

**Law No 14/VI/2002
Of 19 September 2002**

Approves the Tax Reform System

By mandate of the People, under the terms of subparagraph b) of Article 174 of the Constitution, the National Assembly decrees the following:

**CHAPTER I
Tax on Expenses System**

**Article 1
(Object)**

This legislation has as object the definition of the taxation on expenses that will include the following taxes:

- a) Value Added Tax;
- b) Special Consumption Tax;
- c) Importation Duties.

**Article 2
(General Principles)**

The reform of tax on expenses shall elect as structuring patterns the principle of equity, efficiency and simplicity, providing incentives for the voluntary compliance with the fiscal obligations and contributing to the promotion of economic development and for the realization of social justice in the Republic of Cape Verde.

**CHAPTER II
Value Added Tax – VAT**

**Article 3
(Creation of VAT)**

The value Added Tax is hereby created, also designated VAT, which is governed by the principles and norms foreseen in this law, in the respective Regulation and in the applicable complementary legislation.

Article 4
(Ambit of VAT's Regulation)

The discipline imposed, in the development of the principles consigned in the articles that follow, shall consist in the VAT Regulation and the respective complementary legislation.

Article 5
(General Applicability of the VAT)

1. VAT is a general tax on consumption applicable on the transmission of goods and on services provided onerously in the national territory by passive subjects acting as such.
2. VAT is a non-cumulative, multi-phase tax, that functions in general by the indirect subtractive method so as to fraction the payment by the various intervening parties in the process of production and distribution of the goods and services
3. VAT adopts the principle of destination in international trade, totally exempting the exportations and assimilated operations and taxing the importation of goods on the same terms as it taxes the transmissions of identical goods introduced internally.

Article 6
(VAT's Passive Subjects)

1. VAT's passive subjects consists in all the companies and other singular or collective persons that:
 - a) Being residents or having a stable establishment or representation in the national territory, exercise independently and habitually, profitably or not, productive activities, trade in services, including the extractive, production, commercial, forestry, livestock and fishing activities;
 - b) While residents or having a stable establishment or representation in the national territory and not exercising an activity, perform, however, also independently, any taxable operation, as long as the same fulfils the assumptions of real application of the Single Tax on Revenues for Singular or Collective Persons;
 - c) While not residents and nor having stable establishment or representation in the national territory perform, even if independently, any taxable operation, as long as such operation is connected to the exercise of his/her entrepreneurial activities, wherever that may occur or when, independently of that connection, such operation fulfils the assumptions of real application of the Single Tax on Revenues for Singular or Collective Persons;

- d) Perform importation of goods, according to the customs legislation;
 - e) Incorrectly mention value added tax in invoice or equivalent document.
2. Also considered passive subjects are the singular or collective persons referred to in subparagraphs a) and b) of the preceding number that, under conditions to be defined in the appropriate VAT Regulation, are acquirers of services whose taxing should occur in the national territory, under the terms that may be established as a result of the discipline contained in Article 10.
3. The State and other collective persons under public law are not passive subjects of the tax when they execute operations in exercise of their power of authority.

Article 7 **(Operations Subject to VAT)**

1. For the purpose of Article 5 of this legislation, the following definitions apply:
- a) Transmission of goods** – The onerous transfer of corporeal goods in a form corresponding to the exercise of the right of property;
 - b) Importation** – The entry of goods for consumption into the national territory;
 - c) Providing service** – All the operations executed onerously, which do not constitute transmission or importation of goods.
2. The operations, in which the economy of the tax and the competitive neutrality so demand, are also considered transmission of goods and services rendered onerously.
3. For the purpose of subjecting to the VAT, electrical energy, gas, cold heat and similars are considered corporeal goods.

Article 8 **(Exemptions in the Internal Operations)**

1. The transmissions of goods and rendering services, internally, are exempt from VAT, whenever such exemption is justified for technical reasons and reasons of economic or social policy, namely:
- a) The transmissions of goods and rendering of services performed in the ambit of agricultural, forestry, livestock and fishing activities;
 - b) The rendering of services and the closely connected transmission of goods performed in the exercise of medical and sanitary activities, educational and professional training, protection to infancy, youth and old age, social security and assistance, habitually pursued by public entities or organisms without.....

- c) The services provided that consist in classrooms ministered on a personal basis, at the level of pre-school basic education, secondary school, technical professional, medium or higher education;
- d) The services provided by non-profit organizations, that explore establishments or installations destined for the practice of sports, recreational and physical education activities, to persons that practice these activities;
- e) The services provided and the transmissions of goods connected to them, performed by collective persons under public law and non-profit organizations pertaining to congresses, colloquium, conferences, seminars, courses and analogous manifestations of a scientific, cultural, educational or technical nature;
- f) The services provided to the respective promoters by professionals of the respective area, for the execution of theatrical spectacles, choreography, musical spectacles, circus, sports and others, film production, music editing and other sports of sound and image;
- g) The face value transmission of postal stamps in circulation or of stamped amounts, as well as their respective sales commission;
- h) The services provided and the transmission of connected goods, performed by the public postal services, except for telecommunications.
- i) The transmissions of copyright and the authorization for the utilization of intellectual work, defined in Law No. 101/III/90, of 29 December, Copyright Law, when performed by the authors themselves, their heirs or legatary;
- j) The transmission done by the artists themselves, their heirs or legataries, of objects of their authorship, under the conditions and limits fixed in the VAT Regulation.
- k) The transmission of newspapers, magazines and books considered of a cultural, educational, technical or recreational nature;
- l) Lending of personnel by religious or philosophical institutions to perform exempt activities or for spiritual assistance purposes;
- m) Rendering services performed in the collective interest of their associates, by non-profit organizations, as long as these organization pursue objectives of a political, syndical, religious, humanitarian, patriotic, philanthropic, recreational, sports, cultural, civic or of representation of economic interests and the sole counterpart is the quota established under the terms of the respective statutes;

- n) The transmissions of goods and the rendering of services performed by entities whose habitual activities are exempt, during occasional demonstrations destined to raise funds for their exclusive profit, in a maximum number to be fixed annually in the VAT Regulation and on the condition that the exemption does not provoke competition distortions;
- o) The exploration of gambling, under the terms foreseen in the appropriate legislation, as well as the respective commissions;
- p) The transmission of staple goods, to be defined specifically in the VAT Regulation;
- q) The transmission of drugs, including those destined for veterinary application, as well as pharmaceutical specialties and other pharmaceutical products destined exclusively for therapeutic or prophylactic purposes;
- r) The transmission of goods and equipment, of seeds, reproductive species, fertilizers, pesticides, herbicides, fungicides and similars, as well as nets, hooks and other fishing apparatus, also to be enumerated specifically in the VAT Regulation;
- s) The transmission of immovables subject to the Single Tax on Patrimony, under the terms of the respective regulation;
- t) The rental of immovables, including, however, in the latter, the situations in which the same are included in commercial, industrial or service rendering services;
- u) Service rendering performed by funeral or cremation enterprises, as well as the transmission of accessory goods to those same services;
- v) The public service of garbage removal;
- w) The transmission of goods affected exclusively to an exempt activity and that when the respective acquisition or affectation was not the object of a deduction law;
- x) The activities of the public radio and television companies that are not of a commercial character.

2. For the purpose of the provisions of the preceding number, the concept of non-profit organization shall be defined in the VAT Regulation.

3. The VAT Regulation shall contain the situation in which renunciation of the exemptions shall permit and shall discipline the conditions that such renunciation shall obey.

Article 9

Exemptions in International Trade

1. The exportation of goods and the operation inherent thereto are exempt.
2. Also exempt is the importation of goods whose transmission within the country is exempt, as well as the importation of goods that are entitled to customs exemptions.
3. Further exempt are the operations pertaining to goods and services that are introduced or, if they are in exempt zones or that benefit from suspensive customs regimes and, while they remain there, under condition that they are not destined for final utilization or consumption.
4. The transmissions of goods and services in the ambit of international treaties and agreements of which the Republic of Cape Verde is a part, are exempt from tax, under the terms foreseen in those treaties or agreements, with the application conditions and procedures contained in the VAT Regulation.

Article 10

Territoriality of the Tax

1. The transmission of goods placed at the disposal of the acquirer in the national territory or whose expedition or transportation with the destination of the acquirer were initiated therein are considered located in the national territory, without prejudice to also locating here the transmissions made by the importer and eventual subsequent transmissions of goods transported or sent from a foreign country, when the referred transmissions take place before the importation.
2. The localization of the rendering of services shall occur in the national territory, in general, in accordance with the main office, stable establishment or domicile of the service provider, without prejudice to the criteria of execution or of the utilization, when the economics of the tax and the national sovereignty rules so justify.

Article 11

Tax Base

1. The VAT tax base in the internal operations consists of the counterparts demanded or to be demanded, without prejudice for the existence of the special rules regarding the nature of operations or the interests of taxation so determine.
2.

Article 12

Rate

VAT's Tax rate is 15%.

Article 13

Right to Deduction

1. The right to deduction included the tax that may have been applied on acquired goods or services, imported or utilized by the passive subjects to perform their taxed operations or exempt operations entitled to deduction.
2. VAT's Regulation or complementary legislation shall define the formal and substantial conditions of the right to deduction by the passive subjects.

Article 14

Liquidation and Payment of the Tax

1. In the internal operations, the liquidation of the tax is the responsibility of the passive subjects and the net value of the tax is added to the amount of the invoice or equivalent document for the purpose of demanding it from the acquirers of goods and services or users of services.
2. In the importations the liquidation of the tax is the responsibility of the General Directorate of Customs.
3. Without prejudice to special provisions, the tax is periodic, and the amount of the tax relative to each period is determined by subtraction between the amount of the liquid tax in the period and the amount of the deductible tax in the same period.
4. The VAT Regulation shall establish the discipline relative to the situations in which the tax should be liquidated by initiative of the fiscal services.

Article 15

Accessory Obligations

Aside from the payment obligations, the passive subjects are obligated to comply with the following obligations to be established and disciplined in the VAT's Regulation:

- a) Declarative obligations;
- b) Invoicing obligations;
- c) Book-keeping obligations;
- d) Archiving and document conservation obligations.

Article 16
Special Regimes

Special regimes shall be adopted for passive subjects of small economic dimension, in the ambit of the VAT Regulation.

Article 17
Guarantees of Contributions

The guarantees of contributions shall be established in the General Taxation Code and in the Taxation Process Code.

Article 18
Infractions and Sanctions

The infractions to the tax discipline and the respective sanctions shall be typified in the VAT Regulation.

Article 19
Other Regulation

1. The VAT Regulation shall also contain the discipline of the remaining matters necessary to the launching, liquidation and collection of VAT, without prejudice to the development of legislation

- a) Restitution of the VAT to the Diplomatic Agents and similars, exporters and non-residents in the national territory;
- b) Application of VAT to second hand goods, collection art objects and antiques;
- c) Application of VAT to travel agencies and organizers of tourism circuits;
- d) Application of VAT to products and services subject to prices fixed by administrative authority.

2. Regulation may also be established with a view to:

- a) Oversight of the goods in circulation;
- b) Compliance with the invoicing obligation in the case of utilization of cash register machines and machines for the automatic distribution of goods.

Article 20
Compensation of the Consumption Tax

Special legislation shall establish the measures deemed necessary to the compensation, in future deliveries of VAT, of the amount of the Consumption Tax already supported with regard to goods of passive subjects not yet transacted at the effective date of the new tax.

CHAPTER III
Tax on Special Consumption

Article 21
Creation of the Special Consumption Tax

This legislation creates the Special Consumptions Tax, hereinafter designated as ICE, that is governed by the principles and norms foreseen in this law, in the respective Regulation and in the applicable complementary legislation.

Article 22
Ambit of the ICE Regulation

Within the constitutionally consecrated limits, the Regulation of the Tax on Special Consumption and complementary legislation shall be approved, in accordance with the provisions of the Articles that follow.

Article 23
General Applicability of the ICE

1. The ICE is a tax over certain consumptions, including over the respective national production or importation.
2. The ICE is a monophasic type tax, whose value shall be included in the VAT tax base, under the terms established in the respective Regulation.
3. Taxation on the importations is done at the same rate of taxation of the nationally produced goods. The exportations and assimilated operations are exempt.

Article 24
Goods Subject to ICE

1. The goods contained in the annexed list, defined by application of the criteria established for customs purposes, that is to say, customs designation and Tables code, are subject to Special Consumption Tax.
2. The goods are taxable at the moment they are produced in the national territory or on the date of the respective importation

3.:

- a) Production, any manufacturing process through which taxable products are obtained;
- b) Importation, the entry of goods into the national territory;
- c) Moment of production, that in which the manufactured product exits the production chain and is in normal conditions of commercialization, according to usual practices for this or for identical products.
- d) Moment of importation defined by the customs norms.

4. The tax is also due at the moment of cessation or violation of the assumptions for exemption.

5. There is also subjection to tax when the existence of products untaxed and detained for commercial purposes in the national territory and the requisites that constitute indications of the affectation for commercial purposes are noticed.

6. The determination that the detention of the products is destined for commercial purposes, for the purposes of the provisions of the preceding number should be motivated by duly fundamented criteria, to be published by the Government together with the other rules for the taxation of goods subject to taxation.

7. Also due is the tax that results from noticing faults in the stock of the producers or importers of goods, under the conditions to be fixed in the ICE Regulation, without prejudice to the admission an exemption for losses, when such is the case.

8. For the purposes of the preceding number, exemptions are admitted for losses in the production, storage and circulation of the goods and also in fortuitous cases of *force-major* under conditions and limits to be fixed in the ICE Regulation.

Article 25

Passive Subjects of the ICE

1. The producers of the goods referred to in the preceding Article and the importers or others responsible for the payment of the customs debt in importation are passive subjects of the ICE.

2. The following are also passive subjects:

- a) The holders, in the case of detention for commercial purposes, under the conditions referred to in Numbers 5 and 6 of the preceding number;

- b) The tax guarantees, in the situations to the fixed in the ICE Regulation;
- c) The winning bidder in the case of judicial sale or sale under administrative process;
- d) Any other singular or collective persons that, in irregular situations, produce, hold, transport, introduce in consumption sell or utilize taxable products.

Article 26

General Exemptions

1. Exemptions are granted when the taxable products are destined:
 - a) To be supplied in the ambit of diplomatic or consular relations;
 - b) To international organizations recognized as such by the Republic of Cape Verde, as well as the members of these organizations, within the limits and under the conditions fixed by international conventions that create these organizations or by the headquarters agreements;
 - c) To be consumed in the ambit of an agreement concluded with another country or with international organizations, as long as this agreement is admitted or authorized in the matter of exemption of the value added tax.
 - d) To be consumed as provisions on board under the terms and conditions to be fixed by the ICE Regulation;
 - e) To be the object of exportation or assimilated operations, as well as to be destined for and utilized in customs duties suspensive regimes, under the terms of the respective customs legislation;
 - f) To be consumed as raw materials in the manufacture of other products, or for special purposes of a medical, sanitary, scientific, laboratory or similar nature.
 - g) To be destroyed under customs oversight.
2. The form, in which the exemptions referred to in No. 1 shall be granted, as well as the conditions and limitations to be observed to that end, shall be included in the ICE Regulation.
3. The violation of any of the conditions required in No. 1, when such is the case, determines the liquidation of the tax to the requesting entity and the suspension of the provisionment, under terms to be fixed in the ICE Regulation, always without prejudice to other sanctions foreseen in the law.

Article 27

Private Exemptions

1. The products imported by singular persons for their personal use, that are part of their baggage, such as it is defined in the customs legislation, in the amounts and conditions required, and in conformity with the provisions of international conventions, are tax exempt.
2. The small remittances without commercial value, under the conditions to be fixed in the ICE Regulation, are also tax exempt from importation taxes.
3. The goods acquired in duty free stores and transported in the personal baggage of passengers that travel to another country, by sea or international flight are also tax exempt.
4. For the purpose of the provisions of the preceding number, the following definitions apply:
 - a) Duty-free stores: any establishment or sales port located in a national port or airport and that satisfy the conditions foreseen in the applicable national legislation;
 - b) Passengers e-route to a foreign country: any passenger in possession of a ticket to travel by sea or air, that mentions as immediate destination a port or airport located in a foreign country;
 - c) International sea crossing or flight: any transportation by sea or by air, initiated in the national territory and whose destination is located in another country.
5. The products sold aboard the ships or planes during the international transportation of passengers are comparable to products sold in the duty-free shops.
6. The exemption benefits foreseen in No. 3 and No. 5 applies only to products whose quantities do not exceed, per person and per trip, the limits foreseen by the customs provisions.

Article 28

Tax Base

The amount that serves as basis for the liquidation of the ICE is the cost of production or the customs value, under the terms in which the same are defined by the respective Regulation and by the customs legislation.

Article 29

Rates

The ICE rates are indicated in the attached list, are applicable at the moment at which the respective demand, to be determined in the ICE Regulation, is verified.

Article 30

Liquidation and Payment

1. The tax is liquidated by the Customs General Directorate, based on procedures to be established in the ICE Regulation and in customs regulations.
2. The tax shall be paid under the terms and under procedures to be established in the ICE Regulation and customs regulations.

Article 31

Other Obligations

The ICE Regulation establishes the accessory obligations or instruments necessary to the mechanics, operation, oversight and control of the tax.

Article 32

Deduction and Restitution of the ICE

1. The ICE shall not be the object of deduction in any direct or indirect taxes.
2. Restitution of the ICE is authorized only if it has been unduly paid, to be processed under the terms of the legislation in effect for the return of State's revenue.

Article 33

Special Regimes

Special measures can be granted to small producers, in the cases where the production is destined for private consumption by the producers and family members, as long as the products are not sold.

Article 34

Guarantees and Sanctions

1. The taxpayer guarantees are established in the General Tax Code and in the Tax Process Code and in the legislation regarding the customs fiscal infractions.
2. The penalties shall be established in accordance with the fiscal sanction system in effect.

Article 35
ICE Regulation

1. The ICE Regulation shall establish the discipline, under the terms contained in this articulate, of all the matters necessary for the correct book keeping entry, liquidation, collection, oversight and control of the ICE, without prejudice to the development of special legislation complementary to the Regulation, when the complexity of the matters, its opportunity or execution so advise.
2. Upon the effective date of the tax legislation shall be published containing adequate transition measures destined to prevent double taxation of the goods subject to the new tax and that were in the installations of the passive subject on that date.
3. The Government may establish regulation relative to the oversight of the goods in circulation.

CHAPTER IV
Customs Taxation

Article 36
Customs Table

1. The revised Customs Tables are hereby approved, in accordance with the principles described in the Articles that follow, which are annexed to this legislation.
2. The simplification and the rationalization of the customs tax system are obtained by adopting a tax unified through the consolidation of the existing impositions into a single tax on the importations.
3. The groupings of the combined taxes of Importation Duties and of the General Customs Emoluments to be replaced, is done through the criteria of rationalization and simplification referred to in the preceding number, with a maximum of seven levels and a maximum tax of fifty percent.
4. This unification does not harm the application of the Value Added Tax and the Tax on Special Consumptions, foreseen in Chapters II and III of this Legislation, and whose application is extensive to those goods, when imported.

CHAPTER V
Final Provisions

Article 37
Transitory Norm

The revised Customs Table goes into effect on the date the VAT Regulation and the ICE Regulation go into effect.

Article 38

Revocation Norm

With the going into effect of the revised Customs Table, of the VAT and the ICE Regulations, the following legislation and tax norms are revoked:

- a) Tax on Consumption, regulated by Legislative Diploma No. 1632, of 7 December 1966, and complementary legislation;
- b) The Tax on Petroleum Products, regulated by Law No. 61/IV/92, of 30 December, and complementary legislation;
- c) Tonnage Tax, regulated by Decree-Law No. 117/92, of 28 September, and complementary legislation;
- d) The Special Tax on consumption of alcoholic beverages and tobaccos, regulated by Law No. 95/IV/93, published in Official Bulletin No. 49/93, Supplement, of 31 December, and complementary legislation;
- e) The Special Tax on Fuel Storage, regulated by Decree No. 43 081, of 19 July 1960, and complementary legislation;
- f) The Ecology Tax, regulated by Law No. 128/IV/95, of 27 June, and complementary legislation;
- g) The Tourism Tax, created by Law No. 40/IV/92, of 6 April, and complementary legislation;
- h) The Duty-Free Stores exportation fee, regulated by Decree No. 423/70, of 4 September, and respective complementary legislation;
- i) The General Customs Emoluments and the Customs Stamp Tax regulated by Decree-Law No. 117/91, of 29 September, and complementary legislation.

Article 39

Effective Date

This law goes into effect on 1 January 2003.

Approved on 27 January 2002
The President of the National Assembly, *Aristides Raimundo Lima*
Promulgated on 16 August 2002

Publish it.

The President of the Republic, PEDRO VARONA RODRIGUES PIRES,
Signed 20 August 2002
The President of the National Assembly, *Aristides Raimundo Lima*