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Law Clinic
kwiKliniki yezomThetho
Regskliniek

24 May 2018

BY E-MAIL: vatsubmissions@treasury.gov.za

ATTENTION: THE INDEPENDENT PANEL REGARDING REVIEW OF LIST OF ZERO-RATED ITEMS

To whom it may concern

RE: WRITTEN SUBMISSION: ADDING FEMININE HYGIENE PRODUCTS TO LIST OF ZERO-RATED VAT ITEMS

1. The Stellenbosch University Law Clinic (“the Clinic”) has become aware of the public call for submissions on the expansion of the recognised list of zero-rated VAT items and hereby records its intent to make submissions in this regard.
2. The Clinic submits that feminine hygiene products (also referred to as menstrual hygiene products) should be included in section 11 of the Value-Added Tax Act¹ as a zero-rated good for VAT purposes, on the basis that these products constitute a basic and essential need item. Because feminine hygiene products remain largely inaccessible to underprivileged females,² many resort to risky, unhygienic options in

¹ Act 89 of 1991.

² Department of Education Kwa-Zulu Natal “Distribution of Sanitary pads to schools” (2017) *Circular No 02 of 2017*

<<http://www.kzneducation.gov.za/Portals/0/Circuiars/KZN/2017/KZN%20CIRCULAR%20NO.%2002%20OF>

order to manage their personal hygiene and well-being which, in turn, poses serious health risks.³

3. The Clinic is concerned that this financial impediment to vital healthcare products adversely impacts upon females' constitutional rights, including the right to freedom and security of the person, the right to bodily and psychological integrity, and the right to human dignity. Further, since it is estimated that one-third of female learners in South Africa fail to attend schools when they menstruate as they cannot afford feminine hygiene products,⁴ the right to education, protected by section 29 of the Constitution, may also be infringed.
4. The Clinic submits that National Treasury should take note of the abolishment of the VAT levy on these items in other countries, including Kenya, Mauritius, Nigeria, Tanzania and Seychelles,⁵ and consider implementing the same reform in South Africa.
5. The Clinic therefore submits that it is in the best interest of poor and marginalised females to add feminine hygiene products to the list of zero-rated VAT items. The Clinic firmly believes that this decision would ultimately promote the constitutional vision, as set out in the preamble of the Constitution, to improve the quality of life for all citizens.

[%202017-DISTRIBUTION%20OF%20SANITARY%20PADS%20TO%20SCHOOLS.pdf](#)> (accessed 24-05-2018).

³ D Ramathumba "Menstrual knowledge and practices of female adolescents in Vhembe district, Limpopo Province, South Africa" (2015) 38(1) *Curationis* 4-9. <http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S2223-62792015000100040&lng=en&nrm=iso> (accessed 24-05-2018).

⁴ D Ramathumba "Menstrual knowledge and practices of female adolescents in Vhembe district, Limpopo Province, South Africa" (2015) 38(1) *Curationis* 5; C Bernardo "The case for tax free tampons, pads in SA." (2016) *IOL Lifestyle* <<http://www.iol.co.za/lifestyle/the-case-for-tax-free-tampons-pads-in-sa-2012494>> (accessed 24-05-2018).

⁵ M&G Africa Reporter "Gender equality win! The African countries that were ahead of France in not taxing periods" (2015) *Mail and Guardian Africa* <http://mgafrika.com/article/2015-12-15-tampons-no-longer-a-luxury-good-in-france> (accessed 24-05-2018); Abigail Higgins "Having a period is unaffordable in Kenya, yet no one wants to talk about it" (2017) *The Guardian* <https://www.theguardian.com/global-development-professionals-network/2017/jan/05/having-a-period-is-unaffordable-in-kenya-yet-no-one-wants-to-talk-about-it> (accessed 24-05-2018).

6. The Clinic confirms that it is desirous of continuous involvement in this process and kindly requests that it be notified of further future public participation opportunities.
7. Kindly confirm receipt of this submission.

Yours faithfully

STELLENBOSCH UNIVERSITY LAW CLINIC

PER: 

DR T BROODRYK