



Tonga

**REVENUE SERVICES ADMINISTRATION
(ELECTRONIC SALES REGISTER
SYSTEM) REGULATIONS 2022**



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REVENUE SERVICES ADMINISTRATION (ELECTRONIC SALES REGISTER SYSTEM) REGULATIONS 2022

REVENUE SERVICES ADMINISTRATION ACT 2021

IN EXERCISE of the powers conferred by section 107 of the Revenue Services Administration Act 2021, the Minister responsible for Revenue and Customs, makes the following Regulations —

PART I – PRELIMINARY

1 Short Title

This Regulation may be cited as the Revenue Services Administration (Electronic Sales Register System) Regulations 2022.

2 Interpretation

“**adjustment event**” means an event listed under section 12(1) of the Consumption Tax Act [Cap 11.01];

“**digital certificate**” means an electronic document issued by the Minister under Regulation 12;

“**digital signature**” means an encrypted digital code of the taxpayer made under Regulation 11;

“Electronic Sales Register System” or **“ESRS”** means the electronic sales register system established under Regulation 3;

“fiscal data” means the transaction data that the Minister requires for calculating and imposing a tax;

“fiscal invoice” means —

- (a) for a taxable supply made by a registered person to another registered person, the consumption tax invoice for the supply;
- (b) for a taxable supply made by a registered person to an unregistered person, the consumption tax receipt for the supply;
- (c) for any other supply of goods or services for which a fiscal invoice is required to be issued by the supplier to the recipient of the supply, a document that contains the same information as a consumption tax receipt;
- (d) for an adjustment event requiring the issue of consumption tax credit note or consumption tax debit note, the consumption tax credit note or consumption tax debit note; or
- (e) for an adjustment event involving a supply of goods or services to an unregistered person, an adjustment note containing the details as specified under the Consumption Tax Act [Cap 11.01];

“Guidelines” means the ESRS Guidelines specified by the Minister in an Order or public ruling;

“issue” in relation to a fiscal invoice, means to make available for a customer to receive and retain;

“Minister” means the Minister responsible for Revenue and Customs;

“Ministry” means the Ministry responsible for Revenue and Customs;

“Ministry’s system” means the electronic information system that the Ministry shall operate under regulation 3(1);

“sales register device” means any electronic device for recording sales and related data;

“sales register device software” or **“SRDS”** means the sales register device software program which is a component of the ESRS;

“specified taxpayer” means a taxpayer, or class of taxpayer, specified in a ruling of the Minister, required to use an ESRS; and

“taxpayer” means a person who taxable under any revenue law.

- (2) The terms **“accredited sales register device”**, **“accredited sales register device software”**, **“consumption tax credit note”**, **“consumption tax debit note”**, **“consumption tax invoice”**, **“consumption tax receipt”**, **“enterprise”**, **“recipient”**, **“registered person”**, **“supply”**, **“supply of goods”**, **“supply of**

services”, and **“taxable supply”** referred to under these Regulations has the same meanings under the Consumption Tax Act [Cap 11.01] and the Revenue Services Administration Act 2021 respectively.

PART II – ELECTRONIC SYSTEM

DIVISION 1 – ESTABLISHMENT AND DESCRIPTION OF ELECTRONICS SYSTEM

3 Establishment of the electronic system

- (1) An electronic system is hereby established and called the ESRS.
- (2) The ESRS is composed of the –
 - (a) Ministry’s system; and
 - (b) accredited sales register devices and accredited SRDS used by taxpayers in operating their businesses.
- (3) An accredited sales register device and accredited SRDS connected together –
 - (a) receives, records, analyses, and stores fiscal data;
 - (b) formats fiscal data into fiscal invoices; and
 - (c) includes a secure element which transmits the fiscal data to the Ministry’s system.
- (4) The function of the ESRS is to obtain and monitor accurate data to create a reliable database for assessing, calculating and imposing liability for a tax.

4 Description of operations of the electronic system

The following are the operational components of the ESRS –

- (a) an electronic information system administered by the Ministry that receives, verifies, records, analyses, stores and transmits fiscal data;
- (b) accredited SRDS operated by specified taxpayers for their businesses that connect and communicate electronically to the Ministry’s system using a secure encryption protocol and mutual authentication;
- (c) accredited sales register device operated by specified taxpayers that transmit transaction data for every transaction to produce fiscal invoice for every transaction;
- (d) the Ministry’s system authenticates the accredited SRDS transmitting fiscal data to it and receives, stores, analyses and verifies the fiscal data;
- (e) security feature for the Ministry’s system and the specified taxpayers’ accredited sales register device that securely maintain the privacy and integrity of the fiscal data using secure encryption protocols, digital

- certificates and mutual authentication mechanisms for receiving, verifying, recording, analysing, storing and transmitting fiscal data; and
- (f) a software feature in the Ministry's system that enables specified taxpayers and customers to access fiscal data stored in the Ministry's system to verify the following in relation to either a single transaction or more than one transaction –
- (i) That the Ministry's system has received fiscal data transmitted to it; and
 - (ii) The accuracy of fiscal data stored on the Ministry's system in relation to the specified taxpayer's own fiscal data.

DIVISION 2 – OPERATIONAL COMPONENTS OF THE ELECTRONIC SYSTEM

5 Requirements of the ESRS to be operated

- (1) The Ministry shall operate an electronic information system that has hardware and software that –
- (a) connects electronically with each specified taxpayer's accredited sales register device;
 - (b) receives, records, analyses and stores fiscal data transmitted by the specified taxpayer's accredited sales register device software;
 - (c) securely maintains the privacy and integrity of the digital certificates, digital signatures and the fiscal data it receives, analyses, stores and transmits;
 - (d) manages the secure elements, digital certificates and digital signatures;
 - (e) manages an auditing process for monitoring and supervising accredited sales register device and fiscal data;
 - (f) provides accurate data to the Ministry for assessing the tax payable by taxpayers; and
 - (g) enables taxpayers and customers to access fiscal data stored on the Ministry's system to verify the following in relation to either a single transaction or more than one transaction –
 - (i) That the Ministry's system has received fiscal data transmitted to it; and
 - (ii) The accuracy of fiscal data stored on the Ministry's system.
- (2) The operations of the Ministry's system shall comply with the Guidelines.
- (3) The Minister shall have full access to the accredited SRD and accredited SRDS of taxpayers through electronic means and administers all transactions and fiscal data that have been entered into taxpayers' ESRS.

6 Use of SRD

- (1) Each business premise or branch of a specified taxpayer shall operate a SRD.
- (2) Each SRD operated shall comply with the following –
 - (a) use an accredited SRD;
 - (b) use an accredited sales register device software; and
 - (c) produce a fiscal invoice in a format approved by the Minister for each transaction.
- (3) The operations of the SRD shall comply with the Guidelines.

PART III – ACCREDITATION OF SUPPLIERS, DEVICES, AND SOFTWARE

7 Accreditation of suppliers

- (1) A person who wants to supply a SRD or SRS to a taxpayer shall apply to the Minister for accreditation to be an accredited supplier.
- (2) An application under sub-regulation (1) shall be made in the form approved by the Minister pursuant to section 58 of the Act and specified in the Guidelines.
- (3) The Minister shall determine an application under sub-regulation (1) in accordance with the Guidelines.
- (4) The Minister shall make a decision to grant or refuse accreditation to an applicant under sub-regulation (1) and provide the applicant with notice in writing of the decision within 30 days from receipt of application.
- (5) The accreditation of a supplier takes effect from the date specified in the notice of accreditation.
- (6) The Minister shall publish a copy of the notice of a supplier's accreditation on the Ministry's website or social media platform or in any weekly newspaper in circulation in Tonga.

8 Accreditation of a sales register device and sales register software

- (1) An accredited supplier who wants to supply a SRD to a taxpayer shall apply to the Minister for –
 - (a) accreditation of the brand, model, and specification of the device; and
 - (b) if the device is supplied with software installed, accreditation of the software.
- (2) An application under sub-regulation (1) shall be made in the form approved by the Minister pursuant to section 58 of the Act and specified in the Guidelines.

- (3) An accredited supplier who wants to supply a SRS to a taxpayer separate from the supply of the SRD shall apply to the Minister for accreditation of the software.
- (4) An application under sub-regulation (3) shall be made in form approved by the Minister pursuant to section 58 of the Act and specified in the Guidelines.
- (5) Upon receipt of an application under sub-regulation (1) or (3), the Minister shall determine whether to accredit the SRD or SRS, as the case may be, in accordance with the Guidelines.
- (6) An applicant under sub-regulation (1) or (3) shall provide the Minister with any information, and access to any equipment, as required by the Minister for the purposes of determining the application.
- (7) The Minister shall make a decision to grant or refuse accreditation to an applicant under sub-regulation (1) or (3), and provide the applicant with notice in writing of the decision within 30 days of receipt of application.
- (8) The accreditation of a SRD or SRS takes effect from date specified in the notice of accreditation.
- (9) The Minister shall publish a copy of the notice of the accreditation of a SRD or SRS on the Ministry's website or social media platform or in any newspaper in circulation in Tonga.

9 Supply of an accredited sales register device or accredited sales register device software

- (1) An accredited supplier may supply an accredited sales register device or accredited SRDS to a taxpayer.
- (2) A supplier shall not offer to supply a SRD or SRS to a taxpayer unless the device or software is accredited.
- (3) An accredited supplier who becomes aware of a defect in, or misuse of, an accredited sales register device or accredited SRDS shall report the defect and its cause (if known), or the misuse, to the Minister as soon as practicable.
- (4) In this Regulation, "**defect**" means anything that can affect the operation of an accredited sales register device or SRS software, including a failure to operate, incorrect labelling, damage to the device, a missing part, or the expiry or termination of a licence or subscription to use SRS.

10 Revocation of accreditation

- (1) The Minister may revoke the accreditation of a supplier, SRD, or SRS if the supplier, device, or software does not comply with the Guidelines.

- (2) In addition to any sanction under the Act, the Minister may revoke the accreditation of a supplier who fails to comply with Regulation 9(2).
- (3) If the Minister revokes the accreditation of a supplier, SRD, or SRS, the Minister shall –
 - (a) notify the supplier in writing of the revocation and the revocation shall take effect from the date specified in the notice of revocation; and
 - (b) publish a notice of the revocation on the Ministry’s website or social media platform, or in any newspaper in circulation in Tonga, and remove the details of the supplier, SRD, or SRS from the Ministry’s website.
- (4) If the accreditation of a SRD or SRS is revoked, the Minister shall notify any taxpayer using the device or software and allow the taxpayer a reasonable time as determined under the Guidelines to arrange for the use of a new accredited device or software.

PART IV – DIGITAL CERTIFICATES AND SIGNATURES

11 Digital signature

Each specified taxpayer shall have a digital signature that is an encrypted digital code that –

- (a) identifies the taxpayer;
- (b) is created by the taxpayer’s accredited SRDS based on the digital certificate issued by the Ministry to the taxpayer under Regulation 12;
- (c) is recorded on each fiscal invoice produced by the taxpayer’s accredited sales register device; and
- (d) if relevant, verifies the integrity of the taxpayer’s device and software when data is transmitted to the Ministry.

12 Digital certificate

- (1) Based on a notification by a taxpayer under Regulation 13(4), the Minister shall issue a digital certificate to a specified taxpayer for each accredited sales register device and SRS of the taxpayer.
- (2) A digital certificate issued to a taxpayer under sub-regulation (1) shall be a unique document that –
 - (a) contains a public and private key for creating, producing, and verifying the digital signature of the taxpayer; and
 - (b) authenticates the accredited sales register device and SRS of the taxpayer when it links with the Ministry’s system.

- (3) A digital certificate shall do the following –
 - (a) reproduce the taxpayer’s digital signature on each fiscal invoice issued by the taxpayer to a customer;
 - (b) where relevant, reproduce the protected password or PIN code of the taxpayer and securely deliver it to the Ministry’s system to enable the taxpayer’s accredited ESRS to link with the Ministry’s system and securely transmit data to the Ministry’s system; and
 - (c) where relevant, record the date on which fiscal data is transmitted by the taxpayer to the Ministry’s system.

PART V – USE OF ACCREDITED SALES REGISTER SYSTEM

13 Obligation to use an accredited sales register device

- (1) A specified taxpayer shall operate an accredited sales register device at each place of business of the taxpayer in accordance with the Guidelines and, if required under Regulation 16, transmit data to the Ministry in accordance with that Regulation.
- (2) The Minister may require a specified taxpayer to use the accredited sales register device specified by the Minister by notice in writing to the taxpayer.
- (3) If supplied separately, the software used by a specified taxpayer for the operation of an accredited sales register device shall be an accredited sales register device software.
- (4) A taxpayer shall notify the Minister, in writing, of the details of the accredited sales register device and, where relevant, the accredited sales register software to be used by the specified taxpayer at least 7 days prior to the device or software becoming operational.

14 Obligation to provide a fiscal invoice

- (1) A specified taxpayer shall issue a fiscal invoice to the recipient of each supply of goods or services made by the taxpayer, including an adjustment event in relation to a supply.
- (2) Sub-regulation (1) shall apply even if a customer fails or refuses to take a fiscal invoice for a supply of goods or services.
- (3) A specified taxpayer shall immediately notify the Minister if the taxpayer’s accredited sales register device or accredited SRDS is not operating effectively such that the device or software is unable to produce a fiscal invoice for a supply or adjustment event.

- (4) A specified taxpayer who has notified the Minister under sub-regulation (3) shall follow any written instructions provided by the Minister for the issuing of fiscal invoices while the taxpayer's accredited sales register device or accredited SRDS is not operating effectively.
- (5) A specified taxpayer shall display the following notice in a readily observable place next to each accredited sales register device operated in each place of business where the taxpayer's enterprise is carried on –

“NOTICE TO CUSTOMERS: The Revenue Services Administration (Electronic Sales Register System) Regulations 2022 requires the operator of these business premises to issue a fiscal invoice to each customer.

CASH SALES

DEMAND A CONSUMPTION TAX RECEIPT AFTER YOU HAVE PAID FOR YOUR GOODS AND SERVICES.

CREDIT SALES

YOU MUST BE ISSUED WITH A CONSUMPTION TAX INVOICE BEFORE YOU PAY FOR THE GOODS AND SERVICES.

PLEASE REPORT THIS BUSINESS TO THE MINISTRY OF REVENUE AND CUSTOMS IF THEY DO NOT ISSUE A CONSUMPTION TAX RECEIPT OR INVOICE TO YOU.

Phone – 7400550/ 26432
Facebook page – Ministry of Revenue and Customs
Email – cst@revenue.gov.to ”

15 Periodic reports

A specified taxpayer shall provide such reports of supplies of goods and services made, adjustment events, and fiscal invoices issued as required by the Minister in the Guidelines.

16 Transmission of data to Ministry

- (1) If required by the Minister, a specified taxpayer using an accredited ESRS shall transmit to the Ministry data concerning supplies of goods or services made by the taxpayer in accordance with the Guidelines.
- (2) The Minister shall ensure that data can be transmitted to the Ministry securely in accordance with the Guidelines.

PART VI – PENALTIES**17 Administrative penalty**

A specified taxpayer who fails to comply with the requirements in Regulation 13 (1) and (3) for the use of accredited sales register device and an accredited SRDS shall be liable for a penalty of \$5,000 for each failure at each place of business where the taxpayer operates.

Made in Nuku'alofa on this 8th day of **June, 2022.**

Hon. Tatafu Moeaki
Minister responsible for Revenue and Customs