

VALUE ADDED TAX (AMENDMENT)(NO. 2) BILL, 2021

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VALUE ADDED TAX (AMENDMENT)(NO. 2) BILL, 2021

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 may be cited as the Value Added Tax (Amendment)(No. 2) Act, 2021.
- (2) Subject to subsection (3), this Act shall come into force on the 1st day of January, 2022.
- (3) Sections 3(b)(i) and 4(1)(a) shall be deemed to have come into force on the 1st day of July, 2019.

2. Amendment of section 2 of the principal Act.

Section 2 of the principal Act is amended —

- (a) by the deletion of the definition “international commercial service” and the substitution as follows —
“international commercial service” means a trade or trade related service performed by a commercially scheduled aircraft or vessel, but excludes —
 - (a) international transport services attributed to privately owned and operated or chartered vessels; and
 - (b) carriers and vessels that leave port in ballast;”; and
- (b) by the deletion of the definition “international transport services” and the substitution as follows —
“international transport services” means 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; or
- (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 includes ancillary transport services as defined in regulation 2 of the Value Added Tax Regulations, only to the extent that such services are supplied by the supplier of international transport services or on behalf of such supplier as part of the same journey to which the supply of international transport services under paragraph (b) applies.”.

3. Amendment to First Schedule of the principal Act.

The First Schedule to the principal Act is amended —

- (a) in Part I, by the deletion of items 7, 8, and 12; and
- (b) in Part II —
 - (i) by the insertion immediately after paragraph (f) in item 9 of the following new paragraph —

“(ff) Financial services a business rendering financial services.”; and
 - (ii) by the deletion of items 17, 18 and 19.

4. Amendment to Second Schedule of the principal Act.

- (1) Part I of the Second Schedule to the principal Act is amended —
 - (a) by the deletion of paragraph (2) and the substitution as follows —

“(2) Subject to the Regulations, financial services other than —

 - (a) the financial services specified in paragraph (9) of Part II of the *First Schedule*; or

- (b) domestic financial services provided for an explicit fee.”;
 - (b) by the deletion of paragraph (15) where it appears the second time and the substitution as follows —
“(15A) Any transaction or activity falling within the meanings of subsection 31(2) or (3) of the Electricity Rate Reduction Bond Act.”;
 - (c) by the deletion of paragraph (16) and the substitution as follows —
“(16) The process of transferring goods that have not been entered for home consumption between vessels or other modes of transport where the port of origin and the port of destination are not within the territory of The Bahamas in accordance with procedures prescribed in VAT Rules, including services relating to the use of terminal or berthing facilities by commercial vessels in respect of such goods.”; and
 - (d) by the deletion of paragraph (17).
- (2) Part II of the Second Schedule to the principal Act is amended —
- (a) by the deletion of item 7; and
 - (b) by the insertion immediately after item 7 of the following new item
—
“8. The importation of replaced or repaired goods where —
 - (a) the goods are still under the manufacturers' warranty;
 - (b) proof is provided that the importation is to replace damaged goods that were returned to the manufacturer, except that, VAT is payable on that part of the value of the replaced or repaired goods that is in excess of the value of the original goods that were imported.”.

5. Amendment to Third Schedule of the principal Act.

The Third Schedule to the principal Act is amended —

- (a) in item 1, in the first column, by the insertion after the word “Every” of the words “deed of conveyance.”;
- (b) by the deletion of item 1A;
- (c) in item 3, by the deletion of paragraph (b) in the second column and the substitution as follows —
“(b) 10 % where the value exceeds \$100,000”;
- (d) in item 4, by the deletion of paragraph (b) in the second column and the substitution as follows —
“(b) 10 % where the value exceeds \$100,000”; and

- (e) in item 9, by the deletion of paragraph (b) in the second column and the substitution as follows —
“(b) 10 % where the value exceeds \$100,000”.

6. Amendment of standard rate of tax throughout Act and subsidiary legislation.

The —

- (a) principal Act;
- (b) Value Added Tax Regulations, 2014;
- (c) Value Added Tax Rules, 2015; and
- (d) Value Added Tax Rules 2019-001 to 2019-005 Supply of Real Property,

are amended by the deletion of the words “twelve percent” and “12%”, respectively, wherever they appear in the Act, Regulations and Rules, and the substitution of the words “ten percent” and “10%” respectively.

OBJECTS AND REASONS

This Bill seeks to amend the Value Added Tax Act, 2014 to reduce the standard rate of tax and to minimize the number of exemptions and zero rated items under the principal Act.

Clause 1 of the Bill provides for the short title and the commencement dates of the Bill. Clause 2 of the Bill seeks to amends certain definitions in section 2 of the principal Act namely, “international commercial service” and “international transport services”. International transport services and services provided to foreign-going vessels providing international commercial service are zero rated under the principal Act. The amendment seeks to limit the scope of the zero rated application as follows —

- (a) to exclude international transport services attributed to privately owned and operated or chartered vessels and carriers that leave port in ballast from “international commercial service”;
- (b) to provide that ancillary transport services are only included in the definition of “international transport services” where such services are supplied by the supplier of international transport services or on behalf of such supplier as part of the same journey that the supply of international transport services relates to.

Clause 3 of the Bill seeks to amend the First Schedule to the Act to remove the zero rated application from several items, namely —

- (a) the local sale of butter, bread, mayonnaise, grits, cheese, corned beef, evaporated milk, condensed milk, margarine, rice, flour, tomato paste, cooking oil, baby formula and baby food, powder detergent, fresh milk,

- canned fish, soaps, soups and broths, mustard, sanitary napkins and tampons, napkins and napkin liners for infants;
- (b) the local sale of medicines and medicinal drugs;
 - (c) the importation of replaced or repaired goods which will now be placed in the Second Schedule;
 - (d) services relating to the use of terminal or berthing facilities by commercial vessels in respect of goods that have not been entered for home consumption under the Customs Management Act, 2011 (*No. 30 of 2011*) where the port of origin and the port of destination are not within the territory of The Bahamas;
 - (e) services in respect of the storage of goods and any processes to optimise or maintain the integrity of those goods during storage where those goods that have not been entered for home consumption under the Customs Management Act and where the port of origin and the port of destination are not within the territory of The Bahamas;
 - (f) the commission earned as a result of the supply of the Central Bank of The Bahamas digital service.

Clause 3 of the Bill also adds financial services to the list of zero rated professional services when the benefit or advantage of those services are outside The Bahamas.

Clause 4 of the Bill seeks to amend the Second Schedule —

- (a) in Part I —
 - (i) in item 16, with respect to exempt transshipment services, to include the use of terminal or berthing facilities by commercial vessels in respect of goods that have not been entered for home consumption under the Customs Management Act, 2011 (*No. 30 of 2011*) where the port of origin and the port of destination are not within the territory of The Bahamas; and
 - (ii) to delete item 17, to remove the exemption from supply of services relating to the authorized collection of Government revenue on behalf of the government; and
- (b) in Part II —
 - (i) to delete item 7, to limit the exemption for the importation of goods by returning residents as a part of accompanied baggage to goods that fall within the resident's duty exemption under the Tariff Act, 2018; and
 - (ii) to include the importation of replaced or repaired goods which was removed from the First Schedule.

Clause 5 of the Bill seeks to amend the Third Schedule of the principal Act by reducing the rate of tax on the portion of real property transactions above \$2 million from twelve percent (12 %) to ten percent (10 %). Clause 6 of the Bill seeks to amend the principal Act, the Regulations and the Rules by reducing the standard rate of tax from twelve percent (12 %) to ten percent (10 %) wherever it appears.
