

REPUBLIC OF VANUATU

BILL FOR THE VALUE ADDED TAX ACT NO. OF 2017

Explanatory Note

This Bill amends the Value Added Tax Act [CAP 247] (“the VAT Act”) to increase Value Added Tax (“VAT”) from a rate of 12.5% to 15% and for other related purposes.

Increase of VAT rate

Amendments have been made to subsection 11(1) of the VAT Act to increase VAT from 12.5% to 15%. This amendment is necessary to supplement the 2018 Government budget to meet Government’s expected expenditures arising in 2018. The 15% VAT rate will apply to supplies made on or after 1 January 2018. The other changes made by this Bill will commence on 1 July 2018, which is the same date the core provisions of the Tax Administration Act are intended to commence.

Amendments necessary to ensure consistency with Tax Administration Act No. of 2017

Amendments have been made to ensure that the VAT Act is consistent with the new Tax Administration Act No. of 2017 (“the Tax Administration Act”).

Such amendments include:

- repealing existing definitions and substituting them with new definitions that reference definitions used in the Tax Administration Act such as the definition of *approved form*, and *associate*; and
- amendment of terms used in the VAT Act to ensure consistency with the Tax Administration Act such as the definitions of *relative* which is inconsistent with the definition of “associates” under the Tax Administration Act; and
- repealing provisions which are already covered under the Tax Administration Act. For example, section 41A of the VAT Act provides for the power of the Director to refund any amount due to an agency of the State by transferring the amount of the refund to a consolidated account. This power has been covered under subsection 48(7) of the Tax Administration Act and is not necessary anymore in the VAT Act; and
- repealing provisions which will be covered under the Regulations of the Tax Administration Act. For example, subsection 20(3) of the VAT Act provides for the methods of payment of VAT. This subsection has been removed as the method of

payment of VAT is an area which will be regulated by the Regulations of the Tax Administration Act.

Refund arrangements

Amendments have been made to provide that refunds may be necessary in cases where a registered business makes a significant capital investment in a particular month, resulting in excess input credits. The VAT Act currently provides for refunds of VAT to be paid to taxpayers within 15 days unless there is audit action being taken. This rule is to be replaced with a new arrangement where the amount owing to the taxpayer will be credited against the next month's VAT debt. If not fully offset in that month, the credit will be applied to the following month's VAT debt. In cases where the excess credit is not fully used in these two months, the excess will be applied against any unpaid taxes owing by the taxpayer, with the remaining amount refunded to the taxpayer. These rules will not apply to businesses that regularly have negative VAT amounts as part of their business. Registered businesses primarily making zero-rated supplies (such as exporters) will continue to receive refunds within 15 days of lodging their VAT return.

Record keeping requirements

Amendments have been made to ensure that the VAT Act sets out the records that must be kept for the purposes of this Act. These amendments require that persons who are registered to pay VAT are required to keep such records as are necessary to:

- (i) enable the calculation of the tax payable (including a nil amount) by, or negative amount of, the person for a taxable period; and
- (ii) provide evidence of exempt or zero-rated supplies made by the person during a taxable period.

These amendments also amend subsection 54(1) to remove the requirement to keep records in Vanuatu for 6 years and substituting it with a general requirement for record keeping as provided for under the Tax Administration Bill.

Import Duties Amendment

Amendments have been made to Schedule 2 of the VAT Act to reflect that goods that are exempt under the VAT Act are provided for under Parts 2(A), 2(B), and 3 of Schedule 1 of the Import Duties (Consolidation) Act [CAP 91], which sets out the goods that have been admitted into Vanuatu free of VAT.

Application of the VAT Act

Amendments have been made to assist with the application of the VAT Act. For example, the requirements that matters set out in subsections 12(3), 12(4), 17(1), 21(3), 22(3) and paragraph 23(1)(e) have to be prescribed have been removed. This would make it easier for tax officials to apply the VAT Act without having these matters published in the Official Gazette.

Minister of Finance and Economic Management



REPUBLIC OF VANUATU

BILL FOR THE VALUE ADDED TAX (AMENDMENT) ACT NO. OF 2017

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REPUBLIC OF VANUATU

BILL FOR THE VALUE ADDED TAX (AMENDMENT) ACT NO. OF 2017

An Act to amend the Value Added Tax Act [CAP 247].

Be it enacted by the President and Parliament as follows-

1 Amendment

The Value Added Tax Act [CAP 247] is amended as set out in the Schedule.

2 Commencement

(1) Subject to subsection (2), this Act commences on 1 July 2018.

(2) Item 9 commences on 01 January 2018.

SCHEDULE
AMENDMENTS OF THE VALUE ADDED TAX
ACT [CAP 247]

1 Subsection 2(1)

Insert in its correct alphabetical position

““approved form” has the same meaning as in the Tax Administration Act No. of 2017;”

2 Subsection 2(1) (definition of “associated person”)

Repeal the definition, substitute

““associate” has the same meaning as in the Tax Administration Act No. of 2017;”

3 Subsection 2(1) (definition of “Department”)

Repeal the definition, substitute

““Department” means the Department of Customs and Inland Revenue;”

4 Subsection 2(1) (definition of “Director”)

Repeal the definition, substitute

““Director” means the Director of the Department of Customs and Inland Revenue;”

5 Subsection 2(1) (definition of “person”)

Repeal the definition, substitute

““person” has the same meaning as in the Tax Administration Act No. of 2017;”

6 Subsection 2(1) (definitions of “prescribed form”, “relative”, “tax file number” and “Tribunal”)

Repeal the definitions.

7 Subsection 2(1) (definition of “unconditional gift”) and subsection 6(2)

Delete “associated persons”, substitute “associates”

8 Subsections 3(10) and (11)

Delete “associated person”, substitute “associate”

9 Subsection 11(1)

Delete “12.5%”, substitute “15%”

10 Subsections 12(3), 12(4), 17(1), 21(3), 22(3) and paragraph 23(1)(e)

Delete “prescribed”, substitute “approved”

11 Subsection 12(5A)

Delete “form prescribed by the Director”, substitute “approved form”

12 Subsections 16(1) and (2)

Delete “, in the prescribed form,”

13 Subsection 16(3) and (4)

Repeal the subsections.

14 Subsection 18(4)

Delete “refunded by the Director to the registered person under section 41”, substitute “applied in accordance with subsection 45(5) of the Tax Administration Act No. of 2017”

15 Section 19 (heading)

Delete “refund due”, substitute “negative amount”

16 Subsection 19(1)

Delete “refund due to”, substitute “negative amount of”

17 Subsection 19(2)

Delete “refund”, substitute “negative amount”

18 Sub-paragraph 19(7)(c)(i)

Delete “associated persons”, substitute “associates”

19 Paragraph 19(10)(b)

Delete “a refund due to the registered person”, substitute “applied”

20 Subsections 20(2) and (3)

Repeal the subsections.

21 Parts 5, 6, 7, 10 and 12

Repeal the Parts.

22 Subsection 41(1)

Repeal the subsection, substitute:

- “(1) If a registered person has a negative amount under subsection 19(10) (which relates to the calculation of tax payable and negative amounts) for a taxable period:
- (a) the negative amount is carried forward and allowed as a deduction under subsection 19(4) in the next following taxable period and any part of the negative amount not deducted in that period is carried forward to the next following taxable period and allowed as deduction under subsection 19(4) in that period; and
 - (b) any part of the negative amount not deducted under paragraph (a) is to be applied in accordance with subsection 45(5) of the Tax Administration Act No. of 2017.
- (1A) If a registered person has a negative amount carried forward under subsection (1) for more than one taxable period, the negative amount of the earliest taxable period is allowed first.
- (1B) Subject to subsection (2), if having a negative amount under section 19 is a regular feature of the registered person’s taxable activity, the Director must refund the negative amount for a taxable period within 15 working days after the person has filed the return for the period.”

23 Subsection 41(2)

After “(1)” insert “or (1B)”

24 Subsections 41(3), (4) and (7)

Repeal the subsections.

25 Subsection 41(5)

Delete “, (3) or (4)”

26 Sections 41A, 43, 44, 46, 48 and 49

Repeal the sections.

27 Subsection 54(1)

Repeal the subsection, substitute

“(1) A registered person must keep such records as are necessary to:

- (a) enable the calculation of the tax payable (including a nil amount) by, or a negative amount of, the person for a taxable period; and
- (b) provide evidence of exempt or zero-rated supplies made by the person during a taxable period.”

28 Subsections 54(2), (3), and (4)

Repeal the subsections.

29 Sections 56, 57 and 58

Repeal the sections.

30 Schedule 2

Repeal the Schedule, substitute

“SCHEDULE 2

Exempt Importations

Goods admitted free of VAT under Parts 2(A), 2(B), and 3 of Schedule 1 to the Import Duties (Consolidation) Act [CAP 91].”