

**ARRANGEMENT OF SECTIONS**

*Section*

1. Section 15A inserted
2. Section 16 of Act 870 amended
3. Section 41 of Act 870 amended
4. Section 42 of Act 870 amended
5. Section 48 of Act 870 amended
6. Section 52 of Act 870 amended
7. Section 65 of Act 870 amended
8. Second Schedule to Act 870 amended

Act 1082



THE ONE THOUSAND AND EIGHTY-SECOND

# ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA  
ENTITLED

## VALUE ADDED TAX (AMENDMENT) ACT, 2022

AN ACT to amend the Value Added Tax Act, 2013 (Act 870) to provide for the up-front payment of Value Added Tax by an unregistered importer, the taxation of electronic commerce, the electronic issuance of a tax invoice, the zero-rating of the supply of locally assembled vehicles and for related matters.

DATE OF ASSENT: *12<sup>th</sup> September, 2022.*

PASSED by Parliament and assented to by the President

### Section 15A inserted

1. The Value Added Tax Act, 2013 (Act 870) referred to in this Act as the “principal enactment” is amended by the insertion after section 15, of

**“Up-front payment by unregistered importer**

15A. (1) A person who

(a) imports taxable goods; and

(b) is not registered for the tax

is, in addition to the penalty provided in section 15, liable to make an upfront payment of twelve and a half percent of the customs value of the taxable goods.

(2) A person may recover an upfront payment made under subsection (1) after the person registers and files a return.”.

**Section 16 of Act 870 amended**

2. The principal enactment is amended by the substitution for section 16, of

**“Unregistered, non-resident persons who provide telecommunication services or electronic commerce**

16. (1) An unregistered, non-resident person who provides telecommunication services or electronic commerce to persons for use or enjoyment in the country, other than through a Value Added Tax registered agent shall register if that person makes a taxable supply.

(2) A non-resident person who contravenes a provision of this Act and Regulations made under this Act is, in addition to any other penalty imposed under the Act or Regulations made under the Act, liable to a restriction of access in the country until the person fulfils the obligations under the Act and Regulations made under the Act.

(3) For the purposes of subsection (1),

(a) “digital service” includes

(i) social networking;

(ii) online gaming;

(iii) cloud services;

(iv) video or audio streaming;

(v) digital marketplace operations; and

(vi) online advertisement services;

(b) “electronic commerce” includes a business transaction, including a digital service, that takes

place through the electronic transmission of data over a communication network such as the internet; and

(c) “telecommunication services” include services that relate to

- (i) the transmission, emission or reception of signals;
- (ii) writings, images and sounds of information of any nature by wire, radio, optical or other electromagnetic systems, including the provision of access, transmission, emission or reception; and
- (iii) political, social, cultural, artistic, sporting, scientific or entertainment broadcasts, or events.”.

#### **Section 41 of Act 870 amended**

3. The principal enactment is amended by the substitution for section 41, of

##### **“Issue of tax invoice or sales receipt**

41. (1) Except as otherwise provided in this Act, a taxable person shall, on making a taxable supply of goods or services, issue to the recipient, a tax invoice in the form and with the details that are prescribed by the Commissioner-General.

(2) A taxable person shall

- (a) issue a tax invoice through a Certified Invoicing System; and
- (b) ensure that the Certified Invoicing System of the taxable person is integrated into the invoicing system of the Commissioner-General.

(3) The Commissioner-General may access the Certified Invoicing System of a taxable person to ensure compliance with the provisions of this Act.

(4) A taxable person, on issuing a tax invoice, shall retain a copy of the invoice in a sequential identifying number order.

(5) The Commissioner-General may authorise a taxable person who makes a taxable supply to issue a sales receipt instead of a tax invoice in accordance with the conditions and procedures specified in Regulations made under this Act.

(6) A taxable person shall not provide a tax invoice or sales receipt in circumstances other than those specified under this section.

(7) Subject to subsection (6), a taxable person shall issue only one tax invoice or sales receipt for each taxable supply.

(8) Where a recipient who is a taxable person has not received a tax invoice as required under subsection (1), the recipient may, within forty-eight hours after the date of the supply, obtain a copy of the invoice from the Certified Invoicing System of the taxable person.

(9) Where the Certified Invoicing System of a taxable person goes offline or is inaccessible by the Commissioner-General, the taxable person shall, within twenty-four hours,

(a) inform the Commissioner-General; and

(b) ensure that the Certified Invoicing System of the taxable person is restored online and accessible by the Commissioner-General.

(10) Where a recipient who is a taxable person has lost a tax invoice for a taxable supply, the recipient may obtain a copy of the tax invoice from the invoicing system of the Commissioner-General.

(11) A person who

(a) issues a false tax invoice or sales receipt;

(b) fails to issue a tax invoice or sales receipt contrary to subsection (1) or (5);

- (c) fails to issue a tax invoice through a Certified Invoicing System contrary to subsection (2);
- (d) tampers, manipulates or interferes with the proper functioning of a Certified Invoicing System;
- (e) fails to integrate the Certified Invoicing System of the taxable person into the invoicing system of the Commissioner-General contrary to subsection (2);  
or
- (f) fails to re-connect the Certified Invoicing System of that person to the invoicing system of the Commissioner-General contrary to subsection (9)

is, in addition to the penalty provided under section 58, liable to pay a penalty of an amount of not more than five hundred currency points or three times the amount of tax involved, whichever is higher.

(12) A taxable person shall, within one year after the coming into force of this Act, comply with the provisions of this section.

(13) A taxable person who is unable to comply with the provisions of this section within one year after the coming into force of this Act shall, within thirty days before the expiration of the period specified under subsection (12), apply to the Commissioner-General for an extension of time.

(14) An extension of time granted under subsection (13) shall not exceed a period of three months.”.

#### **Section 42 of Act 870 amended**

4. The principal enactment is amended in section 42 by
- (a) the substitution for subsection (12), of  
“(12) In the case of electronic commerce under paragraph (b) of subsection (3) of section 16 other than

a digital service, the place of supply is the place where the effective use or enjoyment occurs.”; and

(b) the insertion after subsection (12), of

“(12A) In the case of a digital service under paragraph (a) of subsection (3) of section 16, the place of supply is the place where the service is supplied, used or enjoyed in the country if any two of the following circumstances exist:

- (a) the recipient of the service is a resident person;
- (b) the payment, including mobile money, credit card, debit card or bank account, for the supply of a digital service originates from a payment platform in the country or a registered or authorised financial institution as provided for under the Banks and Specialised Deposit-Taking Institutions Act, 2016 (Act 930);
- (c) the recipient of the supply of a digital service has either a business, residential or postal address, internet proxy address or phone number in the country; and
- (d) the service is received on a terminal located in the country, including a computer, tablet, mobile phone or similar device.”.

**Section 48 of Act 870 amended**

5. The principal enactment is amended in section 48 by

- (a) the deletion of paragraph (c) of subsection (1); and
- (b) the insertion after subsection (7A), of

“(7B) A taxable person to whom subsection (3) of section 3 applies does not qualify for input tax deduction.

(7C) A non-resident person registered under section 16 shall not qualify for deductible input tax for the supply of a digital service.

(7D) The Commissioner-General may determine the procedure for the deduction of input tax by a resident person who uses or enjoys a digital service from a non-resident person.”.

**Section 52 of Act 870 amended**

6. The principal enactment is amended in section 52 by the insertion after subsection (9), of

“(10) Despite subsections (4) and (5), a taxable person registered under section 16 shall

(a) submit a return to the Commissioner-General, not later than the last day of the month immediately following the month to which the return relates, whether or not tax is payable for the period; and

(b) pay the tax due to the Commissioner-General by the same day that the return is due.

(11) Despite section 44 of the Interpretation Act, 2009 (Act 792), for the purposes of subsection (10), day includes Saturday, Sunday and a public holiday.”.

**Section 65 of Act 870 amended**

7. The principal enactment is amended in section 65 by

(a) the insertion after the definition for “cash value” of



““Certified Invoicing System” means an electronic invoicing system certified by the Commissioner-General in accordance with this Act;”; and

- (b) the substitution for the definition of “tax invoice”, of ““tax invoice” includes an electronic tax invoice issued through a Certified Invoicing System for a supply of goods or services by a taxable person in accordance with this Act and Regulations made under this Act;”.

**Second Schedule to Act 870 amended**

8. The principal enactment is amended in the Second Schedule by the insertion after subparagraph (10) of paragraph 2, of

“(11). A supply of locally assembled vehicles under the Ghana Automotive Development Programme from 1<sup>st</sup> September, 2022 to 31<sup>st</sup> December, 2023.”.

**Act 1082**

*Value Added Tax (Amendment) Act, 2022*

Date of *Gazette* notification: 12<sup>th</sup> September, 2022.