

PART A

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THE SALES TAX (AMENDMENT) BILL, 2011

(Bill No. 2 of 2011)

(To be presented by the Minister of Finance)

MEMORANDUM OF OBJECTS AND REASONS

The object of this Bill is to amend the Sales Tax Act, 1983 so as to -

- (a) revise the fines for offences for contravening the Act;
- (b) revise the list of services liable to payment of sales tax;
- (c) revise the rate of sales tax;
- (d) adjust the exemption threshold on the importation of personal goods into Swaziland;
- (e) introduce the concept of reverse charge for imported services; and
- (f) to provide for other matters incidental to these objects.

J. M. DLAMINI
ATTORNEY-GENERAL

A BILL ENTITLED

AN ACT to amend the Sales Tax Act, 1983 by revising the fines, the list of services liable to payment of sales tax and the rates of sales tax; to adjust the exemption threshold on the importation of personal goods into Swaziland and to provide for any matters connected with the objects.

ENACTED by the King and Parliament of Swaziland.

Short title and date of commencement

1. (1) This Act may be cited as the Sales Tax (Amendment) Act, 2011 and shall be read as one with the Sales Tax Act, 1983 (hereinafter referred to as the "principal Act").

(2) This Act shall come into force on such date as the Minister may, by notice in the Gazette, appoint.

Amendment of Section 2

2. Section 2 of the principal Act is amended -

- (a) by deleting the definition of "hotel" and replacing it with a new definition as follows -

"hotel" means any hotel, motel, lodge, guesthouse, bed and breakfast, self-catering accommodation or any other accommodation establishment which the Minister has declared to be a hotel for the purpose of this Act;"

- (b) by deleting the definition of "restaurant" and replacing it with a new definition as follows -

"restaurant" means any entity selling prepared meals to customers or any entity which the Minister declares to be a restaurant for the purposes of this Act and includes -

- (a) a restaurant;
 - (b) an eating house;
 - (c) a take-away;
 - (d) a coffee shop; and
 - (e) a café;" keeper and
- (c) by inserting the following paragraph between the definitions of "Common customs area" and "court" -

"Commissioner" means the Commissioner - General of the Swaziland Revenue Authority;".

Amendment of Section 6

3. Section 6(c) of the principal Act is amended -
- (i) by the insertion after the word "service" of the following words "as mentioned in the Fourth Schedule to this Act";
 - (ii) by the insertion after the word "person" of the following words "whether resident or non-resident"; and
 - (iii) by the insertion after the word "in" of the word "the";
- (b) by adding new subsection (2) and (3) and renumbering the current section 6 as subsection (1) as follows -

(2) A local receiver of a taxable service who is a resident of Swaziland shall be obliged to calculate the due sales tax amount in accordance with section 10(d) and remit the tax to the Commissioner in the manner and form prescribed by the Commissioner.

(3) Any local receiver of taxable services provided by a non-resident supplier shall keep records and books of account and shall provide any particulars that the Commissioner may require".

Amendment of Section 11

4. Section 11 of the principal Act is amended by adding after paragraph (d) a new paragraph (e) as follows -

(e) in the case of the importation of taxable services provided by a non-resident supplier who is not registered for sales tax in Swaziland, by the recipient of the services."

Amendment of Section 25

Section 25 of the principal Act is amended by deleting the words "one thousand Emalangeni" and replacing them with the words "twenty-five thousand Emalangeni or treble the deprived or disadvantaged whichever is greater".

Amendment of First Schedule

The First Schedule to the principal Act is amended by deleting the schedule and replacing it with the following -

FIRST SCHEDULE**RATES OF SALES TAX
(Under Section 6)**

| ITEM | DESCRIPTION OF TRANSACTION | RATE OF SALES TAX |
|------|--|-------------------|
| | The following goods imported into Swaziland | |
| | (a) alcoholic beverages of all kinds other than traditional beer | 30 per cent |
| | (b) manufactured tobacco in the form of cigars, cheroots, cigarillos, cigarettes, pipe tobacco and snuff | 30 per cent |
| | (c) any other taxable imported goods | 14 per cent |
| 1. | The first sale of the under-mentioned goods manufactured or produced in Swaziland - | |
| | (a) alcoholic beverages of all kinds other than traditional beer | 25 per cent |
| | (b) manufactures tobacco in the form of cigars, cheroots, cigarillos, cigarettes, pipe tobacco and snuff | 25 per cent |
| | (c) any other taxable manufactured or produced goods | 14 per cent |
| 2. | Taxable services specified in the Fourth Schedule to this Act | 14 per cent |
| 3. | Accommodation let and food supplied by hotel or restaurant | 14 per cent |
| 4. | Goods imported, manufactured or produced by any person applied for own use, the following - | |
| | (a) alcoholic beverages of all kinds other than traditional beer | 30 per cent |
| | (b) manufactured tobacco in the form of cigars, cheroots, Cigarillos, cigarettes, pipe tobacco and snuff | 30 per cent |

- (c) Any other imported, manufactured or produced goods ... 14 per cent

Amendment of Second Schedule

7. The Second Schedule to the principal Act is amended in Division II -

(a) by adding after item 1.09 a new item 1.10 as follows -

“1.10 Precious metals, bank notes, coins, and other valuables to the Central Bank of Swaziland for the treasury of the Kingdom”;

(b) by repealing item 3.08;

Amendment of Fourth Schedule

8. The Fourth Schedule to the Principal Act is amended -

(a) by adding after item 1.01 a new item 1.02 as follows -

“Repairs to photographic equipment”;

(b) by deleting item 1.03 and replacing with a new item 1.03 as follows -

“1.03 Laminating and framing services”;

(c) by adding after item 1.03 a new item 1.04 as follows -

“Production and development of videos”;

(d) in item 3.01 by deleting after the word “by” the word “public”;

(e) by deleting item 4.02 and replacing with a new item as follows -

“4.02 Property sales including residential and commercial”

(f) by adding after item 5.02 a new item 5.03 as follows -

“5.03 Recruitment services”;

(g) in the heading to item 7 by deleting the words “DATA PROCESSING SERVICES” and replacing with the words “INFORMATION TECHNOLOGY SERVICES”

(h) by adding after item 7.05 a new item 7.06 and 7.07 as follows -

“7.06 Web design

7.07 Mobile telephone services”;

(i) by deleting item 9 and replacing it with a new item as follows -

“9 CONSTRUCTION SERVICES

9.01 Architecture

9.02 Civil Engineering

- 8.3 Electrical Engineering
- 8.4 Mechanical Engineering
- 8.5 Structural Engineering
- 8.6 Project Management
- 8.7 Surveying
- 8.8 Quantity Surveying
- 8.9 Soil Testing
- 8.10 Landscaping Services
- 8.11 Plumbing Services
- 8.12 Electrical Wiring Services”;

(j) in the heading to item 11 by deleting after the word “SERVICES” the words “excluding charges payable to the Swaziland Broadcasting and Information Services and the Swaziland Television Broadcasting Corporation for the transmission of advertisements”;

(k) by adding after item 11 new items 12 and 13 as follows _

12. MOTOR VEHICLE SERVICE

12.01 Motor Vehicle repairs maintenance

12.02 Panel beating and spray painting;

13. OTHER SERVICES

13.01 Installation of air conditioning

13.02 Repairs and maintenance of air conditioners

13.03 Security Services

13.04 Cleaning Services

13.05 Gardening Services

13.06 Vehicle Tracking Services

13.07 Electronic installation and repairs”.