VALUE ADDED TAX (AMENDMENT) ACT, 2025

No. 16 **of 2025**

ARRANGEMENT OF SECTIONS

SECTION

An Act to amend the Value Added Tax Act.

Date of Assent: 17.10.2025
Date of Commencement: ON NOTICE
ENACTED by the Parliament of Botswana.

Short title and commencement

1. This Act may be cited as the Value Added Tax (Amendment) Act 2025, and shall come into operation on such date as the Minister may, by Order published in the *Gazette*, appoint.

Amendment of section 2 of Cap. 50:03

2. The Value Added Tax Act (hereinafter referred to as "the Act"), is amended in section 2 by —

(*a*) substituting for the definitions of "invoice" and "taxable supply" with the following definitions —

"invoice" means any document, including in an electronic format, stating an obligation to make a payment, and includes a tax invoice; and

"taxable supply" means —

(*a*) a supply of goods or services that is made in Botswana by a person in the course or furtherance of a taxable activity carried on by the person, other than an exempt supply; or

(*b*) anything treated as a taxable supply under this Act;

(*b*) deleting paragraph (*b*) (ii) in the definition of "import";

(*c*) inserting immediately after paragraph (*d*) a new paragraph in the definition of "input tax" —

"(*e*) any reverse charged supply made to the person;";

(*d*) substituting the words "State or a local authority" in the definition, "resident person" with the words "Government entity"; and

(*e*) inserting the following new definitions in their correct alphabetical order —

"electronic fiscal device" means an electronic device for recording and transmitting sales and related data, and the issuing of invoices and receipts, including a virtual fiscal device;

"fiscal receipt" means a receipt or tax invoice issued by an electronic fiscal device, Government electronic payment gateway system or any other electronic system approved by the Commissioner General;

"Government entity" means a —

(*a*) Government ministry, department, agency, institution, a company or other entity controlled by the Government; or

(*b*) local authority;

"large unregistered person" means a person —

(*a*) making supplies with a total annual value in excess of the amount specified in paragraph 1 of the Fifth Schedule; and

(*b*) who is not a registered person or Government entity;

"remote services" means services that at the time of the supply of the services, there is no necessary connection between the place where the services are physically performed by the supplier and the location of the recipient of the services, but excludes an accredited degree or diploma programme;

"telecommunications services" means the emission, transmission or reception of information, including voice, sound, data, internet and electronic communication, text, video, animation, visual images, moving images and pictures, signal or a combination thereof by means of magnetism, radio or other electronic waves, optical, electromagnetic system whether with or without the aid of tangible conduct, but does not include content service, and includes any service ancillary thereto such as the —

(*a*) installation, maintenance, adjustment, repair, alteration, removal, relocation or replacement of telecommunications equipment related to a telecommunications system;

(*b*) related transfer or assignment of the right to use capacity for such transmission, emissions, or reception; and

(*c*) provision of access to global or local information networks, but does not include the supply of the underlying writing, images, sounds, or information;".

Amendment of section 4 of the Act

3. The Act is amended in section 4 (1) (*b*) by inserting immediately after subparagraph (iii) the following new subparagraph —

"(iv) a reverse charged supply.".

Amendment of section 5 of the Act

4. The Act is amended in section 5 —

(*a*) by inserting immediately after subsection (1) (*a*) (ii) the following new subparagraph —

"(iii) outside Botswana providing remote services to a resident of Botswana,"; and

(*b*) by substituting for the words "local authority" in subsection (1) (*b*), the words "Government entity".

Amendment of section 7 of the Act

5. The Act is amended in section 7 —

(*a*) in subsection (1) by —

(i) deleting the words "or import of services," appearing in paragraph (*b*), and

(ii) inserting immediately after paragraph (*b*) the following new paragraph —

"(*c*) reverse charged supply made to a registered person, Government entity, or a large unregistered person;" and

(*b*) in subsection (2) by substituting for paragraph (*c*) the following new paragraph —

"(*c*) in the case of a reverse charged supply, be accounted for by the registered person, Government entity, or large unregistered person.".

Insertion of section 8A in the Act

6. The Act is amended by inserting immediately after section 8 the following new section —

"Supply of services in Botswana

8A. A supply of services shall occur in Botswana if the place of business of the supplier from which the services are supplied is in Botswana.".

Insertion of Part IIIA in the Act

7. The Act is amended by inserting the following new Part immediately after Part III —

"PART IIIA — *Rules Relating to Remote Services*

Supply of remote services in Botswana

11A. (1) Notwithstanding section 8A and subject to section 11B, a supply of services, other than a reverse charged supply, by a person who does not have a place of business in Botswana occurs in Botswana if the service —

(*a*) is physically performed in Botswana by a person who is in Botswana at the time of the supply;

(*b*) relates to immovable property in Botswana;

(*c*) is a remote service supplied to a person who is resident in Botswana as determined under subsection (2);

(*d*) is an inbound tourism product, agency, or booking services relating to a supply of an inbound tourism product;

(*e*) is a telecommunication service that can be used only in Botswana; or

(*f*) is a telecommunication service supplied to a person resident in Botswana as determined under subsection (4), except where paragraph (*e*) applies.

(2) For the purposes of subsection (1) (*c*) and subject to subsection (3), a recipient of a supply of remote services shall be treated as resident in Botswana if at least two of the following factors support the conclusion that the person is resident in Botswana —

(*a*) the recipient's billing address;

(*b*) the Internet Protocol address of the device used by the recipient or any other geo-location method;

(*c*) the recipient's bank account details, including the account the recipient uses for payment or the billing address held by the bank;

(*d*) the mobile country code of the International Mobile Subscriber Identity (IMSI) stored on the Subscriber Identity Module (SIM) used by the recipient;

(*e*) the location of the recipient's fixed land line through which the service is supplied to the recipient; or

(*f*) any other relevant information.

(3) Where there are two factors on the list in subsection (2) supporting that the recipient is resident in Botswana and two factors supporting residence in another country, the recipient's residence shall be based on the factors that, in the circumstances, are the most reliable indicators of the recipient's residence.

(4) For the purposes of subsection (1) (*f*), a recipient of a supply of telecommunications services shall be treated as resident in Botswana if the mobile country code of the International Mobile Subscriber Identity (IMSI) stored on the Subscriber Identity Module (SIM) used by the recipient is Botswana.

(5) Where a supplier has established that the recipient of a supply is resident in Botswana under subsection (2) or (4), the supplier shall treat the recipient as not being a registered person, unless the recipient has notified the supplier that the recipient is a registered person as required under section 11G.

(6) In this section "inbound tourism product" means accommodation, meals, transportation, tours, or other tourist activities provided in Botswana.

Supply of remote services through electronic marketplace

11B. (1) This section shall apply when —

(*a*) a supply of remote services is made by a supplier, referred to in this section as the "underlying supplier", through an electronic marketplace;

(*b*) the marketplace is operated by a person, referred to in this section as the "operator", who does not have a place of business in Botswana, but who —

(i) authorises the charge to the recipient of the supply,

(ii) authorises the delivery of the supply to the recipient of the supply, or

(iii) sets the terms and conditions under which the supply is made; and

(*c*) the recipient of the supply is resident in Botswana as determined under section 11A (2) and is not a registered person, Government entity, or a large unregistered person.

(2) Where the conditions in subsection (1) are satisfied and subject to subsection (3), section 11A (1) (*c*) applies on the basis that the operator of the electronic marketplace shall be treated as having made the supply of remote services in the course or furtherance of a taxable activity carried on by the operator.

(3) This section shall not apply when the underlying supplier is registered for VAT under this Act.

(4) In this section, "electronic marketplace" —

(*a*) means a marketplace that is operated by electronic means through which the underlying supplier makes a supply of remote services through the operator of the marketplace to the recipient of the supply;

(*b*) includes a website, internet portal, gateway, store, distribution platform, or other similar marketplace or platform; and

(*c*) does not include a marketplace that solely processes payments.

Reverse charged supply

11.C (1) A reverse charged supply shall be a supply of services where the supply —

(*a*) is made by a person, whether or not registered, who does not conduct a taxable activity from a place of business in Botswana;

(*b*) is made to a registered person, Government entity, or a large unregistered person; and

(*c*) would have been a taxable supply if the supply had been made from a place of business in Botswana.

(2) If a registered person or a large unregistered person conducts a taxable activity both in and outside Botswana, an internal provision of services from the part of the taxable activity conducted outside Botswana to the part of the taxable activity conducted in Botswana shall be treated as a reverse charged supply to the registered person or large unregistered person, as the case may be.

(3) Subsection (2) shall not apply if a supply of the services would be an exempt supply.

(4) The time of a reverse charged supply under subsection (2), shall be the time that the services are provided and the value of the supply shall be the fair market value of the services at the time of the supply.

(5) For purposes of this section, a Government entity or a large unregistered person shall register for purposes of accounting for reverse charged supply.

Registration of remote service supplier

11D. (1) Subject to section 16, a supplier of remote services who carries on a taxable activity and is not registered shall become liable to register if —

(*a*) at the end of any period of 12 months or lesser period the person made, during that period, taxable supplies the total value of which exceeded P500 000; or

(*b*) at the beginning of any period of 12 months if there are reasonable grounds to expect that the total value of taxable supplies to be made by the person during that period will exceed P500 000.

(2) The Minister may prescribe transitional rules for the registration of a supplier of remote services.

Tax period for large unregistered persons and remote service suppliers

11E. The tax period of a —

(*a*) Government entity or a large unregistered person liable for VAT under section 7 (1) (*c*) shall be two calendar months; and

(*b*) non-resident supplier whose only supplies are remote services to which section 11A (1) (*c*) applies shall be the period of three months ending on 31st March, 30th June, 30th September, and 31st December of each calendar year.

Maintenance of VAT documentation outside Botswana

11F. A supplier of remote services may maintain VAT documentation outside Botswana and shall make the documentation available to the Commissioner General on request by notice in writing and by the date specified in the notice.

Registered person receiving supplies of remote services

11G. (1) A registered person receiving a supply of remote services from a person who does not have a fixed place of business in Botswana shall notify the supplier that he or she is a registered person.

(2) A notification under subsection (1) shall be provided to the supplier of the remote services at, or before, the time of supply.".

8. The Act is amended in section 16 (5) by substituting for the words "State or a local authority" the words "Government entity". Amendment of section 16 of the Act

9. The Act is amended in section 20 by inserting immediately after subsection (5) the following new subsection — Amendment of section 20 of the Act

"(5A) A registered person who does not carry on a taxable activity through a fixed place of business in Botswana shall not be allowed any input tax credit in relation to the making of taxable supplies.".

10. The Act is amended by inserting immediately after section 21 the following new section — Insertion of section 21A in the Act

"Remote service suppliers adjustments

21A. Where a registered supplier of remote services has overpaid or underpaid tax, the supplier shall make an adjustment in the subsequent return.".

11. The Act is amended in section 23 — Amendment of section 23 of the Act

(*a*) by substituting subsection (1) with the following new subsection —

"(1) Subject to subsection (2), a registered person, referred to in this section as the "registered supplier", making a taxable supply to a person, referred to in this section as the "recipient", shall issue fiscal receipt using an electronic fiscal device for the taxable supply containing such particulars as are specified in paragraph 1 of the Fourth Schedule:

Provided that, the Minister may prescribe a list of persons or class of persons who are exempted from the requirement of the use of electronic fiscal device or the use of fiscal receipt or invoice."; and

(*b*) in subsection (9), by inserting the words, "including a person making a reverse charged supply," immediately after the words, "registered person".

12. The Act is amended by inserting immediately after section 45 the following new section — Insertion of section 45A in the Act

"VAT representatives of remote service suppliers

45A. (1) Where there are reasonable grounds to believe that a person who is required to apply for registration but who does not carry on a taxable activity through a fixed place of business in Botswana is unable to comply with their obligations under this Act, the Commissioner General may require the person to —

(*a*) appoint a VAT representative in Botswana; or

(*b*) lodge security with the Commissioner General as set out in section 35.

(2) The Minister may prescribe the mode, manner, and requirements for the appointment of a VAT representative and the responsibilities of the representative.

(3) A VAT representative appointed under subsection (1) shall be responsible for doing all things required of the person he or she represents under this Act, including applying for registration, the lodging of returns, and the payment of VAT.

(4) The registration of a VAT representative appointed under subsection (1) shall be in the name of the person he or she represents.

(5) A person may be a VAT representative appointed under subsection (1), for more than one person but the VAT representative shall maintain a separate registration of each person he or she represents.

(6) The VAT representative of a person under this section shall be personally liable for the VAT liability of the person he or she represents.".

Amendment of section 51 of the Act

13. The Act is amended in section 51 (1) by inserting immediately after paragraph (*e*) the following new paragraph —

"(*f*) a recipient-created tax invoice prepared by the registered person in respect of a reverse charged supply received by the person.

Insertion of section 56A in the Act

14. The Act is amended by inserting immediately after section 56 the following new section —

"Failure to use electronic fiscal device

56A. (1) In accordance with section 23, a registered person who fails to use an electronic fiscal device without reasonable cause shall be liable for a fixed monetary penalty of P10 000 for each month or part of a month for the period commencing on the date that the person was required to use the electronic fiscal device.

(2) A registered person who fails to issue a fiscal receipt upon receiving payment for sale of goods or upon receiving payment for sale of goods or service, shall be liable to a penalty not exceeding P10 000.

(3) A registered person who —

(*a*) uses an electronic fiscal device in any manner that misleads the system or the Commissioner General;

(*b*) issues a fiscal receipt that is false or incorrect in any material particular; or

(*c*) tampers with or causes the electronic fiscal device to work improperly,

commits an offence and shall be liable to a fine not exceeding P100 000 or imprisonment for a term not exceeding two years, or to both.".

Amendment of section 72 of the Act

15. The Act is amended in section 72 by inserting immediately after subsection (2), the following new subsections —

"(3) A supplier of remote services may, with the permission of the Commissioner General, report and pay VAT in United States Dollars, Euros, Great British Pounds, or other foreign currency as may be approved by the Commissioner General.

(4) A supplier of remote services to which section 11A (2) (*c*) applies, may elect to translate any foreign currency amounts to Pula —

(*a*) in accordance with subsection (2) (*b*);

(*b*) at the exchange rate applicable on the last day of the relevant tax period; or

(*c*) on such other basis as agreed with the Commissioner General.

(5) A supplier of remote services may not revoke an election made under subsection (4), until at least one year after making the election, unless the Commissioner General agrees otherwise.

(6) In this section, "exchange rate" means the telegraphic transfer buying rate issued by a financial institution.".

Amendment of section 77 of the Act

16. The Act is amended in section 77 by inserting immediately after subsection (1) (*c*), the following new paragraphs —

"(*d*) remote service suppliers; or

(*e*) conditions for the use of electronic fiscal devices.".

PASSED by the National Assembly this 14th day of August 2025.

DR. GABRIEL G. G. MALEBANG,
Clerk of the National Assembly.