

GOVERNMENT OF ZAMBIA

ACT

No. 47 of 2016

Date of Assent: 27th December, 2016

An Act to amend the Customs and Excise Act.

[27th December, 2016

ENACTED by the Parliament of Zambia.

Enactment

1. (1) This Act may be cited as the Customs and Excise (Amendment) Act, 2016, and shall be read as one with the Customs and Excise Act, in this Act referred to as the principal Act.

Short title
and
commencement
Cap. 322

(2) This Act shall come into operation on 1st January, 2017.

2. Section 2 of the principal Act is amended by the insertion, in the appropriate places, of the following definitions:

Amendment
of section 2

“ bearer negotiable instrument ” includes a monetary instrument in bearer form such as a traveller’s cheque, negotiable instrument, cheque, promissory note, money order, electronic funds transfer and digital currency that is—

(a) endorsed without restriction;

(b) in such form that title to it passes upon delivery; and

(c) an incomplete negotiable instrument, including a bill of exchange, cheque and money order signed, but with the payee’s name omitted; and

“currency” means the coin and paper money of the Republic, or of a foreign country, that is designated as legal tender or is customarily used and accepted as a medium of exchange, and includes a bearer negotiable instrument;.

Insertion of
new section
73A

3. The principal Act is amended by the insertion of the following section immediately after section 73:

Application
for advance
ruling on
origin of
goods

73A (1) A person may apply to the Commissioner-General in the prescribed manner and form for an advance ruling on origin in respect of goods to be imported by that person.

(2) The Commissioner-General shall, where the information provided by an applicant pursuant to subsection (1) is insufficient to enable the Commissioner-General to make a ruling on the origin of the goods in question, require additional information from the applicant before processing the application.

(3) The Commissioner-General shall, within ten working days from the date of receipt of an application under subsection (1), issue an advance ruling on the origin of the goods in respect of which the application is made, if the Commissioner-General determines that the goods are not subject to litigation or dispute.

(4) The Commissioner-General shall, where the Commissioner-General fails to issue an advance ruling on the origin of any goods within the period specified in subsection (3), notify the applicant, in writing, stating the reasons for the failure and advise the applicant when the advance ruling on the origin of the goods shall be made.

(5) An advance ruling on the origin of goods issued under this section shall—

- (a) describe the goods in respect of which it is issued;
- (b) be valid for thirty days from the date of issue of the advance ruling;
- (c) be binding on the Commissioner-General;
- (d) be applied solely in respect of the goods that conform in all material respects with the goods with respect to which the advance ruling on origin was issued; and
- (e) be applied exclusively for the purpose of determining the preferential rates of customs duty.

4. The principal Act is amended by the insertion of the following section immediately after section 76B:

Insertion of
new section
76C

76C. (1) The CommissionerGeneral may, in collaboration with the Zambia Information and C o m m u n i c a t i o n s Technology Authority, electronically collect and record transactional data for tax purposes and to ensure compliance with this Act.

Electronic
monitoring
of excise tax
compliance

(2) In this section, “Zambia Information and Communications Technology Authority” means the Zambia Information and Communications Technology Authority established under the Information and Communications Technologies Act, 2009.

Act No. 15
of 2009

5. Section 77 of the principal Act is amended by the—

Amendment
of section 77

(a) deletion of subsections (1) and (2) and the substitution therefor of the following:

(1) Subject to subsection (2), there shall be charged, levied, collected and paid a surtax at the rates specified in the surtax tariff set out in Parts I and II(A) of the Fourth Schedule in respect of—

(a) goods that are imported into, manufactured or produced in Zambia; and

(b) carbon emissions from motor vehicles, excluding ambulances, prison vans and vehicles propelled by non-pollutant energy sources.

(2) Subject to subsection (1)(a), a surtax is payable on every motor vehicle older than five years at the rates specified in the surtax tariff set out in Part II(B) of the Fourth Schedule.;

(b) by the insertion of the following subsection immediately after subsection (2)—

(3) Despite subsection (1), the goods listed in Part III of the Fourth Schedule are exempt from surtax.; and

(c) the renumbering of subsections (3) to (7) as subsections (4) to (8), respectively.

Amendment of section 108	<p>6. Section 108 of the principal Act is amended in subsection (3) by the deletion of the word “twentieth” and the substitution therefor of the word “fifteenth”.</p>
Repeal and replacement of section 108A	<p>7. The principal Act is amended by the repeal of section 108A and the substitution therefor of the following:</p>
Affixing of tax stamp	<p>108A. (1) Subject to section 108, a person who manufactures or imports goods that are subject to excise duty shall affix a tax stamp.</p> <p>(2) The Minister may by statutory instrument prescribe the goods to which a tax stamp may be applied and the manner of affixing and form of the tax stamp.</p> <p>(3) A person who contravenes subsection (1) commits an offence.</p> <p>(4) In subsection (1), “tax stamp” means such mark, in electronic form or otherwise, as the Minister may prescribe, by statutory instrument.</p>
Amendment of section 155	<p>8. Section 155 of the principal Act is amended by the deletion of the words “eight thousand”, wherever they appear, and the substitution therefor of the words “twenty thousand”.</p>
Repeal and replacement of section 188	<p>9. The principal Act is amended by the repeal of section 188 and the substitution therefor of the following:</p>
Keeping of records	<p>188. (1) A person carrying on a business in Zambia which involves handling or dealing in goods that are imported or exported or that are subject to excise duty or surtax shall keep or cause to be kept in Zambia, in the English language, complete records of that person’s transactions for that business for a period of six years.</p> <p>(2) A person required to keep a record under subsection (1) shall, if required at any time within the period of six years from the date of the importation, exportation, manufacture or purchase of any goods, produce the bills of lading, rail notes, invoices and other documents, including electronic documents, containing the particulars regarding the goods and shall allow such books, accounts and documents, including any electronic documents and electronic record systems, at all times within such period, to be open for inspection by an officer.</p>

(3) The Commissioner-General may require a person to keep records for a period longer than the period prescribed in subsection (1) where the Commissioner-General determines that the records are required for the purposes of enforcement of this Act.

(4) Where, during an inspection, an officer determines that any of the records relating to an entry is missing, the officer shall, in writing, require the person concerned to make the record available within twenty working days from the receipt of a written request to do so or where the circumstances of the case so require, within such longer period as the Commissioner-General may specify.

(5) A person who fails to—

(a) avail the records for inspection required under subsection (2); or

(b) provide missing records within the time stipulated under subsection (4) when required to do so;

commits an offence and is liable, upon conviction, to a penalty of twenty thousand penalty units and shall, in addition to that penalty, be liable to a penalty of two thousand penalty units for each entry in respect of which there are no records.

(6) A person who proves to the satisfaction of the Commissioner-General that the records were damaged, destroyed or lost in circumstances beyond the control of that person, is not liable to pay the additional penalty for an entry in respect of which there are no records.

10. The First Schedule to the principal Act is amended as set out in Appendix I.

Amendment
to First
Schedule

11. The Second Schedule to the principal Act is amended in the duty rate column opposite HS Code heading 24.02 and 24.03, by the deletion of the figures and word “145% or KR 200” and the substitution therefor of the figure “K240”.

Amendment
to Second
Schedule

12. The principal Act is amended by the revocation of the Fourth Schedule and the substitution therefor of the Fourth Schedule set out in Appendix II.

Revocation
and
replacement
of Fourth
Schedule