Commencement: 29 December 1986

CHAPTER 196

RENT TAXATION

Act 30 of 1986
Act 25 of 1988
Act 30 of 1989
Act 8 of 1992
Act 12 of 1998
Act 7 of 2019

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RENT TAXATION

To provide for the imposition of tax on rent and for matters connected therewith.

1. Interpretation

In this Act, unless the context otherwise requires –

agent includes every person who in Vanuatu, for or on behalf of any other person out of Vanuatu holds, controls, receives or disposes of any rent belonging to such other person;

approved form has the same meaning as in the Tax Administration Act No. 37 of 2018;

chargeable period means either of the following 2 periods –

(a) the period commencing on 1 December of any year and ending on 31 May in the immediately succeeding year; or

(b) the period commencing on 1 June of any year and ending on 30 November of that year;

Director has the same meaning as in the Tax Administration Act No. 37 of 2018;

lease means any lease written or oral and includes a sublease or tenancy, and any licence, concession, permission or other right granted to any person for the use or occupation of any land in Vanuatu and "lessor" and "lessee" shall be construed accordingly;

person has the same meaning as in the Tax Administration Act No. 37 of 2018;

rent includes all payments which a lessee is bound to make to the lessor under the terms of a lease without any deductions, and includes premiums;

tax means the tax chargeable under this Act, and includes any sum added to such tax by reason of defaults, and penalties imposed;

taxpayer means the person charged with or liable to pay the tax under this Act;

trustee includes any trustee, guardian, curator, manager, or other person having the direction, control or management of any land or property on behalf of any person.

2. Director is responsible for the administration of this Act

The Director is responsible for the day to day management and administration of this Act.

3. Imposition of tax on rent

Tax shall, subject to the provisions of this Act, be charged at the appropriate rates specified in Schedule 1 to this Act, for every chargeable period, on all rents derived from all leases during that chargeable period.

4. Persons chargeable

The tax shall, subject to the provisions of this Act, be charged to and paid by each person who derives rent from any leases, other than a person who is a registered person under the Value Added Tax Act [Cap. 247] to the extent that the registered person derives rent which is subject to value added tax.

5. Chargeability to tax, of trustees

(1) Subject to the provisions of this. Act, any person who derives rent as a trustee for another person who is identified as beneficially entitled to that rent, shall be chargeable to tax on that rent as if he were that identifiable person.

(2) Subject to the provisions of this Act, any person who derives rent as a trustee for another person who is not identified as beneficially entitled to that rent shall be chargeable to tax on that rent as if he were beneficially entitled to that rent.

6. ***(Repealed)***

7. Chargeability on rent derived by wife or child

(1) The rent derived by any wife shall be aggregated with and deemed to form part of the rent derived by her husband, if the marriage subsists during that chargeable period.

(2) The rent derived by any child under 18 years shall be aggregated with and deemed to form part of the rent derived by –

(a) his father, if the marriage of his parent subsists during that chargeable period; or

(b) the parent who maintains him and with whom he lives during that chargeable period, if the marriage of his parent does not subsist in that chargeable period.

8. Chargeability to tax on rent of a sublease

Where a lessee pays rent to a lessor who is liable to pay tax on that rent under this Act, and such lessee sublets the whole or any part of the property to which the lease relates, to another person (sub-lessee), only the excess of the rent received by the lessee from the subletting over the rent paid by him to the lessor shall be deemed to be the rent derived by the lessee for the purpose of this Act, and tax shall be charged on such rent.

8A. Chargeability to tax on rent derived by the transferor of a lease

Where a lessor who is liable to pay tax under this Act, transfers during a chargeable period, the lease from which the rent is derived, the rent derived during the part of that chargeable period prior to the date of that transfer, shall for the purpose of this Act, be deemed to be the rent derived by the transferee of the lease and the tax shall be charged on the transferee for that chargeable period.

8B. Chargeability to tax on rent assessed by taxpayer

(1) Where in terms of any lease –

(a) the use or occupation of any land or premises is granted by the lessor to the lessee, in the form of a fringe benefit, salary package or otherwise; and

(b) no pecuniary consideration is paid by the lessee as rent in respect of the use or occupation of such land or premises or where such consideration is paid, it is below the market rental value of such land or premises,

for the purposes of this Act the lessor shall be deemed to derive rent from such lease, in respect of that land and premises, and shall be charged with and liable to pay tax on that rent in accordance with the provisions in subsection (2) of this section.

(2) Tax which the taxpayer is liable to pay under this section shall be assessed and paid by such taxpayer, at the appropriate rate specified in schedule 1 to this Act, on the rental value assessed by him, corresponding as nearly as possible to the market rental value of any land and premises having identical or similar quality, character and location.

9. Exemption from tax

(1) No tax shall be payable on any premium for any lease expressed to be for a term of 21 years or more without renewals.

(2) The following persons are exempt from paying tax under this Act –

(a) the persons specified in Schedule 2;

(b) religious institutions;

(c) benevolent associations.

10. Minister's power to exempt

(1) The Minister may in the public interest and having regard to the national economy, by Order exempt any person from paying tax under this Act.

(2) The Minister may by Order –

(a) exempt from payment of tax any person;

(b) reduce or vary the rates specified in Schedule 1 to this Act, in respect of any person;

where such person is a citizen or a company all the shareholders of which are citizens.

11. Returns to be furnished by the taxpayer

A taxpayer must, within 28 days immediately succeeding the end of a chargeable period, provide the Director with a return detailing all the rent derived by that taxpayer during that chargeable period.

11A. Bad debts

(1) Subject to subsection (2), amounts due to a taxpayer in respect of rent or lease payments which have been written off as irrecoverable may be deducted from the total amount of all rent derived by the taxpayer during the chargeable period to which they relate.

(2) If any amount shown as a deduction pursuant to subsection (1) or a part thereof is subsequently received by the taxpayer, such amount or part thereof shall be included as part of the total of all rent derived by the taxpayer during the chargeable period next following.

12. ***(Repealed)***

13. *(Repealed)*

14. Payment of tax

The rent tax payable by a person for a chargeable period is due on the date that the rent tax return for that period is due.

15. *(Repealed)*

16. *(Repealed)*

17. *(Repealed)*

18. *(Repealed)*

19. *(Repealed)*

20. *(Repealed)*

21. *(Repealed)*

22. *(Repealed)*

23. *(Repealed)*

24. *(Repealed)*

25. *(Repealed)*

26. *(Repealed)*

27. *(Repealed)*

28. *(Repealed)*

29. Records

(1) In addition to any records required to be kept and retained under the Tax Administration Act No. 37 2018, the Minister may prescribe such other records a taxpayer is required to keep or retain for the purposes of this Act.

(2) Any taxpayer who fails to comply with this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding VT 100,000.

30. *(Repealed)*

31. *(Repealed)*

32. Rent taxation not to be passed on to lessee or tenant

Notwithstanding anything to the contrary contained in any lease, monies due under this Act shall not be recoverable by the taxpayer from the lessee or tenant in respect of that lease.

33. *(Repealed)*

34. Regulations

(1) The Minister may, by Order, make Regulations prescribing all matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The Regulations may:

(a) provide for the withholding of rent tax from payments of rent in respect of any person or class of persons; or

(b) prescribe penalties not exceeding VT1, 000,000 or a term of imprisonment not exceeding 1 year, or to both, for offences under the Regulations.

SCHEDULE 1

(section 3)

RATES OF TAX

Rates of tax for each chargeable period (i.e. half year rates) –

a. Where the taxpayer is a natural person:

Total amount of all rent derived by the taxpayer during the chargeable period –	*Amount of tax to be charged –*
– does not exceed VT 200,000	– no tax is charged
– exceeds VT 200,000	– 12.5% of the excess over VT 200,000

b. Where the taxpayer is not a natural person, the amount of tax to be charged is 12.5% of all rent derived by the taxpayer during the chargeable period.

SCHEDULE 2

(section 9)

EXEMPTION FROM TAX

The following are exempt from paying tax under this Act:

(1) (*Repealed*)

(2) (*Repealed*)

(3) (*Repealed*)

(4) National Housing Corporation.

(5) National Provident Fund.

(6) Local Government Councils.

(7) Port Vila Municipal Council.

(8) Luganville Municipal Council.

Table of Amendments

1	*Amended by Act 7 of 2019*	*11*	*Substituted by Act 7 of 2019*
2	*Substituted by Act 7 of 2019*	*11A*	*Inserted by Act 25 of 1988*
4	*Substituted by Act 12 of 1998*	*12,13*	*Repealed by Act 7 of 2019*
		14	*Substituted by Act 7 of 2019*
6	*Repealed by Act 7 of 2019*	*15 to 28*	*Repealed by Act 7 of 2019*
8	*Amended by Act 25 of 1988*	*29(1)*	*Substituted by Act 7 of 2019*
8A, 8B	*Inserted by Act 30 of 1989*	*30,31 and 33*	*Repealed by Act 7 of 2019*
8B(3)	*Repealed by Act 7 of 2019*	*34*	*Substituted by Act 7 of 2019*
9(2)	*Repealed by Act 30 of 1989*	*Sched 1, para (a)*	*Substituted by Act 8 of 1992*
9(2)(d)	*Repealed by Act 7 of 2019*	*Sched 1*	*Amended by Act 12 of 1998*
9(3)	*Renumbered by Act 7 of 2019*	*Sched 2, para (1), (2), (3)*	*Repealed by Act 30 of 1989*