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VALUE ADDED TAX DECREE 1991

VALUE ADDED TAX (BUDGET AMENDMENT) DECREE 2010
(DECREE NO. 13 OF 2010)

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

TO AMEND THE VALUE ADDED TAX DECREE 1991

Short title and Commencement

1.—(1) This Decree may be cited as the Value Added Tax (Budget Amendment) Decree 2010, and comes into force on the 1st day of February 2010.

(2) The Value Added Tax Decree 1991 is known as “the Principal Decree”

New Section 70B inserted

2. The Principal Decree is amended by inserting a new section 70B—

“Tourist VAT Refund Scheme

70B.—(1) If—

- (a) a tourist purchases goods, the supply of which is a taxable supply;
- (b) the purchase is of a kind specified in the Fourth Schedule; and
- (c) the tourist leaves Fiji and exports the goods from Fiji as accompanied baggage, in the circumstances specified in the Fourth Schedule;

the Commissioner must pay to the tourist an amount equal to the amount of VAT paid on the taxable supply as specified in the Fourth Schedule.

(2) The amount is re-payable within the period and in the manner specified in the Fourth Schedule.

Fourth Schedule – Tourist VAT Refund Scheme
(Section 70B)

1. The Fourth Schedule of the Value Added Tax (Tourist VAT Refund Scheme) 2010 is added.

Purpose

2. The purpose of this Schedule is to provide retailers and tourists with certainty about the way the Commissioner will apply this Schedule in making Fiji an attractive shopping destination for tourists.

Definitions of this Part

3. In this Schedule unless the context otherwise requires—

“application form for refund” means the prescribed Form 7 as approved by the Commissioner under this scheme;

“approved registered person” means the retailer as approved by the Commissioner to be licensed under the Tourist VAT Refund Scheme;

“cruise ship” means a ship on an international voyage carrying passengers participating in a group programme and accommodated on board, for the purpose of making scheduled tourist visits at one or more different ports, and which during the voyage does not normally—

- (a) embark or disembark any other passengers
- (b) load or discharge any cargo

“financial institutions” means a financial institution licensed under the Banking Act 1995 approved by the Commissioner to operate under the Tourist VAT Refund Scheme;

“goods” means the goods purchased from the approved registered person in respect of which an application form for a refund under the scheme has been or is to be submitted to the proper officer of Customs.

“proper officer of Customs” means any officer of Customs acting in the fulfilment of his duties under this Decree or Customs Act, whether such duties are assigned to him specially or generally or expressly or by implication;

“scheme” means the Tourist VAT Refund Scheme;

“student’s permit” means a student’s permit issued by the Director of Immigration under the Immigration Act, 2003;

“tourist” means an individual who is eligible to receive a refund of tax under Provision 6.

Application for a licence in VAT Refund Scheme

4.—(1) Any registered person may apply in writing to the Commissioner for an operating licence under the scheme.

(2) Such licence shall be issued in Form 6 in the Third Schedule.

(3) An approved licensed person shall pay an annual licence fee of \$2,500 (inclusive of VAT).

Goods to which VAT refund applies

5.—(1) The refund applies to goods, the supply of which is a taxable supply, except any of the following goods—

- (a) goods that have been partly consumed at the time at which the tourist leaves Fiji;
- (b) goods exported for business or commercial purposes; and
- (c) goods that will be exported by freight as unaccompanied baggage.

Eligibility for tourist VAT refund

6.—(1) Subject to sub-section (2) a tourist is eligible to receive a refund of the tax on the goods from the financial institution under the scheme if he is—

- (a) a resident of a country other than Fiji;
- (b) a holder of a foreign passport;
- (c) 13 years of age or above at the date of purchase of the goods; and
- (d) if employed, is employed in a country other than Fiji. Tourists that are unemployed or retirees are eligible subject to subparagraphs (a) to (c).

(2) The holder of a student’s permit shall only be eligible to receive a refund under paragraph (a) if he purchases the goods less than 4 months before the expiry of the student permit.

Conditions for tourist VAT refund scheme

7.—(1) A tourist shall only be entitled to the refund of the tax under the scheme if he satisfies the following conditions—

- (a) the goods must have been purchased from an approved licensed person;
- (b) the goods must be purchased no earlier than 2 months before the goods are taken out of Fiji to another country;
- (c) the tourist makes and duly completes, at the time of his purchase of the goods to which the refund relates, an application for a refund of the tax on such application Form 7 as approved and prescribed by the Commissioner;
- (d) the application form for refund shall be supported by tax invoices showing the amount (including the amount of VAT) paid by the tourist for the goods;
- (e) if goods have been acquired from an approved registered person in a day, the purchase price paid by the tourist must be at least \$500 (including amount of VAT). If 2 or more goods have been acquired from different approved registered persons in a day, the total purchase price paid by the tourist for the items must be at least \$500 (including amount of VAT);
- (f) the goods are to be taken out of Fiji to another country as the tourist’s hand or accompanied luggage on the same flight or cruise ship voyage on which he is travelling;
- (g) the tourist shall submit the application form for refund together with the goods and the supporting tax invoices to the proper officer of customs at the Tourist VAT Refund Counter at the Nadi International

Airport or Suva Wharf, as the case may be, for inspection and endorsement of the application form before the goods are checked in or brought into the aircraft or cruise ship as hand luggage;

- (h) the tourist shall furnish such information and documents as the proper officer of Customs may require for the purpose of ascertaining whether the tourist will depart from Fiji in accordance with sub-paragraph (i);
- (i) the tourist shall depart from Fiji within 4 hours from the time of endorsement of the application form for refund by the proper officer of Customs;
- (j) the goods shall not be taken out of the premises of the Nadi International Airport Departure Check-in Counter or the Suva Wharf, as the case may be, after the application form has been endorsed by the proper officer of Customs; and
- (k) after the application form for refund has been endorsed, the tourist shall not part with possession of the goods or give it to any other person except to the counter staff for checking in.

Payment authority and manner of payment

8.—(1) If a proper officer of Customs is satisfied that—

- (a) a tourist complies with Paragraph 6 of the Schedule at the officers request; and
- (b) that the tourist is entitled to be paid an amount under Section 70B of the Decree;

than the proper officer must give the tourist the refund form that includes:

- i. information identifying the tourist;
- ii. the amount of refund to which the tourist is entitled;
- iii. the name and signature of the proper officer; and
- iv. customs certification stamp.

(2) The tourist must produce the refund form to the financial institution that is located at the Nadi International Airport or Suva Wharf. The financial institution shall pay the tourist the entitled amount in cash and in Fijian currency before the tourist leaves Fiji.

Offences relating to tourist VAT refund

9.—(1) Any person who receives any goods from a tourist after the application form in respect of such goods has been submitted to the proper officer of Customs at the Tourist VAT Refund Counter at the Nadi International Airport or Suva Wharf, as the case may be, shall be guilty of an offence and is liable for a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both a fine and imprisonment.

(2) Any person who brings any goods out of the premises of the Nadi International Airport Departure Check-in Counter or the Suva Wharf, as the case may be, after the application form in respect of such goods has been submitted to the proper officer of Customs at the Tourist VAT Refund Counter at the Airport or Suva Wharf concerned, shall be guilty of an offence and is liable for a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both a fine and imprisonment.

(3) Sub-sections (1) and (2) shall not apply to the circumstances where—

- (a) a ticketing or luggage officer or other employee, who is authorised by the Air Terminal Services Limited of Fiji or the airline or air terminal operator concerned, longshoreman authorised by Fiji Ports Corporation Limited, receives luggage for checking in or handles the luggage for the purpose of loading it into the aircraft or cruise ship or
- (b) the tourist carries the goods in his hand luggage for boarding on the departing aircraft or cruise ship.

Revocation of licence

10.—(1) The Commissioner may revoke a licence if the registered person—

- (a) has failed to comply with any of the requirements of this Decree or this Schedule; or
- (b) has been convicted of an offence under this Decree or any other law relating to taxation, customs or excise.”

GIVEN under my hand this 10th day of February 2010.

Ratu Epeli Nailatikau
President of the Republic of Fiji



Form 6

Fiji Islands Revenue & Customs Authority

**TOURIST VAT REFUND SCHEME LICENCE
(Section 70B of Value Added Tax Decree, 1991)**

PURSUANT to Section 70B of the Value Added Tax Decree, 1991 ("Decree"), I hereby grant a Tourist VAT Refund Scheme operating licence to:

TAX IDENTIFICATION NUMBER (TIN):

- (a) The licensee is not entitled to the rights conferred by Section 70B of the Decree before issue date.
- (b) The licensee is only entitled to the right conferred by Section 70B of the Decree for so long as it complies with the terms of that section.
- (c) The licence is valid from the issue date and shall expire on the 2nd day of February, 2011.

The issue date of this licence is the 1st day of February 2010.

COMMISSIONER OF INLAND REVENUE

