

## VAT Charged at point of Importation by Customs and Repayment Procedure of Tax

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### Abstract

*Tax evasion is the illegal evasion of taxes by individuals, corporations and trusts. Tax evasion often entails taxpayers deliberately misrepresenting the true state of their affairs to the tax authorities to reduce their tax liability and includes dishonest tax reporting, such as declaring less income, profits or gains than the amounts actually earned, or overstating deductions. Tax evasion is an activity commonly associated with the informal economy. One measure of the extent of tax evasion (the "tax gap") is the amount of unreported income, which is the difference between the amount of income that should be reported to the tax authorities and the actual amount reported. In contrast, tax avoidance is the legal use of tax laws to reduce one's tax burden. Both tax evasion and avoidance can be viewed as forms of tax noncompliance, as they describe a range of activities that intend to subvert a state's tax system, although such classification of tax avoidance is not indisputable, given that avoidance is lawful, within self-creating systems. Most developed countries are characterized by a broad base for direct and indirect taxes with tax liability covering the vast majority of citizens and firms. Developing countries, in contrast, are confronted with social, political and administrative difficulties in establishing a sound public finance system. As a consequence, developing and emerging countries are particularly vulnerable to tax evasion and avoidance activities of individual taxpayers and corporations. This can be considered one of the primary reasons for large differences in the ability to mobilize own resources between developed and developing countries. While tax revenues in OECD-countries amount to almost 36 per cent of gross national income in 2007<sup>1</sup>, the share in selected developing regions amounts around 23% in Africa (in 2007)<sup>2</sup> and 17,5% Latin America (in 2004)<sup>3</sup>. Nonetheless, tax revenue has increased over time in many low-income countries. However, this development is mostly due to increased revenues from natural resource taxes, e.g. income from production sharing, royalties and corporate income tax on oil and mining companies and cannot be interpreted as a sign of an improved tax system or administration. Tax systems in many developing countries are characterized by tax structures being not in line with international standards, by lack of tax policy management, low compliance levels and inappropriate capacities in tax administration. The difference in revenue mobilization also stems from economic conditions (size of the informal sector). In fact, most developing countries show a trend towards the prevalence of indirect taxation. Many of them rely to a great extent on indirect taxes such as value-added taxes (VAT) with indirect taxes amounting for up to two-thirds of total tax revenues. In contrast, personal income taxes as a proportion of total tax revenue still play a minor role in contrast to OECD countries.*

**Key words:** OECD- Tax evasion- Developing countries- VAT- vulnerable- resources

### 1.1 Introduction

Taxpayers do not have to pay more income tax than is required by the tax law. In fact,

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taxpayers may plan transactions to make their tax bills as low as possible. Any one may so arrange his affairs that his taxes shall be as low as possible; he is not bound to choose that pattern which will best pay the treasury; there is not even patriotic duty to increase one's taxes

Tax evasion occurs when a taxpayer uses fraudulent methods of deceptive behavior to hide the actual tax liability. Tax evasion is illegal and is subject to substantial penalties. Tax evasion usually involves three elements.

- 1 Will fullness on the part of the tax payer
- 2 An under payment tax
- 3 An affirmative act by the taxpayer to evade the tax.

Tax avoidance is the use of legal methods allowed by the tax law to minimize tax liability. Tax avoidance generally involves planning an intended transaction to obtain a specific tax treatment. Still realize some of their domestic revenues through international trade taxes and tariffs; they have declined over the last twenty years. Aside from these structural differences in the tax systems between developing and developed countries, it is important to recognize that tax losses that arise in the course of tax evasion and avoidance activities do largely contribute to the poor performance of state revenue mobilization in developing countries.

Tax evasion and avoidance are both phenomena that are probably as old as taxation itself. Wherever and whenever authorities decide to levy taxes, individuals and firms try to avoid paying them. Though this problem has always been present, it becomes more pressing in the course of globalization as this process extends the range of opportunities to circumvent taxation while simultaneously reducing the risk of being detected.

In the last couple of years, strengthening self financing capacities of development countries has become a topic of increased concern and interest. Domestic revenue mobilization as a

central issue of the international development agenda has been emphasized in both the Monterrey Consensus and the Paris

Declaration on Aid Effectiveness. This is due to a number of reasons. Firstly, the establishment of own revenue raising abilities is crucial for any state as it constitutes a prerequisite to ensure a sustainable development process and implement pro-poor policies. Since self-financing capabilities in developing countries are often not sufficient, generating tax revenue is highly relevant for many developing countries.

Secondly, fair and efficient tax systems can contribute to good governance, accountability of the state and democracy by establishing a bargaining process between the state and its citizens: Governments that rely on broad based taxation are forced to take the demands of their taxpayers into account. At the same time, the way in which a government levies taxes essentially affects the citizen's identification with the state and its governmental agencies, potentially increasing trust and compliance of its citizens and ultimately promoting political participation.

Thus, besides generating public revenues, strengthening tax systems in developing countries is equally important from a governance or state-building perspective. Thirdly, revenue raising systems typically include the entire population, thereby exhibiting a direct effect on the poor and their household income. Designing a tax system in a pro-poor way can e.g. be achieved by including a redistributive component. All in all, collecting a sufficient amount of revenues is essential for a country to fund pro-poor programs, build effective government institutions and strengthen democratic structures, stimulate sustainable economic growth and reach national and international development goals. To reach these goals it is, however, essential that the tax system is implemented the way it was designed. Thus, counterproductive activities like tax evasion and avoidance practices, that undermine the intentions of the system, need to be reduced.

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The present study aims at developing a deeper understanding of the problem of tax evasion and avoidance in developing countries. Against the background of growing interest by international development cooperation, governments of developing and developed countries and international institutions in this topic, this study shall contribute to the systematization of knowledge. It becomes apparent that although there is a theoretical basis explaining tax evasion and tax avoidance behavior, we know little about the patterns and the extent of tax evasion and avoidance in the regions of the world and the different techniques used to evade and avoid paying taxes in individual developing countries. **Section 2** focuses on the terminology of tax avoidance and evasion followed by a presentation of governmental, cultural, social and legal factors that influence the (voluntary) compliance with the tax system (**Section 3**). Different modes of tax evasion and avoidance are outlined in **Section 4**. **Section 5** describes approaches and measures to combat and reduce the scope of tax evasion and avoidance activities. The last section concludes.

### 1.1.1 What is VAT?

VAT is a tax on consumer spending. It is collected by VAT-registered traders on their supplies of goods and services effected within the State, for consideration, to their customers. Generally, each such trader in the chain of

supply from manufacturer through to retailer charges VAT on his/her sales\* and is entitled to deduct from this amount the VAT paid on his/her purchases. [\*In some circumstances, particularly in the Construction Industry, VAT is not charged by the supplier, but instead the VAT registered customer simply accounts for the VAT as if it had been charged. The effect of offsetting VAT on purchases against VAT on sales is to impose the tax on the added value at each stage of production – hence Value-Added Tax. For the final consumer, not being VAT-registered, VAT simply forms part of the purchase price.

### 1.1.2. What is VAT charged on?

Most goods and services supplied in Ireland are subject to VAT. Goods imported into Ireland from outside the EU are also subject to VAT – this is charged by Customs at the point where the goods enter the State. Persons engaged in business in Ireland who receive goods from a trader within the EU, or services (with certain exceptions) from any trader established anywhere outside Ireland, including outside the EU, are required to account for the VAT payable on receipt of the goods or services as if they had actually made the supply themselves. This requirement applies to traders generally and also to entities that would not normally be engaged in taxable supplies, such as Government Departments, Local authorities and other public bodies, charities, universities and hospitals.

	Purchase Transactions				Sale Transactions				
	Price Paid (Ex.VAT) €	VAT €	Total Purchase Price €	Value Added €	Price Charged (Ex.VAT) €	VAT @ 23% €	Total Sale Price €	Credit for VAT Paid €	Net to Collector General €
<b>Manufacturer</b> -	-	-	-	100	100	23	123	0	23
<b>Wholesaler</b>	100	23	123	100	200	46	246	23	23
<b>Distributor</b>	200	46	246	100	300	69	369	46	23
<b>Retailer</b>	300	69	369	200	500	115	615	69	46
<b>Consumer</b>	500	115	615	-	-	-	-	-	-

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## 2.1 Who must register for VAT?

Persons who are involved in the taxable supply of property and persons whose annual turnover from supplies of taxable goods and services in the State, or the value of whose acquisitions of goods from other EU Member States, exceed or are likely to exceed certain thresholds are obliged to register for VAT.

Persons whose turnover from taxable activities does not exceed the thresholds are not obliged to register but they may register for VAT if they so wish.

Persons who are in receipt of a service from a business established in another Member State or outside the EU are accountable persons under Place of Supply rules.

However, persons who do not have an establishment in the State but who either supply and install goods in the State or who supply gas through the natural gas distribution network or electricity in the State are not accountable persons. A sub-contractor not established in the State who provides construction services in the State to principal contractors is not an accountable person, but may register for VAT in order to claim a repayment of input VAT.

Revenue issues a VAT registration number to a person when it is satisfied that the person is carrying on a taxable business in the State.

### Exemptions

A person, who makes exempt supplies, comes within the scope of the term 'taxable person' but this has no bearing on his/her VAT status. Goods and services of the kind listed in are exempt from VAT and suppliers of such goods and services are not entitled to register for VAT unless they also make taxable supplies.

#### 2.1.1 Non Taxable Entities

The State, local authorities and bodies established by statute includes Government Departments, state sponsored bodies, An Garda Siobhan, the Defense Forces, the Health Services Executive, public hospitals, enterprise boards,

educational establishments (such as universities, institutes of technology, schools, VECs), local authorities including regional authorities, harbor authorities – in practice, the State and emanations of the State. These are not normally required to register for VAT.

### Zero-rating of Services Supplied To Foreign Traders

The current rules for the place of supply of services are that most services provided by Irish suppliers to foreign taxable traders within the EU are taxable on a reverse charge basis and so are not subject to Irish VAT. Under the current rules the supply of services for Business to Business customers outside the EU is not liable to Irish VAT. For further information see Revenue VAT Guide on the Foreign traders in receipt of taxable **services** from Irish traders on a regular and continuous basis may apply to have those services relieved from VAT. In this way, the necessity of applying to Revenue for VAT repayments is avoided.

Application for relief is made by way of (PDF, 198KB) - Application by a Foreign Trader who is not established in Ireland for relief from Value-Added Tax (VAT) on charges for Services supplied to it by Irish Supplier(s). Traders established in EU Member States must submit a certificate of taxable status with their applications confirming that they are VAT-registered in another Member State of the EU. Traders established outside of the EU must provide proof of economic activity issued by the competent authority of their own State.

This relief is subject to periodic review. Generally, it is made available and is valid for a two-year period, but may be renewed on application. The relief does not apply to supplies of taxable goods.

VAT charged at point of importation by customs. Repayment of VAT charged at import where the VAT was not legally owed, e.g. VAT overpaid due to miscalculation, may be made by the

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Central Repayments Office, M: TEK II Building, Armagh Road, and Monaghan.

Application must first be made to the local Revenue District where the VAT was charged.

Applications for repayment must be submitted within four years from the end of the taxable period to which the claim relates.

Basis of accounting registered persons normally account for VAT on the invoice ('sales') basis. This means that they become liable for VAT by reference to invoices issued and sales made by them irrespective of whether payment has actually been received

However, certain persons may opt to account for VAT on the moneys received ('cash') basis i.e. by reference to payments actually received by them Amount on which VAT is chargeable

The amount on which VAT is chargeable is the total sum the person supplying the goods or services becomes entitled to receive, including all taxes, commissions, costs and charges but excluding the VAT chargeable in respect of the transaction.

#### **What are the rates of VAT?**

There are a number of different rates of VAT applied in Ireland.

In general, the standard rate of VAT applies to the supply of goods and services in Ireland. In specific circumstances VAT is charged at the reduced rate, a second reduced rate, the zero rates and a special rate that applies principally to the livestock sold by VAT registered traders.

It's worth noting that the reduced rates apply to a number of labor-intensive services while the zero rates applies to many foods, oral medicines, children's shoes and children's clothes.

A special scheme applies to agricultural supplies made by farmers who are generally not required to register for VAT.

In addition to these rates there are a number of activities that are exempt from VAT. These include many services supplied in the public interest, for example education, public transport and areas of childcare.

The goods and services exempt from VAT, together with those liable to VAT at the zero or reduced rates are all listed in VAT legislation in Schedules 1, 2 and 3 of the Value Added Tax.

#### **Right to deduct VAT**

In computing the amount of VAT payable in respect of a taxable period, a registered person may deduct the VAT charged on most goods and services which are used for the purposes of the taxable business. No deduction may be made, however, for the VAT on goods and services used for any other purpose Non-established sub-contractors providing construction services that are subject to reverse charge may register for VAT if they wish to claim a refund.

#### **VAT returns**

A VAT-registered person normally accounts for VAT on a two-monthly basis (January/February, March/April etc.). The return is made online on the Revenue ROS system together with a payment for any VAT due. The due date for the submission of the ROS VAT return is the 23rd of the month following the end of the taxable period. For example, a return for the VAT period May/June is due by 23rd July. (See Accounting for VAT).

#### **Imports**

For VAT purposes imports are goods brought into Ireland from non-EU countries. As a general rule, imported goods are liable to VAT at the point of entry into the State, at the same rate as applies to the sale within the State of similar goods.

#### **Exports**

For VAT purposes exports are goods supplied subject to a condition that they are to be transported to a place outside the EU. The zero rate of VAT applies to exports.

#### **Zero-rating scheme for qualifying businesses**

This scheme provides that an accountable person, who derives not less than 75% of their annual

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turnover from exports or intra-Community supplies of goods out of the State, can apply to have most goods and services supplied to them zero-rated. Intra-Community acquisitions and imports made by them will also be zero-rated.

The zero rating does not apply to supplies of goods or services which, in the normal course would not be deductible - for example, passenger motor vehicles, petrol, food, drink or most accommodation. A VAT-registered person who thinks they might qualify under this scheme should make an application to the Revenue District responsible for their tax affairs.. The authorization will take effect two weeks after the date of its issue. This is to allow the authorized person sufficient time to forward copies of the authorization to his/her suppliers. Accordingly, a qualifying person should apply in good time before the desired date of effect of the authorization. Likewise when the authorization is nearing its expiration date an application should be made in advance of the expiration date to avoid a lapse in the authorization. Otherwise normal VAT rules will apply.

### Property Transactions

The main features of the VAT on Property rules are:-

1. The first supply of newly developed property is taxable for a period of five years from completion
2. The first supply of newly developed residential property is always taxable
3. The second and subsequent supply is taxable for a period of two years following occupation
4. There is an option to tax the supply of properties where the supply would otherwise be exempt
5. Lettings are exempt but where the letting is between unconnected parties there is an option to tax the rents. The option to tax also applies where the parties are connected but the lessee is entitled to deduct over 90% of the VAT charged on the rent

6. A Capital Goods Scheme which ensures that the amount of VAT deductible on acquisition or development of a property will correspond with the use of the property over a period of 20 years (10 years in the case of refurbishment work)
7. There are transitional rules to ensure that properties that have been developed under the old system will pass into the new system with a minimum of disruption

The system is described in detail in the Repayment of VAT to foreign businesses

In general, persons who are engaged in business outside the State but who are not engaged in business in the State can claim a refund from Revenue of VAT charged to them in respect of services and goods supplied to them in the State for business purposes, where the VAT would be deductible by them if they were accountable persons in the State.

Since **1st January 2010** the procedure for the reimbursement of VAT incurred by EU taxable persons in Member States where they are not established has been replaced by a fully electronic procedure, thereby ensuring a quicker refund to claimants. Refund applications must be made through an electronic portal set up by the Member State of establishment of the applicant. Each application is subject to an electronic approval process in the Member State of establishment before being passed on to the Member State where the VAT was incurred by the business (the Member State of refund).

### Repayments to unregistered persons

There are special provisions for repayment of VAT incurred by unregistered persons in certain cases e.g. on farm buildings by unregistered farmers, on supplies to unregistered sea-fishermen, on certain supplies to disabled persons and to diplomats.

A VAT-registered person must keep full and true records of all business transactions which affect their liability to VAT. The records must be kept

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up to date and must be sufficiently detailed to enable them to accurately calculate a liability or repayment and to enable Revenue to check the calculation, if necessary. Records must normally be retained for six years from the date of the latest transactions to which they refer, see

### Appeals

A person has the right to appeal against Section 110 estimates, Section 111 assessments, a determination made by Revenue in relation to the rate of VAT chargeable and in relation to whether an activity is an exempt activity. A person also has the right of appeal in relation to charges made in accordance with regulations, for example, in connection with an application for de-registration, and in relation to all claims for repayment. (See

Any question of fact or law may be brought before the Appeal Commissioners, and the taxpayer if dissatisfied with the decision of the Appeal Commissioners may have the appeal reheard by the Circuit Court. Both the taxpayer and Revenue may appeal to the High Court on a point of law and from there to the Supreme Court. As VAT is governed by EU law, the Appeal Commissioners or any of the courts may refer the case to the European Court of Justice (ECJ).

Matters which may be appealed also include:-

1. a charge to tax in connection with the issue of an incorrect invoice or the issue of an invoice showing tax by a non-registered person,
2. compulsory group registration, refusal to allow group registration and the cancellation of an existing group registration
3. a determination of open market value in relation to certain supplies between connected persons
4. the refusal by Revenue to authorize a person to operate as a refunding agent for the VAT Retail Export Scheme
5. the treatment of a person who allows supplies to be made on land owned, occupied or controlled by them, as

jointly and severally liable with another person

6. a charge to tax in accordance with regulations
7. a claim for repayment of VAT
8. a refusal by Revenue to treat a person as an accountable person
9. a refusal by Revenue to accept that an expression of doubt is genuine (see paragraph 23 below)

### Charge of tax

A tax, to be known as a value added tax, shall be charged in accordance with this Act on—

1. every taxable supply in Uganda made by a taxable person;
2. every import of goods other than an exempt import; and
3. the supply of any imported services by any person.

### Person liable to pay tax

Except as otherwise provided in this Act, the tax payable—

1. in the case of a taxable supply, is to be paid by the taxable person making the supply;
2. in the case of an import of goods, is to be paid by the importer;
3. in the case of an import of services, is to be paid by the recipient of the imported services.

### Taxable person

1. A person registered under section 7 is a taxable person from the time the registration takes effect.
2. A person who is not registered, but who is required to apply to be registered, is a taxable person from the beginning of the tax period immediately following the period in which the duty to apply for registration arose.

### Persons required or permitted to register

(1) A person who is not already a registered person shall apply to be registered in accordance with section 8—

1. within twenty days of the end of any period of three calendar months if

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during that period the person made taxable supplies, the value of which exclusive of any tax exceeded one-quarter of the annual registration threshold set out in subsection (2); or

2. at the beginning of any period of three calendar months where there are reasonable grounds to expect that the total value

#### **Registration**

1. An application for registration under section 7 shall be in the form prescribed by the Commissioner General, and the applicant shall provide the Commissioner General with such information as the Commissioner General may require.
2. The Commissioner General shall register a person who applies for registration under section 7 and issue to that person a certificate of registration including the VAT registration number unless the Commissioner General is satisfied that Cancellation of registration.
  1. A taxable person shall apply in writing for the cancellation of the registration if that person has ceased to make supplies of goods or services for consideration as part of the business activities of the person.
  2. Subject to subsection (3), a taxable person may apply in writing to have his or her registration cancelled if, with respect to the most recent period of three calendar months, the value of his or her taxable supplies exclusive of tax does not exceed one-quarter of the annual registration threshold specified under section 7(2) and if the value of his or her taxable supplies exclusive of tax for the previous twelve calendar months does not exceed 75 percent of the annual registration threshold.
  3. In the case of a taxable person who applied for registration under section

7(4), an application under subsection (2) may only be made after the expiration of two years from the date of registration.

4. The Commissioner General may cancel the registration of a person who has applied for cancellation under subsection (1) or (2); or
  1. a person who has not applied for cancellation of registration but in respect of whom the Commissioner General is satisfied that he or she is neither required nor entitled under section 7 to apply for registration.

(5) The Commissioner General may cancel the registration of a person who is not required to apply for registration under section 7 where the person—cancellation of registration shall take effect from the end of the tax period in which the registration is cancelled.

7. Where the registration of a person is cancelled, the Commissioner General shall remove that person's name and the details described in section 8 from the register.
8. A taxable person whose registration has been cancelled under this section shall be regarded as having made a taxable supply of all goods on hand (including capital goods) and shall be liable for output tax, at the time the registration is cancelled, on all goods in respect of which he or she received input tax credit, the output tax payable being based on the fair market value of the goods at the time his or her registration was cancelled.
9. The obligations and liabilities of a person under this Act, including the lodging of returns required under section 31, in respect of anything done or omitted to be done by that person while a taxable person shall not be affected by cancellation of the person's registration.

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Part IV—Supplies of goods and services.

### Supply of Goods

Except as otherwise provided under this Act, a supply of goods means any arrangement under which the owner of the goods parts or will part with possession of the goods, including an agreement of sale and purchase. A supply of electrical or thermal energy, heating, gas, refrigeration, air conditioning or water is a supply of goods. The application of goods to own use is a supply of the goods. A supply of services to which clause 1(a) of the Third Schedule applies shall be regarded as having been made in Uganda.

4. Where a person is required to pay a fee for receiving a signal or service for a supply of television, radio, telephone or other communication services, the supply takes place where that person receives the signal or service.

### Imports

An import of goods takes place—

1. where customs duty is payable, on the date on which the duty is payable; or
2. in any other case, on the date the goods are brought into Uganda.

Part V—Taxable supplies.

### Taxable supply

A taxable supply is a supply of goods or services, other than an exempt supply, made by a taxable person for consideration as part of his or her business activities.

A supply is made as part of a person's business activities if the supply is made by him or her as part of, or incidental to, any independent economic activity he or she conducts, whatever the purposes or results of that activity. The business activities of an individual do not include activities carried on by him or her only as part of his or her hobby or leisure activities.

A supply is made for consideration if the supplier directly or indirectly receives payment for the supply, whether from the person supplied

or any other person, including any payment wholly or partly in money or kind. Where goods have been supplied to a taxable person for the purposes of his or her business activities, the supply of those goods for reduced consideration shall be regarded as a supply for consideration unless the goods are supplied or used only as trade samples. A supply is made for reduced consideration if the supply is made between associates for no consideration or between associates for a consideration that is less than the fair market value of the supply. Notwithstanding subsection (1), a supply of services by a foreign person for consideration as part of the person's business activities is treated as a taxable supply if the services are considered as taking place in Uganda under section 16.

### Exempt supply

1. A supply of goods or services is an exempt supply if it is specified in the Second Schedule.
2. Where a supply is an exempt supply under paragraph 1(k) of the Second Schedule, both the transferor and transferee shall, within twenty-one days of the transfer, notify the Commissioner General in writing of the details of the transfer.

### Exempt import

An import of goods is an exempt import if the goods—

1. are exempt from customs duty under the Fourth Schedule of the Finance Act, 2000, unless the Minister provides otherwise by regulation; or
2. would be exempt had they been supplied in Uganda.

Part VI—Taxable value.

### Taxable value of a taxable supply

A taxable supply of goods by way of an application to own use;

1. a taxable supply for reduced consideration; or

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2. a taxable supply described in section 9(9), is the fair market value of the goods and services at the time the supply is made. Where a taxable supply is made without a separate amount of the consideration being identified as a payment of tax, the taxable value of that supply is the total amount of the consideration paid excluding tax.
3. The taxable value of a taxable supply of goods under a rental agreement, as defined in section 14, is the amount of the rental payments due or received.

#### **Adjustments**

(1) This section applies where, in relation to a taxable supply by a taxable person—

1. the supply is cancelled;
2. the nature of the supply has been fundamentally varied or altered;
3. the previously agreed consideration for the supply has been altered by agreement with the recipient of the supply, whether due to an offer of a discount or for any other reason; or
4. the goods or services or part of the goods or services have been returned to the supplier,

#### **Taxable value of an import of goods**

The taxable value of an import of goods is the sum of—

1. the value of the goods ascertained for the purposes of customs duty under the laws relating to customs;
2. the amount of customs duty, excise tax and any other fiscal charge other than tax payable on those goods; and
3. the value of any services to which section 12(3) applies which is not otherwise included in the customs value under paragraph (a).

Part VII—Calculation of tax payable.

#### **Calculation of tax payable on a taxable transaction**

1. Subject to subsection (2), the tax payable on a taxable transaction is

calculated by applying the rate of tax to the taxable value of the transaction.

2. Where the taxable value is determined under section 21(2) or (3), the tax payable is calculated by the formula specified in section 1(a) of the Fourth Schedule.

3. Subject to subsection (4), the rate of tax shall be as specified in

(4) The rate of tax imposed on taxable supplies specified in the Third Schedule is zero.

#### **Calculation of tax payable by taxable person for a tax period**

Subject to section 26, the tax payable by a taxable person for a tax period is calculated according to the formula specified in section 1(b) of the Fourth Schedule.

#### **Cash basis accounting**

1. This section applies to a taxable person, the annual value of whose taxable supplies does not exceed two hundred million shillings.
2. A taxable person to whom this section applies may elect to account for tax purposes on a cash basis.
3. An election under subsection (2) shall be made in writing to the Commissioner General by the due date for the first return in which the taxable person seeks to use the method of accounting specified in subsection (2).
4. Where a taxable person makes an election under subsection (2), that person must account for both the output tax payable and the input tax credited on a cash basis.
5. A taxable person who has made an election under subsection (2) shall determine the tax payable for a tax period according to the formula specified in section 1(c) of the Fourth Schedule.
6. An election made under subsection (2) remains in force until—

#### **Consequences of a change in accounting basis**

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1. Every taxable person whose accounting basis is changed is liable for tax, if any, as determined under this section in the tax period in which the change occurred.
2. Where a taxable person changes from the method of accounting provided under section 25 (referred to as the "invoice basis") to the method of accounting provided under section 26 (referred to as the "cash basis"), the tax payable under subsection (1) is determined in accordance with the formula specified in section 1(d) of the Fourth Schedule.
3. Where a taxable person changes from a cash basis to an invoice basis of accounting, the tax payable under subsection (1) is determined in accordance with the formula specified in section 1(e) of the Fourth Schedule.
4. If the amount determined in accordance with subsection (2) or (3) is negative, it shall be refunded to the taxable person in accordance with section 42(1).
5. "entertainment" means the provision of food, beverages, tobacco, accommodation, amusement, recreation or hospitality of any kind;
6. "passenger automobile" means a road vehicle designed solely for the transport of sitting persons;
7. "return credit" means the total of the input tax claimed as a credit in each tax period of the calendar year; and
8. "telephone services" does not include telephone call services supplied to a hotel, lodge or similar establishment where output tax has been accounted for by the establishment on the supply of that service to their customers.

#### **Tax invoices**

A taxable person making a taxable supply to any person shall provide that other person, at the time of supply, with an original tax invoice for the supply. A taxable person making a taxable supply shall retain one copy of the tax invoice referred to in subsection (1). Where a supplied person loses the original tax invoice, the supplier may provide a duplicate copy clearly marked "COPY". may request a person, who has supplied goods or services to him or her, to provide a tax invoice in respect of the supply.

(6) A request for a tax invoice under subsection (5) shall be made—

1. in the case of a request under subsection 5(a), within thirty days after the date of the supply;
2. In the case of a request under subsection (5) (b), within thirty days after the date of registration.

A taxable person who receives a request under subsection (5) shall comply with the request within fourteen days after receiving that request.

7. A tax invoice is an invoice containing the particulars specified in section 2 of the Fourth Schedule.

#### **Credit and debit notes**

1. Where a tax invoice has been issued in the circumstances specified in section

#### **Credit for input tax**

(1) Where section 25 applies for the purposes of calculating the tax payable by a taxable person for a tax period, a credit is allowed to the taxable person for the tax payable in respect of—all taxable supplies made to that person during the tax period; or all imports of goods and services made by that person during the tax period, if the supply or import is for use in the business of the taxable person. Calendar year; or (b) the return credit exceeds the calendar year credit, the excess shall be regarded as tax charged by the taxable person in relation to a taxable supply made in the first tax period of the following calendar year.

1. "calendar year credit" means the total input tax payable, where section 25 applies, or paid, where section 26 applies, for the calendar year;

## **VAT Charged at point of Importation by Customs and Repayment Procedure of Tax**

- 22(1)(e) and the amount shown as tax charged in that tax invoice exceeds the tax properly chargeable in respect of the supply, the taxable person making the supply shall provide the recipient of the supply with a credit note containing the particulars specified in section 3 of the Fourth Schedule.
2. Where a tax invoice has been issued in the circumstances specified in section 22(1)(e) and the tax properly chargeable in respect of the supply exceeds the amount shown as tax charged in that tax invoice, the taxable person making the supply shall provide the recipient of the supply with a debit note containing the particulars specified in section 4 of the Fourth Schedule.

#### Part VIII—Procedure and administration of tax.

A tax return shall be in the form prescribed by the Commissioner General and shall state the amount of tax payable for the period, the amount of input tax credit refund claimed and such other matters as may be prescribed.

- 1 In addition to any return required under subsection (1), the Commissioner General may require any person, whether a taxable person or not, to lodge (whether on that person's own behalf or as agent or trustee of another person) with the Commissioner General such further or other return in the prescribed form as and when required by the Commissioner General for the purposes of this Act.
- 2 Upon application in writing by a taxable person, the Commissioner General may, where good cause is shown by the taxable person, extend the period in which a tax return is to be lodged.

#### Assessments

(1) Where—

1. a person fails to lodge a return under section 31;

2. the Commissioner General is not satisfied with a return lodged by a person; or
  3. the Commissioner General has reasonable grounds to believe that a person will become liable to pay tax but is unlikely to pay the amount due,
- the Commissioner General may make an assessment of the amount of tax payable by that person.

(2) An assessment under subsection (1)—

1. where fraud, or gross or wilful neglect has been committed by, or on behalf of, the person, may be made at any time; or

#### Refund of overpaid tax

1. If, for any tax period, a taxable person's input tax credit exceeds his or her liability for tax for that period, the Commissioner General shall refund him or her the excess within one month of the due date for the return for the tax period to which the excess relates, or within one month of the date when the return was made if the return was not made by the due date.
2. Notwithstanding subsection (1), the Commissioner General—

#### Interest on overpayments and late refunds

1. Where the Commissioner General is required to refund an amount of tax to a person as a result of a decision of the reviewing body as defined in section 28 of the Tax Appeals Tribunal Act, he or she shall pay interest at a rate of five percentage points higher than the prevailing official bank rate of the Bank of Uganda on the amount of the refund for the period commencing from the date the person paid the tax refunded and ending on the last day of the month the refund is made.

2. Where the Commissioner General fails to make a refund required under section 42(1) within the time specified in that section, he or she shall pay interest at a rate of five percentage points higher than the prevailing official bank rate of the Bank of Uganda on the amount of the refund for the period commencing on the day after the latest date for making the refund and ending on the date the refund is made. Where the Commissioner General finds, after conducting an investigation of any amount shown as an excess in terms of section 42(1), that the excess amount of input tax credit is greater than the true amount due in excess of not less than fifty thousand shillings, no interest shall be payable in terms of subsection (2) in respect of the delay in making the refund. Concluded for its official purposes
- 1 The refund provided for in subsection (1)(a) shall not be available to any citizen or permanent resident of Uganda.
  - 2 Any claim for a refund of tax under this section shall be made in such form and at a time that the Commissioner General may prescribe and shall be accompanied by proof of payment of tax.
  - 3 The Minister may make regulations specifying conditions to be met or restrictions to apply for claiming or granting of tax refunds under this section.

#### **Taxpayer identification number**

1. For the purpose of identification of taxpayers, the Commissioner General shall issue a number to be known as a taxpayer identification number to every taxpayer.
2. The Commissioner General may require a person to show his or her taxpayer identification number in any return,

notice or other document used for the purposes of this Act.

#### **Charge to tax**

Value added tax (VAT) is payable by a **taxable person** who engages in:

**(a) The supply of goods, or**

**(b) the supply of services** within the Republic of Ireland (ROI) for consideration in the course or furtherance of **business**.

An authorized officer may at all reasonable times enter a business premises and require the owner, or his employees, to produce for inspection any **records** relating to the business

An inspector may make an assessment of VAT he believes to be underpaid

#### **Penalties**

A person who fails to comply with VAT obligations is liable to a penalty of €5,000. If the failure is negligent, the penalty is €125 plus the difference between the correct liability and the tax paid. If the failure is fraudulent, the penalty is €125 plus twice the difference between the correct liability and the tax paid

See INCOME TAX (Penalties) as regards enforcement of penalties.

#### **Appeals**

A person aggrieved by an assessment to VAT may appeal within 14 days of the notice of assessment. The income tax appeal procedures apply.

#### **Conclusion**

In this context, first of all it is essential to consider carefully the research questions raised. From a policy perspective, the overall amount of tax avoidance or tax evasion may not be of highest priority. Rather, it is more relevant to understand the causes of the tax losses and the policy instruments that are most effective in encountering tax evasion and avoidance. This implies that empirical research should put an emphasis on the evaluation of policy reforms. The second element that needs further assessment is increased international co-

operation. Collaboration is important because, on the one hand, the international exchange of knowledge can strengthen all parties involved. This includes the promotion of exchanges on tax procedures and reforms to identify 'best practices' for fighting tax evasion and avoidance as guidance for national policies. On the other hand, co-operation is essential as a great deal of tax evasion and avoidance arises from cross-border activities of MNE such as transfer mispricing which has to be tackled at an international level. Finally, reforming tax policies and strengthening tax administrations in developing countries is crucial to establish a 'level playing field' in tax matters between developing countries' administrations, globally active MNEs and large and well informed taxpayers. In this regard, specialized trainings in the field of cross-border profit shifting and tax fraud represent a promising strategy for future work. We would like to conclude by suggesting two concrete proposals for research projects and strategies which would extend the available knowledge on tax revenue mobilization in developing countries. Firstly, it would be promising to investigate the determinants of tax payments of individual taxpayers using micro data. Since the availability of household data is very limited, this Endeavour seems more promising for firms. For instance, different national databases<sup>24</sup> offer detailed information on activities of multinational corporations in developing countries.

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