

## CHAPTER VIII

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# VALUE-ADDED AND NON-VALUE-ADDED BUSINESS TAX (VANVABT)

### I. General Description

Business tax was first adopted in the ROC in July 1928 as a multiple-stage gross business receipt tax (hereinafter referred to as GBRT). From then, although the tax underwent thirteen amendments before 1985, the basic principle of levying tax on multiple-stage gross receipts remained unchanged. In theory, a GBRT causes problems of double taxation and a cascade effect and has the following adverse effects on the economy:

#### A. Intervention in Business Structure and Decrease in Economic Efficiency

Because a GBRT is levied on gross receipts at every transaction stage, its amount is directly proportionate to the number of turnovers. Thus, a GBRT prefers vertical business integration to horizontal professionalization. The effect on business structure acts against the principle of neutrality, distorting the allocation of resources, and decreases economic efficiency.

#### B. Augmentation of Investment Costs and Offsetting of Investment Incentives

As capital goods are taxable under a GBRT system, it increases the investor's costs, decreases his or her investment yield, offsets investment incentives, and eventually hinders economic development.

#### C. Boosting Export Prices and Undermining Export Competitiveness

The complications in the tax rebate calculation and procedures boost the prices of export goods and thus weaken export competitiveness.

#### D. Causing Unfairness

The difficulties in cross-checking transactions encourage tax evasion, i.e., evasion is more favored than compliance.

Therefore, in 1969 the Executive Yuan Commission on Tax Reform proposed replacing the GBRT with a value-added tax (hereinafter referred to as VAT) as was then prevalent in the EEC countries. As people felt the country was not yet ready for a replacement, the study of the VAT system continued. Finally, the new business tax act (value-added tax in nature) was enacted on 15<sup>th</sup> November, 1985. The MOF then established the New Business Tax Implementation Committee to draft relevant rules and regulations, and also proposed that the Executive Yuan put the new business tax act into effect on 1<sup>st</sup> April, 1986.

## II. Tax Scope

According to Article 1 of the VANVABT Act, business tax, in the form of value-added or non-value-added tax, shall be levied upon the sale of goods and services within the territory of the ROC as well as upon imported goods. In other words, any transaction of goods or services within the territory of the ROC including importation of goods is subject to business tax.

### A. Transaction of Goods or Services within the Territory of the ROC

#### 1. Transaction of goods

Transaction of goods is defined in Article 3 of the VANVABT Act as transfer of the ownership of goods to others for a consideration. Such a consideration is not limited to goods in exchange for money. The exchange of goods for other goods is also included. Therefore, as long as the ownership of goods is transferred, business tax shall be levied, and the question of whether the consideration is paid in money or ascribed to “accounts receivable” is irrelevant. Sometimes, for the sake of fairness, and to prevent tax evasion, business tax is imposed on transfer of ownership even when no consideration is present. In pursuance of Paragraph 3 of Article 3 of the VANVABT Act, the following circumstances shall be deemed as a transaction of goods:

- a. Where a business entity consumes goods produced, imported, or purchased by the business entity for sale but in fact used by itself or transferred to others for no consideration.
- b. Where a business entity is dissolved or shut-down, goods are used to redeem debt, distributed to shareholders or investors, and inventory left over.
- c. Where a business entity purchases goods under its own name on behalf of a third party and delivers the goods to the third party.
- d. Where a business entity consigns goods to others for sale.
- e. Where a business entity sells consigned goods.

However, when either of the aforesaid circumstances a. or b. apply to a non-profit-seeking enterprise, institution, organization, or association, or to a business entity that engages solely in the business of tax-exempt goods or services, such circumstance shall not be deemed as transaction of goods if it is discovered that the input tax has not been reported and deducted from the output tax.

In addition, where trust property is transferred or otherwise disposed of based on any of the following trust relationships, for such a trust property a transaction shall not be regarded as having occurred for such trust property:

- a. Between the settlor and the trustee, due to the creation of a trust deed.
- b. Between the original trustee and a new trustee, upon a transfer of the trustee during the term of the persistence of the trust relation.

- c. Between the settlor and the trustee due to a failure of trust deed establishment, a rendering of null and void, cancellation, revocation, or the termination of the trust relationship.

2. Transaction of services

Pursuant to Paragraph 2 of Article 3 of the VANVABT Act, transaction of services is defined as rendering services to others or supplying goods for the use of others for a consideration. As the dichotomy is adopted in the VANVABT Act, all items fall into the category of either goods or services. Business tax shall be levied on all such transactions or presumed ones.

However, such transaction of services shall not include professional services rendered by professional practitioners and services performed by individual employees.

3. Place of transaction

Since business tax is only chargeable on transactions which occur in the territory of the ROC, determination of the place of transaction is particularly important. Article 4 of the VANVABT Act states that under any one of the following circumstances, there is a transaction of goods or services within the territory of the ROC:

- a. Where transport is required to effectuate the transaction of goods, and the origin of such transport is within the territory of the ROC.
- b. Where transport is not required to effectuate the transaction of goods, and the goods are located within the territory of the ROC.

For instance, when a business entity registered within the territory of the ROC sells a house located in Los Angeles to another business entity also registered within the territory of the ROC and concludes the transaction in Taipei, because the house is outside the territory of the ROC, the VANVABT is not applicable.

- c. Where services are provided or utilized within the territory of the ROC.

For example, if a domestic corporation purchases a trademark from a company in the USA, although the service is rendered in the USA, this transaction is taxable as long as the trademark is used in the ROC. If a domestic company sells its patent to a foreign company, although the patent is used overseas, it is within the scope of the VANVABT since the patent is issued by the ROC. In this case, the supply of patents to foreign companies is treated as export of services and is zero-rated.

- d. Where an international transport enterprise carries outbound passengers and cargoes from the territory of the ROC.
- e. Where a foreign insurance enterprise accepts reinsurance policies from an insurance company within the territory of the ROC.

## B. Import of Goods

If a domestic consumer does not have to pay business tax to purchase imported goods but has to pay tax for domestic goods, he or she will be induced to spend most of his or her money on imported goods. In such a case, domestic manufacturers would suffer from reverse protection. Therefore, based on the principle of fairness, it is necessary to levy business tax on imported goods as well.

Any of the following circumstances is an import of goods:

1. The transport of goods into the ROC, with the exception of the transport of bonded goods into a bonded zone.
2. The transport of bonded goods from a bonded zone into any other area of the ROC.

When a business entity pays a business tax on its imported goods, the business tax paid is treated as its input tax and can be credited against its output tax on the next tax return. There is no tax burden for such a business entity.

## III. Taxpayers

In pursuance of Article 2 of the VANVABT Act, a business tax liability is imposed on the following taxpayers:

1. A business entity which supplies goods or services;
2. A consignee or holder of imported goods; and
3. A purchaser of services supplied by a foreign enterprise, institution, organization, or association which has no fixed place of business within the territory of the ROC. However, if an international transport enterprise, having no fixed place of business within the territory of the ROC, appoints a local agent, that agent shall hold the status of a taxpayer.
4. The transferring party or the party that changes the purpose of use if the agricultural or fishery fuel oil referred to in Subparagraph 27 or 28 of Paragraph 1 of Article 8 of the VANVABT Act loses tax-exempt status due to a transfer or to a change in the purpose of use. However, in the event that the transferring party or the party that changes the purpose of use is unknown, the taxpayer is the holder of the goods.

The aforesaid taxpayer categories from 1. to 3. are further explained as follows:

### A. A Business Entity Which Supplies Goods or Services

A business entity is defined in Article 6 of the VANVABT Act to include any profit-seeking enterprise, non-profit-seeking enterprise, institution, organization, or association which supplies goods or services, and the fixed place of business of foreign enterprises, institutions, organizations, or associations within the territory of the ROC.

Two classes of business entities are distinguished in the VANVABT Act according to how the business entity computes its tax liability. The first class (hereinafter referred to as a

VAT business entity) computes its tax liability in accordance with Section 1, Chapter 4 of the VANVABT Act by offsetting its output tax by its input tax. The other class (hereinafter referred to as a GBRT or NVAT business entity) computes its business tax according to Section 2, Chapter 4 of the VANVABT Act by gross receipts.

#### B. A Consignee or Holder of Imported Goods

Since importation of goods is within the scope of the business tax, it is necessary to define the taxpayer of imported goods. Because the supplier of imported goods is outside the tax jurisdiction of the ROC, he or she shall not be considered a taxpayer; but, however, because the business tax in essence is the responsibility of the consumer, the consignee or holder of the imported goods shall be regarded as a taxpayer. Consignees or holders of imported goods shall include profit-seeking enterprises, non-profit enterprises, institutions, organizations or association, and individuals. An individual may be considered a taxpayer if he or she is in possession of imported goods during the customs clearance process. Thus, the taxpayer of imported goods is not limited to the business entity.

#### C. A Purchaser of Services Sold by a Foreign Enterprise, Institution, Organization, or Association Which Has No Fixed Place of Business in the ROC

Because services such as trademarks, patents, and computer programs may be intangible and the time of their import may be difficult to trace, Article 1 of the VANVABT Act does not explicitly specify imported services as taxable items. Nevertheless, if a foreign company has a fixed place of business in the ROC, in accordance with Paragraph 3 of Article 6 of the VANVABT Act, any service supplied by such foreign company is treated the same as the supply of services within the jurisdiction of the ROC, and the fixed place of business becomes the taxpayer. When there is no fixed place of business within the ROC, and since the real business tax burden is on the consumer, the purchaser shall bear the tax liability for imported services.

If any agent is appointed to handle the business of foreign international transport enterprises without a permanent business establishment in the ROC, the agent shall be the taxpayer.

Pursuant to Paragraph 1 of Article 36 of the VANVABT Act, if a service is purchased by a VAT business entity solely to supply taxable goods or services from a foreign company without a fixed place of business in the ROC, the VAT business entity shall be immune from business tax at the time of importation.

### IV. Zero-Rating and Exemptions

With respect to exemptions, the ROC shares a common feature with other countries adopting value-added tax, namely that there are two basic forms of exemptions, zero-rating and exemption.

#### A. Zero-Rating

Applying zero rating to exportation is a basic feature of countries adopting VAT. The rationale for this regulation is based on the “destination principle,” which means that since value-added tax is a consumption tax in nature, it is only due when the taxable goods or services are consumed. Since the exported goods or services will not be consumed within the territory of the exporting country, the exporting country shall not levy value-added tax on such exportation.

1. The definition of zero-rating

Zero-rating is defined as an exemption with credit for input tax previously paid. Where the transaction is subject to VANVABT at a nil rate, the business entity is entitled to credit its input tax previously paid on purchases. For instance, if the sale price of a zero-rated good is NT\$1,000 and its input cost is NT\$800, the output tax is zero ( $\text{NT\$1,000} \times 0\%$ ) and the amount of creditable input tax is NT\$40 ( $\text{NT\$800} \times 5\%$ ). Because the overpaid tax may be fully refunded, there is virtually no tax burden on that product.

2. Qualification for zero-rating

The ROC allows only a rather limited range of goods and services for zero-rating treatment. It is applied only to transactions closely related to export sales. According to Article 7 of the VANVABT Act, the following goods or services shall be given a zero rating:

- a. Export goods;
- b. Services relating to export or services provided in the ROC but used in a foreign country;
- c. Goods sold to outbound or transit passengers by duty-free shops established under applicable law;
- d. Goods or services sold to a bonded zone business entity for its operational use;
- e. International transportation. However, foreign transport enterprises engaging in international transportation within the territory of the ROC may qualify for zero-rated tax, only if provided that reciprocal treatment, such as exemption from similar taxes, is given to international transport enterprises of the ROC by the foreign country in which the foreign enterprise is incorporated;
- f. Vessels and aircraft used in international transportation and deep sea fishing boats;
- g. Sales of goods and maintenance services to vessels and aircraft used for international transportation and deep-sea fishing boats;
- h. Goods sold by a bonded zone business entity to a taxable zone business entity and exported directly without being transported to the taxable zone;

- i. Goods sold by a bonded zone business entity to a taxable zone business entity for export and placed in a bonded warehouse or logistics center administered by an enterprise inside a free trade zone or by Customs.

### 3. Exhibitors' VAT Refund System

In order to help local firms to extend the international market and lighten operational costs, the MOF augmented Article 7-1 of the VANVABT Act to establish the exhibitors' VAT refund system. Since 1<sup>st</sup> July, 2010, foreign enterprises, institutions, organizations, or associations without fixed places of business within the territory of the ROC, which purchase the goods or services on which VAT is levied to a total of NT\$5,000 or more (NT\$2,500 or more within the period of 1<sup>st</sup> July to 31<sup>st</sup> December, 2010) for the purpose of engaging in exhibitions, business trips, investigation of market conditions, performance of market research, generation of business, holding of marketing seminars, and other such temporary business activities within the period of one year, may apply to the competent tax authority for a VAT refund based on the principal of reciprocity.

## B. Exemptions

### 1. The definition of exemption

The term "exemption" is defined as an exemption without credit for business tax previously paid. Since input tax on purchases is not creditable by an exempt business entity, exemption is not as advantageous as a zero-rating.

### 2. The range of exemptions

#### a. Supply of goods or services:

Under Paragraph 1 of Article 8 of the VANVABT Act, the following 31 categories of goods or services are exempt from business tax

- (1) The sale of land.
- (2) Water supplied to farmland for irrigation.
- (3) Medical services, medicines, ward lodging and meals provided by hospitals, clinics, and sanitariums.
- (4) Social welfare services provided by social welfare organizations or institutions or labor organizations, duly established with the permission of the competent authority, and social welfare services consigned by the government.
- (5) Education services offered by schools, kindergartens, and other educational and cultural institutions including cultural services offered under government consignment.
- (6) Textbooks issued by the publishing industry and authorized by education authorities for use at various levels of schools and important specialized academic writings as designated by the government according to the law.

- (7) Goods or services sold by student-run shops of vocational schools which do not serve outsiders.
- (8) Newspapers, magazines, newsletters, advertisements, television and broadcasting programs produced and sold by legally-registered newspaper and magazine publishers, news agencies, and television and broadcasting stations, excluding the advertisements sold by newspaper publishers and advertisements broadcasted by television stations.
- (9) Goods or services sold to their members by co-operatives managed in accordance with the law; and business consigned by the government to the said co-operatives.
- (10) Goods or services sold to their members by farmers', fishermen's, workers', commercial, and industrial associations in accordance with the law, business consigned by the government to the said associations, and the management fee charged in accordance with Article 27 of the Agricultural Products Market Transaction Act for the use of an agricultural products wholesale market and in which the share ownership of farmers' associations, fishermen's associations, co-operatives, and government institutions accounts for more than 70%.
- (11) The proceeds from goods sold in tenders, charity sales, and charity shows held by charity and relief institutions organized according to the law, provided that the total proceeds are solely used by the said institutions after deducting the necessary expenditures for the tenders, charity sales, and charity shows.
- (12) Goods or services sold by employee welfare organizations of government bodies, state enterprises, and social organizations which are organized and operated under relevant laws and are not open to the public.
- (13) Goods or services sold by prison workshops and their finished goods stores.
- (14) Services rendered by post and telecommunication offices in accordance with the law; and business consigned under government mandate.
- (15) Monopoly goods sold at statutory prices by state-owned monopoly industries and by business entities which are authorized to sell the monopoly goods.
- (16) The service of consigned sale of stamp tax tickets and postage stamps.
- (17) Goods or services sold by peddlers or hawkers.
- (18) Feed and unprocessed raw agricultural, forestry, fishing, and livestock products, and their by-products; and the agricultural, forestry, fishing and livestock products, and their by-products of farmers' and fishermen's harvests sold by farmers and fishermen.
- (19) The fish caught and sold by fishermen.
- (20) Sales of rice and wheat flour and the service of husking rice.

- (21) The sale of fixed assets which are not regularly traded by business entities which compute their business tax according to Section 2 of Chapter 4 of the VANVABT Act.
- (22) Insurance policies accepted by insurance enterprises for insurance promoted by the government covering military, government, and education entities and their dependents; laborers; students; farmers; fishermen; exports; compulsory automobile third-party liability insurance; reinsurance premiums paid out by insurance enterprises from premiums received by the same; life insurance policy reserves, annuity insurance policy reserves and health insurance policy reserves; however, this item does not include income, other benefits and return of policy reserves received on termination of life insurance, annuity insurance, or health insurance.
- (23) Bonds issued by all levels of government and securities upon which a securities transactions tax has been imposed in accordance with the law.
- (24) Residual or obsolete goods sold at tender by all levels of government.
- (25) The sale of weapons, warships, aircraft, tanks, and reconnaissance communication equipment for military use to defense agencies.
- (26) Fertilizer, pesticides, veterinary drugs, agricultural machinery, transportation equipment for farmland, and fuel oil and electricity used by such machinery and equipment.
- (27) Fishing boats for coastal or inshore fishery and machinery, equipment, nets, and fuel oil used by fishing boats.
- (28) Interest on the flow of funds between the head and branch offices of banking enterprises, the revenue of trust and investment enterprises derived from trust funds in such manner designated by the trust or provided the trust bears the risk of loss and enjoys the proceeds, and unredeemed items where the proceeds arising from their sale by pawnshops does not exceed the aggregate of principal and interest receivable.
- (29) Gold bars, gold bricks, gold foil, gold coins, and gold ornaments, where the processing fee is not included.
- (30) Research services supplied by scientific or technological institutions which are established under the approval of the government.
- (31) The sale of services for the operation of financial derivatives products, corporate bonds, financial debentures, New Taiwan dollar interbank call loans, and foreign currency call loans; however, commissions and service charges for these products are not included.

Under Paragraph 1 of Article 8-1 of the VANVABT Act, the proceeds from goods sold in auctions, charity sales, and from benefit performances held by a settlor of a

charitable trust may be exempted from the business tax, provided that the proceeds, after deducting the necessary expenses of the auctions, charity sales, and benefit performances are entirely and solely for the use of by the charity.

b. Importation of goods:

Under Article 9 of the VANVABT Act, importation of the following goods shall be exempted from business tax:

- (1) Ships and aircraft used in international transportation and deep sea fishing boats.
- (2) Fertilizer.
- (3) Gold bars, gold bricks, gold foil, gold coins, and gold ornaments.
- (4) The goods specified in Article 49 of the Customs Act, provided, however, that in case of the transfer of ownership or change in the purpose of use that results in supplementary payment of customs duties under Article 55 of the Customs Act, the business tax so exempted will become due and payable.
- (5) National antiques.

In addition, according to Article 9-1 of the VANVABT Act, in the case of dealing with an extraordinary economic situation, or a situation to accommodate the supply of goods, the Executive Yuan may make an adjustment in the business tax on certain categories of goods, currently including imported wheat, barley, corn, and soy beans and the restriction of Article 10 does not apply. The categories of goods subject to adjustment of business tax referred to in the preceding sentence, the range of actual adjustment, and the dates for commencing and terminating such adjustment shall be drawn up jointly by the MOF and the related authorities, and be submitted to the Executive Yuan for approval.

- c. Public and private schools at any level or educational or research institutions purchasing services provided by foreign enterprises, institutions, organizations, or associations having no fixed place of business within the territory of the ROC to be used for education, research, or experiment are not required to pay business tax.

3. Waiver of exemption

Under the tax credit method, exemption without credit in the intermediate stage will generate a “catch-up effect.” When only one intermediate stage is exempt, the purchaser at the next stage has no creditable input tax and has to pay output tax. In that case then, the tax exemption at the intermediate stage is caught up in the subsequent taxable transaction. Furthermore, because the input tax of the exempt stage is not creditable and is merged into the cost, a cascade effect will then occur in the next taxable turnover.

Since an exemption from business tax under Paragraph 2 of Article 8 of the VANVABT Act may not always be advantageous to business, a waiver of exemption is allowed, subject to the approval of the MOF. However, to prevent possible tax

avoidance through waiver and to mitigate the administrative costs, once the business entity receives approval from the MOF, no changes can be made within the next three years.

## V. Tax Rates

In conformity with Articles 10, 11, 12, 13 and 36 of the VANVABT Act, the business tax rates which apply respectively according to business category are listed as follows:

- A. Article 10 : The business tax rate for business entities other than those listed below, namely VAT business entities, shall be not more than 10% and not less than 5%, subject to the prescription of the Executive Yuan. The current applicable tax rate is 5%.
- B. Article 11 : Starting from 1<sup>st</sup> July, 2014, the business tax rate shall be 5% for enterprises engaged in banking and insurance for banking and insurance business, and the business tax rate shall be 2% for enterprises engaged in banking, insurance, investment trusts, securities, futures, commercial paper, and pawnshops for their core business separate from banking and insurance business, but 5% for all other operations which are non-core business, and 1% for the reinsurance premiums of insurance enterprises.
- C. Article 36 : The business tax shall be imposed at 2% on the payment for services provided by a foreign enterprise engaging in banking, insurance, investment trust, securities, futures, commercial paper and pawnshops which have no fixed place of business within the territory of the ROC and such services are categorized as core business separate from banking and insurance business exclusive to those enterprises.
- D. Article 12 : The business tax rates for enterprises engaging in special beverage and food services are further classified as follows:
  - 1. 15% for night clubs or restaurants providing entertainment; and
  - 2. 25% for saloons or tearooms, coffee shops, and bars offering companionship services.
- E. Article 13 : The business tax rate for consignees in agricultural wholesale markets and small businesses supplying agricultural products is 0.1%. For small businesses and massage enterprises run by visually impaired persons who have duly obtained qualifications to engage in massage operations, and that are entirely staffed with visually impaired persons to provide massage services and other business entities which are excluded by the MOF from reporting their transactions, the business tax rate shall be 1%.

## VI. Tax Computations

Business entities are the main taxpayers of the VANVABT. VAT business entities calculate their tax liabilities according to Section 1 of Chapter 4 of the VANVABT Act, whereas NVAT (GBRT) business entities calculate their tax liability according to Section 2 of the same chapter.

### A. General Computations

The tax credit method is adopted to compute the business tax liability of VAT business entities. In other words, the business tax payable or overpaid by a business entity shall be the difference between the input tax and the output tax for that tax return period according to Article 15 of the VANVABT Act. The term “input tax” is defined as the amount of business tax paid by the business entity, in accordance with the VANVABTA Act, upon purchase of goods or services. The term “output tax” is defined as the amount of business tax that the business entity shall collect, in accordance with the VANVABTA, upon the sale of goods or services.

Pursuant to Article 14 of the VANVABT Act, the amount of output tax shall be calculated by the total sales amount of goods or services.

In this respect, the total sales amount shall include all considerations accrued from the sale of goods or services, including any extra charges, except for the output tax at the current stage. In the case that the goods are subject to commodity tax, tobacco and alcohol tax, or the health and welfare surcharge on tobacco, the sales amount shall include the amount of the commodity tax, the tobacco and alcohol tax, or the health and welfare surcharge on tobacco.

The standard for determining the sales amount of major transaction styles is as follows:

1. Exchange of goods or services

The sales amount of the sale in the case of the exchanging of goods or services between two business entities shall be the higher current price for goods or services traded-in and traded-out.

2. Deeded sales of goods

- a. In the case that a business entity itself consumes or gratuitously transfers the ownership of self-manufactured, imported, or purchased goods to others without a consideration, the sales amount shall be the current price of goods.
- b. In the case that a business entity is dissolved or shut-down and distributes any goods left over to its shareholders, investors, or debtors, the sales amount shall be the current price of goods.
- c. In the case that a business entity purchase goods on behalf of a third party, the sales amount shall be the purchase price of the goods. In such case, the parties involved shall prepare a written contract for verification.
- d. When a business entity consigns others to sell goods or sell goods on consignment, the sales amount shall be the agreed sales price of the consigned goods. In such case, the parties involved shall prepare a written contract for verification.

3. Installment payments

When a business entity sells goods by installment, the sales amount shall be the account receivable in each installment.

## 4. Sales amount of houses

Where a business entity sells a parcel of land together with the building fixed on the land, unless the selling price for the land and that of the building are stated separately, the sales amount for the building shall be calculated in accordance with the following formula:

$$\text{Sales Amount of the Building} = \frac{\text{Assessed Standard Price of the Unit of the Building} \times (1 + \text{Applicable tax rate})}{\text{Government-Assessed Current Value of the Land} + \text{Assessed Standard Price of the Unit of the Building} \times (1 + \text{Applicable Tax Rate})} \times \text{Sales Amount of the Land and Building}$$

## 5. Issuance of uniform invoices in advance

When a business entity issues a uniform invoice before it delivers of goods or before it renders services, the sales amount shall be the amount specified on the uniform invoice.

## 6. Bonuses

The incentive bonus earned or paid by a business entity in accordance with a sales contract shall be treated as a purchase or sales discount, respectively.

## 7. Security deposits of a lease

Where a VAT business entity leases its property and receives deposits, the sales amount shall be calculated each month by the following formula:

$$\text{Sales Amount} = \frac{\text{Security Deposit} \times \frac{\text{Fixed Interest Rate for a One-Year Postal Time Deposit as Announced on 1}^{\text{st}} \text{ January of the Lease Year}}{12}}{1 + \text{Applicable Tax Rate}}$$

To calculate the amount of total input tax, the business entity is to add up the amount of input tax specified in the qualified input documents.

The term “qualified input document” pursuant to Article 33 of the VANVABT Act refers to the following documents, each of which should bear its name, address, and business administration number.

1. A uniform invoice specifying the business tax paid on purchases of goods or services;
2. A uniform invoice specifying the amount of business tax issued by the business entity itself under circumstances deemed as sales of goods or services; and
3. Other documents specifying the amount of business tax and approved by the MOF.

The amount of business tax payable/overpaid is determined by crediting total input tax against total output tax. However, the following input tax may not be creditable:

1. Where the document is not obtained or kept in accordance with regulations;
2. The goods or services purchased are not for the use of the principal or ancillary business operations, excluding donations to the government;
3. Goods or services are used for the purpose of public relations;
4. Goods or services are used for rewarding individual employees; and
5. Passenger cars are for personal use.

According to Article 20 of the VANVABT Act, the business tax on imported goods shall be calculated at 5% based on the total amount of the value of duty payable and customs duty. If the imported goods are subject to commodity tax, tobacco and alcohol tax, or the health and welfare surcharge on tobacco, the business tax shall be calculated based on the above-mentioned amount plus the commodity tax, the tobacco and alcohol tax, or the health and welfare surcharge on tobacco.

## B. Special Computations

Special computations apply to GBRT business entities, and their computations are found under Article 11 and Article 21 of the VANVABT Act as follows:

### 1. Financial institutions

The term “financial institution” includes enterprises engaged in banking, insurance, investment trusts, securities, futures, commercial paper, and pawnshops.

Article 11 of the VANVABT Act provides that the business tax rate of the aforesaid enterprises shall be 5% for their sales amounts which are not connected exclusively with their core business, and also that of banking and insurance enterprises shall be 5% for their sales amounts which are connected with banking and insurance business; however, property insurance enterprises shall deduct the amounts of compensation when computing their business tax payable, and, moreover, also types of financial institutions shall be taxed at 2% of their sales amounts which are connected exclusively with their core business separate from banking and insurance business, but the sales amounts from reinsurance premiums shall be taxed at 1%.

Owing to the small scale of the operation of pawnshops, according to Article 21 of the VANVABT Act, the business tax of pawnshops may be based on the sales amounts which is assessed by the regional tax office concerned.

### 2. Special beverage and food services

The business tax for night clubs or restaurants providing entertainment shall be 15% of their sales amount; the business tax for saloons or tearooms, coffee shops, and bars offering companionship services shall be 25% of their sales amount.

The business tax for these business entities shall be 5% of their sales amount; however, the regional tax office may also assess their sales amount according to Article 22 of the VANVABT Act.

3. The business tax of agricultural wholesale market consignees and small businesses selling agricultural products shall be 0.1% of their assessed sales amount.

4. Small businesses

The term “small businesses” refers to business entities which have average sales of less than NT\$200,000 per month and are excluded from issuing uniform invoices. Their business tax shall be 1% of the sales amount as assessed by the competent tax authority.

If an agricultural wholesale market consignee or a small business receives documents specifying the amount of input tax and submits the aforesaid documents to the competent tax authority pursuant to regulations, it may deduct 10% of the amount of its input tax against the assessed tax due.

5. Business entities operating businesses of a special nature:

For massage enterprises run by visually impaired persons who have duly obtained qualifications to engage in massage operations, and that are entirely staffed with visually impaired persons to provide massage services, barbershops and hair salons, bathhouses, taxi operations, and other businesses approved by the MOF, the business tax is 1% of their assessed sales amount.

### C. Partial Tax Credit for Business Entities

In conformity with the VANVABT Act, VAT business entities may credit their input tax, but NVAT and exempt business entities may not. Therefore, if a business entity sells both taxable and exempt goods at the same time or engages in an integral business that computes its business tax liability partially under Section 1 and partially under Section 2 of Chapter 4, the business entity may compute its creditable input tax by either of the following two methods:

1. Proportional method

Creditable Input Tax = (Total Input Tax - Non-Creditable Input Tax under Article 19 of the VANVABT Act) × (1 - Non-Creditable Ratio)

The non-creditable ratio shall be the fraction of the exempt sales or sales under Section 2 of Chapter 4 in proportion to the total sales. The non-creditable ratio is subject to an adjustment at the end of a calendar year.

2. Direct credit method

With effect from 1<sup>st</sup> September, 1992, a business entity that meets certain criteria may calculate its creditable input tax by subtracting the following items from total input tax:

- a. Non-creditable input tax under Article 19 of the VANVABT Act;

- b. Input tax directly attributed to exempt supplies; and
- c. Input tax attributed to both taxable and exempt supplies times the non-creditable ratio. The non-creditable ratio is also subject to an adjustment at the end of a calendar year.

#### D. Deemed Input Tax Deduction Mechanism for Selling Used Vehicles

If a business entity sells its used passenger car or motorcycle purchased from an individual, government institution, or other business entity calculating business tax liability according to Section 1 of Chapter 4 of the VANVABT Act, such business entity shall calculate the input tax by the following formula:

$$\text{Input tax} = \frac{\text{Purchase cost of the used passenger car or motorcycle}}{1 + \text{Applicable tax rate}} \times \text{Applicable tax rate}$$

The business entity shall report the input tax as referred to in the preceding paragraph in order to deduct the output tax of the used passenger car or motorcycle in the same period in which it reports the sale amount of such passenger car or motorcycle. However, if the input tax of the used passenger car or motorcycle is higher than the output tax of the aforesaid vehicle, the excess portion shall not be deducted.

When the business entity files the input tax as referred to in the first paragraph above, it shall provide relevant documents concerning the purchase of the aforesaid used passenger car or motorcycle.

#### VII. Tax Returns, Payments and Refunds

A business entity shall, prior to the 15<sup>th</sup> day of the following month, file a tax return with the competent tax authority for the amount of total sales and business tax payable/overpaid for the preceding two months on a return form affixed with deductions, refunds, and other relevant documents. The return shall be filed even if no sale occurred in the preceding two months. In the event that there is a business tax payable, payment shall be made to the Treasury first, and the receipts of payment shall be filed together with this return.

A business entity selling goods or services subject to a zero rating may apply for approval to file tax returns on a monthly basis.

In principle, where a business entity sets up a head office and other fixed place of business in different areas, separate tax returns shall be filed respectively with the local competent tax authorities. However, a business entity which computes its business tax liability under Section 1 of Chapter 4 may apply to the MOF for approval to file a consolidated return at the competent tax authority of the head office.

The business entity, upon filing a tax return, shall attach the following documents:

- A. Deduction copy of uniform invoices, stating the amount of business tax;

- B. Deduction copy of the certificate of payment for business tax collected by Customs, stating the amount of business tax;
- C. Photocopy of the receipt copy of the duplicate uniform invoices issued via cash registers, stating the business administration number of the business entity;
- D. Documentary evidence of return of or allowance for sale or purchase, and the “Declaration of Overpaid Business Tax Returned by the Customs;”
- E. Documents required to be qualified for zero-rating;
- F. Documentary evidence as prescribed in Article 14 of the Enforcement Rules of VANVABT Act;
- G. “Statement of Input Vouchers of a Business Entity Purchasing Used Passenger Cars or Motorcycles;”
- H. Deduction copy of the receipt issued by a water company, electricity company, gas company, or other public utility company, stating the purchaser's name, address, and business administration number;
- I. With respect to the share of input tax paid by the business entity for water, electricity, or gas utility expenses it shares with others, a photocopy of the water, electricity, or gas utility bill and the documentary evidence of the apportioned expense and tax paid by the business entity;
- J. A photocopy of the receipt or stub of the train (coach) ticket, high speed railway ticket, boat ticket, or airplane ticket purchased for an employee's business trip and issued by a transportation enterprise;
- K. With respect to goods auctioned or sold off by Customs, the deduction copy of the “List of Goods Auctioned or Sold” issued by Customs;
- L. Other vouchers approved by the Ministry of Finance and containing the amount of business tax, or a photocopy thereof.

Generally speaking, after crediting input tax against output tax, in the case that there is tax payable, the taxpayer shall file and pay that amount to the competent tax authority; in the case that the tax is overpaid, the credit will be carried forward to offset future tax payable. Nevertheless, where any one of the following events occurs, the overpaid business tax shall be refunded after verification by the competent tax authority:

- A. The overpaid amount of business tax results from sales subject to a zero-rating under Article 7 of the VANVABT Act;
- B. The overpaid amount of business tax is on the acquisition of fixed assets, and for cancellation of registration by means of merger/consolidation, transfer of ownership, dissolution or cessation of business.

In other words, the principle of treating the overpaid tax is to carry the amount overpaid forward, and refunding is strictly limited to the abovementioned cases or under special

circumstances approved by the MOF.

## VIII. Penalty Provisions

### A. Penalties Concerning Registration

1. A business entity failing to apply for a business registration shall be punished with a fine of not less than NT\$3,000 and not more than NT\$30,000.
2. In any of the following circumstances, a business entity shall be fined from between NT\$1,500 to NT\$15,000:
  - a. The business entity fails to comply with the rules to apply for amendment to registration, de-registration, temporary suspension, or resumption of business.
  - b. The business entity makes false statements in applying for business registration, amendment to registration, or de-registration.
  - c. The business entity fails to submit the account books to the competent tax authority for examination and stamping within the prescribed time period.

### B. Penalties Concerning Uniform Invoices

In any of the following circumstances, a taxpayer shall be fined from between NT\$3,000 to NT\$30,000:

1. Where uniform invoices have not been used, although prescribed.
2. Where uniform invoices have been supplied for use by others.
3. Where there is refusal to accept payment notice of business tax.
4. If a business entity fails to record the necessary particulars or records false data on issuing uniform invoices, it shall be fined 1% of the sales amount on the uniform invoice. The fine shall be not less than NT\$1,500 and not more than NT\$15,000.
5. A business entity found to have failed to issue uniform invoices or understated sales amounts on uniform invoices, in addition to paying the tax calculated on the basis of the understated or omitted sales amount at the prescribed tax rate, shall be fined one to ten times of the amount of the tax evaded. Business entities found to have committed such a violation three times within a one-year period shall be suspended from business operation.

### C. Penalties Concerning Return and Payment

1. If a business entity fails to file the sales amount or the detailed list of uniform invoices used within the prescribed time limit, the business entity shall be liable to a surcharge for belated filing of 1% of the tax payable for every two days overdue, provided that the filing is past due for less than 30 days. The fine shall not be less than NT\$1,200 and not more than NT\$12,000. If the filing is past due in excess of 30 days, the business entity shall be liable to a surcharge for non-filing of 30% of the assessed tax payable.

The amount of this surcharge shall not be less than NT\$3,000 and not more than NT\$30,000.

2. A taxpayer failing to pay any tax or surcharge for belated filing or non-filing within the specified time limit shall be subject to a 1% surcharge on late payment for every two days in arrears, starting from the day immediately following the date the time limit expires.
3. Any amount of the aforementioned tax or surcharges shall be subject to interest charges calculated on a daily basis at the prevailing rate of the local banks for a one-year term time deposit.

#### D. Penalty Concerning Tax Evasion

In any of the following circumstances, the taxpayer shall be pursued for payment of taxes owed and be fined no more than five times of tax evaded, and the operation of the taxpayer's business may be suspended:

1. Where the taxpayer conducts business without application for business registration as required.
2. Where 30 days have elapsed since the time limit set for reporting the sales amount or detailed list of uniform invoices used, and the business tax due and payable has not been paid.
3. Where the sales amount is under-reported or not reported at all.
4. Where the taxpayer continues to conduct business after it has applied for cancellation of registration or its business has been suspended by the competent tax authority in accordance with the provisions of the VANVABT Act.
5. Where the amount of input tax is falsely reported.
6. Where 30 days have elapsed since the time limit set for the payment of business tax, and the business tax has not been paid under Paragraph 1 of Article 36 of the VANVABT Act.
7. Where tax is evaded in any other way.

In the event that a taxpayer falls within the aforesaid Circumstance 5, if the taxpayer has obtained a voucher issued by a party that was not counterparty to a transaction, and it is found that a purchase had occurred and that the voucher had been delivered to the taxpayer by the profit-seeking enterprise that sold the goods, and that the profit-seeking enterprise that sold the goods had duly made a supplementary payment of the tax owed and been penalized, the taxpayer may be exempted from the penalty prescribed in the preceding paragraph.