PROCLAMATION NO. 609/2008.

A PROCLAMATION TO AMEND THE VALUE ADDED TAX PROCLAMATION

WHEREAS, it has become necessary to amend the Value Added Tax Proclamation No. 285/2002;

NOW, THEREFORE, in accordance with Article 55 (1) and (11) of the Constitution of the Federal Democratic Republic of Ethiopia it is hereby proclaimed as follows:

1. Short Title

This Proclamation may be cited as the "Value Added Tax (Amendment) Proclamation No. 609/2008".

2. Amendment

The Value Added Tax Proclamation No. 285/2002 is hereby amended as follows:

1/ Sub-Article (4) of Article 2 of the Proclamation is repealed and amended by the following new Sub-Article (4):

"4/ ‘Authority’ means the Ethiopian Revenues and Customs Authority;"
2/ The following new Sub-Article (25) and (26) are added under Article 2 of the Proclamation:

"25/ ‘sales register machine’ means a cash register machine or a point of sale machine;

26/ ‘supplier’ means a person who supplies sales register machine or supplies both in one to tax payers."

3/ The phrase “any person” also the phrase “activity which is carried on continuously or regularly” in Article 6 of the Proclamation are repealed and replaced by “any registered person” and “activity whether or not carried on continuously or regularly”.

4/ The following new sub-article (5) is added following sub-article (4) of Article 7 of the Proclamation:

"5/ In the case of transactions to which sub-article 1(a) of this Article is applicable, the tax shall be withheld and be paid to the Authority by the buyer in accordance with directives issued, as may be necessary, by the Ministry of Finance and Economic Development."

5/ Paragraph (a) of sub-article (2) of Article 8 of the Proclamation is repealed and replaced by the following new paragraph (a):

"a) the sale or a dwelling used for a minimum of two years, or the lease of a dwelling."

6/ The reference to “Article 4, sub-article 3” in sub-article (6) of Article 11 of the Proclamation is repealed and replaced by “sub-article (2) of Article 4 of this Proclamation”.

7/ The reference to "Article 4, sub-article (4)" in sub-article (7) of Article 11 of the Proclamation is repealed and replaced by “sub-article (3) of Article 4 of this Proclamation”.

8/ The reference to “Article 4, sub-article 5” in sub-article (8) of Article 11 of the Proclamation is repealed and replaced by “sub-article (4) of Article 4 of this proclamation.”
9/ Sub-article (3) of Article 16 of the Proclamation is repealed and replaced by the following new sub-article (3):

"3/ A person required to register for VAT shall file an application for registration and get registered no later than the last day of the month after the end of the period specified in sub-article 1(a) of this Article, or the last day of the month in which the period specified in sub-article 1(b) of this Article ended."

10/ Sub-article (1) of Article 22 of the Proclamation is repealed and replaced by the following new sub-article (1):

"1/ Except as otherwise provided in sub-articles (6) and (7) of this Article, a person registered for VAT and carries out a taxable transaction shall be required to simultaneously issue a VAT invoice to the person who receives the goods or services. A person who is not registered for VAT may not have the right to issue a VAT invoice."

11/ Sub-article (3) of Article 22 of the Proclamation is repealed and sub-articles (4), (5), (6) and (7) are re-numbered as sub-articles (3), (4), (5) and (6) respectively.

12/ Sub-article (1) of Article 26 of the Proclamation is repealed and replaced by the following new sub-article (1):

"1/ Every registered person shall be required to:

a) file a VAT return with the Authority by appearing in person, or through electronic filing or through a third party delegated by the Authority for each accounting period, whether or not tax is payable in respect of that period; and

b) simultaneously pay the tax to the Authority or to the person delegated by the Authority by the deadline for filing the VAT return for every accounting period."

13/ The following new sub article (3), (4) and (5) are added under sub article (2) of Article 30 of the Proclamation:
“3 Officers of the Authority duly authorized to carry out investigations at the business place of a taxpayer may, without the need to have court order, seize any illegal vouchers, documents or books of account they encounter. Documents seized or obtained in such a way shall be admissible evidence in court.

4 Police force may be used against a taxpayer not willing to hand over illegal vouchers or documents.

5 For the purpose of implementing the provisions of sub article (3) of this Article, any member of the police force shall have the duty to cooperate with the officer of the Authority when requested.”

14/ Article 42 of the Proclamation is repealed and replaced by the following new Article 42:

“42. Waiver of Penalty

1/ Administrative penalties may be waived in accordance with directive issued by the Authority.

2/ Administrative penalties waived in accordance with sub article (1) of this Article may not include interest charges computed in accordance with Article 47 of this Proclamation.”

15/ The phrase “or appealed against its decision” is added at the end of sub article (2) of Article 43 of the Proclamation.

16/ Sub articles (a), (b), (c) and (d) of Article 45 of the Proclamation are renumbered as paragraphs (a), (b), (c) and (d) of sub article (1) and the following new sub article (2) is added:

“2/ For the purpose of implementing the provisions of sub article 1(b) of this Article, “incorrect invoice” means printed or computer generated receipt not authorized by the Authority, or a document containing an increase or decrease in its figures with the intention to increase or decrease the actual purchase or sales amount or as a result of negligence, or prepared by printing or duplicating receipts with identical numbers or by use of copies of all receipt or by any fraudulent means for increasing tax credit or tax refund or to get tax refund while being not entitled to it or for any other similar purpose.”
17/ The following new sub article (5) is added after sub article (4) of Article 46 of the Proclamation:

"5/ Any person who is registered for VAT and fails to file a VAT return for each accounting period, whether or not tax is payable, shall be liable for a penalty imposed in accordance with sub article 4(a) of this Article."

18/ The following new Article 47a, 47b and 47c are added after Article 47 of the Proclamation:

"47a. Penalties for Failure to Meet Requirements of the use of Sales Register Machines

Any person who has the obligation to use sales register machine shall be liable for a penalty of:

1/ Birr 50,000 if found using sales register machine or point of sales machine software not accredited or registered by the Authority;

2/ Birr 50,000 for carrying out transactions without receipt or invoice or for using any other receipt not generated by a sales register machine except at the time the machine is under repair;

3/ Birr 100,000 if caused damage to or change of fiscal memory or attempts to cause damage to or change of fiscal memory;

4/ Birr 25,000 for obstructing inspection of the audit system of a sales register machine by officer of the Authority or for failure to have annual machine inspections performed by a service center;

5/ Birr 25,000 for not having a valid service contract with an authorized service center for a sales register machine in use, or for using the sales register machine without connecting to the terminal, or for not keeping the inspection booklet besides the sales register machine, or for issuing refund receipts without properly recording the return of goods or customers' request for refund in the refund book;"
6/ Birr 10,000 for failure to inform the Authority and the machine service center within three days of the termination of a sales register machine use due to theft or irreparable damage, or within two hours for failure to report machine malfunction due to any other causes;

7/ Birr 50,000 for failure to notify the Authority the correct place of business the sales register machine is in use;

8/ Birr 25,000 for failure to notify the Authority the change of name or address or for failure to notify the Authority and the Service Center three days in advance in cases of termination of business;

9/ Birr 10,000 for failure to put a conspicuous notice containing one or all the following information at a place where the machine is installed:

   a) name of the machine user, trade name, location of trade, taxpayers’ identification number, accreditation and permit numbers for the sales register machine;

   b) text stating that “in case of machine failure sales personnel must issue manual receipts authorized by the Authority”;

   c) text that reads “Do not pay if a receipt is not issued”;

10/ Birr 30,000 for changing or improving a point of sales machine software by a person not accredited by the Authority.

47b. **Penalties for Failure to Observe Supplier’s Obligations**

Any person who is accredited and permitted for the supply of sales register machine or soft ware shall be liable for a penalty of:
1/ Birr 100,000 for failure to notify change of business address to the Authority;

2/ Birr 500,000 for selling a sales register machine not accredited by the Authority;

3/ Birr 50,000 for failure to get a machine registration code for each sales register machine from the Authority or for not affixing the machine code stickers on a visible part of the machine;

4/ Birr 100,000 for failure to notify to the Authority in advance any change made to the sales register machine in use or for inserting or adding incorrect information or for omitting the correct information from the manual that guides the use of sales register machine;

5/ Birr 50,000 for failure to notify the Authority in advance or for not being able to replace, within three days of the request made by a service center, sales register machine lost due to theft or sustained irreparable damage;

6/ Birr 500,000 for failure to keep information about service centers with which it has signed agreements or for failure to notify the Authority about contracts terminated or newly entered agreements with service centers.

Penalties for Failure to Observe Sales Register Machine Service Center's Obligations

Any Sales Register Machine Service Center shall be liable for a penalty of:

1/ Birr 20,000 for failure to report to the Authority within two days of change of the fiscal memory of a sales register machine;
2/ Birr 20,000 for failure to perform annual technical inspections on sales register machines that are under contract;

3/ Birr 50,000 for deploying every person not certified by the supplier and not registered by the Authority;"

19/ The following new Articles 50a, 50b, 50c, 50d, 50e and 50f are added after Article 50 of the Proclamation:

"50a. Failure to Register for VAT

Any taxpayer who is required to register for VAT commits an offence if found not complying with such obligation and shall, upon conviction, be punished, with a fine of not less than Birr 10,000 and not more than Birr 50,000 and imprisonment for a term of not less than one year and not more than two years.

50b. Failure to use VAT Invoice

1/ Any person who is registered for VAT commits an offence if carries out transactions without VAT invoice and shall, upon conviction, be punished with a fine of not less than Birr 10,000 and not more than Birr 100,000 and imprisonment for a term of not less than two years and not more than five years.

2/ Where the tax payable on the basis of the amount shown on the illegal invoice referred to in sub article (1) of this Article is in excess of the Birr 100,000 the fine shall be equal to the tax amount
50c. Unauthorized Use or Print of Receipt

Any person commits an offence if uses unauthorized computer generated or printed receipts or provides the service of printing unauthorized receipts and shall, upon conviction, be punished with a fine of not less than Birr 10,000 and not more than Birr 100,000 and imprisonment for a term of not less than two years and not more than five years.

50d. Violations of the Requirements of the use of Sales Register Machines

Any person who has the obligation to use sales register machine:

1/ commits an offence if found using a sales register machine not accredited or registered by the Authority and shall, upon conviction, be punished with imprisonment for a term of not less than one year and not more than two years;

2/ except at the time the sales machine is under repair, commits an offence if carried out transactions without receipt or invoice or used any other receipt not generated by a sales machine and shall, upon conviction, be punished with imprisonment for a term of not less than one year and not more than two years;

3/ commits an offence if caused damage or change to the fiscal memory of a sales register machine or attempts to cause damage or change to the fiscal memory and shall, upon conviction, be punished with imprisonment for a term of not less than three years and not more than five years;

4/ commits an offence if obstructed inspection of the audit system of a sales register machine by officer of the Authority, or if failed to have annual machine inspections performed by a service center and shall, upon conviction, be punished with imprisonment for a term of not less than six months and not more than one year;
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5/ ይቀር ለማን የተፈለች መስቀል ያለበት ለማስረጃው የሆኔን በተጠሪ የትርጎ ከሚለ ከክርክር ከንገ ለማሠረት ያስፋ ከክርክር ከንገ ለማሠረት ያስፋ ከክርክር ከንገ ለማሠረት ያስፋ ከክርክር ከንገ ለማሠረት ያስፋ

50e. መስቀል ለመንግስት

Any person who is accredited and registered to supply sales register machines:

1/ commits an offence if failed to notify the Authority a change of business address and shall, upon conviction, be punished with imprisonment for a term of not less than one year and not more than two years;

2/ commits an offence if sold a sales register machine not accredited by the Authority and shall, upon conviction, be punished with imprisonment for a term of not less than three years and not more than five years;

3/ commits an offence if failed to notify the Authority in advance any change made to the sales register machine in use, or if inserted incorrect information to or omitted the correct information from the manual that guides the use of sales register machine and shall, upon conviction, be punished with imprisonment for a term of not less than three years and not more than five years.

50f. መስቀል ለመንግስት የሚከተለው የማህበር ለመጡና ለመጠቀም

Any sales register machine service center commits an offence if deployed a service personnel that is not certified by the supplier and not registered by the Authority and shall, upon conviction, be punished with imprisonment for a term of not less than one year and not more than three years.
2/ Any personnel of a sales register machine service center commits an offence if, without the knowledge of the service center and the Authority, dismantle or assemble a sales register machine, or if deliberately removed the seals on a sales register machine or changed parts of a sales register machine not reported to have any break down, or if committed any similar act and shall, upon conviction, be punished with a fine of not more than Birr 5,000 and imprisonment for a term of not less than one year and not more than three years.

20/ The phrase “imprisonment for a term of two (2) years” in sub article (1) of Article 51 of the Proclamation is repealed and replaced by “imprisonment for a term of not less than one year and not more than two years;”

21/ Sub articles (2) and (3) of Article 53 of the Proclamation are re-numbered as sub-articles (4) and (5) and the following new sub articles (2) and (3) are added:

2/ Any employee of the Authority who, in violation of the rules and procedures of the use of sales register machines:

a) Dismantles or assembles a sales register machine or approves its utilization without the presence of a service personnel or changes the machine registration code; or

b) Knowingly or negligently fails to report to the Authority, within 24 hours, offences committed by the user or service center or its personnel or supplier of a sales register machine;

Commits an offence and shall, upon conviction, be punished with a fine of not less than Birr 5,000 and not more than Birr 10,000 and imprisonment for a term of not less than one year and not more than three years.
3/ The Authority's officer shall be held responsible for any damage caused to a taxpayer by delaying without any good cause, the performance of his/her duty. Such employee in addition to being held liable for the damage, shall, upon conviction, be punished with imprisonment for a term of not less than one year and not more than two years."

3. Effective Date

This Proclamation shall enter into force up on the date of publication in the Federal Negarit Gazeta.

Done at Addis Ababa, this 25th day of December, 2008

GIRMA WOLDEGIORGIS

PRESIDENT OF THE FEDERAL
DEMOCRATIC REPUBLIC OF ETHIOPIA