar power is produced by any native industry and is to be supplied by that industry, the facility of zero rate shall be provided to that industry on that transaction on the recommendation of Alternative Energy Promotion Center and in accordance with the procedures specified by the Department.

7. If any machinery, equipment, tools and their spare parts, penstock pipes or iron sheets used in making thereof required for hydro power projects are produced by any native industry and are to be supplied by that industry, the facility of zero rate shall be provided to that industry on that transaction, on the recommendation of the Alternative Energy Promotion Centre, in the case of a project that is operated with the approval of that Centre, and on the recommendation of the Electricity Development Department, in the

case of one other than that operated with the approval of the Alternative Energy Promotion Centre and in accordance with the procedures specified by the Department.

8. If painting, handicrafts, carving and similar other handicrafts produced a cottage and small scale industry within Nepal are exported through an approved export trading house of Nepal, the value added tax paid on the raw materials used in the manufacture of such goods shall be refunded after fulfilling the procedures specified by the Inland Revenue Department.

9. The value added tax paid on the import or local purchase of scooters used by persons with disabilities shall, if such scooters are registered in their name in the Office of Transport Management, be refunded on the recommendation of the Women, Children and Social Welfare or the Chief District Officer of the concerned district, and in accordance with the procedures as specified by the Department of Inland Revenue. If such goods are sold to any persons other than the persons with disabilities, the refunded value added tax shall be recovered.

Problem 1- VAT refund as per Schedule 1

Swasthya Flour Mill Ltd. Is a Maida producing industry. It is a complete manufacturing unit, and does not involve in local/ import purchase of Maida. For FY 2069/70, it had the following transactions:

Particulars	VAT amount (Rs.)
A. VAT collected on sales	
i. From VAT registered person	1,500,000
ii. From Non- VAT registered person	200,000
B. VAT paid on purchase	1,300,000

What amount of VAT refunds is Swasthya Flour Mill facilitated?

Problem 2 VAT refund as per Schedule 1

Healthy Oil Industries Ltd. Is manufacturing Mustard Oil. During shortage, the industry also, imports oil and sell it to its customers to maintain its market. The VAT accounts of Healthy Oil showed the following data for FY 2069/70.

Particulars	Trading of Mustard Oil (import purchase and sales)	Manufacturing of Mustard Oil
C. VAT collected on sales		
iii. From VAT registered person	1,700,000	1,800,000
iv. From Non- VAT registered	600,000	190,000

person		
D. VAT paid on purchase	1,500,000	1,400,000

Calculate VAT amount which Healthy Oil is facilitated to get refund from IRD.

Problem 3- Deregistration of VAT registration

Mr. Shrestha, a small business proprietor not required to be registered to VAT, got voluntarily registered on 1.4.2063. After two years, he now feels that he should not have gone for registration as it is creating unnecessary burden on his part. He doesn't know whether he can go for cancellation or not and the procedure he is required to follow. He approaches you for the advice. Suggest him.

Problem 4- VAT registration

Binod & Company, a proprietor engaged in the business of selling battery operated tempo, its chassis and battery. Its annual turnover of the business was estimated of Rs. 10 million. Binod & Company not registered with VAT. The advisor of the company suggested to get registered with VAT or ready to pay penalty as per VAT Act. Assuming you are the advisor of Binod & Company, what would be your advice to the company?

Would your answer be different if Binod & Company is engaged in the business of solar energy equipments and operate under an umbrella of Alternative Resources Promotion Centre?

Supply

6. Place and Time of supply: (1) For the purpose of assessment or realization of tax pursuant to this Act, the matter whether the supply of any goods or services has taken place within or outside of Nepal shall be determined as prescribed.

(2) For the purpose of assessing and realizing the tax pursuant to this Act, the time of supply of any good or service shall be considered to have taken place at the earliest of the following:-

(a) At the time the invoice is issued by a supplier,

(b) In case of supply of goods, at the time in which the recipient receives or takes possession of the goods from the place of transaction of supplier,

(c) In case of supply of service, at the time when the service is rendered, and

(d) At the time when the supplier receives consideration for the goods or services.

(3) Notwithstanding anything contained in Sub-section (2), the following time shall be considered as the time of supply in the following circumstances:-

(a) In case of the telecommunication service to be supplied continuously and other similar type of public services, the time when the invoice is issued.

(b) Where according to the Contract, if the mode of payment of the value of any good or service is made in installment or partial basis in more than one day, the time of supply shall be earliest of the payment day mentioned in the Contract in which the payment has to be made or on which day the payment is made.

(c) In case of goods and services where one does not get the tax deduction facility pursuant to this Act for their use, the time when such goods or services are used.

(4) If more than one provision is applicable as prescribed in Sub-section (2) regarding the time of supply in any transaction, the time of supply shall be as prescribed by the Director General on an objective basis.

Rule 15. Determination of the Place of Supply of Goods: The following places shall be deemed to be the place of Supply of goods:

(a) In the case of movable goods transferred by sale, the place where such goods were sold or transferred,

(b) In the case of any immovable goods whose location can't be transferred even if their ownership is changed, the place where such goods are located,

(c) In the case of imported goods, the customs point in the Kingdom of Nepal through which such goods are imported into the Kingdom of Nepal,

(d) In case any producer or vendor supplies the goods to himself, the place where the producer or vendor of such goods resides.

Rule 16. Determination of the Place of Supply of Services: The place of supply of a service shall be the place where the benefit of that service is received.

5A. Transfer of Business: (1) Notwithstanding anything elsewhere in this Act, no tax is levied in the transfer of business of Registered Person by sale to another Registered Person or transferred ownership of the business to heir after death. Such transfer or sale of business to be informed to the Department as prescribed.

(2) Notwithstanding anything contained in Sub- sec (1), tax obligation of so transferred industry of business, either registered or requires to be registered, shall be borne by the transferee.

(3) Subject to Sub- sec (2), transferee shall retain the documents of industry or business to the prescribed period including pre- transfer.

Rule 11. Transfer of Transaction: (1) In case any registered person has fully or partially transferred the transaction being carried out by him to any person, he shall supply the information thereof by setting out all the details in the format set forth in Schedule -4 to the concerned tax officer within seven days of the date on which the transaction was so transferred.

(2) In case the transaction has been transferred pursuant to sub-rule (1), the rights, powers and obligations of the transferer shall be transferred to transferee.

(3) The concerned tax officer may, get both the parties related to a transfer in his presence to give them necessary instructions in regard to the obligations to be fulfilled by them under the Act and these Rules. It shall be their duty to follow the directions so given.

Taxable Value

12. Taxable Value: (1) Except otherwise provided in this Act, in case only the money is consideration, the taxable value shall be the price which the supplier takes from the recipient.

(2) The following amounts shall be included in a taxable value:

(a) The amount of all expenditures relating to transportation and distribution which was borne by the supplier in connection with the transactions, and the amount of profit; and

(b) Excise and all other taxes excluding the tax imposed under this Act.

Explanation: For purpose of this Clause, "other tax amounts" means such tariffs, fees and charges as specified by the Annual Financial Act.

(3) Taxable value shall not include the amount of discount, commission or other similar commercial rebate granted on value in supplying goods or services.

(4) The taxable value of any goods or service exchanged or bartered shall be equal to the market value of the goods or services so exchanged or bartered.

(5) Except otherwise provided in this Act, the taxable value for any imported goods shall be its customs value including transportation, insurance, freight, commissions of agents and other persons, plus customs duties, countervailing duties plus any other taxes if levied on imports, except the value added tax.

(6) If the value of any goods or services is found to be much lower than the prevailing market value, the taxable value of such goods or services shall be equal to the market value.

(7) The taxable value of goods or services supplied for partial consideration shall be equal to the market value.

(8) The deposit, given in respect of goods or services, shall not be held to be taxable value until the supplier applies the deposit as a consideration for the supply.

12A. Taxable Amount in case of Log- Wood: (1) At the earliest date of auction, release or logging order for the log from national forest, tax to be levied and collected at the higher of auction price of royalty.

(2) An equivalent tax as per Sub- sec (1) is levied in the log from private cultivated, private forest or community forest even if royalty is not levied if it is sold for business purpose.

28. Provision relating to Imports: (1) Except otherwise specified by the Ministry of Finance, Government of Nepal, the customs officer shall recover the tax under this Act for goods which are imported.

(1a) If any goods manufactured or prepared within Nepal, after the completion of export procedures by the Customs Office or after reaching a foreign country, are re- imported because of rejection by the concerned party or other reason, and the same goods are to be re- exported within 3 months of after import, the goods may be released against the deposit of the value added tax at the time of such return, and the deposit shall be refunded after the re- export of such goods. The customs Office shall provide the details of amount so furnished as a deposit and refunded to the Inland Revenue Office.

Taxable Value= Export Cost + Cost of all expenses borne by seller

(2) A customs officer may use the power under this Act or other prevailing Customs Act to recover tax with respect to goods which are to be imported.

Rule 48. Tax on Imports: (1) Goods or services to be imported into Nepal shall be subject to tax at the rate payable on goods supplied within Nepal.

(2) When fixing the value for the purpose of the determination of tax on imported goods or services, it shall be determined by following the process referred to in sub-section (5) and (6) of Section 12 of the Act.

(3) In case the value of any imported goods cannot be determined at the time of import, such goods shall be allowed to be imported into Nepal only upon obtaining a deposit sufficient to meet all types of taxes or charges payable on such goods. Until the value of the goods or services imported by a registered person is determined, no tax paid on such goods or services may be deducted.

(4) In case any goods have been imported by furnishing a deposit, a claim for a tax credit may be made only within a year from the date of determination of the value.

Rule 49. Provisions Regarding Temporary Imports

(1) In case of goods temporarily imported on a dutyfree basis on the condition that they shall be taken back later, permission shall be granted to import such goods upon obtaining a deposit of the tax payable on them on the basis of the estimated value determined by the customs with provision to refund it at the time when they are taken back.

(2) Tax shall be imposed on the import duty itself on the goods or articles imported on a temporary basis subject to temporary import duty.

Sample or Free Goods

The sample or free goods given for business promotion are not taxable.

Rule 24 Complementary or Sample or Free Goods:

In addition to the records mentioned in Rule 23, a registered person shall also maintain the following particulars relating to his transactions.

- (a) Particulars of the goods distributed in the form of samples for the promotion of business.
- (b) Particulars of the goods received free of cost.

Rule 33. Method of Tax Assessment of Used Goods: (1) Tax Assessment of the used goods shall be done only on the difference between the selling and cost price of such goods. The vendor of such goods shall maintain a permanent record as mentioned below at the very time of the buying or selling of such goods:-

(a) Particulars in Purchase Register:

- (1) Date of Purchase,
- (2) Particulars giving full information of the goods,
- (3) Buying price excluding tax,
- (4) Rate of tax,
- (5) Amount of tax,
- (6) Total amount paid.

(b) Particulars in Sales Register:

- (1) Date of sale,
- (2) Selling price, excluding tax.
- (3) Difference between the buying price and the selling price,
- (4) Rate of tax,
- (5) Amount of tax,
- (6) Total amount received.

(2) The buying price referred to in sub-rule (1) means the price including tax.

(3) In case the buying price of every item of used goods exceeds ten thousand rupees, separate records of buying or selling shall be maintained.

(4) In case a registered person is found not to have satisfactorily maintained the records referred to in sub-rules (1), (2) and (3), tax shall be imposed on the total selling price of the goods sold by such taxpayer, and the tax officer may issue a written order requiring him to pay such tax along with the next tax return.

13. Market Value: (1) The market value of goods or services supplied on a particular day shall be determined taking into account the consideration to be received for similar kind of goods or services freely supplied between unrelated persons.

(2) For the purpose of this Section, the procedure for the determination of market value shall be as prescribed.

(3) If the market value of any goods or services could not be determined under Sub-section (1) and (2), it shall be determined in accordance with the procedure determined by the Director General.

Rule 22. Process of Market Value Determination: (1) While determining the market value under Section 13 of the Act, the tax officer shall determine the market value by studying the transactions and value of other vendors registered in regard to the transaction of the same nature.

(2) In cases where the market value of any goods or services cannot be determined as set forth in sub-section (3) of Section 13 of the Act, the Director General shall determine the value on the basis also of the information received in that regard by him from the registered persons of the same nature.

Conditions of Market value determination

- *the transactions and value of other vendors registered in regard to the transaction of the same nature.*
- *The time, place, area and date should be similar for collection of taxable amount.*
- *Identical and similar goods or services should be considered.*
- *Buyer and seller should be unrelated.*
- *Taxable value should be fixed independently.*
- *Consideration for goods or services should be similar or identical.*

Market valuation by registered person

In the following cases, transactions should be accounted in market value by the registered person itself:

- *Barter System transaction -Sec 12(4)*
- *Partial Consideration- Sec 12(7)*
- *Remaining Stock and capital items at deregistration- Sec 11(3)*
- *Remaining stock and capital items at shifting to VAT exempted business or self consumption of trading stock- Sec 17(4) and Rule 15*

Note: Market valuation of transaction in the cases of self consumption and at the time of deregistration, market price shall be determined at cost price vide circular dated 2055.09.05.

Market valuation by Tax Officer

In the following cases, transactions should be reassessed at market value by the tax officer:

- *Above cases of market valuation if not done by tax payer itself. (Sec 20 and Rule 29).*
- *Under- invoicing -Sec 12(6), Sec 20 and Rule 29*
- *Remaining stock if could not be shown at physical verification by Tax Officer- Rule 40*

Rule 20. Credit or Debit Note: (1) Where a registered person issues a credit or debit note owing to a change in the value of the goods or services supplied by him, he must clearly provide the following :

- (a) Serial Number,
 - (b) Date of issue,
 - (c) Name, address and registration number of the supplier,
 - (d) Recipient's name, address, and registration number if he is a registered person,
 - (e) Number and date of the tax invoice connected with the transaction,
 - (f) Particulars of the goods or services and reason of credit or debit,
 - (g) Amount credited or debited,
 - (h) Tax amount credited or debited.
- (2) A registered taxpayer shall maintain a monthly record of credit or debit notes referred to in sub-rule (1).

14. Invoices to be Issued: (1) Every registered person is required to issue an invoice to the recipient, in supplying any goods and services except as prescribed.

- (2) The format of an invoice shall be as prescribed.
- (3) It shall be the duty of the recipient to obtain an invoice.

(4) Tax invoice shall be accompanied for transporting goods outside of range prescribed by the department with value more than Rs. 10,000.

(5) Department may order to issue invoices from cash machine or computer (ECR). The procedure to issue such invoice shall be as prescribed by the Department.

(6) Person notified by the Department through public notice or a written order, shall publish the retail price of any notified goods for the period of such notice or order. In case such notice published or order received, such person cannot sale or transfer goods without publishing retail price.

(7) Notified person as per sub- sec 6 requires to issue the invoice in the form of collecting tax at consumer level at the published price in sale to unregistered person. Provided, any person even not notified under sub- sec 6 may issue invoice as per this sub- section voluntarily.

Rule 17. Tax Invoices: (1) In supplying any goods or service by a registered person, he shall give tax invoices to the recipient, in the format as set forth in Schedule-5 or Sch 5A. In invoicing goods, its type, size, model or brand, if any has to be disclosed.

(1a) Notwithstanding anything in sub- rule (1), tax invoice as per sch 5B has to be issued in sale of Goods or Services as in Sec 14(7) of the Act.

(2) Tax invoice shall be written clearly and conspicuously on the front page of the invoice to be given to the recipient under sub-rule (1). Such tax invoices shall be prepared in three copies, and the original copy shall be given to the recipient, the second copy to be separately recorded so that it can be produced as and when asked for by the VAT Office and the third copy be recorded by the registered person for the purpose of his transaction.

Rule 18. Abbreviated Tax Invoices: (1) Notwithstanding anything contained in Rule 17, in case any registered person is to conduct a retail sale of any goods and submits an application to the concerned tax officer setting out such matter, he may grant permission so that such registered person may while conducting retail sale of any goods give an abbreviated tax invoice in the format referred to in Schedule -6 to the recipient, instead of the tax invoice as set forth in Rule 17.

(2) Where several low priced goods have been sold, instead of separately mentioning the names of all the goods, the expression of some goods may grossly be mentioned in the abbreviated tax invoice to be given pursuant to sub-rule (1).

(3) A recipient who receives an abbreviated tax invoice under sub-rule (1) by purchasing the goods shall not be allowed to deduct tax under Section 17 of the Act.

(4) A registered person who gives an abbreviated tax invoice to the recipient pursuant to sub-rule (1), shall maintain records thereof as set forth below:

(a) To prepare and maintain a duplicate copy of the original invoice,

(b) Where a transaction has been carried out by maintaining a duplicate of the roll, the total thereof must be calculated and maintained every day,

(c) To maintain records of the value, including tax, of each transaction.

(5) In case a registered person is found not to have maintained the records required to be maintained pursuant to sub-rule(4), the tax officer may cancel the permission granted to issue an abbreviated tax invoice pursuant to sub-rule (1).

(6) Notwithstanding anything contained in these Rules, where a transaction of value exceeding five hundred rupees has been carried out, an abbreviated tax invoice shall not be allowed; and despite having carried out a transaction of value less than that amount, it shall be the duty of a registered person to provide a recipient who asks for the tax invoice referred to in Rule 17 with such a tax invoice.

(7) The total figure of tax shall be calculated from an abbreviated invoice by multiplying the invoice price by the tax variant.

Explanation: For the purpose of this sub-rule, the term tax variant means the quotient derived by dividing the rate of tax by the total obtained from adding 100 to the rate of tax.

Rate of tax = Quotient

Rate of tax + 100

Rule 19. No Need to Give Tax Invoice: A person who carries out transactions of used goods of a value exceeding ten thousand rupees, for the purpose of sub-section (1) of Section 14 of the Act, need not issue a tax invoice in such cases where the selling price is less than the buying price of the goods supplied by him.

Rule 21. Payment in a Foreign Currency: While giving the tax invoice of a supplier upon receiving payment from the recipient in a convertible foreign currency as consideration of the supply of any goods or services, shall issue the invoice by mentioning therein the amount in Nepalese rupees equivalent to the foreign currency according to the rate of exchange prescribed by the Nepal Rastra Bank for the day of transaction.

15. Unregistered Person not to collect Tax: (1) A person who is not registered shall not issue an invoice or other document showing the collection of tax and shall not recover the tax.

(2) If a person who is not registered collects tax, the tax so collected shall be assessed and recovered from him/her.

(3) Notwithstanding anything contained in sub- sec (1) or (2), tax should be collected on sale of taxable goods or services by local authority or International Institution situated in Nepal or GoN or public enterprises mainly dealing with tax exempt goods.

Tax Payment, Tax Offset and Refund

17. Tax Offset: (1) A registered person may deduct the amount of tax which he/she has collected against the tax he/she had paid or due in importing or receiving goods or services related with his/her own taxable transactions.

(2) Notwithstanding anything contained in Sub-section (1), no offset or only a partial offset shall be granted as prescribed in the case of the goods that can be used for personal purposes as well as for business purposes.

(3) If the entire portions of goods or services transacted in a month were not used for taxable transactions, the tax previously paid on the goods or services shall be deducted as prescribed for the portion that was solely used for taxable transaction of the goods or services.

(4) If goods or services, for which offset facilities pursuant to this Section have been allowed, cease to be used for taxable transaction, such goods or services shall be treated as sold at the immediate market value and tax shall be recovered as prescribed.

(5) Notwithstanding anything contained in Sub-section (1), offset facility to be given for a registered person who deals with the used goods shall be as prescribed.

(5a) The concerned taxpayer shall be allowed to offset tax paid on the capital goods such as machineries imported or purchased in the name of any bank or financial institution on hire-purchase loan or mortgage as if such goods were imported or purchased by the concerned taxpayer.

(6) The offset facility under this Act shall be given only when a claim is substantiated by documents as prescribed.

(7) The provision of tax offset on paid or payable tax for the goods to be used in the tax payable transaction which has remained at the time of registrations shall be as prescribed.

(8) Notwithstanding anything in this section, name of the non-filer taxpayer for continuous 6 month shall be published. The credit, if any shall be suspended and its registration may be suspended too.

Rule 39. Input Tax Credit: (1) A registered person may deduct the tax paid by him while importing or purchasing any taxable goods or services during the concerned month or before that month from the tax collected by him while supplying any goods or services, in the following circumstances:-

(a) In case the goods or services in respect of which a input tax credit has been made are directly related with the taxable business.

(b) In the case of domestic purchases, tax invoices referred to in Rule 17 have been received.

(c) In the case of imports, there are import documents evidencing the payment of tax at the time of import.

Explanation: For the purpose of this Chapter "import documents" means import declaration forms, cash receipts, invoices of goods and such other documents relating thereto as prescribed by the Department from time to time.

(2) Tax credit may be made only once under this Rule. When making a tax credit, there must be invoices or the import documents up to one year before the date of making the claim.

(3) When submitting the tax return of each tax period by a registered person, he must deposit with the tax office the balance amount left after offsetting the tax paid while purchasing or importing the goods from the tax collected by him while selling the goods.

(4) In case the amount of tax paid by a registered person when purchasing or importing is higher than the amount collected by him when selling, he may offset such excess amount in the next tax period. In case where the amount allowed to be so offset in the next tax period remains in balance for 6 months consecutively, he must submit an application to the tax officer in the format as set forth in Schedule 14 for a refund in a lump sum. The tax officer shall upon receipt of such application refund the remaining tax pursuant to Rule 45.

(5) In case any registered person exports amounts to more than fifty percent of his total monthly sale in any month, he must submit an application to the tax officer, enclosing therewith necessary export documents in the format as set forth in Schedule -15 for refund of the excess amount of tax to be deducted for the month. The tax officer shall upon receipt of such application refund the remaining tax pursuant to Rule 45. While making a decision to refund the remaining tax, the tax officer shall take the following matters into account :

(a) Whether or not he has paid tax on purchases or imports.

(b) Whether or not he has submitted a tax return required to be submitted by him earlier, and if submitted, whether or not the claim of tax refund is substantiated by such tax return.

Explanation: For the purpose of this Chapter, "export documents " means export certificates, certificates of receipt of goods, certificates of payment, letters of credit, certificates of origin and such documents pertaining thereto as prescribed by the Department, in the case of exports other than those made on a barter basis; and certificates of payment shall be substituted by import declaration forms, in the case of goods exported on a barter basis.

Rule 39A. Tax Credit on Damaged Goods: (1) For tax credit on writing off from the stock ledger for the damaged goods either by fire, theft, accident, breakage or terror or selling it at reduced rate, an application to be filed to the IRO within 30 days with evidences thereto.

(2) The TO may allow tax credit on the damaged goods upon scrutinizing the application and evidences. Provided, Taxpayer may offset the credit to the extent of compensation received against insured goods.

Rule 40. Other Provisions Regarding Tax Deductions: (1) In case the goods of which tax has been deducted are in stock, such goods are to be shown or allowed to be counted if the tax officer desires to see or count such goods. While seeing or counting such goods by the tax officer, if he finds such goods not to have been used in taxable transactions or been kept in stock, such goods shall be deemed to have been sold at the current market value.

(2) The concerned tax officer may order the concerned tax-payer to pay the tax payable on the goods sold pursuant to sub-rule (1). Such tax amount shall be paid together with the tax return of the month prescribed by the tax officer.

Provided that if the tax officer feels that there is a situation where the tax cannot be realized if it is not realized immediately he may require the taxpayer to pay the tax immediately.

(3) In case any taxpayer has carried on both the transactions of taxable goods or services and tax-exempt goods or services such taxpayer may deduct only the tax paid on purchases or imports directly related to the taxable goods or services.

(4) In case a taxpayer carrying out the transactions of both taxable and tax exempt goods or services fails to establish the direct relationship of the purchased or imported goods with the taxable goods or services, such taxpayer may deduct the amount of tax paid on his purchases or imports by calculating the proportion of taxable transaction value out of his total sale value.

(5) While calculating tax pursuant to sub-rule (4), if the tax officer feels that it cannot be calculated proportionally, he may seek direction from the Department to calculate it through another alternative method.

Rule 41. No credit Goods or Services: (1) For the purpose of Section 17 of the Act, tax may not be deducted in respect of the following goods or services:

- (a) Beverages,
- (b) Alcohol or alcohol mixed beverages such as liquor and beers;
- (c) Light petroleum (Petrol) fuel for vehicles,

(d) Entertainment expenses.

(2) Tax on the following goods may be deducted on the following proportion:

(a) On automobiles, 40 percent of purchase value.

Explanation: For the purpose of clause (b), the term 'automobile' means any motor vehicle with three or more wheels used on a road for carriage of passengers.

(3) In case a registered person carries on a business of those goods referred to in sub-rules (1) or (2) as the principle business, it shall not bar the deduction of tax according to the procedures as set forth in these Rules.

Rule 43. Application To be Submitted: (1) A Taxpayer may submit an application to the tax officer in the format set forth in Schedule -16 to have a credit of tax paid by him on his stock of goods at the time of registering himself, the portion of the tax yet to be deducted according to the previous monthly statement and tax paid on taxable transactions.

(2) While making a claim for the credit of Tax or tax pursuant to sub rule (1), the concerned taxpayer must also submit invoices of payment of tax and other documentary evidence within 15 days of registration. In absence of the documentary evidence referred to in this Rule credit of tax shall not be made pursuant to sub-rule (1).

(3) In case the claim made pursuant to sub-rule (1), is amended or rejected by the tax officer, or in case it is found that such tax has already been deducted, the tax officer may take action against such Taxpayer pursuant to the Act and these Rules.

(4) In case the claim made under this Rule is accepted by the tax officer, the concerned taxpayer may deduct the amount claimed pursuant to sub-rule (1), according to subrule (4) of Rule 39.

Rule 44. No Tax Credit in Respect of Used Goods: For the purpose of subsection (5) of Section 17 of the Act, tax paid on the purchase of used goods from a person not registered and even if from a registered person, tax paid on the goods referred to in Section 17 of the Act, and those brought for personal use, shall not be allowed to be deducted.

24. Treatment of Deduction exceeding Tax Liability: (1) If a registered person's input tax credit fixed under Section 17 for a month exceeds tax liability for such month, such excess amount may be adjusted with any outstanding amount, if any, under this Act.

(2) The remainder of the excess offset pursuant to Subsection (1) may be adjusted with the amount, if any, to be paid for the next month.

(3) A registered person may submit an application to the Tax Officer for a lump sum refund, as prescribed, of the amount of the remaining excess after adjusting for a continuous period of six months under this Section.

(4) Notwithstanding anything contained in Sub-section (2) and (3), any registered person, whose export sales for a month are Fifty percent or more of his/her total sales for that month, and submits an application following the procedures underlined in this Section for the refund of the amount pursuant to Section 17, shall be entitled to a refund of the remaining excess after offsetting any outstanding amount.

(5) On submission of an application pursuant to Sub-section (3) or (4), the amount eligible for refund shall be paid immediately. If it is not refunded within Sixty days of the submission of application under sub section (3) and within 30 days of the submission of application under sub section (4), Government of Nepal shall have to provide interest on that amount, as prescribed.

(6) Where a registered person has submitted an application claiming for a refund under Sub-section (3) and (4), the amount claimed shall not be available for adjustment against tax liability for the next month.

24A. Tax not to be refunded: Notwithstanding anything contained in Section 24, if an application is not made for the refund of the amount refundable pursuant to this Act within 3 years after the date of expiration of the period of tax, such refund shall not be made.

25. Other Refunds: (1) The following amounts recovered as tax shall be refunded if an application for refund is submitted within Three years from the date of the transaction:

(a) To the extent of tax paid on consumption within Nepal by a diplomat to Nepal of a foreign country, recognized by the GoN, Ministry of Foreign Affairs, if the foreign country grants, on reciprocal basis, the tax exemption privileges to Nepalese diplomats to that country or to diplomatic privileged person working in Regional or International Organization/ Mission;

(b) Tax amount paid by the international institutions for which Government of Nepal, Ministry of Finance, has granted the privileges of tax exemption;

(c) Tax paid in carrying out a project conducted in Nepal under a bilateral or multilateral agreement for which Government of Nepal, Ministry of Finance, has approved to grant a tax exemption;

(d) Any tax amount recovered by mistake.

(1a) Notwithstanding anything contained in sub- sec (1), no refund on tax paid will be made on purchase of Goods or Services for value less than Rs. 5,000 by diplomatic mission or diplomat.

(2) While refunding the tax amount pursuant to Clause (d) of Sub-section (1), refund shall be made only to that person who bears real burden of the tax.

25A. Refund of tax paid by foreign tourist on purchase: If a foreign tourist visiting Nepal and returning by air purchases taxable goods of more than Twenty Five Thousand Rupees and takes them with him or her, the tax paid on such goods shall be refunded in accordance with the procedures specified by the Department. A service charge of 3% shall be deducted from such refund.

25B. Return of tax at the customs point in the case of re- export: If any goods are re-exported, the concerned Customs Office shall, on the basis of the evidence of re- export of the goods, make refund out of the deposit amount in consideration for the value added tax with the customs by the concerned person.

Rule 45. Provision Regarding Refund of Tax: (1) When refunding the amount of tax for the purpose of sub-section (3) and (4) of Section 24 or Section 25 of the Act, the tax officer shall immediately investigate the evidence submitted by the taxpayer for the refund of tax and refund the tax within 30 days of the date of registration of the claim.

(2) If it shall be necessary to reinvestigate the evidence so received, it shall be done without delay and refund given within 15 days . If the amount to be refunded exceeds Rs. 20,000/- it shall be so refunded to his bank account.

(3) While making a claim for a tax refund by a person not registered for the purpose of clauses (a), (b) and (c) of sub-section (1) of Section 25, he shall directly apply to the Department in the format referred to in Schedule -17 and Schedule -18 respectively.

Rule 46. Not to be Refunded: Amounts to be refunded under the Act and these Rules, copies of the decisions, orders, judgments, memos or other documents where copies need to be obtained shall not be refunded or provided in cases where an application was submitted three years after the expiry of the accounting period.

Rule 47. Rate of Interest: For the purpose of sub-section (5) of Section 24 of the Act, the rate of interest to be paid by GoN shall be 15% p.a. Such interest amount shall be calculated only after 60 days from the date of the application for refund pursuant to sub-sections (3) and (4) of Section 24 of the Act.

VAT Accounts and Records

16. Accounts of Transactions to be mentioned: (1) A taxpayer shall maintain an up-to-date accounts of his/her transactions of the tax period under Section 18 and such accounts, wherever placed shall be made available for inspection to the Tax Officer on his/her demand.

(1A) Tax officer is authorized to have an access as and when needed, to the computer database of the taxpayer.

(2) The following matters shall also be included in the accounts so maintained by the taxpayer:-

(a) Date of transactions,

(b) Value of each transaction,

(c) If the other party of the transaction is registered, Registration number, and

(d) Other prescribed matters related with transaction.

(3) A registered person shall use, for the purpose of keeping accounts, the purchase and sales book certified by the concerned Tax Officer.

(4) Every taxpayer shall preserve the accounts of transactions for a period as prescribed.

(5) Until otherwise evidenced, the books of accounts maintained as per this Act and Regulation shall be deemed valid and acceptable.

16A. Records processed by computer to be acceptable as evidence:

(1) Notwithstanding anything contained in the prevailing law the record of taxpayer maintained in the computer database of the Department or offices thereunder shall be acceptable as evidence for purposes of tax, except it is otherwise proved.

(2) Upon publishing notice, the department may prescribe issuing invoice, accounting, filing tax return or payment through electronic media.

16B. Tax Credit on Lost Goods:

For the goods those damaged either by fire, theft, accident, breakage or terror tax credit is allowed as prescribed.

Rule 23. Maintain Records: (1) A registered person shall for the purpose of the Act and these Rules maintain records of the following information, documents and details:-

(a) Information as referred to in Schedule -7.

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Chaitanya CA

- (b) Records relating to trade, accounts, cash receipts and payments.
 - (c) Tax invoices and abbreviated tax invoices issued by him.
 - (d) Tax invoices and abbreviated tax invoices received by him.
 - (e) All documents relating to his imports and exports,
 - (f) All debit and credit notes substantiating the fluctuations in the values of goods purchased or sold by him and other documents pertaining thereto.
 - (g) Books of purchases and sales as referred to in Schedules 8 and 9.
- (2) Notwithstanding anything contained in sub-rule(1), the Department may so prescribe that a registered person shall maintain some records, among those referred to in that sub-rule, in respect to special types of trade or business.
- (3) A registered person may, with the approval of the Department, maintain the records required to be maintained under this Rule by using computers or another similar mechanical system or the method as prescribed by the Department.
- (3A) Any unregistered person having VAT attractive business requires to keep Purchase Book and Sales Book attested by himself.
- (4) The tax officer may inspect the records maintained by a registered person under this Rule at any time during working hours.
- Explanation: For the purpose of this Rule, "working hours" means the period between the time of opening and closing of the transactions, except on public holidays.*
- (5) A registered person shall make available the details and documents relating to the records demanded by the tax officer in the course of inspecting the records pursuant to sub-rule (4), by having them printed at his own expense.
- (6) It shall be the duty of a registered person to provide necessary staff in order to assist the tax officer in inspecting the records pursuant to sub-rule (4).
- (7) A registered person shall keep the records maintained under this Rule safe for up to six years.

Rule 24. Particulars of the Goods Distributed for Sample or Received Free of Cost:
In addition to the records mentioned in Rule 23, a registered person shall also maintain the following particulars relating to his transactions.

- (a) Particulars of the goods distributed in the form of samples for the promotion of business.
- (b) Particulars of the goods received free of cost.

Rule 25. Provision on Certification of Books of Sales and Purchases: While certifying the books of sales and purchases by the tax officer pursuant to sub-section (3) of Section 16 of the Act, he shall certify as follows:

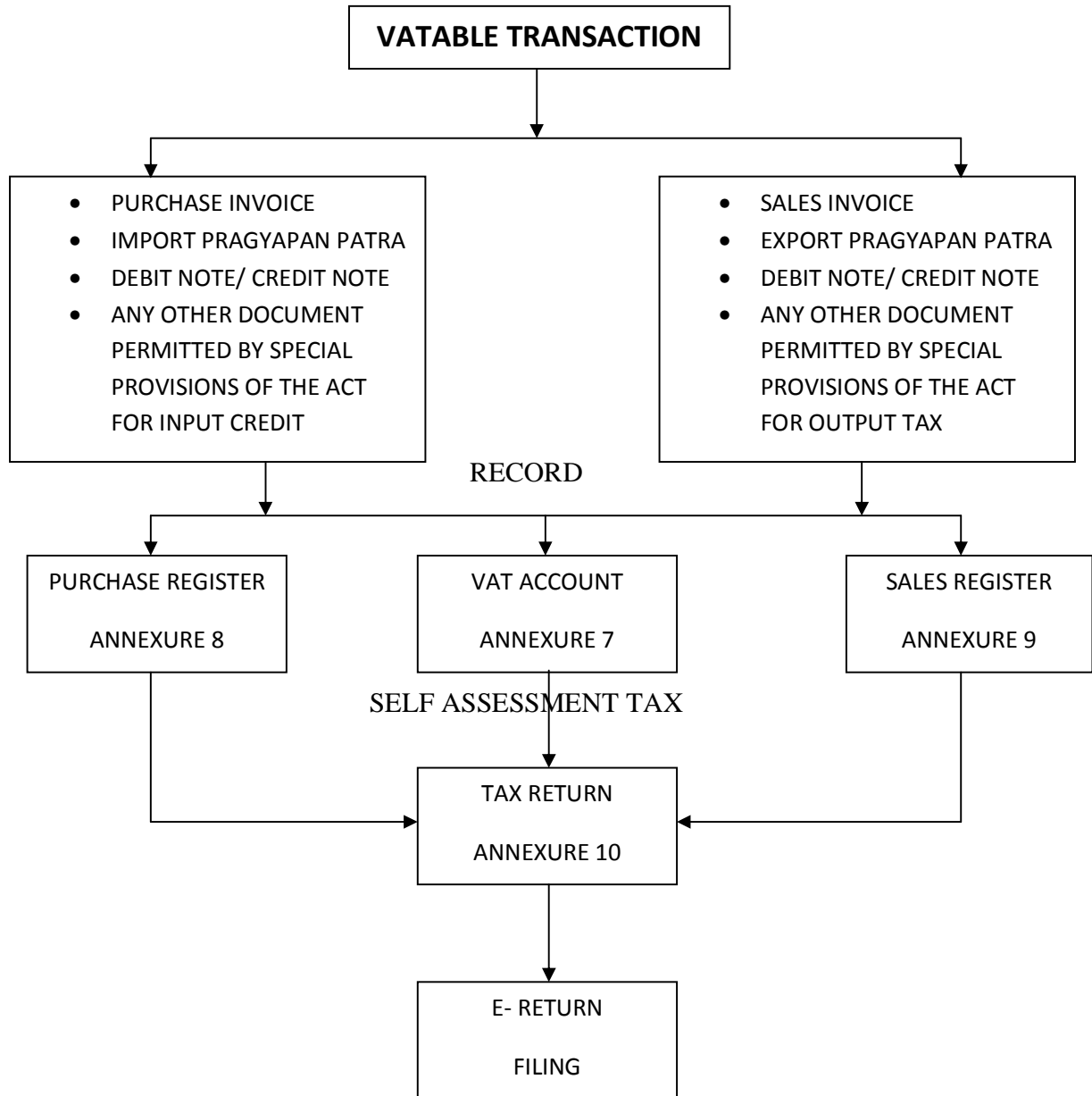
- (a) In case a tax-payer submits an application to the office for certification of the books of purchases and sales,
- (b) During the period of tax inspection or audit,
- (c) At the time of inspection.

Penalty for Non- Maintenance of Records

Sec 29 (1) A tax officer may impose the following fines if a person commits the following offences:

- (e) On failure to keep an up-to-date account of transaction, pursuant to S 16(1), Rs. 10,000 and on denial of inspection of the books and accounts, Rs. 20,000 for each event;
- (f) On infringement of Sec 16(2), upto Rs. 5,000
- (g) On infringement of Sec 16(3) or (4), upto Rs. 10,000
- (g1) On infringement of Sec 16(3A), Rs. 1,000 per event.

RECORDS TO BE MAINTAINED



MISCELLANEOUS

19. Tax Payment: (1) A taxpayer shall pay the tax for each tax period within Twenty Five days of the completion of that period.

(2) If a taxpayer does not pay the tax within the time limit specified under Sub-section (1), an extra charge of 10 percent shall be imposed on the due tax until the last day of the next month from the date (month) that the tax first becomes due.

(3) repealed

(4) If a taxpayer submits an application to the Director General for the exemption of the additional charges imposed by Sub-section (2) or (3) stating the reason that the failure to make a timely payment was caused by extraordinary circumstances beyond the taxpayer's control (force majeure), the Director General may, if he/she finds the reason reasonable, exempt such charges.

(5) The charges pursuant to Sub-section (2) and (3), and the interest pursuant to Section 26, shall be charged from the date on which the tax first became due.

(6) In cases where, in assessing the tax of any taxpayer pursuant to Section 20, it appears that the amount of tax which he/she could get refunded exceeds the tax recoverable from him/her in that tax period, additional fee and interest shall not be recovered in assessing his/her tax in that tax period.

(7) Tax may also be paid within the time-limit mentioned in Sub-section (1) by a good for payment cheque. Tax shall be deemed paid on the date of receipt by the Office of such good for payment cheque.

(8) No interest shall be charged and collected in interest, additional fee/charge and fine.

29. Penalties: (1) In cases where any person commits any of the following offenses, the Tax Officer may impose fines as follows:-

(a) For breach of Sub-sections (1) or (2) of Section 10 or Sec 5B or not registered u/s 10(1), Ten Thousand Rupees for each event.

(b) For breach of Sub-section (5), (6) or (7) of Section 10, One Thousand Rupees for each time of breach.

(b1) Not keeping tax plate or not in prescribed place, Rs. 2,000 per event.

(c) For breach of Sub-sections (1) and (4) of Section 14, Five Thousand Rupees.

(d) For breach of Section 15, the amount of tax collected plus cent percent of that amount.

(e) On failure to keep an up-to-date account of transaction, pursuant to S 16(1), Rs. 10,000 and on denial of inspection of the books and accounts, Rs. 20,000 for each event;

- (f) On infringement of Sec 16(2), upto Rs. 5,000
 - (g) On infringement of Sec 16(3) or (4), upto Rs. 10,000
 - (g1) On infringement of Sec 16(3A), Rs. 1,000 per event.
 - (h) For breach of provision of Section 18, One Thousand Rupees per tax period or 0.05 percent of the tax payable per day whichever is higher.
 - (i) For obstructing to carry out the functions under Section 23, Five Thousand Rupees for each time of obstruction.
 - (j) For under invoicing the sales price Two Thousand Rupees for each invoice or the fine imposed under Sub-section (2) whichever is higher.
- Provided that, if the office thinks appropriate, it may purchase or cause to purchase the goods that are under invoiced, as prescribed.
- (k) For breach of Act and Rules made there under One Thousand Rupees, for each time of breach.
 - (l) Use of editable software in approved computerized billing or unapproved Rs. 500,000.
 - (1a) In the event of reducing tax liability without compliance with this Act or the Rules framed under this Act, the tax officer may fine up to 25 percent of the amount of tax, on the grounds as specified by the Department.
 - (2) If a person commits any of the following offences, a Tax Officer may impose a fine 100% of the amount of tax or an imprisonment up to Six months, or penalize with both the fine and the imprisonment:
 - (a) Preparing false accounts, invoices or other documents;
 - (b) Committing a fraud or an evasion of tax;
 - (c) If an unregistered person acts as if he/she were a registered person;
 - (d) Infringement of sec 23C; and
 - (e) Carrying out a transaction by infringing Section 30.
 - (3) Accomplices who help, assist, instigate or advise either knowingly or through negligence, persons who commit any of the offenses mentioned in this Act shall be imposed fine equal to 50 percent of the amount by which such persons have underpaid the tax.

Rule 35 Circumstances Beyond Control: (1) The following circumstances shall be deemed to be circumstances beyond control for the purpose of sub-section (4) of Section 19 of the Act:

(a) In case the person required to pay tax becomes disabled due to falling ill; up to seven days of the date of his recovery.

(b) In case the person required to pay tax is to observe obsequies; up to seven days of the end of the obsequies,

(c) In case a woman required to pay tax delivers a child; up to thirty five days of the date of delivery,

(d) In case the person required to pay tax dies or becomes insane or disappears and his heir or guardian submits an application within thirty five days of the date of such incident; up to seven days of receipt of such application,

(e) In circumstances when the person required to pay tax has not been able to come to the Tax Office because of the closure of a road due to floods, landslides or similar other reasons; up to seven days of opening of the road,

(f) In circumstances when he cannot come to the tax office due to total haltage of transport; up to the next day of the end of such haltage.

(g) In circumstances when person cannot come due to transport stoppage; upto the next day of the end of such stoppage.

(2) In case an additional time limit shall be required to be requested due to circumstances beyond control referred to in clauses (a), (b), (c), (d), (e) and (g) of sub-rule (1); the recommendation of the concerned Village Development Committee or Municipality shall be submitted.

(3) While requesting for an additional time-limit due to the circumstance referred to in clause (f) of sub-rule (1), the recommendation of the Village Development Committee or Municipality concerned with the place where the haltage of means of transport has taken place, shall be submitted.

Assessment and Collection of Tax

1. **Self Assessment Section 18-** 25th Day of closure of relevant tax period of registered person
2. **Section 22 Jeopardy Assessment** - Notwithstanding elsewhere in this Act, whenever there is a reason to believe that the collection of tax is in inaccessible because any person is about to leave Nepal or to transfer property to anybody or to remove or conceal assets, a Tax Officer, with the approval of DG, may immediately assess and collect the tax due, or about to become due.
3. **Assessment by Tax Officer Section 20**

Section 20- Assessment by Tax Officer

(1) A Tax Officer may make an assessment in any of the following circumstances:

- (a) If the return of tax is not submitted within the time limit;
- (b) If an incomplete or erroneous tax return is filed;
- (c) If a fraudulent tax return is filed;
- (d) If the Tax Officer has a reason to believe that the amount of tax was understated or otherwise incorrect.
- (e) If the Tax Officer has a reason to believe that the tax invoice is under-invoiced.
- (f) If supply within Group of Company at under invoicing.
- (g) If dealing in business without registration by the Person who requires to be registered.
- (h) If sales without issuing invoice.
- (i) If tax recovered by unregistered person.
- (j) If tax has not been deposited levied u/s 8(2) and 8(3).
- (k) In the case of circumstances u/s 17(4).

(2) In assessing the tax pursuant to Sub-section (1), the assessment may be made on any or the entire following basis:

- (a) Proof of transaction;
- (b) A tax audit report on transactions submitted by the concerned Tax Officer;
- (c) Tax paid on a similar transaction by another person.

(3) Notwithstanding anything contained in Sub-section (2), the burden of proof shall lie with the concerned Tax Officer in assessing tax in accordance with the above provisions.

(4) In assessing the tax pursuant to Sub-section (1), the assessment shall be made within Four years from the earliest date that a tax return was filed or the tax was due, which occurs earlier. If the stipulated time expires, the description so filed shall *ipso facto* be considered to be true and valid.

(4a) Notwithstanding the sub-section (4), the Department may order for a reassessment anytime if the tax has been evaded by fraud or falsified invoice, accounts or other documents.

(5) In assessing tax pursuant to this Section, the tax officer shall have to give a period of Fifteen days to the concerned person to submit his/her clarification.

Rule 29. Tax Officer May Assess Tax: (1) In cases arising from circumstances referred to in subsection (1) of Section 20 of the Act, the tax officer may assess tax on the basis of the grounds as set forth in sub-section (2) of the said Section as well as market price or any other information and notices related to the transactions of which tax is to be determined and the issue tax assessment order in the format indicated in Schedule -12.

(2) The concerned taxpayer shall be given a time limit of seven days to submit evidence in his favour against the tax assessment order issued by the tax officer pursuant to sub-rule(1).

(3) The tax officer, if he deems any evidence submitted by the concerned taxpayer in his favour within the time limit set forth in sub-rule (2) to be appropriate, shall assess the tax pursuant to sub-rule (1) on the basis thereof and issue a tax assessment order. While so issuing the tax assessment order, the order shall also indicate the additional charges chargeable pursuant to sub-section (2) and (3) of Section 19 of the Act up to the date of issue of the order as well as the interest amount chargeable pursuant to Section 26.

Explanation: In calculating interest, it shall be calculated on the basis of one part of twelve parts per month.

Rule 30. To Pay Tax, Additional Fees and Interest Amount: The concerned taxpayer shall deposit the tax, additional fees and the interest amount referred to in the tax assessment order within seven days of receipt of such an order to the concerned Tax Office.

Rule 31. Procedure of Sending Notices of Tax Assessment Order: (1) Notwithstanding anything mentioned in the prevalent laws, while issuing a tax assessment order by the tax officer to a taxpayer pursuant to Rule 29, if the order is sent by telefax, telex or other similar electronic devices installed at the address of such taxpayer or such order is delivered to himself or at his office or through registered post to his address, it shall be deemed to have been duly delivered.

(2) In case the tax assessment order could not be delivered under sub-rule (1), the tax officer may inform the concerned taxpayer thereof by broadcasting or publishing a notice

of such order through radio, television or in any national newspaper. In such a situation such information shall be deemed to have been received by the concerned taxpayer.

Rule 32. Assessment and Recovery of Tax Collected by an Unregistered Person: (1) In case an unregistered person collects tax, the assessment of tax collected by him under sub-section (2) of Section 15 of the Act shall be done by following the procedures as referred to in Rule 29.

(2) The tax assessed under sub-rule (1) shall be paid by the unregistered person having collected such tax within seven days of the issue of the tax assessment order.

21. Tax Recovery: (1) If the tax due by any taxpayer is not paid within the specified period, the Tax Officer may, with the pre-approval of the Director General, collect the tax by using any or all of the following methods:

- (a) By offsetting the amount, if any, to be refunded to the taxpayer;
- (b) By seizing movable and immovable property of the taxpayer;
- (c) By selling through auction all or some part of the taxpayer's assets at a time or in a series of auctions or sealed bid;
- (d) By causing to deduct amounts from the taxpayer's bank account or other financial institutions;
- (e) By causing to deduct amounts due to the taxpayer by Government of Nepal, or a body corporate owned by Government of Nepal, or local bodies;
- (f) By deducting the amounts a third party owes to the taxpayer;
- (g) By withholding imports, exports, and other transactions of the taxpayer.

(2) ... Repealed

(3) A sum that is less than One Rupee shall not be counted in recovering or refunding the tax.

Rule 53 Procedure for public auction

(1) In case the tax is not realized even after taking action pursuant to Rule 52, the tax officer may realize the tax by auctioning, wholly or partially the property of the taxpayer, by fulfilling the following procedures:

- (a) To identify the property to be auctioned and publicly publish notice indicating the reason for auction sale, as well as venue and date of auction sale at least 15 days before the date of auction sale.
- (b) To conduct the auction sale, with a witness of one representative of the Village Development Committee or Metropolis/ sub-metropolis/ Municipality of the place where

the goods in the auction sale are located or a representative of the nearest government office and if possible the taxpayer or his representative.

(2) All the expenses incurred on the auction sale shall first of all be borne out of the amount realized from the auction sale pursuant to sub-rule (1); tax, charges, penalties and interest payable by the taxpayer shall then be realized from the balance; and the surplus, if any, shall be refunded to the taxpayer.

(3) Notwithstanding anything contained in sub-rules (1) and (2), where the taxpayer, prior to the conduct of the auction sale of his property, comes forward to pay the entire amount including all the expenses relating to the auction sale, tax, charges, penalties and interest to be paid by him, the same shall be collected and the auction sale shall be stopped.

(4) Notwithstanding anything contained in Rule 52, when the tax officer receives information before fully realizing the tax payable by the taxpayer that the taxpayer has amounts deposited in his name with a bank or financial institution, and where such amount is realized the remaining actions of the auction sale shall be stopped.

(5) In case realization is likely to be made partially, it shall be made in the order expenses relating to auction sale, interest, charges, penalties and tax.

Rule 54 Immediate Auction

In case the property stopped is likely to decay, rot or wear out because of prolonged period of stoppage resulting from the filing of a petition or appeal in any court in respect of the stoppage of the property, the tax officer shall conduct the auction sale of such goods or articles immediately and credit the proceeds thereof; and in case the amount stopped is later decided to be refundable to the taxpayer according to a court decision, only the amount obtained from the auction sale shall be refunded to him. The taxpayer shall not be entitled to claim for the return of the goods or articles.

VAT Problems

- 1) Sharma & Sharma Co. has been a self employed VAT registered trader since 2070 B.S, and is in the process of completing the VAT return for the month ended 31 Baisakh 2072. The following information is relevant to the completion of the VAT return;
- i) Sales invoices totaling Rs. 44,00,000 (excluding VAT) were issued to VAT registered customers in respect of VAT sales. The firm offers a 5% discount for prompt payment.
 - ii) Sales invoices totaling Rs. 16,92,000 were issued to customers that were not registered for VAT. Of this figure, Rs. 51,700 was in respect of zero-rated VAT sales.
 - iii) During the month of Baisakh 072, goods amounted to Rs. 11,20,000 were purchased. Of this figure, Rs. 80,000 was used for Mr. Sharma's private purpose.
 - iv) On 15 Baisakh 072, a Toyota Hilux vehicle was purchased for Rs. 24,00,000. The cost is inclusive of VAT.
 - v) During the month ended 31 Baisakh 072, Rs. 40,000 was spent on mobile telephone calls, of which 30% relates to private calls.
 - vi) On 17 Baisakh 072, an office equipment was purchased for Rs. 6,00,000. The purchase was partly financed by a bank loan of Rs. 5,00,000.

Unless stated otherwise, all of the figures are exclusive of VAT.

Calculate the amount of VAT payable by Sharma & Sharma Co. for the month ended 31 Baisakh 2072.

- 2) XYZ Pvt. Ltd. imports/purchases the taxable raw materials such as Iron Ingots and Steel Plates to manufacture them into different furniture items as well as agriculture tools.

Details of total imports excluding Input VAT are as follows:

Cost of Iron Ingots declared by XYZ Pvt. Ltd.	Rs. 3,00,000
Revised cost fixed by Customs Officer	Rs. 3,50,000
Freight	Rs. 50,000
Insurance	Rs. 5,000
Import Duty @ 6%	

In addition, it has also purchased following raw materials:

Steel plates (exclusive of VAT)	Rs. 1,00,000
Woods (exclusive of VAT)	Rs. 35,000

The products manufactured out of the above raw materials are sold out with the details as given below:

Agriculture tools (VAT exempt items)	Rs. 2,50,000
Furniture	Rs. 3,00,000

Find the ratio between taxable and non taxable sales and calculate the amount of Input VAT that XYZ Pvt. Ltd. is entitled to claim under sec 17 (3) of VAT Act.

- 3) How is the taxable value for second hand or used goods computed?
- 4) M/s XYZ Drinkers Ltd. has sold a kind of drink to non VAT registered party for Rs.10,000. As per the retail price published by the same company under the direction of IRD, the retail price is Rs. 12,000. The company has collected VAT from the party on the amount of Rs.10,000 as it says it has given trade discount to the party and the trade discount can be deducted to arrive at the transaction value. But the assessing officer insists to collect VAT on the published price. As an expert, give your opinion on this.
- 5) Messi Ltd. has following transactions during the month. Find the amount of VAT payable/receivable for the coming month:

Purchase (excluding VAT)	10,00,000
Salary for the month	1,00,000
Purchase of a car with VAT	11,30,000
Purchase of Office Supplies (excluding VAT)	1,10,000
Sales	20,00,000

Office supplies includes Rs. 10,000 purchased under abbreviated tax invoice.

60% of the sales represent export sales.

- 6) Fat Limited has following transactions during the month of Baisakh, 2070, find the amount of VAT credit available for the month of Jestha:

	<u>Amount (Rs)</u>
Opening Credit available	12,000
Purchases net of VAT	10,00,000
Salary for the month	1,50,000
Electricity expenses	10,000
Telephone expenses with VAT	13,560
Fuel expenses with VAT	28,250
Purchase of car with VAT	11,30,000
Purchase of office supplies net of VAT	1,50,000
Total sales for the month	15,00,000

Additional information:

All the sales of the company were VAT applicable. Out of office supplies Rs. 20,000 purchased by taking abbreviated tax invoice. In purchases, Rs. 375,000 is import of raw material and customs office has valued these goods Rs. 450,000. Fuel expenses consists expenses for petrol used for office vehicle.

7) Mr. Shyam, a businessman, submits his VAT return for the month of Falgun according to which total sales for the month was NRs. 1,000,000 and purchase was NRs. 600,000. Out of the total sales, NRs. 650,000 was export to Tibet (Non L/C). He had no previous debit/credit balance in his VAT return. He claims the refund of the excess tax paid on purchase on 25th of Chaitra.

State the time and amount of claim he is entitled to. Also mention the documents (if any) he

requires to claim the refund.

8) Healthy Bottlers Pvt. Ltd. is a manufacturer of glass bottle packaged beverages. The Company supplies packaged bottles of beverage, billing the selling price of the beverage. In addition to that, it gets certain amount from the dealers as deposit for the glass bottles supplied to them. When the dealer returns the empty bottles, the amount of deposit is refunded. A tax officer, during his inspection of the company, found that bottles worth NRs. 200,000 were not in physical stock. He made tax assessment under section 20 of the VAT Act and treated the shortage of bottles as sold by the company. The company had proved that the bottles were in stock with various dealers in due

course of return. However, the tax officer did not accept the contention and charged tax and penalty on the deemed sales of the bottles. Critically examine the contention of the tax officer.

9) Is there any chance where input tax credit is availed without Tax Invoice?

10) Mr. Deshmukh, an importer imported certain goods at NRs. 50,000. No VAT was paid on its import. The goods passed to the final consumer through a retailer. Both middlemen incurred NRs. 1,000 each for administration expenses. Both middlemen charged 15% profit margin on selling price.

Required:

- i) Cost price to the final consumer
- ii) VAT payable to the government at each stage

11) Bhinakoti Co-operative working in Nala Kavre has imported Rs. 100,000 costing material from India on Chaitra. Custom Office confused on import code and custom rates. Preliminary it set 30% custom and accordingly, the goods were cleared. The confusion was sent to Custom Department, which later on in Jestha it fixed the rate of custom at 5%. On clearing the goods, Bhinakoti kept Rs. 30,000 as custom and Rs. 16,900 as Vat in dharauti. All the goods were sold during Chaitra. What shall be the VAT Accounting?

12) State the value on which VAT is to be calculated with reasons on the following sales made:

Ex-factory price Rs.78, 000. Freight and insurance up to the buyer's place, 2000. Trade Discount 7%, special Discount 10%

13) Z Ltd. Has booked the following expenses of imported electronic goods in the ledger:

Cost of material as per invoice	Rs. 200,000
Bank charges of L/C	Rs. 15,000
Insurance	Rs. 5,000
Calcutta Port clearing expenses	Rs. 20,000
Freight upto Custom Point	Rs. 14,000
Other tax paid at custom including local devpt Tax	Rs. 2,500
Nepal custom expenses including 1% custom duty	Rs. 30,000

Discount receivable

Rs. 12,000

Discount amount has not been deducted in invoices. The above cost is the gross purchase.

Required:

- Taxable Value in case of imported goods.
- VAT payable at custom point as per above information.
- Assume that company has 20% gross profit, Sales price and VAT= ?.

14) Gramin Krishi Sewa Ltd. Sales vegetables and fruits. During the month of Baisakh 2070 following sales and purchase are made. Compute the net VAT payable under the VAT Act 2052:

Items	Purchase (Rs.)	Sales (Rs.)
Green Tea	50,000	57,500
Barley	40,000	48,000
Garlic	30,000	37,500
Black Tea	80,000	100,000
Bhakti fish	150,000	175,000
Millet	45,000	49,500
Paneer	70,000	78,400
Curd	60,000	64,375
Telephone bill	5,000	
Stationery Purchase	20,000	

15) Ilam Tea Pvt. Ltd. Is a tea processing and producing industry, located in Ilam. It sells the tea within Nepal. It has following transaction in the month of Bhadra 2072.

Particulars	Transaction Value (Rs.)
Sales	
VAT registered Party	2,000,000
VAT non- registered Party	500,000
Purchase	
Wages and others that are VAT exempt	1,200,000

Compute the VAT amount payable/ receivable by the Tea Industry with reference to the VAT Act, 2052 for the month. Assume no VAT on opening.

16) Answer the following with reference to the VAT Act 2052:

a) Hotel Zoom has following transaction in the month of Shrawan 2072:

Particulars	Amount Rs. '000
Sales	
Room Sales	10,000
Food & Beverages Sale	2,500
Laundry	500
Total	13,000
Purchase	
Delivery Van	1,500
Car	2,000
Diesel for Van	200
Petrol for Car	250
Wine for Sale	500
Food Items	700
Othe Expenses	100
Total	5,250

Above figure of sale are excluding service charge of 10% and VAT which it collects from customer and purchase are also excluding VAT. Purchased food items used in daily meal for staff is of Rs. 100,000. It has no opening VAT receivable. During the month it has constructed a building of Rs. 55 lacs, the detail of cost are as follows:

Particulars	Cost Amount Rs. In lacs	Remarks
Bricks	5	Without VAT
Cement	15	50% in VAT
Iron	10	VAT
Other material	10	VAT
Wage	10	Not in VAT
Consultancy to Engineers	5	Not in VAT
	55	

Required:

Calculate the amount of VAT payable for Shrawan.

17) Mr. Buddhi builds his house through a contractor who is not registered in VAT for own living. The total value of the contract comes to Rs. 90 lacs. He gets built another house from the same contractor for a cost of Rs. 45 lacs for letting out on hire. Comment in the light of VAT Act 2052.

18) M/s ABC Pvt. Ltd. Deals in purchase and sales of various items. During a month, it has made the following transactions. Calculate the amount of allowable Input Tax Credit.

	Purchase (Rs.)	Sales (Rs.)
Asparagus	5,000	10,000
Onion and Shallots	5,000	5,000
Fish Fillets	5,000	2,500

Livers and Roes	5,000	2,500
Shorn Wool	5,000	5,000
Garlic	20,000	10,000
Potato	20,000	30,000
Green Tea	5,000	10,000
Black Tea	10,000	5,000
Purchase of Office supplies	20,000	

All the amounts are exclusive of VAT.

19) State the provisions of the Act for set off of VAT for loss of goods due to fire.

20) Heat & Cool Pipe Industry Ltd. is a pipe manufacturing company. The raw material imported during various months are as follows:

Month	Raw Materials
2069 Baisakh	10,000 kg
2069 Jestha	11,000 kg
2069 Ashadh	9,000 kg

The sales done by company in various periods are as follows:

Month	Local Sales (kg)	Export Sales(kg)	Total Sales (kg)
2068 Baisakh- Chaitra	4,200	4,800	9,000

2068 Baisakh	600	100	700
2068 Jestha	150	550	700
2068 AShadh	300	-	300
2069 Baisakh	-	900	900
2069 Jestha	300	300	600
2069 Ashadh	400	500	900

The company marks up 15% to its product. The selling price is same for local and export market. Raw material required per kg of output is 2 kg.

- i. Determine whether the company can claim bank guarantee facility for VAT at the time of import of raw materials. Also, specify the provisions of VAT Act, 2052 in this regards.
- ii. The company's VAT account showed following balances. Can company claim refund immediately after closure of month? Specify the provisions of VAT Act.

Month	Balance	Remarks
Baisakh	40,000	Payable
Jestha	120,000	Receivable
Ashadh	140,000	Receivable

21. Rai Ltd. Working in Bhojpur has following sales and purchases without VAT. Can refund be claimed in Falgun return?

Month	Sales	Purchase
Bhadra	500,000	600,000
Aswin	520,000	500,000
Kartik	520,000	500,000
Mangsir	450,000	500,000
Poush	320,000	500,000
Magh	400,000	500,000
Falgun	350,000	500,000

22. Rujhali Ltd working in Bhojpur has following sales and purchases without VAT. How much refund can it claim?

Month	Sales	Purchases	Export	Capital Expenses
Bhadra	500,000	600,000	45%	45%
Aswin	520,000	500,000	45%	45%
Kartik	600,000	500,000	45%	45%
Mangsir	450,000	500,000	55%	45%
Poush	320,000	500,000	60%	45%
Magh	400,000	500,000	45%	45%
Falgun	350,000	500,000	45%	45%

23. Lumbini Development Trust has called up an auction to sell its fixed assets (computer, furniture and fixtures) as it is shifting to new office with modern infrastructures. Details of amount collected from auction is as follows:

Fixed Assets	Rs.
Computer	50,000
Table	30,000
Chairs	40,000
Furniture	140,000
Miscellaneous assets	70,000
Total Amount Received	330,000

The officer of LDT did not collect VAT in this sale. Is he correct? Answer in the light of the VAT Act, 2052.

24. Following are the conditions of a tax payer deregistering under VAT:

VAT Credited Items	Cost	WDV	Rs. In lacs
			Mkt Price

Value Added Tax Act, 2052

Chaitanya CA

Stock A	100	-	110
Stock B	150	-	120
Car	30 (Excl VAT)	10	15

Opening VAT receivable from previous tax period is Rs. 30 lacs.

Required:

- What is the amount of VAT to be paid as deemed disposal?
- State the provision of bank guarantee facility available to tax payer.
- State the provision of person collecting VAT other than VAT registered person.

25. Mr. Prakash was engaged in the hardware business and now wants to quit from this business. He wants to sell and transfer the business to a willing buyer. He has the following assets:

Furniture and Fixtures	Rs. 300,000 made to order but no VAT paid
Computer System	Rs. 100,000 purchased by paying VAT
Hardware Stock	Rs. 2,500,000 out of which Rs. 20 lakhs was VAT paid

Mr. Dark offered to purchase the business for Rs. 2,600,000 and approached the VAT office for effecting the transfer. What are the procedures to be adopted, various commitments required and VAT, if any, to be paid by Mr. Dark?