

REPUBLIC OF VANUATU

**VALUE ADDED TAX (AMENDMENT)
ACT NO. 28 OF 2002**

Arrangement of Sections

- 1. Amendments**
- 2. Commencement**

Assent 31 December 2002
Commencement 20 January 2003 except Item 3 of the Schedule
which commenced on 1 August 1998 and Item 2 of the
Schedule which commenced on 1 January 2003

REPUBLIC OF VANUATU

VALUE ADDED TAX (AMENDMENT) ACT NO. 28 OF 2002

An Act to amend the Value Added Tax No. 12 of 1998.

Be it enacted by the President and Parliament as follows-

1 Amendments

The Value Added Tax Act No. 12 of 1998 is amended as set out in the Schedule.

2 Commencement

- (1) Subject to subsection (2) and (3), this Act commences on the day on which it is published in the Gazette.
- (2) Item 3 of the Schedule is taken to have commenced on 01 August 1998.
- (3) Item 2 of the Schedule commences on 01 January 2003.

SCHEDULE
AMENDMENTS OF THE VALUE ADDED TAX ACT
NO. 12 OF 1998

1 Section 2 (after paragraph (d) of the definition of associated person)

Insert

“(da) a company and any person who is associated with another person who is associated with that company; or”.

2 Section 2

Insert the following definition in its correct alphabetical position

““excise tax” means the excise tax imposed under the Excise Tax Act No. of 2002.”.

3 Section 2 (after paragraph (b) of the definition of resident of Vanuatu)

Add

“(c) in the case of a person that carries on, in Vanuatu, any taxable activity or any other activity while having any fixed or permanent place of residence or business in Vanuatu relating to that taxable activity or other activity.”.

4 Section 7

Repeal the section, substitute

“7 Place of supply

(1) For the purposes of this Act, goods and services are deemed to be supplied in Vanuatu if the supplier is resident in Vanuatu, and are deemed to be supplied outside of Vanuatu if the supplier is not resident in Vanuatu.

(2) Subject to subsection (3), goods and services are deemed to be supplied in Vanuatu if the supplier is not resident in Vanuatu and either:

(a) the goods are in Vanuatu at the time of supply; or

(b) the services are physically performed in Vanuatu by any person who is in Vanuatu at the time the services are performed.

(3) If goods or services that are deemed to be supplied in Vanuatu pursuant to subsection (2) are supplied to a registered person who is entitled to a deduction under subsection 19(4) in respect of that supply, those goods or

services are deemed to be supplied outside of Vanuatu unless the supplier and recipient agree that this subsection does not apply to that supply.”.

5 Section 8

Repeal the section.

6 After subparagraph 11(1)(b)(ii)

Insert

“(iia) the amount of excise tax payable; and”.

7 At the end of section 12

Add

“(8) A registered person who receives a supply of goods or services must provide details of that supply to the Director within one month after receiving the supply if:

- (a) the registered person has not received a tax invoice from the supplier of the goods or services within 28 days of requesting such a tax invoice; and
- (b) the registered person has reasonable grounds for believing that the total value of all supplies made by that supplier will exceed the registration threshold amount in the year the supplies were made.”.

8 After subsection 33(1)

Insert

“(1A) If the Director serves notice upon a bank, the amount payable referred to in subsection (1) includes money and any interest on that money that:

- (a) on the day on which notice was given under subsection (1), is on deposit or is deposited with the bank to the credit of the registered person; or
- (b) on any day following the day referred to in paragraph (a) is on deposit or is deposited with the bank to the credit of the registered person, until the date on which notice is given under subsection(1) is revoked under subsection (3).

(1B) Subsection (1A) applies whether or not:

- (a) the registered person has made any application to withdraw or uplift the money; or

- (b) the deposit or the depositing:
 - (i) is on the current account; or
 - (ii) bears an interest for a fixed term; or
 - (iii) bears an interest without limitation of time.”.

9 Section 38

Repeal the section, substitute

“38 Distrain for unpaid tax

- (1) The Director may levy distress on goods (other than real property) and chattels and money of any registered person who refuses or fails to pay any tax payable by the registered person or any other amount recoverable from the registered person under this Act.
- (2) The Director may:
 - (a) apply money referred to in subsection (1) against the tax payable by the registered person and any other amount recoverable from the registered person under this Act; or
 - (b) provide for the disposal of any such goods or chattels by supply or otherwise to recover the amount of tax payable by the registered person and any other amount recoverable from the registered person under this Act including the costs and expenses of the disposal.”.

10 At the end of subsection 51(1)

Add

“; or

- (o) fails to provide the Director with information relating to supplies made by any person who has not provided a tax invoice in respect of those supplies, as required by subsection 12(8); or
- (p) asks for or takes, whether directly or indirectly, any payment or reward whether in money or otherwise that is not a payment or reward he or she is lawfully entitled to receive as an employee of the Department or as a person appointed by the Director to assist the Department; or

- (q) proposes to enter or enters into an agreement to permit or conceal any act to defraud or to attempt to defraud the Government or to do an act which is otherwise unlawful under this Act or any other law; or
- (r) commits any of the following acts:
 - (i) offers or gives, whether directly or indirectly to the Director or an officer of the Department or person appointed by the Director to assist the Department, any payment or reward whether in money or otherwise;
 - (ii) proposes to enter or enters into any agreement with the Director, officer or person so appointed by the Director;

to induce him or her to do, abstain from doing, to permit or conceal any act intended to defraud the Government or is otherwise unlawful under this Act or any other law.”.

11 After subsection 51(6)

Insert

- “(7) A person who contravenes paragraph (o), (p), (q) or (r) is guilty of an offence punishable on conviction by a fine not exceeding VT 10 million or a term of imprisonment of not more than 10 years, or both.”.

12 After subsection 54(1)

Insert

- “(1A) Every registered person whose total value of taxable supplies has, in a period of 12 months, exceeded the amount specified in paragraph 12(1)(a) is required to:

- (a) record any money received in respect of taxable supplies made by the registered person by way of an entry on a cash register tape; and
- (b) ensure that the cash register tape, records the date and the sum of the total money received for each day of the registered person’s taxable period;

except where the Director specifies otherwise.”.

13 Clause 8 of the First Schedule

Delete “31 December 2002”, substitute “31 December 2003”.