

(162) *Kiff*
27 May 2015.

VALUE ADDED TAX (AMENDMENT) BILL, 2015

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VALUE ADDED TAX (AMENDMENT) BILL, 2015

A BILL FOR AN ACT TO AMEND THE VALUE ADDED TAX ACT

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act which amends the Value Added Tax Act (*No. 32 of 2014*) may be cited as the Value Added Tax (Amendment) Act, 2015.
- (2) This Act shall come into operation on the 1st day of July, 2015.

2. Amendment of section 2 of the principal Act .

- (1) Section 2 of the principal Act is amended –
 - (a) by inserting in the appropriate alphabetical order the following new definition—

“**international transport services**” means services, including ancillary transport services, comprising—

 - (a) the transport of passengers by road, water or air—
 - (i) from a place outside The Bahamas to another place outside The Bahamas where the transport, or part of the transport, is across the territory of The Bahamas;
 - (ii) from a place outside The Bahamas to a place within The Bahamas;
 - (iii) from a place within The Bahamas to a place outside The Bahamas;
 - (b) the transport of goods by road, water or air—
 - (i) from a place outside The Bahamas to another place outside The Bahamas where the transport, or part of the transport, is across the

- territory of The Bahamas;
 - (ii) as part of a single voyage, directly from a place within The Bahamas to a place outside The Bahamas;”; and
 - (b) in the definition of the phrase “public entertainment”, by deleting the words “or any similar event” and substituting the words “or any sporting or recreational event not frequently held therefor and”.

3. Amendment of section 3 of the principal Act.

Section 3 of the principal Act is amended in subsection (1)(b) by deleting the period at the end thereof and substituting therefor a semicolon and inserting immediately following paragraph (b) the following new paragraph —

“(c) lease of land or purchase of land.”.

4. Amendment of section 5 of the principal Act.

Section 5 of the principal Act is amended by inserting immediately after subsection (3) the following new subsection —

- “(4) Every person liable to pay and account for value added tax, upon collection of the tax, shall hold the tax separate and apart from any other property that he owns or that is in his possession, in trust for Her Majesty in right of Her Government of The Bahamas.”.

5. Insertion of new section 38A into the principal Act.

The principal Act is amended by inserting immediately after section 38 the following new section —

“38A. Collection of value added tax on conveyances.

- (1) Where any transfer of real estate occurs it shall be the responsibility of the Comptroller to collect value added tax on the conveyance.
- (2) The threshold established in respect of real estate conveyances shall always apply on an aggregate basis when the transferor makes separate conveyances of contiguous tracts of land to the same person within any twelve month period.”.

6. Amendment of section 46 of the principal Act.

Section 46 of the principal Act is amended by inserting immediately after subsection (2) the following new subsection —

- “(3) Where, as may be prescribed, a tax period is allowed to exceed one month, the Comptroller may require a registrant to make interim monthly payments of value added tax and shall

reconcile the payments made against the filing of value added tax returns.”.

7. Amendment of section 47 of the principal Act.

Section 47 of the principal Act is amended by inserting immediately after subsection (2) the following new subsection—

"(2A) Where the annual turnover from taxable activity of a registrant exceeds five million dollars, the Comptroller shall require the registrant to file by electronic means, and in such other form and manner and at such times as may be prescribed, particulars on VAT invoices or tax credit notes or tax debit notes issued or received by the registrant.”.

8. Amendment of section 50 of the principal Act.

Section 50 of the principal Act is amended—

- (a) in subsection (1)(f)—
 - (i) by deleting the words “and the claimant—” and inserting the words “that is not used wholly in support of the making of taxable supplies”; and
 - (ii) by deleting paragraphs (i) and (ii); and
- (b) by inserting immediately after subsection (8) the following—

“(9) Where, as may be prescribed, the Comptroller allows input credit deductions against settlements of a fraction or a whole of any insurance claim, such settlements shall be deemed to be inclusive of value added tax.”

9. Amendment of section 63 of the principal Act.

Section 63(1) of the principal Act, is amended by deleting paragraph (f) and substituting the following therefor—

“(f) seize and retain a computer in which information is stored for as long as is reasonable to copy the information required.”.

10. Amendment of section 66 of the principal Act.

Section 66 of the principal Act is amended by deleting subsection (2) and substituting the following therefor—

“(2) A lien referred to in subsection (1) shall rank in priority to every other security interest in the asset subject to the lien.”.

11. Amendment of section 91 of the principal Act.

Section 91 of the principal Act is amended by deleting paragraphs (a), (b), (c) and (d) and substituting the following therefor—

- “(a) the penalty;
- (b) where payment exceeds the amount of the penalty, the fine;
- (c) where payment exceeds the amount of the penalty and fine, the interest;
- (d) where payment exceeds the amount of the penalty, fine and interest, the tax.”.

12. Amendment of section 98 of the principal Act.

Section 98 of the principal Act is amended by inserting immediately after subsection (10) the following new subsection—

- “(11) Notwithstanding item (1) of Part I of the Second Schedule, payments for services provided under an insurance contract expiring after 1st July, 2015 cease to be exempt where —
 - (a) notwithstanding a continuation of the contract, the coverage is for medical insurance;
 - (b) the coverage continues under a variation of more than ten percent in —
 - (i) the value of the insured amount;
 - (ii) the value of the assets insured; or
 - (iii) the quantity of assets insured,and the variation occurs before expiry and within seventy days before 1st July, 2015 or any time after 1st July, 2015; or
 - (c) an early renewal of coverage occurs any time within the seventy day period immediately prior to 1st July, 2015.

13. Amendment to First Schedule of the principal Act.

The First Schedule to the principal Act is amended in Part II —

- (a) in item 4(2), by inserting immediately after the word “vessel” the words “providing international commercial service”;
- (b) in item 11, by inserting immediately after the words “Exchange Control Regulations, the words “where the benefit or advantage is outside The Bahamas, or the supply is an input by non-residents for the making of zero-rated taxable supplies from inside The Bahamas”; and
- (c) by inserting immediately after item 11, the following new item—

“12. A supply of international transportation services.”

14. Amendment to Second Schedule of the principal Act.

The Second Schedule to the principal Act is amended in Part I –

- (a) in the Heading, by deleting the words “ OF SERVICES”;
- (b) by deleting the words “ of services” where they occur immediately before paragraph (1);
- (c) in paragraph (5), by deleting the words “sale or”; and
- (d) by deleting paragraph (6) and substituting the following therefor—
 - “ 6. (a) Where the value is \$100,000 or less, the transfer of vacant land or residential property, as defined in the Real Property Tax Act (*Ch. 375*).
 - (b) A stamp exempt transfer of property under section 3B of the Stamp Act (*Ch.370*) for first time owner-occupied dwellings.”;
- (e) by deleting paragraph (7);
- (f) by inserting immediately after item 14, the following new item—
 - “15. Where the Comptroller allows input credits for Casino operations—
 - (a) supplies by the related hotel in which the casino resides for—
 - (i) permanent staff not requiring a work permit under the laws of The Bahamas;
 - (ii) accommodations, meals, service bar operations and incidentals services, which the casino provides to patrons on a complimentary basis; and
 - (b) importation of services in connection with or for overseas marketing.”.

OBJECTS AND REASONS

Clause 1 of the Bill sets out the short title and commencement.

At Clause 2 the Bill seeks to insert the definition of the expression “international transport services”, and at Clause 3 the Bill seeks to provide for the application of this Act to a lease of land or purchase of land.

Clauses 4 through 14 of the Bill seeks to amend the Act so that persons liable for the collection and payment of value added tax hold such taxes in trust for the government, separate from any other assets or possessions. These clauses also provide

for registrants to pay interim monthly payments of taxes and for the furnishing of VAT invoices and tax credit and debit notes issued or received by the registrant.