Value Added Tax

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Value Added Tax Act 1997

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The Value Added Tax Act 1997 No 11 was assented to on 10 June 1997 and commenced on 1 July 1997, as amended by:

Amending Legislation	Date of Assent	Date of Commencement
Value Added Tax Amendment Act 1997 No 20	27 November 1997	1 December 1997
Value Added Tax Amendment Act 1998 No 20	2 December 1998	1 October 1998
Value Added Tax Amendment Act 2001 No 2	11 April 2001	ss 2, 3, 4: 1 July 2001; s 5: 1 January 2000
Value Added Tax Amendment Act 2002 No 9	12 December 2002	ss 4 and 5: 1 December 2002; remainder: 13 December 2002
Value Added Tax Amendment Act 2005 No 12	10 October 2005	1 July 2005
Te Pakau Aroa Act 2005 No 6	5 July 2005	s 9: 1 August 2005
Departure Tax Act 2005 No 10	10 October 2005	s 9: 14 October 2005
Customs Revenue and Border Protection Act 2012 No 5	20 June 2012	Sch 4: 1 August 2012
Value Added Tax Amendment Act 2014 No 1 (***See* s 26 for transitional, savings, or related matters.**)	31 March 2014	ss 6–25: 1 April 2014
Value Added Tax Amendment Act 2017 No 2	23 June 2017	23 June 2017
Value Added Tax Amendment Act 2018 No 3	27 February 2018	28 February 2018
Value Added Tax Amendment Act 2023 No 2	18 April 2023	1 July 2023

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An Act to impose value added tax and to provide for its collection.

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1 Short title and commencement

(1) The Act may be cited as the Value Added Tax Act 1997.

(2) This Act comes into force on 1 July 1997.

Part 1
Interpretation

2 Interpretation

In this Act, unless the context otherwise requires—

agreement for hire means an agreement for the bailment of goods for hire but does not include—

(a) an agreement under which property in the goods passes, or is expressly contemplated to pass, to the bailee; or

(b) a hire purchase agreement (as defined in the Hire Purchase Act 1986)

approved aid project and **approved project** means a project entered into with the consent of the Government of the Cook Islands

Collector means the Treasurer appointed under the Income Tax Act 1997

consideration includes all forms of consideration but does not include an unconditional gift

credit note means a document provided under section 19(3)(a)

customs duty means customs import duty imposed under the Customs Tariff Act 1980

debit note means a document provided under section 19(3)(b)

Department means the Revenue Management Division of the Ministry of Finance and Economic Management

exempt supply means a supply of goods or services in the Cook Islands which is exempt from tax under section 10(3)(a) and Schedule 1

goods means all kinds of real or personal property, but does not include choses in action or money

import levy means an import levy imposed under the Import Levy Act 1972

Minister means a Minister of the Crown

money includes currency, promissory notes, and bills of exchange of the Cook Islands or any other country; but does not include a mere collector's piece, investment article or item of numismatic interest

non-profit body means a religious, charitable, or other organisation which is carried on other than for the purposes of profit or gain to owners or members of the body and which is prevented by its constitution from making any distribution to owners or members of the body

open market value, in respect of a supply of goods or services, means the

consideration in money which the supply would generally fetch if supplied in similar circumstances at that date in the Cook Islands in a supply freely offered and made between persons who are not related (by blood, marriage, or ownership), and includes any value added tax payable under this Act in respect of the supply

person includes a company, an unincorporated body of persons, and an instrument of the Crown

prescribed form for the purposes of sections 15, 15A, 18, 19, and 51 is a form as prescribed from time to time by the Collector

records has the same meaning as in section 42(1)

registered person means a person who is registered under Part 3 or who is liable to be so registered

registration threshold amount means the amount applying under section 12

resident of the Cook Islands means—

(a) a person who is resident in the Cook Islands under section 82 of the Income Tax Act 1997:

(b) in the case of an unincorporated body of persons, that body if it has its centre of administrative management in the Cook Islands

second hand goods does not include livestock

services means any thing which is not goods or money

supply includes all forms of supply and the extended meanings in section 3; and **supplies**, **supplier**, and **supplied** has corresponding meanings

tax file number means any identification number that has been allocated to a person by the Collector for the purposes generally of this Act or the Income Tax Act 1997

tax invoice means a document provided under section 18

taxable supply means a supply of goods or services in the Cook Islands which is charged with value added tax under Part 2, including where the rate of tax is 0%

taxpayer means any person liable for any tax hereunder

unconditional gift means a payment voluntarily made to any non-profit body for the carrying on or carrying out of the purposes of that non-profit body and in respect of which no identifiable direct valuable benefit arises or may arise in the form of a supply of goods and services to the person making that payment, or any other person where that person and that other person are associated persons; but does not include any payment made by the Crown or an instrument of the Crown.

[Section 2 records: inserted, on 23 June 2017, by section 4 of the Value Added Tax Amendment Act 2017 (2017 No 2).]

3 Extended meaning of supply

(1) If goods or services acquired or produced by a registered person in the course of carrying on a taxable activity are supplied by a creditor in satisfaction of the registered person's debt, the goods, or services are to be treated as if supplied by the registered person in the course of the taxable activity.

(2) Except in the case of any appropriation by Parliament to any instrument of the Crown, if a payment in the nature of a grant or subsidy is made by the Crown to a person in respect of the person's taxable activity, the payment is to be treated as consideration for the supply of goods or services by the person in the Cook Islands in the course of the person's taxable activity.

(2A) If a foreign government, or an international organisation or other non-government organisation makes a payment in the nature of a grant or subsidy in respect of a person's taxable activity, the payment is treated as consideration for the supply of goods or services by the person in the Cook Islands in the course of the person's taxable activity.

(3) If a person ceases to be a registered person, goods and services then forming part of the assets of a taxable activity of the person are to be treated as if supplied by the person in the course of the taxable activity immediately before the cessation of registration.

(4) An indemnity payment received by a registered person under a contract of insurance will be treated as if it were consideration received for a supply of services made on the date of receipt in the course of the registered person's taxable activity, if and to the extent that—

(a) the supply of the insurance was a taxable supply by the insurer; and

(b) the loss of the registered person was incurred in the course of the registered person's taxable activity; and

(c) the payment is not to indemnify the registered person for loss of employment services earnings.

(5) Subject to the provisions of section 10(3)(a), if a person pays an amount of money to participate in Tattslotto or another legal game of chance, the money paid is to be treated as consideration for a supply of services by the person conducting the game of chance.

(6) If a person pays to a casino an amount of money—

(a) to purchase a chip or otherwise to participate in a game played in the casino; or

(b) as commission in respect of participation in such a game,—

the money paid is to be treated as a supply of services by the casino operator.

(7) For the purposes of this Act, if a supply is charged with tax in part at the standard rate under section 11(1) and in part at zero rate under section 11(2), each such part is to be treated as a separate supply.

(8) In this section, **international organisation** means an organisation, the members of which are sovereign powers or governments of sovereign powers.

[Section 3(2): amended, on 1 July 2001, by section 2 of the Value Added Tax Amendment Act 2001 (2001 No 2).]

[Section 3(2A): inserted, on 1 April 2014, by section 6(1) of the Value Added Tax Amendment Act 2014 (2014 No 1).]

[Section 3(5): replaced, on 1 October 1998, by section 2 of the Value Added Tax Amendment Act 1998 (1998 No 20).]

[Section 3(8): inserted, on 1 April 2014, by section 6(2) of the Value Added Tax Amendment Act 2014 (2014 No 1).]

4 Meaning of taxable activity

(1) For the purposes of this Act, the term **taxable activity** means any activity (person, professional, corporate, or otherwise) carried on continuously or regularly and involving the supply of goods or services to any other person for a consideration.

(2) Without limiting subsection (1), the term **taxable activity** includes any activity referred to in subsection (1) carried on—
- (a) without the intention of making a profit; or
- (b) by the Crown or an instrument of the Crown; or
- (c) by an association or club.

(3) Despite subsections (1) and (2), the term **taxable activity** does not include—
- (a) any activity carried on by a natural person essentially as private recreation or a hobby; or
- (b) the provision of employment services by a natural person to an employer under a contract of employment; or
- (c) any activity to the extent to which it involves making exempt supplies.

(4) Anything done in connection with the commencement or termination of a taxable activity, including its supply as a going concern, is to be treated as if done in the course of the taxable activity.

4A Meaning of supply of imported services

(1) A supply of imported services is a supply of services that satisfies the following conditions—
- (a) the supply is made to a registered person; and
- (b) a person who is not a registered person makes the supply; and
- (c) the supply is not a taxable supply because the supply is not made in the Cook Islands; and
- (d) the supply would have been a taxable supply if it had been made in the Cook Islands; and
- (e) the registered person receiving the supply would not have been entitled to a deduction for the full amount of value added tax payable in respect of the supply if the services had been acquired by the person in a taxable supply.

(2) For the purposes of subsection (1), if a registered person carries on a taxable activity both in and outside the Cook Islands—
- (a) that part of the taxable activity carried on outside the Cook Islands is treated as if it were a taxable activity carried on by a person (referred to as the **overseas person**) separate from the registered person and both persons are treated as related to each other; and
- (b) the overseas person is not a registered person; and
- (c) the internal provision of services from the overseas person to the registered person is treated as a supply of services made by the overseas person in the course of carrying on a taxable activity outside the Cook Islands.

[Section 4A: inserted, on 1 April 2014, by section 7 of the Value Added Tax Amendment Act 2014 (2014 No 1).]

[The next page is 695,801]

5 Time of supply

(1) Subject to this Act and in particular the following subsections of this section, for the purposes of this Act a supply of goods or services, including a supply of imported services, is to be treated as taking place at the earliest of the times—

(a) a tax invoice is issued by the supplier or recipient in respect of the supply:

(b) a payment is received by the supplier in respect of the supply:

(c) the supplier delivers the goods or services.

(2) If a supply is treated as being made by a casino operator under section 3(6), it is to be treated as taking place at the time a casino count takes place. For the purposes of this section **casino count**, in relation to a casino, means a count of money or money's worth paid for the right to participate in gaming in that casino.

(3) If a supply is treated as taking place under section 3(5) (which relates to games of chance), the time of supply is to be treated as being the date on which the first drawing or determination of a result commences.

(4) If the supply is for consideration received by the supplier in the form of a coin or token inserted into a machine, the supply is to be treated as taking place at the time the coin or token is removed from the machine.

(5) If—

(a) goods are supplied under an agreement for hire; or

(b) services are supplied under an agreement or Act which provides tor periodic payments,—

the goods or services are to be treated as being supplied successively, when and to the extent that a payment is due or is received (whichever is earlier).

(6) If goods or services are supplied progressively or periodically under an agreement or Act which provides for consideration in instalments by reference to the progressive or periodic supplies, the goods or services are to be treated as being supplied successively, when and to the extent that a payment is due, a payment is reserved or a tax invoice is issued relating only to that payment (whichever is the earliest).

(7) If goods or services are supplied under a hire purchase agreement (as defined in the Hire Purchase Act 1986), the time of supply is the time the agreement is entered into.

(8) If goods are delivered by a supplier at a time when the consideration for the supply cannot finally be determined, the supply is to be treated as taking place successively when and to the extent that a payment is due, a payment is received or a tax invoice relating only to the payment is issued (whichever is the earliest).

[Section 5(1): amended, on 1 April 2014, by section 8 of the Value Added Tax Amendment Act 2014 (2014 No 1).]

6 Value of supply

(1) Subject to this section, for the purposes of this Act, the value of a supply of goods or services will be the aggregate of—

(a) the consideration in money for the supply, if any; and

(b) the open market value of the consideration for the supply which is not in money, if any—

reduced by the amount of value added tax charged to the supplier in respect of the supply.

(2) If the parties to a supply are related (by blood, marriage, or ownership) and the relationship has resulted in a reduction in the consideration for the supply to an amount below the open market value, the consideration will be deemed to be equal to the open market value for the supply.

(3) Subsection (2) will not apply to any supply to a person who is entitled under section 16(4) to a deduction for the whole of the tax charged in respect of the supply.

(4) If goods or services are deemed by section 3(3) to be supplied on cessation of registration, the consideration in money for the supply is to be treated as being the lesser of—

(a) the cost of the goods or services (inclusive of any tax charged in respect of the acquisition) to the supplier; and

(b) the open market value of the supply.

(5) If a supply of second-hand goods to a non-resident is not zero-rated due only to the proviso to paragraph 1 of Schedule 3, the consideration in money for the supply will be treated as being equal to the purchase price of the goods to the supplier.

(6) If a supply is treated as being made by a casino operator under section 3(5), the consideration in money for the supply will be equal to the amount paid to purchase or participate less any amount paid out by the casino as winnings.

(7) If a supply of services is deemed to be made under section 3(5), (which relates to games of chance), the consideration in money for the supply will be treated as being the portion of the amount paid to participate as is equal to the portion of the total proceeds of the game which is left after deducting all amounts paid out as prizes.

(8) If a right to receive goods or services for a monetary value stated on a token, stamp (not being a postage stamp) or voucher is granted for consideration in money, the supply will be disregarded except to the extent (if any) that the consideration exceeds the monetary value.

(9) If a taxable supply is not the only matter to which a consideration relates, the supply will be treated as being for such consideration as is properly attributed to the taxable supply.

(9A) Subject to subsection (9B), the value of a supply of imported services must be—

(a) if the supplier and recipient are related (by blood, marriage or ownership), the open market value of the supply at the time of supply; or

(b) in any other case, the consideration for the supply as determined under subsection (1).

(9B) If a registered person liable for value added tax under section 10(2)(c) in respect of a supply of imported services received by the person would have been entitled to a deduction under section 16 for part of the amount of value added tax payable if the person had acquired the services in a taxable supply, the value of the supply under subsection (9A) is reduced by an amount equal to the proportion of the value added tax that would have been deductible.

(10) Subject to the preceding subsections of this section, if a supply is made for no consideration, the value of the supply is nil.

[Section 6(9A): inserted, on 1 April 2014, by section 9 of the Value Added Tax Amendment Act 2014 (2014 No 1).]

[Section 6(9B): inserted, on 1 April 2014, by section 9 of the Value Added Tax Amendment Act 2014 (2014 No 1).]

7 Place of supply

(1) The provisions of this section apply to determine the place of supply of goods or services for the purposes of this Act.

(2) If a supply of goods does not involve the removal of the goods from or to the Cook Islands,—

(a) the goods will be treated as being supplied in the Cook Islands if the goods are physically in the Cook Islands at the time of supply; and

(b) the goods will be treated as being supplied outside the Cook Islands in any other case.

(3) If a supply of goods does involve the removal of the goods—

(a) from the Cook Islands, the goods will be treated as being supplied in the Cook Islands:

(b) to the Cook Islands, the goods will be treated as being supplied outside the Cook Islands.

(4) A supply of services will be treated as being made—

(a) in the Cook Islands if the supplier operates in the Cook Islands in respect of the supply:

(b) outside the Cook Islands if the supplier operates outside the Cook Islands in respect of the supply.

(5) Despite subsection (4), a supply of services occurs in the Cook Islands if the recipient of the supply is not a registered person and—

(a) the services are physically performed in the Cook Islands by a person who is in the Cook Islands at the time of supply; or

(b) the services are directly related to immovable property in the Cook Islands; or

(c) the services are radio or television broadcasting services received at an address in the Cook Islands; or

(d) the services are consulting, engineering, legal, architectural, accounting, or similar services, supplied to a person in the Cook Islands at the time of supply; or

(e) the services are electronic services delivered to a person in the Cook Islands at the time of supply; or

(f) the supply is a transfer or assignment of, or grant of a right to use, a copyright, patent, trademark, or similar right in the Cook Islands; or

(g) the services are telecommunications services and the supply is initiated by a person in the Cook Islands at the time of supply, other than a supply initiated by—

(i) a supplier of telecommunications services; or

(ii) a person who is global roaming while temporarily in the Cook Islands.

(6) For the purposes of subsection (5)(g), the person who initiates a supply of telecommunications services is the person who appears first in the following paragraphs—

(a) the person who—

(i) controls the commencement of the supply:

(ii) pays for the services:

(iii) contracts for the supply; or

(b) the person to whom the invoice for the supply is sent.

(7) In this section—

electronic service means the development or maintenance of, or access to, any of the following when provided or delivered on or through a telecommunications network—

(a) websites, web-hosting, or remote maintenance of programs and equipment:

(b) software and the updating:

(c) images, text, and information:

(d) databases:

(e) self-education packages:

(f) music, films, and games, including games of chance:

(g) political, cultural, artistic, sporting, scientific, and other broadcasts, and events including broadcast television

telecommunications services means the transmission, emission, or reception of signals, writing, images, sounds, or information of any kind by wire, radio, optical, or other electromagnetic systems, and includes—

(a) the related transfer or assignment of the right to use capacity for such transmission, emission, or reception; or

(b) the provision of access to global or local information networks—

but does not include the supply of the underlying writing, images, sounds, or information.

[Section 7(5): inserted, on 1 April 2014, by section 10 of the Value Added Tax Amendment Act 2014 (2014 No 1).]
[Section 7(6): inserted, on 1 April 2014, by section 10 of the Value Added Tax Amendment Act 2014 (2014 No 1).]
[Section 7(7): inserted, on 1 April 2014, by section 10 of the Value Added Tax Amendment Act 2014 (2014 No 1).]

8 Place where supplier operates

A supplier will be treated as operating in the Cook Islands in respect of a supply if the supplier—

(a) has a branch, agency, or other fixed establishment only in the Cook Islands and not elsewhere; or

(b) has no such fixed establishment anywhere but is resident in the Cook Islands; or

(c) has such a fixed establishment both in the Cook Islands and elsewhere but is making the supply in the course of carrying on activities through the fixed establishment in the Cook Islands.

9 Application of Act to the Crown

(1) Subject to this section, this Act will apply to the Crown, or an agency of the Crown, if liable to be a registered person and carrying on a taxable activity.

(2) Each instrument or agency of the Crown will be treated as a separate person for the purposes of liability to tax under this Act.

[The next page is 696,301]

Part 2
Imposition of tax

10 Imposition of value added tax

(1) Subject to the provisions of this Act, there must be assessed levied and paid for the use of the Crown a tax herein referred to as value added tax.

(2) Subject to the provisions of this Act, value added tax will be payable by—

(a) any registered person on account of any supply of goods or services made in the Cook Islands in the course of carrying on a taxable activity, with the amount of tax measured by reference to the value of the supply; and

(b) any person importing goods into the Cook Islands, with the amount of tax measured by reference to the aggregate of the value of the goods for the purposes of customs duty determined under the Customs Tariff Act 1980 and the items specified in section 11(b); and

(c) a registered person in respect of a supply of imported services made to the person by reference to the value of the supply as determined under section 6(9A) and (9B).

(3) Despite subsection (2), no value added tax will be payable—

(a) in respect of a supply of goods or services in the Cook Islands which is one of the exempt supplies listed in Schedule 1, unless the supply would (but for this paragraph) be subject to tax at a 0% rate under section 11(2):

(b) in respect of an importation of goods into the Cook Islands which is one of the exempt importations listed in Schedule 2.

(4) The provisions of Parts 5, 6, 7, and 8 are not applicable to tax payable on importation under subsection (2)(b) and that tax will be assessed, collected, and paid as if it were a customs duty levied on the importation of goods under the Customs Revenue and Border Protection Act 2012.

(5) *[Repealed]*

(6) This section will apply in respect of—

(a) any supply of goods or services made on or after 1 July 1997; and

(b) any goods imported into the Cook Islands and entered through customs on or after 1 July 1997.

[Section 10(2)(a): amended, on 1 April 2014, by section 11(1) of the Value Added Tax Amendment Act 2014 (2014 No 1).]
[Section 10(2)(b): amended, on 1 April 2014, by section 11(1) of the Value Added Tax Amendment Act 2014 (2014 No 1).]
[Section 10(2)(c): inserted, on 1 April 2014, by section 11(1) of the Value Added Tax Amendment Act 2014 (2014 No 1).]
[Section 10(4): amended, on 1 April 2014, by section 11(2) of the Value Added Tax Amendment Act 2014 (2014 No 1).]
[Section 10(5): repealed, on 1 April 2014, by section 11(3) of the Value Added Tax Amendment Act 2014 (2014 No 1).]
[Section 10(5)(b): amended, on 1 August 2012, by Schedule 4 of the Customs Revenue and Border Protection Act 2012 (2012 No 5).]

11 Rates of tax

(1) The rate of value added tax will be 15% of—

(a) except in the case of importation, the value of the supply:

(b) in the case of importation, the aggregate of—

(i) the value of the goods for the purposes of customs duty; and

(ii) the amounts of import levy and customs duty payable in respect of the goods under the Customs Tariff Act 1980 and excise duty payable in respect of the goods under the Customs Revenue and Border Protection Act 2012; and

(iii) the amount paid or payable to transport the goods to the Cook Islands and to insure the goods for such transport,

unless subsection (2) applies.

(2) Despite subsection (1), the rate of tax will be 0% of the value of the supply in the case of a supply in the Cook Islands by a registered person which is one of the zero-rated supplies listed in Schedule 3.

(3) The rate of value added tax applicable to a supply or importation is the rate of value added tax in force at the time of the supply or importation.

[Section 11(1): amended, on 1 April 2014, by section 12(1) of the Value Added Tax Amendment Act 2014 (2014 No 1).]
[Section 11(1)(b)(ii): amended, on 1 August 2012, by Schedule 4 of the Customs Revenue and Border Protection Act 2012 (2012 No 5).]
[Section 11(3): inserted, on 1 April 2014, by section 12(2) of the Value Added Tax Amendment Act 2014 (2014 No 1).]

[The next page is 696,801]

Part 3
Registration

12 Registration of persons making taxable supplies

(1) Subject to this section, every person who carries on a taxable activity and is not already registered becomes liable to be registered under this Act—

(a) at the end of any month if the total value of supplies made in the Cook Islands by the person in the year which ends with that end of that month in the course of carrying on taxable activities has exceeded $40,000 (or such other amount as the Queen's Representative may from time to time, by Order in Executive Council, stipulate):

(b) at the start of any month if there are reasonable grounds for believing that the total value of supplies made in the Cook Islands by the person in the year which starts at that start of that month in the course of carrying on taxable activities will exceed the registration threshold amount.

(2) In determining whether the total value of supplies exceeds the registration threshold amount—

(a) the value of exempt supplies will be disregarded; and

(b) the value of supplies will be disregarded if and to the extent that the Collector is satisfied that the supply is solely as a consequence of—

(i) any cessation of, or substantial and permanent reduction in the size or scale of, a taxable activity carried on by the person; or

(ii) the replacement of any plant or other capital asset used in any taxable activity carried on by the person.

(3) Every person who, under subsection (1) becomes liable to be registered must apply to the Collector in the form prescribed by the Collector for registration under this Act within 21 days of becoming so liable and must provide the Collector with such other information as the Collector may consider relevant.

(4) Despite subsections (1) and (3), every person who satisfies the Collector that—

(a) the person is carrying on a taxable activity; or

(b) the person intends to carry on a taxable activity from a specified date, and—

(c) the value of supplies to be made by the person in the course of carrying on the taxable activities is likely to exceed $20,000 for the year from the date of the application or from the specified date,

may apply to the Collector in the form prescribed by the Collector for registration under this Act, and must provide the Collector with such other information as the Collector may consider relevant.

(5) If a person has applied for registration under subsection (3) or (4) and the Collector is satisfied that the person is eligible to be registered under this Act, the person must be registered for the purposes of this Act with effect from such date as the Collector determines.

(6) If a person has not applied for registration under subsection (3) and the Collector is satisfied that the person is liable to be registered under this Act, the person will be deemed to be registered for the purposes of this Act with effect from the date on which the person first became liable to be registered under this

Act (unless the Collector determines that it would be equitable for the person to be deemed to be registered from a later date stipulated by the Collector).

(7) Section 6 applies to determine the value of supplies for the purposes of this section except that no regard will be had to any amount of consideration payable in order to recover tax charged in respect of the supplies.

(8) The value of supplies of imported services received by a person is taken into account in determining whether the person exceeds the registration threshold and, for this purpose, the requirement in section 4A(1)(a) is ignored.

[Section 12(1)(a): amended, on 1 April 2014, by section 13(1) of the Value Added Tax Amendment Act 2014 (2014 No 1).]
[Section 12(4)(b): amended, on 1 July 2001, by section 3(a) of the Value Added Tax Amendment Act 2001 (2001 No 2).]
[Section 12(4)(c): amended, on 1 April 2014, by section 13(2) of the Value Added Tax Amendment Act 2014 (2014 No 1).]
[Section 12(8): inserted, on 1 April 2014, by section 13(3) of the Value Added Tax Amendment Act 2014 (2014 No 1).]

13 Cancellation of registration

(1) A registered person will cease to be liable to be registered at any time if the total value of supplies to be made in the Cook Islands by the person in the year which starts at that time will be below the registration threshold amount.

(2) If a registered person ceases to be liable to be registered, the person may request the Collector in writing to cancel the person's registration.

(3) If the Collector is satisfied that a registered person who has applied for cancellation is no longer liable to be registered, the Collector will cancel the person's registration with effect from the last day of the return period following the period in which the application for cancellation was made (or with effect from such other date as the Collector may stipulate).

(4) If the Collector is satisfied that a registered person is no longer liable or eligible to be registered and the person has not applied for cancellation, the Collector may nevertheless cancel the person's registration with effect from the last day of the return period in which the Collector gives notice to the person of the cancellation.

(5) The obligation and liabilities under this Act of any person in respect of anything done, or omitted to be done, by that person while that person is a registered person will not be affected by the fact that the person ceases to be a registered person or by the fact that the Collector has cancelled the person's registration.

[Section 13(4): amended, on 1 July 2001, by section 4 of the Value Added Tax Amendment Act 2001 (2001 No 2).]
[Section 13(3): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]
[Section 13(4): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]

14 Registered person to notify change of status

Every registered person must within 21 days notify the Collector in writing of—

(a) any change in the name, address or nature of the principal taxable activity or activities of the registered person:

(b) any change in the address from which, or the name in which, a taxable activity is carried on by the registered person:

(c) any change where the registered person, being a member of a group of companies under section 33, ceases to be eligible to be a member of the group.

[The next page is 697,301]

Part 4
Returns and payments

15 Returns

(1) Except as provided in subsection (1A), every registered person will furnish to the Collector, in the prescribed form, a tax return for each calendar month—

(a) by the 20th day of the following month, unless that day is not a working day in which case the return must be furnished by the working day which immediately succeeds the 20th day; and

(b) showing the amount of tax payable in respect of the month as calculated under section 16.

(1A) A registered person with taxable supplies of $300,000 or less in the preceding 12 months, or expected in the following 12 months, may elect to furnish a tax return each quarter by notifying the Collector of that election in the form and manner specified by the Collector.

(1B) However, a registered person may make the election under subsection (1A) only if they have no returns overdue at the time of making the election.

(1C) The first quarterly return in each case is due on a date specified by the Collector and subsequent returns are due quarterly from that date.

(1D) If a registered person who is furnishing quarterly returns has an increase in their taxable supplies in the preceding 12 months to an amount over $300,000, or expects such an increase in the following 12 months, they must file the quarterly return for the current quarter (at the time that return is due) and then begin furnishing monthly returns under subsection (1) from and for the month immediately following the current quarter.

(2) If goods are treated as being supplied under section 3(1) (which relates to a creditor selling goods of a registered person in satisfaction of a debt), the creditor selling the goods (whether or not a registered person) must furnish a special return, in the prescribed form, by the 20th day of the month following the month in which the supply occurs and—

(a) the creditor and the debtor must exclude the supply and any tax charged on the supply from any other return; and

(b) the tax charged will be treated as tax payable under this Act by the creditor.

(3) In addition to the returns specified in subsections (1), (1A), and (2), the Collector may require any person to furnish a return to the Collector, in the prescribed form, at any time for the purposes of this Act.

(4) The Collector, for good cause shown, may extend the time for making the return on the application of any registered person and grant such reasonable additional time within which to make the same as may, by the Collector, be deemed advisable.

[Section 15(1): amended, on 1 July 2023, by section 4(1) of the Value Added Tax Amendment Act 2023 (2023 No 2).]
[Section 15(1A): inserted, on 1 July 2023, by section 4(2) of the Value Added Tax Amendment Act 2023 (2023 No 2).]
[Section 15(1B): inserted, on 1 July 2023, by section 4(2) of the Value Added Tax Amendment Act 2023 (2023 No 2).]

[Section 15(1C): inserted, on 1 July 2023, by section 4(2) of the Value Added Tax Amendment Act 2023 (2023 No 2).]
[Section 15(1D): inserted, on 1 July 2023, by section 4(2) of the Value Added Tax Amendment Act 2023 (2023 No 2).]
[Section 15(3): amended, on 1 July 2023, by section 4(3) of the Value Added Tax Amendment Act 2023 (2023 No 2).]

15A Accounting basis

(1) A registered person may elect to account for tax payable on either an invoice basis or a payments basis and must notify the Collector of the election in the prescribed form.

(2) If a registered person fails to elect a basis for accounting for tax payable under subsection (1), the registered person is deemed to have elected to account for tax payable on a payments basis.

(3) The Collector may, on application in writing by a taxpayer, approve a change in the basis for accounting for tax payable by the registered person and the change takes effect from the beginning of the next return period that follows the receipt of the application by the Collector or of such later month as the Collector approves.

(4) Where a registered person changes the basis for accounting for tax payable under subsection (3), the registered person must:

(a) prepare a list of creditors of the registered person in relation to that person's taxable activity, showing the amounts due by that person as at the last day of the month preceding that in which the change takes effect:

(b) prepare a list of debtors of the registered person in relation to that person's taxable activity, showing the amounts due to that person as at the last day of the month preceding that in which the change takes effect.

(5) The particulars required to be furnished under subsection (4) must be furnished to the Collector not later than the last day for furnishing a return pursuant to section 15 for the return period preceding that in which the change takes effect.

[Section 15A(3): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]
[Section 15A(5): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]

15B Tax payable or refund where change in accounting basis

(1) Every registered person whose accounting basis changes pursuant to section 15A must, not later than the last day allowed under section 15A(5) for furnishing particulars in respect of the change, pay the Collector the tax payable, if any, as determined pursuant to this section.

(2) Where a registered person changes from an invoice basis to a payments basis of accounting, the tax payable is an amount determined in accordance with the following formula:

$$a - b$$

where—

a. is the aggregate amount able to be deducted pursuant to section 16(4) in relation to the amounts due that are required to be shown in the list of creditors required to be prepared by the person under section 15A; and

b. is the aggregate amount of the tax payable pursuant to section 16(3) in

relation to the amounts due that are required to be shown in the list of debtors to be prepared by the person under section 15A.

(3) Where a registered person changes from a payments basis to an invoice basis of accounting, the tax payable is an amount determined in accordance with the following formula:

$$a - b$$

where—

a. is the aggregate amount of the tax payable pursuant to section 16(3) in relation to the amounts due that are required to be shown in the list of debtors to be prepared by the person under section 15A; and

b. is the aggregate amount able to be deducted pursuant to section 16(4) in relation to the amounts due that are required to be shown in the list of creditors to be prepared by the person under section 15A.

(4) If the amount determined under subsection (2) or (3) is a negative amount, the amount will be refunded by the Collector to the registered person under section 29.

16 Calculation of tax payable or refund due

(1) Every registered person will calculate the amount of tax payable by, or refund due to, the registered person in respect of each return period under the rules in this section.

(2) The tax payable or refund amount is calculated by—

(a) adding the amounts referred to in subsection (3); and

(b) deducting the amounts referred to in subsection (4) but subject to subsections (5), (6), (7), and (10).

(3) The amounts to be added are—

(a) in respect of supplies made by the registered person—

(i) if the registered person accounts for tax on an invoice basis, all amounts of tax payable in respect of supplies where the time of supply falls during the return period; and

(ii) if the registered person accounts for tax on a payments basis, all amounts of tax payable in respect of supplies to the extent that payment for the supply has been received during the return period:

(b) all amounts to be added under section 19(2) or (7) (which relate to subsequent period adjustments) or section 20(2) (which relates to recovered bad debts); and

(c) all amounts of value added tax payable in respect of supplies of imported services received by the registered person during the return period.

(4) The amounts able to be deducted are—

(a) all amounts of tax payable by other registered persons in respect of supplies made to the first registered person—

(i) if the first registered person accounts for tax on an invoice basis, where the time of supply falls during the return period; and

(ii) if the first registered person accounts for tax on a payments basis, to the extent that a payment in respect of the supply has been made during the return period,—

but subject to subsections (5), (6), and (7); and

(b) all amounts of tax payable under section 10(2)(b) by the registered person in respect of the importation of goods—

(i) if the registered person accounts for tax on an invoice basis, where the tax is invoiced by the Collector or paid (whichever is the earlier) during the return period; and

(ii) if the registered person accounts for tax on a payments basis, to the extent that payment of the tax is made during the return period,—

but subject to subsections (5) and (6); and

(c) amounts equal to 3/23 of the consideration in money for all supplies of secondhand goods to the registered person—

(i) if the registered person accounts for tax on an invoice basis, the time of supply falls during the return period; and

(ii) if the registered person accounts for tax on payments basis, to the extent the consideration is paid during the return period; and

(iii) the place of supply is in the Cook Islands; and

(iv) the goods are not supplied by a supplier who is not resident in the Cook Islands and who has previously supplied the goods to a registered person who has entered the goods for home consumption under the Customs Revenue and Border Protection Act 2012,

and subject to subsections (5), (6), and (10); and

(d) all amounts deductible under section 19(2) or (8) (which relate to subsequent period adjustments) or section 20(1) (which relates to bad debts); and

(e) amounts equal to 3/23 of any payments made during the return period by the registered person to indemnify another person under a contract of insurance but only if—

(i) the supply of the contract of insurance is a taxable supply; and

(ii) the payment is not in respect of the supply of goods or services to the registered person or importation of goods by the registered person; and

(iii) the supply of the contract of insurance was not subject to tax at the 0% rate in any case where the other person is, at the time of payment, neither a registered person nor resident in the Cook Islands; and

(iv) the payment does not result from a supply of goods or services to the other person where the place of supply is outside the Cook Islands; and

(v) the payment is not to indemnify the other person for loss of employment services earnings.

(5) An amount to which subsection (4)(a), (b), or (c) refers—

(a) will be wholly deductible if the goods or services are acquired by the registered person wholly for the purposes of making taxable supplies:

(b) if the goods or services are acquired by the registered person partially for the purposes of making taxable supplies and are not a car or pick-up truck, will be deductible only to the extent that the goods or services are acquired for the purposes of making taxable supplies:

(c) if the goods are a car or pick-up truck acquired by the registered person partially for the purposes of making taxable supplies, will be deductible

only to the extent which the Collector, by notice in writing to the registered person, considers equitable.

(6) In a case to which subsection (5)(b) applies, the extent to which goods or services are acquired for the purposes of making taxable supplies will be determined—

(a) having regard only to the circumstances existing in the return period of acquisition or such longer period as the Collector considers equitable; and

(b) by the Collector, if the extent cannot be determined otherwise.

(7) No deduction will be made for—

(a) an amount referred to in subsection (4)(a) or (d) unless—

(i) a tax invoice provided under section 18 or debit or credit note provided under section 19 in respect of the supply is held by the registered person when the return is filed; or

(ii) none of a tax invoice, credit note or debit note is required to be provided in respect of the supply:

(b) an amount referred to in subsection (4)(c) unless the registered person keeps the records referred to in section 18(5):

(c) an amount referred to in subsection (4)(c) to the extent to which—

(i) the supplier of the secondhand goods was a person related (by blood, marriage or ownership) to the registered person; and

(ii) consideration for the supply exceeded the open market value of the supply.

(8) A deduction in calculating the tax payable or refund due for a return period will also be available if and to the extent that—

(a) a deduction would have been available in an earlier return period but for the fact that the registered person did not hold a tax invoice and the registered person holds such a tax invoice at the time the return is filed for the later return period:

(b) a deduction could have been claimed in an earlier return period but was not in fact included in a return for an earlier return period.

(9) If the calculation in a return produces—

(a) a positive amount, the amount will be tax payable by the registered person under section 17:

(b) a negative amount, the amount will be a refund due to the registered person under section 29.

(10) No deduction may be made pursuant to subsection (4)(c) in respect of any supply where—

(a) a deduction is made pursuant to subsection (4)(a) in respect of the supply; or

(b) the supply is a sale or transfer of any leasehold or sub-leasehold interest in any land or building by any person who is not a registered person.

[Section 16(1): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]

[Section 16(2)(b): amended, on 1 January 2000, by section 5(a) of the Value Added Tax Amendment Act 2001 (2001 No 2).]

[Section 16(3)(a): amended, on 1 April 2014, by section 14(1)(a) of the Value Added Tax Amendment Act 2014 (2014 No 1); on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]

[Section 16(3)(b): amended, on 1 April 2014, by section 14(1)(a) of the Value Added Tax Amendment Act 2014 (2014 No 1).]

[Section 16(3)(c): inserted, on 1 April 2014, by section 14(1)(c) of the Value Added Tax Amendment Act 2014 (2014 No 1); on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]
[Section 16(4)(a): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]
[Section 16(4)(b): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]
[Section 16(4)(c): amended, on 1 January 2000, by section 5(b) of the Value Added Tax Amendment Act 2001 (2001 No 2); on 1 April 2014, by section 14(2) of the Value Added Tax Amendment Act 2014 (2014 No 1); on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]
[Section 16(4)(c)(iv): amended, on 1 August 2012, by Schedule 4 of the Customs Revenue and Border Protection Act 2012 (2012 No 5).]
[Section 16(4)(e): amended, on 1 April 2014, by section 14(2) of the Value Added Tax Amendment Act 2014 (2014 No 1); on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]
[Section 16(6)(a): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]
[Section 16(8): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]
[Section 16(10): inserted, on 1 January 2000, by section 5(c) of the Value Added Tax Amendment Act 2001 (2001 No 2).]

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17 Payment of tax

(1) A registered person must pay any tax payable calculated under section 16 for a return period by the day on which the return must be filed for the period.

(2) Subject to Parts 5 and 6, the amount of tax payable calculated in a return furnished by the registered person will be conclusively treated as being correct for the purposes of this Act.

(3) All remittances of tax will be made by money, bank draft, cheque, cashier's cheque, money order, or certificate of deposit to the office of the Department nearest to the principal place of business of the registered person, the office of the Department in Rarotonga, or such other place as may be determined by the Minister and notified in the Gazette. The Department will issue its receipts there to the taxpayer and must pay the money into the Cook Islands Government account to be kept and accounted for as provided by law.

[Section 17(1): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]

17A Adjustments for changes of use

(1) Where a registered person applies goods or services principally for the purposes of making taxable supplies that were formerly not so applied, and a deduction hasn't previously been made under section 16, a deduction to the extent to which the goods or services are used for the purposes of making taxable supplies will be allowed in the month in which those goods or services are firstly so applied.

(2) For the purposes of subsection (1) the deduction is 3/23 of the lesser of—
(a) the current market value of those goods or services; or
(b) the cost price of those goods or services.

(3) Where a registered person applies goods or services principally for a purpose other than for the making of taxable supplies in respect of which a deduction has previously been made under section 16, an amount of tax will become payable in the month in which those goods or services are firstly so applied.

(4) For the purposes of subsection (3) the tax payable is 3/23 of the greater of—
(a) the current market value of those goods or services; or
(b) the cost price of those goods or services.

[Section 17A: inserted, on 1 July 2005, by section 2 of the Value Added Tax Amendment Act 2005 (2005 No 12).]
[Section 17A(2): amended, on 1 April 2014, by section 15(1) of the Value Added Tax Amendment Act 2014 (2014 No 1).]
[Section 17A(4): amended, on 1 April 2014, by section 15(1) of the Value Added Tax Amendment Act 2014 (2014 No 1).]

18 Tax invoices

(1) Subject to this section, a registered person making a taxable supply to another registered person must provide the other registered person with a tax invoice within 28 days of the other registered person requesting such a tax invoice.

(2) A recipient of a supply of goods or services who is a registered person may create a document which is treated as a tax invoice provided by the supplier under subsection (1) if—
(a) the document otherwise complies with the requirements of this section; and

(b) the Collector has previously granted approval for the issue of such a document by such a recipient; and
(c) the supplier and the recipient agree that the supplier will not issue such a tax invoice; and
(d) the supplier is provided with a copy of the document; and
(e) the words "buyer created tax invoice — Inland Revenue Management approved" are contained on the document in a prominent place.

(3) The tax invoice must contain the particulars specified in the prescribed form.

(4) A registered person must not provide more than one tax invoice for a taxable supply, unless the other registered person claims to have lost the original, in which case a copy can be provided clearly marked "copy only".

(5) Despite the preceding subsections, a registered person is not required to provide a tax invoice if—
(a) the consideration in money for the supply does not exceed $50 (or such greater amount as the Queen's Representative may declare by Order-in-Council); or
(b) the Collector determines that sufficient records will exist to establish the particulars of the supply and it would be impractical to require issue of a tax invoice.

(6) A registered person who acquires secondhand goods under a supply which is not a taxable supply must keep records of the supply showing the particulars specified in the prescribed form.

(7) Subsection (6) will not apply if the consideration in money for the supply does not exceed $50 (or such greater amount as the Queen's Representative may declare by Order in Council).

(8) A registered person liable for value added tax under section 10(2)(c) in respect of a supply of imported services must prepare a recipient-created tax invoice in the form approved by the Collector in respect of the supply.
[Section 18(8): inserted, on 1 April 2014, by section 16 of the Value Added Tax Amendment Act 2014 (2014 No 1).]

19 Credit and debit notes

(1) This section applies if, in relation to a supply of goods and services by a registered person—
(a) the supply has been cancelled; or
(b) the nature of the supply has been fundamentally varied or altered; or
(c) the agreed consideration for the supply has been altered; or
(d) all or part of the goods or services have been returned to the registered person,—
and the registered person has—
(e) provided a tax invoice in respect of the supply which is incorrect; or
(f) furnished a return for the relevant return period which shows an incorrect amount of tax payable or refund due,—
as a result of one or more of these events.

(2) If the registered person has accounted for an incorrect amount of tax payable or refund due,—
(a) the registered person will make an adjustment in calculating the tax payable or refund due by the registered person in the return for the return period during which it has become apparent that a correction is needed; and

(b) if the tax properly payable by the registered person in respect of the supply exceeds the tax accounted for, the excess is to be treated as tax payable in relation to a taxable supply in the later return period and not in the original return period; and

(c) if the tax properly payable by the registered person in respect of the supply is less than the tax accounted for, the registered person will make a deduction of the difference under section 16(4) in respect of the later return period.

(3) If a tax invoice to which subsection (1)(e) refers has been provided and—

(a) the amount shown as tax payable on the invoice exceeds the correct amount of tax payable, the registered person must provide the recipient with a credit note:

(b) the amount shown as tax payable on the invoice is less than the correct amount payable, the registered person must provide the recipient with a debit note,—

containing the particulars specified in the prescribed form.

(4) A registered person—

(a) must not issue more than one credit note or debit note in respect of the same excess or difference; and

(b) may issue to a recipient a copy of a credit note or debit note if the recipient claims to have lost the original and the copy is clearly marked "copy only"; and

(c) is not required to provide a recipient with a credit note if and to the extent that the excess results from a prompt payment discount which is clearly described on the face of the tax invoice.

(5) If a recipient of a supply who is a registered person has created a document which complies with the requirements of this section in respect of a credit note or debit note in respect of that supply which could have been issued by the supplier, the document will be treated as if issued by the supplier under this section if—

(a) the Collector has granted prior approval to the issue of such a document by such a recipient; and

(b) the supplier and the recipient have agreed that the supplier will not issue such a credit note or debit note; and

(c) the supplier does not in fact issue such a credit note or debit note; and

(d) the supplier is provided with a copy of the credit note or debit note.

(6) A registered person is not required to issue a credit note or debit note if the Collector determines that sufficient records will exist to establish the particulars of the supply and it would be impractical to require issue of a credit note or debit note.

(7) If a recipient, being a registered person,—

(a) has been issued with a credit note under this section or otherwise knows that a tax invoice held by the recipient is incorrect as a result of one of the events listed in subsection (1); and

(b) has made a deduction under section 16(4) in respect of tax payable on the relevant supply,—

an amount equal to any excess of the tax for which a deduction has been made over the tax actually payable is to be treated as tax payable by the recipient in

respect of a taxable supply made by the recipient in the return period in which the credit note or the knowledge is received.

(8) If a recipient, being a registered person,—

(a) has been issued with a debit note under this section; and

(b) has made a deduction under section 16(4) in respect of the tax payable on the relevant supply,—

an amount equal to any excess of the tax actually payable over the tax for which a deduction has been made is to be treated as a deduction available to the recipient under section 16(4) for the return period in which the debit note is received.

[Section 19(1): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]
[Section 19(2): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]
[Section 19(7): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]
[Section 19(8): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]

20 Bad debts

(1) If a registered person—

(a) has made a taxable supply for consideration in money; and

(b) has furnished a return for the return period in which the time of supply fell; and

(c) has properly accounted for the tax payable on the supply as required under this Act; and

(d) has written off as a bad debt the whole or part of the consideration in money not paid to the registered person—

the registered person will make a deduction under section 16(4) for that proportion of the tax payable in respect of the supply which the bad debt represents as a proportion of the total consideration for the supply.

(2) If an amount in respect of which a deduction has been made under subsection (1) is subsequently wholly or partly recovered, the portion of the deduction which is equal to the portion which the recovered amount is of the bad debt is to be treated as tax payable in respect of a taxable supply by the registered person during the return period in which the recovery takes place.

[Section 20(1)(b): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]
[Section 20(2): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]

[The next page is 698,301]

Part 5
Assessment of tax

21 Assessment of tax

(1) The Collector may, from time to time, from returns furnished under this Act or from other information, make assessments of the amount which the Collector considers is the tax payable under this Act by any person.

(2) If—

(a) a person is not satisfied with a return furnished by the person or by another person under section 15(2) in respect of goods supplied to satisfy a debt owed by the person; and

(b) the person requests the Collector to alter the return; and

(c) the Collector has not already made an assessment of the tax payable in respect of the return period to which the return relates,—

the Collector will make an assessment of the amount that the Collector considers is the tax payable under this Act.

(3) Any person assessed by the Collector as being liable to tax will be liable to pay the tax assessed except to the extent that the person establishes on objection that the tax is not payable.

(4) The Collector may from time to time amend an assessment to ensure its correctness.

(5) If an assessment or amended assessment is made under this section, the Collector will—

(a) cause notice of the assessment or amended assessment to be given to the person liable to pay the tax; and

(b) in the case of an assessment in respect of a return under section 15(2), send a copy of the assessment to whichever, of the person whose goods were supplied and the person selling the goods, is not the person assessed,—

but failure to give notice will not invalidate the assessment.

(6) Where VAT calculated in a return is altered by the Collector, and the alteration results in further VAT to pay after the date for payment for the tax, the Collector may fix a new date for the payment of the tax, but only if the Collector is satisfied that the person liable to pay the tax has not been guilty of wilful neglect or default in making the return necessary to make the amended assessment.

(7) For the purposes of Parts 4, 7, and 10, if—

(a) a person, not being a registered person, supplies goods, and services and represents that tax is payable on that supply; or

(b) a person furnishes, or makes default in furnishing, a return required to be made by the person under section 15(2),—

the person will be treated as being a registered person and any tax represented to be payable on the relevant supply by the person will be tax payable by the person.

[Section 21(2)(c): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]
[Section 21(6): replaced, on 28 February 2018, by section 4 of the Value Added Tax Amendment Act 2018 (2018 No 3).]

22 Correctness of assessments

(1) Except in objection proceedings under Part 6, an assessment by the Collector may not be disputed in any court and will be conclusively deemed and taken to be correct and the liability to tax of the person assessed will be determined accordingly.

(2) The validity of an assessment will not be affected by reason that any of the provisions of this Act have not been complied with.

[The next page is 698,801]

Part 6
Objections

23 Objections

Any person who has been assessed for value added tax for any return period may object against the assessment in the manner and within the time and in all other respects as provided in the case of income tax objections by Part 4 of the Income Tax Act 1997, with any necessary modifications.

[Section 23: amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]

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Part 7
Recovery of tax

24 Additional taxes for non-compliance

There must be added to and become part of the tax imposed by this Act and collected as such—

(a) in the case of any failure to pay any tax required to be paid under this Act by the due date for payment under this Act,—

(i) additional tax of 5% of the tax; and

(ii) additional tax made up of a further 1% per month calculated and compounded on the amount (being the aggregate of the unpaid tax and the additional tax specified in subparagraph (i)) from time to time outstanding, for each complete month during which that amount remains unpaid.

(b) *[Repealed]*

[Section 24 heading: amended, on 1 April 2014, by section 17(1) of the Value Added Tax Amendment Act 2014 (2014 No 1).]

[Section 24(a)(ii): replaced, on 13 December 2002, by section 3 of the Value Added Tax Amendment Act 2002 (2002 No 9).]

[Section 24(b): repealed, on 1 April 2014, by section 17(2) of the Value Added Tax Amendment Act 2014 (2014 No 1).]

25 Payment and recovery of tax

The provisions of sections 191 to 201 of the Income Tax Act 1997 relating to the payment and recovery of tax apply as if they were incorporated in and formed part of this Act, all references therein to "income tax" being read as references to "value added tax" and with all other necessary modifications.

26 Distrain for unpaid tax

The Collector may levy distress on the goods, other than real property, and chattels of any registered person who refuses or fails to pay any tax payable by the registered person or any other amount recoverable from the registered person under this Act and for the disposal of any such goods or chattels by supply or otherwise to recover the amount of the tax payable by the registered person and any other amount recoverable from the registered person including the costs and expenses of the disposal.

27 Priority for tax

Despite section 25, if a person has not paid any amount of value added tax as required under this Act, the amount of tax unpaid will, in the application of the assets of the person, rank as follows:

(a) if the person is an individual, upon the person's bankruptcy or upon the person making an assignment for the benefit of the person's creditors, the amount of the tax payable will rank, in order of priority, immediately after preferential claims for wages or other sums payable to any worker, and in priority to all other claims:

(b) if the person is a company, upon the liquidation of the company or upon the appointment of a receiver on behalf of the holder of any debenture given by the company secured by a charge over any property of the

company or upon possession being taken on behalf of that debentureholder of the property, the amount of the tax payable will rank immediately after preferential claims for wages or other sums payable to any worker, and in priority to all other claims:

(c) if the person is a body of persons other than a company, upon the appointment of a receiver on behalf of any person under any order by a court, the amount of tax payable will rank, in order of priority, immediately after any preferential claims for wages or other sums payable to any worker, and in priority to any claims of holders of debentures under any floating charge (including a floating charge which has since creation become a fixed or specific charge) created by the body and will be paid accordingly out of any priority comprised in or subject to that charge.

28 Statute of limitation

No statute of limitation bars or affects any action or remedy for recovery of tax under this Act.

[The next page is 699,801]

Part 8
Refunds and relief

29 Refunds of excess credits

(1) Subject to this section, if a refund is due to a registered person under section 16, the Collector will refund the amount to the registered person not later than 15 working days following the day on which the return of the registered person was received by the Collector.

(2) Despite subsection (1), if the Collector is not satisfied with the return made by a registered person and decides that further investigation is required, the Collector may withhold payment of the amount otherwise refundable until the later of the date the investigation is completed and the date the registered person has supplied all information requested.

(3) Despite subsection (1), but subject to subsections (2) to (7), if a registered person has,—

(a) in respect of a return period, failed to pay the Collector in whole or in part any amount of tax payable before the due date for payment for the tax; or

(b) in respect of any obligation imposed under the Income Tax Act 1997, the Customs Tariff Act 1980 or the Customs Revenue and Border Protection Act 2012, failed to pay to the Collector any amount in whole or in part—

the Collector may set off, against that unpaid tax duty or levy, any amount otherwise refundable to the person under section 16, or any amount of interest payable under section 30, and will treat any amount so set off as a payment received from the registered person.

(4) Despite subsection (1), but subject to subsections (2) to (7), if a registered person has failed to furnish a return for a return period, the Collector may withhold any amount otherwise refundable under section 16, or any amount of interest payable under section 30, until the registered person has complied with the return filing requirements.

(5) The Collector will give notice in writing to the registered person of any action taken under subsection (2), (3), or (4) within the period of 15 working days following the day on which the return showing the refund due was received by the Collector.

(6) If the Collector requires further information from a registered person in order to investigate a return, the Collector will give notice in writing to the registered person,—

(a) in respect of an initial request for information in respect of the return, within the period of 15 working days following the day on which the return was received by the Collector; and

(b) in relation to subsequent requests for information in respect of a return, within the period of 15 working days following the date of receipt of any information previously requested by the Collector.

(7) All money payable by the Collector under this Part will be paid without further appropriation than this Act.

[Section 29(3)(a): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]

[Section 29(3)(b): amended, on 1 August 2012, by Schedule 4 of the Customs Revenue and Border Protection Act 2012 (2012 No 5).]

[Section 29(4): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]

[Section 29(6): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]

30 Interest on refunds of excess credits

(1) In any case where the Collector is required by section 29 to refund an amount to a registered person and the Collector does not refund the amount within the period of 15 working days following the day upon which the return of the registered person was received by the Collector, the Collector will pay to the registered person interest on the amount withheld.

(2) Interest payable under this section will be payable at the rate of 12% per annum calculated on a daily basis from the day following the day on which the Collector is required under section 29 to refund an amount to the registered person.

(3) Despite anything in this section, no interest will be payable if the amount of interest that, but for this subsection, would be paid is less than $5.

(4) Despite anything in this section, interest will not be payable in respect of any period—

(a) during which the Collector is not satisfied with the return made by the registered person and is undertaking further investigation; or

(b) during which the Collector has requested further information from the registered person in respect of the return and has not received all the information requested; or

(c) after the Collector has set off under section 29(3) the amount of refund due against tax payable by the registered person; or

(d) during which the registered person has failed to furnish a return under this Act for a return period;

nor will interest be payable in respect of a period that ends 10 working days after the end of any period referred to in paragraphs (a) to (d).

(5) If the Collector is satisfied that the amount of any interest paid to a person under this section is in excess of the proper amount, the Collector may recover the amount of the excess in the same manner, with any necessary modifications, as if it were tax payable by the person.

[Section 30(4)(d): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]

31 Refund of tax overpaid

(1) If a registered person has paid to the Collector any amount in excess of the amount of the tax payable under section 16 in respect of any return period, the Collector will refund the amount paid in excess.

(2) Subject to subsection (3), no refund will be made after the expiry of the period of 8 years immediately following the end of the return period, unless written application for the refund is made by or on behalf of the registered person before the expiration of that period.

(3) If an assessment made under this Act reduces any amount of tax payable by a registered person or increases any amount refundable by the Collector to a registered person, the Collector will, notwithstanding that the time limited in accordance with subsection (2) for the making of a refund may have expired, refund the excess tax or deficient refund.

(4) No refund will be made under subsection (3) after the expiry of the period of 8 years immediately following the end of the year in which the assessment was made, unless written application for the refund is made by or on behalf of the registered person before the expiry of the period.

[Section 31(1): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]
[Section 31(2): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]

32 Relief on tax

Sections 203, 204, and 205 of the Income Tax Act 1997 apply as if they were incorporated in and formed part of this Act. Any reference therein to "tax" must be read as a reference to "value added tax" and with all other necessary modifications.

32A Relief from additional tax

On application for relief made in writing on or before 31 March 2018 by or on behalf of any taxpayer who, as at 1 August 2017, is liable for the payment of any additional tax under section 24, the Collector must remit the whole of that additional tax if—

(a) the taxpayer has paid all other outstanding value added tax (if any) that is payable by the taxpayer up to that date and the taxpayer enters into an agreement with the Collector under which the taxpayer agrees, on terms acceptable to the Collector, to meet the taxpayer's other existing and future obligations under this Act; or

(b) the taxpayer enters into an agreement or arrangement with the Collector under which the taxpayer agrees, on terms acceptable to the Collector,—

(i) to pay all that other outstanding value added tax to the Collector under a payment arrangement with the Collector; and

(ii) to meet the taxpayer's other existing and future obligations under this Act.

[Section 32A: amended, on 28 February 2018, by section 5 of the Value Added Tax Amendment Act 2018 (2018 No 3).]

32B Tax amnesty for previously undeclared amounts

(1) A registered person who, before 1 August 2017, has not declared any amounts referred to in section 16 on which tax is payable, may declare those amounts in a return provided to the Collector under this section and take advantage of the provisions of this section.

(2) The return of those undeclared amounts must be made during the amnesty period.

(3) The registered person must pay the tax payable on the undeclared amounts and, in addition, pay a penalty equal to 20% of the amount of the tax payable on the undeclared amounts.

(4) The payments under subsection (3) must be paid to the Collector within the amnesty period or under a payment arrangement acceptable to the Collector.

(5) If the registered person pays the amounts referred to in subsection (3) in accordance with this section,—

(a) the payment of the outstanding tax and the penalty are regarded as the final tax and penalty payable in respect of the amounts for which the payments are paid; and

(b) no legal proceedings may be brought against the registered person in respect of the amounts declared under this section.

(6) For the purposes of this section, **amnesty period** means the period that begins on 1 August 2017 and ends with the close of 31 December 2017.

[Section 32B: inserted, on 23 June 2017, by section 5 of the Value Added Tax Amendment Act 2017 (2017 No 2).]

32C Relief from obligation to pay VAT for periods before 2010

(1) Despite anything in this Act, a registered person who, at any time before this section comes into force, has not made a return under section 15 in respect of any period ending before 1 January 2010,—

(a) is not obliged to make any return required by this Act in relation any period ending before 1 January 2010; and

(b) is not obliged to pay any tax payable under this Act with respect to goods or services supplied before 1 January 2010.

(2) If, as a result of an application under section 32A, a registered person has paid, or made an arrangement to pay, an amount of tax payable under this Act in respect of any period ending before 1 January 2010, the Collector must refund the registered person the amount paid, or adjust any arrangement to pay tax so that amount will not be paid.

(3) Any tax paid under this Act by a registered person before this section comes into force in respect of any period ending before 1 August 2017 in respect of any period ending before 1 January 2010 is not refundable to the person and cannot be set off against any future liability to pay tax.

[Section 32C: inserted, on 28 February 2018, by section 6 of the Value Added Tax Amendment Act 2018 (2018 No 3).]

[The next page is 700,301]

Part 9
Special cases

33 Groups of companies

(1) For the purposes of this Act, 2 or more companies, each being a registered person, are eligible to be members of a group of companies in respect of any month if they consist of substantially the same shareholders under section 3(2) of the Income Tax Act 1997.

(2) If 2 or more companies apply to be members of a group of companies for the purposes of this section and the Collector is satisfied that they are eligible to be members of a group of companies under subsection (1), they will be members of a group of companies from the beginning of such return period as is determined by the Collector.

(3) In any application made under subsection (2), one such company will be nominated to be the representative member.

(4) If any companies are members of a group of companies, the representative member may apply to the Collector for—

(a) the addition to that group of a further eligible company; or

(b) the exclusion from that group of one of the current members; or

(c) the substitution of another member of the group as the representative member; or

(d) that group of companies to no longer be a group of companies for the purposes of this section,—

and the Collector will grant the application from the beginning of such return period as is determined by the Collector.

(5) If any member of a group of companies ceases to be eligible to be a member of the group and the Collector becomes aware of that fact, the Collector will, by notice in writing given to that member or the representative member, terminate that membership from such date as may be specified in the notice.

(6) For the purposes of this Act, a notice under this Act addressed to the representative member will be deemed to be served on all members of the group.

(7) If any companies form a group of companies for the purposes of this section—

(a) any taxable activity carried on by a member of the group will be deemed to be carried on by the representative member and not to be carried on by any other member of the group; and

(b) subject to the following paragraphs of this subsection, any taxable supply by a member of the group to another member of the group may be disregarded; and

(c) any taxable supply by a member of the group to a person outside the group or from a person outside the group to a member of the group will be deemed to be a taxable supply by or to the representative member; and

(d) any supply of goods and services which is not a taxable supply made by a member of the group will be deemed to be made by the representative member; and

(e) any deductions under section 16(4) otherwise available to a member of the group will be deemed to be available only to the representative member; and

(f) any obligation on a member of the group, other than the representative member, to file returns under section 15 will be disregarded.

(8) Despite subsection (7),—

(a) all members of the group will remain liable jointly and severally for any tax payable by the representative member; and

(b) the provisions of section 18, section 42 and Part 3 continue to apply to all members of the group.

(9) If the Collector is satisfied in relation to 2 or more registered persons (not each being companies) that—

(a) one of them controls each of the others; or

(b) one person controls all of them; or

(c) 2 or more persons carrying on a taxable activity in partnership control all of them,—

the Collector may deem those registered persons to be members of a group and the preceding subsections of this section (other than subsection (1)) will apply as if every reference in the said subsections to a group of companies were a reference to that group and as if every reference in the said subsections to companies were reference to the members of the group.

[Section 33(2): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]

[Section 33(4): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]

34 Unincorporated bodies

(1) For the purposes of this section—

body means an unincorporated body of persons and includes a partnership, a joint venture and the trustees of a trust

member means a partner, joint venturer, trustee, or other member of any body.

(2) If an unincorporated body that carries on any taxable activity is registered under this Act—

(a) the members of the body will not themselves be liable to be registered under this Act in relation to the carrying on of the taxable activity; and

(b) any supply of goods and services made in the course of carrying on the taxable activity will be treated for the purposes of this Act as being supplied by the body and not supplied by any member of a body; and

(c) any supply of goods and services to, or acquisition of goods by, a member of the body acting in the capacity as a member of the body and in the course of carrying on the taxable activity will be treated for the purposes of this Act as being supplied to or acquired by the body and will be treated as not being supplied to or acquired by the member; and

(d) the registration will be in the name of the body, or where the body is the trustees of a trust, in the name of the trust; and

(e) subject to subsection (3), any change of members of the body will have no effect for the purposes of this Act.

(3) Despite anything in this section, every member is jointly and severally liable with any other members for tax payable by the body while that member remains a member of a body.

(4) If a body is a partnership, joint venture, or the trustees of a trust, a member will not cease to be a member of the body for the purposes of this section until the date on which any change of membership of the body is notified in writing to the Collector.

(5) For the purposes of this Act, a notice served in accordance with this Act which is addressed to a body by the name which it is registered under this Act will be treated as being served on the body and on all members of the body.

(6) Subject to subsection (7), if anything is required to be done under this Act by or on behalf of a body, it will be the joint and several liability of all the members to do any such thing but if any such thing is done by one member it will be sufficient compliance with this requirement.

(7) Despite anything in this section but subject to subsection (3), if anything is required to be done under this Act by or on behalf of a body (other than a partnership, joint venture or trustees of a trust) the affairs of which are managed by its members or a committee of its members, it will be the joint and several responsibility of—

(a) every member holding office as President, chair, treasurer, Secretary or any similar office; or

(b) in default of any such member, every member holding office as a member of a committee,—

but if any such thing is done by any official or committee member it will be sufficient compliance with any such requirement.

35 Agents and auctioneers

(1) Subject to this section, for the purposes of this Act, if an agent makes a supply of goods and services for and on behalf of any other person who is the principal of that agent, a supply will be treated as being made by the principal and not by the agent.

(2) Despite subsection (1), if the supply is a taxable supply, an agent of registered person may, notwithstanding anything in this Act, issue a tax invoice or a credit note or a debit note in relation to the supply as if the agent had made the taxable supply and, to the extent that that tax invoice or credit note or debit note relates to the supply, the principal will not also issue the tax invoice or credit note or debit note (as the case may be).

(3) Subject to this section, for the purposes of this Act, if a registered person makes a taxable supply of goods and services to an agent who is acting on behalf of another person who is the principal for the purpose of the supply, the supply will be treated as being made to the principal and not to the agent.

(4) Despite subsection (3), the agent may nevertheless request that the agent be issued with a tax invoice and the registered person making the supply may issue a tax invoice or a credit note or a debit note as if the supply were made to the agent.

(5) If a tax invoice or a credit note or a debit note in relation to a supply has been issued under this section by an agent or to an agent, the agent will maintain sufficient records to enable the name and address and registration number (if any) of the principal to be ascertained.

(6) Despite anything in the foregoing provisions of this section, if the principal and an agent who is an auctioneer agreed to have a supply by auction of goods, not

being a taxable supply, treated as if the supply had been made by the auctioneer and not by the principal, the supply will be subject to tax as if it were made by the auctioneer in the course or furtherance of the auctioneer's taxable activity and the auctioneer may—

(a) recover the amount of tax charged on the supply from the principal as a debt together with the costs of recovery in any court of competent jurisdiction; or

(b) retain or deduct the same out of any money in the auctioneer's hands belonging or payable to the principal.

(7) Despite anything in subsection (3), if a registered person makes a taxable supply (not being a supply which is charged with tax at the rate of 0%) of goods or services to an agent, being a registered person, who is acting for and on behalf of another person who is a principal for the purpose of the supply and—

(a) the principal is not resident in the Cook Islands and is not a registered person; and

(b) the supply is directly in connection with the exportation of goods from the Cook Islands or the importation of goods into the Cook Islands,—

this Act will, if the agent and the principal agree, have effect as if the supply were made to the agent and not to the principal.

36 Personal representatives, liquidators, receivers etc

(1) In this section—

agency period means the period beginning on the date on which a person becomes entitled to act as a specified agent carrying on a taxable activity in relation to an incapacitated person and ending on the earlier of—

(a) the date on which some person other than the incapacitated person or the specified agent is registered in respect of the taxable activity; or

(b) the date on which the person ceases to be a specified agent in relation to the incapacitated person

incapacitated person means a registered person who dies, or goes into liquidation or receivership, or becomes bankrupt or is otherwise incapacitated

specified agent means a person carrying on any taxable activity in a capacity as personal representative, liquidator, or receiver of an incapacitated person, or otherwise as agent for or on behalf of or in the stead of an incapacitated person.

(2) For the purposes of this Act and despite section 35, if any person becomes a specified agent that person will, during the agency period, be deemed to be a registered person carrying on the taxable activity of the incapacitated person, and the incapacitated person will during that period be deemed not to be carrying on that taxable activity.

(3) If a mortgagee is in possession of any land or other property previously mortgaged by the mortgagor, being a registered person, the Collector may, from the date on which the mortgagee took possession of that land or other property, until such time as the mortgagee ceases to be in possession of that land or other property, deem the mortgagee, in any case if and to the extent that the mortgagee carries on any taxable activity of the mortgagor, to be a registered person.

(4) Any person who becomes a specified agent, or who as a mortgagee in possession carries on any taxable activity of the mortgagor, will, within 21 days of becoming a specified agent or commencing that taxable activity of the

mortgagor, inform the Collector in writing of that fact and of the date of the death or of the liquidation or receivership or bankruptcy or mortgagee taking possession of any land or other property previously mortgaged by the mortgagor, or of the nature of the incapacity and the date on which it began.

37 Agents in case of absentees and value added tax representatives

(1) If any person acts or assumes to act as the agent of any other person who is outside the Cook Islands or does not have place of business in the Cook Islands, the agent will be liable to the same value added tax and all obligations imposed by this Act as if the agent were the principal for whom the agent so acts or assumes to act.

(2) A non-resident who is required to apply for registration under section 12 but who does not carry on a taxable activity through a fixed establishment in the Cook Islands must—

(a) appoint a value added tax representative in the Cook Islands; and

(b) if required to do so by the Collector by notice in writing, lodge such security for the payment of value added tax with the Collector as the Collector may determine.

(3) The value added tax representative of a non-resident is responsible for doing all things required of the non-resident under this Act, including applying for registration, the filing of value added tax returns, and the payment of value added tax.

(4) The registration of a value added tax representative is to be made in the name of the non-resident they represent.

(5) A person may be a value added tax representative for more than one non-resident but must have a separate registration for each non-resident they represent.

(6) The Collector may prescribe the mode, manner, and requirements for appointment of a value added tax representative and the responsibilities of the representative.

(7) In this section, **non-resident** means a person who is not resident of the Cook Islands.

[Section 37: replaced, on 1 April 2014, by section 18 of the Value Added Tax Amendment Act 2014 (2014 No 1).]

38 Goods and services acquired before incorporation

(1) If—

(a) an amount of tax has been charged under this Act in relation to the acquisition of goods and services for and on behalf of a company or in connection with the incorporation of a company; and

(b) the company becomes a registered person on incorporation; and

(c) the goods and services were acquired prior to incorporation by a person who—

(i) became a member, officer, or employee of the company and was reimbursed by the company for the whole amount of the consideration paid for the goods and services; and

(ii) acquired those goods and services for the purposes of a taxable activity to be carried on by the company and has not used those goods and services for any purpose other than such taxable activity,—

the company will be deemed to be the recipient of the goods and services as if the supply or importation in question had been made during the return period in winch the reimbursement referred to in this section is made.

(2) This section will not apply in relation to any goods and services where—

(a) the supply of the goods and services by the person to the company is itself a taxable supply or is a supply of secondhand goods not being a taxable supply; or

(b) the goods and services were acquired more than 6 months prior to the date of incorporation of the company; or

(c) the company does not hold sufficient records to establish the particulars relating to the deduction to be made under section 16(4) as a result of the application of this section.

[Section 38(1)(c): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]

[The next page is 700,801]

Part 10
Offences and penalties

39 Offences

(1) Every person commits an offence against this Act who—

(a) fails to apply for registration as required under this Act; or

(b) refuses or fails to furnish any return or information as and when required by this Act, or any regulations made under this Act or by the Collector; or

(c) makes any false return, false statement or false declaration or gives any false information, knowing it to be false or being reckless as to whether it was false, or intentionally misleads or attempts to mislead the Collector in relation to any matter under this Act; or

(d) knowingly falsifies any records required to be kept under this Act; or

(e) knowingly issues any incorrect tax invoice; or

(f) knowingly misrepresents that an amount is payable as tax under this Act in respect of a supply; or

(g) receives or deals with goods or services, if the person knows or has reason to believe that the tax payable on the supply of the goods or services has been or will be evaded; or

(h) obstructs any officer of the Department acting in discharge of that officer's duties or the exercise of that officer's power under this Act; or

(i) fails to keep or properly maintain records of a taxable activity carried on by the person as required under this Act; or

(j) knowingly breaches the provisions of this Act prohibiting the issue of multiple tax invoices, credit notes or debit notes; or

(k) fails to provide another registered person with a tax invoice as required under this Act; or

(l) aids, abets, incites, or conspires with any other person to commit any offence against this Act or against any regulations made under this Act; or

(m) fails to appoint a value added tax representative or provide security as required under section 37(2).

(2) Every person who commits an offence against subsection (1)(i) or (k) will be liable to fine not exceeding $500 for the first such conviction, to a fine not exceeding $1,000 for the second such conviction and to a fine not exceeding $4,000 for each subsequent such conviction.

(3) Every person who commits an offence against subsection (1)(b) will be liable to a fine not exceeding $500 for each month of the default for the first time upon which the person is convicted of such an offence and for a fine not exceeding $1,000 for each month of default for the second and subsequent occasions on which the person is convicted of such an offence.

(4) Every person who commits an offence against this Act for which no other penalty is prescribed will be liable for a fine not exceeding $2,000 for the first such conviction and for a fine not exceeding $4,000 for each subsequent such conviction.

(5) Every person who commits an offence against subsection (1)(l) will be liable to a fine not exceeding the maximum fine applicable to the resultant offence committed by the person aided, abetted, incited, or conspired with.

[Section 39(1)(l): amended, on 1 April 2014, by section 19(a) of the Value Added Tax Amendment Act 2014 (2014 No 1).]
[Section 39(1)(m): inserted, on 1 April 2014, by section 19(b) of the Value Added Tax Amendment Act 2014 (2014 No 1).]

40 Officers and employees of corporate bodies

Directors, secretaries, statutory officers, receivers, managers of any property of or liquidators of a corporate body commit an offence against this Act if, being responsible for furnishing to the Collector any information or statement or return under this Act, they fail to furnish that information or statement or return to the Collector within the time required under this Act.

41 Proceedings

(1) Proceedings for offences under this Act will be taken by way of prosecution in the High Court upon the information of the Collector.

(2) Any information may charge the defendant with any number of offences against the Act if those offences are founded on the same set of facts or are of the same or similar character.

(3) Where any information charges more than one such offence, particulars of each offence charged will be set out separately in the information.

(4) All such charges will be heard together unless the Court, either before or at any time during the hearing, considers it just that any charge should be heard separately and makes an order to that effect.

(5) Notwithstanding anything in any other Act, any information in respect of any offence against this Act or against any regulations made under this Act may be laid at any time within 10 years after the end of the return period in which the offence was committed.

[Section 41(5): amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]

[The next page is 701,301]

Part 11
General provisions

41A Delegations by Collector

(1) The Collector may from time to time by written instrument delegate to any person all or any of the functions or powers of the Collector under this Act, except the power of delegation conferred by this section.

(2) A delegation—

(a) may be made subject to such restrictions and conditions as the Collector thinks fit; and

(b) may be made to a person or to a specified class of persons; and

(c) may be made either generally or in relation to a particular matter; and

(d) may be revoked in writing by the Collector; and

(e) does not prevent the exercise or performance by the Collector of the function or power delegated.

(3) Except as provided in the instrument of delegation, a person to whom a function or power is delegated under this section may exercise or perform the function or power in the same manner and with the same effect as if it had been conferred on the person directly by this Act and not by delegation.

(4) Unless the context otherwise requires, every provision of this Act applying to the Collector in respect of the exercise or performance of a function or power applies, with any necessary modifications, to any person exercising or performing the function or power under a delegation made by Collector, as if the person were the Collector.

(5) Every person purporting to act under a delegation made under this section is presumed to be acting in accordance with its terms in the absence of proof to the contrary.

(6) A delegation continues in force according to its tenor unless and until revoked.

[Section 41A: inserted, on 13 December 2002, by section 2 of the Value Added Tax Amendment Act 2002 (2002 No 9).]

41B Penal tax

(1) A person is liable for penal tax if the person, without reasonable excuse, fails—

(a) to apply for registration as required under section 12:

(b) to keep, retain, or maintain any records as required under the Act; or

(c) to submit a return or other document as required under the Act.

(2) The amount of penal tax payable by a person to whom subsection (1) applies is an amount not exceeding treble the amount of value added tax payable—

(a) when subsection (1)(a) applies, payable for the period commencing on the day on which the person was first required to apply for registration and ending on the earlier of the day the person files an application for registration or the person is registered by the Collector on the Collector's own motion:

(b) when subsection (1)(b) applies, payable for the period for which the records were not kept, retained or maintained; or

(c) when subsection (1)(c) applies, payable under the return.

(3) When section 24(a) applies to a person, in addition to the additional tax imposed under section 24(a), the person is liable for an amount of penal tax not exceeding—

(a) if the underpayment is due to fraud or evasion, treble the amount of underpaid value added tax; or

(b) in any other case unless the underpayment was due to reasonable excuse, 20% of the underpaid value added tax.

(4) Sections 210 to 216 of the Income Tax Act 1997 apply, with the necessary changes made, in relation to penal tax imposed under this section.

[Section 41B: inserted, on 1 April 2014, by section 20 of the Value Added Tax Amendment Act 2014 (2014 No 1).]

[Section 41B(1)(b): amended, on 23 June 2017, by section 6 of the Value Added Tax Amendment Act 2017 (2017 No 2).]

[Section 41B(2)(b): amended, on 23 June 2017, by section 6 of the Value Added Tax Amendment Act 2017 (2017 No 2).]

42 Keeping of records

(1) In this Act, the term **records** includes books of account (whether manual, mechanical, or electronic) and tax invoices, credit notes, debit notes, and such other documents as are necessary to verify the entries in the books of account; and any document referred to in this subsection that is in an electronic format is a record for the purposes of this Act.

(2) Without limiting the generality of subsection (1), the records required to be kept under this section will contain—

(a) a record of all goods and services supplied by or to the registered person showing the goods and services, and the suppliers or their agents, in sufficient detail to enable the goods and services and the suppliers or their agents to be readily identified by the Collector; and

(b) the system and programme documentation which describes the accounting system used.

(3) Subject to this section, every registered person who supplies in the Cook Islands goods and services will keep in the Cook Islands in English and in New Zealand currency sufficient records to enable ready ascertainment by the Collector of the registered person's liability to tax and will retain in the Cook Islands all such records for a period of at least 5 years after the end of the return period to which they relate.

(4) The Collector may on application in writing authorise a registered person to keep the records outside the Cook Islands.

(5) This section will not require the retention of records—

(a) in respect of which the Collector has given notice in writing that retention is not required:

(b) of a company which has been liquidated:

(6) The Collector may, by notice in writing given before the expiry of the 5-year retention period specified in subsection (3), require a registered person to retain the records specified for a further period not exceeding 3 years if—

(a) the affairs of the registered person are under investigation by the Collector; or

(b) the Collector intends to conduct such an investigation or is actively considering such an investigation.

[Section 42(1): amended, on 23 June 2017, by section 7(a) and (b) of the Value Added Tax Amendment Act 2017 (2017 No 2).]
[Section 42(3): amended, on 1 April 2014, by section 21 of the Value Added Tax Amendment Act 2014 (2014 No 1); on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]
[Section 42(6): amended, on 1 December 1997, by section 2 of the Value Added Tax Amendment Act 1997 (1997 No 20).]

43 Avoidance

(1) A tax avoidance arrangement entered into by a person is void against the Collector for tax purposes.

(2) A tax avoidance arrangement is one that directly or indirectly—
(a) has tax avoidance as its purpose or effect; or
(b) has tax avoidance as one of its purposes or effects, whether or not another purpose or effect relates to ordinary business or family dealings.

(3) If a tax avoidance arrangement is void against the Collector, the Collector may adjust the amount of tax payable by, or the amount of tax refundable to, a registered person affected by the arrangement, whether or not the registered person is a party to the arrangement, in the manner the Collector considers appropriate to counteract any tax advantage obtained by the registered person from or under the arrangement.

(4) For the purpose of subsection (3), the Collector may, in addition to any other treatment the Collector considers appropriate, treat—
(a) a person who is not a registered person and who is a party to or has participated in an arrangement as being a registered person:
(b) a supply of goods and services, whether or not a taxable supply, that is affected by or is part of an arrangement as being made to or by a registered person:
(c) a supply of goods and services as occurring in a return period that, but for an arrangement affected by this section, would have occurred in the return period in which the supply was made:
(d) a supply of goods and services as having been made, or consideration for the supply as having been given, at open market value.

(5) For the purpose of this section—

arrangement means a contract, agreement, plan, or understanding, whether enforceable or unenforceable, including all steps and transactions by which it is carried into effect

tax avoidance includes—

(a) a reduction in the liability of a registered person to pay tax:

(b) a postponement in the liability of a registered person to pay tax:

(c) an increase in the entitlement of a registered person to a refund of tax:

(d) an earlier entitlement of a registered person to a refund of tax:

(e) a reduction in the total consideration payable by a person for a supply of goods and services:

(f) anything that causes a taxable supply, taxable import, or supply of imported services not to be a taxable supply, taxable import, or supply of imported services, as the case may be

taxable import means an import of goods liable to value added tax under section 10(1)(b).

[Section 43: replaced, on 1 July 2005, by section 3 of the Value Added Tax Amendment Act 2005 (2005 No 12).]
[Section 43(5) arrangement: amended, on 1 April 2014, by section 22(1)(a) of the Value Added Tax Amendment Act 2014 (2014 No 1).]
[Section 43(5) tax avoidance paragraph (e): amended, on 1 April 2014, by section 22(1)(b)(i) of the Value Added Tax Amendment Act 2014 (2014 No 1).]
[Section 43(5) tax avoidance paragraph (f): inserted, on 1 April 2014, by section 22(1)(b)(ii) of the Value Added Tax Amendment Act 2014 (2014 No 1).]
[Section 43(5) taxable import: inserted, on 1 April 2014, by section 22(1)(c) of the Value Added Tax Amendment Act 2014 (2014 No 1).]

44 Liability for tax payable by company left with insufficient assets

(1) This section will apply if—

(a) an arrangement (as defined in section 44(2)) has been entered into in relation to a company; and

(b) an effect of the arrangement is that the company is unable to satisfy a liability to tax under this Act, whether the liability exists at the time of entry into the arrangement or subsequently; and

(c) it can reasonably be concluded that—

(i) a director of the company at the time of entry into the arrangement who had made all reasonable enquiries would have anticipated that the tax liability would be, or would likely to be, required to be satisfied by the company; and

(ii) a purpose of the arrangement was to have the effect referred to in paragraph (b).

(2) This section will not apply to an arrangement to which the Collector is a party.

(3) If an arrangement to which this section applies has been entered into, all persons who were directors of the company at the time the arrangement was entered into will, subject to this section, be jointly and severally liable for the tax liability as agent of the company.

(4) If an arrangement to which this section applies has been entered into, a person who—

(a) together with persons related to that person (whether by blood, marriage or ownership), controlled the company at the time the arrangement was entered into; or

(b) had an ownership interest (direct or indirect) in the company at the time the arrangement was entered into and who, it could reasonably be concluded, having regard to the materiality of a benefit derived by the person from the arrangement, was a party to the arrangement,—

will be liable as agent for the company for the tax liability to the extent that the tax liability is no greater than the market value of the person's direct or indirect interest in the company at the time of entry into the arrangement and the value of any benefit derived by the person from the arrangement (whichever is larger).

(5) A director will not be liable under this section for a tax liability of a company if the Collector is satisfied that the director derived no benefit from the arrangement and either notified the Collector of the arrangement and the application of this section to the arrangement in writing at the first reasonable opportunity after the director became aware of the arrangement or had no knowledge of the arrangement.

(6) Subject to section 46, but despite any other provision of this Act, the Collector may at any time after the liquidation of a company make or amend any assessment of the company under this Act as if the company had not been liquidated, in order to give effect to this section.

(7) If the Collector makes an assessment after liquidation of a company, the Collector will nominate one or more persons whom the Collector considers to be liable under this section in respect of the tax liability specified in the assessment and each such person will be treated for the purposes of this Act and the Income Tax Act 1997 as the agent of the company.

45 Inspection of documents, inquiry

The provisions of sections 219 to 223 of the Income Tax Act 1997 apply as if they were incorporated in and formed part of this Act.

46 Limitation period

Any amount of value added tax imposed by this Act will be assessed within 7 years after the return was filed or within 3 years of the due date prescribed for the filing of the said return, whichever is later, and no proceeding in Court without assessment for the collection of any such taxes may be begun after the expiration of such period, provided that:

(a) in the case of a false or fraudulent return with intent to evade tax, or of a failure to file the return, the tax may be assessed or levied at any time. However, in the case of a return claimed to be false or fraudulent with intent to evade tax, the determination as to the claim must first be made by a Judge of the High Court:

(b) where, before the expiration of the period prescribed in this section, both the Collector and the taxpayer have consented in writing to the assessment of the tax after the expiration of the period, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreement in writing made before the expiration of the period previously agreed upon.

[Section 46: amended, on 1 July 2023, by Schedule of the Value Added Tax Amendment Act 2023 (2023 No 2).]

47 Regulations

(1) The Queen's Representative may from time to time, by Order in Executive Council, make all such regulations as, in his or her opinion, may be deemed necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power to make regulations conferred by subsection (1), it is hereby declared that regulations may be made under this section prescribing forms and rules or procedure for the ascertainment, assessment and collection of taxes imposed under this Act.

(3) All regulations made under this section must be laid before Parliament within 28 days after their making, if Parliament is then in session, and if not, must be laid before Parliament within 28 days after the commencement of the next ensuing session.

47A Tax to be included in prices

A registered person must include the amount of value added tax in prices of goods or services notified, advertised, or displayed, and must state that such prices are inclusive of value added tax.

47B Application of electronic tax system

(1) Despite the other provisions of this Act, the Collector may authorise all or any of the following to be done electronically through a computer system or mobile electronic device—

(a) the filing of an application for registration or cancellation of registration:

(b) the filing of a tax return or other document:

(c) the payment of value added tax and other amounts:

(d) the payment of a refund of value added tax:

(e) the service of notice of any document by the Collector:

(f) the doing of any other act or thing that is required or permitted to be done under this Act.

(2) Subject to subsection (4), the Collector may direct that a person or class of persons is to do any act or thing referred to in subsection (1) electronically through the use of a computer system or mobile electronic device.

(3) Subject to subsection (4), the Collector may do any act or thing referred to in subsection (1) electronically through the use of a computer system or mobile electronic device.

(4) Subsections (2) and (3) do not apply to a taxpayer if the Collector is satisfied that the taxpayer does not have the capacity to receive or make communications or payments electronically.

(5) For the avoidance of doubt, an electronic communication made by, or to, the Collector under subsection (2) or (3) is treated as a notice in writing.

(6) Regulations under this Act may prescribe or provide for the procedures for the doing of any act or thing electronically under this section.

[Section 47B: inserted, on 23 June 2017, by section 8 of the Value Added Tax Amendment Act 2017 (2017 No 2).]

[The next page is 701,801]

Part 12
Transitional provisions and repeals

48 Variation of price on a change in rate of value added tax

(1) If—

(a) a registered person (referred to as the "supplier") has entered into an agreement for the supply of goods or services to another person (referred to as the "recipient"); and

(b) subsequent to entering into the agreement, value added tax is imposed on the supply, or the rate of value added tax applicable to the supply is increased—

the supplier may, despite anything to the contrary in any agreement or law, recover from the recipient, in addition to the amounts payable by the recipient under the agreement, an amount equal to the amount of value added tax imposed or an amount equal to the amount by which value added tax was increased on the supply, as the case may be.

(2) If—

(a) a registered person (referred to as the "supplier") has entered into an agreement for the supply of goods or services to another person (referred to as the "recipient"); and

(b) subsequent to entering into the agreement, value added tax on the supply is withdrawn or the rate of value added tax applicable to the supply is decreased—

the supplier must, despite anything to the contrary in any agreement or law, reduce the amount payable by the recipient by an amount equal to the amount of value added tax withdrawn or the amount by which value added tax was decreased, as the case may be.

(3) Subject to subsections (4) and (5), when subsection (1) or (2) applies in respect of a supply of goods or services subject to any fee, charge, or other amount (whether a fixed, maximum, or minimum fee, charge, or other amount) prescribed by, or determined pursuant to, any Act, regulation, or measure having force of law, that fee, charge, or other amount may be increased or must be decreased, as the case may be, by the amount of value added tax or further value added tax payable, or the amount of value added tax no longer payable.

(4) Subsection (3) does not apply when the fee, charge, or other amount has been altered in any Act, regulation, or measure having force of law to take account of any imposition, increase, decrease, or withdrawal of value added tax.

(5) Nothing in subsection (3) is to be construed so as to permit any further increase or require any further decrease, as the case may be, in a fee, charge, or other amount when the fee, charge, or other amount is calculated as a percentage or fraction of another amount that represents the price in money for a taxable supply.

[Section 48: replaced, on 1 April 2014, by section 23 of the Value Added Tax Amendment Act 2014 (2014 No 1).]

49 Application of increased or reduced value added tax rate

(1) When a supply of services is treated as a successive supply under section 5(5)

or (6) for a period beginning and ending before the date (referred to as the "change date") on which a change in the rate of value added tax levied becomes effective in respect of the supply or the date on which VAT is imposed or withdrawn in respect of the supply and the supply is treated under section 5 as having been made on or after that date, then—

(a) in the case of a change in the value added tax rate on the change date, the rate of value added tax applicable to the supply is the rate applicable immediately before the change date; or

(b) in the case of the imposition of value added tax on the change date, the supply is treated as not being subject to value added tax; or

(c) in the case of withdrawal of the value added tax on the change date, the supply is treated as being subject to value added tax as if the value added tax had not been withdrawn.

(2) When a supply of services is treated as a successive supply under section 5(5) or (6) during a period beginning before and ending on or after the date (referred to as the "change date") on which a change in the rate of value added tax levied becomes effective in respect of the supply or the date on which the value added tax is imposed or withdrawn in respect of the supply and the supply is treated under section 5 as having been made on or after the change date, the price of the supply must, on the basis of a fair and reasonable apportionment, be treated as consisting of a part (referred to as "part 1") relating to the performance of services before the said date and a part (referred to as "part 2") relating to the performance of services on or after the said date and—

(a) in the case of a change in the rate on the change date, the value added tax payable in respect of part 1 is determined at the rate applicable before the change date and the tax payable in respect of part 2 is determined at the rate or percentage applicable on the change date; or

(b) in the case of the imposition of value added tax on the change date, part 1 is not subject to value added tax; or

(c) in the case of the withdrawal of the value added tax, part 1 is subject to value added tax as if the value added tax had not been withdrawn.

[Section 49: replaced, on 1 April 2014, by section 23 of the Value Added Tax Amendment Act 2014 (2014 No 1).]

50 Effect on turnover tax liabilities of 1997 introduction of tax

[Repealed]

[Section 50: repealed, on 1 April 2014, by section 23 of the Value Added Tax Amendment Act 2014 (2014 No 1).]

51 Registration of persons liable to be registered on 1 July 1997

[Repealed]

[Section 51: repealed, on 1 April 2014, by section 23 of the Value Added Tax Amendment Act 2014 (2014 No 1).]

52 Supplies prior to 1 July 1997

[Repealed]

[Section 52: repealed, on 1 April 2014, by section 23 of the Value Added Tax Amendment Act 2014 (2014 No 1).]

53 Repeals and savings

(1) The Turnover Tax Act 1980 is repealed.

(2) The Stamp and Cheque Duties Act 1971–72 is repealed with respect to instruments executed on or after 1 July 1997.

(3) The Overseas Exchange Fees Act 1975 is repealed with effect from 1 July 1997.

(4) The Private Import Tax Act 1984 is repealed with respect to goods cleared through Customs on or after 1 July 1997.

(5) The Rarotonga Entertainment Tax Act 1975 is repealed with respect to entertainment provided on or after 1 July 1997.

(6) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of the Acts referred to in subsections (1) to (5) (the **Acts**) does not (except as otherwise provided in this Act) affect the validity of any document made or anything done under the provisions of the Acts, and every such document or thing so far as it is subsisting or in force at the time of the repeal of the Acts, and could have been made or done under this Act continues and has effect as if it had been made or done under the corresponding provisions of this Act and as if that provision were in force when the document was made or the thing done.

54 Consequential amendments to Customs Revenue and Border Protection Act 2012

(1) Section 2 of the Customs Revenue and Border Protection Act 2012 is amended by adding at the end of the definition of **Duty** the following words:

"and value added tax imposed by the Value Added Tax Act 1997."

(2) A new section 126A is inserted as follows:

"**126A Deferral of payment of value added tax**

(1) The Comptroller may, subject to such conditions as the Comptroller may impose to ensure compliance with this Act and to protect the revenue of the Customs, grant approval to persons allowing such persons to defer payment of the value added tax component of the duty due under section 126.

(2) Where approval has been given under subsection (1), the due date for payment of any value added tax due under section 126 shall be 20 days after the end of the month during which it would otherwise have become payable, unless that day is not a working day in which case the payment must be made on the next working day following that 20-day period.

(3) Where any such debt is not paid by the approved person by the due date pursuant to subsection (2), the Comptroller may suspend or withdraw the approval, or may vary the conditions under which the approval was given."

[Section 54 heading: amended, on 1 August 2012, by Schedule 4 of the Customs Revenue and Border Protection Act 2012 (2012 No 5).]
[Section 54(1): amended, on 1 August 2012, by Schedule 4 of the Customs Revenue and Border Protection Act 2012 (2012 No 5).]

[The next page is 703,801]

Schedule 1

s 10(3)(a)

Exempt supplies

1. Financial services, being any one or more of the following services:

(a) exchanging currency:

(b) issuing, paying, collecting, or transferring ownership of a cheque or letter of credit:

(c) issuing, allotting, transferring ownership of, renewing or varying a debt instrument, a share in the capital of a company, an interest in a unit trust or similar contributory scheme, or any interest in such property:

(d) underwriting the issue of a debt instrument, share in the capital of a company or interest in a unit trust or similar contributory scheme:

(e) providing credit or varying a contract for the provision of credit:

(f) providing, taking, varying, or releasing a guarantee, indemnity, security or bond in respect of the performance of obligations under a cheque, letter of credit, debt instrument, share in the capital of a company, interest in a unit trust or similar contributory scheme, or contract for the provision of credit:

(g) providing, or transferring ownership of, a life insurance contract or a life reinsurance contract:

(h) providing, or transferring ownership of, an interest in a superannuation scheme:

(i) providing, or transferring ownership of, a futures contract through a recognised futures exchange:

(j) paying or collecting any amount of interest, principal, dividend or other amount in respect of any debt instrument, share in the capital of a company, interest in a unit trust or similar contributory scheme, contract for the provision of credit, life insurance contract, interest in a superannuation scheme or futures contract:

(k) agreeing to do, or arranging, any of the services specified in the preceding paragraphs of this section, other than merely advising on those services.

2. A supply of donated goods or services by a non-profit body.

3. Departure tax collected under the Departure Tax Act 2005.

[Schedule 1 clause 3: replaced, on 14 October 2005, by section 9 of the Departure Tax Act 2005 (2005 No 10).]

4. Proceeds from the sales of raffles by schools for the purpose of the advancement of education.

[Schedule 1 clause 4: replaced, on 1 October 1998, by section 3 of the Value Added Tax Amendment Act 1998 (1998 No 20).]

5. A supply referred to in section 3(2A).

[Schedule 1 clause 5: inserted, on 1 April 2014, by section 24 of the Value Added Tax Amendment Act 2014 (2014 No 1).]

[The next page is 704,301]

Schedule 2

s 10(3)(b)

Exempt importations

1. Passengers' baggage and personal effects admitted free of duty and import levy under references 85, 86, and 87 of the Customs Tariff Act 1980 and section 7A of the Cook Islands Amendment Act 1981.

2. Goods admitted free of duty and import levy and entered into a Customs Controlled Area under the Customs Tariff Act 1980.

[Schedule 2 clause 2: amended, on 1 April 2014, by section 25 of the Value Added Tax Amendment Act 2014 (2014 No 1).]

3. Containers containing goods, being ordinary trade containers for packing of goods.

4. Goods imported:

(a) by or on behalf of any overseas government for its use in the Cook Islands whether in an office established by that overseas government or in any approved aid project; or

(b) by or on behalf of the United Nations, South Pacific Forum Secretariat or the South Pacific Commission or any agency of those organisations for an approved project in the Cook Islands; or

(c) for use in any approved aid project in the Cook Islands; or

(d) by or on behalf of the University of the South Pacific for use at its centre on Rarotonga; or

(e) by a non-profit body as donations for use in any project in the Cook Islands; or

(f) by any religious organisation, for its own use or for a specific church activity or project in the Cook Islands (except motor vehicles and motor cycles); or

(g) by any organisation for use in public projects in the Cook Islands being projects designed primarily for the benefit of a particular island, vaka or village community; or

(h) by any school for educational purposes in the Cook Islands; or

(i) by or on behalf any person or organisation being uniforms or sporting equipment to be donated to any sporting group in the Cook Islands; or

(j) by or on behalf of any person requiring life saving medical supplies.

[Schedule 2 clause 4: replaced, on 1 December 1997, by section 4(1) of the Value Added Tax Amendment Act 1997 (1997 No 20).]

5. Goods which the Collector is satisfied are:

(a) bona fide gifts sent from abroad to persons in the Cook Islands, the value of which does not exceed $100 in any one importation; and

(b) heirlooms; and

(c) trophies, prizes, medals and the like awarded to individuals and donated by persons resident abroad; and

(d) goods imported by an approved organisation, being gifts by persons resident abroad for the relief of victims of natural disasters; and

(e) goods temporarily imported under the Customs Revenue and Border Protection Act 2012, and any regulations made under that Act; and

(f) goods imported by the Queen's Representative and entitled to be entered free of duty under the Customs Revenue and Border Protection Act 2012.

[Schedule 2 clause 5(a): amended, on 28 February 2018, by section 7 of the Value Added Tax Amendment Act 2018 (2018 No 3).]

[Schedule 2 clause 5(e): amended, on 1 August 2012, by Schedule 4 of the Customs Revenue and Border Protection Act 2012 (2012 No 5).]

[Schedule 2 clause 5(f): amended, on 1 August 2012, by Schedule 4 of the Customs Revenue and Border Protection Act 2012 (2012 No 5).]

6. Goods imported on or before 31 December 2004 consisting of:

(a) preparations of a kind used in animal feeding falling within heading 23.09 of the Cook Islands Customs Tariff and not being dog or cat food; or

(b) fertilisers falling under Chapter 31 of the Cook Islands Customs Tariff.

[Schedule 2 clause 6: amended, on 1 December 2002, by section 4 of the Value Added Tax Amendment Act 2002 (2002 No 9).]

7. Dead persons transported from overseas to the Cook Islands for burial, and headstones.

[Schedule 2 clause 7: inserted, on 1 December 1997, by section 4(3) of the Value Added Tax Amendment Act 1997 (1997 No 20).]

[The next page is 704,801]

Schedule 3

s 11(2)

Zero-rated supplies

1. Any supply of goods if the registered person—

(a) exports the goods from the Cook Islands in the course of the supply; or

(b) satisfies the Collector that the goods have been exported from the Cook Islands by the registered person; or

(c) satisfies the Collector that the goods have been supplied to a person for consumption or use outside the Cook Islands (including as stores on departing ships or aircraft or where the acquirer of the goods is a departing sea or air traveller); or

(d) sells the goods, to an air traveller arriving in the Cook Islands, within an area under the control of the Collector of Customs as a customs examining place under the Customs Revenue and Border Protection Act 2012—

Provided that this paragraph will not apply to a supply of goods by a registered person—

(e) being goods in respect of which a deduction under section 16(4)(c) has been allowed to the registered person; or

(f) being goods which have been or will be reimported into the Cook Islands by the supplier.

[Schedule 3 clause 1: amended, on 1 August 2012, by Schedule 4 of the Customs Revenue and Border Protection Act 2012 (2012 No 5).]

2. Any supply of goods situated outside the Cook Islands at the time of supply.

3. Any supply of services being the transportation of passengers or goods (including ancillary insurance or the arranging of the insurance or the arranging of the transport of passengers or goods)—

(a) from the Cook Islands to a place outside the Cook Islands:

(b) from a place outside the Cook Islands to the Cook Islands:

(c) *[Repealed]*

[Schedule 3 clause 3: amended, on 1 December 1997, by section 5(1)(a) of the Value Added Tax Amendment Act 1997 (1997 No 20).]

[Schedule 3 clause 3(c): repealed, on 1 December 1997, by section 5(1)(b) of the Value Added Tax Amendment Act 1997 (1997 No 20).]

4. Any supply of services physically performed outside the Cook Islands.

5. Any supply of services to a person who is not a resident of the Cook Islands and who is outside the Cook Islands at the time the services are performed, not being services which are—

(a) supplied directly in connection with tangible property situated in the Cook Islands at the time the services are performed; or

(b) supplied in relation to the establishment or administration of any entity registered or to be registered under the Offshore Insurance Act 1981–82,

the Off-shore Banking Act 1981, the International Partnership Act 1984, the International Trusts Act 1984, or the International Companies Act 1981–82.

[Schedule 3 clause 5: replaced, on 1 December 1997, by section 5(2) of the Value Added Tax Amendment Act 1997 (1997 No 20).]

5. *[Repealed]*

[Schedule 3 clause 5: repealed, on 1 December 1997, by section 5(3) of the Value Added Tax Amendment Act 1997 (1997 No 20).]

6. Any supply of goods made on or before 31 December 2004 consisting of:

(a) preparations of a kind used in animal feeding falling within heading 23.09 of the Cook Islands Customs Tariff and not being dog or cat food; or

(b) fertilisers falling under Chapter 31 of the Cook Islands Customs Tariff.

[Schedule 3 clause 6: amended, on 1 December 2002, by section 5 of the Value Added Tax Amendment Act 2002 (2002 No 9).]

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