

↔Value Added Tax Rules, 2053 (1996)

**Date of publication in Nepal
Gazette**

2053.12.11 (24 May 1997)

In exercise of the powers conferred by Section 41 of the Value Added Tax Act, 2052 (1995), Government of Nepal has framed the following Rules.

Chapter - 1

Preliminary

1. **Short Title and Commencement:** (1) These Rules may be called as "Value Added Tax Rules, 2053 (1996)".

(2) These Rules shall commence on such date as appointed by Government of Nepal by a Notification published in the Nepal Gazette.

2. **Definitions:** Unless the subject or the context otherwise requires in these Rules,-

(a) "Act" means the Value Added Tax Act, 2052 (1995).

(b) "Tax period" means the period for which a tax-payer has to submit tax return pursuant to Section 18 of the Act.

(c) "Tax return" means the return submitted by a tax-payer in respect of the tax required to be paid by him for carrying on transactions subject to tax during the tax period.

↔ This is not the amended version. It has been amended 11 times and each amended version will be put later.

Chapter - 2

Provision relating to registration

3. **Applications for registration** : (1) Any person who is involved in any transaction at the time of commencement of the Act has to make an application for registration in the format as referred to in Schedule- 1 to the concerned Tax Officer within Ninety days of the date of commencement of the Act.

(2) Any person who desires to be involved in any transaction after commencement of the Act has to make an application for registration in the format as referred to in Schedule - 1 to the concerned Tax Officer prior to beginning the transaction.

(3) If any person who makes an application for registration under Sub-rule (1) or (2) is a partner, application has to be made in the format as referred to in Schedule-2 and accompanied *inter alia*, by the full details of partnership.

4. **Examination of application**: (1) The concerned Tax Officer may require the applicant to submit such other additional details and documents as well as may be deemed necessary in examining the details and documents accompanied with the application made under Rule 3. It shall be the duty of the applicant to submit the additional details and documents so required to the concerned Tax Officer within Seven days of such requirement.

(2) In cases where any one has made an application to register any transaction not required to be registered as mentioned in Sub-section (3) of Section 10 of the Act, the concerned Tax Officer has to give information to the applicant within seven days of the date of

application, setting out that registration of the transaction is not required.

5. **Issuance of certificate of registration:** If the concerned Tax Officer deems it proper to register upon examining the application made for registration pursuant to Rule 3, he has to register the transaction carried on by or intended to be carried on by the applicant and issue a certificate of registration bearing registration number as well, in the format as referred to in Schedule -3 to the applicant within thirty days of making application.

6. **Entrepreneur carrying on small transaction not required to get registered** : (1) Notwithstanding anything contained in Rule 3, only person who has carried on transaction with a turn over not exceeding One Million Rupees in the last Twelve months as mentioned in Section 9 of the Act is not required to get his transaction registered.

Provided that, any person who imports the goods amount to export price of One Hundred Thousand Rupees or more per annum for business purposes into the Nepal has to get his transaction registered.

(2) Notwithstanding anything contained in Sub-rule (1), if an entrepreneur carrying on small transaction desires to get his transaction registered at his own will, he may make an application pursuant to Rule 3. If an application is made for registration of transaction at one's will, the Tax Officer has to complete examination procedure as referred to in Rule 4 and register the transaction.

7. **Special circumstance where transaction has to be registered** : (1) If any person has any ground to presume that his transaction may exceed one million rupees in the coming Three months, he has to make an application, setting out such ground, in the format referred to in

Schedule-1, to the concerned Tax Officer to get the transaction registered.

(2) If there does not exist any ground for presumption as mentioned in Sub-rule (1) but the turnover of transaction carried on by any person exceeds One Million Rupees, the person carrying on such transaction has to make an application in the format referred to in Schedule-1 to the concerned Tax Officer to get the transaction registered within Thirty days of the date of such excess.

8. Determination of amount of transaction: The amount of any transaction shall, for purposes of registration the transaction, be determined on the basis of buying or selling price of the transaction during the last Twelve months, whichever is higher. The person registered has to keep the records supporting the amount of transaction at the site of transaction and show the records as and when required by the Tax Officer.

9. To give the notice of change of place : (1) If any registered person has to change the place of his/her transaction, he has to give information thereof to the concerned Tax Officer prior to Fifteen days of such change.

(2) Upon receipt of the information as referred to in Sub-rule (1) if the concerned Tax Officer deems that the place of transaction to be changed falls within working scope of another Tax Officer, he has to give information thereof to the concerned officer within Seven days of receipt of such information.

10. Notice to be given to change nature or object of transaction: (1) Any registered person, no later than Fifteen days prior to changing the nature or object of his transaction has to give notice thereof to the concerned Tax Officer.

(2) Upon receipt of the notice as referred to in Sub-rule (1), the concerned Tax Officer, has to change the nature or object of the transaction of the registered person and give information thereof to such registered person.

11. Transfer of transaction : (1) If any registered person transfer the transaction having being carried on by him to any other person fully or partly, he has to give information thereof, setting out all the details, to the concerned Tax Officer in the format referred to in Schedule 4 within Seven days of from the date of transferred of such transaction.

(2) If the transaction is transferred pursuant to Sub-rule (1), the rights, powers and liabilities of the transferor shall also been transferred subject to the terms of transferral.

(3) The concerned Tax Officer may give necessary direction to both the parties related with the transfer of transaction before him in respect of the liabilities to be fulfilled by them under the Act and these Rules. It shall be their duty to abide by the direction so given.

12. Process of cancellation of registration: If the registration of a registered person has to be cancelled owing to any circumstance mentioned in Sub-section (1) of Section 11 of the Act, and such registered person or his/her heir, in the event of his absence, makes an application, setting out the circumstance for cancellation of registration, and accompanied by the tax return as referred to in Schedule -11 and the amount of tax to be paid, to the concerned Tax Officer to have registration cancelled within Thirty days from the date of occurrence of the circumstance for cancellation of the registration or if the concerned Tax Officer is confident that the registration of the registered person has to be cancelled because of existence of he circumstance as mentioned in Sub-section (1) of Section 11, the concerned Tax Officer has to get the

concerned registered person to pay the outstanding tax amount, cancel registration of such person and give information thereof to the concerned registered person or his heir or Department.

13. Use of registration number: A registered person has to use his/her registered number in the transaction as mentioned in Sub-section (6) of Section 10 of the Act as well as in the following documents related with the transaction to be carried on by him/her:-

- (a) Documents relating to income-tax,
- (b) Documents relating to application to be made to banks and financial institutions for a loan of more than One Hundred Thousand Rupees for business and industrial purposes,
- (c) Documents relating to export and import.

14. Issuance of duplicate copy: (1) If the certificate of registration of transaction obtained by a registered person under Rule 5 is torn, lost or otherwise destroyed, such person has to make an application, accompanied by One Hundred Rupees as fee for duplicate, to the concerned Tax Officer to get duplicate copy of such certificate.

(2) Upon receipt of the application as referred to in Sub-rule (1), the concerned Tax Officer has to issue a duplicate copy of the registration of transaction.

Chapter - 3

Place and time of supply

15. Determination of place of supply of goods: The following place shall be deemed to be the place of supply of goods:-

- (a) The place of movable article sold and transferred, where such article has been sold or transferred,
 - (b) In respect of immovable thing of which place cannot be changed despite the change of its ownership, the place where such article is situated.
 - (c) In respect of a good imported, the customs point in the Nepal from which such good is imported into the Nepal,
 - (d) Where any producer or seller has supplied any good to himself, the place where the producer or seller of such good is situated.
16. **Determination of place of supply of service:** The place of supply of service shall be the place where benefit is taken from the service.

Chapter - 4

Provision relating to invoice and market price

17. **Tax invoice** : (1) Except as otherwise permitted by the Tax Officer, a registered person shall, in applying any goods or services, have to give tax invoice to the recipient in the format as referred to in Schedule - 5.
- (2) Tax invoice has to be clearly and visibly written on the front page of the invoice to be given to the recipient pursuant to Sub-rule (1). A registered person has to make arrangement that such tax invoice has to be prepared in triplicate, the original copy thereof has to be given to the recipient, the second copy separately recorded for its submission as and when required by the office, and third copy recorded for purposes of own transaction of the registered person.
18. **Short tax invoice:** (1) Notwithstanding anything contained in Rule 17, if any registered person is to sell any goods by retail and makes an

application, setting out the same, to the concerned Tax Officer, the concerned Tax Officer may give permission to the registered person to issue a short tax invoice in the format as referred to in Schedule -6 instead of the tax invoice as mentioned in Rule 17 in selling any goods by retail.

(2) In cases where number of goods of lesser value have been sold, the short tax invoice to be given pursuant to Sub-rule (1) may, instead of mentioning the name of each good separately, mention some goods in lump sum.

(3) A recipient who takes a short tax invoice upon purchasing goods under Sub-rule (1) shall not be entitled to deduct tax pursuant to Section 17 of the Act.

(4) A registered person who gives the short invoice to the recipient pursuant to Sub-rule (1) has to maintain records thereof as follows:-

- (a) Duplicate copy of the original invoice has to be prepared and maintained,
- (b) In cases where transaction has been carried on by keeping duplicate copy of tillroll, that has to be added each day,
- (c) To maintain records of value of each transaction including tax thereon.

(5) If any person registered pursuant Sub-rule (4) is found not to have maintained the records to be maintained by him, the Tax Officer may cancel the permission to issue short tax invoice pursuant to Sub-rule (1).

(6) Notwithstanding anything contained elsewhere in these Rules, if transaction of more than Five Hundred Rupees has been carried on, short tax invoice shall not be issued under these Rules and despite the carrying on the transaction of less than that amount, it shall be the duty of the registered person to issue the tax invoice as referred to in Rule 17 to the recipient who requests for such tax invoice.

(7) The total figure of tax, from short invoice, shall be calculated by multiplying the invoice price with tax fraction.

Explanation: "Tax fraction", for purposes of this Sub-rule, means the sum of rate of tax

$$\frac{\text{rate of tax}}{\text{rate of tax} + 100}$$

19. Issuance of tax invoice not required : A person who carries on transaction of the already used goods costing more than ten thousand rupees for purposes of Sub-section (1) of Section 14 of the Act shall not be required to issue tax invoice if the selling price is higher than the cost price of the goods supplied by him.

20. Credit or debit note: (1) If a registered person has to issue a credit or debit not because of change in the price of the goods or services supplied by him, he has to write down credit or debit more in such note clearly and set out therein the following matters as well:

- (a) Serial number,
- (b) Date of issue,
- (c) Name, address and registration number of supplier,
- (d) Name, address of recipient, and registration number if he/she is a registered person,

- (e) Name and date of tax invoice related with transaction,
- (f) Details of goods or services and of credit and debit,
- (g) Amount of credit or debit,
- (h) Amount of tax of credit or debit.

(2) A registered tax payer has to maintain monthly account of the credit or debit note as referred to in Sub-rule (1).

21. **Where payment made in foreign currency** : In issuing the tax invoice upon payment of convertible foreign currency from the recipient as consideration of the supply of any goods or services, the supplier has to issue the tax invoice by setting down therein the amount in Nepalese rupees equivalent to the foreign currency as per the foreign exchange rate specified by the Nepal *Rastra* Bank on the date of transaction.
22. **Process of determination of market value** : (1) In determining the market value pursuant to Section 13 of the Act, the Tax Officer shall determine the market value by studying the transaction and price of similar other sellers registered in respect of similar transaction.
- (2) In cases where the market price of any goods or services cannot be determined as mentioned in Sub-section (3) of Section 13 of the Act, the Director General has to determine the price on the basis *inter alia*, of the information received by him/her from the registered persons of similar kind in that respect.

Chapter - 5

Records of Transaction

23. To maintain records: (1) For purposes of the Act and these Rules, a registered person has to maintain the records of the following notice, documents and details:

- (a) Notices as referred to in Schedule - 7.
- (b) Records relating to business, account, cash receipt and payment.
- (c) Tax invoices and short tax invoices issued by him.
- (d) Tax invoices and short tax invoices received by him.
- (e) All documents related with import and export made by him/her.
- (f) All debit and credit notes which certify the increase and decrease of the price of the goods and service purchased and sold by him and other documents pertaining thereto.
- (g) Buying and selling accounts as mentioned in Schedule-8 and Schedule -9.

(2) Notwithstanding anything contained in Sub-rule (1), the Department may so prescribe as to require a registered person to maintain only any of the records mentioned in the said Sub-rule for trade or business of any special type.

(3) A registered person may, with the permission of the Department, maintain the records to be maintained under these Rules as may be specified by the Department.

(4) The Tax Officer may, at any time during business hours, inspect the records maintained by the registered person under these Rules.

Explanation: "Business hours" for purposes of these Rule, means the period between the time of opening and closing of the transaction except public holidays.

(5) The registered person has to get printed and provide, at this own cost, such details and documents pertaining to the records as may be required by the Tax Officer in the course of examining the records pursuant to Sub-rule (4).

(6) It shall be the duty of the registered person to provide the employee required for assisting the Tax Officer in examining the records pursuant to Sub-rule (4).

(7) The registered person has to retain safely the records maintained pursuant to this Rule for up to Six years.

24. Details of the goods distributed as samples or received without

cost: The registered person has to maintained the following details related with the transaction, in addition to the records as mentioned in Rule 23:-

(a) Details of the goods distributed as samples for promotion of business.

(b) Details of the goods received free of cost.

25. Provision relating to certification of purchase and sale account:

In certifying the purchase and sale account by the Tax Officer pursuant to Sub-section (3) of Section 16 of the Act, he has to certify it as follows:-

- (a) If the tax-payer makes an application to the office for certification of the purchase and sale account,
- (b) During tax inspection or examination period,
- (c) During inspection period.

Chapter - 6

Tax Return and Collection

26. **Tax Return for the Period to be submitted:** (1) Any registered person has to submit a tax return for the tax period of one month as per *Bikram Era* to the concerned Tax Officer in the format as referred to in Schedule-10 within Twenty Five days from the date of expiration of that period.

(2) Notwithstanding anything contained in Sub-rule (1), if any tax-payer make an application to the Tax Officer to have set a separate tax period instead of the tax period as mentioned in Sub-rule (1) because of storing his accounts in the computer system, the Tax Officer may, if he deems it proper upon examination, set a separate tax period as per necessity in respect of such registered person.

(3) The tax period of a tax-payer who has got registered at his own will pursuant to Section 9 of the Act and has an annual transaction of up to One Million Rupees may be set at four months.

(4) In submitting the tax return for the first time, a registered person has to submit the tax return for the tax period considering the remaining period of the tax period as the tax period.

27. Heir or legal representative may be required to submit the

return: If a registered person dies or because mentally or physically incapable to return the tax return, the period up to the previous day of his death or being physically or mentally incapable has to be considered as the period of supply of goods services by him and the Tax Officer may required his heir or legal representative to submit the tax return for that period.

28. To submit tax return individually or jointly: In the following circumstances, the following persons have to submit the tax return individually or jointly:

- (a) If any tax-payer becomes unable to submit the tax return or dies, his heir or guardian,
- (b) If any tax-payer is a legal person, any director, executive chief or any employee designated by the management on behalf of such tax-payer.
- (c) If any tax-payer is a legal person and such legal person is liquidated or dissolved, the liquidator,
- (d) In any other circumstance except that mentioned above, such person related with the tax-payer as may be specified by the Tax Officer.

Chapter - 7

Assessment and Collection of Tax

29. Power of Tax Officer to assess tax: (1) In the event of existence of a situation as mentioned in Sub-section (1) of Section 20 of the Act, the Tax Officer may, based on the grounds as referred to in Sub-section (2) of that Section as well as the market price or any other notice or information related with the transactions of which tax is to be assessed, assess the and issue a tax assessment order in the format as referred to in Schedule - 12.

(2) A Seven days time-limit has to be given to the concerned tax-payer to submit evidence in his defence against the tax assessment order issue by the Tax Officer pursuant to Sub-rule (1).

(3) If the Tax Officer deems proper the evidence submitted in defence by the concerned tax-payer within the time-limit as referred to in Sub-rule (2), the Tax Officer has to assess the tax pursuant to Sub-rule (1) on that basis and issue the tax assessment order, in so issuing the tax assessment order, the order has to certain additional changes required to be changed pursuant to Sub-sections (2) and (3) of Section 19 of the Act as well as the amount of interest chargeable pursuant to Section 26 up to the date of issuance of the order.

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

30. Tax, additional charge, and interest amount to be paid: The concerned tax-payer has to pay the amount of tax, additional charge and interest as referred to in the tax assessment order issued pursuant to Rule 29, to the concerned Tax Office within Seven days of received of such order.

31. Procedure of sending notice of tax assessment order: (1) Notwithstanding anything contained in the prevailing law, if, in issuing the tax assessment order to the taxpayer pursuant to Rule 29, the Tax

Officer sends it through telefax, telex or similar other electronic device installed at the address of such taxpayer or serves such order on him or his office or sends through registered post at his address, it shall be deemed to have been served duly.

(2) If the notice of tax assessment order cannot be served pursuant to Sub-rule (1), the Tax Officer may inform the concerned taxpayer about it by broadcasting or publishing a notice of such order in the radio, television or any newspaper of national level. In such a situation, the concerned taxpayer shall be deemed to have received such information.

32. Assessment and recovery of tax collected by unregistered person:

(1) If any unregistered person collects tax, the assessment of the tax collected by him pursuant to Sub-section (2) of Section 15 of the Act shall be made by following the process as mentioned in Rule 29.

(2) The unregistered person who collects the tax, such person has to pay the tax assessed pursuant to Sub-rule (1) within Seven days of the date of issue of the tax assessment order.

33. Method of assessment of tax of the goods already used: (1) The

tax of the goods already used shall be assessed only on the balance between the selling price and cost price. The seller of such goods has to prepare the following permanent records at the time of buying or selling such goods.

(A) Relating to purchase:

- (a) Date of purchase,
- (b) Details giving full information of the goods,
- (c) Cost price excluding tax,

- (d) Rate of tax,
- (e) Amount of tax,
- (f) Total amount paid.

(B) Relating to sale:

- (a) Date of sale,
- (b) Selling price except tax,
- (c) Difference between cost price and selling price,
- (d) Rate of tax,
- (e) Amount of tax,
- (f) Total amount received.

(2) The cost price as mentioned in Sub-rule (1) shall include the cost with tax.

(3) If the cost price of each of the already used goods exceeds Ten Thousand Rupees, separate records of purchase or sale have to be maintained.

(4) If any registered person is not found to have maintained the records as mentioned in Sub-rules (1), (2) and (3) in a satisfactory manner, the Tax Officer may issue a written order imposing tax on total selling price of the goods sold by such taxpayer and require payment of such tax along with other tax return.

34. Requirement of submission of tax return prior to making appeal:

Prior to making an appeal against the tax assessment made pursuant to

Rule 29, the taxpayer has to submit his tax return for that period to the concerned Tax Officer.

35. Circumstance beyond control : (1) For purpose of Sub-section (4) of Section 19 of the Act, the following circumstance shall be deemed circumstances beyond control:

- (a) If the person required to pay tax becomes ill and disabled, until Seven days from the date of recovery.
- (b) If the person required to pay tax has to undergo obsequies, until Seven days from the date of completion of obsequies.
- (c) If a woman required to pay tax gives birth to a child, until Thirty-Five days from the date of giving birth,
- (d) If the person required to pay tax dies goes, mad or disappears and his heir or guardian makes an application within Thirty-Five days from the date of occurrence of such event, until Seven days from the date of receipt of such application,
- (e) In cases of being unable to come to the Value Added Tax Office because of the road being closed due to flood, landslide, ice on similar other cause, until Seven days from the date of opening of the road,
- (f) In cases where one is unable to come because of full closure of transportation means, until the next day of the end of such closure.

(2) If additional time-limit has to be asked because of occurrence of circumstance beyond control as mentioned in Clauses (b), (c), (d), (e) and (f) of Sub-rule (1), recommendation of the concerned Village Development Committee or Municipality has also to be submitted.

(3) In making request for additional time-limit because of occurrence of circumstance beyond control as mentioned in Clause (f) of Sub-rule (1), recommendation of the Village Development Committee or Municipality related with the place where the means of transportation has been closed has also to be submitted.

36. Time-limit to make application for remission of additional charge: (1) Application has to be made to the Director General in the format as referred to in Schedule - 13 within Thirty days from the date of expiration of the time-limit for payment of tax for remission of the additional charge pursuant to Sub-section (4) of Section 19 of the Act.

(2) If no application is made within the time-limit as referred to in Sub-rule (1), the additional charge shall not be remitted.

37. Period of tax assessment : In counting the period as referred to in Sub-section (4) of Section 20 of the Act, in cases where stay order has been issued by any Court upon an application in respect of tax, it shall be counted by excluding the period pending decision thereof.

38. Time-limit of collection of tax : In counting the time-limit as referred to in Sub-section (2) of Section 21 of the Act, in cases where an appeal has been filed, the period from the date of such appeal to the date of decision shall not be included.

Chapter - 8

Provision relating to tax deduction and tax refund

39. Tax deduction allowed : (1) Any registered person may, in the following circumstances, deduct the tax paid while importing or receiving his taxable goods or services in or before that month from the tax collected in supplying any goods or services:-

- (a) Where the goods or services in respect of which tax deduction has been claimed are directly related with the taxable business.
- (b) If internally purchased, where tax invoice as referred to in Rule 17 has been obtained.
- (c) If imported, where there are documents relating to import proving payment of tax while importing.

Explanation: "Documents relating to import", for purpose of this Clause, means the customs declaration form, cash receipt, invoice of the goods and such other documents pertaining thereto as may be prescribed by the Department from time to time.

(2) In deducting tax pursuant to this Rule, it shall be deducted for only one time. In so deducting tax, one has to hold the invoice or documents relating to import as at One year before the date of claim for such tax deduction.

(3) In submitting the tax return for each tax period, registered person has to pay to the Tax Office such amount, along with the tax return, as may remain balance from deducting the tax paid while purchasing or importing the goods from the tax collected by him while selling the goods.

(4) If the amount of tax paid by a registered person in purchasing or importing exceeds the amount collected by him/her in selling, such excess amount may be deducted in other tax period. If such amount that

can be so deducted in other tax period remains dues for a continuous period of Six months, he has to make an application to the Tax Officer in the format as referred to in Schedule -14 to get its refund in lump sum.

(5) If a registered person exports more than Fifty percent of his/her total monthly sale carried out in any month, he has to make an application, accompanied also by necessary documents related with the export, to the Tax Officer in the format as referred to in Schedule-15 to get refund of the deductible tax which has become excess for that month. Upon receipt of such application the Tax Officer has to return the remaining tax pursuant to Rule 45. In making decision to so return the remaining tax, the Tax Officer has to pay attention to the following matters :-

- (a) Where tax has been paid on purchase or import or not.
- (b) Whether the tax return required to be submitted previously has been submitted or not; and if so submitted whether the claim for refund of tax is substantiated from such tax return of not.

Explanation: "Documents related with export", for purposes of this Clause, means, in the case of export except exchange of goods, export certificate, certificate of receipt of goods, payment certificate, letter of credit, certificate of origin, and such other documents related therewith as may be specified by the Department from time to time, and in the case of exchange of goods, means import declaration form instead of payment certificate.

40. Other provision relating to the deduction: (1) In case where the goods on which tax has been deducted are in stock and Tax Officer wishes to see or count them, the taxpayer has to let him see and count them. If, in seeing or counting such goods, the Tax Officer does not find such goods to have been used in taxable transaction or to be kept in stock; such goods shall be deemed to have been sold at the prevailing market price.

(2) The Tax Officer may give order to the concerned tax payer to pay the tax payable as the goods sold pursuant to Sub-rule (1). Such tax amount has to be paid along with the tax return for such month as may be specified by the Tax Officer.

Provided that, if, in the opinion of the Tax Officer, such tax cannot be recovered if it is not recovered immediately, he may require the taxpayer to pay it immediately.

(3) In cases where any tax payer has carried on transaction of both the taxable goods or services and non-taxable goods and services, such tax payer shall be entitled to deduct only the tax paid on purchase of import directly related with the taxable goods or services.

(4) In cases where a tax payer who carries on transactions of both the taxable and non-taxable goods and services fails to establish direct relation of the purchased or imported goods with the sale of the taxable goods or services pursuant to Sub-rule (3), such taxpayer may deduct the tax paid on purchase or import in proportion of the value of taxable transaction out of the total value of sale.

(5) If the Tax Officer thinks that the tax as referred to in Sub-rule 4 cannot be computed proportionately, he may seek direction from the Department for its computation with another alternative method.

41. Goods or services in respect whereof tax deduction not allowed:

(1) For purposes of Section 17 of the Act, tax deduction shall not be allowed in the cases of the following goods or services:-

- (a) Beverage,
- (b) Alcohol or alcohol mixed beverage like wine, beer,
- (c) Light petroleum (petrol) fuel for motor vehicles,
- (d) Entertainment expenditure,

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

- (a) On all types of aircrafts, Forty per cent of the cost price.
- (b) On automobiles, Forty per cent of the cost price.
- (c) On computers, Sixty per cent of the cost price.

Explanation: "Automobiles" for purposes of Clause (b), means any of the three or more than three wheeled passenger motor vehicles plying on the road.

(3) If any registered person carries on the supply of the goods as referred to in Sub-rule (1) or (2) as his main business, it shall not prevent the deducting of tax in accordance with the process mentioned in these Rules.

42. Provision relating to deduction of sales tax: Only the sales tax paid on the goods in the stock as follows, prior to the commencement of the Act can be deducted:

- (a) On the goods brought by the taxpayer for re-sale,

- (b) On the goods and services partly produced and co-produced for trade,
- (c) On raw materials, subsidiary raw materials and packaging goods.

43. Application to be made: (1) A tax payer may make an application to the Tax Officer in the format as referred to in Schedule -16 to have deduction of the sales tax charged on the goods which were in stock and on which sales tax already, paid at the time of his registration, the portion of the sales tax remained to be deducted as per the former inventory and the tax paid on taxable transaction.

(2) In making claim for deduction of sale tax or tax pursuant to Sub-rule (1), the taxpayer has to submit the invoices of payment of sales tax or tax and other evidence, documents as well, no later than Fifteen days of his/her registration. No tax deduction shall be allowed pursuant to Sub-rule (1) in absence of the evidence, documents as mentioned in this Rule.

(3) If the claim as referred to in Sub-rule (1) is amended or cancelled by the Tax Officer or if such tax is found to have already been deducted previously, the Tax Officer may take action against such tax payer under the Act and these Rules.

(4) If the claim as referred to in this Rule is accepted by the Tax Officer, the concerned taxpayer may deduct the amount pursuant to Sub-rule (4) of Rule 39.

44. Provision relating to tax deduction of the already used goods: For purposes of Sub-section (5) of Section 17 of the Act, no tax paid on the goods purchased from an un-registered person out of the already used goods and, in spite of a registered person, on the goods included in

Section 17 of the Act and already put into personal use shall be allowed to be deducted.

45. Provision relating to tax refund : (1) In refunding the tax, for purposes of Sub-sections (3) and (4) of Section 24 or Section 25 of the Act, the Tax Officer has to immediately examine the evidence submitted by the tax payer for tax refund and refund the tax within Thirty days from the date of registration.

(2) If it is required to re-examine the evidence so received, such evidence has to be re examined promptly and tax refunded within fifteen days. If refund of more than Twenty Thousand Rupees has to be made, payment has to be made so that the amount is credited in his bank account.

(3) In claiming for tax refund by an un-registered person for purposes of Clauses (a), (b) and (c) of Sub-section (1) of Section 25 of the Act, application has to be made directly to the Department in the format as referred to in Schedule-17, Schedule 18 and Schedule-19, respectively.

46. Non-refundable : No amount to be refunded and no duplicate of any decision, order, judgment, memorandum or other documents to be obtained pursuant to this Act and these Rules shall be refunded or issued if no application is made within Three years of the date of expiration of the account period.

47. Rate of interest : The rate of interest to be given by Government of Nepal for purposes of Sub-section (5) of Section 24 of the Act, shall be equal to the rate if interest given on governmental debenture of one-year term. Such interest amount shall be calculated only after Sixty days from the date of claim for refund pursuant to Sub-sections (3) and (4) of Section 24 of the Act.

Chapter - 9

Provision relating to import, export

48. Tax on import : (1) Tax shall be levied on the goods to be imported into the Nepal at the rate of tax chargeable on the goods supplied within the Nepal.

(2) In fixing the value for purposes of determining the tax on the goods and services to be imported, it shall be fixed by following the process as referred to in Sub-sections (5) and (6) of Section 12 of the Act.

(3) If the value of the imported goods cannot be fixed at the time of importation, permission shall be given to import such goods into the Nepal only upon taking deposit in a sum sufficient to cover all kinds of taxes or charges chargeable on such goods. The registered person shall not be allowed to deduct tax paid on such goods or services pending the fixation of the goods or services imported by him/her.

(4) If any goods have been imported by furnishing a deposit, claim for tax deduction may be made only within One year of the date of fixation of the value.

49. Provision relating to temporary import : (1) Permission may be given to import the goods on condition of taking them back later without charging customs duty by taking deposit for the chargeable tax on condition of refunding the deposit after the goods or articles are taken back, on the basis of the estimated value fixed by the customs.

(2) In the cases of the goods or articles imported provisionally subject to provisional import entry tax shall be levied on the duty.

50. Power of Director General to supervise and manage: Government of Nepal may specify by a Notification published in the Nepal Gazette so as to provide for supervision and management of tax to be collected pursuant to Section 28 of the Act by the Director General. If the Director General deems it necessary, he/she may give order to the Tax Officer to carry out the following acts for purpose of monitoring in respect of the goods or services imported:-

- (a) To ascertain the imposition of tax in proper and adequate manner by taking samples of the goods or articles imported, and return the goods, of which such samples have been taken, to the concerned tax payer,
- (b) To enter into, inspect, search the site, building, shop etc. related with the transaction and enquire the concerned person in proper time,
- (c) To seize, take duplicate of, inspect, remove the documents related with the purchases, sale or import and return the list of the removed documents and other documents in due time if it is deemed proper at the request of the concerned taxpayer.

51. Special provision of amount received on importation: (1) All the tax amount collected at the custom point for purposes of Section 24 and 25 of the Act has to be deposited in the value-added tax fund account daily and the Customs Office has to send details thereof to the nearby Value Added Tax Office within Three days.

(2) Such amount as order by the Department shall be refunded from the amount deposited in the fund as referred to in Sub-rule (1) and the remaining amount has to be deposited in the specified revenue accounts daily.

(3) The procedure for operation of the fund, opening bank account, debiting the fund and depositing the revenue shall be as prescribed by the Office of the Comptroller General.

Chapter - 10

Provision relating to withholding, auctioning off and searching of property

52. **Provision relating to withholding of property:** (1) If a taxpayer does not pay the tax, fee and interest required to be paid under the Act and these Rules within the time-limit as referred to in Rule 30, the Tax Officer shall, upon obtaining permission from the Director General as mentioned in Schedule-20 under Section 21 of the Act, collect the due and outstanding tax, fees, fine and interest.

(2) In selling or auctioning the property of the tax payer for purposes of Sub-rule (1), it shall be done as follows:-

(a) After giving the notice, to write to the concerned office to withhold the movable or immovable property of the taxpayer in a manner to prevent such property from being sold or conveyed pending payment of the tax.

(b) If the Tax Officer knows that any property of the tax-payer is under protection of, or with any person the Tax Officer shall, subject to this Rule, give order to the concerned person to withhold such property.

53. **Provision relating to auction sale :** (1) If the tax cannot be recovered even upon taking action as referred to in Rule 52, the Tax Office may

recover the tax by auctioning off the property of the taxpayer fully or partly by fulfilling the following procedures:-

- (a) To ascertain the property to be auctioned off and publish a notice setting out that property and the reason for auctioning and the place and date of auction sale publicly at least Fifteen days in advance of the date of auction sale.
- (b) To auction off the property in witness of one representative of the Village Development Committee or Municipal Corporation/Sub-municipal Corporation/Municipality of the place where the articles to be auctioned off is situated, and the taxpayer or his/her representative as well, as far as possible.

(2) All the expenditures relating to the auction sale shall first be realised from the proceeds of the auction sale pursuant to Sub-rule (1) and the tax, fees, fines, and interest to be paid by the tax payer shall be recorded from the remaining amount; and any surplus amount shall be returned to the taxpayer.

(3) Notwithstanding anything contained in Sub-rules (1) and (2), if, prior to auctioning off of the taxpayer's property, the taxpayer comes to pay all the amounts including all expenditures relating to auction, the tax, fee, fine and interest required to be paid by the taxpayer, the tax shall be collected and auction sale stopped.

(4) Notwithstanding anything contained in Rule 52, if, prior to collecting the tax required to be paid by the taxpayer, the Tax Officer receives information that the tax payer has deposited the amount in any

bank or financial institution and such tax is collected, the remaining action shall be stopped.

(5) If, tax is to be collected partly, the expenditure relating to auction sale, interest, fees, fine and tax amount shall be realised respectively.

54. To auction immediately : If the period of withholding happens to be longer because of filing a petition or appeal in any Court in respect of the withholding of the property pursuant to Rule 52, and it seems that the withhold property would be defaced or destroyed or punished, the Tax Officer has to auction such goods or articles immediately and debit the proceeds of the auction sales and if it is hold subsequently by the Court decision that the tax payer is entitled to get refund of the amount withhold, only the amount obtained from the action sale shall be refunded to him. The tax payer shall not be entitled to claim for the goods or articles.

55. Procedures of Search: In searching pursuant to Clause (b) of Sub-section (2) of Section 23 of the Act, the following procedures shall be followed:-

(a) If there exists a reasonable reason to believe that it is possible to find any document or goods related with the subject in respect whereof search is to be done in any house or any other place and there is a doubt that the goods may not be obtained if that house or place is not searched immediately, or it is necessary to examine immediately, the Tax Officer may himself search such place or house or get such place or house searched by other employee deputed by him.

(b) The person doing search has to give a notice setting out the reason for doing search to the person residing at the house or

place to be searched pursuant to Clause (a) or the owner or guardian of the house or place; and upon receipt of such notice, such person has to allow the person doing search to enter into such house or place.

- (c) If the person or owner or guardian of the house or place to be searched pursuant to Clause (b) does not allow the person doing search to enter into such house or place, the person doing search shall give notice and reasonable time to any woman staying in that house or place to leave from there and do search by entering into by opening or breaking any window, door, ventilation as per necessity.
- (d) In doing search pursuant to Clause (c), it has to be done in witness of at least one member of the concerned Village Development Committee, Municipal/Sub-municipal Corporation/Municipality or two local persons or house owner or his one representative or any one person.
- (e) If any person to become witness under Clause (d) is not found or refuses to become witness, the procedure as referred to in Clause (c) shall be deemed to have been fulfilled after the person doing search signs indicating that remark.
- (f) If, in doing search pursuant to this Rule, the body of any person has to be searched, the body may also be searched; and if the person to be searched be a woman, she shall be searched by a woman.
- (g) The details of the goods or documents obtained in doing search pursuant to this Rule have to be prepared and submitted to the Department within Three days.

Chapter - 11

Miscellaneous

56. **In respect of the goods or services to be supplied within the Kingdom of Nepal:** Government of Nepal or any organisation or office owned by Government of Nepal or constitutional body shall, while procuring the goods or services valued at more than ten thousand rupees within the Nepal, at one time procure such goods or services from a registered person only.
57. **In respect of diplomatic privilege :** For purpose of Clause (a) of Sub-section (1) of Section 25 of the Act, a person with diplomatic privilege has to make an application, accompanied also by a receipt given by the Ministry of Foreign Affairs to the Department to get the refund of tax amount.
58. **Free assistance and notice:** Government of Nepal shall provide the following assistance and notice free of cost :-
- (a) Information of the process required to be followed for tax purpose.
 - (b) Publications relating to taxpayer education.
59. **Pleading relating to value added tax:** Any case relating to tax shall be pleaded by the government attorney.
60. **Format of identity card:** The identity card of the Tax Officer shall be in the format referred to in Schedule - 21.
61. **Power to frame manuals:** The Ministry of Finance, Government of Nepal may frame and issue necessary manuals to implement the Act and these Rules.

62. Alteration in schedules: Government of Nepal may, by a notification published in the Nepal Gazette, make necessary alteration in the Schedules.

63. Repeal and saving: (1) The following Rules are, hereby, repealed:-

(a) The Entertainment Tax Rules, 2018 (1961).

(b) The Sales Tax Rules, 2024 (1967).

(c) The Contract Tax Rules, 2024 (1967).

(2) The acts and actions done and taken under the Rules referred to in Sub-rule (1) shall be deemed to have been done and taken under these Rules.

NEPAL LAW COMMISSION