SUPPLEMENT PART I

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VALUE ADDED TAX (AMENDMENT) ACT, 2024

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No. 18 of 2024

VALUE ADDED TAX (AMENDMENT) ACT, 2024

AN ACT TO AMEND THE VALUE ADDED TAX ACT

[Date of Assent - 26th June, 2024]

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

(1) This Act, which amends the Value Added Tax Act, 2014 (*Ch. 370A*), shall be cited as the Value Added Tax (Amendment) Act, 2024.

(2) This Act with the exception of sections 7 and 16 shall come into operation on the 1st day of July, 2024.

(3) Section 7 of the Act shall come into force on the 1st day of December, 2024.

(4) Section 16 of the Act is deemed to come into force on the 29th day of May, 2024 and shall expire on the 30th day of November, 2024.

2. Amendment of section 2 of the principal Act.

Subsection (1) of section 2 of the principal Act is amended in the definition of "fine" by the deletion of the words "section 38B" and the substitution of the words "section 38D".

3. Amendment of section 5 of the principal Act.

Subsection (6) of section 5 of the principal Act is amended by the deletion of the words "subsection (1)" and the substitution of the words "subsection (4)".

4. Amendment of section 6 of the principal Act.

Section 6 of the principal Act is amended by the deletion of subsection (2) and the substitution as follows—

"(2) Value added tax imposed under section 4 on a supply of real property is, subject to such conditions and restrictions as may be prescribed in regulations and VAT Rules, chargeable at —

(a) a zero percent rate on the value of the supplies of real property for the time being specified in the *First Schedule*; and

(b) the rates specified in the Third Schedule on the value of any supply that is not zero rated.".

5. Amendment of section 13A of the principal Act.

Subsection (2) of section 13A of the principal Act is amended by the deletion of the words "VAT Appeal Commission" and the substitution of the words "Tax Appeal Commission".

6. Amendment of section 18 of the principal Act.

Subsection (2) of section 18 of the principal Act is amended in paragraph (c) by the deletion of the words "VAT Appeal Commission" and the substitution of the words "Tax Appeal Commission".

7. Amendment of section 38D of the principal Act.

Section 38D of the principal Act is amended by the deletion of subsection (1) and the substitution of the following —

"(1) A recipient of a supply of real property is liable to pay a fine where the supplier and recipient of a supply of real property –

(a) fail to submit, within the time prescribed in the VAT Rules, an instrument for a supply of real property; or

(b) fail to pay, or makes a late payment in respect of the tax due and payable on a supply of real property.

(1A) The fine referred to in subsection (1) —

(a) where the property is valued at three hundred thousand dollars or less, is ten per cent of the amount of tax owed;

(b) where the property is valued more than three hundred thousand dollars is—

(i) ten per cent of the amount of tax owed if the instrument is submitted for stamping within six months after the time prescribed in the VAT Rules and payment is made within six months after the time prescribed in the VAT Rules;

(ii) fifteen per cent of the amount of tax owed if the instrument is not submitted for stamping within six months after the time prescribed in the VAT Rules or

payment is not made within six months after the time prescribed in the VAT Rules.".

8. Amendment of section 38F of the principal Act.

Subsection (2) of section 38F of the principal Act is amended by the deletion of the words “section 38A ” and the substitution of the words “VAT Rules”.

9. Repeal and replacement of section 38H of the principal Act.

Section 38H is repealed and replaced as follows—

“**38H. Production in evidence of unstamped instrument.**

(1) Upon the production in evidence in any court of any instrument required by this Act to be stamped which is not duly stamped, the judge or magistrate may request—

(a) information from the Chief Valuation Officer with respect to real property tax due; and

(b) information from the Comptroller with respect to the VAT due,

for the stamping of the instrument.

(2) On payment of the VAT and real property tax into the court by the party producing such instrument, the said instrument shall be admissible in evidence.

(3) Upon payment to the court of the real property tax due on the property and the VAT due on the instrument give a receipt for the amount of the real property tax and a receipt for the amount of the VAT.

(4) The Comptroller shall, upon the production to him of a receipt for the payment of VAT under subsection (4), cause the instrument to be stamped in the amount of the VAT paid.

(5) The court shall, as soon as practicable, pay the said VAT to the Comptroller and real property tax to the Chief Valuation Officer.

(6) The decision of the Comptroller as to the necessity for stamping of any instrument or as to the amount payable as VAT due thereon shall be final.

(7) No instrument shall in any criminal proceeding be inadmissible in evidence for want of a stamp by the Comptroller.”.

10. Amendment of section 38I of the principal Act.

Subsection (4) of section 38I of the principal Act is amended by the deletion of the word “Accountant-General” and the substitution of the word “Comptroller”.

11. Insertion of new section 47B into the principal Act.

The principal Act is amended by the insertion, immediately after section 47A of the following—

“**47B. Real property declaration.**

(1) A company referred to in subsection (2) shall, within fifteen days of acquiring or disposing of any interest in real property —

(a) notify its registered agent; or

(b) where it has no registered agent, notify the Registrar General.

(2) Every registered agent of a company registered under the Companies Act (Ch. 308) and the International Business Companies Act (Ch. 309) or the Registrar General where applicable shall submit a declaration with the Comptroller by the 31st December, 2024 every year.

(3) The Declaration shall include—

(a) whether or not the company holds or has sold, transferred, assigned or otherwise disposed of an interest in any real property over the last 12 months;

(b) the nature of the company's interest in and other particulars as prescribed by the Comptroller of all real property under paragraph (a); and

(c) particulars as prescribed by the Comptroller of all changes in the last 12 months of the legal or beneficial interest in —

(i) any of the shares of the company; and

(ii) any of the shares of any other company, whether registered in or outside The Bahamas, in which the company mentioned in sub-paragraph (i) has a legal or beneficial interest.”.

12. Amendment of section 48 of the principal Act.

Section 48 of the principal Act is amended by the deletion of subsection (4) and the substitution as follows—

"(4) The due date for tax determined by the Comptroller to be payable by an unregistered taxable person in respect of a relevant period

prior to his becoming registered shall be the date under section 47 by which the tax would have been required to be paid if such unregistered taxable person was a registrant.".

13. Amendment of section 57 of the principal Act.

Section 57 of the principal Act is amended—

(a) in subsection (3) by the deletion of the words "and (7)"; and

(b) by the insertion immediately after subsection (3) of the following new subsection (4) —

"(4) The Comptroller may, in VAT Rules, amend the rate of interest payable on a refund under this section.".

14. Amendment of First Schedule to the principal Act.

The *First Schedule* of the principal Act is amended in Part I in item (9) —

(a) by the insertion, immediately after the words "Subject to the VAT Rules,"of the words "the following supplies of real property—";

(b) by deletion of paragraph (a) and the substitution of the following—

"(a) an inter vivos transfer of real property by an individual, that is held by the transferee for at least seven years from the date of the transfer, and where the only transferees are —

(i) the transferor or the transferor's spouse, parents, children or remoter issue:

(ii) a company, all of whose shares of every class are legally and beneficially owned by the transferor, and in relation to which no other person owns or has agreed to acquire any right, power, title, option or other interest in, over or concerning the shares, any of the property of the company, or any of the property of the transferor;"

(c) by deletion of paragraph (c) and the substitution of the following—

"(c) any transfer of real property between spouses or former spouses made pursuant to an adjustment order under the Matrimonial Causes Act (*Ch. 125*)";

(d) by deletion of paragraph (j) and the substitution of the following—

"(j) instruments or transactions relating to loans granted under The Bahamas Co-operative Credit Unions Act (Ch. 314A), to a member of the co-operative credit union or any other instrument executed by or on behalf of co-operative credit unions registered under The Bahamas Co-operative Credit Unions Act (Ch. 314A) or executed by an officer or member relating to the business of the co-operative credit union and

transactions with members of the co-operative credit union.;";

(e) by deletion of paragraph (t) and the substitution of the following—

"(t) acquisition of an interest of no more than 10% of the issued shares in a real estate investment trust registered as a fund with the Securities Commission.".

15. Amendment of Third Schedule to the principal Act.

The *Third Schedule* of the principal Act is amended in the second column of item (6) by the insertion immediately after paragraph (d) of the following —

"(e) where real property is exchanged due to an error by one or more of the owners, and the unimproved value of each property being exchanged is similar, and the value of each property does not exceed $500,000, the rate of $2,500;".

16. Leniency for late submission of instruments.

(1) During the period 29th day of May 2024 to the 30th day of November, 2024, a person liable to pay VAT in respect of any unstamped or insufficiently stamped deed of conveyance or other instrument for the assignment, exchange or transfer of real property, may upon presenting the instrument to the Comptroller to be duly stamped, be entitled to have the VAT calculated at the market value of the property at the time that the conveyance was executed.

(2) Upon the expiration of the period referred to in subsection (1), VAT shall be calculated in accordance with the VAT Rules.