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VALUE ADDED TAX (AMENDMENT) REGULATIONS, 2018

Arrangement of Regulations

Regulation

1.	Citation and commencement.....	2
2.	Amendment of regulation 2 of the principal Regulations.....	2
3.	Amendment of regulation 9 of the principal Regulations.....	3
4.	Amendment of regulation 10 of the principal Regulations.....	3
5.	Amendment of regulation 11 of the principal Regulations.....	3
6.	Amendment of regulation 14 of the principal Regulations.....	4
7.	Amendment of regulation 34 of the principal Regulations.....	4
8.	Amendment of regulation 38 of the principal Regulations.....	4
9.	Amendment of heading of Part VIII of the principal Regulations.....	4
10.	Revocation and replacement of regulation 44 of the principal Regulations.....	5
11.	Amendment of regulation 45 of the principal Regulations.....	5
12.	Revocation of regulation 46 of the principal Regulations.....	5
13.	Revocation and replacement of First Schedule to the principal Regulations.....	5
14.	Amendment to the principal Regulations.....	10

**VALUE ADDED TAX
(NO. 32 OF 2014)**

**VALUE ADDED TAX (AMENDMENT)
REGULATIONS, 2018**

The Minister, in exercise of the powers conferred by section 96 of the Value Added Tax Act, makes the following Regulations —

1. Citation and commencement.

- (1) These regulations, which amend the Value Added Tax Regulations¹, may be cited as the Value Added Tax (Amendment) Regulations, 2018.
- (2) These regulations shall come into operation on the 1st day of July, 2018.

2. Amendment of regulation 2 of the principal Regulations.

Regulation 2 of the principal Regulations is amended in subsection (1) by —

- (a) the insertion in the appropriate alphabetical order of the following words and definition —
“**VAT Comptroller**” means the Comptroller of Value Added Tax appointed in accordance with section 12 of the Act;”;
- (b) by the deletion of the words “**ancillary transport services**” and its definition and the substitution of the following —
“**ancillary transport services**” means services supplied by the supplier of international transport services or on behalf of such supplier that includes —
 - (a) stevedoring services;
 - (b) lashing and securing services;
 - (c) cargo inspection services;
 - (d) preparation of customs documentation;
 - (e) container handling services;
 - (f) storage of transported goods or goods transported as a part of the same journey to which the international transport services relate;”;and

¹No. 32 of 2014.

- (c) by the deletion of the words “**dwelling**” and “**international transport services**” and their definition.

3. Amendment of regulation 9 of the principal Regulations.

Regulation 9 of the principal Regulations is amended —

- (a) in paragraph(1)(a)(iii), by the deletion of the words “explicitly included by the institution in the cost of tuition” and the substitution of the words “ancillary to the provision of tuition”; and
- (b) in paragraph (2), by the deletion of sub-paragraph (b) and the substitution of the following —
 - “(b) fees and charges billed separately by an institution for the provision of books and other materials not integral to tuition and the use of and access to facilities and other similar amenities and services.”.

4. Amendment of regulation 10 of the principal Regulations.

Regulation 10 of the principal Regulations is amended in paragraph (3) by the deletion of the words “Subject to regulation 11, the” and the substitution of the word “The”.

5. Amendment of regulation 11 of the principal Regulations.

Regulation 11 of the principal regulations is amended —

- (a) in the head note by the deletion of the words “Condo leased collectively” and the substitution of the words “Condo or other residential accommodations leased by an administrator.”;
- (b) by the revocation of paragraph (1) and the substitution of the following—
 - “(1) The leasing of condos and other residential accommodations that—
 - (a) are part of a pool or other collective rental agreement;
or
 - (b) is a commercial rental establishment under Regulation 10;and notwithstanding the threshold requirement, the administrator must register as taxable person under section 19 of the Act.”;
- (c) by the repeal and replacement of paragraph (4) as follows —
 - “(4) For the purposes of this regulation —
An administrator is—

- (a) the hotel or other person responsible, in accordance with a collective rental agreement, for administration of condos or other residential accommodations forming part of a pool; or
- (b) a person who, by electronic means or otherwise, acts as an agent of a person providing the rental or lease of a commercial rental establishment.”.

6. Amendment of regulation 14 of the principal Regulations.

Regulation 14 of the principal Regulations is amended by the deletion of paragraph (2).

7. Amendment of regulation 34 of the principal Regulations.

Regulation 34 of the principal Regulations is amended by —

- (a) in paragraph (1) —
 - (i) immediately after the word “Comptroller”, the deletion of the words “on request” and the substitution of the words “within seven business days of a request”;
 - (ii) the deletion of sub-paragraph (b) and the substitution of the following —
 - “(b) any other records that the Comptroller considers necessary to determine whether the refund should be allowed.”; and
- (b) the insertion immediately after paragraph (2) of a new paragraph (3) as follows —
 - “(3) The Comptroller shall in accordance with section 56(13) of the Act issue a notice of decision to a person claiming a refund.”.

8. Amendment of regulation 38 of the principal Regulations.

Regulation 38 of the principal Regulations is amended by the deletion of paragraph (5) and the substitution of the following —

- “(5) A person who commits an offence under the Act or these Regulations for which no penalty is prescribed is liable on conviction to a fine not exceeding ten thousand dollars (\$10,000.00) or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.”.

9. Amendment of heading of Part VIII of the principal Regulations.

The heading of Part VIII of the principal Regulations is amended by the deletion of the words “ADMINISTRATIVE FINES”.

10. Revocation and replacement of regulation 44 of the principal Regulations.

Regulation 44 of the principal Regulations is revoked and replaced as follows —

“44. Fixed penalties.

- (1) Pursuant to section 16 of the Act, the contraventions prescribed in the first column of the *First Schedule* are subject to the fixed penalties set out in the third column of the *First Schedule*.
- (2) The Value Added Tax Department may, where the Comptroller applies a fixed penalty, publish in such manner as the Comptroller deems appropriate a statement of the contravention alleged against the taxpayer.”.

11. Amendment of regulation 45 of the principal Regulations.

Regulation 45 of the principal Regulations is amended —

- (a) by the deletion of the words “administrative fines” in the regulation heading and the substitution of the words “fixed penalties”;
- (b) in paragraph (1), —
 - (i) by the deletion of the words “variable fine” and the substitution of the words “fixed penalty”;
 - (ii) by the deletion of the word “must” and the substitution of the words “may, subject to the Rules,”;
 - (iii) by the deletion of the words “fine” or “fines” and the substitution of the words “penalty” or “penalties”, respectively;
- (c) by the deletion of subparagraph (e);
- (d) by the deletion of the words “(1)” at the beginning of paragraph (1); and
- (e) by the deletion of paragraphs (2) – (5).

12. Revocation of regulation 46 of the principal Regulations.

Regulation 46 of the principal Regulations is revoked.

13. Revocation and replacement of First Schedule to the principal Regulations.

The *First Schedule* to the principal Regulations is revoked and replaced by the following —

“FIRST SCHEDULE (Regulation 44)

FIXED PENALTIES FOR CONTRAVENTIONS

Description of Contravention	Provision of Act	Fixed Penalty Applicable S
Not being a taxable person, or being an unregistered taxable person, collecting, advertising or quoting VAT in respect of a taxable supply made to another person	Section 4	Maximum 70,000.00
Being a registrant, failing in respect of a taxable supply to state the price inclusive of value added tax	Section 10	Maximum 50,000.00
Being a registrant, failing when charging VAT on a taxable supply to state the tax separately on a VAT invoice or a VAT sales receipt	Section 10	Maximum 50,000.00
Failure to apply for registration	Section 19 Section 24	Maximum 100,000.00
Being an unregistered taxable person, issuing to a person a VAT invoice, VAT sales receipt, tax credit note or tax debit note	Sections 24	Maximum 100,000.00
Being a registrant, failing to display a valid certificate of registration in a conspicuous place	Section 25	Maximum 50,000.00

Failure to submit an import declaration to the Comptroller of Customs; or to pay the VAT due on the import	Section 44	Maximum 100,000.00
Failure to submit an import declaration in the prescribed form, including the information necessary to calculate the VAT payable in respect of the import or in the prescribed manner approved by Customs	Section 44	Maximum 50,000.00
Failure to comply with a request by the Comptroller made by notice in writing	Section 62	Maximum 50,000.00
Failure to give the Comptroller or a VAT officer reasonable assistance or to answer questions or to impede the exercise of powers under the Act	Section 62	Maximum 100,000.00
Failure to provide the Comptroller documents requested pursuant to section 47 or 60	Section 47 and 60	Maximum 150,000.00
Being a bank or other financial institution, failure to comply with a request by the Comptroller made in writing	Section 62	Maximum 150,000.00
Being a promoter, allowing public entertainment to occur without receiving the approval in writing of the Comptroller	Section 65	Maximum 50,000.00

Being a promoter, allowing public entertainment to occur without paying the amount of security requested by the Comptroller	Section 65	Maximum 100,000.00
Being deemed an agent, failing within the time prescribed to pay money or deliver property specified in the notice to the Comptroller	Section 70	Maximum 100,000.00
Being a receiver, failing to give notice to the Comptroller in writing, the earlier of the occurrence of fourteen days after the appointment as a receiver or taking possession of an asset of a person liable to value added tax within The Bahamas	Section 73	Maximum 50,000.00
Being a receiver, failing to set aside the value added tax assessed out of the proceeds of the disposal of an asset	Section 73	Maximum 100,000.00
Being a declared representative contravening the provisions of section 74	Section 74	Maximum 100,000.00
Being a director or similar officer, failing to pay within the specified time, the amount payable in a notice of assessment	Section 76	Maximum 30,000.00
Failing to keep reliable accounting records in English in relation to a taxable transaction or	Section 79	Maximum 100,000.00

failing to keep records for a period of five years		
Including a false tax payer identification number on a document prescribed or used for the purposes of the Act	Section 85	Maximum 150,000.00
Being a registrant, failing to pay the increased value added tax chargeable in relation to a taxable supply on a variation in the value added tax rate	Section 90	Maximum 150,000.00
Being an unregistered taxable person, collecting from the recipient of a supply, the increased value added tax chargeable in relation to the supply on a variation in the value added tax rate	Section 90	Maximum 150,000.00
Making an omission, a false or misleading statement to the Comptroller or a value added tax officer	Section 92	Maximum 150,000.00
Being the administrator of a hotel pool, rental pool or other pooled accommodation, failing to register under section 19	Regulation 11	Maximum 30,000.00
Being the administrator of a hotel pool, rental pool or other pooled accommodation, failing to pay value added tax on the accommodation	Regulation 11	Maximum 30,000.00

14. Amendment to the principal Regulations.

The principal Regulations is amended by the deletion of the words “administrative fine” wherever they appear and the substitution of the words “fixed penalty”.

Made this 30th day of May, 2018.

Signed
KEVIN PETER TURNQUEST
Minister Responsible for Finance