

REPUBLIC OF KIRIBATI  
(No. 14 of 2013)

I assent

*Ando Tung*  
Beretitenti

*30 Dec,* 2013



**VALUE ADDED TAX ACT 2013**  
to provide for the imposition of value added tax and for matters connected therewith

Commencement

2013

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti

**PART I**  
**PRELIMINARY**

**Short Title and Commencement**

- (1) This Act may be cited as the Value Added Tax Act, 2013.
- (2) This Act applies to supplies and imports made on or after 1 January 2014.

**Interpretation**

- In this Act, unless the context otherwise requires –

“adjustment event” has the meaning in section 28(6);

“approved form” has the meaning in the Revenue Administration Act;

“associate”, in relation to a person, means any other person who acts or may act in accordance with the directions, requests, suggestions, or wishes of the first-mentioned person (other than solely by reason of an employment or client relationship), and the first-mentioned person is an associate of the second-mentioned person;



"Board" means the Internal Revenue Board established by the Internal Revenue Board Act, 1990;

"commencement date" means the date specified in section 1(2);

"company" means a body or association of persons corporate or unincorporated, but does not include a partnership;

"credit note" means a document that a supplier is required to issue under section 33(1);

"creditable acquisition", in relation to a registered person, means -

- (a) a taxable supply made to the person by another registered person; or
- (b) a taxable import made by the person;

"Customs Act" means the Customs Act, 2005;

"Customs control" has the meaning under the Customs Act;

"debit note" means a document that a supplier is required to issue under section 33(2);

"deemed output tax", in relation to a registered person, means output tax deemed to be received by the registered person under section 12(2), 19(2), 28(1), or 28(4);

"deemed taxable supply" means a taxable supply deemed to have been made by a person under section 12(1) or 19(1);

"enterprise" has the meaning in section 3;

"exempt import" means an import listed in the First Schedule;

"exempt supply" means a supply listed in the Second Schedule;

"fair market value" has the meaning in section 4;

"goods" means immovable property or tangible movable property, but does not include money;

"Government" means the Government of the Republic of Kiribati;

"government entity" means -

- (a) the Government, including a department, division, or agency of the Government;
- (b) a political subdivision of the Government;

- (c) a foreign government or political subdivision of a foreign government;  
or
- (d) a person that has the responsibility to issue a licence, permit, certificate, concession, authorisation, or other document for a fee under a law of Kiribati;

“hire purchase agreement” means a sale and purchase agreement under which the price is paid by instalments and each instalment includes an interest charge;

“import” means to bring goods, or cause goods to be brought, into Kiribati from a place outside Kiribati;

“importer”, in relation to an import of goods, includes the person who owns the goods, or any other person for the time being possessed of or beneficially interested in the goods, or permitted to make a Customs entry in relation to the goods under section 29(2) of the Customs Act;

“input tax”, in relation to a registered person, means –

- (a) the VAT paid in respect of a creditable acquisition by the person; and
- (b) an amount that is treated for the purposes of this Act as input tax paid by the person,

but does not include late payment interest or penalty imposed under this Act or the Revenue Administration Act in respect of a creditable acquisition;

“input tax credit” means the credit for input tax allowed under this Act;

“international agreement” means an agreement between the Government and a foreign government or international organisation for the provision of financial, technical, humanitarian, or administrative assistance to the Government;

“international organisation” means an organisation to which the International Financial Organisation Act, 1985 applies or any other organisation the members of which are sovereign powers or governments of sovereign powers;

“inventory” has the meaning that it has for the purposes of the Income Tax Act;

“invoice” means a document notifying an obligation to make a payment and includes a tax invoice;

“Kiribati” means the Republic of Kiribati;

“late payment interest” means late payment interest imposed under the Revenue Administration Act;

“money” means –

- (a) any coin or paper currency that is legal tender in Kiribati, other than a coin or paper currency that is a collector’s piece;
- (b) a bill of exchange, promissory note, bank draft, or postal or money order; or
- (c) whatever is supplied as payment by way of –
  - (i) a credit card or debit card; or
  - (ii) the crediting or debiting of an account;

“output tax” means –

- (a) the VAT received by a registered person on a taxable supply made by the person;
- (b) the VAT payable by a registered person on a supply of imported services made to the person; or
- (c) an amount that is deemed output tax of the person;

“penalty” means penalty imposed under this Act or the Revenue Administration Act;

“person” means a natural person, partnership, trust, company, government, political subdivision of a government, or an international organisation;

“political subdivision of a government”, means a state, provincial, local, or other government at a level lower than the national government;

“prescribed” means prescribed in Regulations;

“price” has the meaning in section 5;

“received”, in relation to a person, includes applied on behalf of the person either at the instruction of the person or under any law;

“recipient”, in relation to a supply, means the person or persons to whom the supply is made;

“recipient-created tax invoice” means a recipient-created tax invoice referred to in section 18(3);

“registered person” means a person registered under section 9, and includes a person who is required to apply for registration but who has not done so within the time specified in section 8;

“registration threshold” means the amount specified in section 8(2);

“Revenue Administration Act” means the Revenue Administration Act, 2013;

“services” means anything that is not goods or money;

“supplier”, in relation to a supply, means the person or persons who made the supply;

“supply” means a supply of goods, a supply of services, or a supply of imported services;

“supply of goods” means a sale, exchange, or other transfer of the right to dispose of goods as owner, including under a hire purchase agreement;

“supply of imported services” has the meaning in section 6;

“supply of services” means anything done that is not a supply of goods or money, including the provision of utilities and the grant, assignment, or surrender of any right;

“tax fraction”, in relation to a taxable supply, means the fraction computed in accordance with the following formula –

$$r / (1+r)$$

where  $r$  is the rate of VAT applicable to the supply as determined under section 7;

“taxpayer identification number”, in relation to a person, means the taxpayer identification number issued to the person under the Revenue Administration Act;

“tax invoice” means a document required to be issued under section 32;

“taxable import” means an import of goods, other than an exempt import;

“taxable supply” means a supply, other than an exempt supply, made in Kiribati by a person in the course or furtherance of an enterprise, and includes a deemed taxable supply;

“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;

“trust” includes the estate of a deceased person;

“value added tax” or “VAT” means value added tax imposed under section 7;

“VAT period” means the period of three months ending on the last day of March, June, September, and December; and

“zero-rated supply” means a supply listed in the Third Schedule.

### **Enterprise**

3. (1) Subject to this section, an enterprise is –
  - (a) an activity carried on continuously or regularly by a person, whether for pecuniary profit or not, if the activity involves or is intended to involve the supply of goods or services to another person, including a business, trade, commerce, manufacture, profession, vocation, or occupation of any kind; or
  - (b) an activity of a government entity that involves the supply of goods or services for a fee, including but not limited to the service of issuing a licence, permit, certificate, concession, authorisation, or other document for a fee.
- (2) An enterprise does not include –
  - (a) an employment;
  - (b) a hobby or leisure activity of an individual; or
  - (c) an activity of a person, other than an individual, which is essentially carried on as a hobby or leisure activity for the benefit of a member, owner, or associate of the person.
- (3) An activity done or undertaken in the commencement, termination, or reorganisation of an enterprise is done in the course or furtherance of the enterprise.
- (4) In this section, “employment” has the meaning in the Income Tax Act and includes the employment of an individual as a domestic servant.

## Fair Market Value

4. (1) The fair market value of a supply is the price that the supply would fetch in an open market transaction freely made at the time of supply between persons dealing with each other at arm's length.
- (2) If it is not possible to determine the fair market value of a supply (referred to as the "actual supply") under subsection (1), the fair market value is the price that a similar supply would ordinarily fetch in an open market transaction freely made at the time of the actual supply between persons dealing with each other at arm's length, adjusted to take account of the differences between the similar supply and the actual supply.
- (3) A supply is similar to another supply if it is the same as, or closely resembles, the other supply taking account of the character, quality, quantity, functionality, materials, or reputation of the goods or services supplied.
- (4) If the fair market value of a supply cannot be determined under subsection (1) or (2), the fair market value is the price that is an objective approximation of the price the supply would fetch in an open market transaction freely made at the time of supply between persons dealing with each other at arm's length as determined by the Board based on generally accepted principles of valuation.
- (5) If a provision of this Act requires the fair market value to be determined at a particular time for particular goods or services held by a person, that value is worked out by reference to the fair market value of a supply of those goods or services as determined under this section, at that time.

## Price

5. (1) Subject to this section, the price of a supply is the total of the following amounts –
  - (a) the amount in money paid or payable by any person, directly or indirectly, for the supply;
  - (b) the fair market value of an amount in kind paid or payable by any person, directly or indirectly, for the supply;
  - (c) any taxes, duties, levies, fees, and charges (not including VAT) paid or payable on, or by reason of the supply,  
  
reduced by any discounts or rebates allowed and accounted for at the time of supply.
- (2) The price of a sale of goods under a hire purchase agreement to which section 13(2) applies does not include any amount payable in relation to a supply of credit under the agreement.

## **Supply of Imported Services**

6. (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;
  - (b) the supply is made by a person who is not a registered person;
  - (c) the supply is not a taxable supply because the supply is not made in Kiribati;
  - (d) the supply would have been a taxable supply if it had been made in Kiribati;
  - (e) the registered person receiving the supply would not have been entitled to a credit for the full amount of input tax payable 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 an enterprise both in and outside Kiribati –
- (a) that part of the enterprise carried on outside Kiribati is treated as if it were a separate enterprise carried on by a person (referred to as the “overseas person”) separate from the registered person and both persons are treated as associates of each other;
  - (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 or furtherance of an enterprise carried on outside Kiribati.

## **PART II IMPOSITION OF TAX**

### **Imposition and Liability for VAT**

7. (1) Subject to this Act, value added tax is imposed at the rate specified in subsection (3) on the following –
- (a) a taxable supply made by a registered person;
  - (b) a taxable import;
  - (c) a supply of imported services.

- (2) The amount of VAT payable in respect of a taxable supply, taxable import, or supply of imported services is computed by applying the rate specified in subsection (3) to the value of the supply or import.
- (3) The rate of VAT is –
  - (a) in the case of a taxable supply that is a zero-rated supply, zero percent;  
or
  - (b) in any other case, 12.5%.
- (4) The liability for VAT on a taxable supply arises at the time of supply and must be accounted for to the Board by the registered person making the supply in accordance with section 39(1).
- (5) Notwithstanding anything contained in any law but subject to section 43, the VAT payable by a registered person in respect of a taxable supply is recoverable by the person from the recipient of the supply.
- (6) The liability for VAT imposed on a taxable import arises at the time of import and must be paid by the importer in accordance with section 39(2).
- (7) The liability for VAT on a supply of imported services arises at the time of supply and must be accounted for to the Board by the registered person receiving the supply in accordance with section 39(1).

### **PART III REGISTRATION**

#### **Application for Registration**

8. (1) A person must apply to the Board for registration for VAT –
  - (a) at the beginning of any twelve (12) month period, if there are reasonable grounds to expect that the total value of taxable supplies to be made by the person in that period will exceed the registration threshold;
  - (b) at the end of any twelve (12) month or lesser period, if, in that period, the total value of taxable supplies made by the person exceeds the registration threshold; or
  - (c) if the person is a government entity that has commenced to undertake an enterprise.
- (2) The registration threshold is \$100,000.

- (3) In determining whether a person exceeds the registration threshold for a period, the value of the following taxable supplies is ignored –
  - (a) a taxable supply by way of the sale of a capital asset of the enterprise of the person;
  - (b) a taxable supply made solely as a consequence of the person selling the whole or a part of the person's enterprise or permanently ceasing to carry on the person's enterprise.
- (4) In determining whether a person exceeds the registration threshold, the Board may have regard to the value of taxable supplies made by an associate of the person.
- (5) An application for registration by a person under this section must be in the approved form and filed in the prescribed manner within seven days of the person becoming required to apply for registration.
- (6) For the purposes of this section, the reference to a taxable supply made by a person includes a supply of imported services made to the person determined on the assumption that the person is already a registered person.
- (7) In this section, "capital asset" means a tangible or intangible asset of an enterprise having a useful life of longer than one year, but does not include inventory.

#### **Registration**

9. (1) The Board must register a person who has applied for registration if satisfied that the person is required to apply for registration under section 8.
- (2) If the Board is satisfied that a person who is required to apply for registration has not done so within the time limit specified in section 8, the Board must register the person.
- (3) The Board must issue a registered person with a VAT registration certificate in the approved form.
- (4) The registration of a person under subsection (1) or (2) takes effect from the beginning of the first VAT period after the person was required to apply for registration or such later time as set out in the person's VAT registration certificate.
- (5) Only persons who are required to apply for registration under section 8 can be registered for the purposes of the Act.

## Obligations of a Registered Person

10. (1) A registered person must display in a conspicuous place –
  - (a) the original copy of its VAT registration certificate at the principal place at which the person carries on its enterprise; and
  - (b) a certified copy of the certificate obtained from the Board at every other place at which the person carries on its enterprise.
- (2) A registered person must notify the Board, in writing, of any change in the name (including business name), address, place of business, or nature of the enterprise of the person within 21 days of the change occurring.

## Cancellation of Registration

11. (1) A registered person must apply, in the approved form, for cancellation of the person's registration if –
  - (a) in the case of a government entity, the entity ceases to carry on an enterprise; or
  - (b) in the case of any other registered person –
    - (i) the person ceases to make taxable supplies; or
    - (ii) the person continues to make taxable supplies but the annual value of those supplies has fallen below the registration threshold, other than when there is a reasonable expectation that this is only temporary.
- (2) An application under –
  - (a) subsection (1)(a) must be made within seven days of the date on which the government entity ceased to carry on an enterprise;
  - (b) subsection (1)(b)(i) must be made within seven days of the date on which the person ceased to make taxable supplies; or
  - (c) subsection (1)(b)(ii) must be made within seven days of the date on which the annual value of the person's taxable supplies ceased to exceed the registration threshold.
- (3) The Board must, by notice in writing, cancel the registration of a person if –
  - (a) the person has applied for cancellation under subsection (1)(a) and the Board is satisfied that the government entity has ceased to carry on an enterprise;

- (b) the person has applied for cancellation under subsection (1)(b)(i) and the Board is satisfied that the person has ceased to make taxable supplies;
  - (c) the person has applied for cancellation under subsection (1)(b)(ii), unless the Board has a reasonable expectation that the annual value of the person's taxable supplies is only temporarily below the registration threshold; or
  - (d) the person has not applied for cancellation but the Board is satisfied that the person is required to apply for cancellation of registration under subsection (1).
- (4) The cancellation of a person's registration takes effect from the date set out in the notice of cancellation.
- (5) If a person's registration is cancelled under this section, the person must –
- (a) immediately cease to hold out that the person is a registered person, including on any documentation used by the person;
  - (b) file a final VAT return and pay all VAT due, including the VAT due as a result of section 12, within 15 days after the date of cancellation of the person's registration; and
  - (c) immediately return the person's VAT registration certificate and any certified copies thereof to the Board.
- (6) Despite cancellation of the registration of a person under this section, the person remains liable for any act done or omitted to be done while registered.

#### **Deemed Taxable Supply on Cancellation of Registration**

12. (1) A person whose registration is cancelled is deemed to have made a taxable supply of any inventory on hand at the time the registration is cancelled but only if the person was allowed an input tax credit for the acquisition or import of the inventory, or in respect of the acquisition or import of goods that have been subsumed into that inventory.
- (2) The taxable supply under subsection (1) is deemed to have been made by the person immediately before the person's registration is cancelled and the person is deemed to have received, at that time, an amount of output tax equal to the amount of the input tax credit allowed to the person on acquisition or import of the inventory.

## PART IV – GENERAL RULES RELATING TO SUPPLIES

### Mixed Supplies

13. (1) Unless the context otherwise requires –
- (a) a supply of a particular kind that is ancillary or incidental to a supply of another kind (“the principal supply”) is treated as part of the principal supply; or
  - (b) a supply of services that is ancillary or incidental to an import of goods is treated as part of the import of goods.
- (2) The sale of goods under a hire purchase agreement is treated as a supply of goods and a supply of credit under the agreement provided the credit is specified as a separate charge and is disclosed to the recipient of the supply.

### Time of Supply

14. (1) Subject to this Act, a supply occurs on the earlier of –
- (a) the date on which the invoice for the supply is issued; or
  - (b) the date on which any payment (including part payment) for the supply is made.
- (2) A supply between associates or by way of a gift occurs –
- (a) in the case of goods, on the date the goods are delivered; or
  - (b) in the case of services, on the date the performance of the services is complete.
- (3) A supply of goods by means of a vending machine, meter, or other device operated by a coin, note, or token occurs on the date the coin, note, or token is taken from the machine, meter, or other device by or on behalf of the supplier.
- (4) If services are supplied –
- (a) by way of a lease of goods; or
  - (b) progressively under an agreement or law that provides for periodic payments,

the supply of services is treated as a series of separate, successive supplies of services corresponding to the successive parts of the period of the lease or agreement, or as determined by law, and each successive supply is treated as occurring on the earlier of the date on which the payment for that successive supply is due or received.

### Place of Supply of Goods

15. A supply of goods occurs in Kiribati if the goods are delivered or made available in Kiribati by the supplier or, if the delivery or making available involves transportation, the goods are in Kiribati when the transportation commences.

### Place of Supply of Services

16. (1) A supply of services occurs in Kiribati if the enterprise of the supplier from which the services are supplied is in Kiribati.
- (2) Despite subsection (1), a supply of services occurs in Kiribati if the recipient of the supply is not a registered person and –
- (a) the services are physically performed in Kiribati by a person who is in Kiribati at the time of supply;
  - (b) the services are directly related to immovable property in Kiribati;
  - (c) the services are radio or television broadcasting services received at an address in Kiribati;
  - (d) the services are electronic services delivered to a person in Kiribati at the time of supply;
  - (e) the supply is a transfer or assignment of, or grant of a right to use, a copyright, patent, trademark, or similar right in Kiribati; or
  - (f) the services are telecommunications services and the supply is initiated by a person in Kiribati 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 Kiribati.
- (3) For the purposes of subsection (2)(f), 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; or
    - (iii) contracts for the supply; or

- (b) the person to whom the invoice for the supply is sent.
- (4) In this section, “electronic services” 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 thereof;
  - (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.

#### Value of a Supply

17. (1) Subject to this Act, the value of a supply is the price of the supply.
- (2) If –
- (a) no price is charged on a taxable supply made by a registered person to an associate or the price is less than the fair market value of the supply; and
  - (b) the recipient of the supply is not entitled to an input tax credit for whole of the input tax payable in respect of the supply,
- the value of the supply is the fair market value of the supply determined at the time of supply.
- (3) Except as provided in this Act, if no price is charged for a supply, the value of the supply is zero.
- (4) If a taxable supply is made by a registered person without a separate amount being identified as VAT, the value of the supply is computed according to the following formula –

$$A - (A \times B)$$

where –

A is the total amount charged for the supply; and

B is the tax fraction.

#### **Value of a Supply of Imported Services**

18. (1) Subject to subsection (2), the value of a supply of imported services -
- (a) if the supplier and recipient are associates, is the fair market value of the supply at the time of supply; or
  - (b) in any other case, is the price of the supply.
- (2) If a registered person liable for VAT under section 7(1)(c) and (7) in respect of a supply of imported services would have been entitled to a credit for part of the amount of input tax payable if the person had acquired the services in a creditable acquisition, the value of the supply under subsection (1) is reduced by an amount equal to the proportion of the input tax that would have been creditable.
- (3) A registered person liable for VAT under section 7(1)(c) and (7) in respect of a supply of imported services must prepare a recipient-created tax invoice in the approved form in respect of the supply.

### **PART V – SPECIAL RULES RELATING TO SUPPLIES**

#### **Application of Goods to Private or Exempt Use**

19. (1) An application of goods by a registered person to a private or exempt use is deemed to be a taxable supply made by the person, but only if the person has been allowed an input tax credit in respect of the acquisition or import of the goods.
- (2) A taxable supply under subsection (1) is deemed to have been made by the registered person at the time that the goods are first applied to private or exempt use and the person is deemed to have received, at that time, an amount of output tax equal to the amount of input tax credit allowed to the person in respect of the acquisition or import of the goods.
- (3) In this section, “exempt use” means the use of goods or services to make an exempt supply.

#### **Second-hand Goods**

20. (1) This section applies if the following conditions are satisfied –
- (a) a taxable supply of second-hand goods has been made by a registered person who is a second-hand goods supplier;

- (b) the second-hand goods were purchased by the registered person from a person who is not a registered person;
  - (c) the supply of the second-hand goods to the registered person would not have been an exempt or zero-rated supply if the supplier of the goods to the registered person was also a registered person;
  - (d) the second-hand goods were supplied by the registered person in substantially the same state as they were in when purchased by the registered person.
- (2) If subsection (1) applies –
- (a) the registered person is deemed to have paid an amount of input tax in respect of the acquisition of the second-hand goods equal to the tax fraction of the price paid for the second-hand goods; and
  - (b) the registered person is allowed an input tax credit for the deemed input tax under paragraph (a) in the VAT period in which the time of supply by the registered person of the second-hand goods occurs.
- (3) If a second-hand goods supplier receives second-hand goods (referred to as “traded-in goods”) as part payment for a supply the supplier makes to a person who is not registered, the fair market value of the traded-in goods used to determine the price for the supply must be the same as the fair market value used to determine the price paid by the dealer to purchase the traded-in goods.

- (4) In this section –

“second-hand goods” means goods that have previously been used by a person who is not a registered person; and

“second-hand goods supplier” means a registered person whose enterprise principally involves the re-supply of second-hand goods in substantially the same state as they were in when purchased by the person.

### **Rights, Options, and Vouchers**

21. (1) If –

- (a) the supply of a right or option was a taxable supply; and
- (b) another supply (“the subsequent supply”) is made on the exercise of the right or option,

the price for the subsequent supply is limited to the additional price, if any, given for the subsequent supply or in connection with the exercise of the right or option.

- (2) The issue of a voucher is not a supply if the voucher -
- (a) entitles the holder to receive supplies of goods or services up to a monetary amount on redemption of the voucher; and
  - (b) is issued for an amount in money.
- (3) If a voucher referred to in subsection (2) is redeemed for a taxable supply by a registered person, the amount referred to in subsection (2)(b) is treated as comprising two components -
- (a) an amount as the price or part of the price for the supply calculated as the amount referred to in subsection (2)(b) reduced by the tax fraction of that amount; and
  - (b) an amount as the VAT or part of the VAT payable in respect of the supply calculated as the tax fraction of the amount referred to in subsection (2)(b).
- (4) If -
- (a) a registered person issues a voucher for no charge;
  - (b) the voucher entitles the holder to a discount on the price of goods or services supplied by another person; and
  - (c) the voucher is redeemed for a taxable supply,
- the price of the supply includes the monetary value of the voucher reduced by an amount equal to the monetary value multiplied by the tax fraction.
- (5) A registered person is entitled to an input tax credit in respect of any amount paid to a supplier in respect of the redemption by the supplier of a voucher referred to in subsection (4).
- (6) The amount of the input tax credit referred to in subsection (5) is the amount paid to the supplier multiplied by the tax fraction and the input tax credit is allowed in the VAT period in which the amount is paid to the supplier.
- (7) A supply of telecommunications services through the use of a phone card acquired in Kiribati that can be used either in or outside Kiribati occurs at the time the phone calls are made with the card.
- (8) In this section -
- “phone card” means a card or similar item in whatever form it is issued, including electronically, that entitles the holder to receive telecommunications

services up to its face value, and includes a pre-paid Subscriber Identity Module (“SIM”) card, a rechargeable card, or a similar item; and

“voucher” means a voucher, stamp, token, coupon, or similar article, including an article issued electronically, that can be redeemed by the holder only for supplies of goods or services, and includes a phone card but does not include a postage stamp.

### Lay-by Sales

22. (1) A supply of goods under a lay-by agreement occurs on the date the goods are delivered to the purchaser and the output tax payable in respect of the supply is treated as received on that date.
- (2) If a lay-by agreement is cancelled and the seller retains any amount paid by the purchaser or recovers any amount owing by the purchaser under the agreement –
  - (a) the cancellation of the agreement is a supply of services by the seller at the time of cancellation; and
  - (b) the value of the supply –
    - (i) if the seller is a registered person at the time of cancellation, is the amount retained or recovered by the seller reduced by an amount equal to the amount retained or recovered multiplied by the tax fraction; or
    - (ii) in any other case, is the amount retained or recovered by the seller.
- (3) In this section, “lay-by agreement” means a purchase agreement for goods under which –
  - (a) the price is payable by at least one additional payment after the payment of a deposit;
  - (b) delivery of the goods takes place at any time after payment of the deposit; and
  - (c) ownership of the goods is transferred by delivery.

## PART VI – RULES RELATING TO IMPORTS

### Time of Import

23. (1) An import of goods occurs –
- (a) if the goods are under Customs control, on the date on which the goods are entered for use in Kiribati or otherwise cease to be under Customs control as determined under the Customs Act; or
  - (b) in any other case, on the date the goods are brought into Kiribati.
- (2) In this section, “entered”, in relation to an import of goods, has the meaning under the Customs Act.

### Value of Import

24. (1) Subject to subsection (2), the value of an import of goods is the sum of the following amounts –
- (a) the custom value of the goods as determined under the Customs Act, whether or not any duty is payable on the import;
  - (b) to the extent not included under paragraph (a), the cost of services treated as part of the import of the goods under section 13(1)(b) other than the cost of freight and insurance in transporting the goods to Kiribati;
  - (c) the amount of any import duty, excise tax, levy, or other fiscal charge (other than VAT), or any fee or other charge payable in respect of the import.
- (2) If goods are re-imported after being exported for the purpose of undergoing repair, renovation, or improvement, the value of the import is the amount of the increase in value of the goods as a result of the repair, renovation, or improvement provided –
- (a) the form or character of the goods has not changed; and
  - (b) ownership of the goods has not changed since the goods were exported.

## PART VII – INPUT TAX CREDITS

### Allowance of an Input Tax Credit

25. (1) Subject to this Act, a registered person is allowed a credit for the input tax imposed on a creditable acquisition by the person to the extent that the

acquisition was for the purpose of making taxable supplies as determined at the time of the acquisition.

- (2) Subject to subsection (3), an input tax credit is allowed in the VAT period in which the input tax is paid.
- (3) If, at the time a registered person files a VAT return for a VAT period in which an input tax credit would otherwise be allowable under this Act, the person does not hold the documentation referred to in subsection (4), the input tax credit is not allowed in that VAT period but instead is allowed in the first VAT period in which the person holds such documentation.
- (4) The documentation required for the purposes of subsection (3) is –
  - (a) in the case of a creditable acquisition that is a taxable import, a bill of entry or other document prescribed under the Customs Act for the import;
  - (b) in the case of a creditable acquisition that is a taxable supply, the tax invoice for the taxable supply to which the acquisition relates;
  - (c) in the case of an input tax credit allowed in respect of input tax allowed under section 28(2), the debit note required to be issued under section 33; or
  - (d) in the case of an input tax credit allowed under section 28(3), a copy of the credit note issued to the recipient of the supply under section 33.

#### **Denial of Input Tax Credit**

26. (1) No input tax credit is allowed under this Act for input tax paid in respect of –
- (a) a creditable acquisition by a registered person to the extent that the acquisition is used to provide entertainment, unless –
    - (i) the entertainment is provided in the ordinary course of the enterprise carried on by the person to provide the entertainment and the entertainment is not supplied to an associate or employee; or
    - (ii) the entertainment is provided while the recipient of the entertainment is away from home for the purposes of the enterprise of the recipient or the recipient's employer; or
  - (b) a creditable acquisition of a membership or right or entry for any person in a club, association, or society of a sporting, social, or recreational nature.

- (2) In this section, "entertainment" means the provision of food, beverages, tobacco, amusement, recreation, or hospitality of any kind.

#### **Input Tax Credit for Newly Registered Person**

27. (1) Subject to this Act, a registered person may claim, in the first VAT return filed by the person after being registered, an input tax credit determined in accordance with sections 25 and 26 for the input tax paid in respect of goods held at the date of registration for the purpose of making taxable supplies, if –
- (a) at the end of the last day before the date of the person's registration, the person held the goods as inventory;
  - (b) the inventory was acquired by the person in a creditable acquisition;
  - (c) the acquisition occurred no more than four months prior to the date of registration; and
  - (d) the person can provide documentary evidence satisfactory to the Board that input tax has been paid on the acquisition.
- (2) Section 25(3) does not apply for the purposes of an input tax credit allowed under this section.

### **PART VIII – POST-SUPPLY ADJUSTMENTS**

#### **Post-supply Adjustments**

28. (1) If an adjustment event occurs in relation to a taxable supply and the VAT properly chargeable in respect of the supply exceeds the VAT actually accounted for by the supplier, the excess is deemed to be output tax received by the supplier in the VAT period in which the event occurred.
- (2) If subsection (1) applies and the supplier has issued a debit note to the recipient of the supply in accordance with section 33, the recipient is allowed an input tax credit for the additional VAT specified in the debit note in the VAT period in which the debit note is received.
- (3) Subject to subsection (5), if an adjustment event occurs in relation to a taxable supply and the VAT actually accounted for by the supplier exceeds the VAT properly chargeable in respect of the supply, the supplier is allowed an input tax credit for the amount of the excess in the VAT period in which the event occurred.
- (4) If subsection (3) applies and the supplier has issued a credit note to the recipient of the supply in accordance with section 33, the additional VAT specified in the credit note is deemed to be output tax received by the recipient in the VAT period in which the credit note is received.

- (5) If the recipient of a supply to which subsection (3) applies is not a registered person, no input tax credit is allowed under that subsection until the supplier has repaid the excess VAT to the recipient of the supply, whether in cash or as a credit against any amount owing to the supplier by the recipient.
- (6) The following are adjustment events for the purposes of this section –
- (a) the cancellation of a supply;
  - (b) a fundamental alteration in the nature of a supply;
  - (c) a change in the price of a supply;
  - (d) the return of goods (or part thereof) the subject of a supply to the supplier.

#### **PART IX – COMPUTATION OF VAT PAYABLE FOR A VAT PERIOD AND REFUNDS**

##### **Net VAT Payable for a VAT Period**

29. The net VAT payable by a registered person for a VAT period is computed according to the following formula –

$$(A + B) - C$$

where –

- A is the total output tax received or deemed to have been received by the person in the period in respect of taxable supplies made by the person, but not including output tax withheld by a government entity under section 43;
- B is the total VAT that the registered person is liable for under section 7 in respect of supplies of imported services made to the person during the period; and
- C is the total input tax credit allowed to the person for the period under this Act.

##### **Refunds**

30. (1) Subject to subsection (3), if, for any VAT period, component “C” of the formula in section 29 exceeds component “(A + B)” for the period –
- (a) the excess is carried forward and allowed as an input tax credit in the next following VAT period and any amount of the excess not credited in that period is carried forward to the next following VAT period and allowed as an input tax credit in that period; and

- (b) any amount of the excess not credited under paragraph (a) is, upon written application by the person in the approved form, to be refunded to the person in accordance with the Revenue Administration Act.
- (2) If a registered person has an excess input tax credit carried forward under this section for more than one VAT period, the excess credit of the earliest VAT period is allowed first.
- (3) If the excess referred to in subsection (1) is due to excess input tax credits that are a regular feature of the registered person's enterprise, the Board must, upon written application in the approved form, refund the excess within 30 days after the person has filed the VAT return for the period.

### **Diplomatic Missions and International Agreements**

31. (1) The Board may authorise, subject to such conditions and restrictions as the Board considers appropriate, the granting of a refund of part or all the VAT paid in relation to a taxable supply made to, or taxable import by –
- (a) a diplomatic or consular mission, or by a diplomat or consular official enjoying full or limited immunity, rights, or privileges under the Diplomatic Privileges and Immunities Act 1983, to the extent required under that Act; or
  - (b) an international organisation or foreign government to the extent required under an international agreement or the International Financial Organisation Act, 1985.
- (2) An application for a refund under subsection (1) must be –
- (a) made in the approved form and in the prescribed manner; and
  - (b) accompanied by such supporting documentation as the Board may require including but not limited to –
    - (i) evidence that the VAT for which the refund is sought was paid; and
    - (ii) evidence of the applicant's entitlement to make an application under subsection (1).

## **PART X - VAT DOCUMENTATION**

### **Tax Invoices**

32. A registered person making a taxable supply to another registered person must, at the time of supply, issue that other person with the original tax invoice, in the approved form, for the supply.

## Credit and Debit Notes

33. (1) If -
- (a) a registered person (referred to as “the supplier”) has made a taxable supply to another registered person (referred to as “the recipient”);
  - (b) the supplier has issued an original tax invoice in respect of the supply to the recipient;
  - (c) section 28 applies to the supply; and
  - (d) the amount shown on the tax invoice as the VAT actually charged for the supply exceeds the VAT properly chargeable for the supply,

the supplier must provide the recipient with a credit note, in the approved form, in respect of the supply.

- (2) If -
- (a) a registered person (referred to as “the supplier”) has made a taxable supply to another registered person (referred to as “the recipient”);
  - (b) the supplier has issued an original tax invoice in respect of the supply to the recipient;
  - (c) section 28 applies to the supply; and
  - (d) the VAT properly chargeable in respect of the supply exceeds the amount shown on the tax invoice as the VAT actually charged,

the supplier must provide the recipient with a debit note, in the approved form, in respect of the supply.

## VAT Documentation Issued by or to Agents

34. (1) If a taxable supply is made by or to an agent on behalf of a principal and both the agent and principal are registered persons, any tax invoice, credit note, or debit note required to be issued by or to the principal may be issued by or to the agent, using the name, address, and taxpayer identification number of the agent.
- (2) If a taxable supply is made by or to an agent on behalf of a principal and the principal is a registered person but the agent is not, any tax invoice, credit note, or debit note required to be issued by or to the principal may be issued by or to the agent, but using the name, address, and taxpayer identification number of the principal.

- (3) If a taxable supply is made by or to an agent on behalf of a principal, any tax invoice, credit note, or debit note required to be issued is to be issued once only and must not be issued by or to both the agent and the principal.
- (4) A tax invoice, credit note, or debit note issued by or to an agent in accordance with this section is treated as issued by or to the principal, as the case may be, for the purposes of this Act.

#### **Requests for VAT Documentation**

35. (1) A registered person who, for any reason, has not been issued with an original tax invoice, credit note, or debit note as required under this Act may make a written request to the supplier to issue the document.
- (2) A request under subsection (1) must be made –
  - (a) in the case of a tax invoice, within sixty (60) days of the time of supply; or
  - (b) in the case of a credit note or debit note, within sixty (60) days of the date of the adjustment event to which the credit note or debit note relates.
- (3) A registered person receiving a request under subsection (1) must comply with the request within fourteen (14) days of receiving the request.

#### **Maintenance of VAT Documentation**

36. (1) A registered person can issue only one original tax invoice for a taxable supply, or one original credit note or debit note for an adjustment event, but a copy clearly marked as such may be provided to a registered person who claims to have lost the original.
- (2) A person must not issue a tax invoice, credit note, or debit note other than in the circumstances specified in this Act.
- (3) The following documents must be maintained for the period and in the manner specified in the Revenue Administration Act by a registered person for the purposes of the Act –
  - (a) original (or copies issued under subsection (1)) of all tax invoices, credit notes, and debit notes received by the person;
  - (b) a copy of all tax invoices, credit notes, and debit notes issued by the person;
  - (c) documentation relating to imports and exports of goods by the person; and

- (d) recipient-created tax invoices in respect of supplies of imported services made to the person.
- (4) The documents referred to in subsection (3)(b) must be maintained in chronological order.

#### **VAT-inclusive Pricing of Taxable Supplies to Unregistered Persons**

37. Despite section 5(1)(c), a registered person making a taxable supply to a person who is not a registered person must state the price for the supply as inclusive of VAT and must –
- (a) display a sign in a prominent location on the business premises, or disclose prominently on its invoices that taxable supplies are made inclusive of VAT; and
  - (b) disclose prominently on its invoice for a supply that the supply is a taxable or exempt supply and, if a taxable supply, the rate of VAT charged.

### **PART XI – PROCEDURE**

#### **VAT Returns**

38. A registered person must file a VAT return, in the approved form and prescribed manner, for each VAT period within 15 days after the end of the period.

#### **Due Date for Payment of VAT**

39. (1) The net VAT payable by a registered person for a VAT period, as computed under section 29, is payable by the due date for filing the VAT return for that period.
- (2) The VAT payable by an importer in respect of a taxable import is payable at the time of import.

#### **Collection of VAT on Imports**

40. (1) The Comptroller–
- (a) must collect VAT payable under this Act on an import of goods at the time of import and must, at that time, obtain the name and tax identification number (if any) of the importer, the customs declaration, and invoice values in respect of the import; and
  - (b) may make arrangements for the function referred to in paragraph (a) to be performed on behalf of the Comptroller by the Controller of Post Offices in respect of imports made through the postal service.

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- (2) Except when the contrary intention appears, the provisions of the Customs Act relating to the import, transit, coastwise carriage, and clearance of imported goods, and the payment and recovery of import duty, in so far as relevant and with such exceptions and modifications as necessary, apply in relation to the VAT payable on a taxable import.
  - (3) For the purposes of this section, the Comptroller may exercise any power conferred on the Comptroller by the Customs Act as if the reference to import duty in that legislation included a reference to VAT payable on a taxable import under this Act.
  - (4) In this section –

“Comptroller” means the Comptroller of Customs appointed under the Customs Act; and

“Controller of Post Offices” means the Controller of Post Offices for the purposes of the Post Offices Ordinance (Cap. 74).

#### **VAT Representatives of Non-residents**

41. (1) A non-resident who is required to apply for registration under section 8 but who does not carry on an enterprise through a fixed place in Kiribati must –
  - (a) appoint a VAT representative in Kiribati; and
  - (b) if required to do so by the Board, lodge security with the Board in accordance with the Revenue Administration Act.
- (2) The VAT 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 VAT returns, and the payment of VAT.
- (3) The registration of a VAT representative is to be made in the name of the non-resident they represent.
- (4) A person may be a VAT representative for more than one non-resident but must have a separate registration for each non-resident they represent.
- (5) The Board may prescribe the mode, manner, and requirements for appointment of a VAT representative and the responsibilities of the representative.
- (6) In this section, “non-resident” has the same meaning as in the Income Tax Act.

## Assessment of Recipient of a Supply

42. (1) If a registered person has, in consequence of misrepresentation or fraud by the recipient of a supply, incorrectly treated the supply as –

- (a) an exempt supply; or
- (b) a zero-rated supply,

the Board may assess the recipient of the supply for payment of the VAT due in respect of the supply, and any late payment interest and penalty imposed as a result of the incorrect treatment of the supply.

(2) The Board must serve notice of an assessment under subsection (1) on the recipient specifying the following –

- (a) the reason for the assessment as provided for in subsection (1);
- (b) the VAT, late payment interest, and penalty payable under the assessment;
- (c) the date on which the VAT payable under the assessment is due, which must be at least thirty days after the date on which the notice is served;
- (d) the time, place, and manner of objecting to the assessment.

(3) Subsection (1) does not preclude the Board from recovering the whole or part of the VAT due in respect of the supply together with any late payment interest and penalty from the registered person who made the supply and –

- (a) any amount recovered from the recipient of the supply is credited against the liability of the supplier in respect of the supply; and
- (b) any amount recovered from the supplier is credited against the liability of the recipient of the supply,

but the Board cannot recover more than the total amount of VAT, late payment interest, and penalty payable in relation to the supply.

(4) Any supplier who pays VAT, late payment interest, or penalty referred to in subsection (1) may recover the amount from the recipient of the supply.

(5) Nothing in the Revenue Administration Act limits the power of the Board to amend an assessment, including a self-assessment, of the registered person making the supply to give effect to subsection (3).

### **Withholding of VAT by a Government Entity**

43. (1) If a taxable supply has been made to a government entity by a registered person, the government entity must withhold the VAT payable on the supply and the withheld VAT must be paid by the government entity to the Board within fifteen days after the end of the calendar month in which the government entity made the payment for the supply.
- (2) The liability for VAT of the registered person making the taxable supply to the government entity under section 7(4) is discharged if the VAT in relation to the supply has been withheld by the government entity under subsection (1).
- (3) In this section, "government entity" means only a government entity within paragraph (a) of the definition of "government entity" in section 2.

### **Penalty for Failure to Apply for Registration**

44. A person who, without reasonable excuse, fails to apply for registration as required by section 8 or 53 is liable for penalty equal to double the amount of VAT payable for the period –
- (a) commencing on the day on which the person was first required to apply for registration; and
- (b) ending on the earlier of the day the person files an application for registration or the person is registered by the Board on the Board's own motion.

### **Offences**

45. (1) A person who -
- (a) fails to apply for registration as required by section 8 or 53;
- (b) applies for cancellation of registration when still required to be registered;
- (c) fails to apply for cancellation of registration as required by section 11;
- (d) fails to comply with section 10, 11(5)(a) or (c), or 37;
- (e) fails to provide a tax invoice, credit note, or debit note as required under this Act;
- (f) issues a tax invoice, credit note, or debit note otherwise than as required under this Act;
- (g) fails to comply with a request under section 35;

- (h) fails to appoint a VAT representative as required under section 41;
- (i) without authorisation, enters a place where goods subject to VAT are under Customs control; or
- (j) is involved in the unauthorised removal, alteration, or interference with goods subject to VAT that are under Customs control,

commits an offence and upon conviction is liable to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding 2 years, or to both such fine and imprisonment.

(2) A person who –

- (a) knowingly smuggles, unlawfully conveys, or has in the person's possession any smuggled goods subject to VAT;
- (b) knowingly offers for sale smuggled or unlawfully imported goods subject to VAT; or
- (c) receives goods subject to VAT knowing or believing the goods to have been smuggled or to have been unlawfully imported,

commits an offence and upon conviction is liable to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 10 years, or to both such fine and imprisonment.

- (3) If penalty has been imposed under section 44 and the Board commences a prosecution under this section for the same failure, the penalty must be refunded and is not payable unless the prosecution is withdrawn.

## PART XII – MISCELLANEOUS PROVISIONS

### Branches and Divisions

- 46. (1) Subject to subsection (3), an enterprise conducted by a person in branches or divisions is treated as a single enterprise for the purposes of this Act.
- (2) Subject to subsection (3), a person who conducts an enterprise in branches or divisions must be registered in the name of the person and not in the names of the branches or divisions.
- (3) A government entity may register its branches or divisions separately as if they were separate persons for the purposes of this Act.

### Tax Avoidance Schemes

- 47. (1) Despite anything in this Act, if the Board is satisfied that –

- (a) a tax avoidance scheme has been entered into or carried out;
- (b) a person has obtained a tax benefit in connection with the tax avoidance scheme; and
- (c) having regard to the substance of the tax avoidance scheme, it would be concluded that a person, or one of the persons, who entered into or carried out the scheme did so for the sole or dominant purpose of enabling the person referred to in paragraph (b) to obtain the tax benefit,

the Board may determine the VAT liability of the person who obtained the tax benefit as if the tax avoidance scheme had not been entered into or carried out.

- (2) If a determination is made under subsection (1), the Board must issue an assessment giving effect to the determination.
- (3) A determination under subsection (1) must be made within six years from the last day of the VAT period to which the determination relates.
- (4) In this section –

“scheme” includes a course of action, and an agreement, arrangement, promise, plan, proposal, or undertaking, whether express or implied, and whether or not legally enforceable;

“tax avoidance scheme” means any scheme if one of the main purposes of a person in entering into the scheme is the avoidance or reduction of any person’s liability for VAT under this Act; and

“tax benefit” means –

- (a) a reduction in the liability of a person to pay VAT;
- (b) an increase in the entitlement of a person to an input tax credit;
- (c) an entitlement to a refund;
- (d) a postponement of a liability for the payment of VAT;
- (e) an acceleration of an entitlement to an input tax credit;
- (f) any other advantage arising because of a delay in payment of VAT or an acceleration of the entitlement to an input tax credit;
- (g) 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; or

- (h) anything that gives rise to an input tax credit entitlement for an acquisition or import that is used or is to be used other than in making taxable supplies.

#### **Currency Translation**

- 48. (1) An amount taken into account under this Act must be expressed in Australian dollars.
- (2) If any amount is expressed or paid in a currency other than Australian dollars -
  - (a) in the case of an import of goods, the amount is converted into Australian dollars at the exchange rate applicable under the Customs Act for the purposes of computing the import duty payable on the import; or
  - (b) in any other case, the amount is converted into Australian dollars at the Reserve Bank of Australia mid-exchange rate applying between the foreign currency and Australian dollars on the date the amount is taken into account for the purposes of this Act.

#### **Prevention of Price Exploitation on Introduction of VAT**

- 49. (1) Subject to subsection (2), a person who makes a regulated supply for a price that is excessive having regard to the following –
  - (a) the introduction of this Act;
  - (b) changes in the rate of import duties and amendments to the Customs Act;
  - (c) the person's costs;
  - (d) supply and demand conditions;
  - (e) any other relevant matter,

commits an offence and upon conviction is liable to a fine not exceeding \$10,000 for the first breach of this subsection and a fine of \$20,000 for the second and each subsequent breach.

- (2) It is a defence to an offence under subsection (1) if –
  - (a) the contravention was due to reasonable mistake; and
  - (b) the person took reasonable precautions and exercised due diligence to avoid contravention of subsection (1).

- (3) The Board must publish guidelines about when prices for regulated supplies may be in contravention of subsection (1).
- (4) In this section, “regulated supply” means a supply occurring in the period commencing six months before and ending one year after the commencement date.

#### **Application of Act**

50. (1) This Act binds the Government.
- (2) Despite any other Act or agreement made before or after the commencement date, an exemption from tax in such other Act or agreement for a person must not be construed as an exemption from the payment of VAT under this Act unless the exemption is also provided for in this Act.
  - (3) The Board must carry out the functions assigned to it under this Act.
  - (4) The delegation of any function under this Act by the Board must be made in accordance with Part III of the Internal Revenue Board Act.
  - (5) The provisions relating to secrecy in the Internal Revenue Board Act apply to this Act.

### **PART XIII – FINAL PROVISIONS**

#### **Regulations**

51. (1) The Beretitenti, acting in accordance with the advice of Cabinet, may make regulations –
- (a) prescribing rules for particular types of supplies and in relation to input tax credits;
  - (b) prescribing all matters that are by this Act to be prescribed or convenient to be prescribed to give effect to this Act; and
  - (c) amending the Schedules.
- (2) Without limiting the general effect of subsection (1), the regulations made under that subsection may –
- (a) contain provisions of a saving or transitional nature consequent on the making of this Act; or
  - (b) prescribe penalties for the contravention of the regulations.

- (3) Regulations of a transitional nature made under this section within six months after the day this Act receives certification may have effect retrospectively from that day.

### **Repeal**

52. (1) The Hotel Tax Act 1984 is hereby repealed with effect from the commencement date.
- (2) Despite subsection (1), the Hotel Tax Act 1984 continues to apply for all purposes whatsoever in respect of turnover received or receivable by a hotel proprietor before the commencement date.

### **Transitional Rules Relating to Registration**

53. (1) A person must apply to the Board for registration under this Act if the person satisfies the requirements in section 8 on any day in the transitional registration period.
- (2) An application under subsection (1) must be made within seven days of the first day in the transitional registration period that section 8 is satisfied.
- (3) Notwithstanding section 9, if a person is required to apply for registration under subsection (1), the registration takes effect from the commencement date.
- (4) If, prior to the commencement date --
- (a) a person purported to file an application for registration under this Act;
  - (b) the Board purported to register a person under this Act; or
  - (c) the Board purported to issue a VAT registration certificate under this Act,
- the application, registration, or certificate, as the case may be, is treated for all purposes of this Act and the Revenue Administration Act as if it were made on the commencement date.
- (5) If the Board is satisfied that a person is required to apply for registration under subsection (1) and the person has not applied for registration as required, the Board may register that person.
- (6) In this section, "transitional registration period" means the period commencing two calendar months before the commencement date and ending on the day before the commencement date.

## General Transitional Rules

54. (1) Subject to subsection (2), if a registered person concluded a contract before the commencement date, the person is entitled to recover VAT due on a taxable supply made under that contract after the commencement date, notwithstanding that the contract contained no provision relating to increasing the amount payable under the contract because of the imposition of VAT.
- (2) If the period of a successive supply referred to in section 14(4) begins before and ends after the commencement date, the supply is treated as having been made continuously and uniformly throughout that period and the price for that supply is apportioned accordingly.
- (3) Subsection (2) does not apply to the supply of a warranty in relation to goods or a service if the value of the warranty has been included in the price of the goods or service.
- (4) Subject to subsection (5), if –
- (a) at the end of the last day before the commencement date, a registered person held goods as inventory;
  - (b) the goods were acquired not more than 4 months before the beginning of that day; and
  - (c) the Board is satisfied that the registered person paid import duty on the acquisition of the goods by import,
- the registered person may claim an input tax credit for the import duty in the first VAT period after the commencement date.
- (5) A registered person is not allowed an input tax credit under subsection (4) for any import duty paid in respect of the acquisition of goods by import if the person would not have been allowed an input tax credit if the import had occurred after the commencement date.
- (6) A registered person claiming an input tax credit under subsection (4) for inventory on hand at the end of the last day before the commencement date must submit a list of such inventory with the person's first VAT return, supported by documentary evidence of the payment of import duty in respect of the inventory.

## FIRST SCHEDULE

### EXEMPT IMPORTS

- (1) The following are exempt imports –
- (a) an import by a passenger or a member of a crew of a ship or aircraft of the following –
    - (i) goods of a non-commercial nature of an aggregate value of up to two hundred dollars (AUD \$200);
    - (ii) not more than 200 cigarettes, or 50 cigars, or 250 grams of tobacco;
    - (iii) a combination of the goods set out in sub-paragraph (a) (ii) with a total weight of 250 grams;
    - (iv) 2 litres of wine;
    - (v) 1litre of spirits;
  - (b) an import of goods as stores of a ship or aircraft, being goods required for the use of the passengers and crew of the ship or aircraft when on board and while the ship or aircraft is in international traffic in such quantities as approved by the Board;
  - (c) an import of goods in a single consignment on which the total VAT and other taxes payable do not exceed two hundred dollars (AUD \$200);
  - (d) an import of goods by a diplomatic or consular mission, or by a diplomat or a member of the diplomat's family forming part of the diplomat's household in Kiribati, to the extent provided for in the Diplomatic Privileges and Immunities Act 1983;
  - (e) an import of goods by an international organisation or foreign government to the extent required under an international agreement or the International Financial Organisation Act, 1985;
  - (f) an import of goods, if a supply of those goods in Kiribati would be an exempt or zero-rated supply.
- (2) In this Schedule, "international traffic", in relation to a ship or aircraft, means any operation of the ship or aircraft except as between two places in Kiribati.

## SECOND SCHEDULE

### EXEMPT SUPPLIES

- (1) The following are exempt supplies –
- (a) a supply of financial services;
  - (b) a supply of a precious metal;
  - (c) a supply of donated goods or services by a non-profit body;
  - (d) a supply by way of sale or long-term lease of residential premises, other than new residential premises;
  - (e) a supply by way of a lease of residential premises, other than a lease for a term of less than 2 months;
  - (f) a supply of holiday or hotel accommodation, if the accommodation is provided to an individual (alone or together with other individuals) who resides therein under terms consistent with a landlord and tenant agreement and for a continuous period of at least 2 months;
  - (g) a supply of unimproved land;
  - (h) a supply of education services;
  - (i) a supply of medical, dental, or nursing services by a registered person under the Medical Services Act, 1996;
  - (j) a supply of medicine;
- (2) A supply that is both a zero-rated supply under the Third Schedule and an exempt supply under this Schedule is treated only as a zero-rated supply for the purposes of this Act.
- (3) In this Schedule –
- “donated goods or services”, in relation to a non-profit body, means goods or services that are gifted to the body and that are intended for use in carrying out the purposes of the body;
- “education services” means education provided by –
- (a) a pre-primary, primary, or secondary school;
  - (b) a college or university;

- (c) an institution established to provide adult education, vocational training, technical education, or the education or training of physically or mentally handicapped persons;

"financial services" means

- (a) the granting, negotiating, and dealing with loans, credit, credit guarantees, and any security for money, including management of loans, credit, or credit guarantees by the grantor;
- (b) transactions concerning money, deposit and current accounts, payments, transfers, debts, cheques, or negotiable instruments, other than debt collection and factoring;
- (c) transactions relating to financial derivatives, forward contracts, options to acquire financial instruments, and similar arrangements;
- (d) transactions relating to shares, stocks, bonds, and other securities, other than custody services;
- (e) the management of investment funds;
- (f) the provision or transfer of ownership of an insurance contract or the provision of reinsurance in respect of any such contract;
- (g) the provision, or transfer of ownership, of an interest in a scheme for the payment or granting of benefits by a benefit fund, provident fund, pension fund, retirement annuity fund, or preservation fund;
- (h) a supply of credit under a hire purchase agreement, if the credit for the goods is provided for as a separate charge and the charge is disclosed to the recipient of the goods; or
- (i) the arranging of any of the services in paragraphs (a) to (h);

"holiday or hotel accommodation" means –

- (a) a supply of accommodation in a building, part of a building, or a group of buildings (including all structures within the curtilage thereof) that constitute a hotel, motel, inn, boarding house, guest house, hostel, or similar establishment in which lodging is regularly or normally provided to four or more persons at a daily, weekly, monthly, or other periodic charge; or
- (b) a supply of accommodation not covered by paragraph (a) if the accommodation is held out for use for short term occupation by individuals other than as their main residence;

"lease" includes a licence but does not include a long-term lease;

“long-term lease” means a lease for more than 50 years;

“medicine” means a drug or medicine that may be sold only by a registered pharmacist under the Pharmacy and Poisons Ordinance (Cap. 70);

“new residential premises” means residential premises that -

- (a) have not previously been sold as residential premises or been the subject of a long-term lease;
- (b) have been created by a substantial renovation of a building; or
- (c) have replaced demolished premises on the same land;

“non-profit body” means a society, association, or organisation, whether or not incorporated, that is carried on for charitable or religious purposes and none of the income or assets of which confers, or may confer, a private benefit on any person;

“precious metal” means –

- (a) gold, in any form, being gold of a fineness of not less than 99.5 percent;
- (b) silver, in any form, being silver of a fineness of not less than 99.9 percent;
- (c) platinum, in any form, being platinum of a fineness of not less than 99.0 percent; or
- (d) any other substance that is declared in the regulations to be a precious metal for the purposes of this definition; and

“residential premises” means land or a building occupied or capable of being occupied as a residence, but not including hotel or holiday accommodation.

**THIRD SCHEDULE**  
**ZERO-RATED SUPPLIES**

**PART I - EXPORTS**

- (1) Subject to paragraph (2), the following are zero-rated supplies –
- (a) an export of goods;
  - (b) a supply of goods as consumable stores for use outside Kiribati on –
    - (i) an aircraft or ship going to a destination outside Kiribati; or
    - (ii) a fishing vessel going outside Kiribati waters;
  - (c) a supply of goods in the course of repairing, renovating, modifying, or treating temporarily imported goods if the goods –
    - (i) are wrought into, affixed to, attached to, or otherwise form part of the temporarily imported goods; or
    - (ii) are consumable stores that become unusable or worthless as a direct result of being used in the repair, renovation, modification, or treatment process;
  - (d) a supply of services directly in connection with temporarily imported goods;
  - (e) a supply of services for use or consumption outside Kiribati as evidenced by documentary proof acceptable to the Board;
  - (f) a supply of telecommunications services if –
    - (i) the supply is made by a resident telecommunications supplier to a non-resident telecommunications supplier; or
    - (ii) the person who initiates the supply (including when the person initiates the supply on behalf of another person) does so while physically located outside Kiribati; and
  - (g) a supply of international transport services.
- (2) A supply of goods is not a zero-rated supply under subsection (1)(a) or (b) if the goods have been or will be re-imported into Kiribati.
- (3) Section 16(3) applies for the purposes of paragraph (1)(f) in determining the person who has initiated a supply of telecommunications services.
- (4) In this Schedule –

“ancillary transport services” means stevedoring services, lashing and securing services, cargo inspection services, preparation of customs documentation, container handling services, and the storage of transported goods or goods to be transported, but does not include such services supplied directly in connection with an aircraft or ship that is temporarily imported goods;

“consumable stores” means –

- (a) goods for consumption by passengers or crew on board an aircraft or ship; or
- (b) goods that are necessary to operate or maintain an aircraft or ship, including fuel and lubricants, but not including spare parts and equipment;

“export”, in relation to goods, means the delivery of the goods to, or the making available of the goods at, an address outside Kiribati as evidenced by documentary proof acceptable to the Board;

“fishing vessel” has the same meaning as for the purposes of the Fisheries Act, 2010;

“international transport services” means the services, other than ancillary transport services, of transporting goods or passengers by sea or air –

- (a) from a place outside Kiribati to another place outside Kiribati, including, if relevant, any part of the transport that takes place across the territory of Kiribati;
- (b) from a place outside Kiribati to a place within Kiribati as the final destination for the transportation; or
- (c) from a place within Kiribati as the place where the transportation commenced to a place outside Kiribati;

“Kiribati waters” has the same meaning as for the purposes of the Fisheries Act, 2010;

“non-resident telecommunications supplier” means a supplier of telecommunications services who is a non-resident as defined in the Income Tax Act;

“resident telecommunications supplier” means a supplier of telecommunications services who is a resident as defined in the Income Tax Act; and

“temporarily imported goods” means goods temporarily imported into Kiribati under the Customs Act.

## PART II - OTHER ZERO-RATED SUPPLIES

The following supply is a zero-rated supply -

- (1) A supply of goods or services as part of the transfer of an enterprise, or a part of an enterprise, as a going concern by a registered person to another registered person if –
  - (a) all the goods or services necessary for the continued operation of the enterprise or part of the enterprise are supplied to the transferee;
  - (b) the transferor carries on the enterprise until the day of transfer;
  - (c) the transferee will not carry on the enterprise to make exempt supplies and will not use the goods or services for private use; and
  - (d) the transferor and transferee agree in writing, on or before the date of the transfer, that the transfer will be treated as a transfer of an enterprise or part of an enterprise as a going concern for the purposes of this Act.

## VALUE ADDED TAX ACT, 2013

### EXPLANATORY MEMORANDUM

#### Introduction

The Value Added Tax Act 2013 (referred to as "the Act") provides for the imposition of value added tax on taxable supplies, taxable imports and supplies of imported services from the 1<sup>st</sup> January 2014.

#### Part I – Preliminary

Section 1 provides for the short title and commencement of the Act.

Section 2 provides definitions of commonly used terms in the Act. The definitions in section 2 apply unless the context requires otherwise.

Section 3 defines "enterprise" for the purposes of the Act. The concept of "enterprise" is central to the operation of the VAT. A supply of goods or services will be a taxable supply only if it is made in the course or furtherance of an enterprise. If an activity involving the supply of goods or services is not an enterprise, then the supplies made cannot be taxable supplies and, therefore, they are not subject to VAT.

Section 4 defines "fair market value" for the purposes of the Act. The definition is primarily relevant to the determination of the value of a supply under sections 17 and 18, and is also relevant to valuing amounts paid in-kind (section 5(1)(b)). The fair market value of a supply is the price that the supply would ordinarily fetch in an open market transaction between persons dealing at arm's length. If it is not possible to work out the fair, market value for the actual supply, the fair market value is the price a similar supply would ordinarily fetch in the open market at the time of the actual supply, adjusted to take account of the differences between the actual supply and the similar supply. The Board is empowered to determine the fair market value of a supply if it is not possible to determine the price that the supply or a similar supply would ordinarily fetch in the open market.

Section 5 defines "price" for the purposes of the Act. The price is the value of a supply for the purposes of the VAT. In the case of a taxable supply, it is the amount against which the rate of VAT is levied to determine the VAT payable on the supply. Price includes both cash and in kind amounts given for the supply. It also includes any taxes, duties, levies, fees, and charges (such as excise tax) paid or payable on, or by reason of the supply. It does not include VAT so the price for a supply is a VAT-exclusive amount. This is subject to section 37, which provides for VAT-inclusive pricing for supplies to unregistered persons.

Section 6 defines "supply of imported services" for the purposes of the Act. A supply of imported services to a registered person is subject to a reverse charge rule whereby the registered person receiving the supply must charge itself VAT on the supply to the extent that the services are used other than to make taxable supplies.

## **Part II – Imposition of Tax**

Section 7 provides for the imposition of VAT and specifies the person liable to account for the payment of VAT to the Board. VAT is imposed on a taxable supply by a registered person, a taxable import and a supply of imported services.

A taxable supply is a supply of goods or services (other than an exempt supply) in Kiribati in the course or furtherance of an enterprise carried on by the supplier. An import is a taxable import unless it is an exempt import. A supply of imported services is a supply of services by an unregistered person outside Kiribati to a registered person if the registered person receiving the services intends to use the services other than wholly to make taxable supplies.

The rate of VAT on a taxable supply that is a zero-rated supply is zero. The rate of VAT on other taxable supplies, taxable imports and supplies of imported services is 12.5%.

A registered person must account for the VAT on taxable supplies made and supplies of imported services received on a quarterly basis (after taking account of input tax credits allowed). The importer of a taxable import must account for the VAT on the import at the time of import.

## **Part III – Registration**

Section 8 obliges the following persons to apply for registration

1. A person is required to apply for registration at the end of any twelve month or lesser period if the total value of taxable supplies made by the person in that period exceeds the registration threshold.
2. A person is required to apply for registration at the beginning of any period of twelve months if there are reasonable grounds to expect that the total value of taxable supplies to be made by the person in that period will exceed the registration threshold.
3. A government entity carrying on an enterprise.

The registration threshold is \$100,000.

Section 9 provides for VAT registration. The Board is obliged to register an applicant for registration if satisfied that the person is required to apply for registration under section 8. Further, the Board is obliged to register a person who should have applied for registration under section 8 but who has failed to do so within the time specified in section 8(5). This is a formality as the person is treated as a registered person for the purposes of the Act through the section 2 definition of “registered person”.

Section 10 sets out certain obligations of registered persons relating to the display of their VAT registration certificate and advising the Board of any changes in circumstances.

Section 11 obliges a registered person who no longer qualifies for registration to apply for cancellation of their registration. In the case of a registered person whose taxable supplies have fallen below the registration threshold, an application for cancellation is to be made only if this is not temporary. The Board must cancel the registration of a person who has properly applied for cancellation. The Board is empowered to cancel the registration of a person on the Board's own motion if satisfied that the person is required to apply for cancellation of registration but has not done so.

Section 12 provides that the cancellation of registration is a deemed taxable supply of inventory on hand at the time of registration cancellation in respect of which the person has claimed input tax credits. The effect of the section is to reverse the allowance of the input tax credits because the person will not be obliged to charge VAT on a supply of the inventory after cancellation.

#### **Part IV – General Rules Relating to Supplies**

Section 13 provides rules for applying the Act to a transaction that involves more than one element, each of which would, if viewed separately, have a different character.

Section 14 provides rules for determining the time of supply. The basic rule is that a supply occurs at the earlier of the date the supplier issues an invoice for the supply or the date any payment (including a part payment) for the supply is made.

Section 15 provides rules for determining the place of a supply of goods. This is relevant in determining whether a supply is a taxable supply. A supply of goods occurs in Kiribati if the goods are delivered or made available in Kiribati by the supplier. However, if the delivery or making available involves the transportation of the goods, the supply occurs in Kiribati if the goods are in Kiribati when the transportation commences. Consequently, a supply of goods that involves transportation from a place in Kiribati to a place outside Kiribati occurs in Kiribati as that is the place where the transportation commences. This means that an export of goods from Kiribati is treated as a supply in Kiribati. This facilitates the zero rating of exports. A supply of goods from a place outside Kiribati is not a supply in Kiribati and, therefore, cannot be a taxable supply. However, it may be a taxable import.

Section 16 provides rules for determining the place of a supply of services. This is relevant in determining whether a supply is a taxable supply. A supply of services occurs in Kiribati if the enterprise of the supplier from which the services have been supplied is in Kiribati. If the services are utilised outside Kiribati, then the supply of services may be a zero-rated export. A supply of certain services from a place outside Kiribati that are utilised by an unregistered person in Kiribati is treated as a supply in Kiribati.

Section 17 provides rules for determining the value of a supply. The section is mainly relevant to the determination of the value of a taxable supply or value of imported goods for the purposes of imposing VAT. The basic valuation rule is that the value of a supply is the price of the supply.

Section 18 provides rules for determining the value of a supply of imported services.

## **Part V – Special Rules Relating to Services**

Section 19 provides that the application of goods by a registered person to a private or exempt use is a deemed taxable supply of the goods by the person. The rule applies only if the person was allowed an input tax credit in respect of the acquisition or import of the goods. The purpose of the section is to reverse the input tax credit previously allowed in respect of the acquisition or import of the goods so that the goods or services are effectively treated as if they were always acquired for private or exempt use.

Section 20 provides for the VAT treatment of supplies of second-hand goods. As second-hand goods have previously been in the distribution chain, VAT will have been previously charged on those goods. A person who deals in second-hand goods is likely to buy the goods mainly from unregistered persons (i.e. consumers). As such, a registered person dealing in secondhand goods will not be able to claim an input tax credit for the VAT previously paid on the goods under the normal rules for claiming input tax credits. A special input tax credit rule is provided in respect of a taxable supply of second-hand goods by a registered person.

Section 21 provides for the VAT treatment of rights, options, vouchers and phone cards.

Section 22 provides for the VAT treatment of goods supplied under a lay-by agreement.

## **Part VI – Rules Relating to Imports**

Section 23 provides rules for determining the time of an import of goods. The basic rule is that an import of goods occurs at the time the goods are entered for home consumption or otherwise cease to be under Customs control as determined under the Customs Act. If the goods are not entered for home consumption, the time of the import is the date on which the goods are brought into Kiribati (i.e. the date on which the goods physically cross the border into Kiribati).

Section 24 provides rules for determining the value of an import of goods. The value of an import is the CIF value of the import plus the cost of any services incidental to the import and the amount (if any) of import duty, or any other fiscal charge (such as excise tax but not VAT), or other fee or charge (such as a port charge) payable in respect of the import.

## **Part VII – Input Tax Credits**

Section 25 provides for the claiming of input tax credits by a registered person for the purposes of computing the amount of net VAT payable by the person for a VAT period. An input tax credit is allowed for the input tax paid by a registered person on taxable supplies to, and taxable imports by the person to the extent that the acquisition was for the purposes of making taxable supplies. An input tax credit is allowed in the VAT period in which the input tax is paid. However, a registered person is not allowed an input tax credit until the VAT period when the person has documentation to support the claiming of the credit.

Section 26 denies an input tax credit for input tax payable on a creditable acquisition to the extent that the acquisition is used to provide entertainment or is a creditable acquisition of a membership or right of entry for any person in a club, association, or society of a sporting,

social, or recreational nature. The reason for the credit-denial rule is that the goods or services to which the acquisition relates are of a kind that, even though they may be wholly or partly acquired for the purposes of making taxable supplies, their use involves an aspect that is private consumption, albeit by individuals (such as employees) who may or may not be the registered person making the acquisition (e.g. provision of food and beverages, or club membership). Because it is difficult to "police" the border between creditable and private acquisitions for these types of supplies, input tax credits are allowed only in the limited situations specified, when it is considered clear that the acquisition is not for the purposes of private consumption.

Section 27 provides a special input tax credit rule applicable to a person who has become registered in relation to certain VAT-paid inventory on hand at the time of registration. A newly registered person is entitled to credit input tax paid in respect of certain goods on hand at the date of registration.

#### **Part VIU – Post-supply Adjustments**

Section 28 applies if a registered person that has made a taxable supply has incorrectly accounted for VAT in respect of the supply because of a subsequent change in the circumstances of the supply. The section provides for the making of adjustments to ensure that the correct amount of VAT is accounted for if an adjustment event occurs. Adjustments are evidenced by credit and debit notes issued under section 33.

#### **Part IX -Computation of the Net VAT Payable for VAT Period and Refunds**

Section 29 provides for the computation of the net VAT payable by a registered person for a VAT period. In broad terms, the net VAT payable is the total output tax received by the person during the period reduced by the total input tax paid during the period. The net VAT is accounted for on a payments basis.

Section 30 applies if the input tax credits allowed for a VAT period exceed the output tax received during the period. As this situation would normally be temporary, the excess is not refunded immediately to the registered person but rather is carried forward for two VAT periods. Any remaining excess is then refunded to the registered person on application by the person. There is an exception if the registered person is an exporter so that an excess of input tax credits is a normal part of the person's enterprise. In this case, the excess is refunded on a current basis.

Section 31 empowers the Board to grant a refund of VAT paid by diplomatic or consular missions, diplomats or consular officials, foreign governments or international organisations to the extent provided for under Kiribati law or an international agreement to which Kiribati is a party.

#### **Part X – Documentation**

Section 32 provides for the issuing of a tax invoice by a registered person in respect of a taxable supply made by the person to another registered person (i.e. when both the supplier and the recipient of a supply are registered persons). Tax invoices play a crucial role in the

administration and enforcement of the VAT. A tax invoice serves as evidence of the making of a taxable supply by a registered person and can be used to check the computation of the output tax reported by the supplier and the input tax credit claimed by the recipient. In this way, the VAT is a "self-policing" tax.

Section 33 provides for the issuing of credit and debit notes in respect of post-sale adjustments made under section 28 as evidence of the making of the adjustment.

Section 34 provides for the issuing and receiving of VAT documentation (i.e. tax invoices, credit notes and debit notes) when supplies are made through agents.

Section 35 provides that a registered person who has not received an original tax invoice, credit note or debit note that a supplier was required to have issued under the Act may request one in writing. The supplier must comply with a request properly made. Failure to do so is an offence.

Section 36 provides general rules relating to the issue and retention of VAT documentation.

Section 37 provides for VAT-inclusive pricing for taxable supplies made by a registered person to an unregistered person. This is relevant to retail outlets and ensures that the price displayed for goods or services is the final price to be paid by the customer, for example, at the check-out (i.e. that no additional amount is added for VAT). It is expressly provided that this overrides section 5(1)(c), which otherwise provides that a price is a VAT-exclusive amount.

#### **Part XI – Procedure**

Section 38 provides for the filing of VAT returns by registered persons on a quarterly basis. VAT is a self-assessed tax meaning that a registered person's VAT return for a quarter is, in effect, treated as a self assessment of person's VAT liability for that quarter.

Section 39 provides for the payment of VAT. The net VAT payable by a registered person for a VAT period is payable by the due date for filing the person's VAT return for the VAT period. The VAT payable by an importer in respect of a taxable import is payable at the time of the import.

Section 40 provides for the collection of VAT on taxable imports. The VAT payable on a taxable import is to be collected by the Comptroller of Customs at the time of the import. The Comptroller may make arrangements with the Controller of Post Offices for the collection of VAT on imports made through the postal service. The provisions of the Customs Act relevant to the collection of import duty may apply for the purposes of collecting any VAT payable on taxable imports.

Section 41 obliges a non-resident making taxable supplies above the registration threshold, but who do not have a fixed place of business in Kiribati, to appoint a VAT representative in Kiribati.

Section 42 provides for the recovery of unpaid VAT from the recipient of a supply if the recipient has dishonestly claimed that the supply is an exempt or zero-rated supply.

Section 43 provides for the collection of VAT in relation to taxable supplies made by a registered person to the Government of Kiribati, including a department, division, or agency of the Government. The government entity must withhold the VAT payable on the supply and pay it to the Board within fifteen days after the end of the calendar month in which the government entity made the payment for the supply. The section is consequent upon the fact that all Government payments are centralised through the Accountant-General's office thereby facilitating the withholding mechanism provided for in the section.

Section 44 provides for the imposition of penalty tax on a person who, without reasonable excuse, fails to apply for registration as required by section 8 or 53.

Section 45 provides for VAT offences.

## **Part XII – Miscellaneous Provisions**

Section 46 provides that an enterprise conducted in branches or divisions is to be treated as a single enterprise and there is no separate registration of branches and divisions. There is an exception for a government entity that conducts its enterprise in branches or divisions. The government entity may register each of those branches or divisions as single enterprises for the purposes of the Act.

Section 47 provides for a general anti-avoidance rule for the purposes of the VAT. If the Board is satisfied that a person (who need not necessarily be a registered person) entered into a scheme for the sole or dominant purpose of enabling that person (or some other person) to obtain a tax benefit in connection with the scheme and the tax benefit was in fact obtained, the Board may determine the liability of the person who obtained the benefit as if the scheme had not been entered into or carried out. "

Section 48 provides that all amounts taken into account under the Act are to be expressed in Australian dollars. Currency translation rules are provided if an amount is expressed in a currency other than Australian dollars.

Section 49 provides for the monitoring of prices consequent upon the introduction of VAT. It is intended to ensure that there is no unjustified increase in prices in Kiribati during the transition to VAT.

Section 50 provides that the Act binds the Government. This means, for example, that the Government is required to register if it carries on an enterprise and taxable supplies to, or taxable imports by, the Government are subject to VAT. It is also provided that tax exemptions specified in other legislation do not apply for the purposes of the VAT unless also specified in the Act. It is intended that: (i) the only imports treated as exempt imports for the purposes of VAT are those listed in the First Schedule; (ii) the only supplies treated as exempt supplies for the purposes of the VAT are those listed in the Second Schedule; and (iii) the only supplies treated as zero-rated supplies are those listed in the Third Schedule.

### **Part XIII – Final Provisions**

Section 51 provides the Minister of Finance and Economic Development with a general power to make regulations for the purposes of the Act, including in relation to particular types of supplies and input tax credits.

Section 52 provides for the repeal of the Hotel Tax Act 1984 with effect from the commencement date of the VAT.

Section 53 provides for the registration of persons during the transitional registration period (the period starting two months before and ending on the day immediately before the commencement date). The purpose is to facilitate the registration of persons who will clearly satisfy the registration threshold before the commencement date of the VAT to ensure an orderly start to the operation of the VAT.

Section 54 provides general transitional rules relating to the introduction of VAT.

#### **Schedules**

The First Schedule lists imports that are exempt imports.

The Second Schedule lists supplies that are exempt supplies.

The Third Schedule lists supplies that are zero-rated supplies (i.e. taxable supplies subject to a zero rate of VAT).

Titabu Tabane  
Attorney General  
March  
2013

**CERTIFICATE OF THE CLERK OF THE MANEABA NI MAUNGATABU**

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 16<sup>th</sup> December 2013 and is found by me to be a true and correctly printed copy of the said Bill.



**Eni Tekanene**  
**Clerk of the Maneaba ni Maungatabu**

Published by exhibition at the Maneaba ni Maungatabu this <sup>30</sup>..... day of December 2013.



**Eni Tekanene**  
**Clerk of the Maneaba ni Maungatabu**