

Definitions Circular No.(19) for the year 2023

Messrs. Customs

Dear Sirs,

Please find attached hereto the Decree of the Minister of Finance No.115 for the year 2023 submitted under No.1193/a on 5/3/2023 in respect of the tax transactions for machinery, equipment and production lines under the Value Added Tax Law promulgated by Law No. 67 for the year 2016 as amended by Law No. 3 for the year 2022 and its Executive regulations with the cancellation of Ministerial Decree No. 212 for the year 2022 as published in the definition's circular No. 40 for the year 2022.

Therefore, please take note of the above and alert that the necessary steps should be taken towards circulation on the competent departments of the Tax Authority.

Kind regards,

Head of the Non-Customs Tax
Department

Signature
Hala Mohamed Moustafa

General Manager of the General
Department of Tariff

Signature
Dr. Eman Ibrahim Kamel

Head of the Central Department of
Tariff/Value/Origin

Signature

**Decree of the Minister of Finance
No.115 for the year 2023**

Minister of Finance

- Following perusal of the Value Added Tax Law promulgated by Law No.67 for the year 2016 as amended by Law No.3 for the year 2022;
- The Customs Law promulgated by Law No. 207 for the year 2020, and its executive regulations;
- The unified Customs Procedures law promulgated by Law No.206 for the year 2020 and its executive regulations;
- The Executive Regulation of the Value Added Tax Law promulgated by the Decree of the Minister of Finance No.66 for the year 2017 as amended by the decree of the Minister of Finance No.24 for the year 2023;
- The decree of the Minister of Finance No.212 for the year 2022;
- What has been submitted by the Director General of the Egyptian Tax Authority.

**Decided:
(Article One)**

In application of the provisions of Article (2/4) of the executive regulations of the aforementioned Value Added Tax Law, the Value Added Tax rate shall be (5%) on machinery and equipment, including production lines purchased from local markets or imported from abroad for use in a production activity of a commodity or performance of a service, pursuant to the following rules and procedures:

- 1- The commodity producer or the service provider shall submit to the local seller or to the competent customs, as the case may be, documents evidencing that he practices the activity of commodity production or service performance that requires these machines, equipment or lines in their performance, these documents are as follows:
 - a- A ratified document by the competent technical authority for the producer of the commodity or service provider stating that these machines, equipment or lines are used in the practice of the activity of producing a commodity or performing a service.
 - b- A certificate of registration of the producer of the commodity or the service provider with the Egyptian Tax Authority (Value Added) or tax card.

2- The competent customs office, upon the arrival of these machines, equipment or lines, whether disassembled or in fragmented shipments, shall verify that they represent a machine, equipment or production line.

3- In the event of importing machinery, equipment, or production lines for the purpose of trading, the importer must submit to the competent customs the following documents:

- a- Documents evidencing the supply to the commodity producer or the service performer as stated in item (1) of this Article.
- b- The supply order issued by the commodity producer or the service provider to the importer or the contract concluded by and between them provided that the order is ratified by the competent technical authority.

If the importer for the purpose of trading does not submit these documents to the competent customs, the tax rate shall be (14%) to be paid by way of trust while performing the necessary tax settlements once the importer submits these documents to the competent customs, provided that the settlement is made after the sale, installation, and inspection by a joint committee of the Egyptian Tax Authority and the Customs Authority.

(Article Two)

If the machinery, equipment or production lines stipulated in Article One of this decree are used in industrial production, the Value Added Tax due on them shall be suspended pursuant to the provisions and rules stipulated in Articles (28 bis.) of the aforementioned Value Added Tax Law and (34 bis.) of its executive regulations.

Without prejudice to the obligation to submit the documents stipulated in Article One of this decision, the purchaser of machinery, equipment or production lines from the local market or the importer from abroad for use in industrial production may request the local seller or the competent customs, as the case may be, not to suspend the payment of the tax due thereon and pay it with a fixed (5%) penalty upon purchase from the local market or release of same, provided that the Egyptian Tax Authority verifies the use for this purpose.

If those machines, equipment or production lines are then used in the production of a commodity (other than industrial production), or in the performance of a service, the tax shall be collected at the fixed rate of (5%), upon purchase from the local market or release of same.

However, if those machines, equipment, or production lines are not used exclusively for the production of a commodity or the performance of a service, then they shall be subject to the general price of the Value Added Tax or the scheduled tax categories or both, as the case may be, while undertaking the necessary settlements or refund if used in the production of a commodity or the performance of a service.

(Article Three)

The Value Added Tax price shall be due on machines, equipment and production lines that are received disassembled or on fragmented shipments, and it is not possible for the competent customs upon receipt to verify that they represent a machine, equipment or production line (14%). In this case the tax shall be paid by way of a trust provided that the necessary tax settlements are made after installation and inspection by a joint committee of the Egyptian Tax Authority and the Customs Authority to verify that what was received disassembled or in fragmented shipments represent a machine, equipment, or a production line and to submit a letter from the competent technical authority (The General Authority for Investment and Free Zones (GAFI) – the concerned Governmental Authority - etc.) and that the tax included in the previous invoices was taxed under category (14%) by way of a trust represent machine, equipment, or production line that was installed and used in the practice of the activity of industrial production or the production of a commodity (other than industrial production), or in the performance of a service. The tax settlement procedures shall be carried out as follows:

1- If it is proven from the inspection that the machine, equipment, or production line has been installed and used in the industrial production activity. The settlement shall be made taking into account the provisions and rules stipulated in Articles (28 bis.) of the aforementioned Value Added Tax Law and article (34 bis.) of its executive regulations, in accordance with the following:

- a- If proven from the inspection that the machine, equipment, or production line has been installed and used in the industrial production activity during the period of suspension of tax payment, the previously settled tax (14%) in trust shall be refunded in full.
- b- If proven from the inspection that the machine, equipment, or production line has been installed and used in industrial production activity after the expiry of the period of suspension of tax payment, a percentage of (9%) shall be refunded, along with a settlement of fixed (5%).

2- If it is established from the inspection that the machine, equipment, or production line has been installed and used in the production of a commodity (other than industrial production), or in the performance of a service, a percentage of (9%) shall be refunded, along with a settlement of fixed (5%).

3- If it is established from the inspection that the machine, equipment, or production line has been installed and used for purposes other than those stipulated in items (1) and (2) of this Article. The tax shall be settled from the amount kept in trust of the fixed (14%).

(Article Four)

The Value Added Tax Rate shall be due on machines, equipment, and production lines that are purchased disassembled from the local market from more than one supplier (14%), provided that the necessary tax settlements are made after installation and inspection by the competent tax commission, and a letter is submitted from the competent technical authority (The General Authority for Investment and Free Zones (GAFI) – the concerned Governmental Authority - etc.) and that the tax included in the previous invoices was taxed under category (14%) represent machine, equipment, or production line that was installed and used in the practice of the activity of industrial production or the production of a commodity (other than industrial production), or in the performance of a service. Tax settlements shall be made in light of the inspection result pursuant to the rules stipulated in Article three of this decree.

(Article Five)

The Value Added Tax due on machinery, equipment and spare parts shall be according to the general tax rate.

(Article Six)

The aforementioned decree No. 212 for the year 2022 of the Minister of Finance shall be cancelled.

(Article Seven)

This decree shall be published in the Egyptian Gazette and shall come into force starting as of the next day of its publication.

Minister of Finance,

Dr. Mohamed Maait

Issued on 2/3/2023