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ATTENTION: CGSO PARTICIPANTS AND OTHER RETAILERS

PRICE DISPLAYS AND NEW VAT INCREASE ADJUSTMENTS

The announcement by National Treasury that VAT will increase to 15% as from the 1st April 2018 has left many retailers with a headache of how they will implement the increase, comply with the requirements of the Consumer Protection Act and avoid the losses that might occur as a result of consumers demanding to pay lower prices if the prices displayed or on tags are not adjusted in time.

The announcement was made on the 21st February 2018, giving retailers just under 6 weeks to apply the adjustment to millions of items as well as change the relevant software applications. The CGSO has received an enquiry regarding this dilemma where retailers will not be ready by 1st April 2018 to have changed all the labels on the items they sell to reflect the pricing with the 15% VAT.

In view of the above, our office wishes to remind our participants of the requirements of the CPA on price displaying and offer some guidance on how the transition can be handled.

The display of prices is regulated by section 23 of the CPA. The section provides that

- 1) Retailers of goods or services are prohibited from displaying any goods for sale without displaying a price in relation to those goods. The exception is where:
 - i. the supplier has given the consumer an estimate and the consumer has waived his or her right to such an estimate;
 - ii. Section 43 of the Electronic Communications and Transactions Act applies; OR
 - iii. The goods are displayed predominantly as a form of advertisement or in an area that the public does not ordinarily have access to.
- 2) A price shall be deemed to be adequately displayed if:
 - i. It is annexed or affixed to the goods, or written, printed, stamped or otherwise applied to the goods or near the goods; or
 - ii. It is published in a current catalogue, brochure, circular or similar form of publication that is available to the consumer or to the public.

Consumers have the right to pay the displayed price or the lower price if two prices are displayed. To avoid losses and disputes retailers must display the correct prices at all times. The provisions of section 23(7) and 23(10) of the CPA provide for exceptions and the steps that a retailer is required to take in case of errors:

23(6) Subject to subsections (7) to (10), a supplier must not require a consumer to pay a price for any goods or services—

(a) higher than the displayed price for those goods or services; or

(b) if more than one price is concurrently displayed, higher than the lower or lowest of the prices so displayed.

*23(7) Subsection (6) does not apply in respect of the price of any goods or services **if the price of those goods or services is determined by or in terms of any public regulation.***

(8) If a price that was once displayed has been fully covered and obscured by a second displayed price, that second price must be regarded as the displayed price.

(9) If a price as displayed contains an inadvertent and obvious error, the supplier is not bound by it after—

(a) correcting the error in the displayed price; and
(b) taking reasonable steps in the circumstances to inform consumers to whom the erroneous price may have been displayed of the error and the correct price.

(10) A supplier is not bound by a price displayed in relationship to any goods or services if an unauthorized person has altered, defaced, covered, removed or obscured the price displayed or authorized by the supplier.

It is clear that the announcement of the VAT increase as well as its effective date caught many unaware and many will not have sufficient time to change the pricing on thousands of items and price tags within their shops. Some retailers have already sent communication to consumers that statements will be late where the transactions relate to contracts.

While the price increase is due to public regulation, it is still good business practice for retailers to ensure that the correct prices are displayed. In view of the above the CGSO wishes to offer the following suggestions to our participants and other retailers:

- 1) Consumers must be informed through various platforms and channels that the new 15% VAT charge will apply as from the 1st April 2018;
- 2) Where there will be delays in issuing statements due to software adjustments this must be communicated to consumers as well;
- 3) In cases where prices displayed on tags or other platforms will still be reflecting the 14% VAT charge by the 1st of April 2018, it would be reasonable for retailers to display prominently and in strategic arrears, including at till points that all prices in the shops, irrespective of the prices displayed on the tag, are subject to the new 15% VAT rate.
- 4) The correction to the price on the tag could also be done manually at the till to comply with section 23(6) which requires the physical correction of the price as well as communicating to the consumer the corrected price;
- 5) Staff members must be trained to assist consumers to determine the correct price and confirm the acceptance of the new price before processing and concluding the sale;
- 6) Consumers must be advised of the channels through which they can lodge disputes regarding price displays.

ISSUED BY THE ACTING OMBUDSMAN



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