THE VALUE ADDED TAX ACT
(Cap. 476)

IN EXERCISE of the powers conferred by section 23 of the Value Added Tax Act, the Minister for Finance makes the following Order:

THE VALUE ADDED TAX (REMISSION) (LOW INCOME HOUSING PROJECTS) ORDER, 2008

1. This Order may be cited as the Value Added Tax (Remission) (Low Income Housing Projects) Order, 2008.

2. In this Order, unless the context otherwise requires—

   "applicant" means a person making an application under paragraph 3 of this Order;

   "low income earner" means a person whose monthly gross earning amounts to thirty five thousand shillings or less;

   "low income house" means a house put up at a construction cost of not more than one million six hundred thousand shillings and of plinth area of not less than thirty square meters;

   "low income housing project" means a project of not less than twenty housing units intended for low income earners;

   "Minister" means the minister for the time being responsible for finance.

3. (1) An application for tax remission under section 23 (3) (l) of the Act shall be made in writing to the Minister through the Minister for the time being responsible for housing.

   (2) An application under this paragraph shall—

   (a) be submitted together with the detailed certified list of goods and services to be rendered in respect of which the application is made;

   (b) include the following—

   (i) the location of the project;

   (ii) evidence of construction cost;

   (iii) approved designs of the project;
(iv) the number of units to be constructed;
(v) the approval of the development by relevant authorities;
(vi) the Personal Identification Number (PIN) of the applicant; and
(vii) tax compliance certificate.

4. The Commissioner may require an applicant to—
   (a) furnish such further information as the Commissioner may consider necessary; and
   (b) allow and facilitate the inspection of the goods or services rendered to which the application relates by a person authorized by the Commissioner.

5. (1) Except as provided in sub-paragraph (2) below, only one application shall be made with respect to a given project.
   (2) A second application in respect of the same project may be made if the applicant demonstrates that the additional application relates to a separate phase of the project or an expansion thereof.

6. A person granted tax remission under this Order shall—
   (a) construct low income houses;
   (b) allow and facilitate the Minister for the time being responsible for housing or the Commissioner to inspect the projects, including the goods and services rendered;
   (c) avail the records of such goods and services rendered for purposes of inspection and audit to the Minister for the time being responsible for housing or the Commissioner;
   (d) sell, rent or lease the houses to low income earners;
   (e) sell the housing units at a price which is not more than thirty per cent of the construction cost;
   (f) ensure the rent charged for the houses constructed under the scheme reflect the reduced cost of construction as a result of tax remission.

7. Where the Commissioner and the Minister for the time being responsible for housing is satisfied that an applicant granted tax remission under this Order has failed to comply with the provisions of paragraph 6 above, the Commissioner shall require the applicant to refund the tax remitted.

8. An applicant shall, if he sells, leases, rents or converts a house for uses other than as provided under paragraph 6(d), before the expiry of five years from the date the construction was completed, be required to refund the tax remitted or such portion thereof as the Minister may determine relating to the construction of the part so converted.

Dated the 2nd September, 2008.

JOHN MICHUKI,
Acting Minister for Finance.