

SALES TAX ACT

CHAPTER 67:06

Act
28 of 1987
Amended by
14 of 1989

Current Authorised Pages

<i>Pages</i> <i>(inclusive)</i>	<i>Authorised</i> <i>by L.R.O.</i>
<i>1-28</i>	<i>1/1991</i>

Note
on
Subsidiary Legislation

This Chapter contains no Subsidiary Legislation.

CHAPTER 67:06

SALES TAX ACT

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FIRST SCHEDULE.

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CHAPTER 67:06**SALES TAX ACT**

28 of 1987. **AN ACT to provide for the imposition of a sales tax on the sale of goods and services.**

Commencement. [1st November 1987]
[28 of 1987].

PART I
INTRODUCTION

Short title. **1. This Act may be cited as the –**
SALES TAX ACT.

Interpretation. **2. In this Act –**

“Appeal Commissioners” means the Appeal Commissioners appointed under section 38;

“authorised person” means any person, including officers of Customs and Excise authorised by the Comptroller to carry out any of the powers, duties or functions of the Comptroller pursuant to this Act;

“business” means any business, profession, vocation, trade, venture or undertaking;

“Comptroller” means the Comptroller of Inland Revenue;

“goods” means all forms of personal property other than money and includes used as well as new goods;

Ch. 70:06. “hotel” has the meaning given to it in the Hotel Occupancy Act;

“manufacturer” means a person who, by way of business, makes goods or applies any process in the making of goods and includes any person who has his goods processed or made up by someone else. “Manufacturer” also includes a person who grows or produces goods;

“Minister” means the Minister responsible for Finance;

“person” includes an individual, a trustee, the estate of a deceased person, a company, a partnership and every other judicial person;

“restaurant” means any public premises, place or stall where meals or refreshment may be obtained;

“retailer” means a person who sells goods by way of business other than as a wholesaler;

“tax” means the tax chargeable under this Act and for the purposes of recovery, includes any interest or charge imposed under this Act but does not include any fine imposed by a Court;

“wholesaler” means a person carrying on a business in Dominica of selling goods of any class to a person who carries on a business of selling goods of that class and includes selling goods bought by him to manufacturers as materials.

3. The responsibility for the administration and enforcement of this Act and the collection of tax thereunder is vested in the Comptroller of Inland Revenue. Administration.

4. (1) The Comptroller may, in relation to any matter or class of matter, delegate to any authorised person any of the powers, duties or functions conferred or imposed on the Comptroller by this Act. Delegation by Comptroller.

(2) Any delegation made under this section shall be revocable at any time by the Comptroller and no delegation shall prevent the exercise of such power, duties or functions by the Comptroller himself.

5. The Comptroller and any authorised person shall be indemnified against any liability for any acts done by or in the name of the Comptroller pursuant to any duty or functions imposed by this Act. Indemnity against liability.

PART II

SCOPE OF THE TAX

6. (1) A tax, to be known as Sales Tax, shall be charged in accordance with the provisions of this Act on the sale of goods and services in Dominica. Charge of tax.

(2) Tax shall be charged on any sale made in Dominica of goods or services where it is a taxable sale made by a taxable person in the course or furtherance of any business carried on by him.

(3) A person who makes or intends to make taxable sales is a taxable person while he is or is required to be registered under this Act.

(4) A taxable sale is a sale of goods or services made in Dominica other than an exempt sale.

(5) Tax on any sale of goods or services is a liability of the person making the sale and (subject to provisions about accounting and payment) becomes due at the time of sale.

First Schedule.

(6) The First Schedule shall have effect with respect to registration.

PART III MEANING OF SALE

Meaning of sale.

7. Subject to the following sections of this Part “sale” in this Act includes all forms of sale.

Meaning of services.

8. Anything done for a consideration is a sale of services.

Alteration by Order.

9. The Minister may by Order provide with respect to any description of transaction –

- (a) that it is to be treated as a sale of goods and not as a sale of services;
- (b) that it is to be treated as a sale of services and not as a sale of goods; or
- (c) that it is to be treated as neither a sale of goods nor a sale of services.

Definition of sale.

10. The sale of goods includes –

- (a) the disposal of goods for a consideration;
- (b) the transfer of possession of goods under a hire purchase;
- (c) the disposal of goods under an agreement whereby the purchase price is payable by instalments;
- (d) the leasing or hiring of goods;
- (e) the appropriation or application of goods to any other purpose, including goods put to any private use or used or made available to any person for use other than for the purpose of the business and the transfer or use of goods for the personal benefit of the person carrying on the business.

Power, heat, etc.

11. The sale of any form of power, heat, refrigeration or ventilation is treated as a sale of services.

12. The disposal or transfer of goods forming part of the assets of a business by or under the direction of the person carrying on the business is treated as a sale of goods whether or not it is done for a consideration.

Transfer of goods.

13. Where a person ceases to be a taxable person, any goods then forming part of the assets of the business shall be deemed to be sold by him in the course of business immediately before he ceases to be a taxable person unless –

Tax on cessation of business.

- (a) the business is transferred as a going concern to another taxable person;
- (b) the business is carried on by another person after the owner of the business has died or become bankrupt or otherwise incapable of running the business; or
- (c) the tax on the deemed sale is remitted, in whole or part, by Cabinet.

PART IV TIME OF SALE

14. (1) The provisions of this section and sections 15 and 16 apply for determining the time when a sale of goods or services is to be treated as taking place for the purposes of the charge to tax.

Time of sale.

(2) Subject to section 16, a sale of goods shall be treated as taking place –

- (a) if the goods are to be removed, at the time of the removal;
- (b) if the goods are not to be removed, at the time when they are made available to the person to whom they are sold.

(3) A sale of services shall be treated as taking place at the time when the services are performed.

15. Goods appropriated for personal use under sections 10 and 11 are treated as sold at the time of appropriation to that use.

Goods appropriated.

16. Where pursuant to an assessment made by the Comptroller, a liability or further liability to tax arises, the tax shall be due and payable twenty-one days after the issue of the notice of assessment.

Payment of assessments.

PART V

PLACE OF SALE

Place of sale of
goods.

17. If the sale of any goods does not involve their removal from or to Dominica they shall be treated as sold in Dominica if they are in Dominica and otherwise shall be treated as sold outside Dominica.

Place of sale of
goods.

18. If the sale of any goods involves their removal from Dominica they shall be treated as sold in Dominica and if it involves their removal to Dominica they shall be treated as sold outside Dominica.

Place of sale of
services.

19. A sale of services shall be treated as made in Dominica if the seller carries on a business in Dominica, and the service is rendered in respect of Dominica.

Alteration by
Order.

20. The Minister may by Order provide, in relation to services generally or to particular services specified in the Order, for varying the rules for determining where a sale of services is made.

PART VI

RATE OF TAX

Rate of tax.

21. Subject to the following provisions of this Part, the rate of tax shall be three per cent and shall be charged on a sale of goods or services by reference to the value determined under this Act.

Alterations by
Order.

22. The Minister may by Order vary or revoke any of the provisions of this Part of the Act.

Tax known as
sales tax.

23. Tax required to be charged in respect of sale of goods and services made by a taxable person shall be known as the sales tax of that taxable person.

PART VII

VALUE FOR PURPOSES OF THE TAX

Valuation of tax

24. (1) For the purposes of this Act the value of any sale of goods or services shall be deemed as follows:

- (a) subject to paragraph (d), if the sale is for a consideration in money its value shall be taken to be such amount as, without the addition of the tax chargeable, is equal to the consideration;

- (b) if the sale is not for a consideration or is for a consideration not consisting or not wholly consisting of money, the value of the sale shall be taken to be its open market value;
- (c) where a sale of any goods or services is not the only matter to which a consideration in money relates the sale shall be deemed to be for such part of the consideration as is properly attributable to it;
- (d) where the value of the sale made by a taxable person calculated in accordance with paragraph (a) is less than its open market value, the Comptroller may direct that the value of the sale shall be taken as the open market value.

(2) For the purposes of this Act the open market value of a sale of goods or services shall be taken to be the amount that would fall to be taken as its value under subsection (1)(a) if the sale were for such consideration in money as would be payable by a person standing in no such relationship with any person as would affect that consideration.

PART VIII EXEMPTIONS

25. A sale of goods or services is an exempt sale if it is of a description for the time being specified in the Second Schedule. Exemptions.
Second Schedule.

26. The Minister may by Order vary the Second Schedule by adding or deleting from it any description of sale or by varying any description of sale for the time being specified in it. Alterations by
Order.

PART IX SALES BY GOVERNMENT

27. For the purposes of this Act, sales by the Government of Dominica shall be deemed not to be made by way of business. Sales by
Government.

PART X PARTNERSHIPS

28. Registration under this Act of persons carrying on a business or partnership may be in the full name of the firm and no account shall be Partnership.

taken for the purposes of this Act (including registration) of any changes in the partnership.

Change in partnership.

29. Until the date on which a change of partnership is notified to the Comptroller, a person who has ceased partnership shall be regarded as continuing to be a partner for the purposes of this Act.

Notice addressed to partnership.

30. Any notice, whether assessment or other, which is addressed to a partnership by the name in which it is registered under section 28 shall be treated, for the purposes of this Act, as served on the partnership.

PART XI

ADMINISTRATION, COLLECTION AND ENFORCEMENT

Business records.

31. Taxable persons are required to keep accounts and to make returns in the form or manner required by the Comptroller.

Monthly returns.

32. (1) Every registered person shall furnish to the Comptroller not later than fifteen days after the end of each month a return showing the total tax payable on sales for the said month together with such further information as the Comptroller may require.

(2) The return shall be accompanied by payment of the tax due and payable.

(3) The Comptroller may, upon application, extend the period within which a return is to be furnished where he is satisfied that it is reasonable to do so but may require the payment of a sum towards an estimated liability to tax or may require the giving of security for payment.

Assessment.

33. (1) Where –

(a) a registered person fails to submit a monthly return; or

(b) the Comptroller is not satisfied as to the accuracy of a ~~monthly return submitted by a registered person.~~

the Comptroller may make an assessment or, where tax has already been assessed by the registered person, a reassessment of the tax payable.

Time limits for assessments

34. (1) An assessment or a reassessment, as the case may be, may ~~be made by the Comptroller in respect of any month~~

- (a) where a registered person fails to furnish a monthly return, or furnishes an inaccurate return, at any time;
- (b) in any other case, within five years after the end of the month in respect of which a return is submitted.

(2) Where on the determination of an appeal, the decision of the Appeal Commissioners or any subsequent appellate court requires the reduction of or an increase in an assessment, the Comptroller shall give effect to the decision by reassessment without limit as to time.

35. Where the Comptroller assesses tax payable pursuant to section 33 in respect of a month, he shall issue a notice of assessment or reassessment, as the case may be, to the registered person, showing the tax payable thereon for that month.

Notice of
assessment or
reassessment.

36. (1) A person who is dissatisfied with an assessment made by the Comptroller may by notice in writing to the Comptroller within thirty days after the date of service of the notice of assessment or reassessment, or within such further time as the Comptroller may for good cause allow, object to the assessment.

Objection.

(2) An objection shall specify particulars of the grounds on which it is made.

37. (1) The Comptroller shall give any person who has lodged an objection an opportunity to support his objection by written or oral submission.

Decision on
objection.

(2) The Comptroller shall consider any objection made under section 36 and may either disallow it or allow it wholly or in part and shall by notice in writing inform the objector of his decision.

(3) If a decision of the Comptroller in determining an objection requires the reduction of, or an increase in, an assessment he shall issue a notice of reassessment at the same time as the notice of his decision or as soon as it is practicable thereafter.

38. (1) For the purposes of this Act there shall be a body of Appeal Commissioners established and regulated in accordance with this section.

Appeal Commis-
sioners.

(2) The Appeal Commissioners shall comprise such persons as

(3) The Minister shall appoint one of the Commissioners to be Chairman and another to be Deputy Chairman and any meeting of the Appeal Commissioners shall comprise the Chairman or, in his absence or inability to act, the Deputy Chairman and two other members.

(4) Every decision of the Appeal Commissioners shall be given under the signature of the Chairman or Deputy Chairman presiding at the meeting.

(5) The Minister shall appoint a Secretary to the Appeal Commissioners and any notice or correspondence, other than decisions of the Commissioners, may be issued and signed by the Secretary.

(6) At any hearing by the Appeal Commissioners, in the event of a division of opinion, the decision of the majority shall prevail.

(7) The Appeal Commissioners shall have –

- (a) power to summon to attend at the hearing of an appeal any person who in its opinion is or might be able to give evidence respecting the appeal;
- (b) power, where any person is so summoned, to examine him on oath or otherwise;
- (c) power to require any person to produce any books or documents which are in his custody or under his control and which the Appeal Commissioners may consider necessary for the purpose of the appeal;
- (d) all the powers of a subordinate court with regard to the enforcement of attendance of witnesses, hearing evidence on oath and punishment for contempt;
- (e) power to admit or reject any evidence adduced;
- (f) power to postpone or adjourn the hearing of an appeal where the Appeal Commissioners are satisfied that, for any reasonable cause, either party to the appeal has been prevented from attending on the date fixed for the hearing; and
- (g) power to determine the procedure to be followed in an appeal.

39. (1) Any person who is dissatisfied by a decision of the Comptroller under section 37 may, by notice of appeal, appeal therefrom to the Appeal Commissioners. Appeal

(2) A notice of appeal, a copy of which shall be lodged with the Comptroller, shall be made in writing and shall be lodged with the Secretary to the Appeal Commissioners within thirty days of the date of service of the Comptroller's decision or within such further time as the Appeal Commissioners may, for good cause, allow.

40. (1) Upon every hearing of an appeal the Appeal Commissioners may confirm, increase or order the reduction of any assessment or make such other order as they think fit. Hearing of appeal.

(2) On any appeal to which this section relates –

(a) the burden of proof shall lie with the appellant;

(b) both the appellant and the Comptroller shall bear their own costs except where the Appeal Commissioners otherwise direct; and

(c) both the appellant and the Comptroller shall be entitled to appear in person or by representation.

(3) At least thirty days before the date fixed for hearing the Secretary to the Appeal Commissioners shall by notice in writing advise the appellant and the Comptroller of the date on, and the place at, which the appeal has been set down for hearing.

41. (1) The Comptroller or the appellant may appeal to the High Court from any decision of the Appeal Commissioners which involves a question of law, including a question of mixed fact and law. Right of further appeal.

(2) The Comptroller or the appellant may appeal to the Court of Appeal from any decision of the High Court (being a decision of the High Court on appeal from the Appeal Commissioners) which involves a question of law, including a question of mixed fact and law.

(3) On any further appeal to which this section relates, the High Court or the Court of Appeal, as the case may be, may –

(a) confirm, increase or order the reduction of any assessment or make such other order as it thinks fit; and

(b) make such order as to costs as it thinks fit.

Payment of tax
not suspended by
objection or
appeal.

42. (1) Subject to subsection (2), the obligation to pay any tax chargeable under this Act is not suspended by reason of any notice of objection or appeal having been given against any assessment and tax may be recovered as if no such objection or appeal had been given.

(2) The Comptroller may, in his discretion and subject to such terms and conditions as he thinks fit to impose, suspend recovery pending determination of the objection or appeal.

Records to be
kept.
[14 of 1989].

43. (1) A registered person shall keep, in the English language, such records or books of account as are necessary to reflect the true and full nature of the transactions of his business and to enable the chargeable value or quantity of any goods and the tax payable thereon to be determined, and where such person is a manufacturer or a registered wholesaler the records shall include an invoice of every sale of goods to a registered or unregistered wholesaler or retailer.

(2) Where the Comptroller is of the opinion that records or books of account are not being kept in accordance with subsection (1), or where no records or books of account are being kept by a registered person, then in addition to any proceedings that may be taken under section 57, the Comptroller may direct the person to keep such records or books of account as he specifies and the registered person shall comply with the Comptroller's direction.

(3) The records or books of account required by this section shall be kept at the principal place of business of the registered person unless the Comptroller otherwise approves.

(4) A registered person shall preserve all books of account and other records that are essential to the explanation or verification of any entry in the books of account for a period of six years after the end of the monthly tax period to which they relate, unless the Comptroller, by notice in writing, approves of their disposal within a shorter period.

(5) For the purposes of subsection (4) the records shall be —

(a) the date of the transaction;

(b) the quantity of goods sold;

(c) the value of goods sold;

(d) the names of the seller and purchaser; and

- (e) the registration number, issued under Schedule 1, of the purchaser where such purchaser is a registered wholesaler, retailer or person.

44. (1) For the purposes of administering and enforcing this Act, including obtaining information in respect of the business activities of any person who is or may be liable to tax, the Comptroller may by notice in writing require that person or any other person –

Submission of information.

- (a) to submit to the Comptroller within the time specified in the notice, monthly returns or such other information as he may require;
- (b) to produce at a time and place specified in the notice for examination by the Comptroller, any invoices, books of account or other documents that the Comptroller considers necessary for the purpose;
- (c) to attend at the time and place specified in the notice, for the purpose of being examined by the Comptroller in relation to the business activities of the registered person or any other person or any transaction or matter appearing to the Comptroller to be relevant.

(2) The Comptroller may make copies of any books of account or other documents produced pursuant to this section, or may take extracts from them or retain them for any of the purposes of this Act.

45. (1) For the purposes of performing his functions under this Act, the Comptroller may carry out an examination of the business activities of a registered person or a person who, in the opinion of the Comptroller, ought to be registered.

Examination of business records.

(2) For the purposes of subsection (1), the Comptroller, or any authorised person, may at any reasonable time enter premises where any business is carried on by a person to whom subsection (1) refers or premises on which he has reasonable grounds for believing that records or books of account are kept and –

- (a) examine the records or books of account and any other documents that relate to the activities of the business,
- (b) inspect any raw materials, trading stock or other assets, the inspection of which may, in the opinion of the Comptroller or authorised person, as the case may be, assist him in determining

- (i) the accuracy of any inventory of trading stock or of the records or books of account; or
 - (ii) the amount of tax payable under this Act;
- (c) require the owner of the business, or any employee or agent, to give him such reasonable assistance in connection with the examination or inspection as may be necessary and to answer orally or in writing any questions relating thereto.

(3) Where during the course of any examination or inspection it appears to the Comptroller or the authorised officer that there may not have been a correct disclosure of liability to tax, he may take possession of any books of account or other documents for further examination and after examination may retain or make copies of or take extracts from the books or documents for any of the purposes of this Act.

Furnishing
information.

46. (1) Any person who is concerned (in whatever capacity) in the sale of goods or services in the course or furtherance of any business, or to whom the sale is made, shall –

- (a) furnish to the Comptroller, within such time and in such form as he may require such information relating to the goods or services as the Comptroller may specify;
- (b) upon demand made by an authorised person produce or cause to be produced any document or record relating to the goods or services, or to the sale, for inspection by the authorised person and permit him to take copies of or to make extracts from them and to remove them at a reasonable time and for a reasonable period; and
- (c) allow the authorised person at any reasonable time to enter the business premises for the purposes of (a) and (b) above.

(2) The Comptroller may require any bank or banking institution –

- (a) to furnish to him details of any account or other assets which may be held on behalf of any taxable person or to furnish a copy of statements of such account;
- (b) to permit the Comptroller or any officer authorised by him to inspect the records of the bank or institution with respect to the accounts of any such person.

47. Where the Comptroller has reasonable grounds to believe that an offence in connection with the tax is being or is about to be committed on any premises, or that evidence of the commission of such an offence is to be found therein, he may apply to the Magistrate for a warrant to enter and search those premises and on being authorised so to do he may –

- (a) enter those premises at any time within fourteen days of the issue of the warrant, taking with him such persons as he considers necessary and search for, seize, detain or remove any documents or any other thing whatsoever found on those premises which appear to him to be required as evidence for the purposes of proceedings in respect of an offence under this Act; and
- (b) search or cause to be searched, any person found on those premises whom he has reasonable cause to believe to have committed or be about to commit an offence against this Act or to be in possession of any document or other thing required as evidence for the purposes of proceedings for an offence under this Act; but no woman or girl shall be searched except by a woman;
- (c) in so far as it is necessary for the purpose of entry, search, seizure, detention or removal under paragraph (a), the Comptroller may break open or cause to be broken open any door, window or container by force and remove any other impediment or obstruction.

48. (1) Subject to subsection (2), any authorised person or a police officer may arrest any person who has committed or who that authorised person or police officer has reasonable grounds to suspect has committed, or is about to commit, any offence under section 58 of this Act.

(2) No person may be arrested for an offence by virtue of subsection (1) more than three years after the commission of that offence, except that where, for any reason, it was not practicable to arrest that person at the time of the commission of the offence he may be arrested and proceeded against as if the offence has been committed at the time when he was arrested.

(3) Where, by virtue of subsection (1), any person is arrested by a police officer, that officer shall give notice of the arrest to the

Power of arrest.

Recovery of tax.

49. (1) Tax, which it becomes due and payable, shall be a debt due to the Government and payable to the Comptroller.

(2) Any tax unpaid may be sued for and recovered by the Comptroller in any court of competent jurisdiction.

(3) In any proceedings for the recovery of tax, it is not a defence that –

(a) the tax payable is excessive; or

(b) the assessment is the subject of objection of appeal.

(4) For the purposes of this section “tax” includes any interest or penalty imposed under sections 55 and 56.

Recovery of tax
from persons
leaving
Dominica.

50. Where the Comptroller has reasonable grounds for believing that a person will leave Dominica owing moneys under this Act whether or not presently due and payable, or might upon assessment owe moneys under this Act, the Comptroller may, by notice in writing served on that person, require that person to pay the amount owing or give security to the satisfaction of the Comptroller for the payment thereof or to secure the amount that may be owing, as the case may be, within the time specified in the notice.

Appointment of
agent.

51. (1) Subject to subsection (2), where a registered person is resident outside Dominica, he shall appoint a person resident in Dominica as his agent in relation to the submission of statements, the payment of tax and the performance of or compliance with any other duties or obligations imposed on him by or under this Act.

(2) Where a person fails to appoint an agent as is required by subsection (1), the Comptroller may, by notice in writing, appoint any person resident in Dominica appearing to the Comptroller to have the management or control of the business in Dominica of the registered person and the person so appointed shall discharge the same duties or obligations as if he were appointed by his principal.

(3) Where a registered person

(a) dies or becomes bankrupt or otherwise legally incapable; or

(b) being a company, goes into liquidation,

the executor, trustee or liquidator, as the case may be, of that person shall discharge the duties and obligations imposed on the registered person by or under this Act.

52. (1) A person appointed agent under section 51 who pays any tax under this Act is entitled to recover the amount paid from the person on whose behalf it is paid or to retain out of any moneys that are in his possession or may come to him in his capacity as agent an amount equal to the tax paid.

Indemnity of agent.

(2) An agent is personally liable for any tax payable by him in his capacity as agent if, while the tax remains unpaid, he disposes of or parts with any moneys or other assets that are in his possession or come to him after the date on which the tax is due, if the tax could legally have been paid out of the moneys or other assets.

53. (1) The Minister may remit, wholly or in part, any tax payable –

Remission of tax.

(a) where he is satisfied that it is just and equitable to do so; or

(b) to give effect to the terms of any agreement or arrangement binding on the Government.

(2) Where any tax remitted under this section has already been paid, the tax shall be refunded by the Comptroller.

54. (1) Where on an appeal it is found that a registered person has overpaid an amount of tax, the Comptroller shall refund the amount of the excess.

Refund of tax.

(2) Where, for any other reason, the amount of tax paid by a registered person in respect of any month exceeds the amount properly payable under this Act, the Comptroller may, upon application in writing made within five years after the end of the month to which the overpayment of tax relates, refund the amount of the excess.

(3) Notwithstanding subsections (1) and (2), where any tax is due and payable but remains unpaid in respect of any other month, instead of refunding the excess, the Comptroller may apply the excess towards the unpaid tax.

55. Tax chargeable under this Act which is not paid by the date upon which it is due shall bear interest at the rate of five per cent per month or part thereof for the period during which it remains unpaid.

Interest on unpaid tax.

56. (1) Where a registered person fails to furnish a monthly return within the time specified in section 44(1) or any extended time allowed

Penalties.

under section 32(3), he is liable to a penalty of ten per cent of the tax payable and unpaid at that time or twenty-five dollars, whichever is the greater.

(2) Where a registered person fails to furnish a correct monthly return by reason of his failure to disclose any fact, the disclosure of which would result in an increase in his liability to tax, he is liable to a penalty in accordance with subsection (3).

(3) Where the inaccuracy of the return was attributable to –

- (a) neglect, he is liable to a penalty not exceeding one half of the tax which would have been lost if he had been assessed on the basis of the incorrect return furnished;
- (b) wilful default, he is liable to a penalty not exceeding the amount of the tax that would have been lost if he had been assessed on the basis of the incorrect return furnished.

Offences.

57. Any person who –

- (a) fails to apply for registration as a registered person when liable to do so;
- (b) fails to furnish to the Comptroller any return required under this Act;
- (c) fails to comply with the requirements of any notice in writing issued to him under this Act;
- (d) refuses to answer truly and fully any questions put to him or to supply any information required from him in relation to the sale of taxable goods;
- (e) fails to keep a proper record of his transactions or to preserve any books of account or other records as required under section 43;
- (f) fails to disclose in any monthly return made by him the true tax due during the month or any material facts that are required to be disclosed;
- (g) signs any return submitted to the Comptroller without reasonable grounds for believing that return, or any part thereof, to be correct; or
- (h) obstructs or hinders the Comptroller or any authorised person in the discharge of his functions under this Act;

is liable on summary conviction to a fine of one thousand dollars or to imprisonment for one year, and in the case of a continuing offence to a fine of fifty dollars for each day or part thereof during which the offence continues after a conviction is first obtained.

58. (1) A person who wilfully and with intent to evade liability to tax – Offences: intent to evade liability.

- (a) makes, causes or allows to be made any incorrect return submitted under this Act;
- (b) signs any return submitted to the Comptroller having reason to believe the contents of the return or other information to be incorrect;
- (c) gives any incorrect answer, verbally or in writing to any request for information made by the Comptroller;
- (d) prepares, maintains or authorises the preparation or maintenance of any incorrect books of account or other records;
- (e) falsifies or authorises the falsification of any books of account or other records; or
- (f) makes use of or authorises the use of any fraud whatever,

is liable on summary conviction to a fine of two thousand dollars or to imprisonment for a term of two years.

(2) In any proceedings under this section, if it is proved that any incorrect information is given or entry made in any return, answer, books of account or other records by any person, he is presumed, until the contrary is shown, to have made, caused or allowed to be made or caused that incorrect information, return or entry with intent to evade liability to tax.

59. Where any person –

- (a) wilfully makes or submits on behalf of another person;
- (b) aids or abets another person to make or deliver,

Aiding or abetting an offence.

an incorrect return or any incorrect information affecting the tax liability of that other person, the first mentioned person is guilty of an offence and liable on summary conviction to a fine of one thousand dollars or to imprisonment for one year.

Prosecutions

60. Proceedings for an offence under this Act may be instituted by the Comptroller in his own name.

Time limit on proceedings.

61. Proceedings in relation to an offence under this Act may be commenced within three years after the offence is committed or within one year after the commission of the offence comes to the knowledge of the Comptroller, whichever is the later.

Conduct of proceedings.

62. Any proceedings before a Magistrate's Court in relation to any matter concerned with an offence committed under this Act, may be conducted by any person authorised in that behalf by the Comptroller.

Power to mitigate and compound.

63. (1) The Comptroller may mitigate either wholly or in part any penalty imposed under section 56.

(2) Subject to the powers of the Director of Public Prosecutions under the Constitution, the Comptroller may, subject to such conditions and restrictions as he may see fit to impose, direct that any offence committed by a person under this Act shall be compounded and such conditions may include a condition for payment of not exceeding four times the amount of tax payable on the goods or service.

(3) The Comptroller shall not exercise his power to compound under subsection (2) unless the person who has committed the offence requests the Comptroller in writing to so deal with the offence.

(4) Where the Comptroller compounds any offence under this section and makes an order accordingly –

- (a) the order shall be made in writing and there shall be attached to it the request made under subsection (3);
- (b) the order shall specify the offence committed, the amount ordered to be paid and the date on which payment is to be made;
- (c) a copy of the order shall be given to the Director of Public Prosecutions and also to the person who committed the offence and the latter shall not be liable in any criminal proceedings in respect of the offence;
- (d) the order shall be final and not subject to appeal;
- (e) the amount ordered to be paid shall be recovered as if it were tax due and payable.

64. The Minister may, by Order, make such Regulations as he considers necessary for the general administration and control of the tax and the Regulations may provide for penalties not exceeding one thousand dollars on summary conviction for breach of any regulation. Without prejudice to the generality of the preceding words, he may –

Power to make Orders.

- (a) require the keeping of accounts and making of returns in such form and manner as may be specified in the Regulations;
- (b) make special provision for such taxable sales by retailers of any goods or services or any description of goods or services as may be determined by and under the Regulations and for permitting the value which is to be taken as the value of the sales in any prescribed period to be determined by such method or one of such methods as have been described in any notice published by the Comptroller;
- (c) fix a basis of value, either generally or in respect of particular sales;
- (d) for registered traders with small annual sales and where it would be difficult for those traders to comply fully with the requirements of this Act, approve alternative arrangements for assessments and collection of the tax due, provided such arrangements give a tax liability that is reasonably approximate to that which would have been incurred had the alternative arrangements not been applied.

65. Nothing in the Income Tax Act, shall prevent the disclosure between the Comptrollers of Inland Revenue and Customs and Excise of information in their possession which, in their view, would assist in the due administration, control and enforcement of this Act.

Exchange of information.
Ch. 67:01.

66. (1) Where, after the making of a contract for the sale of goods or services and before the goods or services are sold, there is a change in tax charged on the sale, then, unless the contract otherwise provides, there shall be added to or deducted from the consideration for the sale an amount equal to the change.

Adjustment of contracts.

(2) Subsection (1) shall apply on the introduction of this Act.

(3) References in this section to a change in the tax charged on a sale include references to a change to or from exemption from tax.

Section 6(6).

FIRST SCHEDULE**REGISTRATION****1. Liability to registration.**

Any person who carries on business as a wholesaler or retailer of goods for sale and/or a seller of services in Dominica shall apply to the Comptroller to be registered under this Act unless his annual turnover of taxable sales has not, on average, exceeded the rate of \$20,000 or in the case of a business recently commenced, is unlikely to do so.

2. For the purpose of determining the rate of \$20,000 in this Schedule, the value of sales which are exempt under the Second Schedule shall be excluded.

3. Application for registration under paragraph 1 shall be made within one month of the commencement of this Act or of the commencement of such liability to registration whichever is the later.

4. The Comptroller shall establish a register of registered persons. When he is satisfied that an application for registration is correct he shall enter the name of the person making the application in the register. He shall issue to the applicant a certificate of registration containing a registration number specifying the effective date and such other particulars as the Comptroller determines.

The effective date is the date from which the taxable person is required to account for tax on his sales.

5. Transfer of a going concern.

(1) Where a business carried on by a taxable person is transferred to another person as a going concern –

(a) for the purpose of determining whether the transferee is liable to be registered under this Act, he shall be treated as having carried on business before as well as after the transfer;

(b) any records relating to the business which are required to be preserved for any period after the transfer shall be kept by the transferee instead of the transferor unless the Comptroller at the request of the transferor, otherwise directs;

(c) the obligation to be registered under this Act remains unchanged.

(2) The Comptroller shall provide for the continuous application of this Act where the business of a taxable person is transferred as a going concern and registration passes from the transferor to the transferee.

6. Cancellation of registration.

(1) A registered person who ceases to be required by this Act to be registered because he has ceased to make taxable sales, or his taxable sales fall below, on average, an annual rate of \$20,000 shall notify the Comptroller of that fact within ten days of the date on which he does so.

(2) Where a person who is registered ceases to be required by this Act to be registered, the Comptroller shall cancel the registration. The Comptroller shall, not less than fourteen days before cancelling a person's registration, serve notice on him of the intent to cancel the registration.

(3) Tax becomes due, on cancellation of registration, on the stock of goods then held for resale by wholesale and retail by the person whose registration is being cancelled, unless –

- (a) the stock is taken over by a registered person, to whom the business is being transferred, as a going concern, when the liability for tax passes to that person; or
- (b) the Minister remits, wholly or in part, any tax due and payable.

7. Voluntary Registration.

Where a person who makes or satisfies the Comptroller that he intends to make taxable and/or exempt sales and he is not and will not be liable to be registered, the Comptroller may, if he so requests and the Comptroller thinks fit, treat him as so liable, subject to such conditions as the Comptroller may impose.

SECOND SCHEDULE

Section 25.
[14 of 1989].

EXEMPTIONS

The following services and goods and sales are exempt from tax:

- (a) All services except services sold by a restaurant or hotel, but excluding services or goods sold by a hotel where those goods or services are subject to the Hotel Occupancy Tax, under the Hotel Occupancy Act. Ch. 70:06.
- (b) The sale by a manufacturer in Dominica of goods of his own manufacture from his manufacturing premises which are sold to a wholesaler or retailer registered under this Act for resale.
- (c) Sale of the goods in the list below except the sale of these goods on delivery from an oil bulk installation plant in Dominica (being a plant so designated by the Comptroller).

LIST

<i>Tariff Number</i>	<i>Description</i>
27.10.3	Motor spirit and other light oils and preparations
27.10.4	Kerosene and other medium oils
27.10.5	Gas oils

The tariff classification or description above shall be interpreted in accordance with the rules for interpretation contained in the First Schedule to the Customs Import and Export Tariffs Ordinance.

Cap. 265.
(1961 Ed.).

- (d) The sale of goods if the Comptroller is satisfied that the registered trader selling the goods –
 - (i) has exported them; or
 - (ii) supplied them for stores on a voyage or flight to a destination outside Dominica or as merchandise for sale by retail to persons carried on such voyage or flight.
 - (e) Sales of goods by the Dominica Banana Marketing Corporation.
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