

THE SALES TAX ACT, 1983

Date of commencement: 15th September, 1984.

Date of Assent: 9 November, 1983.

An Act to provide for the levying of sales tax, the repeal of the Hotel and Restaurant Taxation Order, 1973 and other matters incidental thereto.

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PART I
PRELIMINARY

Short title.

1. This Act may be cited as the Sales Tax Act, 1983.

Interpretation.

2. (1) In this Act, unless the context otherwise indicates:

“Act” includes any regulation made under section 28;

“Common customs area” means the area comprised by the countries the Government of which are parties to the 1969 Customs Union Agreement;

“court” means a court of competent jurisdiction in Swaziland;

“Customs Act” means the Customs, Fiscal, Excise and Sales Duties Act, 1971 (Act No. 21 of 1971);

“Department” means the Department of Customs & Excise;

“enterprise” means any commercial, industrial or other business of a continuing nature carried on in Swaziland in relation to which sales tax is required to be determined in accordance with section 6 and 10;

“goods” means corporeal movable things excluding coin and paper currency, marketable securities and postage stamps;

“goods transferred” means goods removed to Swaziland in terms of regulation 44 of the Customs Excise and Sales Duties Regulations, 1976;

“home consumption” means consumption or use in Swaziland;

“hotel” means any hotel licensed as such under the Trading Licences Order, 1975 or any other law, and includes any other accommodation establishment which the Minister has declared to be an hotel for the purposes of this Act;

“importer” means any person who, at the time of importation —

- (a) owns any goods imported;
- (b) carries the risk of any goods imported;
- (c) represents that or acts as if he is the importer or owner of any goods imported;
- (d) actually brings any goods into Swaziland;
- (e) is beneficially interested in any way whatever in any goods imported;
or
- (f) acts on behalf of any person referred to in paragraphs (a), (b) or (c);

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“locally” means in any part of Swaziland;

“manufacture” includes any process —

- (a) in the manufacture of any goods;
- (b) whereby the taxable quantity or value of any goods is increased in any manner;
- (c) in the packing or measuring-off of any taxable goods which the Commissioner in his discretion deems to constitute manufacture;

“Minister” means the Minister responsible for public finance;

“occasional sale” means a sale of goods other than a sale of goods constituting assets of the seller’s enterprise or a sale of goods to which section 30 applies which is not one of a series of sales sufficient in number and scope as to constitute a regular activity of the seller;

“officer” means any person employed on any duty relating to sales tax authorised by the Commissioner in writing whether such authorisation has been given before or after the performance of the said duty;

“owner” includes any person lawfully acting on behalf of the owner;

“person” includes the estate of a deceased person;

“place of entry” means a place of entry into Swaziland appointed by the Minister under the Customs Act;

“restaurant” means any restaurant licensed as such under the Trading Licences Order, 1975 or any eating house which the Minister has declared to be a restaurant for the purposes of this Act;

“sales tax” has the meaning assigned to it under section 6;

“Schedule” means any Schedule of goods or services referred to in section 6 and 8 as amended from time to time under this Act and includes the general notes to any such Schedule;

“Secretary” means the Secretary for Customs and Excise;

“tax” means sales tax;

“taxable service” means any service specified in the Fourth Schedule;

“taxable value” means a taxable value determined under section 10;

“vendor” means any person who carries on any enterprise.

(2) The provisions of the Customs Act, and the regulations made thereunder, relating to the importation, transit, exportation and customs clearance of goods shall *mutatis mutandis* have effect as if enacted in this Act.

PART II
ADMINISTRATION

Commissioner to Administer the Act.

3. (1) The Commissioner shall, subject to the direction of the Minister, be charged with the administration of this Act, including the interpretation of the Schedules.

(2) Any duties or powers conferred upon the Secretary may be performed or exercised by the Commissioner personally or by an officer acting under the control, direction or supervision of the Commissioner.

(3) Any decision made and any notice or communication issued or signed by any such officer may be withdrawn or amended by the Secretary or by the officer concerned (with effect from the date of making the decision or issuing or signing the notice or communication, or the date of withdrawal or amendment thereof) and shall, until it has been so withdrawn or amended be deemed (except for the purpose of this subsection) to have been made issued or signed by the Secretary.

General duties and powers of officers.

4. (1) For the purposes of this Act any officer may —

(a) without previous notice, at any time during the day enter any premises whatsoever and on such premises search for any accounts, books, moneys, records or other documents;

(b) in carrying out any such search, open or cause to be opened or removed and opened, any article in which he suspects any accounts, books, moneys, records or other documents are kept;

(c) seize any such accounts, books, records, or other documents which in his opinion may afford evidence which may be material in assessing the liability of any person for any tax payable under this Act;

(d) retain any such accounts, books, records or other documents for as long as they may be required for any assessment or for any criminal or other proceedings under this Act.

(2) Any officer referred to in subsection (1) shall on demand produce the written authority issued to him by the Commissioner.

(3) The owner of any accounts, books, records or other documents seized under subsection (1) shall be entitled to examine and make copies thereof or extracts therefrom during normal office hours under such supervision as the Commissioner may determine.

Secrecy.

5. (1) No officer shall, except for the purposes of this Act, or when required to do so as a witness in a court of law:

(a) disclose to any person any matter or information in respect of any person, firm or business acquired in the exercise of his powers or the performance of his duties under this Act;

- (b) permit any person to have access to any records in the possession of the Commissioner or any other officer:

Provided that the Auditor-General shall in the performance of his duties under the Finance and Audit Act, 1967, have access to all records and documents in the possession or custody of the Commissioner for the purposes of this Act.

Provided further that the Commissioner of Taxes shall, for purposes of rendering the Income Tax Consolidation Order, 1975 more effective, have access to any information, records and documents in the possession or custody of the Commissioner under this Act. (Added A.9/1991.)

(2) Subsection (1) shall not be construed as preventing the Commissioner from using for the purposes of any other law administered by him any information obtained by him in the exercise of his powers or the performance of his duties under this Act.

- (3) Any person who contravenes subsection (1) shall be guilty of an offence.

PART III

SALES TAX

Levy of sales tax.

6. Subject to section 8 there shall be charged, levied, collected and paid into the Consolidated Fund of Swaziland a tax to be known as "sales tax" in respect of —

- (a) the first sale of goods imported into Swaziland;
- (b) the first sale of goods manufactured in Swaziland;
- (c) every taxable service rendered by any person in course of any enterprise carried on by him;
- (d) accommodation let and food supplied to any person on the premises at which the business of an hotel or restaurant is being conducted; and
- (e) goods imported or manufactured by any person which are applied by such person to his private or domestic use or consumption or for the use or consumption thereof in any enterprise carried on by him or by any other person,

and such tax shall be computed by reference to the taxable value of such sales, services and accommodation lettings at the rate specified in the First Schedule.

Settlement of disputes.

7. If there is any dispute as to whether any transaction is liable to tax, such dispute shall be decided by the Minister whose decision thereon shall be final.

Exemptions.

8. Sales tax will not be payable in respect of any taxable value which, but for the provisions of this section, would be determinable in respect of the following, namely:

- (a) such goods imported into Swaziland as are specified in the Second Schedule;
- (b) such goods manufactured or produced in Swaziland as are specified in the Third Schedule;
- (c) the sale of goods for export from Swaziland;
- (d) such service provided to persons and organisations as specified in the Fourth Schedule. (Replaced A.9/1991.)
- (e) the importation of goods liable to tax in any case where it is shown to the satisfaction of the Commissioner that the goods had been previously exported from Swaziland and are in substantially the same state as they were at the time of their exportation and that any tax which was leviable in respect of the goods has been paid;
- (f) such other taxable transactions as the Minister may direct.

Power to amend rate of tax or Schedules.

9. (1) The Minister may, by order published in the Gazette —
- (a) amend, vary or replace the First Schedule; and
 - (b) amend any Schedule to this Act whenever he deems it expedient to do so.
- (2) Every order made under subsection (1) shall be submitted for the approval, to be signified by resolution of Parliament within fifteen days of the order being made, or, if Parliament is not meeting, within fifteen days after it next meets.
- (3) If any such order is not submitted to Parliament within the time specified in subsection (2), or if so submitted is not approved by Parliament, the order shall thereupon lapse, but without detracting from the validity of such order before it so lapsed.

Determination of taxable value.

10. For the purposes of this Act, the taxable value to be placed on the sale of any goods or services shall be —
- (a) in the case of the sale of any goods, the sum of all the amounts of consideration accruing to the seller in respect of such sale; (Amended A.9/1991.)
 - (b) in the case of good transferred to Swaziland from places within the common customs area, the full and final price paid for the goods by the transferee, including all charges in respect of freight and insurance and any taxes and duties paid in respect of such goods in the country of despatch; (Replaced A.9/1991.)

Provided that where there is any dispute or doubt as to the taxable value declared in the case of the sale of any goods or of goods transferred to Swaziland from places within the common customs area, the price which in the opinion of the Commissioner the goods would fetch on a sale made at the time when the tax in respect of the goods becomes due by a person selling such goods in the open market in Swaziland to a retail trader carrying on business in Swaziland shall be the taxable value. (Added A.9/1991.)

- (c) in the case of imported goods and goods removed from a bonded warehouse which require to be entered in terms of the Customs Act and are cleared for home consumption in Swaziland, the value thereof for customs or excise duty purposes, as appropriate, plus any duties levied under the said Act in respect of the importation or removal from bond of such goods, plus 10 per cent of the sum of the said value and duties; (Replaced A.9/1991.)
- (d) in the case of any prescribed service rendered, each amount of the consideration which accrued to the person rendering such service; and
- (e) in the case of hotel accommodation or restaurant sales each amount (including any cover charge) of consideration which accrued to the person carrying on the hotel or restaurant enterprise concerned.

Persons liable to pay sales tax.

11. Sales tax shall be paid:

- (a) in the case of any sale of goods, by the seller;
- (b) in the case of goods imported into Swaziland, by the importer;
- (c) in the case of any taxable service, by the person by whom such service is rendered; and
- (d) in the case of accommodation let or food supplied by an hotel or restaurant, by the person carrying on the business of the hotel or restaurant concerned.

Recovery of sales tax from purchaser by vendor.

12. Notwithstanding anything to the contrary contained in any law, sales tax payable in terms of sections 6 and 11 shall be recoverable by the seller, importer or vendor from the purchaser at the conclusion of the sale or service concerned.

Date of payment of sales tax.

13. (1) Tax payable under this Act shall be deemed to be due and payable —

- (a) in the case of a sale of goods manufactured in Swaziland, the date upon which the goods are sold by the manufacturer;
- (b) in the case of any goods imported into Swaziland, on the date on which the goods are imported:
Provided that goods which are entered under the Customs Act for home consumption in Swaziland shall for the purposes of this Act be deemed to have been imported on the date on which they are so entered;
- (c) in the case of any taxable service, on the date of accrual to the vendor of the consideration placed on such taxable service; and
- (d) in the case of accommodation let and food supplied by an hotel or restaurant, on the date of accrual to the vendor of the consideration placed on such accommodation and food.

(2) For the purposes of this Act, the date of conclusion of a sale of goods shall be deemed to be the date on which delivery of the goods is effected under the sale or the date on

which the consideration payable by the purchaser under the sale is paid in full, whichever date is the earlier.

(3) The Commissioner may, subject to such security as he may require and to such conditions as he may impose in each case, permit payment of any tax due to be effected by any person registered under section 14 at monthly intervals:

Provided that —

- (a) payment shall be made before the last day of the month next succeeding the month in which the tax became payable in terms of subsection (1); and
- (b) in the case of any tax due and payable in respect of any imported goods, tax shall be paid at the time of entry for home consumption of such goods under the Customs Act.
- (c) (Deleted A.9/1991.)

(Amended A.9/1991.)

(4) In the case of any tax due and payable by any person not registered in terms of section 14 such tax shall be paid at the time of importation of goods and for other transactions, not later than ten days after the date on which such tax has become payable. (Added A.9/1991.)

PART IV

REGISTRATION AND DUTIES OF VENDORS

Registration of persons liable to pay sales tax.

14. (1) Any vendor engaged in —
- (a) the manufacture or production of taxable goods; or
 - (b) the rendering of taxable services; or
 - (c) the operation of a hotel or restaurant;

shall apply to the Commissioner for registration within one month of commencement of the enterprise.

(2) Where the Commissioner decides any person, other than a vendor covered by subsection (1), should be registered in respect of any enterprise carried on by him, that person shall apply to the Commissioner for registration immediately the Commissioner notifies him in writing of this requirement.

(3) Any person, not covered by subsections (1) and (2) may apply to the Commissioner for registration.

(4) Applications for registration shall be accompanied by —

- (a) a declaration by the person or vendor in such form and containing such information relating to the enterprise concerned as the Commissioner may require for the purposes of this Act; and
- (b) an application fee of E10.00.

(5) On registration of a person under this section the Commissioner shall issue to that person a certificate of registration after such security as the Commissioner may require under section 13(3) has been lodged with him.

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(6) Notwithstanding subsections (1) and (3), if the Commissioner has reason to believe that any person who has furnished a declaration in terms of subsection (4) —

- (a) has no fixed abode or business; or
- (b) does not keep proper accounting records relating to any enterprise carried on by him; or
- (c) has not opened a banking account with any bank, building society or similar institution for the purposes of such enterprise;

he may refuse to register such person and shall give such person notice of such refusal:

Provided that in the case of persons complying for registration under subsection (3) the Commissioner may refuse to register such person at his discretion.

(Replaced A.9/1991.)

Records and accounts to be available for inspection.

15. (1) Every person who is required by this Act to be registered shall keep such records and accounts in such form, and shall preserve them for such periods, as the Commissioner may require.

(2) Any person referred to in subsection (1) shall upon demand by the Commissioner or any officer produce to him such records or accounts referred to in such subsection as he may require and such person shall submit such particulars in connection with his enterprise to the Commissioner as the latter may from time to time require.

Returns, declarations and payment of sales tax.

16. (1) Every person who carries on any enterprise in relation to which tax is required to be determined in accordance with sections 6 and 10 shall, within the period specified in section 13(3) or 13(4), as appropriate, for the payment of tax —

- (a) furnish the Commissioner with a return in such form as he may require of the value of the transactions in respect of which tax has become payable by such person during the previous period and containing such information as the Commissioner may require; and
- (b) compute such tax in accordance with section 6 and 10 and pay it to the Commissioner within the period specified in section 13(3) or 13(4), as appropriate.

(Amended A.9/1991.)

(2) Every person registered under section 14 shall within the period allowed by subsection (1) of this section furnish the return referred to in that subsection in respect of each month in relation to such transactions, whether or not tax is payable in respect of such month.

(3) For the purpose of this section “month” means a calendar month or such other period as the Commissioner may authorise. (Amended A.9/1991.)

Substitution of agent for person not resident in Swaziland.

17. Where a person who is liable for payment of tax under this Act, or on whom any duties are imposed by this Act or regulations made thereunder, is not resident in Swaziland, the

Commissioner may by notice in writing served on any agent, manager or factor who is resident in Swaziland and has acted on behalf of that person in the matters by reference to which that person is liable or those duties are imposed direct that he shall be substituted for that person as the person liable for the tax, or that he shall be under an obligation to discharge those duties or any of them.

Estimates of tax on failure of vendor to furnish return.

18. (1) Where —

- (a) any person required under this Act to furnish any return or make any declaration fails to do so;
- (b) the Commissioner is not satisfied that the tax return furnished by any person is true or correct; or
- (c) the Commissioner has reason to believe that any person liable for payment of tax under this Act has not paid such tax,

the Commissioner may estimate the amount of tax due.

(2) Where an estimate of the amount of tax due from any person has been made under subsection (1) then, without prejudice to the recovery of the full amount due to the making of a further estimate in that behalf, the amount estimated shall be recoverable as tax properly due unless in any action relating thereto the person liable proves the amount properly due, and that amount is less than the amount estimated.

Interest on unpaid tax.

19. Any tax due and payable which is not paid within the period specified in this Act shall bear interest on at the rate of two per cent for each month or part of a month during which it remains unpaid:

Provided that where the Commissioner considers that the circumstances warrant it, he may remit the whole or any part of any interest payable under this section.

Recovery of tax.

20. (1) Any amount of tax or interest payable in terms of this Act shall constitute a debt to the Government and shall be recoverable by the Commissioner in the manner hereinafter provided.

(2) If any person fails to pay any tax or interest payable in terms of this Act when it becomes due or is payable by him, the Commissioner may file with any competent Court a certificate signed by him stating the amount of tax or interest owing by that person, and such certificate shall be *prima facie* proof of the correctness of such amount.

(3) The Commissioner may in consequence of the provisions of subsection (2) institute proceedings for the sequestration of the estate of any person, and shall for the purposes of such proceedings be deemed to be the creditor in respect of any tax or interest payable by such person under this Act.

PART V

REMISSION, REBATE AND REFUND

Remission and Rebate of Sales Tax.

21. (1) If the Minister is satisfied that it is in the public interest to do so, he may, by order published in the Gazette, and subject to such conditions as he may impose, remit wholly or in part —

- (a) tax payable in respect of any taxable transactions; and
- (b) tax payable by any person or class of persons.

(2) Where any remission or rebate of tax is granted under subsection (1) on a condition that tax shall be payable in the event of any breach of any term or condition or on the occurrence of any event, such tax shall upon the breach of such term or condition or on the occurrence of such forthwith become due and payable by such person as may be specified in the order concerned.

Refund of tax.

22. (1) Where —

- (a) tax has been paid in respect of the taxable value of any goods manufactured in or imported into Swaziland and such goods have been subsequently exported;
- (b) tax has been paid in respect of the taxable value of any goods manufactured in or imported into Swaziland and such goods have been subsequently sold to a manufacturer registered under section 14 who has satisfied the Commissioner that such goods have been used in, wrought into or attached to manufactured goods that have been sold or exported; or
- (c) any tax has been paid in respect of any taxable transaction which the Minister is satisfied it is in the public interest should be exempt from tax;
- (d) any tax has been paid in error,

the Commissioner may refund the tax which has been paid in respect of the taxable value of such goods:

Provided that no refund of tax shall be allowed where the total amount claimed is less than E10.00.

(2) No refund of any tax under this section shall be made unless application is made to the Commissioner by the manufacturer or exporter or by the person who paid such tax in such form as the Commissioner may require, within one year of the time when any such refund first became payable or within such further time as the Commissioner may, in any particular case, allow.

(3) Where by this section a refund of tax is payable and in the opinion of the Commissioner circumstances exist that render it difficult to determine the exact amount of such refund, the Commissioner may in lieu thereof grant a refund in an amount specified by him.

Erroneous remission, rebate and refund of Sales Tax.

23. (1) Where any tax has been remitted, rebated or refunded in error, the person to whom the remission, rebate or refund has been erroneously allowed or made shall, on demand by the Commissioner, pay the amount erroneously remitted, rebated or refunded, as the case may be.

(2) Where a demand has been made for any amount of tax under subsection (1), such amount shall be deemed to be due from the person liable to pay the tax on the date upon which the demand was served upon such person and shall be recoverable in accordance with the provisions of section 20.

PART VI

OFFENCES AND PENALTIES

Offences.

24. Any person who —

- (a) fails to pay any tax on or before the due date;
- (b) makes or causes to be made any declaration, certificate, application, return, account or other document, which is false or incorrect in any particular;
- (c) wilfully does or fails to do anything with intent to avoid payment of any tax, interest, penalty or other sum for which he is liable under this Act;
- (d) when required in accordance with this Act to answer any question put to him by an officer, refuses to answer such question or makes any false or incorrect statement in reply thereto;
- (e) in any way is knowingly concerned in any fraudulent evasion of the payment of tax;
- (f) obtains any remission, rebate or refund of tax which to his knowledge he is not entitled to obtain;
- (g) refuses or fails to produce any information, document, account or return required from him by or under this Act on or before the time specified for such production by or under this Act or, where no such time has been so specified, within the time specified in any notice requiring him to produce the same; or
- (h) obstructs or otherwise interferes with any officer in the performance of his functions under this Act,

shall be guilty of an offence.

Penalty for offences.

25. Any person guilty of an offence under this Act shall be liable on conviction to a fine not exceeding one thousand Emalangeni or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

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Offences by bodies of persons.

26. In the case of an offence committed under the Act by a body of persons —

- (a) where the body of persons is a body corporate, every director and officer of that body shall be deemed to be guilty of that offence; and
- (b) where the body of persons is a firm, every partner of that firm shall be deemed to be guilty of that offence:

Provided that no person shall be deemed to be guilty of an offence under this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

Compounding of offences.

27. (1) If any person —

- (a) has in the opinion of the Commissioner contravened any provision of this Act or failed to comply with any such provision with which it was his duty to comply;
- (b) agrees to abide by the Commissioner's decision; and
- (c) deposits with the Commissioner such sum as the latter may require of him but not exceeding the maximum fine which may be imposed upon conviction for the contravention or failure in question, or makes such arrangements or complies with such conditions with regard to securing the payment of such sum as the Commissioner may require,

the Commissioner may after such enquiry as he deems necessary determine the matter summarily and may, without legal proceedings, order forfeiture by way of penalty of the whole or any part of the amount so deposited or secured.

(2) Anything done for the purposes of subsection (1) by an agent generally or specially authorised thereto by any person shall be deemed to have been done by that person in terms of that subsection.

(3) Where any person is aggrieved by any order made by the Commissioner under subsection (1), he may appeal against such order to the Minister:

Provided that —

- (a) such appeal shall be made within three months from the date of such order;
- (b) no such appeal shall be made where the penalty does not exceed one thousand Emalangeni; and (Amended A.9/1991.)
- (c) the Minister's decision on any such appeal shall be final.

(4) The imposition of a penalty under subsection (1) shall not be regarded as a conviction in respect of a criminal offence, but no prosecution for the relevant offence shall thereafter be competent.

(5) Nothing in this section shall in any way affect liability to payment of any tax chargeable under this Act.

PART VII

MISCELLANEOUS

Regulations.

28. The Minister may make regulations in regard to any matter which is permitted or required by this Act and generally for the better carrying out of the objects and purposes of this Act.

Arrangement for collection of tax on imported goods.

29. The Commissioner and the Director of Posts and Telecommunications may make such arrangements as they may deem necessary —

- (a) for the collection by the Managing Director of the Posts and Telecommunications Corporation on behalf of the Commissioner of tax payable under this Act in respect of the taxable value of any goods imported into or transferred to Swaziland by post; and (Amended A.9/1991.)
- (b) for the exchange of such information as is necessary for the carrying out of such arrangements.

Registration of certain goods prohibited in certain circumstances.

30. No registering authority in Swaziland shall register any aircraft, motor vehicle, tractor, caravan or any other goods requiring registration under any other law upon any change of ownership of such goods unless the person applying for registration produces to such registering authority a certificate issued by the Commissioner showing that —

- (a) any tax which may be payable under this Act has been paid in respect of any sale or importation into Swaziland, as the case may be, of the registrable goods in consequence of which the registration is required; or (Amended A.9/1991.)
- (b) no tax is payable under this Act in respect of any sale relating to the registrable goods in consequence of which registration is required.

31. (Repealed A.9/1991.)

Agreement with other Governments.

32. Notwithstanding the provisions of section 11 and 13, the Minister may conclude an agreement with any Government which is a party to the 1969 Customs Union Agreement in which it is provided that —

- (a) any tax payable in respect of goods sold and consigned to a person in Swaziland from a place within the territory of such Government may be collected by such Government; and
- (b) any such tax collected by such Government shall be paid to the Government of Swaziland for the benefit of the Consolidated Fund at such time and under such arrangements as may be agreed.

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Repeal.

33. (1) Subject to subsection (2), the Hotel and Restaurant Taxation Order, 1973, is hereby repealed.

(2) Anything done under the order repealed by subsection (1) shall be deemed to have been done under the corresponding provisions of this Act.

FIRST SCHEDULE

(Replaced L.N.17/1986; L.N.42/1986; L.N.16/1989; Amended L.N.108/1996; L.N.100/1997.)

RATES OF SALES TAX

(Under Section 6)

The rate of sales tax referred to in section 6 of this Act shall be —

ITEM	DESCRIPTION OF TRANSACTION	RATE OF SALES TAX
1.	The first sale of the undermentioned goods imported into Swaziland —	
	(a) alcoholic beverages of all kinds other than traditional beer.....	25 per cent
	(b) manufactured tobacco in the form of cigars, cheroots, cigarillos, cigarettes, pipe tobacco and snuff.....	25 per cent
	(c) any other taxable imported goods	10 per cent
	(d) the sale of any other taxable goods	12 per cent
2.	The first sale of the undermentioned goods manufactured or produced in Swaziland —	
	(a) alcoholic beverages of all kinds other than traditional beer.....	20 per cent
	(b) manufactured tobacco in the form of cigars, cheroots, cigarillos, cigarettes, pipe tobacco and snuff.....	20 per cent
	(c) any other taxable manufactured or produced goods	10 per cent
	(d) the sales of any other taxable manufactured goods.....	12 per cent
3.	Taxable services specified in the Fourth Schedule to this Act	12 per cent
4.	Accommodation let and food supplied by hotel or restaurant.....	12 per cent
5.	Goods imported, manufactured or produced by any person applied for own use — the following:	
	(a) alcoholic beverages of all kinds other than traditional beer.....	25 per cent
	(b) manufactured tobacco in the form of cigars, cheroots, cigarillos, cigarettes, pipe tobacco and snuff.....	25 per cent
	(c) any other taxable imported, manufactured or produced goods	12 per cent

SECOND SCHEDULE

(Under Section 8(a))

(Amended L.N.42/1986; Replaced L.N.16/1989; Amended L.N.128/1990; L.N.108/1996.)

EXEMPTIONS: IMPORTED GOODS

The categories of imported goods in respect of the value of which the exemption applicable under section 8(a) shall apply shall be as hereinafter set forth.

Division I

1. Goods imported into Swaziland from places outside the common customs area which fall under any heading and description mentioned below, to the extent indicated, and in respect of which no customs duty is payable in terms of the Customs Act —
 - 406.00 Goods for the Head of State, Diplomatic and other Foreign Representatives.
 - 407.01 Used personal effects and sporting or recreational equipment, imported as passengers' baggage.
 - 407.02 Goods imported in the same aircraft or vehicle as passengers' baggage by any person and cleared at the place where he disembarks or enters Swaziland:
 - (1) (a) Wine, not exceeding a total quantity of two litres per person;
 - (b) Spirituous and other alcoholic beverages, not exceeding a total quantity of one litre per person;
 - (c) Manufactured tobacco, not exceeding 400 cigarettes and 50 cigars and 250 g of cigarette or pipe tobacco per person;
 - (d) Perfumery, not exceeding 300 ml per person.
 - (2) Other new or used goods of a total value not exceeding E500 per person.
- 407.06 Household furniture and effects and other removable articles, including equipment necessary for the exercise of the trade or profession of the person including one motor vehicle, one caravan, one trailer, one boat, the *bona fide* property of a person including a returning resident of Swaziland and members of his family, imported for own use on change of residence to Swaziland.
- 412.02 Urns and coffins, containing human remains, together with flowers or wreaths.
- 412.04 Used property of a person normally resident in Swaziland who dies while temporarily outside Swaziland.
- 412.10 *Bona fide* unsolicited gifts of not more than two parcels per person per calendar year and of which the value per parcel does not exceed E400 (excluding goods contained in passengers' baggage, wine, spirits and tobacco, cigarettes and cigars) consigned by persons abroad to persons in Swaziland.
- 412.11 Goods imported —
 - (a) for the relief of distress of persons in cases of famine or other national disaster;
 - (b) under any technical assistance agreement; or

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- (c) in terms of an obligation under any multilateral international agreement to which Swaziland is a party.
- 412.12 Goods imported for any purpose agreed upon between the Governments of Swaziland, Botswana, Lesotho, Namibia and South Africa.
- 480.00 Goods temporarily admitted for specific purposes.
- 490.00 Goods temporarily admitted subject to exportation in the same state.
2. Any of the following items imported into Swaziland in respect of which entry need not be made in terms of the proviso to section 37(1) of the Customs Act:
- (i) containers temporarily imported;
 - (ii) human remains;
 - (iii) goods which in the opinion of the Commissioner of Customs and Excise are of no commercial value;
 - (iv) goods imported under an international carnet.

Division II

(Replaced L.N.102/1984; Amended L.N.42/1985; L.N.42/1986.)

Goods imported into Swaziland from places outside or within the common customs area which fall under the following descriptions:

1. GENERAL — the following —
 - 1.01 Goods purchased by the King and Indlovukazi.
 - 1.04 Used personal and household effects, including one motor vehicle per family from within the Common Customs Area, one caravan, one trailer and one boat per family, imported for own use on change of residence to Swaziland.
 - 1.05 Goods imported temporarily for purposes approved by the Commissioner subject to such conditions as the Commissioner may impose.
 - 1.06 Goods imported by post of a taxable value not exceeding E100 per parcel.
 - 1.07 Goods imported —
 - (a) for the relief of distress of persons in cases of famine or other national disaster declared as such by the Minister;
 - (b) under any technical assistance agreement; or
 - (c) in terms of an obligation under any multilateral agreement to which Swaziland is a party.
 - 1.08 Goods imported unsolicited and free by any organization of a public character approved by the Minister which carries on charitable activities, subject to the production at the time of importation of a written declaration by such organization or for free distribution by such organization in the furtherance of its charitable activities.
 - 1.09 Goods imported by Diplomatic and other Foreign Representatives who are approved by the Minister.
2. GOODS IMPORTED FOR INDUSTRIAL PURPOSES — the following —
 - 2.01 Raw materials approved by the Commissioner, other than goods imported by any enterprise specified in item 1.05 of the Third Schedule, intended to be so used in

manufacture that such goods or some element thereof will form an integral part of other goods to be manufactured in Swaziland by registered manufacturers and will remain in the goods so manufactured as an element or essential thereof in their completely manufactured condition.

2.02 Containers into which manufactured goods or goods the product of any agricultural, horticultural, forestry or mining enterprise are placed and packaging material used for packing such goods on completion of the manufacture or production of such goods, if such containers or materials are used for the purposes of the sale to end consumers of such goods in such containers or packed in such materials and are conspicuously and permanently marked as to their intended contents.

2.04 (Deleted L.N.108/1996.)

2.05 Plant and machinery for factory installation which can either be Completely Knocked Down (CKD) or Semi Knocked Down (SKD), excluding spare parts for manufacturing and production.

3. GOODS IMPORTED FOR FARMING OR FORESTRY PURPOSES — the following —

3.01 Fertilizers, insecticides, fungicides, herbicides, rodenticides, livestock medicines and vaccines.

3.02 Seeds, shrubs, plants, bulbs, trees and other plant material for crops or produce, including plant ripeners.

3.03 Packing or wrapping materials and containers (other than pallets and returnable containers) used for the marketing of farming or forestry products provided the materials and containers are conspicuously and permanently marked as to their intended contents.

3.04 Livestock.

3.05 Animal feeds and licks.

3.06 Animal Dips.

3.07 Farming machinery, including tractors, trailers, ploughs, cultivators, harrows and hoes, excluding parts.

3.08 Pipes, sprinklers and pumps specifically designed for field irrigation systems and identifiable as such.

4. IMPORTED FOODSTUFFS — the following —

4.01 Dairy products of all kinds, including eggs and powdered milk.

4.02 Maize, wheat, rice, sorghum, malt, peanuts and beans.

4.03 Flours, meals and sprouts of maize, wheat, rice, sorghum or malt.

4.04 Plain bread.

4.05 Meat and edible meat offals, fresh or frozen.

4.06 Fruit, fresh.

4.07 Vegetables, fresh or dried.

4.08 Sugar.

4.09 Salt.

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- 4.10 Fish, fresh, frozen or canned, excluding crustaceans and molluscs.
 - 4.11 Emahewu.
 - 5. IMPORTED MEDICAL AND SURGICAL SUPPLIES — the following —
 - 5.01 Drugs, medicines and medicinal preparations for therapeutic or prophylactic use.
 - 5.02 Wadding, gauze, bandages and similar articles for medical or surgical purposes.
 - 5.03 Dental cements, fillings and dentures.
 - 5.04 Surgical and dental instruments and equipment and ophthalmic diagnostic equipment.
 - 5.05 Spectacles and lenses for the correction of abnormal eyesight, excluding non-prescription glasses.
 - 5.06 Hearing aids, including parts and accessories, for overcoming deafness.
 - 6. GOODS IMPORTED BY HOTELS AND RESTAURANTS — the following —
 - 6.01 Foodstuffs imported by any hotel or restaurant registered under Section 14 of the Act for use in the preparation of meals for sale by such hotel or restaurant.
 - 7. PERSONAL IMPORTS — the following —
 - 7.01 Tourists' effects, including cameras, films and sporting, recreational and camping equipment imported by tourists for their comfort and convenience during their visit to Swaziland.
 - 7.02 Used personal effects and equipment of all persons, including returning residents, entering Swaziland.
 - 7.03 Personal imports, excluding motor vehicles, or any other goods requiring registration under any other law, carried and cleared through the Customs by visitors and returning residents at the time of their arrival in Swaziland for their personal use or consumption and not intended for sale or other commercial purposes to a taxable value of E1,500 per person subject to a maximum of E2,500 per family travelling together and subject to one importation only under this item per day.
 - 7.03(a) Goods valued up to E1,000 imported per day by a licensed hawker subject to the provision of a valid trading licence and completion of the baggage declaration form.
 - 7.04 Fuel imported in the fuel tanks of vehicles provided the fuel tanks are fitted as standard equipment and the fuel is essential for the operation of the vehicle.
 - 8. SCHOLASTIC MATERIALS — the following —
 - 8.01 School exercise books.
 - 8.02 Text books approved by the Minister of Education, printed and published specially for educational use in schools and colleges.
 - 9. MISCELLANEOUS GOODS IMPORTED — the following —
 - 9.01 to 9.05 inclusive (Deleted L.N.108/1966.)

- 9.06 Kerosene for heating or illumination purposes.
- 9.07 Water not bottled or packaged for retail sale.
- 9.08 Electrical energy imported by the Swaziland Electricity Board.
- 9.09 Returnable containers and pallets imported temporarily.

THIRD SCHEDULE

(Replaced L.N.102/1984; Amended L.N.74/1985; L.N.42/1986; Replaced L.N.16/1989;
Amended L.N.128/1990; L.N.108/1996.)

(Under Section 8(b))

EXEMPTIONS: GOODS MANUFACTURED OR PRODUCED IN SWAZILAND

The categories of goods manufactured or produced in Swaziland in respect of which the exemptions under section 8(b) apply shall be as hereinafter set forth.

1. GENERAL — the following —
 - 1.01 Goods purchased by the King and Indlovukazi.
 - 1.04 Sales of electricity or water when delivered to purchasers through drains, lines, pipes, furrows, canals, barrels, drums or other containers.
 - 1.05 All goods, other than motor vehicles, the product of any enterprise established in Swaziland in the ordinary course of which goods are manufactured for sale by any process of manufacture as defined in Section 2 in which the total proceeds from the sale of all goods by the enterprise do not exceed E20,000 in any calendar year.
 - 1.06 Materials and components sold to manufacturers, other than materials and components sold to any enterprise specified in item 1.05 of this Schedule, intended to be so used in a manufacturing process that such materials or components will form an integral part of other goods to be manufactured.
 - 1.07 Goods purchased —
 - (a) under any technical assistance agreement between the Government of Swaziland and any other Government or international organization;
 - (b) in terms of an obligation under any multilateral agreement to which Swaziland is a party.
 - 1.08 Goods purchased prior to payment of sales tax by any organization of a public character approved by the Minister which carries on charitable activities, subject to the production at the time of purchase of an approved written declaration by such organization that the goods will be distributed free of charge by such organization in the furtherance of its charitable activities.
 - 1.09 Goods purchased prior to payment of sales tax by Diplomatic and other Foreign Representatives who are approved by the Minister.
 - 1.10 Goods, other than motor vehicles, manufactured or produced by individual private persons which are applied for the private use of those persons and not for resale.

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2. AGRICULTURE AND FORESTRY MATERIALS AND PRODUCTS — the following —
 - 2.01 Fertilizers, insecticides, fungicides, herbicides, rodenticides, livestock medicines and vaccines.
 - 2.02 Plant material for the commercial production of crops or produce, including plant ripeners.
 - 2.03 Packing or wrapping materials and containers used for the marketing of farming or forestry products provided the materials and containers are conspicuously and permanently marked as to their intended contents.
 - 2.04 Animal feeds and licks.
 - 2.05 Animal Dips.
 - 2.06 Farming machinery, including tractors and trailers, excluding parts.
 - 2.07 Timber, rough, sawn or planed but not further worked or treated.
3. FOODSTUFFS — the following —
 - 3.01 Foodstuffs sold to any hotel or restaurant registered under section 14 of this Act prior to payment of sales tax for use in preparation of meals for sale by such hotel or restaurant.
 - 3.02 Dairy products, including eggs.
 - 3.03 Maize, wheat, rice, sorghum and malt, including flours, meals and sprouts manufactured therefrom.
 - 3.04 Plain bread.
 - 3.05 Meat and edible meat offals, fresh or frozen.
 - 3.06 Fruit and vegetables, fresh and dried.
 - 3.07 Sugar.
 - 3.08 Emahewu.
 - 3.09 Fish, fresh, frozen or canned, excluding crustaceans and molluscs.
4. MEDICAL AND DENTAL GOODS — the following —
 - 4.01 Drugs, medicines and medicinal preparations for therapeutic or prophylactic use.
5. SCHOLASTIC MATERIALS the following —
 - 5.01 Exercise books for use in schools.
 - 5.02 Text books printed and published specially for educational use in schools and colleges.
6. PACKAGING MATERIALS — the following —
 - 6.01 Containers and packaging materials sold to other enterprises for use solely in the packaging of goods manufactured or produced in Swaziland by such enterprises for sale to end consumers provided the containers and materials are conspicuously and permanently marked as to their intended contents.
7. BUILDING MATERIALS (Deleted L.N.108/1966.)

FOURTH SCHEDULE
(Replaced L.N.17/1986; L.N.16/1989.)
(Under Section 6(c))

A. Taxable Services

Note — For the purposes of item 3 of this Schedule —

“auctioneer” means any person who sells goods by auction or out of hand on behalf of another person, a local authority, a society or an association, or any person who conducts a sale by auction in the execution of an order of the court or in the course of the liquidation of the estate of a deceased or insolvent person or in the liquidation of any company.

1. PHOTOGRAPHIC SERVICES:
 - 1.01 Development of photographic films.
 - 1.03 Photographic services.
2. PRINTING AND PUBLISHING:
 - 2.01 All Printing services.
3. AUCTIONEERS' COMMISSION:
 - 3.01 Receipt of commission on selling of goods by public auction.
4. ESTATE AGENTS' COMMISSION:
 - 4.01 Property and estate management.
 - 4.02 Commercial property sales.
 - 4.03 Real estate appraisal.
5. ADMINISTRATION AND MANAGEMENT SERVICES:
 - 5.01 Management consultancy.
 - 5.02 Administration and management fees.
6. ACCOUNTING AND AUDIT SERVICES:
 - 6.01 Accounting services.
 - 6.02 Auditing services.
 - 6.03 Bookkeeping services.
 - 6.04 Data processing and tabulating services rendered as part of accounting or bookkeeping services.
 - 6.05 Taxation services.
7. DATA PROCESSING SERVICES:
 - 7.01 Data processing services.
 - 7.02 Computer installation, programming and operations.
 - 7.03 Processing punch cards and tapes.

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- 7.04 Tabulating services.
 - 7.05 Calculating services.
 - 8. LEGAL SERVICES: (excluding legal services to individual human persons).
 - 8.01 All legal services.
 - 9. ARCHITECTURE, CIVIL ENGINEERING AND CONSULTING ENGINEERS:
 - 9.01 Preparation of plans and drawings.
 - 9.02 Supervision of construction.
 - 9.03 Surveying services.
 - 9.04 Quantity surveying services.
 - 10. SECRETARIAL SERVICES:
 - 10.01 All secretarial and typing services.
 - 11. ADVERTISING SERVICES (excluding charges payable to the Swaziland Broadcasting and Information Services and the Swaziland Television Broadcasting Corporation for the transmission of advertisements).
 - 11.01 All charges made for advertisements intended for commercial or remunerative purposes.

B. Exemptions from sales tax on taxable services

(Under Section 8(d))

- 1. The following shall be exempt from sales tax on the taxable services specified in this Schedule —
 - (a) The Head of State, Diplomatic and other Foreign Representatives as approved by the Minister.
 - (b) Organizations that have technical assistance agreements with Government.
 - (c) Organizations under any multilateral agreements to which Swaziland is a party.
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