The Leader of the Opposition (By Private Notice) asked the Vice-Prime Minister, Minister of Finance and Economic Empowerment whether, in regard to exemption or refund of Value Added Tax for construction or other purposes to private firms or Non-Governmental Organisations, since 2005 to-date, he will state the names of the -

(a) beneficiaries thereof, indicating the amount involved in each case; and
(b) Non-Governmental Organisations which have made requests therefore and the outcome thereof, in each case, indicating those which are likely to benefit from the measures announced in the 2009 Budget.

The Vice-Prime Minister, Minister of Finance and Economic Empowerment (Dr. R Sithanen): Mr Speaker, Sir, VAT was introduced in 1998 by replacing the sales tax on goods and the tax on hotels and restaurants. The introduction of VAT had two major objectives.

First, to be the mainstay of revenue within the broad policy to shift from reliance on trade related to domestic taxes.

Second, to provide a system that allows recovery of taxes paid on inputs and, therefore, encourage investment and economic activity.

In view of its purposes, VAT has always taken a strictly rules based approach to exemptions. The National Assembly must approve all VAT exemptions. Such exemptions from payment of VAT are provided through two channels. Either an activity or product is exempt from VAT or it is zero rated. There is therefore no discretionary power whatsoever vested in the Minister of Finance.

A zero rated activity or product can obtain a refund of taxes paid on inputs whilst an exempted activity or product is outside the VAT system altogether.
VAT is a tax that reflects a generally accepted principle of public finance that investment should not be taxed, and instead taxation should focus on consumption. Exports are zero rated and so are products that are important inputs to exports and where the suppliers may not be in the VAT system.

Moreover, exemptions have been applied to health including medical equipment; Education; public transport; airlines, diplomatic missions (in line with international conventions) and NHDC housing estates.

The list of items is occasionally reviewed. During the period 2000 to 2005 some additional items were added to the zero rated list. Since 2005, the main changes relate to the promotion of exports of new services, particularly in health and education.

Mr Speaker, Sir, in the Finance Act 2005, the previous Government provided that constructions of buildings for the provision of tertiary education would be exempted from VAT. This exemption was extended in a transparent manner to the Health sector in 2006.

Given that Health and Education are exempt, investors in these sectors would be unable to obtain a refund for their inputs. This is a particularly important issue since during the investment stage when the project does not generate revenue. In fact, until the tax reforms of 2006, a holder of a Health Development Certificate could obtain VAT and Customs duty exemptions on an approved list of medical equipment and exemption from registration duty on land. The list was subject to regular additions.

With the emphasis on promoting the knowledge and medical hubs, during missions of the Board of Investment it became clear that investors required being exempt from VAT on construction and wanted this done in a transparent manner that would bring certainty and predictability. Investors also required maintaining the provisions for exempting VAT on medical equipment.

Mr Speaker, Sir, the approach taken to accommodate investors in a transparent manner has been to provide these exemptions to ALL investors in these sectors registered with BOI for health projects and with Tertiary Education Commission for education projects. There is now a rules based approach.
In line with the philosophy of VAT and the need to be competitive in attracting FDI in a globalised world, it is necessary to provide exemption from VAT to the construction related phase of investment projects in our knowledge and medical hubs.

Our approach to taxation is part of a wider philosophy of putting public finances on a sound basis and inspiring investor confidence by moving to a clearly spelt out rules based system. Reforms in our taxation regime emphasize clear rules applied equally to all investors. This approach is paying dividends with high levels of FDI.

Moreover, the move away from discretionary tax breaks selectively given to favoured taxpayers has been dramatic. Prior to our reforms, before the Minister of Finance relinquished his discretionary powers in favour of a transparent and rules based approach, tax expenditures (i.e. exemptions being provided on a discretionary basis) amounted to 3.5% of GDP. Following the reforms and reliance on rules and transparency, these expenditures have come down.

More importantly, now the tax expenditure is entirely rules based and provided to all without special favours. Also, the quality of the exemptions provided previously was lower due to being largely provided on a case by case basis at the discretion of the Minister.

For example, the Illovo deal involved tax payers providing at least Rs400 m. in one tax exemption to support a large disinvestment from Mauritius. In addition, the interpretation of the fiscal law was tweaked to exempt many transactions under the Illovo deal from payment of several other taxes. If these taxes were included, the exemptions given on a discretionary basis would be significantly higher than Rs1 billion.

All these, Mr Speaker, Sir, were done in a non transparent way where the Minister used his discretion. He did not even come to this august Assembly for approval.

In contrast, under this Government the largest beneficiaries have been related to FDI in new sectors and new activities. At the same time, we have been increasing the taxes paid by IRS projects, our tax expenditures have been focused on investment that creates jobs and diversifies the economy to make it more resilient.
In that context, the Apollo Brammer Hospital project which is a joint venture between one of the most reputable medical institutions and a local company has established medical tourism in Mauritius. It will bring high tech, state-of-the-art medicine, provide additional training facilities to support the development of medical training and create 500 jobs.

I have recently provided the details on VAT exemptions to the projects in response to PQ B/364. Additionally the Mauritius Chamber of Commerce and Industry and the MEF have also benefitted from the same provisions in a transparent way for the construction of its new training centre to the tune of Rs6.5 m. VAT exemption.

The JSS Academy, an India based tertiary institution and Jhurry Rya School, a local institution, have been approved and by the end of construction it is expected that their VAT exemption – again in a transparent manner- will amount to Rs45 m. and Rs6 m., respectively. Charles Telfair Institute is expected to benefit to the tune of some Rs 25 million once its new building project is undertaken.

Mr Speaker, Sir, all these exemptions have been given in strict conformity with the rules based system that we have introduced. There is no discretionary power used as was the case previously in some large transactions. We also have several other knowledge and medical hub projects in the pipeline like Ramachandra, Manipal University and D.Y. Patil University that will benefit from the same provisions, as will other projects in these sectors.

Mr Speaker, Sir, the need to provide incentives is not new. For example, previously all EPZ companies were benefitting from Customs and VAT exemptions as well as preferential prices and rentals on land and industrial buildings.

For instance, in 2002 the then Government provided generous incentives for the spinning sector to encourage investment. Beneficiaries include Tian Li spinning, FUEL group and CMT. Benefits include a 10 year tax holiday, VAT and Customs Duty exemption, beneficial electricity tariffs, land at concessionary rates and exemption of tax on land conversion.
In the case of FUEL, the promoters obtained exemption from land conversion tax on 25 acres for the setting up of a spinning plant. In addition Mr Speaker, Sir, the BPML Cyber Tower, a very important project for our country has also benefitted from refund of VAT. Likewise the Swami Vivekananda Convention Centre has equally benefitted from these, Mr Speaker, Sir.

In the ICT sector, tax holidays were provided up to 2012 and with 5 percent corporate tax for a lifetime. Customs duty exemptions on office buildings and furniture were also given. Similarly, in 2004, a seafood project benefitted from concessionary rates on land rental.

Concerning NGOs, over the years many have requested various exemptions including from VAT. Since VAT is rules based it has not been possible for Ministers to provide such exemption on a discretionary basis. Moreover, there are significant risks involved due to the complexity of administering any regime to limit benefits to deserving NGOs.

This Government is for the first time proposing a framework to support deserving NGOs. However, because of the way VAT functions, there will be no exemptions but a refund system for VAT related to construction for projects approved by the National Empowerment Foundation for deserving NGOs.

**Mr Bérenger:** The hon. Minister has given a number of firms that have been benefited, from what I understood, from VAT funding on materials for construction. Obviously, in the case of British American Insurance, Apollo Hospital, this is a profit-making venture. The description of the hon. Minster has given of others that have supposedly benefited from the same kind of advantage, are there other profit making?

**Dr. Sithanen:** Well, it depends how you define profit, Mr Speaker, Sir. In 2005, when the then Government introduced a change for education it was available for public sector institution and also for private sector, Mr Speaker, Sir. So, I don't want to go into a debate whether Charles Telfair Institution, which is providing very good training in this
country is a non-profit or a profit organisation. The same thing, Mr Speaker, Sir, for all the other institutions that I have mentioned coming from India or elsewhere. So, we are not going to enter into a debate whether it is profit-making or non profit making. We consider, Mr Speaker, Sir, just like they consider that the time when they introduced the changes that these are extremely important for broadening economy activities of the country with a view to enhancing its resilience.

**Mr Bérenger:** In the case of the Apollo Hospital, which is American Insurance, can we have the dates on which they made the applications and the date on which it was approved?

**Dr. Sithanen:** I don't have the exact dates, Mr Speaker, Sir, but I will look into it and come forward to the Assembly and give more information to the hon. Leader of the Opposition. But let me stress one thing, Mr Speaker, Sir, it is in the law, just as the hon. Jugnauth who was Minister of Finance came to the Assembly to change VAT to encourage tertiary education which, I think, was a good thing; we extended it to health facilities because we believe that Mauritius can attract these activities in Mauritius Mr Speaker, Sir. Everything has been done in strict conformity with a rule based system that is transparent. Apollo Brammer Hospital has benefited from it, the MCCI, MEF, also have benefited from it, the JSS Academy also Jhurry Rya Schools has benefited from it, Charles Telfair would benefit from it and there are others that will come, including Ramachandra, which is a leading medical institution in India, will also benefit from it, Mr Speaker, Sir. There are strict rules that have been provided for its Board of Investment in case of medical facilities and through the Tertiary Education Commission (TEC) for tertiary education.
Mr Bérenger: In the case of the same Apollo Brammer Hospital, we were given a figure of Rs136 m. of Value Added Tax refunded as at February 2009. Can we have the figure as at to date as I requested?

Dr. Sithanen: I don't have the figures Mr Speaker, Sir, I can check and will come back because it hasn't been fully commissioned. Let me again made two points Mr Speaker, Sir. The alternative very often is zero, because if you do not provide these incentives, the investors don't come. Very often, I tease hon. Jugnauth and say: “look, if you just increase the 15% to 30%, it doesn't mean that you will double the tax receipts”. Probably, the investors will never come, Mr Speaker, Sir. I have said it very often: Mauritius is not the only very beautiful girl in town. If we did not give just like hon. Jugnauth when he was Minister of Finance and the hon. Leader of the Opposition was Prime Minister, they provided this facility for education and, as a result of these incentives some educational institutions have come. Now, we cannot go on and say that if we had not given the VAT they would have paid the amount. If we have not done it, it would have been zero. I keep telling everybody, Mr Speaker, Sir, that 150 multiply by zero is zero, Mr Speaker, Sir.

And second great advantage of this system is its transparency. We don't have too tweak any fiscal law to give benefits to a specific company, Mr Speaker, Sir.

Mr Bérenger: Mr Speaker, Sir, in the case of the Apollo Brammer Hospital, which is a profit making venture, the figure that we are provided was Rs136 m. of the Value Added Tax refunded. Is the hon. Minister happy with the situation where after
having benefited from such refund of Value Added Tax, the same company sells its shares to a foreign company?

**Dr. Sithanen:** Well, Mr Speaker, Sir, the concession is given to the project and not on who is the shareholder. We have never done it; they have done it in the past, they looked at who is the shareholder and then they have tweaked the law to give Rs1 billion of tax exemption to five companies, Mr Speaker, Sir. And here everything has been done……..

* (Interruptions) *

**Mr Speaker:** Order please!

**Dr. Sithanen:**…… in transparency, Mr Speaker, Sir. Now it has become a joint venture. I don’t know whether two is joint - three, if you understand what I mean - British American investment, Apollo Hospital and a leading investment company from the Middle East. We need to diversify the base of our investment also. If tomorrow Charles Telfair Institute changes its ownership, Mr Speaker, Sir, as long as it functions within the legal system, the law of this country, they will benefit from the concession, Mr Speaker, Sir.

**Mr Bérenger:** I am not interested in comparing like with like. He mentioned the Illovo deal; I could mention the Lonrho deal where the same kind of facilities was extended to Lonrho in the past exactly in the same way. We are not talking about the same thing at all, Mr Speaker, Sir. We have had the figure for Apollo Brammer Hospital …

**Mr Speaker:** Order please!
Mr Bérenger: Can I ask the hon. Minister whether it is not a fact that among other NGOs, APEIM, which is one of the best most sincere NGOs dealing with enfants inadaptés - APEIM is Association des parents d’enfants inadaptés - has made, whereas Apollo Brammer Hospital has benefited from Rs136 m. of refund up to February 2009, in March 2008, requested a refund of Rs5.8 m. Can we know from the hon. Minister whether there were other such NGOs, non-profit making, dedicated NGOs, apart from APEIM, which had made requests, and why was not the law amended as it was in the case of Brammer Apollo earlier on to allow refund of Value Added Tax to such NGOs?

Dr. Sithanen: Mr Speaker, Sir, first, the law was not amended for one particular company. We never tweaked the law to tailor-make a fiscal incentive for 5 firms, Mr Speaker, Sir. The law on education and the Finance Bill of 2005 provided for education, we broadened the scope for medical services in line with the objective of Government to develop both education and health facilities, Mr Speaker, Sir. So, we had the label and then investors took advantage of this. For the other one - the hon. Leader of the Opposition has been Minister of Finance twice, in fact, last year, he spoke to me on a deserving case. He knows very well, and in fact, he told me: “I know that this is not possible, you have to change the law.” There are many deserving NGOs who are doing a good job, Mr Speaker, Sir, but the law does not allow us to give concession. I receive many requests from many NGOs on a regular basis, Mr Speaker, Sir; The problem I think all Ministers of Finance and all Governments have faced: how do you prevent abuse in a system and how do you have a system that will administer these concessions? We have thought about it. In fact, it is for the first time that a Government is coming forward with
an architecture or a structure, that will support deserving NGOs, not by exempting them from VAT but it is by refunding their VAT. As soon as the Finance Bill is approved, we will start assessing or evaluating these requests and when there are deserving cases, they will be given their refund of VAT, Mr Speaker, Sir.

Mr Bérenger: I am sure the hon. Minister will agree with me that nothing prevented Government when it met with such genuine requests, like the one from APEIM for a meager Rs5.8 m. of refund of Value Added Tax, from amending the law as it has been done for construction purposes extended to health institutions. It could – and I say, it should - have been done in the case of such genuine NGOs for construction of their own centres, non-profit making NGOs. Can I ask why was this not considered and done?

Dr. Sithanen: Mr Speaker, Sir, I can reply the hon. Member why he had not done it when he was Minister of Finance.

(Interruptions)

These requests have been made. When I was Minister of Finance for the first time, Mr Speaker, Sir, I have received many such requests. Hon. Dr. Bunwaree, hon. Jugnauth must have received requests. This is the problem. They do not do anything; when we do they say: “why did you not do it before?” They need to be very fair to us. I am sure, both the hon. Leader of the Opposition and hon. Jugnauth, when they were preparing the Budget, they must have received requests, from deserving NGOs. It is a tricky situation. Now, we have taken the decision and we will do it. The problem that we will face, Mr Speaker, Sir: is how do you determine who is the deserving cases and who are not and how do you make sure that there is no abuse? But, it will be done in a transparent way, in a rule-based manner.
Mr Bérenger: The hon. Minister *noie le poisson dans l’eau*. I am not talking about requests from NGOs, in general, come Budget Time. I am talking about a specific request for Value Added Tax refund on construction material. This is a very specific request that was made. I am not talking and I don’t think it is fair to *noyer le poission dans l’eau*. I am talking about Value Added Tax, specifically, on construction of their centre, refund which has taken place in the case, for example, Apollo Brammer Hospital. Specific request came from APEIM, why was it not considered?

Dr. Sithanen: Mr Speaker, Sir, *le Leader de l’opposition fait une fixation sur cet hôpital*. *C’est injuste, Mr Speaker, Sir!* *Fixation sur cet hôpital* and we know why, Mr Speaker, Sir! He is trying to compare and contrast to say this is what we have done for the shareholder of that company and this is what we are not doing for APEIM. This is very unfair. The law provides for one, but does not provide for the other one. They had the opportunity to change it, they did not do anything. Now it is this Government that has taken the initiative, Mr Speaker, Sir, to broaden the scope of the refund by including genuine cases for construction. Mr Speaker, Sir, I received also - it is my eighth Budget, Mr Speaker, Sir - some cases on construction by NGO’s Mr Speaker, Sir, but I have told them that the law does not allow us to do it. So, you cannot compare a situation where the law is clear, transparent and has been enacted in the august Assembly and one which does not exist. But now we are coming forward with a policy that will be rule-based, transparent and not tailor-made for some few companies that were doing a Real Estate transaction.

Mr Bérenger: Mr Speaker, Sir, I come to what is being proposed now. But, obviously, the law that we are going to amend now could have been amended before,
especially after receiving this request in March 2008 from a genuine NGO. Nothing prevented Government from amending the law there, rule-based, to provide for such cases. Now what is being proposed is that NEF, National Empowerment Foundation approved requests will be granted refund. Does that mean that there will be no backdating?

**Dr. Sithanen:** Mr Speaker, Sir, the hon. Member is telling us why we did not do it. Why he did not do it for five years, Mr Speaker, Sir?

(Interruptions)

Of course, there were requests. I received requests when I was Minister, hon. Dr. Bunwaree also received requests when he was Minister…

(Interruptions)

**Mr Speaker:** Order! Order!

**Dr. Sithanen:** I have presented eight Budgets, Mr Speaker, Sir. I know what I am talking about, Mr Speaker, Sir. We have made a move forward, *c’est un pas en avant!* Let the system operate, Mr Speaker, Sir and depending on how deserving the case is, we will take action accordingly. We have to come forward to this august Assembly, Mr Speaker, Sir, and change the law and not do it *en catimini*, like it was done in the case of the Illovo deal.

**Mr Bérenger:** It is no *catimini*, Mr Speaker, Sir. My point is that the law will come before Parliament, of course. But will it provide for the National Empowerment Foundation? Because before that no NGO knew that it had to seek the approval of the National Empowerment Foundation. Now, it is being proposed. When we draft the law, my question is: will we cater for genuine cases? Will they have the opportunity of coming back through the National Empowerment Foundation for those genuine requests?

**Dr. Sithanen:** Mr Speaker, Sir, the reason why we have suggested that it should be approved by NEF - we all know, Mr Speaker, Sir, that there are many NGOs; some of
them do an excellent work for the community, Mr Speaker, Sir; some of them are not beyond reproach. So, we have to find a system, how do we filter them and we believe that the National Empowerment Foundation is probably best equipped to carry out this exercise. If there is a case that is made, Mr Speaker, Sir, we have shown that we are a compassionate Government, but they must pass the test of eligibility and they must be recommended by the National Empowerment Foundation. I am sure the hon. Leader of the Opposition would agree with me that this is progress that we have made compared to what it was before, Mr Speaker, Sir. Every time we make one step forward, he says: “why did we not do it two years, three years ago.” Then, why did he not do it when he was in Government?

**Mr Speaker:** Can I make a point here now on this line of questioning? Being given that the hon. Minister of Finance has said that he is coming to the House with a Bill to provide for refund of VAT to the non-governmental organisations, I think that rule of anticipation applies here and that when the Bill will be in the House, the hon. Leader of the Opposition will have the opportunity to make his point, and perhaps propose amendment to the Bill.

**Mr Bérenger:** Mr Speaker, Sir, we know how it works. Even when we make genuine suggestions, because a decision has been taken, because the law is, as proposed, to the House, Government won’t budge. So, I am raising the point whilst the law is being prepared, that we should provide for genuine cases, even from the past, to go through the National Empowerment Foundation.

**Mr Speaker:** Hon. Bodha, last question!

**Mr Bodha:** Thank you, Mr Speaker, Sir, in fact I had three questions but I’ll try to put all of them in one question. My first question, Mr Speaker, Sir: may I ask the hon. Vice-Prime Minister what is the project value of each of the cases where there has been a refund? Second, there is a fertility clinic which has been established in Mauritius. Did that clinic qualify for a refund? And third, Mr Speaker, Sir, as we have been told that it is
rule-based approach, who monitors that the rule-based process is applied and whether the Minister is satisfied that in each of these cases, the approach was implemented.

**Dr. Sithanen:** If only the hon. Member had listened to the answer I have given. For the third question, I stated that it is the Board of Investment that does it in the case of medical tourism; it is the TEC in the case of tertiary education and it will be NEF in the case of the NGOs. I don’t have the specific value, but if you take the amount that I have given and you divide by 0.15, you get it, because, in fact, they are having 15% exemption as VAT. In the case of Telfair, you just divide it by 0.15, you will have the figure.

*Interruptions*

As for the fertility clinic, if they satisfy the criteria that have been laid down in the regulations, they will have it and this is the advantage. It applies to all assuming they satisfy the criteria and it is not tweaked for one particular investor.

**Mr Speaker:** Time is over!