

SAMOA

TAX ADMINISTRATION (TAX INVOICE
MONITORING SYSTEM) REGULATIONS 2020

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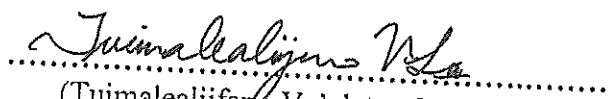
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PURSUANT to section 101A of the Tax Administration Act 2012 (Act), **I, TUIMALEALI'IFANO VA'ALETOA SUALAUVI II**, Head of State, acting on the advice of Cabinet, **MAKE** these Regulations:

DATED this 25th day of . FEBRUARY . 2020.


.....
(Tuimalealiifano Va'aletoa Sualauvi II)
HEAD OF STATE

REGULATIONS

PART 1 - PRELIMINARY

1. **Citation and commencement-**(1) These Regulations may be cited as the Tax Administration (Tax Invoice Monitoring System) Regulations 2020.
(2) These Regulations commence on the commencement date of the Tax Administration (Electronic System) Amendment Act 2020.
2. **Interpretation-**(1) In these Regulations, unless the context otherwise requires:
“accredited”, in relation to a POS or E-SDC, means accredited by the Commissioner under regulation 8 or 9;
“application” means an application that is in a form approved by the Commissioner;

- “be part of a fiscal invoice” means recorded on the fiscal invoice and payable as part of the total amount payable specified on the fiscal invoice;
- “business” means a business supplying goods and services that is operated by a taxpayer;
- “cashier” means a person who, as part of his or her employment, operates a POS for a business;
- “company” includes any activity aimed at generating revenue in trade, commerce or industry, and includes any trade or profession;
- “customer” means a person to whom, or to which, a business supplies goods and services;
- “customer compliance award program” means a customer compliance award programme conducted under regulation 26;
- “digital certificate” means a unique electronic document issued by the Commissioner for each EFD that:
- (a) authenticates the EFD when it links with the IRS System; and
 - (b) contains public and private key for creating, producing and verifying the digital signature of the EFD.
- “digital signature” means an encrypted digital code that:
- (a) is created by an SDC using private key;
 - (b) is recorded on each fiscal invoice by the SDC;
 - (c) identifies the taxpayer; and
 - (d) verifies the integrity of the SDC when it transmits fiscal data to the IRS System.
- “electronic fiscal device” or “EFD” means a system, composed of one SDC and at least one POS connected together, that:

- (a) receives, records, analyses and stores fiscal data;
- (b) formats fiscal data into fiscal invoices;
- (c) has a secure element which transmits the fiscal data to the IRS System; and
- (d) produces fiscal invoices and issues them to a customer.

“external SDC” or “E-SDC” means a SDC that is hardware set up as a separate component of the EFD used by a taxpayer;

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

“fiscal invoice” means a receipt that:

- (a) is notifying an obligation to make a payment and includes a tax invoice;
- (b) is issued from an EFD to acknowledge that a transaction has occurred between a business and a customer; and
- (c) has printed on it the fiscal data and other information relating to the transaction under regulation 12(2).

“Guideline” means a guideline specified in regulation 21 and set out in the Schedule;

“IRS” means the Inland Revenue Services established under section 4 of the Act 2012;

“IRS System” means the electronic information system that the Inland Revenue Services must operate under regulation 6(1);

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

“Ministry” means the Ministry responsible for Revenue;

“POS” means a point of sale invoicing device or software which is an electronic device or software application that is:

- (a) used by a business for management control in the areas of sales analysis and stock control; and
- (b) a component of the business’s EFD -
 - (i) into which a cashier enters the transaction data for each transaction made by the business; and
 - (ii) from which a fiscal invoice for the transaction is issued.

“protocol” means a protocol made available to the public by the Commissioner under regulation 22;

“receipt” means a receipt or invoice;

“SDC” means a sales data controller which is the component of an EFD that:

- (a) receives transaction data from a POS component of the EFD;
- (b) analyses the transaction data into fiscal data;
- (c) formats the fiscal data as a fiscal invoice, creates the digital signature for the EFD and records the digital signature on the fiscal invoice;
- (d) transmits the fiscal invoice to the POS;
- (e) preserves the transaction data and fiscal data in an irrevocable and secure manner; and
- (f) transmits the fiscal data to the IRS System.

“secure element” means the software and hardware used by an EFD and IRS to prevent tampering and unauthorised use of fiscal data transmitted to the IRS System and to maintain the integrity of the fiscal data;

“supplier” means a person who supplies an EFD or a component of an EFD to a taxpayer;

“supply” means:

- (a) supply within the meaning of the Value Added Goods and Services Tax Act 2015; or
- (b) providing services under an agreement for installing, implementing, servicing or maintaining an EFD or a component of an EFD.

“tax” means:

- (a) the tax imposed under a tax law, and includes withholding tax, provisional tax, and penalty;
- (b) any other tax that is specified by the Commissioner by notice in the Savali to be part of a fiscal invoice.

“taxpayer” means:

- (a) a taxpayer as defined in Tax Administration Act; or
- (b) any other person who is required by a tax law to issue a receipt.

“tax officer” means the Commissioner or any officer appointed for the purposes of carrying out the tax laws;

“transaction” means a transaction between the business of a taxpayer and a customer by which:

- (a) the business supplies goods or services to the customer and the customer pays the price for the supply of the goods and services to the business; or
- (b) the business pays the customer a refund of the whole or a part of the price the customer has

paid for goods or services previously supplied by the business to the customer.

“transaction data” means the data relating to a transaction entered into a POS by a cashier; and

“V-SDC” means a virtual SDC that is software attached to the IRS System.

(2) In these Regulations, words and phrases have the same meaning as under the Act unless the context otherwise requires.

(3) A reference in these Regulations to the supply of goods and services is a reference to a supply of goods and services that is charged with a tax.

(4) A reference to:

(a) a Schedule is a reference to a Schedule to these Regulations; and

(b) a Schedule by number is a reference to a Schedule so numbered.

3. Objective - The objective of these Regulations is to implement an electronic system that enables IRS to securely obtain, monitor and assess accurate fiscal data for calculating and imposing a tax that is required to be part of a fiscal invoice.

PART 2 ELECTRONIC SYSTEM

Division 1 - Establishment and description of electronic system

4. Establishment of electronic system-(1) An electronic system that transmits, receives, records, analyses, formats, stores and monitors fiscal data is established.

- (2) The electronic system is composed of:
 - (a) the IRS System; and
 - (b) the EFDs used by taxpayers in operating their businesses.
- (3) The function of the electronic system is to obtain and monitor accurate data to create a database for assessing, calculating and imposing liability for a tax.

5. Description of operations of electronic system -
The following are the operational components of the electronic system:

- (a) an electronic information system operated by IRS that receives, verifies, records, analyses, stores and transmits fiscal data;
- (b) EFDs operated by taxpayers for their businesses that connect and communicate electronically to the IRS System using a secure encryption protocol and mutual authentication;
- (c) POSes that transmit transaction data for every transaction to SDCs, receive fiscal invoices for every transaction from SDCs and issue the fiscal invoices;
- (d) SDCs that receive transaction data from POSes, instantly format that data into fiscal data and fiscal invoices, transmit the fiscal data to the IRS System and transmit the fiscal invoices to POSes;
- (e) the IRS System authenticates the SDCs transmitting fiscal data to it and receives, stores, analyses and verifies the fiscal data;

- (f) security features for the hardware and software of the IRS System and the EFDs 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;
- (g) a software feature in the IRS System enables taxpayers and customers to access fiscal data stored on the IRS System to verify the following in relation to either a single transaction or more than one transaction -
 - (i) that the IRS System has received fiscal data transmitted to it;
 - (ii) the accuracy of fiscal data stored on the IRS System.

*Division 2 - Operational components
of electronic system*

- 6. Requirements of the electronic information system to be operated-**(1) IRS must operate an electronic information system that has hardware and software that:
- (a) connects electronically with each taxpayer's EFD;
 - (b) authenticates each SDC that transmits fiscal data to the system;
 - (c) receives, records, analyses and stores fiscal data transmitted by an SDC;
 - (d) securely maintains the privacy and integrity of the secure elements, digital certificates, digital signatures and the fiscal data it

- receives, analyses, stores and transmits;
 - (e) manages the secure elements, digital certificates and digital signatures;
 - (f) manages an auditing process for monitoring and supervising EFDs and fiscal data;
 - (g) provides accurate data to IRS for assessing the taxes payable by taxpayers; and
 - (h) enables taxpayers and customers to access fiscal data stored on the IRS System to verify the following in relation to either a single transaction or more than one transaction -
 - (i) that the IRS System has received fiscal data transmitted to it;
 - (ii) the accuracy of fiscal data stored on the IRS System.
- (2) The operations of the IRS System must comply with the Guidelines set out in the Schedules.

7. Electronic fiscal devices (EFD)-(1) A taxpayer must operate an EFD for each business of the taxpayer.

(2) An EFD must comply with the following:

- (a) the components of the EFD are one or more POSes and one SDC (which may be an E-SDC or V-SDC);
- (b) each POS and E-SDC are accredited;
- (c) each POS transmits to the SDC a receipt, on which is recorded the transaction data specified in regulation 12(2), for each transaction of the business;
- (d) the SDC receives the transaction data, analyses the data and calculates taxes to produce

fiscal data for the transaction, and puts the digital signature on the receipt;

- (e) there is a digital certificate that authenticates the EFD and enables the SDC to transmit the fiscal data to the IRS System;
- (f) the SDC transmits the fiscal data to the IRS System and the IRS System verifies the fiscal data and transmits it back to the SDC;
- (g) the SDC formats a fiscal invoice for the transaction, records the digital signature on the fiscal invoice and transmits the fiscal invoice to the POS;
- (h) a fiscal invoice is produced for each transaction.

(2) The operations of the EFD must comply with the Guidelines.

8. Accreditation of POSes and E-SDCs – applications by suppliers-(1) A supplier, who wants to supply to a taxpayer a POS or E-SDC of a particular brand, model and specification that is not an accredited POS or E-SDC, must apply to the Commissioner for accreditation of the POS or E-SDC of that brand, model and specification.

(2) On receiving the application, the Commissioner must take steps to determine whether to accredit the brand, model and specification of the POS or E-SDC. In doing so, the Commissioner must comply with the processes set out in the Guideline set out in Schedule 3.

(3) During the accreditation process, the supplier must provide the Commissioner with access to information and equipment, and any other assistance, the Commissioner reasonably requires for carrying out the process.

(4) After completing the accreditation process, the Commissioner:

(a) accredits, or refuses to accredit, the brand, model and specification of a POS or E-SDC in accordance with the Guideline set out in Schedule 3; and

(b) must, without delay -

(i) give notice in writing to the supplier of the Commissioner's decision to accredit or refuse to accredit; and

(ii) give to the supplier a copy of the accreditation report produced under paragraph 4 of the Guideline.

(5) The Commissioner must, without delay after accrediting a POS or E-SDC under this regulation, publish the details of the brand, model and specification of the POS or E-SDC, and the date it is accredited, on the Ministry website.

(6) The accreditation of a POS or E-SDC under this regulation does not have effect unless the details of the brand, model and specification of the POS or E-SDC, and the date of its accreditation, are specified on the Ministry website.

9. Accreditation of POSes and E-SDCs – applications by taxpayers-(1) A taxpayer, who wants to develop, install and implement an EFD for a business of the taxpayer, must, before implementing the EFD, apply to the Commissioner for accreditation of each POS and E-SDC of the EFD.

(2) On receiving the application, the Commissioner must take steps to determine whether to accredit each POS and E-SDC of the taxpayer's EFD. In doing so, the Commissioner must comply with the processes set out in the Guideline set out in Schedule 3.

(3) During the accreditation process, the taxpayer must provide the Commissioner with access to information and equipment, and any other assistance, the Commissioner reasonably requires for carrying out the process.

(4) After completing the accreditation process, the Commissioner:

(a) accredits, or refuses to accredit, each POS and E-SDC of the EFD in accordance with the Guideline set out in Schedule 3; and

(b) must, without delay -

(i) given notice in writing to the taxpayer of the Commissioner's decision to accredit or refuse to accredit; and

(ii) give to the taxpayer a copy of the accreditation report produced under paragraph 4 of the Guideline.

(5) The accreditation of an EFD under this regulation is not effective until the taxpayer receives the Commissioner's notice given under sub-regulation (4)(b)(i).

10. Revocation of accreditation-(1) The Commissioner may revoke the accreditation of a POS or E-SDC if the POS or E-SDC does not comply with a Guideline.

(2) If the Commissioner revokes the accreditation of a POS or E-SDC that was accredited under regulation 8, the Commissioner must, without delay:

- (a) remove the details of the POS or E-SDC from the Ministry website; and
- (b) give notice in writing of the revocation to the suppliers supplying the POS or E-SDC.

(3) If the Commissioner revokes the accreditation of a POS or E-SDC that was accredited under regulation 9, the Commissioner must, without delay, give notice in writing of the revocation to the taxpayer operating the EFD of which the POS or E-SDC is a component.

(4) A notice of a decision under this regulation must specify the reasons for the decision.

11. Digital certificates-(1) There must be a digital certificate for the EFD of a taxpayer's business that does the following:

- (a) reproduces the taxpayer's digital signature for recording on each fiscal invoice issued by the taxpayer to a customer;
- (b) reproduces the protected password or PIN code of the taxpayer and securely delivers the password or PIN Code to the IRS System to enable the EFD to link to the IRS System and securely transmit the fiscal data to the IRS System;
- (c) records the date on which the data is transmitted to the IRS System.

(2) The Commissioner must issue the digital certificate for an EFD.

(3) The Commissioner must not issue more than one digital certificate for an EFD.

12. Fiscal invoices-(1) There must be a fiscal invoice for each transaction of a business.

(2) The fiscal invoice must specify the following particulars:

- (a) the type of receipt;
- (b) the type of transaction;
- (c) the method of payment;
- (d) the name or unique identification of the cashier;
- (e) the name or unit code of each good or service supplied;
- (f) the unit price and quantity of each good or service supplied;
- (g) the total price of the goods or services supplied;
- (h) the taxes that are a part of the invoice and the tax rates applied;
- (i) the total amount payable by the customer;
- (j) if the customer is a taxpayer, the customer's TIN;
- (k) the name and TIN of the business, and the identification of the business premises where the transaction occurred;
- (l) the date and time the receipt is issued;
- (m) the sequential serial number of the receipt;
- (n) the serial number of the digital certificate of the business's EFD;
- (o) the digital signature of the EFD; and
- (p) must be in English.

(3) The type of receipt referred to in sub-regulation (2)(a) must be one of the following types:

- (a) a normal receipt, which is the receipt that is issued when a transaction occurs and which affects tax liability;

- (b) a copy of a receipt, which is generated as a copy of a normal receipt when a transaction occurs and does not affect tax liability;
 - (c) a training receipt that is used for training purposes only and does not affect tax liability;
 - (d) a pro-forma receipt, which has the characteristics of a normal receipt, but is not proof of a transaction and does not affect tax liability.
- (4) The type of transaction referred to in sub-regulation (2)(b) must be one of the following types:
- (a) a supply of goods and services;
 - (b) a refund of a payment or part of a payment made for a previous supply of goods or services.
- (5) The method of payment referred to in sub-regulation (2)(c) includes, and is not limited to, payment by cash, credit or debit card, cheque, voucher, promissory note, direct debit transfer and wire transfer.
- (6) A training or pro-forma receipt referred to in sub-regulation (3)(c) or (d) must be clearly distinguishable from a normal receipt by recording on the receipt:
- (a) "TRAINING" or "PRO-FORMA", as the case requires, below the receipt header and above the item description section; and
 - (b) "THIS IS NOT A FISCAL INVOICE" below the total amount payable.
- (7) The text referred to in sub-regulation (6) must be:
- (a) recorded on the receipt in such a manner so that it may not be altered or erased; and

- (b) in a font size that is at least twice the size of the text on the receipt that specifies the total amount payable.

**PART 3
FUNCTIONS AND CONDUCT**

13. Functions of Commissioner-(1) The Commissioner is responsible for the administration of these Regulations.

(2) In administering these Regulations, the Commissioner is responsible for:

- (a) operating the IRS System in a manner that complies with these Regulations;
- (b) receiving appropriate advice on technical matters relating to electronic information systems, tax invoice monitoring system, fiscal invoicing and fiscal data for administering these Regulations;
- (c) authorising tax officer to perform tasks that enable the Commissioner to comply with these Regulations;
- (d) establishing and maintaining, in an electronic form and in any other form that the Commissioner considers appropriate, an accurate up-to-date record of -
 - (i) the name and address of each taxpayer;
 - (ii) the address of each premises where the taxpayer operates a business;
 - (iii) details of the EFD operated for the taxpayer's business;

- (iv) details of any erroneous data entered into a POS and the manner in which it was corrected or cancelled; and
 - (v) details of a defect in or misuse of an EFD;
- (e) accrediting POSes and E-SDCs;
- (f) receiving complaints and reports about EFDs;
- (g) setting up and maintaining a system that enables taxpayers and customers to access fiscal data stored on the IRS System to verify the following in relation to either a single transaction or more than one transaction -
 - (i) that the IRS System has received fiscal data transmitted to it;
 - (ii) the accuracy of fiscal data stored on the IRS System;
- (h) publishing information, including by publishing information on the Ministry website or in another electronic form, about the process by which taxpayers and customers access and verify the matters referred to in paragraph (g);
- (i) conducting audits, inspections and other supervisory activities for ensuring the IRS System and each taxpayer's EFD do not contravene these Regulations;
- (j) taking steps and making decisions for prosecuting persons who allegedly commit offences against these Regulations or compounding those offences and ordering the offender to pay money under section 59 of the Act; and

- (k) conducting a customer compliance award programme.

14. Functions of suppliers-(1) A supplier may supply an accredited POS or E-SDC to a taxpayer.

(2) If a supplier becomes aware of a defect in, or misuse of, an accredited POS or E-SDC, the supplier must report the defect and its cause (if known), or the misuse, to the Commissioner as soon as practicable after becoming aware of it.

(3) In sub-regulation (2), “defect” includes failure to operate, incorrect labeling, damage or missing a part.

(4) A supplier, who has an agreement with a taxpayer to install and implement an EFD or component of an EFD in the taxpayer’s business, may, for and on behalf of the taxpayer obtain the digital certificate of the EFD.

15. Conduct of suppliers - A supplier must not offer for sale, or supply, a POS or E-SDC (whether as an EFD or as a component of an EFD) to a taxpayer unless the POS or E-SDC is accredited.

16. Functions of taxpayers - A taxpayer, once accreditation has been granted by the Commissioner, must register with the Commissioner for the purposes of this Regulations in the manner and within the period of time that the Commissioner may determine by means of public notification on the Ministry website.

17. Functions of taxpayers – EFDs-(1) A taxpayer is responsible for operating an EFD for each business of the taxpayer in accordance with the Guidelines.

(2) The POS and E-SDC components of the EFD for a taxpayer's business must be accredited.

(3) A taxpayer is responsible for giving the Commissioner the following information:

- (a) the taxpayer's name and address;
- (b) the name and address of each business operated by the taxpayer;
- (c) the brand, model and specifications of each component of the EFD the taxpayer operates for the business of the taxpayer;
- (d) justification for each case when a normal refund is issued by the business; and
- (e) any change to (a) or (b).

(4) A taxpayer is responsible for making a report to the Commissioner if the taxpayer is not able to verify any of the following matters by the system referred to in regulation 13(2)(g):

- (a) that the IRS System has received fiscal data transmitted to it by the taxpayer's EFD;
- (b) the accuracy of fiscal data transmitted by the taxpayer's EFD to the IRS System.

18. Functions of businesses of taxpayers - issue of fiscal invoices-(1) A taxpayer is responsible for ensuring that, at each business of the taxpayer:

- (a) a fiscal invoice is issued to a customer for each transaction between the business and the customer; and
- (b) there is displayed, in each premises where the transactions of the business are conducted, on or beside each POS operated on the premises, the following notice:

“NOTICE TO ALL CUSTOMERS: Tax Administration (Tax Invoice Monitoring Systems) Regulations 2020 requires the operator of this business to issue a fiscal invoice to each customer. IF YOU DO NOT RECEIVE A FISCAL INVOICE YOU ARE ENTITLED TO A REFUND. You may verify the authenticity of each invoice issued to you on the Samoa Ministry for Revenue website - <https://www.revenue.gov.ws>”.

(2) The notice under sub-regulation (1)(b) must be displayed in the manner and position that ensures that its wording is clearly visible to the customers of the business.

19. Conduct of taxpayers-(1) A taxpayer must:

- (a) have in place an EFD for the business; and
- (b) ensure each POS and E-SDC of the EFD is accredited.

(2) A taxpayer must install, implement and operate the EFD in accordance with the Guidelines.

(3) A taxpayer must issue a fiscal invoice to a customer for each transaction between the taxpayer’s business and the customer.

(4) Sub-regulation (3) applies even if a customer fails or refuses to take the fiscal invoice.

(5) A taxpayer must not issue a fiscal invoice that does not comply with regulation 12 to a customer.

(6) If a transaction of a business of the taxpayer is a business to business transaction or a business to government transaction, the taxpayer must:

- (a) request the customer to provide the customer’s TIN to the taxpayer; and

(b) on being given the TIN, enter it into the taxpayer's POS as part of the transaction data for the transaction.

(7) A taxpayer must not fail to give the information specified in regulation 17(3) to the Commissioner.

(8) A taxpayer must not fail to display a notice in accordance with regulation 18(1)(b).

(9) A taxpayer must comply with the IRS procedures and requests for auditing an EFD and fiscal data.

20. Functions of customers-(1) A customer is responsible for checking each fiscal invoice issued to the customer and verifying the information recorded on the fiscal invoice.

(2) A customer who has been issued a fiscal invoice may, by the system referred to in regulation 13(2)(g), verify that the fiscal data recorded on the fiscal invoice has been received by the IRS System.

(3) A customer must report the following matters to the Commissioner as soon as practicable after they happen:

(a) that the customer has not been issued a fiscal invoice for a transaction;

(b) that fiscal data printed on a fiscal invoice issued to the customer is not an accurate record of the transaction it was issued for;

(c) that the customer is not able to verify, by the system referred to in regulation 13(2)(g), whether the IRS System has received fiscal data recorded on a fiscal invoice issued to the customer.

(4) A customer, who is eligible to do so, may participate in a customer compliance awards programme.

(5) If a customer enters into a transaction that is a business to business transaction or a business to government transaction and the taxpayer operating the business requests the customer to provide the customer's TIN, the customer must provide the TIN to the taxpayer so it may be entered into the taxpayer's POS as part of the transaction data for the transaction.

**PART 4
MISCELLANEOUS**

Division 1 - Guidelines and protocols

21. References to Guidelines - The Guidelines referred to in these Regulations are set out in the Schedules as follows:

- (a) Technical Guideline for Accredited POSes is set out in Schedule 1;
- (b) Technical Guideline for Accredited E-SDCs is set out in Schedule 2;
- (c) Technical Guideline for Accreditation Methodology is set out in Schedule 3.

22. Protocols for communication and data exchange between EFD and IRS System-(1) The Commissioner must establish and maintain protocols to ensure that:

- (a) the secure elements of EFDs and the IRS System are integrated; and
- (b) communication and data exchange between EFDs and the IRS System is established in a manner that message confidentiality,

integrity, origin and authenticity are secured.

(2) The Commissioner must publish each protocol on the Ministry website in a format that enables a person to download a copy of the protocol.

(3) A protocol does not have effect unless it is made available to the public under sub-regulation (2).

Division 2 - Offences and penalties

23. Supplier must comply with regulation 15-(1) A supplier who contravenes regulation 15 commits an offence and is liable upon conviction to:

(a) a fine not exceeding -

(i) 50 penalty units if the gross annual turnover of the supplier's business is less than \$130,000;

(ii) 70 penalty units if the gross annual turnover of the supplier's business is greater than \$130,000 but less than \$1,000,000; or

(iii) 100 penalty units if the gross annual turnover of the supplier's business is \$1,000,000 or more; or

(b) a term of imprisonment not exceeding 24 months; or

(c) both a fine and imprisonment.

(2) Where a supplier under sub-regulation (1) is a company, each director of the company is also liable upon conviction to a term of imprisonment not exceeding 24 months.

24. Taxpayer must comply with regulation 19-(1) A taxpayer who contravenes regulation 19 commits an offence and is liable upon conviction to:

(a) a fine not exceeding -

(i) 50 penalty units if the gross annual turnover of the taxpayer's business is less than \$500,000;

(ii) 70 penalty units if the gross annual turnover of the taxpayer's business is \$500,000 or more but less than \$1,500,000; or

(iii) 100 penalty units if the gross annual turnover of the taxpayer's business is \$1,500,000 or more; or

(b) a term of imprisonment not exceeding 24 months; or

(c) both a fine and imprisonment.

(2) Where a taxpayer under sub-regulation (1) is a company, each director of the company is also liable upon conviction to a term of imprisonment not exceeding 24 months.

25. Offences for dishonest and fraudulent conduct-

(1) A person commits an offence if the person operates an EFD installed and implemented in a taxpayer's business, or a component of the EFD, in a manner that results in the person:

(a) entering false data into a POS; or

(b) tampering with, altering or falsifying data transmitted to or received, recorded, analysed, formatted or stored by the EFD or a component of the EFD; or

- (c) causing the EFD or a component of the EFD to malfunction or to cease operating; or
 - (d) causing the EFD or a component of the EFD to -
 - (i) transmit incorrect or false fiscal data; or
 - (ii) operate in a manner that results in a taxpayer avoiding or evading paying a tax.
- (2) A person who commits an offence under subregulation (1) is liable upon conviction to:
- (a) a fine not exceeding 100 penalty units;
 - (b) a term of imprisonment not exceeding 24 months; or
 - (c) both a fine and imprisonment.

Division 3 - Miscellaneous

26. Publication of conditions and procedures for accessing IRS System to verify receipt and accuracy of fiscal data - The Commissioner:

- (a) must set up, in a manner that is in accordance with the Guidelines, the system under regulation 13(2)(g); and
- (b) may publish the conditions and procedures for accessing the system.

27. Customer compliance award programme-(1)
The Commissioner may conduct a customer compliance award programme involving a fiscal invoice lottery.

(2) The procedure and criteria for participation in the customer compliance award programme are those specified in writing by the Commissioner and publicly

displayed on the premises of the businesses that are part of the programme.

28. Audits and investigations - The Commissioner must conduct audits and investigations at different levels to ensure that taxpayers are complying with these Regulations, including by:

- (a) checking if the taxpayer is issuing valid fiscal invoices;
- (b) checking if the POS and E-SDC for the taxpayer's business are accredited;
- (c) checking if the EFD complies with the Guidelines;
- (d) checking the operation of the protocols; and
- (e) requiring taxpayers to provide relevant information and documents as necessary.

29. Enforcement of compliance-(1) In this regulation: "EFD" means an EFD of which each POS and E-SDC is accredited;

"group of businesses" means a group of businesses specified by the Commissioner by notice published on the Ministry's website; and

"time specified by the Commissioner in respect of a group of businesses" means the period of time specified by the Commissioner, by notice published on the Ministry's website, within which a taxpayer, who has a business that is a member of the group, must be operating an EFD for the business.

(2) There must be, before the expiry of the time specified by the Commissioner under subregulation

(1) in respect of a group of businesses, an EFD installed, implemented and operating for each business in the group.

(3) A taxpayer, who operates a business that is a member of a group of businesses elected under subregulation (2), commits an offence if the taxpayer fails to install, implement and operate an EFD for the business before the expiry of the time specified by the Commissioner in respect of the group of businesses.

(4) A taxpayer who commits an offence against subregulation (3) is liable upon conviction to:

(a) a fine not exceeding -

(i) 50 penalty units if the gross annual turnover of the taxpayer's business is less than \$130,000;

(ii) 70 penalty units if the gross annual turnover of the taxpayer's business is greater than \$130,000 but less than \$1,000,000; or

(iii) 100 penalty units if the gross annual turnover of the taxpayer's business is \$1,000,000 or more;

(b) a term of imprisonment not exceeding 12 months; or

(c) both a fine and imprisonment.

(5) Where a taxpayer under sub-regulation (4) is a company, each director of the company is also liable upon conviction to a term of imprisonment not exceeding 24 months.

30. Temporary closure of business-(1) If a taxpayer or supplier fails to comply with obligations under these Regulations, the Commissioner or tax officer authorized

by the Commissioner in writing for the purposes of this Regulation must first notify the taxpayer or supplier in writing of the intention to close down part or the whole of the taxpayer's or supplier's business unless the taxpayer or supplier complies with obligations under this Regulations within seven (7) working days of the date of the notice.

(2) If a taxpayer or supplier fails to comply with a notice under subregulation (1), the Commissioner or authorized officer must issue an order to close down the business or part of the business of that person for a period not exceeding 14 working days.

(3) The Commissioner or authorized officer may, at any time, enter any premises described in an order issued under subregulation (2) for the purposes of executing the order and may require a police officer to be present while the order is being executed.

(4) The Commissioner or authorized officer must affix, in a conspicuous place on the front of the premises of the business or part of the business which has been closed under an order issued under subregulation (2), a notice stating: "Closed Temporarily for not Complying with Obligations by Order of the Commissioner of Inland Revenue under regulation 30 of the Tax Administration (Tax Invoice Monitoring System) Regulations 2020".

(5) If a taxpayer or supplier complies with obligations within the period of closure, the Commissioner must immediately arrange for removal of the notice under subregulation (2).

31. General administrative penalties - A person who contravenes or fails to comply with any obligation under these Regulations not covered elsewhere, is liable to a fine:

(i) first time contravention, to a fine not exceeding 10 penalty units;

(ii) second time and continuous contravention, to a fine not exceeding 20 penalty units.

32. Compounding of offences - Section 80 of the Act applies with necessary modifications if a person commits an offence under these Regulations.