



SWAZILAND
GOVERNMENT GAZETTE
EXTRAORDINARY

VOL. XXII]

MBABANE, Friday, July 13th., 1984

[No. 301

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PUBLISHED BY AUTHORITY



SUPPLEMENT TO
THE
SWAZILAND GOVERNMENT
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PART A — BILLS

5. The Sales Tax Bill, 1984 S1

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S1

THE SALES TAX BILL, 1984

(Bill No. 5 of 1984)

(To be presented by the Minister for Finance)

MEMORANDUM OF OBJECTS AND REASONS

The purpose of this Bill is to provide for the levying of a tax on the sale of goods and services; to repeal the Sales Tax Act, 1983; to repeal the Hotel and Restaurant Taxation Order, 1973, and to provide for other matters incidental thereto.

D.P. MAKANZA
Attorney General

A BILL

for

An Act to repeal and replace the Sales Tax Act, 1983.

ENACTED by the Regent and the Parliament of Swaziland.

THE SALES TAX BILL, 1984

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PART I

GENERAL

Short title and commencement.

1. (1) This Act may be cited as the Sales Tax Act, 1984 and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint and the Minister may appoint different dates for the coming into force of the different provisions of the Act.
(2) This Act shall apply to the Government.

Interpretation.

2. In this Act, unless the context otherwise requires—

“accommodation let” means any business carried on in Swaziland by any person in the course of which accommodation in any room, house, flat or apartment or on any caravan or camping site is regularly, without meals, let for residential purposes by such person to other persons, not exceeding 45 days, in the case of each occupant;

“Act” includes any other law made under this Act;

“beverages” means alcoholic and non-alcoholic drinks of all kinds including wines, beers, spirits, liquors, aerated waters, fruit juices, cordials, tea, coffee and milk;

“commencement date” means, in respect of any provisions of this Act, the date appointed by the Minister, in terms of Section 1 of the Act;

“Commissioner” means the Commissioner of Taxes designated under section 3 of the Income Tax Order;

“company” means a company as defined in section 2 of the Income Tax Order;

“court” means a court of competent jurisdiction;

“Customs Act” means the Customs, Fiscal, Excise and Sales Duties Act, 1971 and any other law made thereunder;

“enterprise” means any commercial, industrial, farming 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 this Act;

“exported” in relation to any goods, means—

- (a) sold and consigned or sold and delivered to a purchaser at an address outside Swaziland; or
- (b) sold and delivered to the owner or charterer of any foreign-going aircraft for use in such aircraft; or
- (c) shipped or conveyed to Swaziland for transshipment or conveyance to any place outside Swaziland;

“foreign-going aircraft” means any aircraft engaged in the transportation, for reward, of passengers or goods on any flight between an airport in Swaziland and an airport in another country;

“goods” means—

- (a) corporeal movable things, including any share in the rights of ownership of any such thing, but does not include—
 - (i) coins which are Swaziland coins, within the meaning of that expression, as defined in the Currency Order, 1974, and any paper currency which, under the Monetary Authority of Swaziland, established under the Monetary Authority Order, 1974, is legal tender;
 - (ii) any stamp, form or card which has a money value, and has been sold or issued by the Government, for the postage on any tax or duty levied under any law except when, subsequent to its sale or issue, it is disposed of or imported as a collector’s piece;
 - (iii) any bill of exchange, bank draft, postal order, money order or marketable security;
 - (iv) coins or paper currency which are not legal tender in Swaziland, except when disposed of or imported as collector’s piece.

- (b) stamps, coupons or tokens, when sold by a trader under any scheme whereby the value of such stamps is, on the surrender of such stamps to the trader, to be utilized in payment of the purchase price of merchandise purchased or to be purchased, by the holder of the stamps from the trader, but excluding any stamps, coupons or tokens intended to be used as gift vouchers or given by any trader to any customers, by way of a discount on purchases made by the customer;

“hotel” means any hotel licenced as such under the Trading Licence Order, 1975 or any other law;

“Income Tax Order” means the Income Tax (Consolidation) Order, 1975 and any other law made thereunder;

“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 43 applies which is not one of a series of sales sufficient in number and scope to constitute a regular activity of the seller;

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

“person” includes the Government, any partnership, any company, any body of persons whether incorporated or not and the estate of a deceased person;

“purchaser” in relation to any sale or taxable service or accommodation let or food and beverages served on premises at which the business is carried on, means the purchaser acquiring goods under such sale or the person to whom such service is rendered or to whom accommodation is let or to whom food and beverages are served on premises at which the business of a hotel or restaurant is carried on, as the case may be;

“registered vendor” means a vendor who is the holder of a registration certificate issued under this Act;

“restaurant” means any restaurant licenced 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;

“sale” in relation to goods, includes—

- (a) an agreement whereby a party thereto agrees to sell, grant, donate or cede goods to another or exchange goods with another or otherwise to dispose of goods to another;
- (b) any agreement in respect of goods which constitutes a sale subject to a suspensive condition and any other agreement for the sale of goods on credit;

- (c) any agreement for the furnishing or serving for reward of any meal, refreshment, cooked food or food prepared and served so as to be ready for immediate consumption or any drink, except when furnished and served under an agreement for the supply of board and lodging at an inclusive charge and such meal, refreshment food or drink is not charged for separately;
- (d) any other transaction, whereby the ownership of goods passes, or is to pass, from one person to another, for a consideration;

“sales tax” means the tax payable in terms of section 5;

“seller” includes and auctioneer;

“tax period” means a tax period determined by section 16;

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

“tax” means sales tax;

“taxable value” means a taxable value determined under section 8;

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

Administration.

- 3. (1) The Commissioner shall be responsible for the administration of this Act.
- (2) Any duties or powers conferred upon the Commissioner 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 Commissioner, 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 Commissioner.

Preservation of Secrecy.

- 4. (1) Every person designated under, or employed in carrying out, the provisions of this Act shall, subject to this section, preserve and aid in the preservation of secrecy, with regard to all matters that may come to his knowledge in connection with the performance of his duties in respect of such provisions, and shall not communicate any such matter to any person, other than the taxpayer, or his lawful representative, nor suffer any such person to have access to any records in the possession or custody of the Commissioner, except in the performance of his duties under this Act, or by order of a court:

Provided that —

- (a) the Commissioner may, in seeking the advice of or in instructing, the Attorney-General, or any legal practitioner, acting on behalf of the Commissioner, disclose such information, and such documents, as may be relevant, in order to obtain such advice, or giving such instruction;

- (b) the Auditor-General, acting under the Finance and Audit Act, 1967, may have access to such documents, in the possession or custody of the Commissioner, as are required by the Auditor-General for the performance of his duties and the exercise by him of his power, and the Director of Statistics shall, subject to the Statistics Act, 1967, have a similar right in relation to the performance by him of his duties and the exercise by him of his powers under that Act;
 - (c) the information obtained by the Commissioner in the performance of his duties and the exercise of his powers under this Act or any previous law may be used by him for the purposes of any other fiscal law administered by him;
 - (d) a taxpayer may waive, expressly or by implication, any right which he may have under this Act to secrecy, of any matter relating to him or his affairs.
- (2) Every person so designated, or employed, shall before acting under this Act, take and subscribe before a Commissioner of Oaths or a Justice of the Peace, such oath of fidelity or secrecy as may be prescribed.
- (3) Every person who, in contravention of the true intent of the oath of fidelity or secrecy taken by him, and without lawful excuse, reveals any matter or thing which has come to his knowledge in his official capacity, shall be guilty of an offence, and liable, on conviction, to a fine of five hundred Emalangeni or imprisonment for two years, or both.
- (4) Any person designated by competent authority to audit the assessments and accounts of the Commissioner shall, for the purposes of this section, be deemed to be a person appointed under, or employed in the carrying out of, the provisions of this act.

PART II

SALES TAX

Levy of Sales Tax.

5. Subject to section 8, on and after the commencement date, there shall be levied and paid into the Consolidated Fund of Swaziland, a tax (to be known as "sales tax" at the rate specified in the First Schedule calculated on the taxable value of—
- (a) every sale of goods;
 - (b) every taxable service rendered, or to be rendered, by any person in the course of any enterprise carried on by him, as specified in the Third Schedule;
 - (c) accommodation let by any person;
 - (d) food and beverages supplied to any person in the premises at which the business of a hotel or restaurant is being conducted;
 - (e) goods, being goods acquired by any person in carrying on any enterprise (other than goods acquired by him under a sale in respect of which he has borne sales tax), which are applied by such person for private or domestic use or consumption, or for use or consumption thereof, in any enterprise carried on by him, or by any other person;
 - (f) goods imported into Swaziland on or after the said date.

Exemptions.

6. 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:

- (a) the sale of such goods as are specified in the Second Schedule;
- (b) the sale of goods exported from Swaziland, and any taxable service referred to in the Third Schedule, which is rendered in respect of such goods;
- (c) the sale to a registered vendor of goods intended for resale by such vendor, in the ordinary course of the enterprise, in respect of which he is registered under section 12;
- (d) the sale to a registered vendor of goods, intended to be so used by such vendor, in performing any taxable service that such goods will be incorporated in any other goods, in respect of which such service is performed;
- (e) any taxable service rendered to a registered vendor, acting on behalf of his customer, who is to be charged for such service by the vendor;
- (f) any occasional sale of goods, if the total consideration accruing to the seller does not exceed one thousand Emalangeni;
- (g) the sale of goods constituting assets of any enterprise or any other commercial, industrial, mining, farming, forestry or fishing concern or of any professional practice if, under the agreement, whereby the sale is effected, such enterprise, other concern or practice is, together with all the assets thereof, disposed of to the purchaser as a going concern;
- (h) subject to such terms and conditions as the Minister may impose, the sales of goods or the rendering of services to and the importation of goods by ecclesiastical, charitable or educational institution of a public nature.

Amendment of Schedules.

7. (1) The Minister may, by notice published in the Gazette, amend, vary or replace any of the Schedules to this Act.

(2) Every notice, published under subsection (1), shall be submitted for the approval, to be signified by resolution of Parliament, within fifteen days of the notice being made, or, if the House of Assembly is not meeting, within fifteen days after it next meets.

(3) If any such notice is not submitted to Parliament within the time specified in subsection (2), or, if so submitted, is not approved by Parliament, the notice shall thereupon lapse, but without detracting from the validity of such notice before it so lapsed.

Determination of taxable value.

8. 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 sale of goods, the sum of all the amounts of the consideration accruing to the seller in respect of such sale, whether such consideration (or any portion thereof) is, or has become, payable, before or at the time of the sale, or is or will be, payable at some other time, and, any amount charged by the seller in relation to such sale as a deposit on any returnable container, and any amount charged by him in respect of the delivery of such goods:

Provided that—

- (i) where such sum includes any delivery charge, which is charged by the seller separately from the price charged for the goods, such sum shall be reduced by so much of the delivery charge as sufficient to reduce such sum to an amount equal to the full price which the seller would normally have charged for the said goods, if not delivered by the seller;
- (ii) the Commissioner may, in his discretion, allow such other necessary charges and expenses, as he may think just and reasonable, to be deducted from the total consideration in arriving at the taxable value of goods;
- (iii) where there is any dispute or doubt as to the consideration accruing to the seller, 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;
- (b) in the case of any taxable service rendered, each amount of the consideration which accrued to the person rendering such services;
- (c) in the case of accommodation let, each amount of consideration which accrued to the person carrying on the business of letting accommodation;
- (d) in the case of food and beverages served in hotel and restaurant premises, each amount of consideration which accrued to the person carrying on the business of a hotel or restaurant;
- (e) in the case of goods referred to in section 5(e), the cost of such goods to the person who has applied such goods, as contemplated in the said paragraph;
- (f) in the case of imported goods which require to be entered in terms of the Customs Act and are cleared for home consumption in Swaziland, the value thereof for customs duty purposes, plus any duties levied in respect of such goods, plus ten per cent of the said value.

Persons liable to tax.

9. (1) The tax shall be paid—
- (a) in the case of any sale of goods, by the person who is the seller;
 - (b) in the case of any taxable service, by the person by whom such service is rendered;
 - (c) in the case of accommodation let, by a person carrying on the business of letting;
 - (d) in the case of food and beverages supplied by an hotel or restaurant, by the person carrying on the business of the hotel or restaurant concerned;
 - (e) in the case of goods applied by any person for use as contemplated in section 5 (e), by such person; and
 - (f) in the case of goods imported, by the person importing such goods.

- (2) Where any person—
- (a) has obtained goods, free of tax, under any sale the taxable value of which was subject to tax which should have been borne by him; or
 - (b) has had rendered to him, free of tax, any taxable service, the taxable value of which was subject to tax which should have been borne by him; or
 - (c) has had accommodation let, or food and beverages supplied to him on the premises at which the business of hotel or restaurant is being conducted; or
 - (d) has imported into Swaziland, free of tax, goods the taxable value of which was subject to tax, which should have been borne by him;

the tax which became payable, and any interest and penalty payable in respect of the late payment of such tax, shall be recoverable from that person,

(3) Where the seller, in relation to any sale, taxable service or accommodation let or food and beverages supplied on the premises at which the business of a hotel or restaurant is carried on, has acted in good faith, and in accordance with the provisions of sections 6 and 13, and the tax, interest and penalty has been recovered from the person envisaged in paragraphs (a), (b), (c) and (d) of subsection (1), such seller may be relieved of liability from the payment of the tax, interest and penalty.

Recovery of Sales Tax from purchaser by vendor.

10. (1) Notwithstanding anything to the contrary contained in any law, sales tax payable, in terms of section 5, shall be recoverable by the the vendor from the purchaser.

(2) Save an may be agreed with the Commissioner in any particular circumstances, the tax so recoverable in the case of any sale, taxable service, hotel accommodation let or sales of food and beverages on hotel and restaurant premises, may be recovered by adding the tax to the price charged by the seller to the purchaser.

(3) The tax so added shall be stated as a separate item in any invoice, cash slip or other statement relating to any amount due under the relevant sale or in respect of the relevant taxable service, accommodation let or sales of food and beverages in hotel or restaurant premises.

(4) Every vendor shall, in respect of any enterprise carried on by him, in the course of which any goods are sold, any taxable service is rendered or any accommodation let or food and beverages supplied on hotel or restaurant premises, be required to display prominently a notice, in such form as the Commissioner may prescribe, indicating that tax at the appropriate rate will be added to the price or amount charged.

(5) Every person who advertises or quotes a price or amount relating to the sale of any goods, the rendering of any taxable service, accommodation let or food and beverages served in hotel or restaurant premises, whether in any newspaper, periodical, magazine, price list, handbill, display window or otherwise, shall indicate that such price or amount is exclusive of the tax imposed under this Act.

(6) Any person who fails to comply with the provisions of subsection (4), (5) and (6), shall be guilty of an offence and liable, on conviction, to a fine not exceeding one hundred Emalangeni, or to imprisonment for a period not exceeding three months, or to both such fine and imprisonment.

When sales tax becomes due and payable.

11. Tax payable under this Act shall be deemed to be due and payable—
- (a) in the case of a sale of goods, on the date upon which such sale is concluded;
 - (b) in the case of any taxable service, on the date of accrual to the vendor of the consideration placed on such taxable service;
 - (c) in the case of accommodation let, on the date of accrual of the consideration placed on such accommodation;
 - (d) in the case of food and beverages supplied on hotel or restaurant premises on the date of accrual of the consideration placed on such food and beverages;
 - (e) in the case of imported goods, referred to in section 5 (f), on the date on which such goods are imported into Swaziland:

Provided that goods which are cleared 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 cleared.

PART III

REGISTRATION AND DUTIES OF VENDORS

Registration of persons liable to pay sales tax.

12. (1) Every person, who on, or at any time after the commencement of this Act, carries on any enterprise shall, within thirty days reckoned from that date, or within such further period as the Commissioner may allow, furnish the Commissioner with a declaration in such form and containing such information relating to such person's enterprise as the Commissioner may require for the purposes of this Act.

(2) Where—

- (a) the gross annual receipts or accruals of any enterprises from the sale of goods or the rendering of the taxable services exceed R5,000; or
- (b) any enterprise is engaged in letting accommodation; or
- (c) any enterprise is an hotel or restaurant; or
- (d) it appears to the Commissioner that a person should be registered in respect of such enterprise carried on by him;

the Commissioner shall register the person carrying on the enterprise in question as a vendor in respect of such enterprise and issue to such person a certificate of registration.

(3) Notwithstanding subsection (2), and if the Commissioner has reason to believe that any person who has furnished a declaration in terms of provisions of subsection (1)—

- (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 in Swaziland for the purposes of such enterprises;

the Commissioner may refuse to register such person under subsection (2) and shall give such person written notice of such refusal.

Validity of registration certificate.

13. (1) Any registration certificate, issued in terms of section 12, to any person, in respect of any enterprise, shall be valid only in respect of that enterprise, and for as long as such person continues to carry on such enterprise, or until the certificate is cancelled, whichever event first occurs.

(2) Where—

- (a) an enterprise ceases to be carried on; or
- (b) unless the provisions of subsection (3) apply, an enterprise is disposed of by the owner thereof, or the owner of an enterprise had died, or his estate has been sequestrated,

any registration certificate, issued under section 12, in respect of such enterprise shall, within fourteen days after any event contemplated in paragraph (a) or (b), be surrendered to the Commissioner for cancellation.

(3) Where—

- (a) the owner of an enterprise has died and the executor of his estate continues to carry on the enterprise while the estate is being administered; or
- (b) the estate of the owner of an enterprise has been sequestrated and the trustee of the insolvent estate continues to carry on the enterprise while the estate is being liquidated; or
- (c) the owner of any enterprise is under a legal disability, preventing him from managing his affairs, and the guardian or curator of such owner continues to carry on such enterprise; or
- (d) the owner of an enterprise enters into a partnership in respect of the enterprise, or, if the owner is a partnership, such partnership is dissolved and a new partnership, which includes a member of the dissolved partnership, takes over the enterprise.

such executor, trustee, guardian or curator or the partnership so entered into or such new partnership, as the case may be, shall, in respect of the enterprise in question, furnish the Commissioner with a declaration, in the form of the declaration, referred to in subsection (1) of section 12, and in such event the registration certificate issued by the Commissioner under the said section to the said owner in respect of such enterprise shall, until it is cancelled by the Commissioner, be deemed to have been issued to such executor, trustee, guardian or curator, in his capacity as such, or to such partnership or new partnership, as the case may be, in respect of the enterprise.

(4) Where any vendor—

- (a) repeatedly fails, or neglects, to pay any tax due by him, as and when required by this Act; or
- (b) repeatedly fails, or neglects, to furnish any declaration or return, as and when required by this Act; or
- (c) utilises any registration certificate issued under section 12—
 - (i) to obtain goods, free of tax, under any sale in respect of which tax is chargeable; or
 - (ii) to have rendered to him, free of tax, any taxable service in respect of which tax is chargeable; or

- (iii) to have accommodation let to him, free of tax, such accommodation being chargeable to tax under this act; or
- (iv) to have food and beverages served to him, free of tax, on hotel or restaurant premises, such food and beverages being chargeable to tax under this Act; or
- (v) to import into Swaziland, free of tax, goods in respect of which tax is chargeable; or

(d) is found guilty of an offence under section 15,

the Commissioner may after giving written notice, of at least ten days, to the vendor, of his intention to cancel any registration certificate issued to the vendor under section 12, but, subject to the provisions of section 20, cancel such certificate, and in such case, such certificate shall, on demand by the Commissioner, be surrendered by any person in possession thereof to the Commissioner, and, if the certificate is not so surrendered, the Commissioner may seize the certificate.

(5) The cancellation, or seizure, of any registration certificate, in terms of subsection (4), shall not be construed as exempting the vendor from any liability under this Act.

(6) Where the Commissioner—

- (a) has cancelled any registration certificate, as contemplated in subsection (4) of this section; or
- (b) has, subsequent to such cancellation, reinstated the registration of the vendor,

the Commissioner shall, notwithstanding the provisions of section 4, by notice in the Gazette, publish the name and address of the vendor or of his enterprise, the sales tax registration number appearing on the relevant registration certificate issued to the vendor under section 12, and the fact that such certificate has been cancelled, or that such registration has been reinstated, as the case may be.

(7) Notwithstanding section 4, where the Commissioner is, in terms of subsection (6), required to publish a notice in the Gazette relating to any vendor, he may, before or after publishing such notice, issue a written advice containing the information published, or to be published, in the said notice to any person whom he has reason to believe transacts business with such vendor, and such person shall, after receiving such advice, have regard thereto and be entitled to rely thereon.

Use of registration certificate.

14. (1) Where any purchaser, in relation to any sale of goods or taxable service, claims that an exemption, provided under section 6(c), (d) or (e), is applicable in respect of such sale or taxable service—

- (a) the seller, in relation to such sale or taxable service, shall satisfy himself that the said purchaser holds a registration certificate issued in terms of section 12; and
- (b) such seller shall give the purchaser an invoice or other document and retain a copy thereof and the invoice or document shall contain information—

- (i) describing or identifying the goods or taxable service; and
- (ii) stating the price charged or amount subject to tax, and the name, address and sales tax registration number of the purchaser.

(2) Where any purchaser claims any exemption, as contemplated in subsection (1), he shall satisfy the seller that he holds a registration certificate issued under section 12—

- (a) by producing such registration certificate; or
- (b) by giving the seller a declaration in such form, as the Commissioner may require, relating to such registration certificate,

and, where such purchaser acts in terms of this paragraph, he shall be deemed to have utilized a registration certificate issued under section 12.

Misuse of registration certificate.

15. (1) Any person who—

- (a) falsely represents that he is a registered vendor; or
- (b) falsely represents that he is the holder of a registration certificate which was issued to any other person under section 12; or
- (c) alters or writes on any registration certificate issued to him under the said section; or
- (d) utilizes any registration certificate issued to him under the said section in respect of any enterprise for any purpose other than the purpose of such enterprise; or
- (e) makes use of any registration certificate issued to him in terms of the said section which is no longer valid,

shall be guilty of an offence and liable, on conviction, to a fine, not exceeding five hundred Emalangeni, or to imprisonment, for a period not exceeding six months, or to both such fine and imprisonment.

PART IV

RETURNS, PAYMENT AND ASSESSMENT

Tax Period.

16. (1) The tax periods applicable under this Act to any enterprise carried on by a vendor shall be —

- (a) the periods ending on the last day of each month, or on a day within seven days before or after such last day, or, on such other day as the Commissioner, having regard to the circumstances of the case, may approve:

Provided that —

- (i) the first such period shall commence on the commencement date, or where an enterprise is commenced on a later date, such later date;
- (ii) the first day of any subsequent tax period shall be the day following the last day of the preceding tax period;

- (iii) where a vendor dies, or his estate is sequestrated, or he ceases to carry on the enterprise, or he disposes of the enterprise as a whole or of any part interest therein, or where the vendor is a partnership, the partnership is dissolved, whether by operation of law or otherwise, there shall, unless the Commissioner otherwise directs, be a tax period ending on the date of the vendor's death, or the date of the sequestration of the vendor's estate, or the date on which the vendor ceases to carry on the enterprise, or on the day before the date on which the disposal of the enterprise, or the interest therein takes effect, or the day before the date from which the partnership is dissolved;
- (iv) there shall be a tax period ending on the last day of every year of assessment of the vendor under the Income Tax (Consolidation) Order, 1975, or where the vendor is, under the provisions of that Order, permitted to furnish accounts for his enterprise, made up to a date, other than such last day, or such date, unless the vendor has, before such last day, or such date, as the case may be, ceased to carry on such enterprise; or

(b) such other period as the Commissioner, having regard to the circumstances of the case, may determine.

(2) For the purposes of this section "month" means any of the twelve portions into which any calendar year is divided.

Returns, declarations and payments of tax.

17. (1) Every vendor who carries on any enterprise shall, within the period ending on the twentieth day of the first month commencing after the end of a tax period relating to such enterprise or, where such tax period ends on or after the first day and before the twentieth day of a month, within the period ending on such twentieth day—

- (a) furnish the Commissioner with a return (in such form as the Commissioner may prescribe) of the taxable values in respect of which tax has become payable by the vendor during such tax period and containing such information as may be required; and
- (b) calculate such tax in accordance with the said section and pay such tax to the Commissioner:

Provided that the Commissioner may, having regard to the circumstances of any case, extend the period within which such tax is to be paid.

(2) Every vendor, who is under the provisions of section 12 registered in respect of any enterprise, shall, within the period allowed by subsection (1) of this section, furnish the return, referred to in that subsection, in respect of each tax period in relation to such enterprise, whether or not tax is payable in respect of such period.

(3) Subject to section 43 and 50, where tax in respect of any taxable value has become payable, the person liable for the payment of such tax shall, not later than the end of the period of twenty-one days after the date on which such tax has become payable—

- (a) furnish the Commissioner with a declaration (in such form as the Commissioner may prescribe) containing such information as may be required; and
- (b) calculate the tax on such taxable value at the rate of tax in force and pay such tax to the Commissioner.

(4) For the purposes of this section "month" means any of the twelve portions into which any calendar year is divided.

(5) Any vendor, who fails to furnish any return in accordance with the provisions of subsection (1) or (2), shall be guilty of an offence and liable, on conviction, to a fine not exceeding one hundred Emalangeni or to imprisonment for a period not exceeding three months, or to both such fine and such imprisonment.

Estimate of tax on failure of registered vendor to furnish returns.

18. (1) Where any registered vendor has failed to furnish a return which he is required to furnish for any tax period in terms of section 17 (1) or (2), the Commissioner may estimate the tax which, in his opinion, is payable by such vendor in respect of the said period.

(2) The Commissioner shall notify the said vendor of the amount of tax so estimated, and the vendor shall, within such period as the Commissioner may stipulate, pay such amount to the Commissioner, or furnish the said return and pay to the Commissioner the correct amount of tax and any penalty that has become payable under section 27.

(3) If the said vendor fails to comply with the provisions of subsection (2), the amount of tax estimated by the Commissioner, in terms of subsection (1), shall be deemed to be a debt due to the Government of Swaziland, and shall be recoverable from the vendor in the manner provided in section 26.

(4) In the event of the vendor furnishing the said return, or an assessment of the tax payable having been made under section 19, the estimate made by the Commissioner, in terms of subsection (1) of this section, shall lapse, and any amount of tax paid or recovered in respect of the tax period shall be deducted from the amount of tax finally determined by the Commissioner to be payable in respect of the tax period in question, any amount paid in excess being refundable to the vendor and any amount shortpaid being recoverable from him.

Assessments.

19. (1) Where—

- (a) any person fails to furnish any return or declaration which he is required to furnish under section 17; or
- (b) the Commissioner is not satisfied with any return or declaration furnished by any person under that section; or
- (c) the Commissioner has reason to believe that any person has become liable for the payment of any amount of tax but has not paid such amount—

the Commissioner may make an assessment of the amount of tax payable by such person notwithstanding the fact that the Commissioner may have made an estimate of such tax under section 18.

(2) In making such assessment, the Commissioner may estimate the amount upon which the tax is payable.

(3) Subject to the provisions of subsection (5), the Commissioner shall give the person concerned a written notice of such assessment stating the amount upon which tax is payable, the amount of tax payable and the amount of any penalty payable on such tax under section 27:

Provided that where the Commissioner is satisfied that a failure to furnish an accurate return or declaration or to pay any amount of tax was not due to an intent to avoid or postpone liability for the payment of tax, he may in such assessment remit such penalty in whole or in part.

(4) The Commissioner shall, in the notice of assessment referred to in subsection (3) give notice to the person upon whom it has been made that any objection to such assessment shall be lodged with the Commissioner within twenty-one days after the date of such notice.

(5) Before giving the person concerned any written notice of assessment as contemplated in subsection (3), the Commissioner shall send such person a written notice of his intention to raise such an assessment, and such notice shall contain particulars of—

- (a) the enterprise or transaction in respect of which the assessment is to be raised;
- (b) the tax period (if any) in relation to which the assessment is to be raised;
- (c) the amount upon which the tax is to be payable;
- (d) the amount of the tax calculated thereon; and
- (e) the amount of any penalty chargeable in terms of section 27:

Provided that the Commissioner shall not be required to comply with the foregoing provisions of this subsection in any case where the person concerned has failed to comply with the provisions of section 12 (1), or the Commissioner is of the opinion that a delay in the issue of the notice of assessment, contemplated in subsection (3) of this section, might result in a loss of Government revenue.

PART V

OBJECTIONS AND APPEALS

Matters referable to Sales Tax Advisory Board.

20. (1) Where—

- (a) the Commissioner has, in terms of section 12 (3), notified any person of his refusal to register that person under the provisions of section 12 (2); or
- (b) any notification has, in terms of section 13 (4), been given by the Commissioner to any vendor of the Commissioner's intention to cancel any registration certificate issued to that vendor under section 12 (2); or
- (c) the Commissioner has, in terms of section 19 (5), notified any person of his intention to raise an assessment upon that person;

the person or vendor concerned, if he is dissatisfied with such refusal or contemplated action by the Commissioner, have the right to request that the matter be referred to a Sales Tax Advisory Board (hereinafter referred to as the Board), constituted in accordance with the provisions of this section, for an opinion as to whether —

- (i) the refusal of such registration, in terms of section 12 (3), is or is not justified; or
- (ii) the cancellation of such registration certificate, in terms of section 13 (4), is or is not warranted; or
- (iii) such intended assessment is or is not correct.

(2) Every request for a matter to be referred to the Board, under the provisions of subsection (1), shall be in writing, and shall be lodged with the Commissioner, within twenty-one days after the date of the notification by the Commissioner, given in terms of section 12 (3), 13 (4), or 19 (5), as the case may be.

(3) Every Board shall consist of three members nominated by the Commissioner from a panel of persons, appointed by the Minister to serve on the Board, of whom one shall be nominated by the Commissioner to act as chairman of the Board.

(4) An officer, engaged in carrying out the provisions of this Act under the control, direction and supervision of the Commissioner, shall be nominated by the Commissioner to act as convener of the Board, and such officer shall give at least fourteen days notice in writing to the person or vendor requesting an opinion from such Board, of the date, time and place of any meeting of the Board.

(5) At any meeting of the Board—

- (a) the person or vendor requesting an opinion from such Board or his duly appointed representative, and the Commissioner or his representative, may appear in person before the Board and shall be entitled to present any information and to advance reasons in support of their respective contentions concerning the matter in respect of which an opinion is sought;
- (b) the Board may, if it deems fit, require that any evidence laid before the Board be given on oath;
- (c) the rules of procedure of any court shall not apply to the proceedings of the Board but the Board shall observe the rules of natural justice; and
- (d) the proceedings shall not be public and may only be attended by persons whose attendance, in the opinion of the Board, is necessary for the proper consideration of the matter in respect of which an opinion is sought.

(6) Where any meeting of the Board is due to be held at a place within a district other than that in which the person or vendor seeking an opinion carries on any enterprise, the Board may admit a written statement of case, in lieu of an appearance by such person or vendor or any representative on his behalf, and in such case, six copies of any such statement shall be forwarded to the convener of the Board, so as to be received by him not later than forty-eight hours before the date of the meeting of the Board, as notified in terms of subsection (4).

(7) After consideration of the information presented to it and the contentions of the parties, the Board shall give its opinion on the matter before it, stating the facts of the matter as they appear to the Board and the reasons for its conclusions.

(8) Any opinion given by the Board shall be in writing, and a copy thereof shall be furnished by the convener of the Board to each of the parties concerned.

(9) Any opinion given by the Board in regard to—

- (a) a refusal by the Commissioner under the provisions of section 12 (3) to register any person carrying on any enterprise; or
- (b) the cancellation of any registration certificate under the provisions of section 13 (4),

shall be final and conclusive against both the Commissioner and the person or vendor concerned who requested such an opinion.

(10) Any opinion given by the Board as to the correctness or otherwise of any intended assessment, as notified under the provisions of section 19 (5), shall not be binding upon the Commissioner or upon any court of law:

Provided that where such opinion is given against the Commissioner, and the Commissioner is not in agreement with such opinion, the Commissioner shall give notice in writing to the other party concerned that he does not agree with the opinion and may thereafter proceed to make an assessment, as contemplated in section 19 (3).

Time and manner of lodging objections.

21. (1) Any objection to any assessment, made under this Act, shall be made within twenty-one days after the date of the assessment notice, or within such further time as the Commissioner may, for good cause, allow, in the prescribed manner, and under the prescribed terms, by any taxpayer who is aggrieved by any assessment in which he is interested.

(2) Every objection shall be in writing and shall specify in detail the grounds upon which such objection is made.

(3) On receipt of a notice of objection to an assessment, the Commissioner may reduce or alter the assessment, or may disallow the objection, and shall send the taxpayer notice of such alternation, reduction or disallowance, and shall record, in the assessment register, any alteration or reduction made in assessment.

(4) If no objection is made to any assessment, or if an objection has been allowed or withdrawn, such assessment, or altered or reduced assessment, as the case may be, shall subject to the right of appeal provided in this Part and subject to the right of appeal hereinafter provided be final and conclusive.

Onus of proof as to exemption, etc.

22. The burden of proof that any amount is exempt from or not liable to any tax chargeable under this Act or is subject to any deduction or set-off, shall be upon the person claiming such exemption, non-liability, deduction or set-off, and upon the hearing of any appeal from any decision of the Commissioner, the decision shall not be reversed or altered unless it is shown by the appellants that the decision is wrong.

Appeal against Commissioner's decision.

23. (1) Any taxpayer, who is dissatisfied with any decision of the Commissioner, as notified in the notice of alteration of an assessment, or disallowance of an objection, may appeal therefrom to the court:

Provided that no such notice of appeal shall be of any force and effect, unless it is lodged with the Commissioner within the period prescribed in subsection (2).

(2) Notice of such appeal shall be in writing, and shall be lodged with the Commissioner, within twenty-one days after the date of any notice of alteration or disallowance referred to in section 21 (3), or within such further time as the Commissioner or the court may, for good cause, allow.

(3) On the hearing of any such appeal, the taxpayer shall be limited to the grounds stated in his notice of objection.

(4) If the assessment has been altered, the assessment so altered shall be deemed to be the assessment against which the appeal is made.

(5) The Commissioner shall, as soon as it is practicable, apply to the Registrar of the High Court, in accordance with the High Court Rules for the appeal to be set down for hearing by the court:

Provided that such application shall be accompanied by a summary of the facts and questions of law, if any, in issue, a copy of the notice of assessment objected against, a copy of the taxpayer's objection thereto, a copy of the Commissioner's reply to such objection, and a copy of the notice of appeal:

Provided, further, that, if the Commissioner has failed to make such application within ninety days of the date upon which the taxpayer has lodged the notice of appeal in terms of subsection (2), the taxpayer may apply to the Registrar of the High Court for the appeal to be set down for such hearing, and the Registrar shall immediately thereupon call upon the Commissioner to lodge with him a summary of the facts and questions of law, if any, in issue, a copy of the notice of assessment objected against, a copy of the taxpayer's objection thereto, a copy of the Commissioner's reply to such objection and a copy of the notice of appeal within ten days from the date of such request.

(6) The provisions of section 54 of the Income Tax (Consolidation) Order, 1975 and any rules or regulations made under that Order relating to any appeal to the High Court, shall mutatis mutandis, apply with reference to any appeal under this section.

Obligation to pay not suspended pending appeal.

24. The obligations to pay, and the right to receive and recover any tax chargeable under this Order, shall not, unless the Commissioner so directs, be suspended by any appeal, or pending the decision of the court under section 23, but if any assessment is altered on appeal, or in conformity with any such decision, a due adjustment shall be made, for which purpose any amount paid in excess shall be refunded, and any amount shortpaid shall be recoverable.

Questions of law.

25. If a question of law arises with regard to any assessment or altered or reduced assessment under this Act, the Commissioner may, within thirty days after receipt of any notice of objection or any notice of appeal under this Act, of his own motion or at the request of the taxpayer concerned, state a case for the determination of such question by the court.

PART VI

PAYMENT AND RECOVERY OF TAX
MANNER IN WHICH TAX SHALL BE PAID

Manner in which tax shall be paid.

26. (1) Subject to subsection (2), (3) and (4) of this section, and the provisions of section 39, the tax payable under this Act shall be paid in full within the time allowed by section 17.

(2) Where the Commissioner is satisfied that, due to circumstances beyond the control of the person liable for the payment of the tax, the amount of tax due cannot be accurately calculated within the time allowed by section 17, the Commissioner may, in his discretion, and subject to such conditions as he may impose, agree to accept a payment of a deposit by such person of an amount equal to the estimated liability of such person for such tax.

(3) Such payment shall be deemed to be a provisional payment in respect of the liability of the said person for such tax, as is finally determined, and when such liability is so determined any amount paid in excess shall be refundable to such person and any amount shortpaid shall be recoverable from him.

(4) Interest shall be paid by such person at the rate of 12% 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.

Penalty for failure to pay tax when due.

27. (1) (a) If any person, who is liable for the payment of tax and is required to make such payment in the manner prescribed in subsection (1) of section 17, fails to pay any amount of such tax within the period allowed for the payment of such tax under the said subsection, or within such extended period as the Commissioner may allow, in terms of the proviso to that subsection, he shall, in addition to such amount of tax, pay a penalty equal to ten percent of such amount for each month or part thereof reckoned from the first day of the month during which the first mentioned period ended to the date of payment of the said amount:

Provided that such penalty shall not exceed such amount of tax.

(b) For the purposes of paragraph (1) "month" means any of the twelve portions into which any calendar year is divided.

(2) If any person who is liable for the payment of tax and is required to make such payment, in the manner prescribed in subsection (3) of section 17, fails to pay any amount of such tax by the end of the period allowed for payment of such tax under the said subsection, he shall, in addition to such amount of tax, pay a penalty equal to ten per cent of such amount for each month or part thereof reckoned from the beginning of the said period to the date of payment of the said amount:

Provided that such penalty shall not exceed such amount of tax.

(3) Where any importer of goods, which are required to be cleared under the Customs Act, fails to pay any amount of tax, payable in respect of the taxable value of the imported goods, at the time the goods are entered under the said Act, for home consumption in Swaziland, he shall in addition to such amount to tax, pay a penalty equal to ten per cent of such amount for each month, or part thereof, reckoned from the day after the date on which the goods are so cleared, to the date of payment of the said amount:

Provided that such penalty shall not exceed such amount of tax.

(4) The Commissioner may in such circumstances as he thinks fit, remit in whole or in part, any penalty payable under this section.

(5) The penalty, referred to in subsections (1) and (2), shall not be payable in any case where the Commissioner has, in terms of the provisions of section 26 (2) agreed to accept payment of a deposit by any person of an amount equal to the estimated liability of such person for the tax in question.

Recovery of tax.

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

- (2) (a) If any person fails to pay any tax, interest or penalty, payable in terms of this Act when it becomes due, or is payable by him, the Commissioner may file, with the clerk or registrar of any competent court a statement certified by him as correct, and setting forth the amount thereof so due or payable by that person and such statement shall thereupon have all the effects of, and any proceedings may be taken thereon as if it were, a civil judgement lawfully given in that court in favour of the Commissioner for a liquid debt of the amount specified in the statement.
- (b) The Commissioner may, by notice in writing addressed to the aforesaid clerk or registrar, withdraw the statement referred to in paragraph (a), and such statement shall thereupon cease to have any effect:

Provided that the Commissioner may institute proceedings afresh under that paragraph in respect of any tax, interest or penalty, referred to in the withdrawn statement.

- (c) The Commissioner may 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, interest or penalty, payable by such person under this Act.

(3) Notwithstanding anything contained in the Magistrate's Courts Act, 1938, a statement for any amount whatsoever may be filed, in terms of paragraph (a) of subsection (2), with the clerk of the magistrate's court having jurisdiction in respect of the person by whom such amount is payable in accordance with the provisions of this Act.

Correctness of estimate or assessment cannot be questioned.

29. It shall not be competent for any person in proceedings in connection with any statement filed in terms of section 28 (2) (a) to question the correctness of any estimate or assessment upon which such statement is based, notwithstanding that the amount of such estimate is disputed or that objection and appeal may have been lodged against such assessment.

Security for tax.

30. (1) The Commissioner may, in the case of any vendor who has been convicted of any offence under this Act, or who has repeatedly failed to pay amounts of tax due by him, or to carry out other obligations imposed upon him by this Act, by written notice to such vendor, require him, within such period as the Commissioner may allow, to furnish to, or deposit with, the Commissioner, security for the payment of any tax or penalty, which has, or may become payable, by the vendor under this Act.

(2) Such security shall be of such nature, for such amount and in such form as the Commissioner may direct.

(3) If such vendor refuses or neglects to comply with such notice, the Commissioner may, in the manner provided in section 13, cancel any registration certificate issued to the vendor under section 12.

(4) Where the Commissioner has directed that such security shall be in the form of cash deposit, and the vendor fails to make such deposit within the period allowed by the Commissioner, the amount of such deposit shall be recoverable from the vendor under the provisions of section 26 as though such amount were an amount of tax due by the vendor.

(5) Where such security is in the form of cash deposit, the amount deposited may be set off in whole or in part by the Commissioner against any liability of the vendor for any tax, penalty or interest under this Act or such amount (or the balance thereof remaining after deducting any portion thereof which has been set off as aforesaid) may be repaid by the Commissioner to the vendor when the Commissioner is satisfied that the security is no longer required.

PART VII REPRESENTATIVES

Commissioner's Power to appoint agents.

31. (1) The Commissioner may declare any person to be an agent of any other person, and the person, so declared an agent, shall be the agent for the purpose of this Order, and may be required to pay to the Commissioner any tax interest and penalty due from any money which—

- (a) is due or may become due to the person whose agent he has been declared; or
- (b) the person holds or may subsequently hold for or on account of the person whose agent he has been declared; or
- (c) the person has authority from some other person to pay to the person whose agent he has been declared,

within fifteen days of the date of service of the declaration, or, if on such date, no money is due from him, to, or is held by him for, or on account of, that person, within fifteen days of the date on which such money becomes due to, or available for, or on account of, that person, the amount specified in such declaration, or if such amount is less than the amount specified, the whole of the money due, held or available.

(2) Without prejudice to the liability of the taxpayer under this act, if an agent, after receipt of a notice, parts with any money to which the notice relates, he shall be liable protanto for the tax due by such person.

Remedies of Commissioner against agent or trustee.

32. The Commissioner shall have the same remedies against all property of any kind vested in or under the control or management of any agent or person acting in a fiduciary capacity as he would have against the property of any person liable to pay any tax, interest or penalty chargeable under this Act and in as full and ample a manner.

Duties of persons acting in representative capacity.

33. (1) The person responsible for performing the duties imposed by this act—
- (a) on any company shall be the public officer thereof contemplated in sections 44 and 51 of the Income Tax Order or, in the case of any company which is placed in liquidation, the liquidator thereof;
 - (b) on the Government, shall be any person responsible for accounting for the receipt and payment of moneys under the provisions of any law or for the receipt and payment of public funds (including the funds of any administration or undertaking of the Government) or the funds voted by Parliament;

- (c) on a local authority or any corporate or unincorporate body (other than a company), shall be any person responsible for accounting for the receipt and payment of moneys or funds on behalf of such local authority or body;
- (d) on a person under legal disability shall be his guardian, curator or administrator or any other person having the management or control of his affairs;
- (e) where a person who is liable for payment of tax under this Act, or on whom any duties are imposed by this Act, 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 matter 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;
- (f) on the estate of a deceased person shall be the executor or administrator of such estate;
- (g) on the estate of an insolvent person, shall be the trustee or administrator of such estate;
- (h) on any person who acts through an agent shall be such agent, including an agent appointed under the provisions of section 31;
- (i) on any person acting in a fiduciary capacity shall be such person:

Provided that nothing herein contained shall be construed as relieving any such company, local authority, body or person from having to perform any duties imposed by this Act upon such company, local authority, body or person which the first-mentioned person (hereinafter referred to as the representative) has failed to perform.

(2) Every representative shall, as respects moneys controlled or transactions concluded by him, in his representative capacity, be liable for the payment of any tax, interest or penalty chargeable under this Act, in relation to such moneys or transactions, as though such liability had been incurred by him personally, but such liability shall be deemed to have been incurred by him in his representative capacity only.

(3) Any tax, interest or penalty, payable by any representative, in his representative capacity, shall be recoverable from him, but to the extent only of any assets belonging to the person whom he represents which may be in his possession or under his management, disposal or control:

Provided that tax, interest or penalty payable by a company shall not be recoverable from the public officer of the company, but shall be recoverable from the company.

(4) Every representative who, as such, pays any tax, interest, or penalty due under this Act, shall be entitled to recover the amount so paid from the person on whose behalf it is paid, or to retain out of any moneys that may be in his possession or may come to him in his representative capacity, an amount equal to the amount so paid.

(5) Every representative, referred to in paragraph (f) of subsection (1), who, as such, pays any tax, interest or penalty due under this Act by any deceased person, shall be entitled to recover the amount so paid from the estate of such deceased person that may be in his possession, or that may come to him, as executor or administrator of such estate, an amount equal to the amount so paid.

(6) Every representative shall be personally liable for the payment of any tax, interest or penalty payable by him in his representative capacity, if, while the amount thereof remains unpaid—

- (a) he alienates, charges or disposes of any money received or accrued in respect of which the tax is chargeable; or
- (b) he disposes of, or parts with, any fund or money belonging to the person whom he represents which is in his possession, or comes to him after the tax, interest or penalty has become payable, if such tax, interest or penalty could legally have been paid from, or out of, such fund or money.

PART VIII
OFFENCES AND PENALTIES

Offences.

34. (1) Any person who—

- (a) holds himself out as an officer, unless he is such an officer, engaged in carrying out the provisions of this Act; or
- (b) holds himself out as an officer authorised by the Commissioner, unless he is so authorised, for the purposes of entry and search as contemplated in section 48(1);
- (c) fails to pay any tax on or before the due date;
- (d) fails to surrender for cancellation any registration certificate as contemplated in section 13 (2) or (4); or
- (e) being a seller in relation to any transaction consisting of any sale of goods, taxable service, accommodation let, supply of food and beverages in hotel or restaurant premises,
 - (i) declares to any purchaser, in relation to such transaction, that tax has been included in or will be added on to the price or amount chargeable in respect of such transaction, where in fact no tax is payable in terms of this Act; or
 - (ii) knowingly, and without lawful excuse (the burden of proof whereof shall be upon him), includes in, or adds on to, the price or amount charged to the purchaser in relation to such transaction any tax, where in fact no tax is payable in terms of this Act; or
 - (iii) knowingly, and without lawful excuse (the burden of proof whereof shall be upon him), includes in, or adds on to, the price or amount charged to the purchaser in relation to such transaction, any tax in excess of the tax properly leviable under this Act in respect of the taxable value of such transaction,

shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred Emalangeneni or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Offences and penalties in regard to tax evasion.

35. (1) Any person who, with intent to evade, or to assist any other person to evade, the payment of the tax under this Act—

- (a) makes or causes or allows to be made any false statement or entry in any return or declaration rendered in terms of this Act, or signs any statement, return or declaration so rendered without reasonable grounds for believing the same to be true; or

- (b) gives any false answer, whether verbally or in writing, to any request for information made under this act by the Commissioner or any person duly authorized by the Commissioner or any officer referred to in section 3 (1); or
- (c) prepares or maintains or authorises the preparation or maintenance of any false books of account or other records or authorizes the falsification of any books of account or other records; or
- (d) makes use of any fraud, art or contrivance whatsoever, or authorizes the use of such fraud, art or contrivance; or
- (e) makes any false statement for the purposes of obtaining any refund of or exemption from the tax,

shall be guilty of an offence and liable, on conviction, to a fine not exceeding one thousand Emalangeni, or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.

(2) Whenever in any proceedings under this section it is proved that any false statement or entry has been made in any return or declaration rendered under this Act by or on behalf of any person or in any books of account or other records of any person, that person shall be presumed, until the contrary is proved, to have made that false statement or entry to be made or to have allowed it to be made with intent to evade the payment of taxation, and any other person who made any such false statement or entry shall be presumed, until the contrary is proved, to have made such false statement or entry with intent to assist the first-mentioned person to evade the payment of taxation.

Compounding of Offences.

36. (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; and
- (b) agrees in writing to abide by the Commissioner's decisions; 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 further 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 decision made by the Commissioner under subsection (1), he may appeal against such order to the Minister who shall appoint a committee of three persons to decide the matter:

Provided that —

- (a) such appeal shall be made within ninety days from the date of the decision;
- (b) No such appeal shall be made when the penalty imposed does not exceed two hundred Emalangeni; and

(c) the committee's decision on any such appeal shall be final.

(4) The imposition of a penalty under this section shall not be construed as a conviction for a criminal offence and no prosecution shall be instituted for an offence which has been compounded.

Jurisdiction of courts, etc.

37. (1) Any person charged with an offence under this Act may, notwithstanding anything to the contrary contained in any law, be tried in respect of that offence by any magistrate's court having jurisdiction within any area in which he resides or carries on business.

(2) A conviction for an offence under this Act shall not exempt the person convicted from the payment of any tax, interest or penalty payable under this Act.

Offences by bodies of persons.

38. 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.

PART IX
MISCELLANEOUS

Regulations.

39. 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.

Refunds and remissions.

40. (1) Where it is proved to the satisfaction of the Commissioner —

- (a) that any amount of —
 - (i) tax, penalty or interest paid by any person was in excess of the amount of tax, penalty or interest which should properly have been charged under this Act;
 - (ii) tax, penalty or interest has been borne by a purchaser or importer solely by reason of the fact that he, in circumstances where in the opinion of the Commissioner acted in good faith, did not comply with the provision of section 14 (2); or
- (b) that any person who has furnished a declaration in accordance with the provisions of section 12 has borne tax in respect of any goods purchased by him or any taxable service rendered to him or goods imported by him after the expiry of a period of fifteen days reckoned from the date on which the said declaration was received by the Commissioner, that such tax

would not have been borne by him if he had been in possession of a registration certificate issuable under the said section and that the receipt by such person or registration certificate issued by the Commissioner under the said section on the strength of the said declaration has been delayed beyond the said period of fifteen days;

- (c) tax was paid by a person who is exempt from such tax;

the Commissioner may authorize a refund to the person who paid the tax, penalty or interest referred to in paragraph (a) of any amount thereof overpaid, or a refund to the person who bore the tax referred to in paragraph (b) of any amount thereof overpaid, or a refund to the person who bore the tax referred to in paragraph (c) of the tax so borne, as the case may be.

- (2) The Commissioner shall not authorise any refund under subsection (1) unless—

(a) a claim for any refund under the provision of paragraph (a) of that subsection is made within one year after the date upon which payment of the amount claimed to be refundable was made; or

(b) a claim for any refund 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 is E10 or more; or

(d) the Commissioner is satisfied that an 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.

(3) No refund of any amount of tax overpaid or found not to have been payable shall be authorized under this section unless application for the refund is made within three months after the date of conclusion of the transaction or the happening of the event in relation to which the tax was paid, except where —

(a) the payment of such amount occurred as a result of a calculation or accounting error; or

(b) the Commissioner is satisfied that payment of such amount arose as a result of a mistake of fact or that such amount was not payable in accordance with the practice generally prevailing at the said date.

(4) The Minister may, upon application by the person concerned, remit in whole or in part any tax and interest payable thereon if he is satisfied that it is just and equitable to do so.

Authentication and service of documents.

41. (1) Any form, notice, demand or other document issued or given by or on behalf of the Commissioner or any other officer under this Act shall be sufficiently authenticated if the name or official designation of the Commissioner or officer by whom the same is issued or given is stamped or printed thereon.

(2) Any form, notice, demand, document or other communication required or authorized under this Act to be issued, given or sent to or served upon any person by the Commissioner or any other officer under this Act shall, except where otherwise provided in this Act, be deemed to have been effectually issued, given, sent or served —

- (a) if delivered to him; or
- (b) if left with some adult person, apparently residing at, or occupying or employed at his last known abode or office or place of business; or
- (c) if despatched by registered or any other kind of post addressed to him at his last known address, which may be any such place or office as is referred to in paragraph (b) or his last known post office box number or that of his employer; and
- (d) in the case of a company —
 - (i) if delivered to the public officer of the company contemplated in section 44 of the Income Tax Order; or
 - (ii) if left with some adult person apparently residing at or occupying or employed at, the place appointed by the company as its registered office, or where no such place has been appointed by the company, if left with some adult person, apparently residing at, or occupying or employed at, the last known office or place of business of the company; or
 - (iii) if despatched by registered or any other kind of post addressed to the company or its public officer at its or his last known address, which may be any such office or place as is referred to in subparagraph (ii) or its or his last known post office box number or that of his employer.

(3) Any form, notice, demand, document or other communication, referred to in subsection (2), which has been issued, sent or served in the manner contemplated in paragraph (e) or (d) (iii) of that subsection shall be deemed to have received by the person to whom it was addressed at the time when it would, in the ordinary course of post, have arrived at the place to which it was addressed, unless the Commissioner is satisfied that it was not so received or was received at some other time or, where the time at which it was received or the fact that it was received is in dispute in proceedings under this Act in any court having jurisdiction to decide the matter, the court is so satisfied:

Provided that the provisions of this subsection shall not apply where any person is in criminal proceedings charged with the commission of an offence under this Act by reason of his failure, refusal or neglect to do anything which he is required to do in terms of the said form, notice, demand, document or other communication, unless it was despatched to such person by registered certified post.

(4) If the Commissioner is satisfied that any form, notice, demand document or other communication (other than a notice of assessment) issued, given, sent or served in a manner contemplated in paragraph (b), (c) or (d) (ii) or (iii) of subsection (2), has not been received by the person to whom it was addressed or has been received by such person considerably later than it should have been received by him and that such person has in consequence been placed at a disadvantage, the Commissioner may, if he is satisfied that the circumstances warrant such action, direct that such form, notice, demand, document or other communication be withdrawn and be issued, given, sent or served anew.

Erroneous remission, and refund of Sales Tax.

42. (1) Where any tax has been remitted or refunded in error, the person to whom the remission or refund has been erroneously allowed or made shall, on demand by the Commissioner, pay the amount erroneously remitted, 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 by the issue of an estimated assessment under section 18.

Registration of certain goods prohibited in certain circumstances.

43. No registering authority in Swaziland shall register any aircraft, motor vehicle, tractor, caravan or any other goods requiring registration under any law upon any change of ownership of such goods unless the person applying for registration produces to such registering authority a clearance 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
- (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.

Relief allowance to certain diplomats.

44. (1) The Minister may, in consultation with the Minister of Foreign Affairs, and subject to such conditions and to such restrictions as he may deem fit, authorise the granting of relief, by way of a refund, in respect of any tax paid on the sale of any goods purchased in Swaziland by any person who is exempt from payment of tax in terms of the Diplomatic Privileges Act, 1969.

(2) Such relief shall not be granted to any citizen or permanent resident of Swaziland.

(3) Any claim for a refund of tax under this section shall be made in such form and at such time as the Commissioner may specify, and shall be accompanied by such proof of payment of tax as the Commissioner may require.

Prohibition against advertising that tax will be absorbed.

45. (1) No vendor shall advertise or hold out or state to the public or to any purchaser, directly or indirectly, that the tax imposed by this Act or any part thereof will be borne or absorbed by him or that such tax will not be considered as an element in the price to the purchaser, or, if added to such price, that such tax or any part thereof will be refunded.

(2) Every vendor who contravenes the provisions of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred Emalangeni or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

Contract price or consideration may be varied according to tax.

46. (1) Whenever any tax is imposed or increased in respect of the taxable value of any sale, taxable service, board and lodging or accommodation referred to in section 5 in relation to which any agreement was entered into by the acceptance of an offer made before the tax was imposed or increased, as the case may be, the seller may, notwithstanding anything to the contrary in any agreement or law, recover from the purchaser, as an addition to the amounts payable by the purchaser to the seller, a sum equal to any amount payable by the seller by way of the said tax increase, as the case may be and any amount so recoverable by the seller shall, whether or not it is recovered, be accounted for by the seller under the provisions of section 10.

(2) Whenever any tax is withdrawn or decreased in respect of the taxable value of any sale, taxable service, board and lodging or accommodation referred to in section 5 in relation to which any agreement was entered into by the acceptance of an offer made before the tax was withdrawn or decreased, as the case may be, the seller shall, notwithstanding anything to the contrary in any agreement or law, reduce the amount payable to him by the purchaser by way of any consideration in which the amount of such tax was included or the amount payable to him by the purchaser by way of such tax in addition to the consideration payable by the purchaser, by a sum equal to the amount of the tax withdrawn or the amount by which the tax is decreased, as the case may be.

Records.

47. (1) Every vendor shall keep such books of account or other records in English or siSwati, as may enable him to observe the requirement of this Act and enable the Commissioner to satisfy himself that the vendor has observed such requirements, and every vendor shall, in particular, keep such record of all amounts received by or accruing to him in respect of sales of goods, taxable services rendered, accommodation let or food and beverages served on hotel and restaurant premises, in respect of which tax has not been charged by the vendor to the purchaser as may enable the Commissioner to identify such purchaser and the amounts received by or accruing to the vendor from such purchaser and to satisfy himself that tax is not chargeable in respect of any such amount in the hands of the vendor or the purchaser.

(2) Such books of account or other records and any invoices or other documents relating to entries in such books or records shall at all reasonable times during the period of five years referred to in subsection (3) be open for inspection by any person acting under the authority of the Commissioner.

(3) All such books of account, records and other documents required to be kept in terms of subsection (1) shall —

- (a) where kept in book form, be retained and carefully preserved by the vendor for a period of five years from the date of the last entry in any book; or
- (b) where consisting of bank statements, deposit slips, invoices, stock lists, paid cheques or other documents not in book form, be retained and carefully preserved by the vendor for a period of five years after the completion of the transactions, acts or operations to which they relate.

(4) The Commissioner may, subject to such conditions as he may determine, and in respect of any documents referred to in paragraph (b) of subsection (3), authorize the retention of microfilm copy or computer tape record of such documents in lieu of the originals thereof.

(5) Every vendor who fails to keep or to preserve any books of accounts, records and other documents as provided in subsections (1) and (3) shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred Emalangeni or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

(6) Where the Commissioner has under subsection (4) authorized the retention of a microfilm copy or computer tape record of any documents referred to in subsection (3) (b), every vendor who fails to preserve —

- (a) such documents as provided in subsection (3); or
- (b) such microfilm copy or computer tape record of such documents in lieu of the originals thereof for a period of five years after the completion of the transactions, acts or operations to which such originals relate,

shall be guilty of an offence and liable on conviction to the penalties prescribed in subsection (5).

Powers of entry and search.

48. (1) Any officer engaged in carrying out the provisions of this Act who has been duly authorized thereto by the Commissioner, may, for the purposes of the administration of this Act —

- (a) without previous notice, at any reasonable time enter any premises whatsoever 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 books of account, 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 the provisions of this Act;
- (d) retain any such books of account, 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 person to whose affairs any books of account, records or other documents seized under the provisions of subsection (1) relate, shall be entitled to examine, and make copies thereof, or extracts therefrom, during office hours, under such supervision as the Commissioner may determine.

(4) Any person who —

- (a) hinders, obstructs or assaults an officer referred to in subsection (1); or
- (b) wilfully fails to comply with any lawful demand made by such officer in the performance of his duties or the exercise of his powers,

shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred Emalangenzi or to imprisonment for a period not exceeding twelve months.

Information.

49. (1) The Commissioner may by notice in writing require any person to furnish the Commissioner, within such period as he may determine, with such information at such person's disposal as the Commissioner may require for the purposes of this Act, whether or not such person is or has been required in terms of section 12 to furnish the Commissioner with the declaration.

(2) For the purpose of obtaining full information in carrying out the provisions of this Act, the Commissioner may require any person to produce for examination by the Commissioner, or by any person appointed by him for the purpose, at such time and place as may be appointed by the Commissioner, any books, accounts, trade lists, stock lists or other records or documents which the Commissioner may deem necessary for the purpose of this Act.

- (3) (a) The Commissioner may, by notice in writing, require any person whom the Commissioner may deem able to furnish information, to attend at a time and place named by the Commissioner for the purpose of being examined on oath regarding any transactions or matters related to the carrying out of the provisions of this Act by that person or any other person.

- (b) Any person required under the provisions of paragraph (a) to attend for the purpose of being examined on oath, shall be compensated by the Commissioner, for any reasonable expenses necessarily incurred by him in so attending.

(4) Any person, who fails to comply with any requirements of the Commissioner under subsection (1), (2) or (3), shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred Emalangeni or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

Arrangements for collection of tax on goods imported into Swaziland.

50. (1) The Commissioner, the Director of Posts and Telecommunications and the Secretary for Customs and Excise may make such arrangements as they may deem necessary —

- (a) for the collection by the Director of Posts and Telecommunications and the Secretary for Customs and Excise, on behalf of the Commissioner, of the tax payable under this Act in respect of the taxable value of any goods imported into Swaziland; and
- (b) for the exchange of such information as is necessary for the carrying out of such arrangements.

(2) The provisions of the Customs Act relating to the importation, transit, carriage and entry of goods shall, mutatis mutandis, have effect as if enacted in this Act.

(3) The duty imposed by this Act or any other law to preserve secrecy shall not prevent the disclosure of any information which is necessary for the proper carrying out of any arrangements made under the provisions of subsection (1).

Arrangements to overcome difficulties or anomalies.

51. (1) If in any case the Commissioner is satisfied that in consequence of the manner in which any vendor or seller conducts his business, trade or occupation, difficulties or anomalies have arisen or may arise in regard to the application of any of the provisions of this Act, the Commissioner and the vendor or seller may agree as to the manner in which such provisions shall be applied in the case of such vendor or seller, and they may in such agreement make such arrangements as to the calculation or payment of tax or the application of any exemption from tax provided in this Act as appear to overcome such difficulties or anomalies:

Provided that subject to the provision of subsection (2), such agreement shall not have the effect of substantially reducing or increasing the ultimate liability of the vendor or seller for taxation levied under this Act.

(2) Where the Commissioner is satisfied that the turnover of any enterprise consists wholly or mainly of amounts derived from sales of goods supplied in small measures, that the price per measure is such that the tax thereon, calculated at the rate provided in section 5(1), amounts to one or more cents, plus a fraction of a cent, and that, by reason of the manner in which the vendor carried on such enterprise, the vendor will not be able to recover such fraction of a cent from purchasers without unduly increasing the price of the commodity, the Commissioner may in any agreement with the vendor under subsection (1) authorize the vendor to disregard such fraction in calculating his liability for tax.

Effect of certain exemptions from taxes.

52. No provision contained in any other law in force prior to the commencement date of this Act providing for an exemption from any taxes shall be applicable to sales tax.

Allowances for Board members, etc.

53. The members of the Advisory Board and of the committee appointed under sections 20 and 36, respectively, shall be paid such allowances as the Minister may determine and such expenditure shall be paid from public funds.

Repeal and transitional.

54. (1) The Sales Tax Act, 1983 is hereby repealed.

(2) Subject to subsection (3) the Hotel and Restaurant Taxation Order, 1973, is hereby repealed.

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

FIRST SCHEDULE

(Section 5)

RATE OF SALES TAX

The rate of sales tax referred to in Section 5 of this Act shall be 5 per cent of the taxable value.

SECOND SCHEDULE

(Section 6(a))

EXEMPTIONS

The categories of goods and services in respect of the value of which the exemptions under section 6(a) apply shall be as hereinafter set forth.

PART I

1. *General.*

- 1.01 Goods purchased by the King and Indlovukazi.
- 1.02 Goods purchased by the Authorised person during any period in which he is performing on behalf of the Indlovukazi her functions as Regent in terms of section 34 of the Constitution (Act No. 50 of 1968).
- 1.03 Sales of electricity or water when delivered to purchasers through drains, lines, pipes, furrows canals, barrels, drums or other bulk containers.

2. *Imported goods.*

- 2.01 Used personal and household effects, including personal vehicles, the property of and imported by persons taking up residence in Swaziland.
- 2.02 Personal imports, excluding motor vehicles and other goods of an individual value of E200 or more, carried and cleared through the customs by tourists and returning residents at the time of their arrival in Swaziland for their personal use and consumption and not intended for sale or other commercial purposes.

- 2.03 Goods imported temporarily for purposes approved by the Commissioner, subject to such conditions as the Commissioner may impose.
- 2.04 Goods imported by post of a taxable value not exceeding E10.00 per parcel.

3. *Goods for use by Industrial and Mining Enterprises.*

- 3.01 Goods 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 and will remain the goods so manufactured as an element or essential thereof in their completely manufactured condition.
- 3.02 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.
- 3.03 Containers and packaging materials used for the shipment or conveyance of goods manufactured or produced in Swaziland which are exported.
- 3.04 Fuel purchased in bulk supply for use directly in the production or manufacturing process of goods by such enterprises and which are necessary for such manufacturing or production process.
- 3.05 Fixed plant and machinery for factory installation.

4. *Goods for use by Farming or Forestry Enterprises.*

- 4.01 Fertilizers, insecticides, fungicides, herbicides, rodenticides, livestock medicines and vaccines.
- 4.02 Seeds, shrubs, plants, bulbs, trees and other plant material for the production of crops or produce, including plant ripeners.
- 4.03 Packing or wrapping materials and containers (other than pallets and returnable containers) used for the marketing of farming and forestry products.
- 4.04 Livestock
- 4.05 Animal feeds and licks
- 4.06 Animal Dips
- 4.07 Farming and forestry machinery, including tractors and trailers.
- 4.08 Irrigation plant and equipment.

5. *Foodstuffs.*

- 5.01 Dairy products of all kinds, including eggs and powdered milk.
- 5.02 Maize, wheat, rice, sorghum and malt and flours or meals thereof.
- 5.03 Plain bread
- 5.04 Meat and edible meat offals, fresh or frozen.

- 5.05 Fruit, fresh
 - 5.06 Vegetables, fresh or dried.
 - 5.07 Sugar
 - 5.08 Salt
 - 5.09 Fish, fresh or frozen
6. *Medical, Dental and Surgical Supplies.*
- 6.01 Drugs, medicines, and medicinal preparation for therapeutic or prophylactic use.
 - 6.02 Wadding, gauze, bandages and similar articles for medical or surgical purposes.
 - 6.03 Dental cement, fillings and dentures.
 - 6.04 Surgical and dental instruments and equipment.
7. *Goods purchased by Hotels and Restaurants.*
- 7.01 Foodstuffs and beverages purchased 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.
8. *Scholastic materials.*
- 8.01 School exercise books
 - 8.02 Text books printed and published specially for educational use in schools and colleges.
9. *Miscellaneous Goods.*
- 9.01 Structural steelwork
 - 9.02 Roofing materials
 - 9.03 Door and window frames for building
 - 9.04 Cement
 - 9.05 Timber, rough, sawn or planed.
 - 9.06 Kerosene for heating or illumination purposes.

PART II

Goods imported from places outside the area of the Southern African Customs Union which fall under any customs tariff 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.

<i>Heading Number</i>	<i>Heading and Description</i>
406.00 I.	Goods imported by the King and Indlovukazi

II. Goods imported by the Authorised Person during any period in which he is performing on behalf of the Indlovukazi her functions as Regent in terms of section 34 of the Constitution (Act No. 50 of 1968).

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) *Heading No.*

22.00 (i) Spirituous and alcoholic beverages not exceeding a total quantity of one litre per person;

(ii) Wine, not exceeding a total quantity of one litre per person;

24.02 Manufactured tobacco, not exceeding 400 cigarettes and 50 cigars and 250g of cigarette or pipe tobacco per person;

33.06 Perfumery, not exceeding 300ml per person.

(2) Other goods (new or used) of a total value not exceeding E200

407.06 Household furniture and effects and other removable articles, including equipment necessary for the exercise of the trade or profession of the person, excluding motor vehicles, caravans, trailers, boats, alcoholic beverages and tobacco goods, the bonafide property of a person including a return 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 E10 (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

(c) in terms of an obligation under any multilateral international agreement to which Swaziland is party.

412.12 Goods imported for any purpose agreed upon between the Governments of Swaziland, Botswana, Lesotho 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, Fiscal, Excise, and Sales Duty Act, 1971;

- (i) containers temporarily imported;
- (ii) human remains;
- (iii) goods which in the opinion of the Secretary for Customs and Excise are of no commercial value;
- (iv) goods imported under an international carnet.

THIRD SCHEDULE

(Section 5(b))

TAXABLE SERVICES

The categories of services in respect of which tax shall be payable in terms of section 5(b) shall be as hereinafter set forth:

NIL