



Bill Summary

Value Added Tax (Budget Amendment) Bill 2016

Bill No. 42 of 2016

Introduction

The Value Added Tax (Budget Amendment) Bill 2016¹ amends the Value Added Tax Decree 1991 ('Decree')². The Decree was first introduced in 1991 to implement VAT. This is a broad-based indirect tax that is applied to almost all supplies of goods and services to consumers. The Decree requires most businesses involved in taxable activities to register for VAT with the Fiji Revenue & Customs Authority (FRCA) and charge VAT on a range of applicable goods and services.

The current VAT rate is 9 percent. Some goods and services are exempted from VAT and these are outline in Schedule 1 of the Decree. The exempt supplies are: supply of financial services; supply of accommodation in a residential dwelling; supply of education by an educational institution; supply of any goods and services incidental to the provision of education by an educational institution; supply and provision of the right to partake in any gambling and; supply by any non-profit body of donated goods and services. Other zero-rated supplies are contained in the Second Schedule of the Decree. These are: exported goods; supplies of ship stores; supply of taxable activity as a going concern to another registered person and; services in connection with goods outside Fiji.

Objectives, scope and intent of the Bill

The Bill's objective is to amend a number of sections of the Value Added Tax Decree. Some notable amendments include: changes to the 'interest on late refunds' where it will now be determined by the Reserve Bank of Fiji (RBF) under a fair market rate rather than 12.5 per cent as it currently is; exemption of VAT on payment for salary and wages of employees under Standard Expenditure Group 6 under government grant and; a requirement that proceeds of exports be remitted to Fiji in order for exporters to qualify for zero-rate sales.

The amendments are:

- **Section 67** on 'Interest on late refunds' where the set interest of 12.5 per cent per annum is removed and this to be a "fair market interest rate" as determined by the RBF.
- **Section 70C** to to include reference to a certificate issued under the *Income Tax (Film-making and Audio-visual Incentives) Regulations 2016*.
- **First Schedule** – deletion of reference to "hotel like accommodation" and replacing it with the supply of residential dwellings by a registered person who has an annual gross turnover of more than the amount specified under section 22(1) of the Decree, from the hire or rent of their residential dwelling.
- **First Schedule** - that if a registered person uses a residential dwelling partly for hire or rent as a place of residence, Value Added Tax ('VAT') will only apply to the part of the residential dwelling rented or hired as a place of residence, and not to the portion of such residential dwelling used for other purposes.
- **First Schedule** - exemption of payment of VAT on the supply of employment services to Government whereby payment for salary and wages of employees are paid out of Standard Expenditure Group 6 under Government grant.⁴
- **Second Schedule** – changed to require businesses which export goods or services to have their export proceeds remitted to Fiji in order to qualify for zero-rated sales.

¹ Value Added Tax (Budget Amendment) Bill 2016, Bill No.42 of 2016. Available at: [www.parliament.gov.fj/getattachment/Parliament-Business/Bills/2016-Bills/Bill-No-42-Value-Added-Tax-\(Budget-Amendment\)-\(1\).pdf](http://www.parliament.gov.fj/getattachment/Parliament-Business/Bills/2016-Bills/Bill-No-42-Value-Added-Tax-(Budget-Amendment)-(1).pdf) [Accessed 4 July 2016]

² Value Added Tax Decree 1991. Available at: www.pacii.org/fj/promu/promu_dec/vatd1991145/ [Accessed 4 July 2016]



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- **Fourth Schedule** – deleting the Tourism VAT Refund Scheme annual licence fee of \$2,500 to allow the Commissioner (FRCA) to prescribe the licence fee payable.

Summary of provisions

Short title and commencement

Clause 1 (1) – provides that the Act may be cited as the *Value Added Tax (Budget Amendment) Act 2016*.

Clause 1(2) – the Act comes into force on 1 August 2016.

Clause 1(3) - the Value Added Tax Decree 1991 is referred to as the “Decree”.

Section 67 amended

Clause 2. Section 67 of the Decree is **amended by deleting “twelve and a half per cent”** and replacing it with **“the fair market interest rate as determined by the Reserve Bank of Fiji”**.

Section 70C amended

Clause 3 – Section 70C of the Decree is amended by:

(a) inserting “or the *Income Tax (Film-making and Audio-visual Incentives) Regulations 2016*” after “(Cap. 201)”; and

(b) deleting “*Sixth Schedule to the Income Tax Act (Cap. 201)*” after “expenses under” and substituting “*Income Tax (Film-making and Audio-visual Incentives) Regulations 2016*”.

First Schedule amended

Clause 4 – amends the First Schedule to the Decree by:

(a) deleting “residential apartments which provide hotel like accommodation and facilities” and substituting “residential dwelling as specified in paragraph (2A)”; and

(b) adding a new paragraph after paragraph (2)—

“(2A).—(1) The supply of accommodation in a residential dwelling by way of hire or rent as a place of residence by a registered person who has an annual gross turnover from such hire or rent that is more than the amount specified in section 22.

(2) For the purpose of paragraph (2A)(1)—

(a) if a residential dwelling is hired or rented wholly as a place of residence, the Value Added Tax will apply to the whole place of residence hired or rented;

(b) if a residential dwelling is hired or rented partly as a place of residence and partly for some other use, the Value Added Tax will only apply to the portion that is hired or rented as a place of residence.”; and

(c) inserting a new paragraph after paragraph 9— “9A. The supply of employment services to Government whereby payment is of salary and wages from Standard Expenditure Group 6 under Government grant”.

Second Schedule amended

Clause 5 – the Second Schedule to the Decree is amended by adding a new paragraph before paragraph 1— “A claim for zero-rated supply of goods or services is only allowed under this Schedule provided the Commissioner is satisfied that the export earnings have been remitted to Fiji, with respect to the following supplies—”

Fourth Schedule amended

Clause 5 – Paragraph 4(3) of the Fourth Schedule to the Decree is amended by deleting “of \$2,500” and substituting “as prescribed by the Commissioner”.

Ministerial Responsibility - The explanatory notes says that the Act comes under the responsibility of the Minister responsible for Finance.



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Gender analysis

The Bill does not have any disproportionate impact on women and men.

Further information

- *Value Added Tax (Budget Amendment) Bill 2016*, Bill No.42 of 2016. Available at: [www.parliament.gov.fj/getattachment/Parliament-Business/Bills/2016-Bills/Bill-No-42-Value-Added-Tax-\(Budget-Amendment\)-\(1\).pdf](http://www.parliament.gov.fj/getattachment/Parliament-Business/Bills/2016-Bills/Bill-No-42-Value-Added-Tax-(Budget-Amendment)-(1).pdf)
- *Value Added Tax Decree 1991*. Available at: www.paclii.org/fj/promu/promu_dec/vatd1991145/

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