

ARRANGEMENT OF SECTIONS

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I assent,

CUTHBERT M SEBASTIAN

Governor-General.

11th May, 2011.

SAINT CHRISTOPHER AND NEVIS

No. 13 of 2011

ANACT to amend the Value Added Tax Act, No. 3 of 2010.

[Published 11th May 2011, Extra-Ordinary Gazette No. 22 of 2011.]

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the National Assembly of Saint Christopher and Nevis, and by the authority of the same as follows:

1. Short title.

This Act may be cited as the Value Added Tax (Amendment) Act, 2011.

2. Interpretation.

In this Act, unless the context otherwise requires, Act means the Value Added Tax Act, No. 3 of 2010.

3. Insertion of new section.

The Act is amended by inserting immediately after section 5 thereof the following new section:

"6A. Purposes or objectives of the Act.

The Act seeks to

- (a) ensure that the tax system keeps pace with the development of the economy;
- (b) remove distortions and inequity which have been existing in the tax system prior to the introduction of VAT;
- (c) ensure that, in addition to the transformation of the economy, there is harmony between the system of taxation and the economy in order to cope with the unfolding international pressures that favour free trade and the necessity for countries to open up their borders;
- (d) place the domestic tax system on a sound footing;

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- (e) make the tax system simpler and more efficient so as to create equity by taxing all aspects of economic activities;
- (f) put in place sound administrative mechanisms to ensure meaningful implementation of the collection of the VAT;
- (g) empower the Inland Revenue Department to implement the provisions of this Act in an effective and efficient manner.”.

4. Amendment to section 12 of the Act.

The Act is amended in section 12 by

- (a) replacing subsection (13) thereof with the following:

“(13) Notwithstanding the provisions of subsection (4) and (6), a promoter of public entertainment, a licensee and a proprietor of a place of public entertainment shall each apply for registration not later than seven calendar days before the public entertainment promoted by each of them starts.”;

- (b) inserting immediately after the word “Act” which appears in the second line of paragraph (b) of subsection (16) thereof the following:

“ or such other professional services that the Comptroller may determine in accordance with regulations made under this Act”.

5. Amendment to section 26 of the Act.

The Act is amended in section 26 by replacing the word “and” which appears in the second line of paragraph (d)(ii) of subsection (1) thereof with the word “or”.

6. Amendment to section 54 of the Act.

The Act is amended in section 54 by

- (a) inserting immediately after the word “Act” which appears in the fourth line of subsection (1) thereof the following words:

“, and without prejudice to the generality of the foregoing, the Comptroller may require security to be given by a taxable person where

- (a) the taxable person is a promoter of public entertainment or a licensee or proprietor of a place of public entertainment;
- (b) a person managing the activities of the taxable person
 - (i) is connected with past failures to pay tax or any other tax administered by the Comptroller;
 - (ii) has failed previously to comply with tax obligations or other tax obligations on more than one occasion; or
 - (iii) has been prosecuted for a tax offence or an offence relating to another tax administered by the Comptroller,

whether or not that failure or prosecution was in relation to a taxable activity carried on by the taxable person:

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- (c) the taxable person has only recently commenced carrying on its taxable activity, or has recently significantly expanded its taxable activities; or
- (d) the taxable person intends to carry on its taxable activity only for a limited period of time”;
- (b) replacing the figure “15%” which appears in the third line of subsection (7) thereof with the figure “17%”.

7. Amendment to section 60 of the Act.

The Act is amended by renumbering section 60 which appears under Part IX of the Act as section 61.

8. Amendment to section 63 of the Act.

The Act is amended in section 63 by

- (a) replacing subsection (1) thereof with the following new subsection:
 - “(1) The Minister may make regulations providing for the refund of tax paid or borne on a supply made to
 - (a) a person to the extent provided under the Diplomatic and Consular Services (Immunities and Privileges) Act, Cap. 6.01 or to the extent provided under any regulations made by the Minister pursuant to the provisions of this Act;
 - (b) a diplomatic or consular mission of a foreign country established in Saint Christopher and Nevis, relating to transactions concluded for the official purposes of such mission; or
 - (c) an organisation or government to the extent provided under a technical assistance or humanitarian assistance agreement entered into with the Government of Saint Christopher and Nevis.”;
- (b) replacing the words “, by order, authorize” which appear in subsection (3) thereof with the words “make regulations providing for”;
- (c) inserting immediately after subsection (4) the following new subsection:
 - “(5) The Minister may make regulations specifying or describing the official purposes of a diplomatic or consular mission for the purposes of subsection (1)(b).”.

9. Amendment to section 117 of the Act.

The Act is amended in section 117

- (a) by replacing subsections (1) and (2) thereof with the following:
 - “117. **Regulations.**

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(1) The Minister may generally make regulations to give effect to the provisions or purposes of this Act, and for any matter which is required under this Act to be prescribed by regulations, and without prejudice to the generality of the foregoing, such regulations may provide for

- (a) provisions of a saving or transitional nature consequent to the coming into force of this Act;
- (b) specific offences and penalties not exceeding ten thousand dollars for breach of the regulations;
- (c) the application of terms used in this Act and ancillary rules that facilitate the application of provisions in the Act, including the determination of the value, time, and place of transactions for purposes of applying the Act to those transactions; or
- (d) matters related or incidental to the foregoing.”;

(2) by renumbering subsection (3) thereof as subsection (2).

10. Amendment to section 124 of the Act.

The Act is amended in section 124 by

- (a) inserting the word “tax” immediately after the word “restaurant” which appears in the third line of subsection (12) thereof; and
- (b) inserting immediately after subsection (12) thereof the following new subsections:

“(13) Notwithstanding the repeal of the Consumption Tax Act, Cap. 20.02 and without prejudice to the provisions of subsection (12) of this section, concrete blocks which are sold locally and were, prior to the coming into force of this Act, attracting consumption tax at a rate of 7.5%

- (a) shall continue to attract that tax for a period of two years with effect from the 1st day of November, 2010; and
- (b) the Comptroller of Customs is hereby authorized to collect that tax as from the date specified in paragraph (a) of this subsection in accordance with the provisions of the repealed Consumption Tax Act.

(14) Notwithstanding the repeal of the Hotel Accommodation and Restaurant Tax Act, Cap. 20.20 and without prejudice to the provisions of subsection (12) of this section, contracts which were concluded in relation to hotel bookings before the coming into force of the Act are hereby exempted from the collection of VAT and shall attract hotel accommodation and restaurant tax at a rate of 7%

- (a) shall continue to attract that tax for a period of two years with effect from the 1st day of November, 2010; and

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- (b) the Comptroller of Customs is hereby authorized to collect that tax as from the date specified in paragraph (a) of this subsection in accordance with the provisions of the repealed Hotel Accommodation and Restaurant Tax Act.”.

11. Amendment to the First Schedule to the Act.

The First Schedule to the Act is amended by

- (a) replacing the words “house hold” which appear in Paragraph 9(a) thereof with the word “household”;
- (b) deleting the word “in” which appears in Paragraph 20(e)(i) immediately after the word “within”.

12. Amendment to the Second Schedule to the Act.

The Second Schedule is amended by

- (a) replacing the word “section 34” which appears in the third line of Paragraph 3.(1) thereof with the word “section 33”;
- (b) inserting immediately after the expression “1004.00 Oats” which appears in Paragraph 3.(2) thereof the expression “1104 Oats”;
- (c) replacing the expression “14.(5) (c)” which appears in the first line of Paragraph 3.(6) thereof with the expression “14.(4) (c)”;
- (d) replacing the word “section 34” which appears in the third line of Paragraph 4.(1) thereof with the word “section 33”.

13. Amendment to the Third Schedule to the Act.

The Third Schedule is amended by

- (a) replacing the definition of “ancillary transport services” which appears in Paragraph 1 thereof with the following:

“ancillary transport services” include stevedoring services, lashing and securing services, cargo inspection services, container handling services, and storage of transported goods or goods to be transported;”;
- (b) replacing the definition of “qualified facility charges” which appears in Paragraph 4.(7) thereof with the following:

“qualified facility charges” are charges for buildings, grounds, libraries, computers, science and other laboratories approved by the Ministry of Education after consulting the Minister.”;
- (c) replacing the word “covers” which appears in the third line of Paragraph 4.(11) thereof with the word “cover”;
- (d) replacing Paragraph 5 thereof with the following:

“5. A sale of real property, including land

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- (a) attributable to a dwelling which is subject to stamp duty;
 - (b) by Crown Grant;
- as may be provided in regulations made under this Act.”;
- (e) renumbering Paragraph 6 as Paragraph 6.(1), and by inserting immediately the following new sub-paragraph:
 - “(2) The exemption referred to in sub-paragraph (1) of this Paragraph shall not apply to student accommodation, except that the rate of tax to be paid in respect to that type of accommodation shall be the rate of tax specified in section 26.(1)(d) of this Act.”;
 - (f) replacing the word “sub-paragraph (2)” which appears in Paragraph 11.(2) thereof with the word “sub-paragraph (1)”;
 - (g) replacing the words “and pamphlets” which appear in the second line of Paragraph 18 thereof with the following words:
 - “, pamphlets and a supply of exercise books classified under Customs Tariff Heading 4820.20.”;
 - (h) deleting the word “and” which appears immediately after the word “business;” in Paragraph 24.(2)(d);
 - (i) deleting the period “.” which appears immediately after the word “dwelling” in Paragraph 24.(2)(e) and inserting “; and”;
 - (j) inserting immediately after paragraph 24.(2)(e) the following:
 - “(f) the services are rendered directly to the homeowner by one single building contractor during the course of construction.”;
 - (k) inserting immediately after Paragraph 24.(2) the following:
 - “(2A) For the purposes of sub-paragraph (2)(f) a single building contractor means
 - (a) a contractor who renders construction services by constructing a dwelling to a habitable condition; or
 - (b) where the contractor referred to in sub-paragraph (a) does not complete the construction of the dwelling, then the contractor who completes the construction of the dwelling to a habitable condition.”;
 - (l) inserting immediately after Paragraph 25.(3) thereof the following new sub-paragraphs:
 - “(4) Supplies of services to any entity listed in sub-paragraph (1) (a) or (b) are not exempt supplies under this Schedule if the services are delivered to such entity at a place located in Saint Christopher and Nevis, unless such services are exempt services under this Schedule.

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(5) For the purpose of sub-paragraph (4), the services referred to in that sub-paragraph that are exempt include

- (a) legal fees related to the entities registration and administration; and
- (b) professional services fees related to the entities administration.”;
- (m) replacing the word “sue” which appears in the second line of Paragraph 26 (g) thereof with the word “use”;
- (n) replacing the word “spectacles” which appears in Paragraph 26 (i) thereof with the word “receptacles”;
- (o) replacing Paragraph 27 with the following:

“27. To the extent provided in regulations made under this Act, a supply of the following fishing inputs, that is to say, fibre-glass and wooden boats, anchors, grapnels, G. P. S, compass, V. H. F. Radios, fish finder, flare guns and flares, life vests, life rings, buoys and floats, mono-filament fishing lines, gaff, harpoons, winches, spools, line haulers, jiggging reels and propellers, and outboard and inboard engines.”.

CURTIS A MARTIN
Speaker

Passed by the National Assembly this 28th day of April, 2011.

JOSÉ LLOYD
Clerk of the National Assembly