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OF THE

REPUBLIC OF NAMIBIA

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 86

2010

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 4 of 2010: Value Added Tax Amendment Act, 2010.

Act No. 4, 2010

VALUE ADDED TAX AMENDMENT ACT, 2010

EXPLANATORY NOTE:

_____ Words underlined with a solid line indicate insertions in existing provisions.

[] Words in bold type in square brackets indicate omissions from existing provisions.

ACT

To amend the Value-Added Tax Act, 2000, so as to provide for further regulation of supplies made by agents; to provide for claim input VAT on debts; to zero rate the supply of dry white and dry and wet brown granular sugar, fresh milk, medical and paramedical services and funeral undertaking services; to delete medical and paramedical services as an exempt supply; and to provide for incidental matters.

(Signed by the President on 23 April 2010)

BE IT ENACTED by the Parliament of the Republic of Namibia as follows:

Amendment of section 3 of Act No. 10 of 2000, as amended by section 2 of Act No. 34 of 2000 and section 2 of Act No. 6 of 2002

1. Section 3 of the Value-Added Tax Act is amended by the addition of the following subsection:

“(27) For the purposes of this Act, where an importation of goods is deemed to have been made by an agent in the circumstances contemplated in subsection (4) of section 46A such agent is deemed to make a supply of goods to the recipient of the supply by the principal as contemplated in paragraph (c) of that subsection.”.

Amendment of section 7 of Act No. 10 of 2000, as amended by section 1 of Act No. 12 of 2004

2. Section 7 of the principal Act is amended by the addition of the following subsection:

“(19) Where a supply of goods is deemed to be made as contemplated in section 3(27), that supply is deemed to take place at the time the tax payable on importation of the goods is paid by the agent.”.

Amendment of section 8 of Act No. 10 of 2000, as amended by section 4 of Act No. 34 of 2000, section 5 of Act No. 6 of 2002 and section 2 of Act 12 of 2004

3. Section 8 of the principal Act is amended by the addition of the following subsection:

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“(20) Where any supply of goods is deemed to be made as contemplated in section 3(27), the value of such supply is deemed to be the total amount of the value placed on the importation of the goods in terms of section 12(2) and the amount of tax levied on the importation in terms of section 6(1)(b).”.

Amendment of section 18 of Act No. 10 of 2000, as amended by section 9 of Act No. 34 of 2000, section 9 of Act No. 6 of 2002 and section 2 of Act No. 2 of 2007

4. Section 18 of the principal Act is amended by the insertion of the following paragraph after paragraph (a) of subsection (1A):

“(aA) Where a registered person who has complied with paragraph (a)(i) and (ii) has transferred the account receivable to another registered person (hereinafter referred to as the recipient) on a non-recourse basis and any amount of such account receivable has been written off as irrecoverable by such recipient, such recipient may make a deduction in respect of that portion of the amount of tax charged in relation to that supply as bears to the full amount of such tax the same ratio as the amount of consideration so written off as irrecoverable bears to the total consideration for the supply, and the deduction so made is deemed to be input tax for the purposes of section 19:

Provided that a registered person who has transferred an account receivable on -

- (a) a non-recourse basis to any other person, may not make any deduction in respect of such transfer in terms of this subsection; or
- (b) a recourse basis to any other person, may make a deduction in terms of this subsection only when such account receivable is transferred back to him or her and he or she has written off so much of the consideration as has become irrecoverable.”.

Amendment of section 46A of Act No. 10 of 2000, as inserted by section 5 of Act No. 2 of 2007

5. Section 46A of the principal Act is amended by the substitution for the word “vendor” in paragraph (b) of subsection (2) of the following words:

“registered person”.

Amendment of Schedule III to Act No. 10 of 2000, as amended by section 30 of Act No. 34 of 2000, section 14 of Act No. 6 of 2002, section 8 of Act No. 12 of 2004 and section 1 of Act No. 4 of 2008

6. Schedule III to the principal Act is amended by the addition to paragraph 2 of the following subparagraphs:

“(ff) a supply of dry white or wet or dry brown granular sugar, and of fresh milk;

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- (gg) a supply of medical or paramedical services by -
- (i) any person referred to in section 17(1) of the Medical and Dental Act, 2004 (Act No. 10 of 2004); or
 - (ii) a person who holds a written authority under the Medical and Dental Act, 2004 (Act No. 10 of 2004); or
 - (iii) a nurse or midwife registered under the Nursing Act, 2004 (Act No. 8 of 2004); or
 - (iv) a practitioner or paramedic registered under the Allied Health Professions Act, 2004 (Act No. 7 of 2004);”
- (hh) a supply of services and rooms by a person in the ordinary course of operating a registered hospital, maternity home, nursing home, convalescent home, hospice or clinic; and
- (ii) a supply of funeral undertaking services.”.

Amendment of Schedule IV to Act No. 10 of 2000, as amended by section 31 of Act No. 34 of 2000, section 9 of Act No. 12 of 2004 and section 6 of Act No. 2 of 2007

7. Schedule IV to the principal Act is amended by the deletion of subparagraphs (b) and (c) of paragraph 2.

Short title and commencement

8. This Act is called the Value-Added Tax Amendment Act, 2010, and, comes into operation on the first day of the month following the month in which it is published in the *Gazette*.
