

FIRST SCHEDULE

AMENDMENT OF FOURTH SCHEDULE TO THE EAST AFRICAN CUSTOMS AND TRANSFER TAX MANAGEMENT ACT, 1970 Cap. 27 E.A

FOURTH SCHEDULE

VALUE OF IMPORTED GOODS

Value for
duty purposes

1. (1) For the purpose of assessing the amount of any ad Valorem duty payable on any imported goods, and for the purpose of any declaration or oath which may be required by this Act, or any other enactment in relation to any question of value or duty in connection with the importation of goods or goods which are likely to be imported, the value of those goods shall, subject to the provisions of this Act, be the transaction value of the goods established or determined according to this Schedule.

(2) Where the Customs Value cannot be determined under the transaction value of goods, as hereinafter defined, it is to be determined by proceeding sequentially through the alternative methods of valuation, hereinafter set out.

Transaction
value:
Primary method
of valuation

2. (1) Subject to the provisions of this Act, the value for duty purposes of any imported goods shall be the transaction value of the goods, that is to say, the price actually paid or payable for the goods when sold for export to Uganda, adjusted in accordance with the provisions of item 9 of this Schedule and provided that –

- (a) there are no restrictions as to the disposal or use of the goods by the buyer, other than restrictions which –
 - (i) are imposed or required by law; or
 - (ii) limit the geographical area in which the goods may be resold ; or
 - (iii) do not substantially affect the value of the goods.
- (b) the sale or price of the goods is not subject to any condition or consideration for which a value cannot be determined; and
- (c) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in terms of item nine (9); and
- (d) subject to the provisions of paragraph 2 of this item the buyer and the seller are not related.

(2) The fact that a buyer and a seller are related shall not in itself be grounds for not accepting the transaction value where—

- (a) in the opinion of the Commissioner General , such relationship did not influence the price actually paid or payable for the goods concerned; or
- (b) the importer proves to the satisfaction of the Commissioner General that the transaction value closely approximates to one of the following value bases –
 - (i) the transaction value of identical or similar goods sold at or about the same time as the goods to be valued at comparable commercial and quantity levels to buyers in Uganda who are not related; or
 - (ii) the value, determined in terms of item 5, of identical or similar goods imported into Uganda at or about the same time as the goods to be valued.

Transaction value of identical goods: First alternative method.

3.(1) Subject to the provisions of item 4 and of this item, if the value for duty purposes of any imported goods cannot be established in terms of transaction value, their value for duty purposes shall be the transaction value of identical goods which are –

(a) sold for export to Uganda at the same commercial level and in substantially the same quantity as the goods to be valued; and

(b) exported to Uganda at or about the same time as the goods to be valued.

(2) Where no sale such as is referred to in paragraph (1) (a) of this item is found, the transaction value of identical goods sold at a different commercial level and / or in different quantities, adjusted to take account of differences attributable to commercial level and/or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

(3) In establishing the value for duty purposes of any imported goods in terms of this item, an adjustment shall be made to take account of significant differences in the goods arising from differences in distances and modes of transport.

(4) If, in the application of this section, more than one transaction value is determined , the lowest such value shall be taken as the value for duty purposes of the goods to be valued.

(5) An importer who wishes any imported goods to be valued in terms of this item may, on request, provide to the proper officer either –

(a) a copy of a bill of entry on the basis of which customs accepted the value of imported goods which were identical to the goods to be valued and which were entered within three months of the date of the goods to be valued; or

(b) sufficient information to enable the proper officer to trace a bill of entry referred to in subparagraph (a).

Transaction
value of similar
goods: Second
alternative
method.

4 (1) If the value for duty purposes of any imported goods cannot be established in terms of item 2 or 3 their value for duty purposes shall be the transaction value of similar goods that are exported to Uganda at or about the same time as the goods to be valued.

(2) The provisions of paragraphs (2) to (5) of item 3 shall apply , with the necessary changes, to the valuation of goods in terms of this item as if the references in those paragraphs to identical goods were references to similar goods.

Deductive
value:
Third
alternative
method

5(1) If the value for duty purposes of any imported goods cannot be established in terms of item 2,3 or 4, their value for duty purposes shall be established in terms of this item.

(2) Subject to the provisions of this item, if the goods to be valued, or identical or similar goods, are sold in Uganda at or about the same time of importation of the goods to be valued and in the same condition as that in which they were imported, the value for duty purposes of the goods to be valued shall be based on the unit price at which the imported goods or the identical or similar imported goods, as the case may be, are sold in Uganda in the greatest aggregate quantity to persons who are not related to the importer.

(3) If the goods to be valued , or identical or similar imported goods, are not sold in Uganda at or about the same time of importation of the goods to be valued, but are otherwise sold in Uganda as provided in paragraph (2), the value for duty purposes of the goods to be valued shall be based, subject to the provisions relating to identical or similar goods, as the case may be , on the unit price at which the imported goods are sold in the greatest aggregate quantity in such a sale transacted at the earliest date after the importation of the goods to be valued, but not later than ninety (90) days after such importation.

(4) If the goods to be valued, or identical or similar imported goods, are not sold in Uganda in the same condition as that in which they were imported, then, whether or not the importer so requests, the value for duty purposes of the goods to be valued shall be based, subject to the provisions

of this item, on the unit price at which the goods to be valued or identical or similar goods, as the case may be, are sold after further processing in the greatest aggregate quantity to persons in Uganda who are not related to the importer.

(5) In valuing goods in terms of this item, deduction shall be made, where appropriate, for –

- (a) commissions usually paid or agreed to be paid, or additions usually made for profit and general expenses, in connection with sales in Uganda of goods of the same class of a kind as the goods to be valued, irrespective of the country of exportation;
- (b) any costs of transportation and the cost of loading, unloading, handling and insurance and associated costs incidental to the transportation of the goods within Uganda from their place of importation;
- (c) any duty or tax payable in Uganda by reason of the importation or sale of the goods; and
- (d) in the case of goods to which the provisions of paragraph 4 apply, any increase in the value attributable to the further processing referred to in that paragraph.

(6) For the purpose of establishing the unit price of any goods in terms of this item, an officer may accept a sales invoice or price list substantiated by a sales invoice relating to the goods concerned at the relevant time.

Computed
Value
method:
Fourth
alternative
Method

6. (1) If the value for duty purposes of any imported goods cannot be established in terms of items 2,3,4 or 5 their value for duty purposes shall be established in terms of this item.

(2) The Customs value of imported goods under the provisions of this item shall be based on a computed value. Computed value shall consist of the sum of —

- (a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;
- (b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to Uganda; and
- (c) the cost or value of all other expenses necessary to reflect the costs set out in paragraph (2) of item 9.

(3) Any person not resident in Uganda may not be required or compelled to produce for examination or to allow access to any account or any other record for the purposes of determining a computed value. However, information supplied for the purposes of determining the customs value under the provisions of this item may be verified in another country with the agreement of the producer, provided sufficient advance notice is given to the government of the country in question and that government does not object to the investigation.

Full-back
method of
valuation:
Final
alternative
method.

7.(1) If the Customs value for duty purposes of any imported goods, other than non-merchandise goods as defined in item 8, cannot be established or determined in terms of items 2 to 6, it shall be determined using reasonable means consistent with the principles and general provisions of valuation set out in items 1 to 6 above and may be based on, for example—

- (a) application of any of the previous methods of valuation with such modifications or adaptations as may be necessary;
- (b) a previously determined value; or
- (c) use of any other reasonable means consistent with this Act.

(2) The determination shall be based on information readily available in Uganda.

(3) The following may not be used in determining the customs valuation under the fall-back method –

- (a) the selling price of goods produced in Uganda;
- (b) a system which provides for the acceptance for customs purposes of the higher of two alternative values;
- (c) the price of goods on the domestic market of the country of exportation;
- (d) the cost of production other than computed values which have been determined for identical or similar goods in accordance with item 6;
- (e) the price of the goods for export to a country other than Uganda;
- (f) minimum customs values; or
- (g) arbitrary or fictitious values.

(4) Whenever the value of imported goods is to be determined using this method of valuation, the importer shall produce to the proper officer such documentary evidence as is necessary for such a determination.

(5) The importer, if he or she so requests, shall be informed in writing of the Customs value determined under the terms of this item and the method used to determine that value.

Valuation of
goods imported

8. Where the price actually paid or payable for non-merchandise goods cannot be verified on the basis of objective and quantifiable data, it may

privately. be determined on the basis of a previous determination or, if there is no such determination, by applying item 7.

Adjustments to be made in calculating value goods— **9.(1) In determining the value for duty purposes of any imported goods in terms of item 2, there shall be added to the price actually paid or payable for the goods—**

for duty purposes (a) the following, to the extent that they are incurred by the buyer but are of imported goods. not included in the price actually paid or payable—

- (i) commissions and brokerage except buying commission incurred in the purchase of the goods;
- (ii) the cost of containers which are treated as being one for customs purposes with the goods in question; and
- (iii) the cost of packing whether for labour or material

(b) the value, apportioned as appropriate, of any of the following goods and services, if supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable—

- (i) materials, components, parts and similar items incorporated in the imported goods to be valued;
- (ii) tools, dies, moulds and similar articles used in the production of the imported goods to be valued;
- (iii) materials consumed in the production of the imported goods to be valued, and
- (iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in Uganda and necessary for the production of the imported goods to be valued.

(c) payments made by the buyer for the right to distribute or resell the imported goods shall not be added to the price actually paid or payable for the imported goods if those payments are not a condition of the sale for export to Uganda of the imported goods;

(d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods to be valued that accrues directly or indirectly to the seller.

(2) In determining the value for duty purposes of any imported goods in terms of items 2 to 8, there shall be added to the price actually paid or payable for the goods—

(a) the cost of transport and insurance from the place of manufacture to the place of export and all other handling charges and expenses incidental to placing the goods on board the means of transport by which the goods

are removed from the country of exportation, if such cost is not included in the price actually paid or payable for the goods to be valued;

(b) if the goods in question have been exported to Uganda through another country, freight, insurance and other handling charges in the country of supply to the country where the goods are placed on board the means of transport for direct transportation to Uganda, if such cost is not included in the price actually paid or payable for the goods to be valued; and

(d) in the case of goods imported by post, all charges for postage, handling and insurance which are reflected on or in any document accompanying the goods.

(3) In determining the value for duty purposes of any imported goods in terms of items 2 to 8 there shall not be included in the price actually paid or payable for the goods, to the extent that they are separately distinguished, amount equal to—

(a) the cost of transportation, loading, unloading, handling, insurance and associated costs incidental to the transportation of the goods within Uganda from their place of importation; and

(b) the cost of air transport from outside Uganda to an airport in Uganda.

(4) Additions to the price actually paid or payable shall be made under this article only on the basis of objective and quantitative data.

(5) No additions shall be made to the price actually paid or payable in determining the Customs Value except as provided for in this article.

Alternative
methods
under items
5 and 6

10. If the customs value of the imported goods cannot be determined under the provisions of items 2,3, and 4, the customs value shall be determined under the provisions of item 5 or, when the customs value cannot be determined under this item, under the provisions of item 6, except that, at the request of the importer, the order of the application of items 5 and 6 shall be reversed.

Definitions

11.(1)For the purpose of this Schedule the following definitions shall apply—
“buying commission” in relation to imported goods, means an amount paid or payable, directly or indirectly, by or on behalf of an importer, to a person who, as an agent of the importer, represented him abroad in the purchase and payment of the goods being valued.

But the amount paid by the importer shall not be taken to be a buying commission unless the Commissioner General is satisfied that the person acting as the agent did not, or does not—

- (i) produce in whole or in part, or control the production in whole or in part, of the imported goods or any other goods whose value would be taken into account in determining the value of the imported goods; or
- (ii) render or control the rendering of any services whose value would be taken into account in determining or attempting to determine the price of the imported goods or other services of the same class;
- (iii) transport the imported goods, or any other goods referred to in subparagraph (i) within any foreign country or between a foreign country and Uganda or within Uganda, for any purposes associated with the manufacture or importation of the imported goods; purchase, exchange, sell or otherwise trade in any of the goods referred to in subparagraph (i) or render any of the services referred to in subparagraph (ii), otherwise than in the capacity of an agent of the importer;
- (iv) in relation to any of the goods referred to in subparagraph (i) or any of the services referred to in subparagraph (ii), act as an agent for, or in any other way represent the producer, supplier or seller of the goods or the person who rendered the services, as the case may be, or otherwise be associated with any such person except as the agent of the importer; or
- (v) claim or receive, directly or indirectly, the benefit of any commission, fee or other payment on any goods or services from any person as a consequence of the importation of the goods concerned other than a commission received from the importer for the services rendered by that person in the first transaction;

“country of importation” means Uganda;

“customs value of imported goods” means the value of goods for purposes of levying ad Valorem duties of customs on imported goods;

“identical goods” means goods which are the same in all respects, including physical characteristics quality and reputation. Minor differences in appearance shall not preclude goods otherwise conforming to the definition from being regarded as identical;

“place of importation”, in relation to—

- (i) goods, other than goods imported by post, means—
- (ii) where the goods are imported by ship, the ship’s first port of call in Uganda;
- (iii) where the goods are imported by aircraft, the place where the aircraft makes its first landing in Uganda;

- (iv) where goods are imported by road or rail transport, the place where the goods first cross the borders of Uganda; or
 - (v) where the goods are imported by pipeline, the place where the goods pass through the first metered point on the pipeline within Uganda.
- (1) Goods imported by post means where the goods arrive at a post office in Uganda where any duty payable on the goods is assessed.

“produced” includes grown, manufactured and mined;

“price actually paid or payable”, in relation to imported goods means the total payment made or to be made by the buyer to, or for the benefit of, the seller of the imported goods;

“similar goods” means goods which, although not alike in all respects, have like characteristics and like components materials which enable them to perform the same functions and to be commercially interchangeable. The quality of the goods, their reputation and the existence of a trademark are among the factors to be considered in determining whether goods are similar;

“non-merchandise goods” means goods imported by an individual for his own use in Uganda but not for trade purposes;

“goods of the same class or kind” means goods which fall within a group or range of goods produced by a particular industry or industry sector, and includes identical or similar goods;

(2)(a) The terms “identical goods” and “similar goods” do not include, as the case may be, goods which incorporate or reflect engineering, development, artwork, design work and plans and sketches for which no adjustment has been made under paragraph 1(b)(iv) of item 9, of this schedule because such elements were undertaken in Uganda.

(b) Goods shall not be regarded as “identical goods” or “similar goods” unless they were produced in the same country as the goods being valued.

(c) Goods produced by a different person shall be taken into account only when there are no “identical goods” or “similar goods”, as the case may be, produced by the same person as the goods being valued.

(3)(a) Persons shall be deemed to be related only if—

- (i) they are officers or directors of one another’s businesses;
- (ii) they are legally recognized partners in business;
- (iii) they are employer and employee;

- (iv) any person directly or indirectly owns, controls or holds five percent (5%) or more of the outstanding voting stock or shares of both of them;
- (v) one of them directly or indirectly controls the other;
- (vi) both of them are directly or indirectly control a third person; or
- (vii) together they directly or indirectly control a third person; or
- (viii) they are members of the same family.

(b) Persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related for the purposes of this Schedule only if they fall within the criteria of subparagraph (a).