

BILL NO. 29 OF 2015

A BILL

FOR AN ACT TO AMEND THE VALUE ADDED TAX DECREE 1991

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

- 1.—(1) This Act may be cited as the Value Added Tax (Budget Amendment) Act 2015.
- (2) This Act shall come into force on 1 January 2016.
- (3) In this Act, the Value Added Tax Decree 1991 shall be referred to as the “Decree”.

Section 14 amended

2. Section 14 of the Decree is amended in—

- (a) subsection (1) by deleting “fifteen” and substituting “nine”; and
- (b) subsection (4A) by—
 - (i) inserting in paragraph (a) “111 (Artificial parts of a body, corrective glasses, invalid carriages, etc.)” after “110 (goods imported for disabled persons)”; and

(ii) deleting in paragraph (b)—

- A. “04.02 (powdered milk), 09.02 (tea), 10.01 (wheat), 10.06 (rice), 11.01 (flour and sharps from wheat), 15.07 to 15.17 (edible fats and oils; crude and refined oils), 16.04 (prepared or preserved canned fish), and 27.10 (kerosene),”; and
- B. “including items/retailing under tariff heading of 03.02 (fresh, fresh or chilled excluding fish fillets and other fish meat of 03.04), 03.03 (fish frozen excluding fish fillets and other fish meat of 03.04),”.

Section 15 amended

3. Section 15 of the Decree is amended by deleting “fifteen” and substituting “nine”.

Insertion of section 70C

4. The Decree is amended by inserting the following new section after section 70B—

“VAT refund for film production company

70C. Notwithstanding anything in this Decree, a film production company issued with a certificate under paragraph 69 of the Sixth Schedule to the Income Tax Act (Cap. 201) is entitled to a Value Added Tax refund in respect of its qualifying expenses under the Sixth Schedule to the Income Tax Act (Cap. 201).”

Insertion of section 72A

5. The Decree is amended by inserting the following new section after section 72—

“Prices to reflect VAT decrease

72A.—(1) If the percentage of VAT decreases, a registered person must sell goods and services at a price which reflects the actual percentage VAT decrease.

(2) The onus of proving that the price at which the goods or services are sold by the registered person reflects the actual percentage VAT decrease shall be on the registered person.

(3) A registered person who fails to comply with subsection (1) shall be liable to a fine not exceeding \$50,000 which must be payable by that registered person within 21 days of notification by the Chief Executive Officer.

(4) A registered person who fails to pay the fine as prescribed in subsection (3) within the time period prescribed in subsection (3), shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding \$100,000 or to a term of imprisonment not exceeding 10 years.

(5) The Minister may make regulations prescribing fines for the purpose of subsection (3).”

Section 88 amended

6. Section 88 of the Act is amended in subsections (3) and (4) by inserting “or decreased” after “increased”.

First Schedule amended

7. The First Schedule to the Decree is amended in paragraph 2 by inserting “excluding residential apartments which provide hotel-like accommodation and facilities” after “abode”.

Second Schedule amended

8. The Second Schedule to the Decree is amended by deleting paragraphs 17, 24, 25 and 30.

Fourth Schedule amended

9. The Fourth Schedule to the Decree is amended in paragraph 4 by inserting the following sub-paragraph after sub-paragraph (4)—

“(5) A licence approved under this paragraph shall expire on 31 December in each year.

(6) The annual licence fee payable under sub-paragraph (3) must be paid by 7 January in any year following the year in which such licence was first granted.

(7) The Comptroller may refuse to allow any transaction to take place in respect of which the fee may be due, until such fee has been paid.

(8) Where a new licence for a VAT refund scheme is issued under this paragraph during the second, third or fourth quarter of any year, the fee payable shall be respectively three quarters, one half or one quarter of the annual fee.”

VALUE ADDED TAX (BUDGET AMENDMENT) BILL 2015

EXPLANATORY NOTE

(This note is not part of the Bill and is only intended to indicate its general effect)

1.0 BACKGROUND

1.1 This Bill seeks to amend the Value Added Tax Decree 1991 (**‘Decree’**) and includes changes the Minister for Finance announced in the 2016 Budget announcement, to the Decree, which shall come into force on 1 January 2016.

2.0 CLAUSES

2.1 Clause 1 provides the short title and commencement provision.

2.2 Clause 2 amends section 14 of the Decree by deleting reference to “fifteen” percent value added tax (**‘VAT’**) and substituting with “nine” percent, to reflect the decrease in the percentage of VAT chargeable on imports.

2.3 Clause 2 also amends section 14 to the Decree by including items under Concession Code 111 (Artificial parts of a body, corrective glasses, invalid carriages, etc.) as imported goods not subject to VAT. Clause 2 further amends section 14 of the Decree by removing items under subsection (4A)(b) which will now be subjected to VAT.

2.4 Clause 3 amends section 15 of the Decree by deleting reference to “fifteen” percent VAT and substituting with “nine” percent, to reflect the decrease in the percentage of VAT chargeable on supply.

2.5 Clause 4 adds a new section 70C which makes provision for film production companies under the Sixth Schedule to the Income Tax Act (Cap. 201) to be entitled to a VAT refund under the Decree.

2.6 Clause 5 amends the Decree by inserting a new section 72A which makes it an offence in instances where a registered person under the Decree fails to sell goods or services at prices which reflect the decrease in the percentage of VAT.

- 2.7 Clause 6 amends section 88 to the Decree in regards to the imposition of tax, to provide that where there has been a decrease in the percentage of VAT charged or chargeable, any charge, fee or amount prescribed or determined under any law in respect of any supply of goods and services, is deemed to be decreased by that percentage.
- 2.8 Clause 7 amends paragraph 2 of the First Schedule to the Decree by inserting “excluding residential apartments which provide hotel-like accommodation and facilities”,
- 2.9 Clause 8 amends the Second Schedule to the Decree by deleting paragraphs 17, 24, 25 and 30 relating to the supply of electricity (up to the value of the first \$30 of a monthly bill), food items as listed, prescription medicines and supply of fish, which will now be subject to VAT.
- 2.10 Clause 9 amends the Fourth Schedule to the Decree to state that a licence issued under paragraph 4 expires on 31 December each year. Clause 9 also provides that the annual licence fee payable must be paid by 7 January each year however, where a new licence is issued during the year, the fee payable shall be adjusted accordingly.

3.0 MINISTERIAL RESPONSIBILITY

- 3.1 The Decree comes under the responsibility of the Minister responsible for Finance.

A. SAYED-KHAIYUM
Attorney-General