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Value Added Tax (VAT) Decree and Income Tax Act Amendments

Further amendments to the VAT Decree and Income Tax Act have been gazetted by the Interim Government on 18th March 2009. The changes announced are summarised as follows:

1. VAT Decree

- A new subsection 9 has been inserted in section 65 of the Decree which deals with refunds to state that “*no refund shall be transferred or assigned amongst registered persons*”. [amendment effective 1 January 2009]
- Sub-paragraph (g) has been inserted under paragraph 14 of the Second Schedule of the VAT Decree to allow live broadcasts of films made or filming carried out in Fiji to be zero rated supplies; [amendment effective 1 January 2009]
- Sub-paragraph (h) has been inserted under paragraph 14 of Second Schedule of the VAT Decree, to allow services of an Information Communication Technology (ICT) business to be a zero rated supply. [amendment effective 1 March 2009]

2. INCOME TAX ACT (ITA)

The following amendments are effective 1 January 2009 except for the amendment allowing a deduction for flood donations which is effective 13 January 2009.

- Section 17 of the ITA has been amended to include the following as exempt income:
 - Paragraph 17(76) has been amended to provide that income of a taxpayer derived from a new activity in commercial agricultural farming and agro-processing as approved by the Commissioner to be exempt from tax as follows:
 - ❖ capital investment from \$250,000 to \$1,000,000, for a period of 4 consecutive fiscal years; or
 - ❖ capital investment from \$1,000,000 to \$2,000,000, for a period of 7 consecutive fiscal years; or

- ❖ capital investment above \$2,000,000, for a period 10 consecutive fiscal years.
- A new paragraph 17(79) has been inserted to allow income of the Fijian Trust Fund to be exempt from tax.
- Section 21 has been amended to incorporate the following expenses as deductible:
 - two times the amount of capital spent by any existing legal entities in Vanua Levu that is engaged in commercial agricultural farming and agro-processing as approved by the Commissioner under section 17(76) subject to certain conditions.
 - two times the amount of any cash donation exceeding \$1,000 made by a taxpayer in 2009 by –
 - ❖ deposit to the Prime Minister’s National Disaster Relief and Rehabilitation, Colonial National Bank Account No. 4706578; or
 - ❖ deposit to an account operated by an organization or company as approved by the Commissioner that raises funds towards the 2009 Flood Victims.
- The Twelfth Schedule which contains the Tax Free Region Incentives has been amended as follows:
 - The Minister, when considering an application shall take into account that the company is a newly incorporated entity engaged in a new trade, business or manufacture in the Fiji Islands with the following level of investment:
 - ❖ capital investment from \$500,000 to \$1,000,000
 - ❖ capital investment from \$1,000,000 to \$2,000,000
 - ❖ capital investment above \$2,000,000
 - Any new activity approved and established between 1 January 2009 to 31 December 2009, shall be exempt from tax as follows:
 - ❖ capital investment from \$500,000 to \$1,000,000, for a period 5 consecutive fiscal years; or
 - ❖ capital investment from \$1,000,000 to \$2,000,000, for a period of 7 consecutive fiscal years; or
 - ❖ capital investment above \$2,000,000 for a period of 13 consecutive fiscal years.
 - Any new activity approved and established from 1 January 2010 shall be exempt from tax for a period of 13 consecutive fiscal years with an initial capital investment of \$2,000,000 or more.
 - Income tax exemption for companies issued with an operating licence under the Twelfth Schedule including duty exemption on certain raw materials, machinery and equipment.

- The existing Section 17(63) has been repealed and replaced with the following new section to state that the income derived by an ICT business will not be taxable where the ICT business was:
 - operating on or before 1 January 2007 in the declared Kalabu Tax Free Zone, from 1 January 2007 to 31 December 2016; or
 - granted a licence after 1 January 2009, for a period of 13 years from the date of issue of the licence.

Provided that the business employs 50 employees or more for 6 months within the income year and 60 percent or more of the total value of its services in that income year is exported.

- ❖ any such business when granted a licence, must pay a licence fee of \$1,000 per annum to the Commissioner for the period of the licence;
- ❖ the income of any business granted a licence who commences business before 31 Dec 2009 shall, for the income tax exempt period, be deemed for the purposes of section 7C or section 8 of the Act to have been charged to tax.
- ❖ ICT business means a person engaged in software development, call centres or internet service provision, but does not include an internet café or any retail or wholesale of information technology products or the repair, sale or service of any such products.

Please do not hesitate to contact us should you require further information or clarification on the above matters

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