EXTRAORDINARY GAZETTE

Official Gazette

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GOVERNMENT NOTICES

The following Government Notices are published by Order of the President.

No. 1396 of 2017

GAZETTE SUPPLEMENTS

The following Acts and Regulations are published as Legal Supplements to this number of the Official Gazette.

Gazette	Description	Price
105	Excise Tax (Amendment) Act, 2017. (Act 25 of 2017)	1.60
	Customs Management (Amendment) Act, 2017. (Act 26 of 2017)	1.60
	Income and Non-Monetary Benefits Tax (Amendment) Act, 2017. (Act 27 of 2017)	7.00
	Customs Management (Interim Economic Partnership Agreement) (Amendment) Regulations, 2017. (S.I. 66 of 2017)	1.15
	Customs Management (Southern African Development Community Free Trade Area) (Amendment) Regulations, 2017. (S.I. 67 of 2017)	1.15
	Customs Management (Tariff and Classification of Goods) (Amendment) (No. 2) Regulations, 2017. (S.I. 68 of 2017)	2.75
	Excise Tax (Amendment of Schedule 1) (No. 3) Regulations, 2017. (S.I. 69 of 2017)	1.15

S.I. 69 of 2017

EXCISE TAX ACT

(Cap 264)

Excise Tax (Amendment of Schedule 1) (No.3) Regulations, 2017

In the excise of the powers conferred by section 22 of the Excise Tax Act, 2009 the Designated Minister acting as the Minister of Finance, Trade and Economic Planning, hereby makes the following Regulations—

1. These Regulations may be cited as the Excise Tax (Amendment of Schedule 1) (No.3) Regulations, 2017 and shall come into operation on 1st January, 2018. Citation and commencement

2. The Excise Tax (Amendment of Schedule 1) Regulations, 2009 are hereby amended by inserting after HS Code 8711.9020 the following— Amendment of S.I. 106 of 2009 as last amended by S.I. 44 of 2017

"Column 1	Column 2	Column 3	Column 4	Column 5
Tariff Item HS Code	**Description of Excisable Goods**	**Taxable Base**	**Excise Tax Rate**	**Excise Levy**
8711.9040	— Bicycles and other cycles(including delivery tricycles) with electric motor for propulsion	kg/no	0%	Nil"

MADE this 28th day of December, 2017.

MACSUZY MONDON
DESIGNATED MINISTER

S.I. 66 of 2017

CUSTOMS MANAGEMENT ACT, 2011

(Act 22 of 2011)

Customs Management (Interim Economic Partnership Agreement) (Amendment) Regulations, 2017

In exercise of the powers conferred by Section 270 read with section 272(1) of the Customs Management Act, 2011, the Designated Minister acting as the Minister of Finance, Trade and Economic Planning, hereby makes the following Regulations—

1. These Regulations may be cited as the Customs Management (Interim Economic Partnership Agreement) (Amendment) Regulations, 2017 and shall come into operation on 1st January, 2018. Citation and commencement

2. The Customs Management (Interim Economic Partnership Agreement) Regulations, 2016 are hereby amended in Schedule 3 by repealing HS Code "2106.9090 and the entries relating thereto and substituting therefor the following— Amendment of S.I. 81 of 2016

"Heading	HS Code	Description of goods	Unit of Qty	EU Rate of Duty					
				2017	2018	2019	2020	2021	2022
	2106.9099	---- Other	kg	15%	12.5%	10%	7.5%	5%	0.0%"

MADE this 28th day of December, 2017.

MACSUZY MONDON
DESIGNATED MINISTER

S.I. 67 of 2017

CUSTOMS MANAGEMENT ACT

(Act 22 of 2011)

Customs Management (Southern African Development Community Free Trade Area) (Amendment) Regulations, 2017

In exercise of the powers conferred by Section 270 read with section 272(1) of the Customs Management Act, 2011, the Designated Minister acting as the Minister of Finance, Trade and Economic Planning, hereby makes the following Regulations—

Citation and commencement

1. These Regulations may be cited as the Customs Management (Southern African Development Community Free Trade Area) (Amendment) Regulations, 2017 and shall come into operation on 1st January, 2018.

Amendment of S.I. 23 of 2015

2. The Customs Management (Southern African Development Community Free Trade Area) Regulations, 2015 are hereby amended in Schedule 4 by repealing HS Code "2106.9090 and the entries relating thereto and substituting therefor the following—

"Heading	HS Code	Description of goods	Unit of Qty	EU Rate of Duty					
				2017	2018	2019	2020	2021	2022
	2106.9099	---- Other	kg	15%	12.5%	10%	7.5%	5%	0.0%"

MADE this 28th day of December, 2017.

MACSUZY MONDON
DESIGNATED MINISTER

[illegible]

[illegible] 2017

[illegible] ACT

[illegible] 2017

[illegible] Urban Development
[illegible] Amendment)
[illegible] 2017

[illegible]

1. [illegible] as the Gauteng [illegible] Urban Development Company [illegible] 2017 [illegible]

2. [illegible] Urban Development Company [illegible] Free State Area) Regulations, 2015 [illegible] Schedule by repealing Rule [illegible] 310(a, 000) and the entries relating thereto and substituting thereof the following:—

Rule	Amount of fee	Free State Area
[illegible]	[illegible]	2017, 2018, 2019, 2020, 2021, 2022
[illegible]	[illegible]	[illegible]

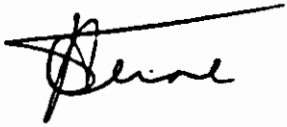
MADE this 25th day of December 2017.

JACQUINY MOSHOO
DESIGNATED MINISTER

INCOME AND NON-MONETARY BENEFITS TAX (AMENDMENT) ACT, 2017

(Act 27 of 2017)

I assent



Danny Faure
President

28th December, 2017

AN ACT to amend the Income and Non-Monetary Benefits Tax Act (Cap 273).

ENACTED by the President and the National Assembly.

1.(1) This Act may be cited as the Income and Non-Monetary Benefits Tax (Amendment) Act, 2017. Short title and commencement

(2) This Act, other than section 2(g), shall come into force on such date, not later than 1st July 2018, as the Minister may, by notice in the Gazette, appoint.

(3) Section 2(g) shall come into force on 1st January, 2018.

Amendment of Cap 273

2. The Income and Non-Monetary Benefits Tax Act is hereby amended as follows—

(a) in section 4—

(i) in subsection (1) by inserting after the words "emoluments received" the words "from each source of employment in a month";

(ii) by repealing in subsection (4) the words "gross amount of emoluments received" and substituting therefor the words "emoluments received from each source of employment in a month";

(b) by repealing in section 5(1) the words "gross amount of emoluments as prescribed" and substituting therefor the words "emoluments received by an employed person from that employer in a month";

(c) in section 6, by inserting after subsection (1) the following subsection—

"(1A) The payment under subsection (1) shall be accompanied by the Business Activity Statement in the form set out in the Schedule under the Revenue Administration (Filing of Business Activities Statement) Regulations, 2016 (S.I. 1 of 2017) as amended from time to time.";

(d) by repealing in section 9(2) paragraph (b) and substituting therefor the following paragraph—

"(b) the imposition of any penalty or additional tax not exceeding three times the unpaid amount of the tax due under section 5.";

(e) by renumbering section 15 as section 15A and by inserting before section 15A so renumbered the following section—

Anti-avoidance provision

"15.(1) For the purpose of this section—

(a) "tax avoidance scheme" means any transaction or arrangement, if one of the main purposes of an employer or an employed person in entering into the transaction or arrangement is the avoidance or reduction of the withholding tax obligation of an employer under this Act; and

(b) "transaction or arrangement" means any contract, agreement, plan or understanding whether express or implied and whether or not enforceable in legal proceedings.

(2) For the purpose of determining the amount of tax an employer is required to withhold under this Act, the Revenue Commissioner may—

(a) determine the character

of a transaction or arrangement or an element of a transaction or arrangement that was entered into as part of a tax avoidance scheme;

(b) disregard a transaction or arrangement that does not have substantial economic effect;

(c) determine the character of a transaction if the form of the transaction does not reflect the substance; or

(d) treat fragmented employments as a single employment if the employment has been fragmented under a tax avoidance scheme.";

(f) by repealing the First Schedule and substituting therefor the following Schedule—

"FIRST SCHEDULE

[Section 4(1)]

RATES OF INCOME TAX

1. The income tax payable by an employed person who is a citizen of Seychelles in respect of emoluments received from each source of employment in a month shall be as follows—

EMOLUMENTS	TAX PAYABLE
Not exceeding SR8555.50	NIL
Exceeding SR 8555.50 but not exceeding SR10,000	15% of the amount in excess of SR8555.50
Exceeding SR10,000 but not exceeding SR83,333	SR216.68 plus 20% of the amount in excess of SR10,000
Exceeding SR83,333	SR14,883.28 plus 30% of the amount in excess of SR83,333

2. Subject to paragraph 3, the income tax payable by an employed person who is not a citizen of Seychelles, in respect of emoluments received from each source of employment in a month shall be as follows—

EMOLUMENTS	TAX PAYABLE
Not exceeding SR10,000	15% of the amount
Exceeding SR10,000 but not exceeding SR83,333	SR1,500 plus 20% of the amount in excess of SR10,000
Exceeding SR83,333	SR16,166.60 plus 30% of the amount in excess of SR83,333

3. Paragraph 1 also applies to the emoluments of an employed person who is not a citizen of Seychelles—

(a) where a person is entitled to the same emoluments as a citizen of Seychelles under an international agreement referred to in section 79 of the Business Tax Act (Cap 20); or

(b) where a person falls under an approved scheme of service as may be prescribed.";

(g) by repealing the Second Schedule and substituting therefor the following Schedule—

"SECOND SCHEDULE

EXEMPT EMOLUMENTS

[Section 4(3)]

1. The following are exempt emoluments—

(a) an emolument derived by a person entitled to privileges under the Privileges and Immunities (Diplomatic, Consular and International Organisations) Act (Cap 181);

(b) an emolument being a reimbursement for the use of a motor vehicle provided to the employed person by the employer provided that a logbook is maintained by the employed person;

(c) an emolument being a reimbursement by an employer of an employed person for the cost of using the employee's own motor vehicle for the benefit of the employer where the reimbursement does not exceed the amount as may be prescribed and provided that a logbook is maintained by the employed person;

(d) an emolument being a per diem paid to an employed person on overnight travels for lodging, meals, taxi, ground transportation fees and other incidental expenses for business purposes at the rate not exceeding an amount as may be prescribed;

(e) an emolument being a uniform allowance;

(f) a compensation payment to the extent that—

(i) the compensation is paid pursuant to section 51(2)(a) or section 62A (1)(b) of the Employment Act (Cap 69); and

(ii) the concessionary treatment of such compensation payment is capped pursuant to section 47(2)(b)(i) of the Employment Act (Cap 69);

(g) retirement pension provided under the Social Security Fund and the Seychelles Pension Fund or any other pension provided under any other written law;

(h) a gratuity payment;

(i) a bonus paid, provided that the bonus paid is under a bonus scheme and does not exceed 1/12th of the annual salary of the employed person in a tax year;

(j) a 13th month salary, provided that the 13th month salary does not exceed the amount prescribed under section 46C (8)(C) of the Employment Act (Cap 69);

(k) an end of contract payment provided that it does not exceed 15% of the total salary of the employed person during the contract period;

(l) a service charge distribution payment made under an approved service charge distribution scheme provided that the emolument is distinguishable from any other emoluments on the employed person's pay slip and the employer pay rolls' system; and

(m) an emolument being an overtime payment provided that it is paid under regulation 6 of the Employment (Conditions of Employment) Regulations, 1991 (S.I. 34 of 1991).

2. In this Schedule, "approved service charge distribution scheme" means a scheme for the distribution of the service charges collected by operators from clients and distributed to all eligible employed persons provided that—

(a) the scheme is well documented, has unambiguous criteria for qualifying for benefits under the scheme, and benefits under the scheme are freely available to all eligible employed persons; and

(b) payments under the scheme are distributed widely, broadly and proportionately to all eligible employed persons.".

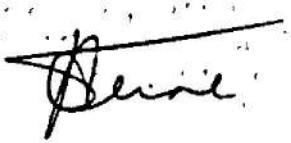
I certify that this is a correct copy of the Bill which was passed by the National Assembly on 19th December, 2017.

Mrs. Tania Isaac
Deputy Clerk to the National Assembly

CUSTOMS MANAGEMENT (AMENDMENT) ACT, 2017

(Act 26 of 2017)

I assent



Danny Faure
President

28th December, 2017

AN ACT to amend the Customs Management Act, 2011.

ENACTED by the President and the National Assembly.

1. This Act may be cited as the Customs Management (Amendment) Act, 2017. Short title

Amendment of Act 22 of 2011

2. The Customs Management Act is hereby amended as follows—

(a) in section 2, by repealing the definition of "Assistant Commissioner of Customs" and substituting therefor the following definition—

""Commissioner for Customs" means the Commissioner for Customs appointed under section 3;";

(b) by repealing the words "Assistant Commissioner of Customs" whenever they occur in the Act and substituting therefor the words "Commissioner for Customs";

Savings

3. The appointment made by the Revenue Commissioner under section 3 of the Customs Management Act to the post of Assistant Commissioner of Customs shall be deemed to have been made to the post of Commissioner for Customs.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 19th December, 2017.

Mrs. Tania Isaac
Deputy Clerk to the National Assembly

EXCISE TAX (AMENDMENT) ACT, 2017

(Act 25 of 2017)

I assent

Danny Faure
President

28th December, 2017

AN ACT to amend the Excise Tax Act (Cap 264).

ENACTED by the President and the National Assembly.

1. This Act may be cited as the Excise Tax (Amendment) Act, 2017. Short title

Amendment of Cap 264

2. The Excise Tax Act is hereby amended by inserting after section 22(3) the following subsection —

"(3A) The Minister may, in the public interest, by regulations —

(a) grant a reduction or concession on the rate of tax on any of the goods specified in Schedule 1; or

(b) grant exemption from payment of tax payable on any excisable goods".

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 19th December, 2017.

Mrs. Tania Isaac
Deputy Clerk to the National Assembly