

Tanzania

Export Tax Act

Chapter 196

Legislation as at 31 July 2002

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Export Tax Act

Chapter 196

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[Note: This legislation has been thoroughly revised and consolidated under the supervision of the Attorney General's Office, in compliance with the Laws Revision Act No. 7 of 1994, the Revised Laws and Annual Revision Act (Chapter 356 (R.L.)), and the Interpretation of Laws and General Clauses Act No. 30 of 1972. This version is up-to-date as at 31st July 2002.]

[Acts Nos. 17 of 1974; 15 of 1975; 7 of 1976; 12 of 1979; 12 of 1981; 15 of 1984; 15 of 1985; 13 of 1996; 8 of 1998; 11 of 2000]

An Act to provide for the export tax and related matters.

1. Short title

This Act may be cited as the Export Tax Act.

2. Interpretation

In this Act unless the context otherwise requires—

"**Commissioner**" means the Permanent Secretary to the Treasury;

"**crop authority**" means any parastatal organisation dealing in agricultural produce or any by-product of any agricultural produce;

"**due date**" means the date on which export tax on any commodity is payable;

"**export**" means export out of Tanzania;

"**Minister**" means the Minister for the time being responsible for finance;

"**parastatal organisation**" means—

- (a) a body corporate established by or under any Act other than the Companies Act ¹;
- (b) any company registered under the Companies Act not less than fifty *per centum* of the issued share capital of which is owned by the Government or a parastatal organisation or, where the company is limited by guarantee, a company in respect of which the amount that the Government or the parastatal organisation which is a member of such company has undertaken to contribute in the event of the company being wound up is not less than fifty *per centum* of the aggregate amount which all the members have undertaken to contribute; and references in this paragraph to a parastatal organisation include references to any such company;

"**proper officer**" means—

- (a) the Commissioner;
- (b) any public officer appointed by the Commissioner to be a proper officer for the purposes of this Act;

"**tax**" means the export tax imposed by this Act;

"**taxable commodity**" means any commodity in respect of which export tax is payable under this Act.

3. Imposition of export tax

- (1) Subject to the provisions of this Act there shall be charged, levied and collected by the Commissioner a tax known as export tax, on the export from Tanzania of any of the commodities specified in the first column of the Schedule to this Act.
- (2) The tax on any commodity specified in the Schedule to this Act shall be at such rate as is specified in relation thereto in the second column of the said Schedule.
- (3) The tax on any taxable commodity shall be due and become payable by the exporter prior to the removal of the commodity from Tanzania:

Provided that, where in the case of any agricultural produce, provision is made in this Act for payment of the tax by a crop authority on the sale for export of any taxable commodity by such authority to a buyer in Tanzania, the tax shall become due and payable on such sale and shall be payable on or before the tenth day of the month immediately following the month in which the sale takes place.

- (4) Where in relation to any consignment of taxable commodity the Commissioner is satisfied that tax has been paid by a crop authority in accordance with the proviso to subsection (3) no further export tax shall be chargeable on the export of the same consignment.
- (5) Any provision in this Act regulating the construction of any expression used therein shall have the same effect as if such provisions were set out in section 2.

4. Tax may be recovered by suit

Any tax, penalty or other sum payable under this Act shall be a debt due to the Government and may be recovered as a civil debt by a suit at the instance of the Commissioner or any proper officer authorised by the Commissioner in that behalf.

5. Penalty for non-payment of tax

- (1) Subject to the provisions of subsection (3) if any amount of tax remains unpaid on the due date—
 - (a) additional tax equal to five *per centum* of that unpaid amount shall thereupon become and be payable by way of penalty; and
 - (b) if such amount remains unpaid for more than thirty days after the due date the additional tax prescribed by paragraph (a) shall be increased by five *per centum* for the second and every succeeding period of thirty days after the due date, or any part of such second or succeeding period, during which such amount remains unpaid, and the increased additional tax by way of penalty shall become and be payable accordingly.
- (2) Any sum payable by way of penalty under this section shall, for the purposes of this Act, be deemed to be tax and shall be collected and recoverable accordingly.
- (3) The Commissioner or any proper officer authorised by him in that behalf may, in his discretion, remit the whole or part of any penalty payable under this section; but the Commissioner or a proper officer authorised by him in that behalf shall not remit the penalty in excess of the maximum amount of penalty remittable under this section which may be specified by the Minister by order published in the *Gazette*.
- (4) The Commissioner, or proper officer authorised by him in that behalf, shall, as soon as may be after he has remitted any penalty, prepare and submit to the Minister a full report on the matter, setting out the circumstances and the reasons leading to or justifying the remission.

- (5) Upon receipt of a report submitted to him pursuant to subsection (4), the Minister may give such directions to the Commissioner, in relation to the subject-matter of the report as he sees fit and may, in addition, take any other action which he deems necessary.
- (6) No action taken or thing done by the Commissioner in pursuance of any of the provisions of this section shall be subject to review or question by or in any court.

6. Summary recovery of tax and penalty

- (1) Without prejudice to any other method for recovery of the tax or penalties due under this Act, where any amount of tax or penalty is due from any person, the Commissioner or any proper officer authorised by him in that behalf may file in a court of a resident magistrate having jurisdiction over the area in which the person from whom such amount is due resides or carries on business, a certificate stating—
 - (a) the name and address of the person from whom such amount is due; and
 - (b) the amount due,and upon such certificate being lodged in such court such certificate shall be deemed to be a plaint duly lodged under Order XXXV of the Civil Procedure Code² and the court shall proceed in the matter in accordance with provisions of that Order, and in the event of a judgment being given in favour of the plaintiff the court shall pass a decree for payment by the defendant to the Government of the amount found due together with interest thereon at five *per centum* per month from the date on which the certificate was filed until payment.
- (2) The provisions of subsection (1) shall apply notwithstanding that the amount involved exceeds the pecuniary jurisdiction of a court of a resident magistrate.
- (3) Every certificate filed in a court of a resident magistrate pursuant to the provisions of subsection (1) shall be *prima facie* evidence of the truth of the statements contained in such certificate.

7. Provisions relating to crop authorities

Every sale of any taxable commodity by a crop authority shall be deemed for the purposes of this Act to be a sale for export unless such authority satisfies the Commissioner that the taxable commodity is not intended for export.

8. Power to amend Schedule

- (1) The Minister may, by order published in the *Gazette*, add to, amend, Schedule repeal or replace the to this Act.
- (2) Every order made under subsection (1) shall be submitted for the approval, to be signified by resolution, of the National Assembly within fifteen days of the order being made or, if the National Assembly is not meeting, during its next meeting.
- (3) If any such order is not approved by the National Assembly within the time specified in subsection (2) or is disapproved by the National Assembly the order shall thereupon either expire forthwith or cease to have effect, as the case may be, but without prejudice to anything previously done or suffered to be done under the order.
- (4) Notwithstanding subsection (3), where in compliance with an order under subsection (1) which is subsequently not approved or is disapproved by the National Assembly any person who has paid export tax or has paid export tax at an increased rate as a result of such order, there shall be paid to such person an appropriate refund having regard to the law in force immediately prior to the coming into force of the order; and where in compliance with an order as aforesaid any person

has paid export tax at a reduced rate or has not been obliged to pay export tax as a result of such order, such person shall be liable to make good the deficiency by paying the difference between the amount of export tax already paid by him and the amount which he would have been liable to pay had the order not been made.

9. Exemptions and refunds

If in the opinion of the Minister it is in the public interest so to do, he may, by order published in the *Gazette*—

- (a) authorise the refund of any export tax on any commodity where similar tax has been paid on such commodity in any country or countries specified in the order;
- (b) exempt from export tax any commodity exported to any country.

10. Collection by person other than Commissioner

Notwithstanding the other provisions of this Act the Minister may make an arrangement for the collection of the export tax on any taxable commodity by some person other than the Commissioner and may approve arrangements for the payment of the tax to such person before or after the export of the commodity, but nothing in any such arrangement shall exempt the exporter from any liability to pay the tax on such commodity unless the tax is paid in accordance with such arrangement.

11. Regulations

- (1) The Minister may make regulations for the better carrying out of the purposes and provisions of this Act and, without prejudice to the generality of the foregoing, may make regulations—
 - (a) requiring persons engaged in the business of exporting or selling for export any taxable commodity to submit such particulars and returns as may be prescribed;
 - (b) providing for anything or matter which may be prescribed or provided for by regulations.
- (2) The Minister may annex to the breach of any regulation made under subsection (1) a penalty of a fine not exceeding fifteen thousand shillings or of imprisonment for a term not exceeding two years or both.

12. Offences

Any person who—

- (a) fails to pay the tax due under this Act within fifteen days from the date on or before which the same is required to be paid;
 - (b) with intent to evade payment of any tax or penalty due under this Act—
 - (i) makes any false statement to a proper officer; or
 - (ii) fails or omits to give any information or submit any return required to be given or submitted by this Act or by regulations made hereunder, or gives any such information or submits any such return which is false in any material particular;
 - (iii) does or fails to do any act or thing,
- commits an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding three years or to both.

13. Where offence is committed by body of persons

Where any offence under this Act or under any regulations made under this Act is committed by a body of persons then, as well as such body of persons, any person who, at the time of the commission of the

offence was concerned, as a director, a partner or an officer, with the management of the affairs of such body of persons, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly, unless he proves to the satisfaction of the court that he had no knowledge and could not by the exercise of reasonable diligence have had knowledge of the commission of the offence.

14. Powers of proper officers

Any proper officer may, for the purposes of the prevention of the evasion of tax, the recovery and collection of tax and the investigation and prosecution of offences under this Act, exercise the powers conferred on a proper officer appointed under the Value Added Tax Act ³, for the like purposes in respect of value added tax and offences under that Act, and shall have the like protection against legal proceedings in the exercise of those powers.

15. Commissioner may compound offence

- (1) The Commissioner may, where he is satisfied that any person has committed an offence under this Act, or any regulations made under this Act, by order, compound such offence by requiring such person to make payment of a sum of money:

Provided that—

- (a) such sum of money shall not be less than one hundred shillings or more than the aggregate of five thousand shillings and the whole of the amount of any tax or penalty due from such person;
 - (b) the power conferred by this section shall only be exercised where the person admits in writing that he has committed the offence;
 - (c) the Commissioner shall give to the person from whom he receives such sum of money, a receipt.
- (2) Where an offence is compounded in accordance with the provisions of subsection (1) and any proceedings are brought against the offence for the same offence, it shall be a good defence for such offender if he proves to the satisfaction of the court that the offence with which he is charged has been compounded under subsection (1).
- (3) Where any person is aggrieved by any order made under subsection (1), he may, within thirty days of such order being made appeal to the High Court and the provisions of Part X of the Criminal Procedure Act⁴ shall apply *mutatis mutandis* to every such appeal as if it were an appeal against sentence passed by a district court in the exercise of its original jurisdiction.

16. Repeal of R.L. **Cap. 196**

[Repeal of the Export Tax Ordinance]

Schedule

*[Repealed by Act **No. 11 of 2000** s. 17]*

³

Cap. 148 (Now Value Added Tax Act)

⁴

Cap. 20