


30/5/18

VALUE ADDED TAX (AMENDMENT) BILL, 2018

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VALUE ADDED TAX (AMENDMENT) BILL, 2018

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, which amends the Value Added Act¹, may be cited as the Value Added Tax (Amendment) Act, 2018.
- (2) Subject to subsection (3), this Act shall come into operation on the 1st day of July, 2018.
- (3) Section 22 of this Act shall come into operation on the 1st day of August, 2018.

2. Amendment of section 2 of the principal Act.

Section 2 of the principal Act is amended in subsection (1) —

- (a) by the insertion in the appropriate alphabetical order of the following words together with their definitions —

“**dwelling**” means a building, premises, structure, or other place, or any part thereof that is owner-occupied and used or intended to be used as a place of residence or abode of a natural person together with any appurtenances belonging thereto or enjoyed therewith, excluding a commercial rental establishment or commercial enterprise;

“**fine**” means a fixed sum that is automatically imposed pursuant to section 47A, and includes sanctions payable for criminal offences;

“**fixed penalty**” means a fixed sum that is automatically imposed as a civil penalty under section 16;

¹No. 32 of 2014.

“fund-raising activities” means an activity that furthers the cause of the objects of a charitable or non-profit organisation;

“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; or
- (b) carriers and vessels that leave port in ballast;

“owner-occupied” includes property occupied by a person who being the the owner in fee simple or a mortgagor in possession occupies and resides in such property exclusively as a dwelling house;

“penalty” means a sum that is payable in addition to any value added tax determined by a registrant on a VAT return, or by the Comptroller on a notice of assessment, and includes a fixed penalty which, subject to regulations, may be recoverable as value added tax;

- (b) in the definition of the word **“prescribed”**, by the insertion immediately after the word “Act” of the words “or determined by the Comptroller, and includes any forms and procedures in electronic format”.

3. Repeal of section 11 of the principal Act.

Section 11 of the principal Act is repealed.

4. Insertion of new section 13A into the principal Act.

The principal Act is amended by the insertion immediately after section 13 of a new section 13A as follows —

“13A. Power of Comptroller to prescribe forms and procedures.

- (1) Where no forms have been otherwise specifically prescribed, the Comptroller may from time to time prescribe forms and procedures to be published on the official website of the agency responsible for the administration of this Act, including in electronic formats, for the purpose of the administration of this Act.
- (2) The production by the Comptroller of any document purporting to be a form prescribed by the Comptroller, or a copy of or extract from a prescribed form, shall in all courts and in all proceedings, including proceedings before the VAT Appeal Commission, be sufficient evidence of the fact that

the form or electronic format was prescribed by the Comptroller.

- (3) In this section, “form” includes a letter, notice, application, declaration, or any other document.”.

5. Repeal and replacement of section 16 of the principal Act.

Section 16 of the principal Act is repealed and replaced by the following —

“16. Fixed penalty and warning letters.

- (1) The Minister may in regulations prescribe contraventions of this Act and fixed penalties which may be imposed by the Comptroller.
- (2) The Comptroller may, in accordance with the regulations, automatically apply a fixed penalty under subsection (1) upon commission of a prescribed contravention by a taxpayer and thereupon such penalty shall become immediately due and payable by the taxpayer.
- (3) Regulations made by the Minister pursuant to subsection (1) —
- (a) shall prescribe the maximum amount of the fixed penalty that is to be applied by the Comptroller for a prescribed contravention;
- (b) may not prescribe for a single contravention a fixed penalty exceeding one hundred fifty thousand dollars.
- (4) A person aggrieved by the decision of the Comptroller to apply a fixed penalty under this section may object or appeal the decision under Part XI.
- (5) The Department may, where a person is in contravention of, or is not compliant with a provision of this Act or the regulations or VAT Rules, issue a warning letter to such person specifying the act or omission giving rise to the contravention or non-compliance and the remedy requested by the Comptroller.
- (6) A warning letter under subsection (5) must be kept by the Comptroller on the file of the taxable person, or other person, liable to pay tax.
- (7) The Comptroller may not make an application to a court under section 77 to close the business premises of a person unless the Department has issued to such person a warning letter in accordance with subsection (3) of that section.
- (8) The Department may, where it decides a fixed penalty imposed under this section was imposed in error, remit all or

part of such penalty and such remission may be conditional or unconditional.

- (9) Notwithstanding the imposition of a fixed penalty under this section, a person may, where applicable, be liable to prosecution.”.

6. Repeal and replacement of section 18 of the principal Act.

Section 18 of the principal Act is repealed and replaced by the following —

“18. Advance VAT rulings.

- (1) The Comptroller may, on application by a person in the prescribed form, issue an advance VAT ruling in respect of a matter involving the liability of a person to pay tax in relation to a supply or import of specific goods or services.
- (2) Subject to subsection (4), an advance VAT ruling by the Comptroller pursuant to subsection (1) —
 - (a) is binding on the Comptroller for the time period determined by the Comptroller and stated in the ruling;
 - (b) may state a time period, during which the ruling is binding on the taxpayer, to include transactions commenced or completed prior to the application being made for the ruling;
 - (c) may, where the applicant is aggrieved with the ruling made by the Comptroller, be appealed directly to the VAT Appeal Commission under section 81A.
- (3) The application by a person for an advance VAT ruling under this section shall not affect or impede an audit in progress.
- (4) An advance VAT ruling issued by the Comptroller on the basis of false, misleading or incorrect information provided in the application for the ruling is void.”.

7. Amendment of section 19 of the principal Act.

Subsection (8) of section 19 of the principal Act is amended —

- (a) by the insertion immediately after the word “domiciled” of the words “within or”; and
- (b) by the deletion of the full-stop at the end of the subsection and the substitution of the words “including services provided under regulations 10 and 11.”.

8. Amendment of section 37 of the principal Act.

Section 37 of the principal Act is amended in subsection (2) by the deletion of the word “lesser” and the substitution of the word “greater”.

9. Repeal of section 38A of the principal Act.

Section 38A of the principal Act is repealed.

10. Amendment of section 45 of the principal Act.

Section 45 of the principal Act is amended in subsection (2) by the deletion in paragraph (b)(iii) of the word “twenty-eight” and the substitution of the word “twenty-one”.

11. Amendment of section 46 of the principal Act.

Section 46 of the principal Act is amended by the insertion immediately after subsection (3) of new subsections (4), (5) and (6) as follows —

- “(4) The Comptroller may, where a registrant is required to make interim monthly payments pursuant to subsection (3), require the registrant to file an interim tax return or other document explaining the basis of the tax payment.
- (5) The Comptroller shall not require a registrant to make interim monthly payments in cases where the registrant can show to the satisfaction of the Comptroller that the registrant —
 - (a) may be in a net credit position at the end of the tax period for which the return is required to be filed; and
 - (b) intends to apply for a refund.
- (6) The Comptroller may —
 - (a) request a registrant to make an interim monthly payment based on the Comptroller's determination of the tax due based on previous payments made by the registrant;
 - (b) where there is in the reconciliation of interim monthly payments made by a registrant an overpayment of the tax due at the assigned time for filing of the VAT return, treat the overpayment as a credit; and
 - (c) in relation to a credit referred to in paragraph (b), refund or treat the credit in accordance with section 56(4).”.

12. Amendment of section 47 of the principal Act.

Section 47 of the principal Act is amended —

- (a) in subsection (1), by the deletion in paragraph (b)(i) of the word “twenty-eight” and the substitution of the word “twenty-one”;

- (b) in subsection (3), by the deletion in paragraph (c) of the words “request further and better particulars from a registrant” and the substitution of the words “examine or audit the books and records of a business and require the registrant to answer questions, orally or in writing”;
- (c) in subsection (7), by the deletion of the word “twenty-eight” and the substitution of the word “twenty-one”; and
- (d) by the insertion, immediately after subsection (11), of a new subsection (12) as follows —
 - “(12) An application by a registrant pursuant to subsection (7) for an extension of the period within which to file a VAT return must be made before the expiration of the subsequent tax period.”.

13. Insertion of a new section 47A into the principal Act.

The principal Act is amended by the insertion immediately after section 47 of a new section 47A as follows —

“47A. Fines for late filing of VAT return, etc.

- (1) A registrant shall be subject to, and strictly liable to pay, a fine in any case where the registrant, in contravention of section 47 —
 - (a) files a late VAT return, fails to file a VAT return, or fails to file a VAT return in the prescribed form; or
 - (b) makes a late payment of, or does not pay the tax due and payable by the registrant pursuant to a VAT return or notice of assessment.
- (2) Subject to subsection (3), a fine under this section in accordance with the regulations shall —
 - (a) apply only in relation to a contravention under subsection (1); and
 - (b) upon the commission of such contravention, be automatically applied by the Comptroller and become immediately due and payable by the registrant.
- (3) A fine under this section —
 - (a) in case of the filing of a late VAT return, non-filing of a VAT return, or failure to file a VAT return in the prescribed form, shall be the greater of the sum of \$100 or 2% of the tax payable; and

- (b) in case of non-payment, or late payment, of tax pursuant to a VAT return or notice of assessment, shall be 10% of the amount of tax owed.
- (4) Any tax payable under this Act which is not paid by the date on which it becomes due and payable shall bear interest in respect of the outstanding amount at a rate of prime plus 1%.
- (5) Where a fine and interest on value added tax is due and payable under this Act, such fine and interest is recoverable as if it were value added tax due and payable under this Act.
- (6) The Comptroller may amend by issuance of VAT Rules the rate of interest paid on any tax under subsection (4)."

14. Amendment of section 57 of the principal Act.

Section 57 of the principal Act is amended in subsection (3) by the deletion of the words "prescribed in the Financial Administration and Audit Act (*Ch. 359*)" and the substitution of the words "as provided for in section 47A(4) and (7)."

15. Amendment of section 62 of the principal Act.

Section 62 of the principal Act is amended —

- (a) in subsection (1), by the insertion immediately after the words "The Comptroller may," of the words "pursuant to section 47(3) and section 60"; and
- (b) by the insertion immediately after the words "VAT officer" or "officer", wherever either word appears in a provision of the section, of the words "or authorised person".

16. Amendment of section 63 of the principal Act.

Section 63 of the principal Act is amended by the insertion immediately after the words "VAT officer" or "officer", wherever either word appears in a provision of the section, of the words "or authorised person".

17. Amendment of section 81 of the principal Act.

Section 81 of the principal Act is amended in subsection (2) by —

- (a) the deletion of the word "and" in paragraph (i);
- (b) the deletion of of the full-stop in paragraph (j) and the substitution of the words "; and"; and
- (c) the insertion immediately after paragraph (j) of a new paragraph (k) as follows —
“(k) subsection (4) of section 16;”.

18. Insertion of a new section 81A into the principal Act.

The principal Act is amended by the insertion immediately after section 81 of a new section 81A as follows —

“81A. Appeal to the Commission of an advanced VAT ruling by the Comptroller.

- (1) A person aggrieved with an advanced VAT ruling made by the Comptroller under section 18 may appeal the ruling directly to the VAT Appeal Commission within fourteen days after the date of service of the ruling on such person.
- (2) An appeal pursuant to subsection (1) must —
 - (a) be made by notice in writing in the form and manner prescribed by regulations;
 - (b) specify in detail the grounds on which the appeal is made; and
 - (c) where the ruling includes an assessment of tax, be accompanied by payment of the total amount of tax assessed, or security for such amount in a form acceptable to the Comptroller, at the time the appeal is made.
- (3) The Commission may on an appeal of an advanced VAT ruling —
 - (a) in case of an assessment under appeal, confirm, vary, or set aside the Comptroller's assessment; or
 - (b) in any other case, set the Comptroller's ruling aside and remit the matter back to the Comptroller for reconsideration in accordance with the directions of the Commission.
- (4) The Commission must, within thirty calendar days after an appeal has been lodged, hear and decide the appeal and serve a notice of decision in writing.
- (5) An appellant may, where thirty calendar days have passed since an appeal was lodged and the Commission has not served a notice of decision referred to in subsection (4), further appeal the matter to the Supreme Court under section 84 as if the Commission had made a decision disallowing the appeal.”.

19. Amendment of section 82 of the principal Act.

Section 82 of the principal Act is amended —

- (a) by the deletion of subsection (1) and the substitution of the following —
 - “(1) There is hereby established a body independent of the Value Added Tax Department to be known as the Value Added Tax Appeal Commission (hereinafter referred to as the “VAT Appeal Commission” or the “Commission”).”;
- (b) in subsection (9), by the deletion of the words “and the regulations”.

20. Amendment of section 84 of the principal Act.

Section 84 of the principal Act is amended by —

- (a) by the deletion of the word “appellant” wherever it occurs and the substitution of the word “party”;
- (b) in paragraph (b), the deletion of the full-stop and the substitution of the words “; or”; and
- (c) the insertion immediately after paragraph (b) of a new paragraph (c) as follows —
 - “(c) the expiration of the thirty calendar day period referred to in subsection (5) of section 81A during which the Commission has failed to serve a notice of decision.”.

21. Amendment to section 96 of the principal Act.

Section 96 of the principal Act is amended by —

- (a) the deletion of subsection (2)(i); and
- (b) the deletion of subsection (3).

22. Amendment of the First Schedule to the principal Act.

The *First Schedule* to the principal Act is amended—

- (a) in Part I, by the insertion immediately after item 6 of the following —
 - “7. A supply of the following items —

DESCRIPTION	TARIFF NUMBER (Zero-rating only applies to the eight digit tariff number)
-Butter	0405.1000
-Dairy spreads	0405.2000
-Other butter, etc.	0405.9000
Olive oil and its fractions whether or not refined, but	15.09

not chemically modified.	
-Virgin	1509.1000
-Other olive oil	1509.9000
Other oils and their fractions obtained solely from olives, whether or not refined, but not chemically modified, including blends of these oils or fractions with oils or fractions of heading 15.09.	1510.0000
Palm oil and its fractions, whether or not refined, but not chemically modified.	15.11
-Other palm oils	1511.9000
Sunflower-seed, safflower or cotton-seed oil and fractions thereof, whether or not refined, but not chemically modified.	15.12
--Other (cooking oils)	1512.1900
--Other (cooking oils)	1512.2900
Coconut (copra), palm kernel or babassu oil and fractions thereof, whether or not refined, but not chemically modified.	15.13
- Palm kernel or babassu oil and fractions thereof:	
--Other (cooking oils)	1513.2900
Rape, colza or mustard oil fractions thereof, whether or not refined, but not chemically modified.	15.14
-Low erucic acid rape or colza oil and its fractions:	
--Other (cooking oils)	1514.1900

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-Linseed oil and its fractions:	1515.1900
--Other (cooking oils)	
- Maize (corn oil) and its fractions:	1515.2900
--Other (cooking oils)	1515.5000
-Sesame oil and its fractions	1515.9000
-Other (cooking oils)	
- Mustard flour and meal and prepared mustard	2103.3000
---Mayonnaise	2103.9010
Grits	1103.1310
Milk and cream, not concentrated nor containing added sugar or other sweetening matter.	04.01
- Of a fat content, by weight, not exceeding 1%:	0401.10
---Skimmed milk	0401.1010
---Other milks and creams	0401.1090
- Of a fat content, by weight, exceeding 1% but not exceeding 6%:	0401.20
--- 2% Low fat milk	0401.2010
--- Whole milk	0401.2020
--- Other milks and creams	0401.2090
- Of a fat content, by weight, exceeding 6 % but not exceeding 10 %	0401.4000
- Of a fat content, by weight, exceeding 10 %	0401.5000
Cheese and curd.	04.06
-Fresh (unripened or uncured) cheese, including whey cheese, and curd	0406.1000
-Grated or powdered cheese, of all kinds	0406.2000
-Processed cheese, not grated or powdered	0406.3000
-Blue-veined cheese and other cheese containing veins produced by <i>Penicillium roqueforti</i>	0406.4000
---Corned beef in airtight	1602.5010

containers	
Milk and cream, concentrated or containing added sugar or other sweetening matter.	04.02
--In powder, granules or other solid forms, of a fat content, by weight, not exceeding 1.5%:	0402.10
---(Baby formula) Packaged for infants and young children	0402.1010
--Not containing added sugar or other sweetening matter:	0402.21
---(Baby formula) Packaged for infants and young children	0402.2110
---Evaporated milk	0402.9110
---Sweetened condensed milk	0402.9910
-Margarine, excluding liquid margarine	1517.1000
Rice.	10.06
---Semi-milled white rice, in packages of not more than 10 kg	1006.3010
--- White rice in packages for retail sale	1006.3020
-Broken rice:	1006.40
---In packages for retail sale	1006.4010
---Other rice	1006.4090
Wheat or meslin flour.	11.01
Wheat or meslin flour	1101.0000
Cereal flours other than of wheat or meslin.	11.02
-Maize (corn) flour	1102.2000
---Rice	1102.9010
---Rye	1102.9020
---Other cereal flours	1102.9090
Baby food	
Preparations suitable for infants or young children, put up for retail sale	1901.1000
---Bread	1905.9010

--(Baby food) Packaged for infants and young children	1905.9030
---Tomato Paste	2002.9020
Canned fish	
--Salmon:	1604.11
---In airtight containers	1604.1110
--Herrings:	1604.12
---In airtight containers	1604.1210
--Sardines, sardinella and brisling or sprats:	1604.13
---In airtight containers	1604.1310
--Tunas, skipjack and bonito (<i>Sarda spp.</i>):	1604.14
---In airtight containers	1604.1410
--Mackarel:	1604.15
---In airtight containers	1604.1510
--Anchovies:	1604.16
---In airtight containers	1604.1610
--Eels:	1604.17
---In airtight containers	1604.1710
--Other:	1604.19
---In airtight containers	1604.1910
--Other prepared or preserved fish:	1604.20
---In airtight containers	1604.2010
---Packaged for infant and young children (Baby food)	1604.2030
Soups and broths	
-Soups and broths and preparations therefor	2104.1000
---Packaged for infant use (Baby food)	2104.2010
--- For dietetic use (soups and broths)	2104.2020
---Other soups and broths	2104.2090
Baby food	
---For infants or young children use	1904.10
- Prepared foods obtained from unroasted cereal flakes or from mixtures of unroasted cereal	1904.1010

flakes and roasted cereal flakes or swelled cereals:	1904.20
---For infants and young children	1904.2010
Baby food	
-Homogenised vegetables:	2005:10
---Packaged for infants and young children	2005.1010
Baby food	
-Homogenised preparations:	2007.10
---Packaged for infant use	2007.1010
Other types of baby food	
---Packaged for infant and young children use	2106.9010
Soaps	
---Disinfectant soaps	3401.1130
---Medicated soaps	3401.1140
---Other soaps	3401.1190
Powder detergents	
- Preparations put up for retail sale:	3402.20
--- Laundry detergent in powder form	3402.2040
--- Other detergent in powder form	3402.2050

8. The following medicines and medicinal drugs —

DESCRIPTION	TARIFF NUMBER
Human blood; animal blood prepared for therapeutic, prophylactic or diagnostic uses; antisera, other blood fractions and immunological products, whether or not modified or obtained by means of biotechnological processes; vaccines, toxins, cultures of micro-	30.02

organisms (excluding yeasts) and similar products	
-Antisera, other blood fractions and immunological products, whether or not modified or obtained by means of biotechnological processes:	
-- Malaria diagnostic test kits	3002.1100
--Antisera and other blood fractions:	3002.12
---Stem cells	3002.1210
---Other	3002.1290
--Immunological products, unmixed, not put up in measured doses or in forms or packings for retail sale	3002.1300
--Immunological products, mixed, not put up in measured doses or in forms or packings for retail sale	3002.1400
--Immunological products, put up in measured doses or in forms or packings for retail sale	3002.1500
--Other	3002.1900
-Vaccines for human medicine	3002.2000
-Vaccines for veterinary medicine	3002.3000
-Other	3002.9000
Medicaments (excluding goods of heading 30.02, 30.05 or 30.06) consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses, not put up in measured doses or in forms or packings for retail sale.	30.03
-Containing penicillins or	3003.1000

derivatives thereof, with a penicillanic acid structure, or streptomycins or their derivatives	
-Other, containing antibiotics	3003.2000
- Other, containing hormones or other products of heading 29.37	
--Containing insulin	3003.3100
--Other	3003.3900
-Other, containing alkaloids or derivatives thereof:	
--Containing ephedrine or its salts	3003.4100
--Containing pseudoephedrine (INN) or its salts	3003.4200
--Containing norephedrine or its salts	3003.4300
--Other	3003.4900
-Other, containing antimalarial active principles described in Subheading Note 2 to this Chapter	3003.6000
-Other	3003.9000
Medicaments (excluding goods of heading 30.02, 30.05 or 30.06) consisting of mixed or unmixed products for therapeutic or prophylactic uses, put up in measured doses (including those in the form of transdermal administration systems) or in forms or packings for retail sale.	30.04
-Containing penicillins or derivatives thereof, with a penicillanic acid structure, or streptomycins or their derivatives	3004.1000

--Containing hormones or other products of heading	3004.2000
-Other, containing hormones or other products of heading 29.37:	
--Containing insulin	3004.3100
--Containing corticosteroid hormones, their derivatives or structural analogues	3004.3200
--Other	3004.3900
-Other, containing alkaloids or derivatives thereof :	
--Containing ephedrine or its salts	3004.4100
--Containing pseudoephedrine (INN) or its salts	3004.4200
--Containing norephedrine or its salts	3004.4300
--Other	3004.4900
-Other, containing vitamins or other products of heading 29.36	3004.5000
-Other, containing antimalarial active principles described in Subheading Note 2 to this Chapter.	3004.6000
-Other	3004.9000

- (b) in Part II, by the insertion immediately after item 12 of a new item 13 as follows —
- “13. A supply of services comprising fund-raising activities and events undertaken by a charitable or non-profit organisation registered under section 58(3)(a).”.

23. Amendment of the Second Schedule to the principal Act.

- (1) The *Second Schedule* to the principal Act is amended in Part I —
- (a) item (1) —
- (i) paragraph (a), by the deletion of the word “and”;

- (ii) paragraph (b), by the insertion of the word “and”;
 - (ii) by the insertion immediately after paragraph (b) of the following —
 - “(c) from 1st July 2018, limited to —
 - (i) liability insurance contracts;
 - (ii) marine, aviation and transport insurance contracts;
 - (iii) motor vehicle insurance;
 - (iv) insurance contracts on dwellings;”;
 - (b) by the deletion of item (6)(a) and the substitution of the following —
 - “(6)(a) All transfers of real property;”;
 - (c) by the deletion of item 8 and the substitution as follows —
 - “(8) Any services by a ministry, department, statutory body, agency, local government council, or other entity of Government, in connection with a taxable activity where the consideration for such services is —
 - (a) nominal in amount; or
 - (b) not intended to recover the cost of such goods or services,
except that, no ministry, department, statutory body, agency, local government council, or other Government entity can claim an input tax credit for goods purchased using a government subvention or subsidy.”;
 - (d) by the insertion, immediately after item (15), of the following new items —
 - “(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.
 - (17) A supply of electricity service by any utility service provider that is equivalent to \$100.00 or below per billing cycle.
 - (18) A supply of water service by any utility service provider that is equivalent to \$50.00 or below per billing cycle.”.
- (2) The *Second Schedule* to the principal Act is amended in Part II by the deletion of paragraph (4).

24. Amendment of standard rate of tax.

Unless the context otherwise requires, the principal Act, Value Added Tax Regulations, 2014 and the Value Added Tax Rules, 2015 are amended by the deletion of the words “seven and one half percent” and “7.5%”, respectively, wherever they appear in the Act, Regulations and Rules, and the substitution of the words “twelve percent” and “12%”.

OBJECTS AND REASONS

The Value Added Tax (Amendment) Bill, 2018 seeks to expand and enhance, clarify and confirm, the role and powers of the Comptroller and the meanings and purposes of certain provisions of the Act to facilitate its effective and efficient administration.

Clause 1 of the Bill provides the dates at which the various provisions of the amendment Bill, once enacted, will come into operation.

Clause 2 amends section 2 of the principal Act to define certain key words and phrases.

Clause 3 repeals section 11 of the principal Act and simplifies and clarifies the position in regard to interest on unpaid tax in the new section 47A.

Clause 4 inserts a new section 13A into the principal Act to confirm and clarify the power of the Comptroller to prescribe forms and procedures including in an electronic format.

Clause 5 repeals and replaces section 16 of the principal Act to provide for fixed penalties and warning letters in relation to contraventions. This section replaces the previous system of administrative fines and warning letters. Administrative fines were required to be made by order and determined by a quasi-judicial internal process as an alternative to criminal penalties and this necessitated a prolonged procedure, reducing the deterrent effect of imposing penalties, especially for minor contraventions. The fixed penalties under the proposed new system may now be automatically applied and appealed through the normal appeal process, allowing for more efficient and effective enforcement.

Clause 6 repeals and replaces section 18 of the principal Act to empower the Comptroller to make binding advanced VAT rulings and to provide for appeals by the taxpayer direct to the VAT Appeal Commission.

Clause 7 amends section 19 of the principal Act by clarifying that administrators providing services under regulations 10 and 11 of the Value Added Tax Regulations, 2014 must apply for registration in accordance with Part IV of the principal Act, these include platforms such as AirBnB.

Clause 8 amends section 37 of the principal Act by clarifying the measurement of the value of supply as being “greater” than the consideration paid or payable by the taxable person, and the fair market value of the supply of such goods or services.

Clause 9 repeals section 38A of the principal Act to reflect the position that all transfers of real property will be exempt from value added tax.

Clause 10 amends section 45 of the principal Act to change the time period for payment of tax on a taxable importation of services from 28 calendar to 21 calendar days.

Clause 11 amends section 46 of the principal Act to empower the Comptroller to require the filing of interim tax returns where a registrant's tax period is allowed to exceed one month and to provide for the conditions which apply in this regard.

Clause 12 amends section 47 of the principal Act to enhance the powers of the Comptroller in the evaluation and assessment of VAT returns. The Comptroller is empowered to examine or audit the books and records of a business and require the registrant to answer questions, orally or in writing, and to prescribe a time limit within which a request for an extension to file a VAT return must be made by the registrant.

Clause 13 inserts a new section 47A into the principal Act to provide for a system of fines to be automatically applied by the Comptroller in respect of non-compliance in the filing of VAT returns. These non-compliance contraventions are strict liability contraventions and the intention is to ensure that within the tax administration a fine is a deterrent and has a dissuasive effect and is proportionate. This is necessary as the filing of a VAT return and payment of the tax at the required time is fundamental to the self-assessment system that undergirds VAT and the compliance of the registrant is crucial in this regard. VAT is a tax collected by the registrant on behalf of the Government and the funds are held “in trust” until turned over to the Government. Therefore, penalties must have a swifter effect. Section 47A provides for the fines and strict liability contraventions to be prescribed in the regulations.

Clause 14 amends section 57 of the principal Act to empower the Comptroller to determine and prescribe in VAT Rules the interest payable on refunds of overpayments.

Clauses 15 and 16 amend sections 62 and 63 respectively of the principal Act to provide for authorised persons as well as VAT officers to perform the functions under the sections.

Clause 17 amends section 81 of the principal Act to allow for an objection and appeal to be made by an alleged offender against a decision by the Comptroller to apply a fixed penalty pursuant to section 16(4) of the Act.

Clause 18 inserts a new section 81A into the principal Act to provide for the procedures in respect of an appeal to the Commission against an advanced VAT ruling made by the Comptroller.

Clause 19 amends section 82 of the principal Act to provide for the establishment of the VAT Appeal Commission.

Clause 20 amends section 84 of the principal Act to provide for an appeal to the Supreme Court against a decision by the Commission made on an appeal against an advanced VAT ruling.

Clause 21 amends section 96 of the principal Act by deleting subsection (3), this is a consequential amendment to provide for the establishment of the VAT Appeal Commission.

Clause 22 amends Part I and II of the *First Schedule* to the principal Act to provide for the zero-rating of the supply of goods described therein, namely, 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 and mustard. Additionally, this clause also provides for the zero-rating of medicines and medicinal drugs described therein. This clause also provides for the zero-rating of services comprising fund-raising activities and events undertaken by charitable or non-profit organisations. By virtue of clause 1 of this Bill, this clause provides that these amendments to the *First Schedule* shall come into force on the 1st day of August, 2018.

Clause 23 amends the Part I of the *Second Schedule* to the principal Act. to clarify and expand the goods, services and transactions that comprise exempt supplies and the conditions and circumstances that apply, including exemptions on —

- (a) all transfers of real property;
- (b) a supply of electricity service by any utility service provider that is equivalent to \$100.00 or below per billing cycle;
- (c) a supply of water service by any utility service provider that is equivalent to \$50.00 or below per billing cycle;
- (d) liability insurance contracts; marine, aviation and transport insurance contracts, motor vehicle insurance and insurance contracts on dwellings as of July 1st, 2018.

Additionally, clause 23 amends Part II of the *Second Schedule* by deleting item 4 to more accurately reflect the process of transferring goods as an exempt supply. This change is reflected in the new item (16) of Part I of the *Second Schedule*.

Clause 24 amends the principal Act by increasing the standard rate of tax from “seven and one half percent (7.5%)” to “twelve percent (12%)”.