

**REPUBLIQUE  
DE  
VANUATU**  
*JOURNAL OFFICIEL*



**REPUBLIC  
OF  
VANUATU**  
*OFFICIAL GAZETTE*

21 SEPTEMBRE 2020

NO. 64

21 SEPTEMBER 2020

NOTIFICATION OF PUBLICATION

ORDER

TAX ADMINISTRATION ACT NO. 37 OF 2018

This document only includes TAA Regulations. Other matters included in the Gazette Notice have been deleted.

- TAX ADMINISTRATION REGULATION (AMENDMENT) ORDER NO. 156 OF 2020

PAGE

1





## REPUBLIC OF VANUATU

### TAX ADMINISTRATION ACT NO. 37 OF 2018

#### Tax Administration Regulation (Amendment) Order No. 156 of 2020

In exercise of the powers conferred on me by section 109 of the Tax Administration Act No.37 of 2018, I, the Honourable JOHNNY KOANAPO RASOU, Minister of Finance and Economic Management, make the following Order.

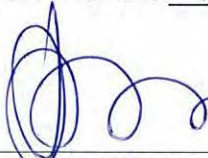
#### 1 Amendments

The Tax Administration Regulation Order No. 154 of 2019 is amended as set out in the Schedule.

#### 2 Commencement

- (1) Subject to subclause (2), this Order commences on the day on which it is made.
- (2) Items 1, 2, 3, 4 and Part 12A of item 6, commence 21 days after this Order is made.

Made at Port Vila this 14 day of September, 2020.

  
Honourable JOHNNY KOANAPO RASOU  
Minister of Finance and Economic Management

## SCHEDULE

### AMENDMENTS OF THE TAX ADMINISTRATION REGULATION ORDER NO. 154 OF 2019

**1 Paragraph 17(1)(b)**

After “registration” insert “or renewal of registration”

**2 Paragraph 17(1)(c)**

After “application” insert “or renewal of registration”

**3 Paragraph 17(1)(d)**

Repeal the paragraph, substitute

- “(d) an application for a license or renewal of a licence or authorisation to undertake any of the following activity in Vanuatu:
- (i) a designated agent for the purposes of the Development Support Program administered by the Citizenship Commission; or
  - (ii) to carry on business as a seasonal worker agent under the Seasonal Employment Act No. 23 of 2007.”

**4 Paragraph 17(2)(c)**

Delete “the licence”, substitute “or renewing the licence or authorisation”

**5. At the end of subsection 52(2)**

Add

- “(3) A person commits an offence if the person:
- (a) fails to undertake the due diligence or other measures in accordance with Schedule 2 of this Regulation; or
  - (b) makes a false or misleading statement in a self-certification made in accordance with Schedule 2 of this Regulation; or

- (c) fails to keep and retain records in accordance with Schedule 2 of this Regulation.
- (4) A person who commits an offence under subclause (3), is liable on conviction to a fine not exceeding VT 1,000,000 or imprisonment for a term not exceeding 1 year.”

**6 After PART 12**

Insert

**“PART 12A OWNERSHIP RECORDS**

**52A Ownership records to be maintained**

- (1) A person carrying on business within the meaning of section 8 of the Act, must keep and retain records to enable the identity of the person and if the person is an entity, the beneficial owner of that entity.
- (2) For the purposes of clause (1), **beneficial owner** means a natural person who is a beneficial owner of an entity if the natural person:
  - (a) ultimately owns or controls the entity, in whole or in part, through direct or indirect ownership or control of shares or voting rights or other membership interests in that entity; or
  - (b) exercises control of the entity via other means.
- (3) In addition to subclause (2), the beneficial owner of an entity is taken to include a natural person who:
  - (a) has a membership interest of 25% or more of the entity, by way of legal ownership of shares or otherwise, including ownership exercised through a chain of ownership; or
  - (b) exercises control, directly or indirectly, over the legal person or legal arrangement.
- (4) In the case of a trust, a beneficial owner includes:
  - (a) a settlor, trustee, protector, beneficiary, or class of beneficiaries, of the trust; and

- (b) any other natural person exercising ultimate effective control over the trust.
- (5) In the case of a legal arrangement other than a trust, a beneficial owner means a person in equivalent or similar positions to the persons under subclause (4).
- (6) If two or more natural persons each own or control an interest in an entity, each of them is treated as owning or controlling that interest.
- (7) Beneficial ownership may be traced through any number of persons or arrangements of any description.
- (8) Ownership information required to be kept and retained for the purpose of this clause for each owner or beneficial owner, includes:
  - (a) full name; and
  - (b) residential address; and
  - (c) date of birth; and
  - (d) nationality; and
  - (e) Tax Identification Number; andany other information the Director may specify in a public notice or in a public ruling in accordance with Part 12 of the Act.
- (9) Records required to be kept under this section must be retained in accordance with section 8 of the Act.

## **PART 12B ADMINISTRATIVE OFFENCES AND PENALTIES**

### **52B Offences**

- (1) A person commits an offence if the person without reasonable cause, fails to comply with a requirement of this Regulation.
- (2) A person who commits an offence under subclause (1) is liable on conviction to a fine not exceeding VT500,000 or imprisonment for a term not exceeding 6 months.”

### **7 Schedule 2-Heading**

Delete “INFORMATIN”, substitute “INFORMATION”

### **8 Schedule 2, Part 1, subclause 9(1)**

- (a) Delete “that the institution obtains or creates”, substitute “it is required to obtain or create”
- (b) After “records”(second occurring), delete “f”

### **9 Schedule 2, Part 1, subclause 9(3)**

Repeal the subclause, substitute

- “(3) For the purpose of the application of section 8 of the Act to records described in subclause (1), the period of 5 years referred to in paragraph 8(2)(e) of the Act, is a reference to a period of 5 years following the end of the calendar year in which the Reporting Financial Institution is required to submit a report in accordance with clause 6 for the last reporting period in respect of which the record is relevant.”