
LAWS OF SAINT VINCENT AND THE GRENADINES
REVISED EDITION

**VALUE ADDED TAX (TRANSITIONAL
PROVISIONS AND CONSEQUENTIAL
AMENDMENTS) ACT**

CHAPTER 446

**Act No.
26 of 2006**

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CHAPTER 446**VALUE ADDED TAX (TRANSITIONAL PROVISIONS
AND CONSEQUENTIAL AMENDMENTS) ACT**

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CHAPTER 446

VALUE ADDED TAX (TRANSITIONAL PROVISIONS
AND CONSEQUENTIAL AMENDMENTS) ACT

An Act to repeal a number of indirect taxes consequent on the introduction of the Value Added Tax, to set out rules for the transition from those taxes to the Value Added Tax, and to provide for related matters.

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly of Saint Vincent and the Grenadines and by the authority of the same as follows.

[Act No. 26 of 2006.]

[Date of commencement: 28th November, 2006.]

PART I

*Preliminary***1. Short title and commencement**

(1) This Act may be cited as the Value Added Tax (Transitional Provisions and Consequential Amendments) Act, 2006.

[Chapter 445.]

(2) This Act comes into force on the same day as the date appointed by the Governor-General for the purpose of section 1(2) of the Value Added Tax Act, 2006.

2. Interpretation

(1) Unless the context requires otherwise, words and phrases used in the VAT Act have the same meaning when used in this Act.

(2) Without limiting subsection (1), in this Act, unless the context requires otherwise—

“commencement date” means the date specified for the purposes of section 1(2);

“consumption tax” means the tax imposed under the Consumption Tax Act;

[Chapter 421(O).]

“entertainment tax” means the tax imposed under the Entertainment Tax Act;

“hotel tax” means the tax imposed under the Hotel Tax Act;

[Chapter 338 of the Revised Laws 1990 Edition.]

“income tax laws” means the Income Tax Act;

[Chapter 435.]

“international telecommunications surcharge” means the tax imposed under the Telecommunications Service Surcharge Act;

[Chapter 441.]

“progressive or periodic supply” means—

(a) a supply of goods or services made progressively or periodically, whether or not payment for the supply is made progressively or periodically; or

- (b) a supply of goods by way of a lease, hire, or licence (including a finance lease);

“**regulated supply**” means a supply occurring in the period commencing six months before and ending one year after the commencement date;

“**repealed legislation**” means the legislation referred to in the definition of repealed taxes and repealed by section 3(2);

“**repealed taxes**” means the following taxes—

- (a) consumption tax;
- (b) hotel tax;
- (c) entertainment tax;
- (d) telecommunications surcharge;
- (e) stamp duty on receipts;

“**telecommunications tax**” means the tax imposed under the Telecommunications Service Surcharge Act;

[Chapter 441.]

“**VAT Act**” means the Value Added Tax Act;

[Chapter 445.]

“**VAT Regulations**” means the Value Added Tax Regulations.

PART II

Abolition of Repealed Taxes

3. Abolition of repealed taxes

(1) The purpose of this Part is to ensure—

- (a) that none of the repealed taxes is payable in relation to an import, supply, or acquisition that is made on or after the date of commencement of the VAT Act; and
- (b) that the repealed taxes continue to apply to that date, so that an import, supply, or acquisition that is made before that date is subject to the laws under which those taxes are imposed.

(2) The following Acts or provisions of Acts, as the case may be, which impose the repealed taxes, are repealed with effect from the commencement date—

- (a) the Consumption Tax Act;
- (b) the Hotel Tax Act;
- (c) the Entertainment Act;
- (d) the Telecommunications Service Surcharge Act;
- (e) in the Stamp Act—
 - (i) item 54 of the Schedule (which imposes stamp duty on receipts), and
 - (ii) section 31(1).

[Chapter 421(O), Chapter 469, Chapter 470, Chapter 440.]

(3) The repealed legislation, including the rules governing the levy, payment, assessment, reporting and recovery of those taxes, continues to apply to an import, supply, or acquisition taking place before the commencement date.

(4) All appointments made under the repealed legislation and subsisting at the commencement date are treated as appointments made under the VAT Act; and an oath of secrecy taken under the repealed legislation is treated as having been taken under the VAT Act.

(5) Until specified otherwise by the Comptroller of Inland Revenue or the Comptroller of Customs, all forms and documents used in relation to the repealed legislation may continue to be used for the purposes of the VAT Act, and all references in those forms and documents to provisions of and expressions appropriate to the repealed legislation are taken to refer to the corresponding provisions and expressions used in the VAT Act.

(6) No reference in any Act, other than the VAT Act, to the repealed taxes shall be treated as a reference to tax payable under the VAT Act, and for the avoidance of doubt, any references to VAT as a consumption tax are intended as descriptions of the nature of the VAT and not as references to the consumption tax.

PART III

Transitional Provisions

4. Commencement of VAT

The purpose of this Part is to ensure that—

- (a) VAT is only payable on a supply or importation to the extent that it is made on or after the commencement date; and
- (b) an entitlement to an input tax credit only arises on an acquisition or importation to the extent that it is made on or after the commencement date.

5. Time of supply, acquisition or import

(1) This section applies for determining when a supply, acquisition, or import is made for the purposes of this Act, and in particular, for determining which supplies and imports are subject to the tax imposed by section 8 of the VAT Act.

(2) For the purposes of this Act—

- (a) a supply of goods occurs—
 - (i) when the goods are delivered or made available to the recipient of the supply, or
 - (ii) if the goods are delivered or made available before it is certain that a supply will occur, when it becomes certain that a supply has occurred;
- (b) a supply of services occurs as and when the services are performed.

(3) An acquisition is made at the same time as the corresponding supply.

(4) If a supply or acquisition is treated as being made after the commencement date by this Act and section 7(1) does not apply, section 13 of the VAT Act applies for the purposes of determining the tax period in which the supplier or recipient has an amount of output tax or input tax in relation to a supply or acquisition.

(5) Section 25 of the VAT Act applies for determining when an import is made.

6. Supplies made before VAT commences

(1) Where this Act treats a supply, acquisition, or import as being made before the commencement date, no VAT is payable in relation to the supply or import and no amount of input tax arises in relation to the acquisition or import.

(2) The fact that the time of supply referred to in section 13(1) of the VAT Act occurs after the commencement date does not alter the effect of subsection (1).

7. Payment or invoice before VAT commences

(1) Where this Act treats a supply or acquisition as being made on or after the commencement date, but before that date—

(a) all or part of the consideration is received for the supply (or provided for the acquisition); or

(b) an invoice is issued in relation to the supply or acquisition,

to the extent that there is an amount of output tax for the supplier or input tax for the recipient in relation to the supply or acquisition, the supply or acquisition is treated as being made on the commencement date.

(2) Whether or not subsection (1) would otherwise apply, if an invoice is issued in relation to a supply or acquisition, or all or part of the consideration is received for a supply (or provided for an acquisition), more than twelve months before the commencement date, to the extent of that invoice or payment, no VAT is payable in relation to the supply and no amount of input tax arises in relation to the acquisition.

(3) Subsection (2) does not apply in relation to a progressive or periodic supply, or part of that supply, that is treated under section 8 as occurring after the commencement date unless all of the consideration for that supply, or for that part of the supply, was paid more than twelve months before the commencement date.

8. Progressive or periodic supplies spanning the commencement of VAT

(1) A progressive or periodic supply, or part of the supply, is treated as being made at a particular time to the extent that the thing supplied is delivered, made available, or performed at that time, or is available for the effective use or enjoyment of the recipient of the supply at that time.

(2) For the avoidance of doubt, a progressive or periodic supply that is a lease, licence, or other form of supply of the use of goods or intangible property takes place throughout the period for which the lease, licence, or other right of use is granted.

(3) Where a progressive or periodic supply is made over a period that starts before and ends after the commencement date, VAT is imposed only to the extent that the supply is made after the commencement date.

(4) Notwithstanding anything else in this Act or the VAT Act, if construction, reconstruction, manufacture, or extension of a building or civil engineering works is performed under a written agreement executed before the commencement date and the building or works, or the property on which it is located, is made available to the recipient after that date, VAT is imposed only on the value of the work performed after the commencement date.

(5) Subsection (4) does not apply unless—

- (a) the value of the work completed before the commencement date has been determined in a manner approved by the Comptroller;
- (b) that value is submitted to the Comptroller by the end of the supplier's first VAT period after the commencement date; and
- (c) the supplier is able to produce documentation or other information supporting the valuation to the satisfaction of the Comptroller.

(6) This section does not apply to the supply of a warranty given for goods or services supplied before the commencement date if the value of the warranty was included in the price of the goods or services.

9. Gambling supplies

(1) If a gambling supply is made before the commencement date in relation to a gambling event that happens on or after that date, the gambling supply is taken to have been made on the commencement date and the consideration for the supply is included in "total amounts wagered" in the tax period that commences on that date.

(2) For the purposes of section 20 of the VAT Act, "total monetary prizes" does not include—

- (a) monetary prizes relating to the outcome of gambling events that happened before the commencement date; nor
- (b) amounts that would be included because of paragraph (b) or (d) of the definition of "total monetary prizes", to the extent that they relate to gambling events that happened before the commencement date.

PART IV

Impact of VAT on Contracts

10. Agreements entered into before VAT commences

Where a contract was concluded between two or more parties before the commencement date and no provision relating to VAT was made in the contract, notwithstanding anything in the agreement, the supplier and recipient shall negotiate to determine the amount, if any, by which the supplier may increase the price of taxable supplies made under the contract after the commencement date, such amount being calculated to recover from the recipient an amount that takes account of both the VAT due on those supplies and any tax savings resulting to the supplier because of the abolition of the repealed taxes.

11. Agreements entered into after VAT commences

For the avoidance of doubt and in accordance with section 57 of the VAT Act, which requires pricing to be VAT-inclusive, where a contract is concluded after the commencement date and does not include a provision relating to VAT, the contract price is deemed to include VAT and the supplier under the contract is required to account for the tax due whether or not the supplier took its VAT liability into account when setting the price.

12. Prevention of price exploitation on introduction of VAT

(1) Subject to subsection (3), any person who makes a regulated supply for a price that is excessive having regard to—

- (a) the introduction of the VAT Act or the abolition of the repealed taxes;
- (b) the person's costs;
- (c) whether the person is a taxable person;
- (d) supply and demand conditions relevant to the supply; and
- (e) any other relevant matter,

is liable to a penalty not exceeding two thousand dollars for the first breach of this section and a penalty not exceeding five thousand dollars for the second and each subsequent breach.

(2) No liability arises for a penalty under subsection (1) if—

- (a) the contravention was due to a genuine mistake; and
- (b) the person took reasonable precautions and exercised due diligence to avoid making the contravention.

(3) The Minister must publish in the *Gazette* guidelines for determining whether prices for regulated supplies are in contravention of subsection (1).

PART V

Consequential Amendments

13. Interaction of VAT and income taxes

(1) The following definitions are inserted into section 2 of the Income Tax Act in the appropriate alphabetical order—

“VAT” means the value added tax imposed under the Value Added Tax Act, 2006;
[Chapter 445.]

“VAT Act” means the Value Added Tax Act, 2006.
[Chapter 445.]

(2) The following section, which shall have effect from the commencement date of this Act, is inserted immediately following section 33 of the Income Tax Act—

33A. “Assessable income: Income and VAT Acts

(1) This section deals with the interaction between the calculation of assessable income under this Act and the provisions of the VAT Act.

[Chapter 445.]

(2) For the purposes of applying this Act, in determining the assessable income of a person—

- (a) to the extent that an amount of consideration received or receivable by a person includes VAT imposed under the VAT Act on a taxable supply made by the person, the VAT amount is treated as not being received, receivable, or earned by the person;
- (b) if a person (the recipient of a supply) is allowed by section 16(3) of the VAT Act to treat an excess amount as an input tax credit deductible by the person under that Act, the excess amount must be included in the income of the person if it was allowable as a deduction from income in relation to the acquisition;
- (c) if a person (the supplier) is allowed by section 16(4) of the VAT Act to treat an excess amount as an input tax credit deductible by the person under that Act, the excess amount must be included in the income of the person if it was previously excluded from the person's income in relation to the supply by this section.

(3) For the purposes of section 9, where paragraph (2)(b) or (c) apply, the amount to be included in assessable income is taken to have accrued to the person when the relevant amount was required or allowed to be included in the person's VAT return.

(4) Where paragraph (2)(b) applies in respect of an acquisition of an asset that is treated as capital for the purposes of this Act, or in respect of which expenditure is otherwise not immediately deductible under this Act—

- (a) the amount treated as an input tax credit is subtracted from any remaining amount for which a deduction is or may be allowed under any provision of this Act providing a capital allowance or otherwise allowing a deduction in relation to the original expenditure, unless that asset has already been fully deducted through such capital allowance or deduction, in which case the amount is included in income as stated in the applicable paragraph;
- (b) if no deduction is allowed under this Act in relation to the acquisition of the asset, paragraph (2)(b) does not apply.

(3) The following section, which shall have effect from the commencement date of this Act, is inserted immediately following section 39 of the Income Tax Act.”

39A. “Deductions allowable: Income and VAT Acts

(1) This section deals with the interaction between the calculation of any deductions allowable under this Act and the provisions of the VAT Act.

(2) For the purposes of applying this Act, in determining the amount of any deduction allowed to a person—

- (a) to the extent that a person is entitled to an input tax credit under the VAT Act for an amount paid or payable by the person in respect of a taxable acquisition or importation made by the person, the input tax credit amount is treated as not having been paid or payable by the person;
- (b) an amount that a person is required to pay because of sections 11(6) and (7) of the VAT Act is treated as having been paid in respect of an acquisition or importation of the goods or services to which the amount relates, and the deemed payment is treated as being made in the tax period in which the payment is required to be made under those subsections;
- (c) if a person (the supplier) is required by section 16(2) of the VAT Act to treat an excess amount as output tax payable by the person under that Act, the excess amount is allowed as a deduction from the person's income if it was treated as income of the supplier in relation to the supply;
- (d) if a person (the recipient of a supply) is required by section 16(5) of the VAT Act to treat an excess amount as output tax payable by the person under that Act, the excess amount is allowed as a deduction from the person's income if it was previously excluded from the person's deduction in relation to the acquisition.

(3) Where paragraphs (2)(c) or (d) apply, the relevant deduction is taken to be allowed when the relevant amount was required or allowed to be included in the person's VAT return.

(4) Where paragraph (2)(d) applies in respect of an acquisition of an asset that is treated as capital for the purposes of this Act, or in respect of which expenditure is otherwise not deductible under this Act—

- (a) the amount treated as output tax is added to the remaining amount (if any) for which a capital allowance or other deduction is or may be available under this Act, unless that asset has already been fully deducted through such capital allowance or deduction, in which case the amount is deductible as stated in the applicable paragraph;
- (b) if no deduction is allowed under this Act in relation to the acquisition of the asset, paragraph (2)(d) does not apply."

PART VI

Administration and Regulations

14. This Act forms part of the VAT Act

For the purposes of giving effect to this Act, the Act should be treated as if it were part of the VAT Act, and in particular, any powers or duties of the Comptroller of Inland Revenue or the Comptroller of Customs under the VAT Act apply also for the purposes of this Act.

15. Regulations

The Minister may make Regulations for transitional measures relating to the abolition of the repealed taxes, the start of VAT, the transition from the repealed taxes to VAT, and any other related matter.

CHAPTER 446

**VALUE ADDED TAX (TRANSITIONAL PROVISIONS
AND CONSEQUENTIAL AMENDMENTS) ACT**

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
