

No. 39 of 1998.

Value Added Tax Revenue Distribution Act 1998.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Value Added Tax Revenue Distribution Act 1998,

Being an Act to make provision for the control and disbursement of revenue accruing consequent on the imposition of a value added tax in Papua New Guinea, to be read as one with the *Value Added Tax Act 1998*.

1. INTERPRETATION.

In this Act, unless the context otherwise requires—

“**Commissioner General**” means the Commissioner General of Internal Revenue;

¹²“**net VAT collections**” means VAT collected pursuant to Sections 6 and 8 of the *Value Added Tax Act 1998*, less any refunds paid pursuant to Section 87 of the *Value Added Tax Act 1998*;

“**Provincial VAT Trust Account**” means, in the case of any province, the trust account established under Section 3(3) for the receipt of that province’s value added tax revenue;

“**this Act**” includes the regulations;

2. ESTABLISHMENT OF TRUSTS.

(1) There shall be established a National VAT Revenue Trust—

(a) consisting of six trustees being—

(i) the Commissioner General; and

(ii) the Governor of the Central Bank; and

¹ Section 1 (definition of “mining levy”) repealed by No 61 of 2000; Section 1 (definition of “top up distributions”) repealed by No 61 of 2000.

² Section 1 (definition of “net VAT collections”) inserted by No 61 of 2000.

- (iii) four persons, each one of whom shall represent one of the four main regions of the country, who shall be nominated and appointed by the Provincial Governor's Council; and
- (b) whose purposes, functions, powers and procedures shall be as prescribed.
- (2) There shall be established for each province a Provincial VAT Trust—
 - (a) consisting of two trustees being—
 - (i) the Commissioner General; and
 - (ii) the person holding, for the time being, responsibility for the fiscal affairs in the province; and
 - (b) whose purposes, functions, powers and procedures shall be as prescribed.

3. ESTABLISHMENT OF THE TRUST ACCOUNTS.

(1) Trust accounts for the receipt of revenue arising from the imposition of a value added tax shall be established in accordance with this section.

(2) There shall be established in the Central Bank a trust account entitled the National VAT Trust Account which shall be subject to the provisions, as prescribed, of the National VAT Revenue Trust.

(3) There shall be established in each province a trust account, in a bank nominated by the Governor of the respective province, entitled the (insert name of Province) VAT Trust Account, which—

- (a) shall be subject to the provisions, as prescribed, of the Provincial VAT Trust; and
- (b) shall be established no later than the 1 July, 1999.

4. VALUE ADDED TAX REVENUE TO BE PAID INTO TRUST ACCOUNTS.

All revenue collected from the imposition of a value added tax in Papua New Guinea shall, immediately following receipt, be paid into the trust accounts established under this Act, as follows:—

- (a) value added tax revenue collected pursuant to Section 6 of the *Value Added Tax Act 1998* shall be paid into the National VAT Trust Account established under Section 3(2); and
- (b) value added tax revenue collected pursuant to Section 8 of the *Value Added Tax Act 1998* shall, to the extent that it is collected on supply made within a province, be paid into the Provincial VAT Trust Account for that province.

5. ADDITIONAL REVENUE TO BE PAID INTO PROVINCIAL VAT TRUST ACCOUNTS.

³Such additional amounts shall be paid into the Provincial VAT Trust Accounts as are required to meet—

- (a) any shortfall between the amounts deposited into a Provincial VAT Trust Account and the amounts needed to meet the revenue entitlement of that province pursuant to Section 6; and
- (b) interest accrued on deposits made into the Provincial VAT Trust Accounts.

6. VALUE OF DISTRIBUTIONS TO PROVINCES.

⁴(1) In this section—

“**excess**” means the amount, if any, by which 30% of projected net VAT collections in the year of payment exceeds the total of monthly entitlements for all provinces during the period January to December of the previous year, and shall be zero in a year for which 30% of projected net VAT collections are less than the total monthly entitlements for all provinces in the period January to December of the previous year.

(2) In the calendar year 2001 and in subsequent years, each province shall be paid each month—

- (a) an amount equal to the monthly entitlement of the province during the period January to December of the previous year; and
- (b) an amount calculated as follows:—

y multiplied by z

where—

“**y**” = the excess; and

“**z**” = the proportion VAT revenue collected in the province in the previous year was to total VAT collections in all provinces in that year.

7. ORDER OF PRECEDENCE OF DISTRIBUTIONS FROM THE TRUST ACCOUNTS.

⁵Revenue held in the Trust Accounts established under this Act is appropriated and shall be paid and distributed as follows:—

- (a) for the National VAT Trust Account—

³ Section 5 repealed and replaced by No 61 of 2000.

⁴ Section 6 repealed and replaced by No 61 of 2000.

⁵ Section 7 repealed and replaced by No 61 of 2000.

- (i) the first charge shall be for the payment of refunds of value added tax revenue; and
 - (ii) the second charge on the account shall be distributions due and payable to Provincial Governments by virtue of Section 5; and
 - (iii) the balance remaining shall be paid to the Consolidated Revenue Fund;
- (b) for each Provincial VAT Trust Account—
- (i) the first charge on the account shall be the amount due and payable to that Provincial Government by virtue of Section 6; and
 - (ii) the second charge on the account shall be for the payment of collection administration expenses of the Trust Accounts; and
 - (iii) the balance remaining shall be paid to the Consolidated Revenue Fund for the payment of refunds of value added tax.

8. TRUSTEES TO DECIDE WHEN PAYMENTS SHALL BE MADE TO THE CONSOLIDATED REVENUE FUND.

(1) The Trustees shall, from time to time, by mutual agreement, decide the balance required to be kept in the respective Value Added Tax Revenue Trust Account to meet commitments arising from the provisions of Section 7(a) and (b).

(2) The balance referred to in Subsection (1) may vary from week to week and month to month.

(3) When the balance required to be kept at any one point in time has been reached any further payments into the Trust Account shall forthwith be paid to the Consolidated Revenue Fund.

9. TIME OF DISTRIBUTION OF REVENUE TO THE PROVINCES.

⁶A province shall, within 21 days of the end of each month, be entitled to receive the total amount of revenue paid into its respective Provincial VAT Trust Account subject to the limit set by Section 6.

10. ADMINISTRATION OF THE TRUST ACCOUNTS.

(1) The trust accounts established under the provisions of this Act shall be administered by the Commissioner General, who shall be responsible for the transactions relating to these accounts.

(2) In his administration of the trust accounts, the Commissioner General shall be subject to the direction of the trustees appointed under Section 2.

(3) The trustees may not direct the Commissioner General to perform any action which would breach any provision of this Act.

⁶ Section 9 repealed and replaced by No 61 of 2000.

11. POWER OF DELEGATION.

(1) A person appointed to exercise any powers, or to perform any duty, under the provisions of this Act, may delegate, by writing under his hand, any of the powers or duties under this Act (other than this power of delegation).

(2) A power or function delegated under Subsection (1) may be exercised or performed by the delegate in accordance with the instrument of delegation.

(3) A delegation under this section is revocable at will and does not prevent the exercise or performance of a function by the person who delegated his powers or duties.

12. REGULATIONS.

The Head of State, acting on advice, may make regulations not inconsistent with this Act, prescribing all matters that are required or permitted to be prescribed or that are necessary or convenient to be prescribed for the purpose of giving effect to this Act.

Office of Legislative Counsel, PNG