

No. 10] *Value Added Tax (Amendment) Act* [2012.

I ASSENT

[L.S.] PEARLETTE LOUISY,
Governor-General.

September 28, 2012.

SAINT LUCIA

No. 10 of 2012

AN ACT to amend the Value Added Tax Act, No.7 of 2012.

[28th September, 2012]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same, as follows:

No. 10] *Value Added Tax (Amendment) Act* [2012.

Short title

1. This Act may be cited as the Value Added Tax (Amendment) Act, 2012.

Interpretation

2. In this Act, 'principal Act' means the Value Added Tax Act, No.7 of 2012.

Amendment of section 2

3. Section 2 of the principal Act is amended —

- (a) in the definition of “association not for gain”, by deleting “whether incorporated or not” between “organisation” and “which” in the chapeau; and
- (b) by inserting the following definition in the proper alphabetical sequence:

“second-hand goods” means goods which have been previously used except the following —

- (a) precious metals or goods made of precious metals being-
 - (i) gold, in an investment form, of at least 99.5 percent fineness;
 - (ii) silver, in an investment form, of at least 99.9 percent fineness;
 - (iii) platinum, in an investment form, of at least 99 percent fineness;
 - (iv) goods to the extent that they would fall within (i), (ii) or (iii) if they were of the required fineness;
- (b) diamonds, rubies, emeralds or sapphires that are not mounted, set or strung;
- (c) animals or plants;
- (d) real property; and
- (e) goods valued at ten thousand dollars or less.”.

Amendment of section 10

4. Section 10 of the principal Act is amended by deleting subsection 2 and substituting the following:

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“Notwithstanding subsection (1) the Minister may, by Order, specify the rate of tax for goods and services provided by hotels and other providers in the tourism sector.”

Amendment of section 12

5. Section 12 of the principal Act is amended—

(a) by deleting subsection (9) and substituting the following:

“Notwithstanding subsection (1) or (10), a promoter of public entertainment and a licensee and a proprietor of a place of public entertainment shall apply for registration at least five working days before the commencement of the public entertainment promoted by them if, within any period of twelve or fewer months that includes this public entertainment, the total value of the promoter or the licensee or proprietor’s taxable supplies is reasonably expected to exceed one hundred and eighty thousand dollars.”: and

(b) by deleting subsection (12).

Amendment of section 13

6. Section 13 of the principal Act is amended by deleting subsection (2) and substituting the following:

“The Comptroller is required to register a person who applies for registration within twenty-one working days of receipt of the application, unless the Comptroller is satisfied that the person is not eligible to apply for registration under section 12.”.

Amendment of section 14

7. Section 14 of the principal Act is amended—

(a) by deleting subsection (4) and substituting the following:

“(4) If the Comptroller is satisfied that a taxable person—

(a) is not carrying on a taxable activity; or

(b) was not required or entitled to apply for registration; and

(i) has no fixed place of abode or business;

(ii) has not kept proper accounting records relating to any business activity carried on by that person;

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- (iii) has not submitted regular and reliable tax returns as required by section 37; or
- (iv) has not complied with his or her obligations under the laws relating to tax, including any laws relating to customs; or
- (c) was required to register under section 12 and ceases to satisfy the registration requirements under section 12,

the Comptroller may cancel the registration of that person, and the cancellation shall take effect from the last day of the tax period during which the Comptroller becomes so satisfied or from such other date as the Comptroller may determine, and the Comptroller shall give written notice to the taxable person of the date on which cancellation takes effect.”;

- (b) in subsection (7), by deleting paragraph (a) and substituting the following:

“(a) required to register under section 12(1), (9) or (10) who ceases to satisfy the criteria under section 12(1), (9) or (10) or”; and

- (c) by deleting subsection (13) and substituting the following:

“(13) A taxable person who sells a going concern or engages in a similar transaction, such as a merger, shall notify the Comptroller of that fact at least five working days before the earliest of the date –

- (a) the sale closes;
- (b) the purchaser acquires any legal interest in the assets to be acquired; or
- (c) the assets of the going concern are transferred.”.

Amendment of section 17

8. Section 17 of the principal Act is amended by inserting immediately after subsection (3) the following:

“(4) Notwithstanding subsections (1), (2) and (3), the exempt supplies listed under paragraph 2 (dd) of the Second Schedule apply from the date on which this Act comes into force and terminates on the 8th day of February, 2014”.

Amendment of section 19

9. Section 19(4) of the principal Act is amended—

- (a) by deleting paragraph (i); and
- (b) by deleting “; or” in paragraph (h) and substituting “.”

Amendment of section 27

10. Section 27(2) of the principal Act is amended by deleting paragraph (a) and substituting the following:

“(a) an import of services is made for no consideration or for consideration that is less than the fair market value of that import; and”.

Amendment of section 28

11. Section 28(1) of the principal Act is amended by deleting paragraph (b) and substituting the following:

“(b) pay the tax due in respect of the import within twenty-one days after the tax period in which the services were imported.”.

Amendment of section 30

12. Section 30 of the principal Act is amended by—

- (a) adding the words section 17 and between the words subject to and this section in subsection (1); and
- (b) by deleting subsection (2)(c) and substituting the following:

“(c) for the purposes of subsection (1)(f), with respect to the acquisition, the taxable person is in possession of documents required by the Comptroller.”.

Amendment of section 32

13. Section 32 of the principal Act is amended:

- (a) by deleting subsection (11) and substituting the following:

“(11) The deduction under subsection (9) arises on –

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- (a) the later of the period in which the debt is written off and the first tax period that ends at least one year after the consideration became due and payable to the registered person; and
 - (b) the registered person satisfies the Comptroller that reasonable efforts have been made to recover the amounts due and payable.”; and
- (b) by inserting immediately after subsection (13), the following:
- “(14) Notwithstanding subsection (11), where the person to whom a supply is made is declared bankrupt, the registered person may deduct from his payment of output tax for the later of the taxable period in which the bad debt is written off and the time at which the person is declared bankrupt in accordance with subsection (12).”.

Amendment of section 39

14. Section 39 of the principal Act is amended by deleting subsection (11) and substituting the following:

“(11) The Comptroller may, within three years after service of the notice of assessment, or in the case of assessments described in subsection (4), within the deadline specified in subsection (4), amend an assessment by making such alterations or additions to the assessment as the Comptroller considers necessary, in which case the Comptroller shall serve notice of the amended assessment on the person assessed.”.

Amendment of section 57

15. Section 57 of the principal Act is amended:

- (a) by deleting subsection (5) and substituting the following:

“(5) Where at least fifty percent of the amount of the taxable supplies of a taxable person for the taxable period is taxed at a rate of zero percent, and the person reports an excess described in subsection (1)(a) for the tax period, the person may file with the Comptroller a claim for refund for the excess deductions attributable to the zero rated supplies in the form and with the documentation specified by the Comptroller.”;

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(b) by deleting subsections (16) and (17) and substituting the following:

“(16) For the purposes of subsection (3), the Comptroller may, on the terms and conditions imposed, authorize a taxable person to file a claim for refund as if subsection (3) required the excess referred to in subsection (1)(a) to be carried forward and used as an input tax deductible in one instead of three consecutive tax periods.

(17) The Comptroller may make an authorization pursuant to subsection (18) only where—

- (a) the taxable person has kept proper records;
- (b) the taxable person has submitted regular and reliable tax returns;
- (c) the taxable person has complied with all of his or her obligations under the laws relating to tax, including any laws relating to customs as required under this Act; and
- (d) the taxable person has complied with all of his or her obligations under the Acts repealed by section 111.”; and

(c) by inserting immediately after subsection (17) the following:

“(18) A person shall not improperly claim a refund under subsections (3), (5) or (8).

(19) A person who contravenes subsection (16) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years or to both.”.

Amendment of section 59

16. Section 59 of the principal Act is amended –

(a) by deleting subsection (1) and substituting the following:

“(1) (a) Where goods or services are supplied to a diplomatic mission, consulate, international organization or a member of the diplomatic or consular service or a member of his or her family forming part of his household, such mission, consulate, organization or member, as the case may be, may apply to the Comptroller

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within two years after the supply was made for a refund of the tax paid in respect of the goods or services, as the case may be;

- (b) Notwithstanding subsection (1)(a), the Minister may, by Order published in the Gazette, specify the missions, consulates, organizations and members referred to in subsection (1)(a) who are entitled to a refund under this section and the categories of goods and services in respect of which a refund is payable; or
- (c) an organization or government to the extent provided under a technical assistance or humanitarian assistance or other local agreement entered into with the government of Saint Lucia .”; and
- (b) by deleting subsection (2).

Amendment of section 112

17. Section 112 of the principal Act is amended by deleting subsection (6) and substituting the following:

“(6) Subject to subsection (8), if, in connection with a supply of goods or services –

- (a) title to goods passes, delivery of goods is made or services are provided after the date on which this Act came into force; and
- (b) payment is received or an invoice is issued within nine months before that date;

for the purposes of determining the tax period in which the supply occurs or an input tax deduction is allowable, the payment is treated as having been made or the invoice is treated as having been issued on the date on which this Act comes into force.”.

Amendment of First Schedule

18. The First Schedule of the principal Act is amended—

- (a) in paragraph 1, by deleting the definition of “fuel” and substituting the following:
 - ““fuel” means the goods described under the following Customs Tariff Headings;

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- (a) 2710.11.30;
- (b) 2710.19.10;
- (c) 2710.19.20;
- (d) 2710.19.40;
- (e) 2711.11.00;
- (f) 2711.19.11;
- (g) 2711.19.12; and
- (h) 2711.19.14.”;

(b) by deleting paragraph 2(1)(j) and substituting the following:

“(j) a supply of the following food items described under the following Customs Tariff Heading:
0407.00.30 Fresh eggs (other than hatching eggs)
1902.19.00 Uncooked pasta, not stuffed or otherwise prepared; and”; and

(c) by deleting paragraph 2(2)(d) and substituting the following:

“(d) a supply to a telecommunication carrier not conducting business in Saint Lucia that involves the transmission of calls and other telecommunications services through Saint Lucia that have their origin and destination outside Saint Lucia, but are not for the consumption or use of persons in Saint Lucia, but if the telecommunication carrier charges an interconnection fee for providing this service then the interconnection fee shall be taxable;”.

Amendment of the Second Schedule

19. The Second Schedule of the principal Act is amended in paragraph 2—

(a) by deleting (o) and substituting the following:

“a supply of games of chance, lotteries, the Saint Lucia National Lottery, and the Windward Island Lotteries Commission for specified periods of time as prescribed by the Minister by Order published in the Gazette;”

(b) by deleting subparagraph (cc) and substituting the following:

“(cc) a supply of the following food items as defined under the following Customs Tariff Headings:

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0207.11.00	Fowls of the species Gallus Domesticus (Not cut in pieces, fresh or chilled)	
0207.12.00	Fowls of the species Gallus Domesticus (Not cut in pieces, frozen)	
0207.13.00	Chicken cuts and offal (including livers) fresh or chilled	
0207.14.10	Backs and necks of the fowls of the species Gallus Domesticus, frozen	
0207.14.20	Wings of the fowls of the species Gallus Domesticus, frozen	
0207.14.90	Other cuts of the meat of the species Gallus Domesticus, frozen	
0207.14.30	Chicken, livers, frozen	
0302.31.90	Albacore or longfinned tunas, fresh or chilled	
0302.32.90	Yellowfin tunas, fresh or chilled	
0302.33.00	Skipjack or stripe bellied bonito, excluding livers and roes, fresh or chilled	
0302.34.00	Bigeye tunas, fresh or chilled	
0302.35.00	Bluefin tunas, fresh or chilled	
0302.36.00	Southern bluefin tunas, fresh or chilled	
0302.39.00	Other tunas, fresh or chilled	
0302.40.90	Herrings, excluding livers and roes, fresh or chilled	
0302.50.90	Cod, excluding livers and roes, fresh or chilled	
0302.61.90	Sardines, fresh or chilled	
0302.64.90	Mackerel, fresh or chilled	
0302.69.20	Snapper, shark, croaker, grouper, dolphin, bangamary and sea trout, excluding livers and roes, fresh or chilled	
0302.69.30	Flying fish, excluding livers and roes, fresh or chilled	
0302.69.90	Other fish, excluding livers and roes, fresh or chilled	
0303.41.90	Albacore or longfinned tunas, frozen	
0303.42.90	Yellowfin tunas, frozen	
0303.43.00	Skipjack or stripe-bellied bonito, frozen	
0303.44.00	Bigeye tunas, frozen	
0303.45.00	Bluefin tunas, frozen	
0303.46.00	Southern bluefin tunas, frozen	
0303.49.00	Other tunas, frozen	
0303.51.90	Herring, excluding livers and roes, frozen	
0303.52.90	Cod, excluding livers and roes, frozen	
0303.71.90	Sardines, frozen	
0303.74.90	Mackerel, frozen	

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0303.79.20	Snapper, shark, croaker, grouper, dolphin, bangamary and sea trout, excluding livers and roes	
0303.79.30	Flying fish, excluding livers and roes	
0304.19.10	Fillet of flying fish, fresh or chilled	
0304.19.90	Fillet or other fish, fresh or chilled	
0304.29.10	Fillet of flying fish, frozen	
0304.99.00	Fillet of other fish, frozen	
0401.10.00	Fresh milk of a fat content, by weight, not exceeding 1%	
0401.20.00	Fresh milk of a fat content, by weight, exceeding 1% but not exceeding 6%	
0401.30.00	Fresh milk of a fat content, by weight, exceeding 6%	
0402.10.00	Powdered milk of a fat content, by weight not exceeding 1.5%	
0402.21.00	Powdered milk of a fat content, by weight exceeding 1.5%: not containing added sugar or other sweetening matter	
0402.29.00	Other Powdered milk of a fat content, by weight exceeding 1.5%	
0402.99.90	Evaporated milk	
0405.10.10	Fresh butter	
0405.10.20	Salted Butter	
0701.90.00	Potatoes, other than seed potatoes, fresh or chilled	
0702.00.00	Tomatoes, fresh or chilled	
0703.10.10	Onions, fresh or chilled	
0703.10.20	Shallots (eschallots), fresh or chilled	
0703.20.00	Garlic, fresh or chilled	
0703.90.00	Leeks and other alliaceous vegetables, fresh or chilled	
0704.90.10	Cabbages, fresh or chilled	
0704.10.10	Cauliflowers, fresh or chilled	
0704.10.90	Headed broccoli, fresh or chilled	
0704.20.00	Brussels sprouts, fresh or chilled	
0704.90.90	Other edible brassicas, fresh or chilled	
0705.11.00	Cabbage Lettuce (Head Lettuce), fresh or chilled	
0705.19.00	Other Lettuce, fresh or chilled	
0706.10.10	Carrots, fresh or chilled	
0706.10.90	Turnips, fresh or chilled	
0706.90.10	Beets, fresh or chilled	
0706.90.90	Other edible roots, fresh or chilled	
0707.00.10	Cucumbers, fresh or chilled	
0708.10.10	Pigeon peas, fresh or chilled	

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0708.10.20	Blackeye peas, fresh or chilled
0708.10.90	Other Peas, fresh or chilled
0708.20.10	String beans, fresh or chilled
0708.20.20	Bora (bodi) beans (<i>Vigna</i> spp.), fresh or chilled
0708.20.90	Other beans, fresh or chilled
0708.90.00	Other leguminous vegetables, fresh or chilled
0709.20.00	Asparagas, fresh or chilled
0709.30.00	Aubergines (egg-plants), fresh or chilled
0709.40.00	Celery other than celeriac, fresh or chilled
0709.90.10	Zucchini, fresh or chilled
0709.90.20	Ochroes, fresh or chilled
0709.90.30	Pumpkins, fresh or chilled
0709.90.40	Sweet corn (corn on the cob), fresh or chilled
0709.60.10	Sweet peppers, fresh or chilled
0709.60.90	Other fruits of the genus <i>Capsicum</i> or of the genus <i>Pimenta</i>
0709.90.90	Other vegetables, fresh or chilled
0713.10.10	Pigeon peas, dried shelled, whether or not skinned or split
0713.10.20	Split pea, dried, shelled, whether or not skinned or split
0713.10.30	Blackeye peas, dried, shelled, whether or not skinned or split
0713.20.00	Chickpeas (garbanzos), dried, shelled, whether or not skinned or split
0713.10.90	Other peas, dried, shelled, whether or not skinned or split
0713.31.00	Beans of the species <i>Vigna mungo</i> (L.) Hepper or <i>Vigna radiata</i> (L.) Wilczek, dried, shelled, whether or not skinned or split
0713.32.00	Small red (adzuki) beans (<i>Phaseolus</i> or <i>vigna angularis</i>), dried shelled, whether or not skinned or split
0713.33.10	Red kidney beans, dried, shelled, whether or not skinned or split
0713.33.90	Other kidney beans, dried, shelled, whether or not skinned or split
0713.39.00	Other beans, dried, shelled, whether or not skinned or split
0713.40.00	Lentils, dried shelled, whether or not skinned or split

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0713.50.00	Broad beans, dried, shelled, whether or not skinned or split
0713.90.90	Other leguminous vegetables, dried, shelled, whether or not skinned or split
0714.10.00	Manioc (cassava), fresh, chilled, frozen or dried,
0714.20.00	Sweet potatoes, fresh, chilled, frozen or dried
0714.90.10	Arrowroot, fresh, chilled, frozen or dried
0714.90.20	Dasheens, fresh, chilled, frozen or dried
0714.90.30	Eddoes, fresh, chilled, frozen or dried
0714.90.40	Tannias, fresh, chilled, frozen or dried
0714.90.50	Yams, fresh, chilled, frozen or dried
0714.90.90	Other roots and tubers, fresh, chilled, frozen or dried
0801.19.10	Coconuts, not shelled, fresh or dried, whether or not shelled or peeled.
0801.19.90	Coconuts, other, fresh or dried, whether or not shelled or peeled.
0803.00.10	Bananas, fresh or dried
0803.00.20	Plantains, fresh or dried
0804.30.00	Pineapples, fresh or dried
0804.40.00	Avocados, fresh or dried
0804.50.10	Guavas, fresh or dried
0804.50.20	Mangoes, fresh or dried
0805.10.00	Oranges, fresh or dried
0805.20.20	Ortaniques, fresh or dried
0805.20.90	Mandarins, (including tangerines and sasutmas); clementines, wilkings and similar citrus hybrids, fresh or dried
0805.50.10	Lemons, fresh or dried
0805.50.20	Limes, fresh or dried
0805.40.00	Grapefruit, fresh or dried
0805.90.00	Other citrus fruit, fresh or dried
0807.11.00	Watermelons, fresh
0807.20.00	Pawpaws (papayas), fresh
0810.90.10	Sapodillas, fresh
0810.90.20	Golden apples, fresh
0810.90.30	Passion fruit, fresh
0810.90.40	Soursop, fresh
0810.90.50	Breadfruit, fresh
0810.90.60	Carambolas, fresh

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0810.90.80	Christophine, fresh	
1006.10.90	Rice in the husk (Other than for sowing)	
1006.20.10	White rice, in packages for retail sale	
1006.20.20	Other white rice	
1006.20.30	Parboiled rice, in packages for retail sale	
1006.20.40	Other parboiled rice	
1006.30.10	Semi-milled white rice in packages of not more than 10 kg	
1006.30.20	Other semi-milled white rice	
1006.30.30	Semi-milled parboiled rice in packages of not more than 10 kg	
1006.30.40	Other Semi-milled parboiled rice	
1006.30.50	Wholly milled white rice, in packages of not more than 10 kg	
1006.30.60	Other wholly milled white rice	
1006.30.70	Wholly milled parboiled rice, in packages of not more than 10 kg	
1006.30.80	Other wholly milled parboiled rice	
1006.40.10	Broken rice in packages for retail sale	
1006.40.90	Other broken rice	
1101.00.10	Flour of durum wheat	
1101.00.90	Other flour	
1513.19.00	Coconut oil	
1517.10.00	Margarine excluding liquid margarine	
1517.90.10	Imitation lard and lard substitutes (shortening)	
1602.50.10	Canned corned beef of bovine animals	
1604.13.10	Canned sardines	
1604.14.10	Canned tuna	
1604.15.00	Canned mackerel	
1701.11.10	Cane sugar (for retail sale in packages of not more than 10 kgs)	
1701.11.19	Other cane sugar	
1901.10.00	Preparations for infant use, put up for retail sale	
1905.90.10	Biscuits, unsweetened	
1905.90.91	Bread unsweetened (e.g. sandwich loaves, hot dog rolls and hamburger buns)	
2501.00.10	Table salt in retail packages of not more than 2.5 kgs	
2501.00.20	Other table salt"; and	

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(b) by inserting immediately after subparagraph (cc) the following:

“(dd) the following construction materials:

2505.10.00	Sand
2517.10.00	Pebbles, gravel, broken or crushed stone, of a kind commonly used for concrete aggregates
2523.29.10	Building Cement
3208.90.90	Other Paints and Varnishes
3210.00.10	Water thinned paints (emulsion paints or dispersion paints)
3210.00.20	Distempers, dry
3210.00.40	Other Paints
3824.50.00	Non-refractory mortars and concretes
4403.10.10	Wood in the rough; of coniferous species
4407.10.10	Wood sawn or chipped; coniferous pitch – pine
4407.10.90	Wood sawn or chipped Other, coniferous
4407.29.20	Greenheart
4407.99.00	Wood sawn or chipped; Other
4409.10.10	Pitch-pine
4412.31.00	Plywood with at least one outer layer of tropical wood
4412.32.00	Plywood; Other, with at least one outer ply of non coniferous wood
4412.39.00	Plywood; Other
4412.99.00	Plywood; with at least one ply of tropical wood
4412.99.00	Other plywood; containing at least one layer of particle board
4412.99.00	Other plywood;
4412.99.00	Plywood; with at least one ply of tropical wood
4412.99.00	Other plywood; containing at least one layer of particle board
4412.99.00	Other plywood; containing at least one layer of particle board

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7210.61.20	Flat rolled products: plated or coated with aluminum; of a thickness of less than 3 mm	
7210.70.20	Flat rolled products: painted or varnished; of a thickness of less than 3 mm	
7213.10.10	Bars and rods, hot-rolled in irregularly wound coils, of iron	
7213.10.90	Bars and rods, hot-rolled in irregularly wound coils, of non alloy steel	
7213.20.00	Bars and rods, hot-rolled in irregularly wound coils, other of free cutting steel	
7213.91.10	Bars and rods, hot-rolled in irregularly wound coils, of circular cross-section, of iron	
7213.91.90	Bars and rods, hot-rolled in irregularly wound coils, of circular cross-section, of non alloy steel	
7213.99.10	Bars and rods, hot-rolled in irregularly wound coils, of circular cross-section, Other; of iron	
7213.99.90	Bars and rods, hot-rolled in irregularly wound coils, of circular cross-section, Other; of non alloy steel	
7214.10.10	Other bars and rods; forged; of iron	
7214.10.20	Other bars and rods; Forged; of non alloy steel	
7214.20.10	Other bars and rods; containing indentations; of iron	
7214.20.90	Other bars and rods; containing indentations; of non alloy steel	
7216.91.90	Angles, shapes and sections: cold formed or finished; other	
7216.99.00	Angles, shapes and sections: cold formed or finished; other	
7228.60.00	Other bars and rods of other alloy steel; other	

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- 7228.70.10 Other bars and rods of other alloy steel;
Angles
- 7228.70.20 Other bars and rods of other alloy steel;
shapes and sections
- 7228.80.00 Other bars and rods of other alloy steel;
hollow drills and bars
- 7314.20.90 Cloth, grill netting and fencing; welded at
intersection; other”

Passed in the House this 25th day of September, 2012.

PETER I. FOSTER,
Speaker of the House.

Passed in the Senate this 27th day of September, 2012.

CLAUDIUS J. FRANCIS,