GOVERNMENT NOTICE


OFFICE OF THE PRIME MINISTER

No. 173 1994

PROMULGATION OF ACT
OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

SALES TAX AMENDMENT ACT, 1994

EXPLANATORY NOTE:

Words underlined with solid line indicate insertions in existing enactments.

[ ] Words in bold type in square brackets indicate omissions from existing enactments.

ACT

To amend the Sales Tax Act, 1992, so as to provide for a further exemption from sales tax in respect of the sale or importation of petrol and distillate fuels; to authorize the Permanent Secretary: Finance to issue sales tax exemption certificates to organizations and governments who have entered into technical assistance agreements with Namibia; to amend the Sales Tax Amendment Act, 1992, and the Sales Tax Amendment Act, 1993, to effect certain textual changes; to validate a certain exemption from sales tax purported to have been given under the Sales Tax Proclamation, 1978; and to provide for incidental matters.

(Signed by the President on 14 September 1994)

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:-

1. Section 1 of the Sales Tax Act, 1992 (hereinafter referred to as the principal Act), is hereby amended by the insertion after the definition of “free-on-board value” of the following definition:

“‘fuel’ does not include petrol or distillate fuels;”.

2. Section 6 of the principal Act is hereby amended -

(a) by the addition to subsection (1) of the following paragraph:

“(aj) the sale, importation or application in terms of section 5(1)(h) of petrol or distillate fuels;

(ak) subject to compliance with the provisions of section 39A -

3. The following section is hereby substituted for section 39A of the principal Act:

39A. (1) The Minister, in consultation with the Minister whose Ministry benefits from any technical assistance agreement entered into between the government of Namibia and any organization or the government of any country, may authorize -
(a) the granting of relief, by way of a refund, in respect of tax paid or borne by such organization or government; or

(b) the issue of an exemption certificate to such organization or government to claim, subject to subsection (3), an exemption from the payment of tax.

in relation to -

(i) any goods acquired under a sale;

(ii) any leased property delivered under a financial lease;

(iii) any rental consideration paid under a rental agreement; or

(iv) any taxable service rendered,

in Namibia by or to such organization or government in terms of, and for the purpose of attaining the objects of, such technical assistance agreement entered into between the government of Namibia and such organization or government.

(2) Subsections (3) and (4) of section 39 shall apply mutatis mutandis to any relief granted under subsection (1)(a).

(3) Where an organization or government referred to in subsection (1), in relation to any sale of goods, financial lease, rental consideration or taxable service claims that it is in terms of the provisions of that subsection exempt from the payment of tax in respect of such sale, financial lease, rental consideration or taxable service -
(a) the seller in relation to such sale, financial lease, rental consideration or taxable service, shall satisfy himself or herself that the organization or government holds a valid exemption certificate issued in terms of that subsection; and

(b) such seller shall give the purchaser an invoice or other document -

(i) naming, describing or identifying the goods, financial lease, rental consideration or taxable service; and

(ii) stating the price charged or amount subject to tax and the name, address and the exemption certificate number of the organization or government,

and the seller shall retain a copy of such invoice or other document.

(4) Where any such organization or government claims any exemption in terms of subsection (1), it shall satisfy the seller that it holds a valid exemption certificate issued in terms of that subsection -

(a) by producing such exemption certificate; or

(b) by giving to such seller -

(i) a photocopy of such exemption certificate; or

4. The following section is hereby substituted for section 4 of the Sales Tax Amendment Act, 1992:

"Short title and commencement.

This Act shall be called the Sales Tax Amendment Act, 1992, and shall be deemed to have come into operation on 4 April 1992."

Amendment of section 13 of Act 12 of 1993.

5. Section 13 of the Sales Tax Amendment Act, 1993, is hereby amended by the deletion of paragraph (b) of subsection (2).
6. Any exemption from sales tax on or after 1 July 1987 purported to have been given under the provisions of the Sales Tax Proclamation, 1978 (Proclamation AG, 40 of 1978), (which was repealed by section 56 of the principal Act) in respect of the sale, importation or application in terms of section 5(1)(h) of that Proclamation of any goods being fuel levy goods as defined at the relevant time in section 1 of the Customs and Excise Act, 1964 (Act 91 of 1964), is hereby validated as if the provisions of that Proclamation had authorised such exemption.

7. (1) This Act shall be called the Sales Tax Amendment Act, 1994.

(2) The amendments effected by-

(a) sections 1, 2, 3 and 4 shall be deemed to have come into operation on 4 April 1992;

(b) section 5 shall be deemed to have come into operation on 24 August 1993.