



REPUBLIC OF VANUATU

**VALUE ADDED TAX (AMENDMENT)
ACT NO. 2 OF 2019**

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REPUBLIC OF VANUATU

Assent: 24/06/2019
Commencement: 24/06/2019

VALUE ADDED TAX (AMENDMENT) ACT NO. 2 OF 2019

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 subsections (2) and (3), this Act commences on 1 January 2020.
- (2) Items 22 and 24 are taken to have commenced on 1 January 2018.
- (3) Items 1 (definition of “recyclable materials”), 6, 7, 8 (definition of “Resident of Vanuatu”), 10, 13, 14, 23, 25, 32, 35, 36, 37 and 38 commence on the day on which this Act is published in the Gazette.

SCHEDULE

AMENDMENTS OF VALUE ADDED TAX ACT [CAP 247]

1 Subsection 2(1)

Insert in their correct alphabetical positions:

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

“recyclable materials” includes:

- (a) raw or processed materials that can be reprocessed into products, materials or substances whether for the original or other purposes; and
- (b) scrap metal;”

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

Repeal the definition, substitute

““associate” has the same meaning as in the Tax Administration Act No. 37 of 2018;”

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. 37 of 2018;”

6 Subsection 2(1) (definition of “scrap metal”)

Delete “, but does not include aluminium beverage containers”

7 Subsection 2(1) (definition of “second hand goods”)

Delete “scrap metal.”, substitute “recyclable materials;”

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

Repeal the definitions.

9 Subsection 2(1) (definitions of “unconditional gift” and “open market value”)

Delete “associated persons”, substitute “associates”

10 After section 2

Insert

“2A. Definition of resident of Vanuatu

(1) For the purposes of this Act:

“resident of Vanuatu” means a resident individual, resident company, resident professional partnership, resident estate, the Government, or a public authority;

(2) For the purposes of subsection (1):

“resident company” means a company that:

- (a) is incorporated, registered, or otherwise created in Vanuatu; or
- (b) is managed and controlled in Vanuatu;

“resident estate” means the estate of an individual who was a resident individual at the time of death;

“resident professional partnership” means a partnership that:

- (a) is formed in Vanuatu; or
- (b) is managed and controlled in Vanuatu;

(3) For the purposes of subsection (2), “resident individual” means an individual who:

- (a) has his or her home in Vanuatu during the year; or
- (b) is present in Vanuatu for a period of, or periods amounting in aggregate to, 183 days in any 12 months period commencing or ending in the calendar year; or

(c) is a citizen of Vanuatu who is an officer or employee of the Government or a public authority.

(3) In addition to subsection (2):

(a) an individual who:

(i) is a resident individual for the current calendar year; and

(ii) was not a resident individual for the preceding calendar year,

is a resident individual in the current calendar year only for the period commencing on the day on which the individual was first present in Vanuatu; and

(b) an individual who:

(i) is a resident individual for the current calendar year; and

(ii) who is not a resident individual for the following calendar year,

is treated as a resident individual in the calendar year only for the period ending on the last day on which the individual was present in Vanuatu.”

11 Subsections 3(10) and 3(11)

Delete “associated person”, substitute “associate”

12 Subsection 6(2)

Delete “associated persons”, substitute “associates”

13 Subsection 7(1)

(a) Delete “resident in Vanuatu”, substitute “a resident of Vanuatu or is a non-resident carrying on business in Vanuatu through a fixed place of business”

(b) Delete “not resident of Vanuatu” substitute “a non-resident of Vanuatu that is not carrying on business in Vanuatu through a fixed place of business”

14 Subsection 7(2)

Delete “not resident in Vanuatu” substitute “a non-resident of Vanuatu that is not carrying on business in Vanuatu through a fixed place of business”

15 Subsections 12(3), 12(4), 16(1), 16(2), 17(1), 21(3), 21(6) and 22(3)

Delete “prescribed”, substitute “approved”

16 Subsection 12(5A)

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

17 Subsections 16(3), 16(4), 54(2), 54(3), and 54(4)

Repeal the subsections.

18 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. 37 of 2018”

19 Section 19 (heading)

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

20 Subsection 19(1)

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

21 Subsection 19(2)

Delete “refund”, substitute “negative amount”

22 Paragraph 19(4)(c)

Delete “one-ninth of the consideration in money for all supplies of second-hand goods to the registered person”, substitute “the consideration in money for all supplies of second-hand goods to the registered person divided by 7.6667”

23 Subparagraph 19(4)(c)(iv)

Delete “not resident in Vanuatu” substitute “a non-resident of Vanuatu carrying on business in Vanuatu through a fixed place of business”

24 Paragraph 19(4)(e)

Delete “one-ninth of any payments made during the taxable period by the registered person to indemnify another person under a contract of insurance”, substitute “the amount of any payment made during the taxable period by the registered person to indemnify another person under a contract of insurance divided by 7.6667”

25 Subparagraph 19(4)(e)(iii)

Delete “nor resident in Vanuatu” substitute “, a resident of Vanuatu or a non-resident of Vanuatu carrying on business in Vanuatu through a fixed place of business”

26 Subparagraph 19(7)(c)(i)

Delete “associated persons”, substitute “associates”

27 Paragraph 19(10)(b)

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

28 Section 20

Repeal the section, substitute

“20. Payment of tax

A registered person must pay any tax payable calculated under section 19 for a taxable period by the day on which the return must be filed for the period.”

29 Paragraph 23(1)(e)

Delete “prescribed”, substitute “approved”

30 Parts 5, 6, 7, 10 and 12

Repeal the Parts.

31 Sections 41A, 43, 44, 46, 48, 49, 56, 57 and 58

Repeal the sections.

32 Paragraph 47(6)(a)

Delete “not resident in Vanuatu” substitute “a non-resident of Vanuatu or a non-resident carrying on business in Vanuatu through a fixed place of business”

33 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.”

34 Section 72

Delete “prescribed”, substitute “approved”

35 Schedule 1 –Clause 9A

Repeal the clause.

36 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].”

37 Schedule 3 – Clause 5

Delete all the words from and including “Any supply of services” to and including “performed.”, substitute:

“Any supply of services to a person:

- (a) who is a non-resident of Vanuatu carrying on business in Vanuatu through a fixed place of business; and
- (b) who is outside Vanuatu at the time the services are performed.

38 Schedule 3 – Subclause 12(a)

Delete “not resident in Vanuatu” substitute “a non-resident of Vanuatu carrying on business in Vanuatu through a fixed place of business”