

## **Credit for input tax against output tax**

**38.** (1) Any taxable person is entitled to credit for so much of his input tax as is allowable under section 39 to be deducted from any output tax that is due from him.

(2) For the purposes of any tax on a taxable supply of goods or services to a taxable person, any flat rate addition included in the consideration of any supply acquired by a registered person from the approved person under section 74 shall be treated as a tax on the supply.

(3) subject to subsections (4) and (5), where—

(a) no output tax is due at the end of any taxable period; or

(b) the amount of the credit entitled by virtue of subsection (1) to the taxable person exceeds the output tax,

the amount of the credit or the amount of credit that exceeds the output tax, as the case may be, shall be refunded to the taxable person by the Director General.

(4) The whole or any part of any input tax due as credit to any taxable person in any taxable period may be held over to be credited to any following or subsequent taxable period, either on the taxable person's own application in writing or on any direction given by the Director General.

(5) Where at the end of any taxable period any amount is due under subsection (3), the Director General may withhold payment of the amount if—

(a) the taxable person fails to furnish the return under section 41 or to provide any information as required by the Director General; or

(b) the Director General has reasonable grounds to believe that the amount should not be the amount due to the person.

(6) No deduction shall be made under subsection (1) nor shall any refund be made under subsection (3), except on a claim made in the prescribed manner and within the prescribed time.

(7) Where any taxable person has made no taxable supply during a taxable period or any previous taxable period, any refund to be made under subsection (3) shall be made subject to the conditions imposed by the Director General as he deems fit.

(8) subject to subsections (5) and (7), any refund to be made by the Director General under subsection (3) shall be made within the prescribed time.

(9) Except as the Director General may otherwise allow—

- (a)* where a taxable person fails to pay his supplier the consideration or any part thereof for the supply of any goods or services made by his supplier to him at the end of the period of six months following the date of supply; and
- (b)* where the taxable person has credited under subsection (1) or been refunded under subsection (3) the input tax to which the consideration or the part thereof which he failed to pay relates,

the taxable person shall account an amount equal to the input tax which shall be deemed as his output tax.

(10) The taxable person shall account the amount deemed as output tax under subsection (9) in the taxable period after the period of six months has elapsed and in accordance with the method which he was required to use when he first credited the input tax and he shall repay the amount to the Director General at the same time as any tax in respect of the taxable period would be due and payable by him.

(11) Where a taxable person—

- (a)* has complied with subsection (10); and
- (b)* pays his supplier the consideration or any part thereof for the supply of goods or services referred to in paragraph (9)*(a)*,

the taxable person shall be entitled to treat an amount equal to the input tax relating to the payment referred to in paragraph *(b)* as if it were an input tax for the taxable period during which the payment was made.

(12) The whole or any part of tax charged on any supply of goods or services or importation of goods, as may be prescribed, shall be excluded from any credit under this section.