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NOTICE

The Bill following hereunder shall be presented before the House of Representatives under the certificate of agency for the first, second and third readings which will start its session on 10th May of 2017, and is gazetted for the public notice incorporating together with its objects and reasons.

ZANZIBAR
20th April, 2017

(Dr. ABDULHAMID Y. MZEE)
***Secretary to the Revolutionary
Council and Chief Secretary***

A BILL

for

AN ACT TO IMPOSE AND ALTER CERTAIN TAXES AND DUTIES AND TO AMEND CERTAIN WRITTEN FINANCIAL AND TAX LAWS RELATING TO COLLECTION AND MANAGEMENT OF PUBLIC REVENUES AND OTHER MATTER CONNECTED THEREWITH.

ENACTED by the House of Representatives, Zanzibar.

**PART ONE
PRELIMINARY PROVISIONS**

Short title and commencement.

1. This Act may be cited as the Finance (Public Revenue Management) Act, 2017 and shall come into operation immediately after being assented to by the President.

**PART TWO
AMENDMENT OF THE TAX ADMINISTRATION AND PROCEDURES ACT, NO. 7 OF 2009**

Construction.

2. This part shall be read as one with the Tax Administration and Procedures Act, No. 7 of 2009 in this part referred to as “the Principal Act”.

Amendment of section 3.

3. Section 3 of the Principal Act is amended by adding its appropriate alphabetical order, the following new definition:

“Electronic fiscal devices” means a machine designed for use in business for acknowledgement of receipt, sales analysis and stock control system and includes; Virtual Fiscal Devices(VFD), Fiscal Cash Register(FCR), Electronic Fuel Pump Printer(EFPP) and Standard Smart Phone”

4. Section 4(5) of the Principal Act is amended by deleting the words “common business principles” appearing after the word “with” and substituting for them the words “open market value”.

Amendment of section 4.

5. Section 7 of The principal Act is amended by :

Amendment of section 7.

(a) inserting new sub section (7) immediately after subsection (6) as follows:

“(7) The Commissioner shall have the powers to shift the registration of taxable person from one type of tax to another where such taxable person does not satisfy the conditions for registration of the type of he previously was registered.”

(b) by renumbering subsection (7) as subsection (8).

6. Section 21 of the Principal Act is amended by deleting the words “of appeal” appearing between the word “right” and the word “under” and substituting for them the words “to object”.

Amendment of section 21.

7. Section 22(1) of the Principal Act is amended in:

Amendment of section 22.

(a) paragraph(a), by deleting the words “ cash sale” and the words “tax invoices” and substituting for them the words “fiscal receipt ”and “fiscal tax invoice” respectively.

(b) paragraph (b), by inserting the word “fiscal” between the words “all” and “tax” and between the word “and” and “receipt”

8. The Principal Act is amended by adding immediately after section 22, a new section 22A as follow:

Addition of a new section 22A.

“ Electronic system for filing and servicing documents.

22A.- (1) The Commissioner may establish and operate an electronic system for filing and furnishing of documents and servicing documents.

(2) The Minister shall make regulations for regulating electronic system for filing and furnishing of documents and servicing documents.

9. The Principal Act is amended by deleting section 23 and substituting for it the following:

“Use of
electronic
fiscal device.

23.-(1) A person who supplies goods or renders services whether by credit or in cash or receives payment in respect of goods supplied or services rendered shall issue fiscal receipt or fiscal invoice by using electronic fiscal device.

(2) Notwithstanding the provisions of subsection (1), the Commissioner may exempt person or class of persons from issuing fiscal receipt or fiscal invoice by using electronic fiscal device.

(3) Subject to the provisions of sub section (2), the Commissioner shall publish in the newspaper with wide circulation or any other public media a list of persons or class of persons who are excluded from the requirement of issuing fiscal receipt or fiscal invoice by using electronic fiscal device.

(4) A person who is excluded from using electronic fiscal device shall issue manual receipt, cash sale or tax invoice.

(5) A person issuing the manual receipt shall enter or cause to be entered in the receipt, cash sale or tax invoice and duplicate copy the particulars as prescribed in the regulations.

(6) A manual receipt, cash sale or tax invoice shall be pre-printed and serially numbered provided that no serial number shall be issued or used more than once.

(7) Any person who contravenes the provisions of this section commits an offence and upon conviction is liable to a fine of not less than One Hundred Thousand Shillings but not more than Five Hundred Thousand Shillings.”

10. The Principal Act is amended by deleting section 24 and substituting for it the following.

“Tax shown
on tax
invoice,
receipt or
cash sale.

24. Any amount shown on fiscal tax invoice, fiscal receipt or cash sale or any other document as tax chargeable on a supply of goods or services shall be recoverable as tax due from the person issuing such document, regardless of whether:

- (a) the fiscal tax invoice, fiscal receipt or cash sale or any other document is in the form prescribed in the Act;
- (b) tax has been charged in respect of the supply to which such document relates;
- (c) the person issuing fiscal tax invoice, fiscal receipt or cash sale or such document is a taxable person.

11. The Principal Act is amended in section 31A by:

- (a) re-numbering section 31A as section 31A (1);
- (b) deleting paragraph (a) and substituting for it the following:

“(a) a fiscal tax invoice, fiscal receipt or cash sale is issued;

- (c) adding a new subsection (2) as follows:

“(2) The Commissioner may allow the payment of tax through a mobile phone payment system, e-payment or in any other manner as may be prescribed by the Commissioner”.

- (d) adding a new subsection (3) as follows:

“(3) Where a taxable person pays tax in accordance with subsection (1), he shall notify the Commissioner for such payment”.

Amendment
of section
43.

12. Section 43 of the Principal Act is amended in subsection (1) by adding new paragraphs (e) and (f) as follow:

“(e) if the taxable person attempts to obstruct or hinder the Commissioner or an authorized officer in the exercise or performance of any of his power or duties under this Act.

(f) where the taxable person has been served with the notice of offence in accordance with section 52A and failed to appear before the Commissioner on the date specified in such notice.”

Amendment
of section
51.

13. Section 51 (1) and (2) of the Principal Act is amended by:

(a) insert the word “fiscal” between the words “payment” and “receipt” and between the words “or” and “tax” in subsection (1);

(b) insert the word “fiscal” between the words “payment” and “receipt” and between the words “or” and “tax” in subsection (2).

Addition
of a new
section
52A.

14. The principal Act is amended by adding a new section 52A immediately after section 52 as follow:

“Notice of
offence

52A.-(1) Where the Commissioner reasonably believes that a person has committed an offence under this Act or any other tax law, he shall serve such person with a notice of offence.

(2) The notice of offence shall contain the following particulars:

- (a) name and address of the offender;
- (b) Taxpayer Identification Number;
- (c) Registration Number;
- (d) particulars of the offence committed;

(e) date and place on which the offender is required to appear before the Commissioner;

(f) signature of the person issuing the Notice; and

(g) any other information the Commissioner may deem fit.

(3) A person to whom the notice of offence was served and fails to appear before the Commissioner on the date and place specified in the notice, commits an offence and upon conviction is liable to the fine of not less than Five Million Shillings or to imprisonment for term of not less than one year.”

15. The Principal Act is amended by adding a new section 53B immediately after section 53A as follow:

Addition
of a new
section
53B.

“Schemes for
obtaining undue
tax benefit.

53B.-(1) Notwithstanding any provisions of this Act, the Commissioner may determine the liability for any tax imposed and its amount, as if the schemes had not been entered into or carried out, or in such manner as, in the circumstances of the case, he considers appropriate for the prevention or diminution of the tax benefit sought to be obtained by the scheme.

(2) A determination under subsection (1) shall be deemed to be an assessment of tax, and the provisions of this Act in relation to assessments, shall apply accordingly.

(3) In this section “bona fide business purposes” does not include the obtaining of a benefit and “tax benefit” includes:

- (a) any avoidance or reduction in the liability of any person to pay tax;

- (b) any increase in the entitlement of any taxable person to a refund of tax;
- (c) any reduction in the consideration payable by any person in respect of any supply of goods and services or the importation of any goods; or
- (d) any other avoidance or postponement of liability for the payment of any tax.

**PART THREE
AMENDMENT OF THE VALUE ADDED TAX
ACT NO. 4 OF 1998**

Construction. **16.** This part shall be read as one with the Value Added Tax Act No. 4 of 1998 in this part referred to as “the Principal Act”.

Amendment of section 2. **17.** Section 2 of the Principal Act is amended by adding its appropriate alphabetical order, the following new definition as follows:

“financial service” means-

- (a) granting, negotiating, and dealing with loans, credit guarantees and security for money including management of loans, credits or credit guarantees by the guarantor;
- (b) transaction concerning money deposit, current accounts, payments, transfers, debts, cheques or negotiable instruments other than debt collection or debt factoring;
- (c) transaction relating to financial derivatives, forward contracts, options to acquire financial instrument and similar arrangement;
- (d) transaction relating to shares, stocks, bonds, and other securities but does not include custody services;
- (e) transaction involving granting or transferring ownership of an interest in a scheme whereby provision is made for the payment or granting of benefits by a benefit fund,

- provident fund, pension fund, retirement annuity fund, preservation fund or similar fund;
- (f) transaction involving the provision of or transfer of ownership of health or life insurance contract or the provision of reinsurance in respect of such contract;
- (g) making payment or collection of amount of interest, principal, dividend, or other amount in respect of any share, debt, security, equity security, participatory security, credit contract, contract of life insurance or futures contract; and
- (h) foreign exchange transaction including the supply of foreign drafts and international money orders but does not include supply of services of arranging or facilitating any of the service specified under paragraphs (a) to (h).

18. Section 5 of the principal Act is amended by adding a new sub section (7) immediately after subsection (6) as follows:

Amendment of section 5.

“(7) The Minister may make regulations for collection and calculation of Value Added Tax in the supply of financial services.”

19. The principal Act is amended in section 6 as follows:

Amendment of section 6.

- (a) in subsection (2), by inserting the word “fiscal” between the alphabet “a” and the word “tax invoice”;
- (b) in subsection (3) by inserting the word “fiscal” between the alphabet “a” and the words “tax invoice”.

20. Section 16(4) (a) of the principal Act is amended by inserting a word “fiscal” between the alphabet “a” and the words “tax invoice”.

Amendment of section 16.

**PART FOUR
AMENDMENT OF THE PETROLEUM LEVY
ACT NO. 7 OF 2001**

Construction. **21.** This part shall be read as one with the Petroleum Levy Act No. 7 of 2001 in this part referred to as “the Principal Act”.

Amendment of section 2. **22.** Section 2 of the Principal Act is amended by adding in its appropriate alphabetical order, the following new definition as follows: “Refined petroleum products” means the petroleum products as specified in the First Schedule of this Act which are refined from crude oil processed in Zanzibar;

Amendment of section 3. **23.** Section 3(1) of The Principal Act is amended by inserting the words “ and refined petroleum products” between the words “Zanzibar” and “at the rates”:

**PART FIVE
AMENDMENT OF THE CLOVE DEVELOPMENT
ACT, NO. 2 OF 2014**

Construction. **24.** This Part shall be read as one with the Clove Development Act, No. 2 of 2014, in this Part referred to as “the Principal Act”.

Amendment of section 3. **25.** Section 3 of The Principal Act is amended by adding in their appropriate alphabetical order as follows:

“institution” includes a corporate body, society, cooperative, partnership or other body of similar nature;

“smuggling” means unlawful exportation or carriage in marine vessels, aircrafts or vehicles, or any other means of transportation or unlawful transfer or removal of clove seedlings, cloves, clove stems or allied products with intent to remove from one area to another within or outside Zanzibar;

26. Section 19 of the Principal Act is amended as follows:

(a) in subsection (1), by inserting the word “or” between the words “cloves” and “stem”;

(b) by deleting subsection (5) and subsection (6) and substituting new subsections (5) and (6) as the following:

“(5) A person who contravenes the provisions of subsection (1) or subsection (4) of this section commits an offence”.

“(6) The Minister may provide the procedures for the better implementation of this section”.

27. The Principal Act is amended by adding immediately after section 19, the following new sections:

“prohibition of smuggling of cloves. 19A.- (1) It is an offence for a person to do any of the following acts:

(a) smuggling cloves, clove seedlings, clove stems or allied products from one area to another within or outside Zanzibar;

(b) attempting to smuggle cloves, clove seedlings, clove stems or allied products from one area to another within or outside Zanzibar;

(c) conspiring to smuggle cloves, clove seedlings, clove stems or allied products from one area to another within or outside Zanzibar;

(d) participating in any activity which relates to smuggling of cloves, clove seedlings, clove stems or allied products from one area to another within or outside Zanzibar.

(2) A person who does any or all of the acts prohibited under subsection (1) is guilty of an offence, and upon conviction, is liable to the following punishments:

Amendment of section 19.

Addition of new sections 19A, 19B and 19C.

- (a) if a person is convicted under subsection (1) (a) of this section, shall be liable to imprisonment for a term of not less than seven years and not exceeding fifteen years;
- (b) if a person is convicted under subsection (1) (b), (c) or (d) of this section, shall be liable to imprisonment for a term of not less than five years and not exceeding ten years, and while serving his punishment, shall plant fifty thousand clove seedlings.

“Order for forfeiture.

19B. Where a person is convicted for smuggling offence under this Act, the Court shall make, in addition to imprisonment, an order for forfeiture of cloves, clove seedlings, clove stems and allied products, vehicle, vessel, aircraft or equipment used in the commission of the offence,

“prohibition of importation of cloves.

19C.- (1) It is prohibited for a person to import cloves for trading in Zanzibar.

(2) A person who contravenes the provisions of subsection (1) of this section, commits an offence, and upon conviction, the cloves imported shall be forfeited.

(3) Where a person is convicted for an offence under this section, the Court shall, in addition to the punishment imposed, make an order for the payment by that person to the Government of same amount earned to the proceed received of the sale of the forfeited imported cloves.

Addition of new sections 26A and 26B.

28. The Principal Act is amended by adding immediately after section 26, the following new sections:

“Disclosure of anti-smuggling information.

26A. A person who discloses confidential information on an anti-smuggling operation to a smuggler or any other person who is not responsible for the operation is guilty of an offence and upon conviction, is liable to a fine of

not less than Five Million Shillings or imprisonment for a term of not less than five years or both.

“Fraudulent misinformation.

26B. When a person who is involved in an anti-smuggling operation or who is responsible for law enforcement, fraudulently misinforms a relevant authority is guilty of an offence and upon conviction is liable to a fine of not less than Seven Million Shillings or imprisonment for a term of not less than seven years or both.”

29. The Principal Act is amended by deleting section 27 and substituting for it the following new section:

Amendment of section 27.

“Offences by institutions.

27. Where any offence under this Act or regulations made under this Act is committed by an institution:

- (a) a person who, at the time of committing an offence is a director or an officer responsible for the affairs of the institution, is guilty of an offence and upon conviction, shall be punished accordingly; and
- (b) the institution is guilty of an offence and upon conviction shall pay a fine of not less than Ten Million Shillings.

30. Section 29 of the Principal Act is amended by deleting the word “Fund” and substituting for it the word “Corporation” wherever it appears in this section.

Amendment of section 29.

PART SIX

AMENDMENT OF THE EMPLOYMENT ACT, NO. 11 OF 2005

31. This part shall be read as one with the Employment Act No. 11 of 2005 in this part referred to as “the Principal Act”.

Construction.

32. Section 100 of the principal Act is amended by deleting subsection (2) and substituting for it the following:

Amendment of section 100.

“(2) The payment of wages shall be made by direct deposit into an employee bank account designated by the employee.”

**PART SEVEN
AMENDMENT OF THE VOCATIONAL TRAINING
CT NO. 8 OF 2006**

Construction. **33.** This part shall be read as one with the Vocational Training Act No. 8 of 2006 in this part referred to as “the Principal Act”.

Amendment of section 27. **34.** Section 27 of the Principal Act is amended by deleting subsection (4) and substituting for it the following new subsection:

“(4) For the purpose of this section, gross monthly emolument in relation to any employee includes basic salary, wages, commissions, bonuses, and any amount so payable in respect of an employment or services rendered by an employee in any month, excluding costs of training and costs of uniform.”

OBJECTS AND REASONS

The main object of this Bill is to amend certain written financial and tax laws relating to collection and management of public revenues and other related matters.

The Bill is divided into seven parts as follows:

Part One deals with Preliminary Provisions which detail short title and commencement.

Part Two sets out proposed amendments under the Tax Administration and Procedures Act, No 7 of 2009 in sections 3, 4, 7, 22, 23, 24, 31A, 43 and 51. The proposed amendments under these sections are either for the purpose of deletion, substitution, insertion and addition of words. This Part also proposes introduction of new sections 22A, 52A and 53B which deal with the electronic system for filing and serving documents, notice of offence and schemes for obtaining undue tax benefit.

Part Three proposes some amendments under the Value Added Tax Act No. 4 of 1998 by adding new definition of words “financial service” in section 2, by adding subsection (7) immediately after subsection (6) in section 5, and by adding the word “fiscal” in the appropriate place in section 6 and section 16 as indicated in this Part.

Part Four sets out proposed amendments in the Petroleum Levy Act No. 7 of 2001 by adding new definition of words “refined petroleum products” in section 2 and adding the words “and refined petroleum products” in the appropriate place in section 3(1) as indicated in this Part.

Part Five makes recommendations of amendments in sections 3, 19, 27 and 29 of The Clove Development Act, No. 2 of 2014. The proposed amendments under these sections are either for the purpose of deletion, substitution, insertion and addition of words. This Part also proposes introduction of new sections 19A, 19B, 19C, 26A and 26B which deal with the prohibition of smuggling of cloves, order for forfeiture, prohibition of importation of cloves to Zanzibar, disclosure of anti-smuggling information and fraudulent misinformation.

Part Six proposes some amendments under the Employment Act, No. 11 of 2005 by deleting and substituting subsection (2) in section 100 as indicated in this Part.

Part Seven provides for recommendation of amendment in section 27 of the Vocational Training Act No. 8 of 2006 by deleting and substituting subsection (4) as indicated in this Part.

ZANZIBAR
20th April, 2017

(DR. KHALID SALUM MOHAMED)
**MINISTER FOR FINANCE
AND PLANNING**

