



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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No. 1232

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 245

1995

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. 27 of 1995: Sales Tax Amendment Act, 1995.

EXPLANATORY NOTE:

_____ Words underlined with solid line indicate insertions in existing enactments.

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

ACT

To amend the Sales Tax Act, 1992, so as to make other provision in relation to the rate of tax applicable where wares are applied for private or domestic use by a person carrying on an enterprise; to further regulate the exemption from tax in respect of plant and machinery used in a manufacturing or assembling process; to increase the rate, and change the method of calculation, of interest on amounts overdue in respect of tax, penalties and interest, including amounts due and payable at the commencement of this Act; to make provision that, instead of a refund of amounts overpaid in respect of tax, a credit may be granted for deduction from any future liability under the Act; to make certain amendments to the description of taxable services so as to include conveyance services and facilities provided by a carrier under private charter, but to exclude public conveyance services provided by a public carrier; to make adjustments to the description of certain imported goods which are exempt from tax; and to provide for incidental matters.

(Signed by the President on 22 December 1995)

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows -

Amendment of section 5 of Act 5 of 1992, as amended by section 1 of Act 12 of 1993

1. Section 5 of the Sales Tax Act, 1992 (hereinafter referred to as the principal Act), is hereby amended by the substitution for subsection (1A) of the following subsection:

"(1A) The sales tax imposed by subsection (1) shall be calculated -

- (a) in the case of paragraphs (a), **[and]** (g) and (h) of that subsection, at the rate of 8 per cent of the taxable value concerned;
- (b) in the case of paragraphs (b), (c), (d), (e) and (f) **[and (h)]** of that subsection, at the rate of 11 per cent of the taxable value concerned."

Amendment of section 6 of Act 5 of 1992, as amended by section 2 of Act 12 of 1993 and section 2 of Act 13 of 1994

2. Section 6 of the principal Act is hereby amended by the substitution for paragraph (ah) of subsection (1) of the following paragraph:

- "(ah) subject to compliance with the provisions of section 15, the sale to or importation by a person who carries on a manufacturing enterprise **[and] which** has been approved by the Minister on recommendation of the Minister of Trade and Industry, of any machinery or plant in respect of which the Permanent Secretary is satisfied that it will be used by such person direct in **[or in connection with]** a manufacturing or assembling process in such enterprise, and which is described in a certificate issued by the Permanent Secretary for the purposes of this paragraph."

Amendment of section 24 of Act 5 of 1992

3. (1) Section 24 of the principal Act is hereby amended -

(a) by the substitution for subsection (4) of the following subsection:

"(4) Interest at the rate of 20 per cent per annum, calculated daily and compounded monthly, shall -

- (a) be paid by such person **[at the rate of 15 per cent per annum]** on any such shortpaid amount in respect of the period reckoned from the day after the date by which the tax should have been paid in full to the date of payment of such shortpaid amount;
- (b) **in addition to any penalty payable in terms of section 25, be paid by a person referred to in that section on the amount of tax which he or she failed to pay in terms of this Act, reckoned from the day after the date by which such amount should have been paid in full to the date of payment of such amount.**"; and

(b) by the addition of the following subsection:

"(5) Any amount which, on the date of commencement of the Sales Tax Amendment Act, 1995 is owing by any person in respect of any tax, penalties or interest levied or accrued in terms of this Act before such date, shall with effect from that date bear interest at the rate of 20 per cent per annum, calculated daily and compounded monthly, and to be reckoned from such date of commencement."

Amendment of section 33 of Act 5 of 1992

4. Section 33 of the principal Act is hereby amended -

(a) by the substitution for the words following on paragraph (b) of subsection (1) of the following words:

"the Permanent Secretary may -

(i) authorize a refund -

(aa) of any amount referred to in paragraph (a) to the person who paid such amount, or where such person has ceased to carry on any enterprise, to the person by whom such amount was borne; or

(bb) of the amount of tax referred to in paragraph (b) to the person by whom such tax was borne; or

(ii) instead of such a refund, authorize that a credit for an amount referred to in subparagraph (i) be granted in favour of the person by whom such amount was paid or borne, for deduction from any future liability of that person for any tax, penalty, or interest under this Act:

Provided that if the Permanent Secretary refuses to authorize such a refund or credit, he or she shall give the person concerned written notice of such refusal."; and

(b) by the substitution for subsection (2) of the following subsection:

"(2) The Permanent Secretary shall not authorize any refund or credit under subsection (1), unless -

(a) in relation to an amount referred to in paragraph (a) of that subsection, a claim for [any] a refund or the granting of a credit [under the provisions of paragraph (a) of that subsection] is made within three years after the date upon which payment of the amount claimed to be refundable was made: Provided that if the Permanent Secretary is satisfied that such payment was made in accordance with the practice generally prevailing at the said date no refund or credit may be authorized unless the claim for any refund or credit is made within six months after such date of payment; or

(b) in relation to an amount referred to in paragraph (b) of that subsection, a claim for [any] a refund or the granting of a

credit [under the provisions of paragraph (b) of that subsection] is made within three months after the date upon which the registration certificate referred to in that paragraph was received by the person concerned; or

- (c) the amount [to be refunded] refundable is [R] N\$5 or more; or
- (d) the Permanent Secretary is satisfied that [any amount of tax claimed to be refundable to any person who has paid the tax will in turn be refunded by such person to any other person who has borne the tax] the person claiming a refund or credit will, where applicable, in turn make a refund of the amount to the person by whom the tax was borne."

Amendment of Schedule 1 to Act 5 of 1992, as amended by section 11 of Act 12 of 1993

5. Schedule 1 of the principal Act is hereby amended by the insertion of the following paragraph after paragraph (e):

"(eA) Services rendered or facilities provided by any person in the course or any enterprise carried on by him or her as a carrier of persons or goods by means of conveyance by road, air, or sea and provided by such person under contracts of charter or any such means of conveyance, either with or without the added services of a driver, pilot, master, or crew, but excluding any conveyance service rendered by a public carrier by means of a taxi, bus or other transport vehicle, aircraft, or vessel."

Amendment of Schedule 2 to Act 5 of 1992

6. Schedule 2 of the Principal Act is hereby amended by the substitution for the heading to paragraph 8 of Division 1 of the following heading:

"8. The following goods:"

Amendment of Schedule 5 to Act 5 of 1992, as amended by section 3 of Act 31 of 1992 and section 12 of Act 12 of 1993

7. Schedule 5 of the principal Act is hereby amended by the substitution for Item No. 407.02 of paragraph 1 of Part A of the following Item:

- "407.02 (1) Goods imported as accompanied passengers' baggage either by non-residents or residents of Namibia and cleared at the place where such persons disembark or enter Namibia;
- | Tariff
Heading | |
|-------------------|--|
| 22.00 | Wine, not exceeding 2 litres per person;

Spirituous and other alcoholic beverages, a total quantity not exceeding 1 litre per person; |
| 24.02 | Cigarettes, not exceeding 400 and not exceeding 50 cigars per person; |
| 24.03 | 250g cigarette or pipe tobacco per person; |
| 33.03 | Perfumery not exceeding 50ml and toilet water not exceeding 250ml per person. |
- (2) Other new or used goods of a total value not exceeding N\$500 per person."

Short title

8. This Act shall be called the Sales Tax Amendment Act, 1995.
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