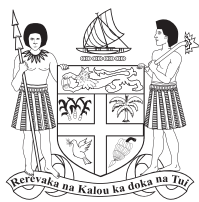


EXTRAORDINARY



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[23]

GOVERNMENT OF FIJI

VALUE ADDED TAX (AMENDMENT) DECREE 2012
 (DECREE NO. 10 OF 2012)

IN exercise of the powers vested in me as the President of the Republic of Fiji and the Commander in Chief of the Republic of Fiji Military Forces by virtue of the Executive Authority of Fiji Decree 2009, I hereby make the following Decree—

TO AMEND THE VALUE ADDED TAX DECREE 1991

Short title and commencement

- 1.—(1) This Decree may be cited as the Value Added Tax (Amendment) Decree 2012.
- (2) This Decree shall be deemed to have come into force on the tax years commencing on 1st January, 2012.
- (3) The Value Added Tax Decree 1991 shall be referred to as the “Decree”.

Section 22 amended

2. Section 22 of the Decree is amended by—
 - (a) deleting in subsection (1) “fifty thousand dollars” and substituting “one hundred thousand dollars wherever it appears”; and
 - (b) repealing the Transitional Provision after subsection (7).

Section 32 amended

3. Section 32 of the Decree is amended—
 - (a) in subsection (1) by deleting paragraph (b) and substituting the following—

“(b) Category B, with the taxable periods of twelve months ending on the last day of any month in any year, for business with an annual gross turnover of three hundred thousand dollars and below.”; and
 - (b) in subsection (3) in paragraph (a) by deleting “one hundred thousand dollars” and substituting “three hundred thousand dollars”.

Section 70 amended

4. Section 70 of the Decree is deleted and substituted by the following—

“Dwelling House

70—(1) Where—

- (a) a new dwelling house; or
- (b) land acquired for the purpose of building a new dwelling house, is a taxable supply to an eligible person by a registered person in the course or furtherance of a taxable activity carried on by that registered person,

the Commissioner upon application by the eligible person shall refund an amount of tax paid in respect of that supply calculated in accordance with subsection (4).

- (2) Any claim under subsection (1) by an eligible person can only be made once.

(3) The Commissioner shall prescribe a form for applications made under subsection (1) and such applications must be supported by tax invoices or other evidence as the Commissioner deems necessary.

(4) For the purpose of subsection (1), the amount of refund of the tax paid in respect of the supply shall be lesser of—

- (i) an amount equal to the tax fraction of \$120,000 or such other amount as the Minister may declare in the *Gazette*; or
- (ii) an amount equal to the tax fraction of the consideration in money for the supply.

(5) The Commissioner shall not refund any tax paid on any land under subsection (1) paragraph (b), until a new dwelling house is built on that land.

(6) Any eligible person may apply to the Commissioner for a refund of tax paid for goods and services purchased for the purpose of this section, provided the eligible person has—

- (a) acquired the goods and services necessary to build a new dwelling house; or
- (b) either constructed or arranged for construction of a new dwelling house,

and the Commissioner is satisfied that those goods and services have been used in the construction of that new dwelling house.

(7) The Commissioner shall not be required to refund any tax to an eligible person unless, within 3 years after the time of supply of the new dwelling house or land on which a new dwelling house will be built for the eligible person, the eligible person has applied to the Commissioner for the refund of tax in the prescribed form.

(8) If an eligible person who is entitled to a refund under subsection (4), has an amount owing to the Commissioner by that person in respect of any tax, penalty, interest or costs under this Decree or any other tax under the Tax Administration Decree 2009, the Commissioner shall deduct that refund to pay for such other liability and the remaining excess be refunded to the eligible person.

(9) For the purpose of this section—

“dwelling house” in relation to an eligible person, means a building constructed solely as a residence for the exclusive occupation, as a principal place of abode of that eligible person’s household, and includes any land or appurtenances belonging to the dwelling house or usually enjoyed with it, but excludes any portion on which a taxable activity is carried out;

“eligible person” means any natural person who is a citizen of Fiji and includes a non-profitable body approved by the Commissioner engaged in the provision of residential accommodation to the underprivileged; and

“new” means not having been either used by any person acquired or held by any person for use of that person, or an existing dwelling house that passes from the possession of a registered person to an eligible person.”

(10) Notwithstanding this section, where a new dwelling house commenced building prior to 1st January, 2012 and the completion certificate is issued after the commencement of this Decree, any application under this section by an eligible person, the Commissioner shall consider only tax invoices issued on or after 1st January, 2012 for the purposes of subsection (4).

(11)—(a) Any person who is an approving officer for the processing of a completion certificate, who permits or conceals any act to connive or collude, directly or indirectly with any eligible person for any payment or reward whatsoever, commits an offence and is liable to a fine not exceeding \$50,000 or 12 months imprisonment or both.

(b) Any tax officer who commits an offence under paragraph (a), shall be subject to section 57 under the Tax Administration Decree 2009.”

GIVEN under my hand this 10th day of January 2012.

EPELI NAILATIKAU
President of the Republic of Fiji