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THE TAX ADMINISTRATION ACT, 2015

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SCHEDULES

THE UNITED REPUBLIC OF TANZANIA

NO.10 OF 2015

I ASSENT,
JAKAYA MRISHO KIKWETE
President
11th May, 2015

An Act to consolidate provisions relating to tax administration with a view to easing the administration of tax and enforcement of tax laws by the Tanzania Revenue Authority; to introduce currency point system in tax administration; and to provide matters incidental thereto.

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

Short title and commence-ment

1. This Act may be cited as the Tax Administration Act, 2015 and shall come into operation on such a date as the Minister may, by notice published in the *Gazette*, appoint.

Application

2. This Act shall apply to Mainland Tanzania, and Tanzania Zanzibar in respect of tax laws which apply to both parts of the United Republic of Tanzania.

Interpretation

3.-(1) The provisions of this Act shall, for better carrying out and giving effect to the purposes of this Act, apply to all other tax laws.

(2) Any term which is not defined in this Act shall, to the extent necessary give effect to the purposes of this Act, has a meaning ascribed to it in the relevant tax law.

(3) In this Act, unless the context requires otherwise-

"adjusted assessment" means an assessment made in pursuant to section 48;

"arrangement" means an action, agreement, arrangement, course of conduct, dealing, promise, transaction, understanding or undertaking involving more than one person and it includes a part of an arrangement;

"assessment" means a determination of the amount of a tax liability made under a tax law by the Commissioner General or by way of self-assessment and it includes matters prescribed in the First Schedule;

"Authority" means the Tanzania Revenue Authority established under the Tanzania Revenue Authority Act;

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"authorised officer" means an officer of the Authority dealing with tax matters in relation to tax laws and who has been authorised in writing to perform special functions in relation to any tax law;

Cap. 408 "Board" means the Tax Revenue Appeals Board established under the Tax Revenue Appeals Act;

Cap. 399 "Commissioner General" means the Commissioners-General appointed under the Tanzania Revenue Authority Act;

"charged assets owned by a taxpayer" means assets held by a withholding agent on trust under section 60 or assets charged under section 61;

"class ruling" means a decision by the Commissioner General on tax issues raised by a group of persons with common interest;

"costs of charge and sale" with respect to assets, means any expenditure incurred or to be incurred by the Commissioner General or an authorised agent with respect to-

(a) creating or releasing a charge over the assets; or

(b) taking possession, holding and selling the charged assets;

Act No. 1 of 2005 "customs law" means the East African Community Customs Management Act and any regulations made under that Act;

"currency point" means a value prescribed by a tax law for the purpose of protecting value of currency against the effects of inflation;

"document" means a statement in writing or in electronic forms which include an account, assessment, book, certificate, claim, note, notice, order, record, return or ruling;

"file" in relation to a document, includes lodging or furnishing a document in writing or in electronic form;

"generally accepted accounting principles" means the accounting principles adopted by the National Board of Accountants and Auditors;

"guarantor" means a person who grants the Commissioner General the security for tax payable or to become payable by another taxpayer;

"manager" in relation to an entity, includes-

(a) a councillor, director, manager, member, officer or other person who participates alone or jointly with other persons in making senior management decisions on behalf of the entity;

(b) a partner and a trustee;

(c) a person treated as a manager of an entity by any other tax law; and

(d) a person whose directions and instructions affects the entity;

"Minister" means the Minister responsible for finance;

"objection decision" means a decision in respect of a tax decision made under section 52;

"other tax laws" means any tax laws other than this Act, administered by the Tanzania Revenue Authority;

"owner of assets" means includes a person who have been issued with the licence under Excise (Management and Tariff) with respect to ownership of any plant, vehicle, animal or other article used for manufacturing, selling or

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distributing excisable goods or any article found on any premises used by that person for that purpose;

"possessor of an asset" includes-

(a) in relation to premises or a place, the owner, manager or any other person on the premises or place; and

(b) in relation to any other asset, a person from whom the asset is seized or taken;

"private ruling" means a decision by the Commissioner General on tax issues raised by a person;

"restrain" includes detaining, locking up, marking, sealing, seizing, stopping, taking away or otherwise securing;

"self-assessment" means an assessment made under a tax law by a person who is obliged to file a tax return;

"statutory rate" means the prevailing discount rate determined by the Bank of Tanzania;

"tax" for purposes of administration under this Act, includes a tax, charges, fees, tolls, rates, levies, duties, penalty and interest imposed under any tax law;

"tax benefit" in relation to a person means a benefit earned by-

(a) avoiding, reducing or postponing a tax liability of that person;

(b) increasing a claim of the person for a refund of tax;

(c) preventing or obstructing collection of tax from the person; or

(d) any other act for which the Commissioner General is of the opinion that it might result into the reduction of a person's tax liability;

"tax debtor" means a person who owes tax to the Government;

"tax law" includes-

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Act. No. 1
of 2005

(a) a law listed in the First Schedule to the Tanzania Revenue Authority Act but does not include the East African Community Customs Management Act;

(b) any other law providing for administration of tax by the Authority;

(c) any international agreement concluded under section 7; and

(d) any regulations made under this Act or made under any Act mentioned in paragraph (a) or (b);

"tax return" means a return prescribed in the First Schedule to this Act;

"tax officer" means any officer of the Authority dealing with tax matters in relation to any tax law;

"taxpayer" means any person who is liable to pay tax;

"tax shortfall" means underpayment of tax which in the Commissioner General's opinion may have resulted into inaccuracy statement had it gone undetected;

"vehicle" includes every description of conveyance for the transport of persons or goods by land;

"vessel" includes every description of conveyance for the transport of persons or goods by water;

"withholding agent" means a person obliged to withhold tax from a payment; and

"withholding tax" means the income tax which is required to be with held by a withholding agent from a payment under Subdivision A of Division II of Part VII of the Income Tax Act.

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Currency point system

4.-(1) An amount of money referred to in a specific tax law shall, for purposes of the promotion of fairness in the tax system and protection against the effects of inflation, be expressed in terms of currency points.

(2) The currency point system shall apply in respect of penalties and fines prescribed under this Act and any other tax law.

(3) The initial value of a currency point shall be set out in the Second Schedule to this Act.

(4) The Minister may, by order published in the *Gazette,* adjust the value of the currency point to reflect changes in the index of the consumer prices.

PART II
TAX LAWS AND THEIR INTERPRETATION
(a) Tax Laws

Powers of Commissioner General and tax officers

5.-(1) The powers of the Commissioner General shall, in addition to the powers granted under this Act, be exercised in respect of any tax laws.

(2) A tax officer may, in performing the functions under this Act-

(a) act for the purposes of more than one tax law at the same time; and

(b) gather information for the purposes of any tax law in the proper execution of duties under a particular tax law.

Relationship with customs law

6.-(1) Where the customs law applies to the Value Added Tax or the Excise Duty on imported or exported goods and for matters related thereto, Parts I, II, III, IV and V of this Act shall apply.

(2) The Commissioner General may, subject to subsection (3) and where a tax law has provided for certain administrative provisions of the customs law, apply relevant provisions of this Act instead of the provisions of the customs law.

(3) The Commissioner General shall exercise the powers in subsection (2) in a manner consistent with the customs law.

(4) The provision of Part II (b), Parts III and VII of this Act shall, to the extent that they are inconsistent with the provisions of the customs law, apply to the customs law.

International agreements

7.-(1) The provisions of an international agreement which the United Republic is a party shall, to the extent that the provisions of the agreement are inconsistent with the provisions of any tax law, prevail over the provisions of the tax laws.

(2) For the purposes of this section; "international agreement" means a treaty or other agreement which the United Republic signed with a foreign government for the purpose of providing reciprocal assistance for the administration or enforcement of tax laws.

(b) Interpretation of tax laws

Schemes for obtaining undue tax benefits

8.-(1) Notwithstanding any provision of this Act, where the Commissioner General is satisfied that any scheme that has the effect of conferring tax benefit on any person was entered into or carried out-

(a) solely or mainly for the purpose of obtaining that benefit; and

(b) by means or in a manner that would not normally be employed for *bonafide* business purposes , or by means or in a manner of the creation of rights or obligations that would not normally be created between persons dealing at arm's length,

the Commissioner General may determine the liability for any tax imposed by this Act, and its amount, as if the scheme 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 benefits 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 and any other provisions of tax law in relation to assessments, shall apply accordingly.

(3) In this section "bona fide business purposes" does not include obtaining "tax benefit".

Issuance of practice notes

9.-(1) The Commissioner General may, issue practice notes with a view to ensuring consistency in the administration of tax laws and to provide guidance

to persons affected by such laws.

(2) A practice note shall-

(a) be made by a way of a circular;

(b) categorically state that it is a practice note;

(c) have a number and subject heading by which it can be identified; and

(d) apply from the date specified in such note, or from the date of the issuance.

Revocation of practice notes

10.-(1) The Commissioner General may, revoke a practice note in whole or part.

(2) The enactment of an Act of Parliament or issuance of a practice note that is inconsistent with an existing practice notes, revokes the existing practice note to the extent of the inconsistency.

Private and class rulings

11.-(1) The Commissioner General may, on application in writing by a person, issue a private ruling or a class ruling setting out position on the application of a tax law to an arrangement proposed or entered into-

(a) in the case of a private ruling, by that person; or

(b) in the case of a class ruling, by persons in a specified class.

(2) A private or class ruling may apply to multiple arrangements or multiple tax laws.

(3) Where the Commissioner General issues a private or class ruling in respect of the application of a tax law to a proposed arrangement in favour of the applicant or a person in a specified class, such ruling shall bind the Commissioner General.

(4) The ruling issued under this section shall be binding-

(a) if prior to its issue, the applicant makes-

(i) full and true disclosure of all aspects of the arrangement to which the ruling applies to the Commissioner General; and

(ii) the arrangement proceeds in all material respects as described in the application for the ruling;

(b) if it clearly states in its heading to be a private ruling or class ruling; and

(c) from date of issue for the period specified in the ruling.

(5) A private or class ruling shall not have binding effect to the Commissioner General with respect to any person other than the applicant or persons in the specified class.

(6) A person shall not challenge a private or class ruling, unless the challenge is in respect of a tax decision made with respect to an arrangement which is the subject of a ruling.

(7) For the purposes of this section, a class of persons includes-

(a) members of an entity; and

(b) such persons who, in the opinion of the Commissioner General, may be identified with respect to the application of particular provisions of a tax laws.

Refusal of application for private or class ruling

12.-(1) The Commissioner General may refuse an application for a private or class ruling if-

(a) in the case of a private ruling-

(i) the arrangement has already been the subject of a tax decision; or

(ii) the Commissioner General has commenced an investigation of the applicant's tax affairs that covers the arrangement or, before the application, has notified the applicant in writing of an intention to do so;

(b) the Commissioner General is of the opinion that an existing practice note adequately covers the arrangement;

(c) the application is frivolous or vexatious;

(d) the arrangement has not been carried out and there are reasonable grounds to believe that it will not be carried out;

(e) the applicant has not provided the Commissioner General with sufficient information to make a ruling; or

(f) in the opinion of the Commissioner General, it would be unreasonable to comply with the application having regard to the resources needed to comply and any other matters the Commissioner General considers relevant.

(2) Where the Commissioner General refuses to grant private or class a ruling, he shall serve the applicant with a written notice stating the reasons for the refusal.

Issuance of private and class rulings

13.-(1) The Commissioner General may issue-

(a) a private ruling by serving a written notice of the ruling to the applicant; or

(b) a class ruling by serving a written notice of the ruling to the applicant and making the ruling publicly available.

(2) The Commissioner General may, in issuing a private or class ruling, base on the assumptions of a future event or other matters he considered appropriate.

(3) A private or class ruling shall-

(a) set out the matters ruled on, identify the tax laws, periods and arrangements to which the ruling applies and any assumptions that affect the ruling;

(b) in the case of a private ruling, identify the applicant and his Taxpayer Identification Number; and

(c) in the case of a class ruling, refrain from revealing the identity of-

(i) the applicant, unless the applicant has consented in writing; or

(ii) the applicant's Taxpayer Identification Number, the class members or any other person identified or referred to in the ruling but an applicant may instruct in writing that his identity be revealed.

Revocation of private and class rulings

14.-(1) The Commissioner General may, by a notice in writing, revoke a private or class ruling in whole or in part.

(2) Where the ruling is revoked under subsection (1), the Commissioner General shall-

(a) in the case of a private ruling, serve the applicant with a revocation notice; and

(b) in the case of a class ruling, serve the applicants and make the revocation notice publicly available.

PART III
THE AUTHORITY, TAX PAYERS AND TAX CONSULTANTS

(a) The Authority

Administration of tax laws Cap. 399

15. The Authority shall be responsible for administering and giving effect to the tax laws in accordance with the provisions of the Tanzania Revenue Authority Act.

Authorisation of tax officers Cap.399

16.-(1) The Commissioner General may, pursuant to section 16 of the Tanzania Revenue Authority Act, delegate his functions to tax officers in relation to tax laws.

(2) The Commissioner General shall not delegate the functions referred to under subsection (1) to any persons referred to under sections 18 and 19.

(3) The tax officer may, in some circumstances or where the officer is authorised to exercise such powers, exercise particular power under a tax law.

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(4) The Revenue Commissioner appointed under the Tanzania Revenue Authority Act and vested with the responsibility of administering any tax law may exercise the powers to-

(a) compound offences under section 92; and-
(b) remit penalties and interest under section 70; or
(c) refund tax under section 73.

Identification of tax or authorised officers

17.-(1) The Authority shall issue an identity card to each tax officer or authorised officer.

(2) An identity card shall bear the logo of the Authority and a passport size photograph of the tax or authorised officer.

(3) When a tax or authorised officer exercises powers or performs functions for purposes of the administration of tax law, that officer shall at all times wear and produce the identity card upon request by a member of the public.

(4) Where the tax or authorised officer fails to produce the identity card as requested, that tax or authorised officer is not authorised to perform any of the function under a tax law, and such member of the public may refuse to deal with the officer.

Experts

18.-(1) The Authority may engage an expert on such terms and conditions as the Commissioner General thinks fit, to assist the Authority in the proper performance of its functions.

(2) The Commissioner General shall supervise such an expert.

(3) A tax payer may with reasonable cause refuse to deal directly with an expert and write a complain to the Commissioner General.

(4) Where an expert is engaged and it is discovered that his engagement may result into a conflict of interest, the Authority may terminate the engagement of such expert upon discovery of such conflict of interest.

(5) A person who has reasonable grounds to believe that the expert engaged under subsection (1) has a conflict of interest shall, in writing, complain to the Commissioner General.

(6) Where a complaint is made under subsection (3) and (5) the Commissioner General shall, within seven days from the date of the receipt of the complaint, make a decision on the complaint.

Assistance by officer from public institutions

19.-(1) The Commissioner General may request for an officer from a public institution to assist or protect the Authority in the proper performance of its functions under this Act.

(2) The Commissioner General shall supervise the public officer referred to under subsection (1) to assist him in the performance of such functions.

Remuneration for complying with tax laws

20.-(1) A person shall not, unless expressly provided for in a tax law, be entitled to any remuneration or reimbursement of expenses from the Authority for complying with the provisions of a tax law.

(2) Subsection (1) shall not apply to the remuneration of-

(a) an officer; or

(b) an expert or a public officer who is assisting the Authority in the performance of its functions.

(3) The remuneration of persons referred to in subsection (2) shall be determined in accordance with the Tanzania Revenue Authority Act.

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Confidentiality

21.-(1) A person who is or was employed or engaged by the Authority to provide assistance to the Authority shall treat all information and documents that, by reason of his employment or engagement, came into his possession or knowledge in connection with any tax law, as secret and confidential.

(2) Notwithstanding the provisions of subsection (1), a person may disclose information or documents referred to in subsection (1) if such disclosure is-

(a) made to a person who is currently employed or engaged by the Authority and the information is required in the performance of his employment or engagement;
(b) for the purposes of a tax law;
(c) authorised by the Commissioner General; or
(d) made before a court or tribunal.

(3) A person may disclose information and documents referred to in subsection (1) to-

(a) the Minister;
(b) any person in the service of the Government of the United Republic of

Tanzania or the Revolutionary Government of Zanzibar, in a revenue or statistical department where such disclosure is necessary for the performance of the person's official duties;

(c) the Controller and Auditor-General or any person authorised by the Controller and Auditor-General where such disclosure is necessary for the performance of official duties; or

(d) the competent authority of the Government of another country with which the United Republic of Tanzania has entered into an international agreement, to the extent permitted under that agreement.

(4) This section does not apply to information that may be published under section 97.

(5) This section does not prevent disclosure of information relating to a specific taxpayer to the taxpayer concerned or, with the taxpayer's written consent, to another person.

(b) Taxpayer Identification Number

Application for Taxpayer Identification Number

22.-(1) A person who becomes potentially liable to tax by reason of carrying a business or investment shall apply for a Taxpayer Identification Number within fifteen days from the date of commencing the business.

(2) Notwithstanding the provision of subsection (1), the Commissioner General may

require any person to apply for a Taxpayer Identification Number within the period the Commissioner General may determine.

(3) Person who owns a Taxpayer Identification Number shall not apply for another Taxpayer Identification Number.

(4) An application for a Taxpayer Identification Number shall be-

(a) in the prescribed form;

(b) supported by documentary evidence of the applicant's identity; and

(c) filed in the prescribed manner.

Issue of Taxpayer Identification Number

23.-(1) The Commissioner General may, for the purposes of identification and cross-checking and in the case of an application made under section 22, issue a person with the Taxpayer Identification Number, within seven days upon receipt of the application.

(2) A Taxpayer Identification Number shall not be transferred or used by another person.

(3) A person shall own one Taxpayer Identification Number and use such Taxpayer Identification Number for the purposes of all tax laws.

(4) The Commissioner General shall not issue a Taxpayer Identification Number to a person unless he is satisfied-

(a) as to the person's true identity; and

(b) that the person does not have an existing Taxpayer Identification Number.

(5) Where the Commissioner General refuses an application for a Taxpayer Identification Number,

he shall serve the applicant with written notice of refusal within fourteen days from the date of receipt of the application giving reasons for such refusal.

Use of Taxpayer Identification Number

24.-(1) A person who has been issued with the Taxpayer Identification Number by the Authority shall include the number in any claim, notice, return, statement or other document submitted to the Authority or used for the purposes of tax law.

(2) Unless directed otherwise by the Commissioner General, institution mentioned in the Third Schedule shall, when transacting with any person in respect of any matters prescribed in the Third Schedule, require from such person a Taxpayer Identification Number.

(3) A person who intend to conduct any transaction under subsection (2) shall produce to the institution, the person's Taxpayer Identification Number certificate or a certified copy of that certificate.

(4) The Commissioner General may, in writing, require an institution mentioned in the Third Schedule to furnish him with information relating to-

(a) the value of the transaction prescribed in the Second Column of the Third Schedule conducted with that institution during the period specified in the Commissioner General's notice; and

(b) the names, addresses and Taxpayer Identification Numbers of the persons with which those transactions were conducted.

(5) An institution which has been required to furnish information under subsection (4) shall, within

seven days from the date of receipt of the notice, furnish the Commissioner General with the information required.

(6) A person or institution that contravenes this section commits an offence.

Cancellation, replacement and amendment of Taxpayer Identification Number

25.-(1) The Commissioner General shall, cancel a Taxpayer Identification Number where he is satisfied that-

(a) the bearer of the number is dead or, in the case of a body corporate, is wound up;

(b) a person described in Taxpayer Identification Number certificate is fictitious;

(c) the identity of a person holding the certificate is different from the identity of a person to whom the certificate was issued;

(d) the person to whom the Taxpayer Identification Number certificate was issued is a holder of another number;

(e) there is reasonable grounds to warrant cancellation of Taxpayer Identification Number.

(2) A person who owns a Taxpayer Identification Number shall, in writing and within thirty days from the date of any change of details referred to in the Taxpayer Identification Number Certificate, notify the Commissioner General of the changes in the certificate.

(3) The Commissioner General may, without cancelling a Taxpayer Identification Number, issue a person with an amended Taxpayer Identification Number certificate when appropriate.

Right to information

26. The Authority shall provide to the taxpayer information regarding the taxpayer's position in accordance with the provisions of the respective tax law.

Right to representation

27.-(1) A taxpayer-

(a) has the right to be represented in tax matters; and

(b) shall notify the Commissioner General in writing upon appointing a representative.

(2) The Authority is not obliged to communicate with a taxpayer through the taxpayer's representative.

(c) Tax Consultants

Tax consultants

28. The Minister may make regulations for the registration and deregistration of tax consultants and the conduct of their activities.

PART IV
OFFICIAL COMMUNICATIONS AND DOCUMENTATION

Official languages

29.-(1) The official languages for the purposes of tax administration shall be both Kiswahili and English language.

(2) Where any communication or document

which is relevant in applying a tax law to a taxpayer is not in an official language, the Commissioner General may, in writing require the taxpayer to provide an official translation of the communication or document.

Forms and notices

30. The Commissioner General may, prescribe the forms required under a tax law and he shall cause such forms to be available to the public at offices of the Authority and at such other locations and places or by such other medium as he may determine.

Authorised and defective documents

31.-(1) A document issued by the Commissioner General under a tax law is sufficiently authenticated if the name or title of the Commissioner General or of the authorised officer of the Authority is-

(a) in the case of a paper document, printed, signed and stamped; or

(b) in the case of an electronic document, imbedded in the document by way of electronic signature.

(2) A declaration made by a person under a tax law is sufficiently authenticated if it duly signed by that person.

(3) A document issued under a tax law is not invalid or defective if-

(a) it is in substance and effect in conformity with the tax law; and

(b) the person to whom the document is addressed or applies is designated in the document according to common understanding.

(4) Where a document issued by the Commissioner General under a tax law contains a defect that does not involve a dispute as to the interpretation of the tax law or facts involving a particular person, the Commissioner General may, for the purposes of rectifying the defect, amend the document.

Paper documents filed with Commissioner General

32.-(1) A paper document shall be considered to have been filed with the Commissioner General under a tax law when-

(a) physically delivered to the office of the Authority;

(b) sent by way of a registered post to an office of the Authority; or

(c) sent at any other place as the Commissioner General may specify.

(2) A document referred to in subsection (1) shall be treated to have been received by the Commissioner General-

(a) in the case of service by fax or electronic mail, at the time the transmission is sent;

(b) in the case of service by handing to an officer of the Authority or leaving at a place, at the time of handing or leaving;

(c) in the case of service by registered post, at the time the document is delivered or the Authority is informed that the document awaits the Authority;

(d) in the case of other service by post ten days after posting; and

(e) in the case of other services by the post from an address outside the United Republic, the time at which the document would normally be delivered in the ordinary course of post.

Paper documents served by Commissioner General

33.-(1) A paper document is sufficiently served on a person by the Commissioner General under a tax law if it is-

(a) handed to the person or, in the case of an entity, a manager of the entity; or

(b) left at, or sent by post to the usual or last known place of abode, business, office, post office box or other address of the person including-

(i) where the document is sent by registered post and the person has been informed that the document awaits the person, the post office; or

(ii) the address referred to in the person's Taxpayer Identification Number.

(2) A document shall be considered to have been received in the following circumstances-

(a) in the case of service by handing to a person or leaving at a place, at the time of handing or leaving;

(b) in the case of service by registered post, at the time the document is delivered or the person is informed that the document awaits the person;

(c) in the case of other service by post to an address within the United Republic, ten days after posting; and

(d) in the case of other service by post to an address outside the United Republic, the time at which the document would normally be delivered in the ordinary course of post.

Electronic document system

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

(2) An electronic document is considered to be filed by a person and received by the Commissioner General under a tax law when a document registration number is created by using the person's authentication code.

(3) Subsection (2) shall not apply to a person who has proved to the satisfaction of the Commissioner General that he did not send the document or the document was sent without his authority.

(4) An electronic document is considered to be served on a person by the Commissioner General under a tax law when a document registration number is created and the document can be accessed by using the person's authentication code.

(5) The Commissioner General may authorise a printed document to be treated as a copy of an electronic document filed under subsection (3) or served under this subsection.

(6) A court or tribunal shall accept a copy authorised under subsection (5) as conclusive evidence of the nature and contents of an electronic document, unless the contrary is proved.

PART V
MAINTAINANCE OF DOCUMENTS AND PROVISION OF INFORMATION

(a) Maintenance of Documents

Maintenance of documents

35.-(1) Every taxable or liable person shall, within the United Republic, maintain documents in paper or electronic form which-

(a) contain information to be provided or filed with the Commissioner General under any tax law;

(b) enable an accurate determination of tax payable under any tax law;

(c) can be prescribed by the Commissioner General or by regulations.

(2) Every taxable person or a person liable to tax shall keep records and accounts in accordance with generally accepted accounting principles and the requirements of a respect tax law.

(3) The documents referred to in subsections (1) and (2) shall be retained for a period of five years from the relevant date or for a further period as prescribed in the tax law.

(4) Where a person-

(a) files an objection or appeal, all documents relevant to the matter in dispute shall be retained until the matter is finally

determined and the decision is executed;

(b) makes an application to the Commissioner General, all documents relevant to the application shall be retained until the application is finally decided;

(c) applies for a refund of tax, all documents relevant to calculation of the refund shall be retained until the refund is made; and

(d) has received notice of an investigation or audit by the Commissioner General, all documents relevant to the investigation or audit shall be retained until the Commissioner General notifies the person in writing that the investigation or audit is finalised.

(5) The Commissioner General may, by notice in writing-

(a) relieve a person from the obligation to maintain documents or the time for which the documents are to be retained;

(b) require a person to retain documents as prescribed in the notice.

(6) In this section, "relevant date" means-

(a) in the case of income tax, the end of the year of income for which the document is relevant;

(b) in the case of value added tax, the end of the prescribed accounting period for which the document is relevant; and

(c) in the case of other taxes, the last date on which the taxpayer is obliged to lodge a document with the Commissioner General

for which the document is relevant.

Use of electronic fiscal device

36.-(1) A person who supplies goods, renders services 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 subsection (1), the Commissioner General may publish in the newspaper with wide circulation or any other public media issue a list of persons or class of persons who are excluded from the requirement of the use of electronic fiscal device or the use of fiscal receipt or invoice.

(3) A person who is excluded from acquiring and using electronic fiscal device shall issue manual receipt.

(4) A person issuing the manual receipt shall enter or cause to be entered in the receipt and duplicate copy the following particulars-

(a) the date on which the payment is made;

(b) full name and address of the person who sold the goods or rendered the services;

(c) full description of the goods sold or the services rendered and a statement of the quality and value of the goods or, the amount charged in respect of the services rendered;

(d) full name and address of the person to whom the goods were sold or to whom the services were rendered;

(e) Taxpayer Identification Number; and

(f) such other particulars as the Commissioner General may, by a notice, specify.

(b) Regular Provision of Information

Tax return

37.-(1) A tax return to be filed by an individual shall declare that the return is complete and accurate and be signed by a person who made it.

(2) A tax return to be filed by an entity shall be signed by-

(a) in the case of the income tax, manager of the entity and a certified public accountant who is in public practice declaring that the return is complete and accurate; and

(b) in any other tax, a manager and declare that the return is complete and accurate.

(3) Where-

(a) a person becomes bankrupt or the company is wound-up or goes into liquidation;

(b) the Commissioner General has reasonable grounds to believe that a person-

(i) is about to leave the United Republic indefinitely;

(ii) intends to cease carrying on activity in the United Republic; or

(iii) has committed an offence under a tax law; or

(c) a person fails to maintain adequate documentation as required by this Act,

the Commissioner General may require that person to file a tax return at earlier date than the date for filing a tax return.

(4) The Commissioner General's requirement shall be in writing and served on the person specifying the period, part of a period or other events to be covered by the tax return and the date by which the return shall be filed.

Assistance in preparing tax return

38.-(1) A person who prepares a tax return or an attachment to a tax return on behalf of another person shall sign the return or an attachment certifying that-

(a) the person has examined the relevant documents of that other person maintained under this Act; and

(b) to his knowledge, the return or attachment presents a true and fair view of the circumstances to which it relates.

(2) Subsection (1) shall not apply to an employee of the person obliged to file the tax return.

(3) Where a person who prepared a tax return or an attachment under subsection (1) is not satisfied with the information contained in the documents relevant for the preparation of the return or an attachment, the person shall furnish that other person with a statement in writing stating the reasons for his dissatisfaction and proceed to sign the return noting that the signature is subject to such a statement.

Extension of time to file tax return

39.-(1) A person who is required to file a tax return under a tax law may apply to the Commissioner General for an extension of the time by which the return shall be filed.

(2) The application under subsection (1) shall be in writing and be made within fifteen days before the due date for filing the return.

(3) Upon the receipt of an application made under subsection (1), the Commissioner General-

(a) may extend the time upon which the return has to be filed;

(b) shall serve the person with written notice of his decision on the application.

(4) The extension of time to file a return shall not exceed thirty days from the due date of filing the return.

(5) The granting of an extension of time under this section shall not alter the date for payment of tax as specified in the tax law under which the return is filed.

Failure to file tax return on time

40.-(1) Where a person fails to file a tax return by the due date stated by a tax law or as may be extended under section 39, the Commissioner General may use the power under this Act to appoint another person to prepare and file information.

(2) Any purported filing of a tax return after the due date or in a manner other than that specified in the relevant tax law shall be ineffective.

(3) The Commissioner General shall, make an assessment of the tax liability of the person as required by the tax law, including by way of adjusted assessment, and for this purpose may use any information in the Commissioner General's possession including any information obtained under subsection (1) or (2).

Correction of tax returns and other information

41.-(1) Where the Commissioner General is not satisfied with a tax return filed under a tax law, he shall use appropriate powers, including those in Subpart (c) of this Part for acquiring further information as is necessary in the issuance of an assessment.

(2) A tax return which has been filed shall not be amended or corrected unless as specified under the relevant tax law.

(3) The Commissioner General may, in making an assessment or adjusted assessment, take into account any information received under subsection (1).

(c) Access to Information and Assets

42.-(1) The Commissioner General shall, without a prior notice, be granted free access to any premises, documents, goods, vessels, vehicles, aircrafts or any other assets-

(a) in the case of a dwelling house or where a document or asset is located in a dwelling house-
    (i) between 9:00am and 6:00pm; and
    (ii) at other times as permitted by an order of a court;
(b) in any other case, at any time.

(2) The powers of the Commissioner General stipulated under subsection (1) may be delegated to a tax officer.

(3) When exercising the power under subsection (1), the Commissioner General or tax officer may-

(a) make an extract or copy of any document to which access is obtained;

(b) seize any document which affords evidence that-

(i) may be material in determining the tax liability of any person; or

(ii) an offence has been committed under a tax law;

(c) seize an asset to which access is obtained that contains or stores the document in any form;

(d) where a document is not available or a copy is not provided on request by a person having access to the document, seize an asset to which access is obtained under subsection (1) that the Commissioner General or tax officer reasonably suspects contains or stores the document in any form;

(e) take samples of goods; and

(f) park, moor or store, at any premises or place, any vehicle, aircraft, vessel or other equipment in use by the Commissioner General or a tax officer.

(4) Any document, asset or sample seized under subsection (3), shall be issued with an inventory of seized properties signed by the Commissioner General or the tax officer and may be-

(a) in the case of seized document retained for a period required for the determination of the person's tax liability or for any proceedings under a tax law;

(b) in the case of seized asset retained for as long as is necessary to obtain access to the document; or

(c) in the case of samples, retained and disposed of in the manner directed by the Commissioner General.

(5) An authorised officer exercising power under this section may be assisted and accompanied by any employee of the Authority, expert appointed under section 18 or public officer required to assist under section 19.

Possessor's rights and obligations

43.-(1) A person who possesses any premise, place, document, goods, equipment, vessel, vehicle, aircraft or asset to which a tax officer seeks or has obtained access under this Part may require the tax officer to produce the authorisation.

(2) Where the tax officer fails to comply with a request under subsection (1), the person may refuse the officer an access or require the tax officer to leave the premises or place to which the tax officer has obtained access on that occasion.

(3) A person who possesses any premise, document, good, vessel, vehicle, aircraft or asset to which an exercise of powers under this Part refers, shall provide all reasonable facilities and assistance for the effective exercise of the powers under this section.

(4) Where a person fails to comply with subsection (3), the tax officer shall exercise the powers stipulated under section 63 and apply for search warrant under section 94.

(5) A person who owns documents or assets retained pursuant to this Part may, at his own expenses, examine the documents and make copies or extracts of documents during regular office hours under the supervision as the Commissioner General may determine.

(6) Where a document, asset or sample is lost or damaged as the result of exercising the powers under this Act, the Commissioner General shall pay the owner of the document, asset or sample a reasonable compensation.

Notice to obtain information

44.-(1) The Commissioner General may, by a notice in writing, require a person who is not liable for tax-

(a) to produce any information prescribed in the notice;

(b) to attend at the time and place stated in the notice for the purposes of being examined by the Commissioner General or by an officer authorised by the Commissioner General; or

(c) to produce any document in his control during the examination.

(2) Any person to be examined under subsection (1)(b) is entitled to representation.

(3) A notice under subsection (1) shall be served by hand to the person to whom it is directed or

leaving it at the person's usual place of business or abode, or by any other means as the Commissioner General may determine.

Tax audit or investigation

45.-(1) The Commissioner General may use powers conferred on him under this Act, to audit or investigate a person's tax affairs.

(2) The Commissioner General may select a person to be audited having regard to-

(a) that person's history of compliance or non-compliance with any tax law;

(b) the amount of tax payable by that person;

(c) the class of business or other activity conducted by that person; or

(d) any other matter that the Commissioner General considers relevant for ensuring the collection of tax due.

(3) Where a person has been audited or investigated for any particular period, such audit or investigation shall not preclude that person from being audited or investigated in the following period if there are reasonable grounds for auditing or investigating that person.

(4) The audit or investigation may be conducted for the purpose of more than one tax law.

PART VI
PRIMARY TAX LIABILITY

Assessment and self-assessment

46.-(1) An assessment of tax shall be made by way of self-assessment where a person liable to pay tax is obliged to file a tax return.

(2) A person other than the Commissioner General shall not adjust any assessment.

Jeopardy assessment

47.-(1) The Commissioner General may make a jeopardy assessment of tax payable or has become payable by a person under the respective tax law-

(a) whether or not the person is required to file a tax return, in the circumstances specified in section 40(3); and

(b) in any other case, where a person fails to file a tax return on time.

(2) The Commissioner General shall use best judgment and available information in making a jeopardy assessment.

(3) A jeopardy assessment may be valid for such period or periods or with respect to such events or subject matter as the Commissioner General may specify in the notice of assessment.

(4) A jeopardy assessment shall not, unless the Commissioner General specifies otherwise in the notice of assessment, relieve a person of the obligation to file a tax return or report a taxable event as required by a tax law.

(5) The filing of tax return, shall not affect a jeopardy assessment.

(6) Where a jeopardy assessment covers the period or events covered by a self-assessment of a person with respect to the same tax, any tax paid with respect to the jeopardy assessment shall be credited against tax payable with respect to the self-assessment.

(7) A jeopardy assessment shall be deemed to be made under the tax law which charges the person or subject matter assessed.

Adjusted assessment

48.-(1) The Commissioner General may adjust an assessment to ensure the taxpayer is liable for the correct amount of tax in the circumstances to which the assessment refers.

(2) Where, in the opinion of the Commissioner General, a taxpayer has failed to pay any of the tax payable by him by reason of-

(a) his failure to keep proper books of accounts, records or document as required under a tax law, or the incorrectness of the books, records or documents; or

(b) his failure to make, or delay in making any return required under a tax law or the incorrectness or inadequacy of any return,

the Commissioner General may assess the tax due and any interest payable on that tax both of which shall be due for payment within one month of the date of the assessment, unless a longer period is allowed by the Commissioner General.

(3) The Commissioner General shall use best judgment and available information in making an adjusted assessment.

(4) The powers of the Commissioner General to adjust an assessment expires five years from-

(a) in the case of a self-assessment, the due date for filing the tax return that gives rise to the assessment;

(b) in the case of any other original assessment, the date on which the Commissioner General serves notice of assessment on the taxpayer; and

(c) in the case of an adjusted assessment, the date referred to in paragraph (a) or (b) of the original assessment that is adjusted.

(5) Notwithstanding subsection (4), there shall be no time limit on the Commissioner General to adjust an assessment in the case of fraud, wilful neglect or serious omission by or on behalf of the taxpayer.

(6) The Commissioner General shall not adjust an assessment that has been adjusted or reduced pursuant to a decision of the Board or Tribunal under the Tax Revenue Appeals Act or an order of the court of competent jurisdiction.

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(7) An adjusted assessment shall ceases to have effect to the extent to which it is adjusted.

(8) An adjusted assessment shall be deemed to be made under the tax law which charges the person or subject matter assessed.

(9) In this section, "original assessment" means an assessment that is not an adjusted assessment.

Notice of assessment

49.-(1) Where the Commissioner General makes an assessment under a tax law, he shall serve a written notice of the assessment on the taxpayer in a manner provided for under sections 33 and 34.

(2) In addition to anything prescribed by the respective tax law, a notice of assessment shall state-

(a) the name of the taxpayer and the Taxpayer Identification Number;

(b) the Commissioner General's assessment of the tax payable by the taxpayer for the period, event or matter to which the assessment relates and the amount remaining to be paid;
(c) the reasons why the Commissioner General has made the assessment;
(d) the date by which the tax shall be paid; and
(e) the time, place and manner of objecting the assessment.

PART VII
DISPUTE RESOLUTION

Tax decisions

50.- (1) The Commissioner General may, subject to subsection (2), make any tax decision including assessment or other decision or omission on a matter left to the discretion, judgement, direction, opinion, approval, consent, satisfaction or determination of the Commissioner General under a tax law that directly affects a person.

(2) An assessment or decision made under subsection (1) shall not include-

(a) a practice note or a decision or omission to issue, refuse or revoke a practice note;
(b) a decision or omission that affects a person as a tax officer or employee or agent of the Authority; or
(c) the compoundment of an offence under any tax law.

(3) A tax decision under this section is considered to have been made-

(a) in the case of self-assessment, on the due date of filing the tax return;
(b) in the case of other assessments, when the notice of assessment is served on the taxpayer; and
(c) in the case of any other tax decision-
  (i) where the tax law specifies a time by which the Commissioner General is to make the decision; or
  (ii) when the Commissioner General serves the affected person with written notice of the decision.

(4) For the purposes of this Act, the following informations or documents shall be considered as conclusive evidence that a tax decision has been made and the decision is correct-

(a) in the case of self-assessment, the tax return that causes the assessment or a document under the hand of the Commissioner General purporting to be a copy of the tax return;
(b) in the case of other assessments, the notice of assessment or a document under the hand of the Commissioner General purporting to be a copy of the notice; and
(c) in the case of any other tax decision, a written notice of the decision under the hand of the Commissioner General or a document under the hand of the Commissioner General purporting to be a memorandum of the decision.

Objection to tax decisions

51.-(1) A person who is aggrieved by a tax decision made by the Commissioner General, may object the decision by filing an objection to the Commissioner General, within thirty days from the date of service of the tax decision.

(2) A person who has reasonable ground to warrant extension of time to file an objection against a tax decision may apply for an extension of time.

(3) Where the Commissioner General is satisfied by the reason stated in the application made under subsection (2), he shall grant the extension of time and serve the notice of his decision to the applicant.

(4) An objection to a tax decision shall be in writing stating the grounds upon which it is made.

(5) An objection to any tax decision shall not be admitted unless the taxpayer has paid the amount of tax which is not in dispute or one third of the assessed tax whichever amount is greater.

(6) Where the Commissioner General is satisfied that there exist good reasons warranting reduction or waiver, he may waive the amount to be paid under subsection (5) or accept a lesser amount.

(7) Where a taxpayer files an objection and makes payment under subsection (5), the liability to pay the remaining assessed tax shall be suspended until the objection is finally determined.

(8) In this section, "tax not in dispute" with respect to an assessment or any tax decision means-

(a) the amount that ought to be charged where the assessment or a tax decision is amended in accordance with the objection; and

(b) the whole of duty or any tax assessed on imports.

Decisions on objection

52.-(1) The Commissioner General may, upon admission of an objection pursuant to section 51, make a decision by determining the objection or call for any evidence or any other information as may appear necessary for the determination of the objection and may, in that respects-

(a) amend the assessment in accordance with the objection and any further evidence that has been received; or

(b) refuse to amend the assessment.

(2) Where the Commissioner General agrees to amend the assessment in accordance with the objection, he shall serve a notice of the final assessment to the objector.

(3) Where the Commissioner General-

(a) intends to amend the assessment in accordance with the objection and any further evidence; or

(b) decides to refuse to amend the assessment,

he shall serve the objector with a notice setting out the reasons for the intention or decision.

(4) The objector shall, within thirty days from the receipt of the notice pursuant to subsection (3), make submission in writing to the Commissioner General on his agreement or disagreement with the amended assessment or the refusal.

(5) The Commissioner General may, after the receipt of the submissions by the objector made pursuant to subsection (4)-

(a) determine the objection in the light of the amended assessment or refusal and any submission made by the objector; or

(b) determine the objection partially in accordance with the submission by the objector.

Appeal against objection Decisions Cap. 408

53.-(1) A person who is aggrieved by an objection decision or other decision or omission of the Commissioner General under this Part may appeal to the Board in accordance with the provisions of the Tax Revenue Appeals Act.

(2) Subsection (1) shall also apply to a decision or omission made under the customs law.

Act No. 1 of 2005

(3) For the purposes of this section, the Board shall be deemed to be the Tax Appeals Tribunal established under section 231 of the East African Community Customs Management Act.

PART VIII
PAYMENT AND RECOVERY OF TAX

(a) Regular Payment of Tax

Time for paying tax

54.-(1) A taxpayer shall pay any tax-

(a) at the time specified in the tax law under which the tax is charged;

(b) in the case of tax payable-

(i) on a jeopardy assessment under section 47, on the date specified in the notice of assessment served under section 49; or

(ii) on an adjusted assessment under section 48, within thirty days from the date on which the person assessed is served with a notice of assessment under section 49;

(c) in the case of interest and penalties under Part X, on the date specified in the notice of assessment served under section 81;

(d) with respect to amount required to be paid to the Commissioner General under section 62(9), 68(2), 69(2) or (5), on the date set out in the notice;

(e) with respect to a liability under section 65, at the time the tax is payable by the entity;

(f) with respect to amounts required to be paid to the Commissioner General under section 67(3) or (4), seven days after the sale from which the amount is set aside or the failure to set aside, respectively; or

(g) with respect to amount required to be paid to the Commissioner General under section 68(5), on the date provided for in the security.

Extension of time for paying tax

55.-(1) A taxpayer may, in writing, apply to the Commissioner General for an extension of time to pay tax under a tax law.

(2) The Commissioner General may, upon the receipt of the application and where good cause is shown, extend the date on which tax or part of tax shall be paid.

(3) The Commissioner General shall serve the applicant with written notice of the decision on the application.

(4) Where an extension is granted by permitting the taxpayer to pay tax by instalments and the taxpayer has defaulted in paying any of the instalments, the whole balance of the tax outstanding plus the interest shall becomes payable immediately.

Manner and place of paying tax

56.-(1) A taxpayer shall pay tax-

(a) at any tax office;

(b) at any bank approved for that purpose by the Commissioner General;

(c) through a mobile phone payment system; or

(d) in any other manner prescribed by the Commissioner General.

(2) Where a taxpayer pays tax in accordance with subsection (1), he shall notify the tax office where the taxpayer is registered of the payment.

(3) A taxpayer shall pay tax in one of the following forms-

(a) where the payment is made at a tax office in cash; or

(b) where the payment is made at a bank-

(i) in cash;

(ii) by cheque; or

(iii) by direct account transfer.

(4) The payment of tax shall be considered to be ineffective where the cheque tendered to the bank is dishonoured.

Order of paying tax

57. Where a taxpayer has tax payable under one or more tax laws and makes payment less than the total outstanding amount, the Commissioner General may, notwithstanding the system established under section 58, determine the amount of tax to be considered as the paid amount.

Taxpayer tax accounts

58.-(1) The Commissioner General may establish and operate an electronic system of taxpayer's account.

(2) The system may be established and operated separately or as part of the electronic document system established under section 34.

(3) For the better carrying out of the purpose of this section, the Commissioner General may make rules prescribing-

(a) when the tax becomes payable;
(b) the tax paid; and
(c) other matters similar to matters described under section 34.

(b) Recovery of Tax from Taxpayer

Suit for unpaid tax

59. Where-

(a) payment of any tax has not been made on or before the due date; or
(b) a notice which has been served to any person under section 81 has not been complied with,

the tax due and payable by such person may be recovered as a debt due to the Government in any proceeding before a court of competent jurisdiction.

Security for withholding tax

60.-(1) Withholding tax, including any assets acquired by the withholding agent, may be traced from assets or amounts-

(a) held in trust for the Government of the United Republic;

(b) not the subject of attachment in respect of a debt or liability of the agent; and

(c) not forming part of the estate in liquidation or bankruptcy proceedings of the agent.

(2) The Commissioner-General shall have a first claim over the tax or assets before any distribution in liquidation or bankruptcy of a withholding agent is made.

Charge over assets

61.-(1) Where a taxpayer fails to pay tax on time, the Commissioner General may create a charge in favour of the Government over assets owned by that taxpayer.

(2) The Commissioner General shall be considered to have created the charge if he serves the taxpayer with a notice in writing specifying the taxpayer's name and Taxpayer Identification Number, the assets charged, the extent of the charge, the tax to which the charge relates and details regarding the Commissioner General's power of sale under section 62.

(3) The assets of a taxpayer shall be charged to the extent of the unpaid tax, interest accruing with respect to that tax under section 76 and any costs of charge and sale.

(4) A charge created under subsection (2) shall not have effect until-

(a) where an interest in land or buildings is charged, the Commissioner General files an application to register the charge under subsection (6); and

(b) in any other case, the notice creating the charge is served on the taxpayer.

(5) A charge shall be released when the taxpayer pays in full the amounts referred under subsection (3) to the Commissioner General.

(6) Where the Commissioner General creates a charge over an interest in land or buildings, the Registrar of Titles shall, without fee, register the charge on the title of the interest in land or buildings.

(7) Where a charge over an interest in land or buildings is released, the Registrar of Titles shall, within thirty days and without fee, remove the entry of the charge from the title of the interest in land or buildings.

(8) Any transaction by the Commissioner General under this section shall be exempted from stamp duty and any other transaction taxes.

(9) The Commissioner General may serve on a taxpayer a notice in writing-

(a) specifying any costs of charge and sale with respect to assets of the taxpayer incurred by the Commissioner General

prior to the date of service; and

(b) requiring the taxpayer to pay such costs to the Commissioner General by the date specified in the notice.

Sale of charged assets

62.-(1) The Commissioner General shall serve a taxpayer with written notice of intention to sell charged assets owned by such taxpayer.

(2) The notice served under subsection (1) may accompany a notice referred to under section 67 and it shall specify-

(a) the taxpayer's name and Taxpayer Identification Number;

(b) the charged assets, the Commissioner General's intention to sell those assets and the proposed method and timing of sale; and

(c) in the case of tangible assets that the Commissioner General intends to take possession of, the manner in which and place at which the possession will take place.

(3) In exercising his powers under subsection (1), the Commissioner General-

(a) may exercise such powers directly or through an authorised agent;

(b) shall serve the person with a notice prior to taking possession;

(c) may, for the purpose of taking possession with the assistance of the police enter any premises or place described in the notice;

(d) shall, at the time of taking possession, provide the taxpayer with an inventory of assets seized; and

(e) in the case of movable assets, may store the assets, at the cost of the taxpayer, at any place that the Commissioner General considers appropriate.

(4) The Commissioner General shall, after serving a taxpayer with a notice under subsection (1), sell the charged assets by public auction.

(5) The sale under subsection (4) shall not take place before-

(a) in the case of an interest in land or buildings, thirty days after taking possession;

(b) in the case of perishable goods, one day after taking possession;

(c) in the case where charged assets are tangible assets other than assets referred to under paragraph (a) and (b), fourteen days after taking possession; and

(d) in any other case, ten days after the service of the notice under subsection (1).

(6) The proceeds of sale shall be used to pay-

(a) the costs of charge and sale of the assets sold;

(b) the outstanding tax and interest accrued with respect to that tax under section 76; and

(c) any other unpaid tax.

(7) The Commissioner General shall, after disbursing proceeds for sale pursuant to subsection

(6), serve the taxpayer with a written notice stating the manner in which the sale proceeds were applied.

(8) Where there is any balance of money after making payment under subsection (6), such balance shall be paid to the taxpayer.

(9) Where the sale proceeds are insufficient to pay in full the costs of charge and sale, the tax due and interest accrued with respect to that tax, the Commissioner General may proceed to collect the insufficiency with fresh actions under this Part or Sub Part (C).

(10) This section shall not be construed to restrict the exercise of any rights that the Commissioner General has over a security created under section 60 or 61.

(11) The activities of the Commissioner General under this section shall be exempted from stamp duty and any other transaction taxes.

Restraint of person

63.-(1) Where a person fails to pay tax on time and such person is likely to flee from the United Republic, the Commissioner General may, by notice in writing or any other means of official communication to the Director of Immigration Services, order the Director of Immigration Services to prevent that person from leaving the United Republic.

(2) The Director of Immigration Services shall, on receiving the notice, prevent the person from leaving the United Republic for a period of fourteen days from the date the notice is served.

(3) The Commissioner General shall, where the person pays the tax or arranges for payment in a manner satisfactory to him, withdraw a notice issued under subsection (1).

(4) The High Court may, on application by the Commissioner General, extend the period referred under subsection (2).

Restraint of assets

64.- (1) The Commissioner General may, subject to subsection (2)-

(a) restrain the goods, vehicle, vessel or any other asset;

(b) restrain and search any premises, place, vehicle, vessel or any other asset which he believes the goods, vessel or vehicle are located;

(c) mark, lock up or seal any building, room, place, receptacles or item of plant in any factory, exercisable goods, or materials in a factory; and

(d) use reasonable force for the purposes of paragraphs (a) and (b).

(2) The powers of the Commissioner General under subsection (1) shall be exercised if the Commissioner General is satisfied that-

(a) the value added tax has not been paid in respect of the supply or import of goods;

(b) a vehicle contains any fuel on which road and fuel tolls has not been paid;

(c) transit charges have not been paid with respect to a foreign vehicle;

(d) motor vehicle registration or transfer tax has not been paid with respect to a vehicle; or

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(e) any provision of the Excise (Management and Tariff) Act has been breached with respect to excisable goods.

(3) The Commissioner General may exercise the powers referred to under subsection (1) in conjunction with any other powers of the Commissioner General granted under this Act.

(4) Where the Commissioner General has restrained an asset under subsection (1), he shall-

(a) serve a written notice to the possessor of the asset; or

(b) in the absence of the possessor, leave the notice at the premises or place where the restraining takes place.

(5) The notice shall-

(a) identify and list the assets restrained;

(b) state that the assets have been restrained under this section and the reason for the restraint; and

(c) set out the conditions for release and terms for disposal of any assets seized.

(6) The Commissioner General may restrain an asset for period sufficient to raise a jeopardy or adjusted assessment and exercise the powers under sections 66 and 67.

(7) Where there is no a person who, within the period referred to under subsection (6), has proved to the satisfaction of the Commissioner General that he owns assets referred under subsection (1)(a), the Commissioner General may treat the assets as charged assets and sell them in accordance with section 62.

(c) Recovery from Third Parties

Liability of managers of entities

65.-(1) Where an entity fails to pay tax on time, a manager or a person who was the manager of that entity within a period of twelve months prior to the entity default shall be jointly and severally liable with the entity for payment of the tax.

(2) The provisions of subsection (1) shall not apply where the manager has exercised the degree of care, diligence, and skill that would have been exercised in preventing the failure to pay tax.

(3) Where a person pays tax under subsection (1)-

(a) that person may recover the payment from such entity;

(b) for the purposes of paragraph (a), the person may retain out of any assets of the entity in or coming into the possession of the person an amount not exceeding the payment; and

(c) no claim may be made against that person by the entity or any other person with respect to the retention.

Receivers

66.-(1) A person who has been appointed to be a receiver shall, notify the Commissioner General of his appointment in writing and within fourteen days from being appointed or taking possession of an asset situated in the United Republic.

(2) The Commissioner General may serve a receiver with a notice in writing specifying an amount that appears to be sufficient to provide for any tax due or that will become due by the taxpayer whose assets come into the receiver's possession.

(3) After receiving a notice under subsection (2), a receiver-

(a) shall sell sufficient of the assets that come into the receiver's possession under the receivership to set aside, after payment of any debts having priority over the tax referred to in the notice, the amount notified by the Commissioner General under that subsection; and

(b) is liable to pay to the Commissioner General on account of the taxpayer's tax liability the amount set aside.

(4) The receiver shall, to the extent that he fails to set aside an amount as required by subsection (3), be personally liable to pay to the Commissioner General on account of the taxpayer's tax liability the amount that should have been set aside but may recover any amount paid from the taxpayer.

(5) For the purposes of this section-

"receiver" means any person who, with respect to an asset situated in the United Republic, is-

(a) a liquidator of an entity;

(b) a receiver appointed out of court or by a court in respect of an asset or entity;
(c) a trustee for a bankrupt persons;
(d) a mortgagee in possession;
(e) an executor or administrator of a deceased individual's estate; or
(f) conducting the affairs of an incapacitated individual.

Third party debtors and guarantors

67.-(1) Where a taxpayer fails to pay tax on time, the Commissioner General may serve on the third party debtor who owes money to that taxpayer a notice in writing requiring that person to pay the money to the Commissioner General.

(2) The third party debtor shall, upon the receipt of the notice under subsection (1), pay the money equivalent to the amount of tax due to the Commissioner General on the account of the taxpayer's tax liability and on the date specified in the notice.

(3) The date specified in the notice shall not be before-

(a) the date the money becomes payable to the taxpayer or is held on behalf of the taxpayer; or
(b) the date the third party debtor is served with the notice.

(4) The Commissioner General shall serve the taxpayer with a copy of the notice after service of the notice on the third party debtor.

(5) Amounts payable to the Commissioner General by a third party debtor under subsection (2)

or by a guarantor under a security shall be treated as tax and, once due, may be recovered as tax.

(6) The following shall be treated as money owed to a taxpayer-

(a) money currently owing or that may subsequently become owing to the taxpayer;

(b) money held or that may subsequently be held for or on account of the taxpayer;

(c) money held or that may subsequently be held on account of a third person for payment to the taxpayer; and

(d) money held by a person who has authority from a third person to pay the money to the taxpayer.

Compliance with notice or security

68.-(1) A third party debtor or guarantor who pays the Commissioner General pursuant to section 67 shall be treated as having acted with the authority of the taxpayer.

(2) A notice served under section 67 shall cease to have effect once the tax referred to is paid or otherwise satisfied.

(3) Where a third party debtor who is served with a notice under section 67 is unable to comply with the notice by reason of lack of money owing to, or held for the taxpayer, such third party debtor shall notify the Commissioner General on his inability to pay.

(4) The notice under subsection (3) shall be-

(a) in writing setting out the reasons for the inability;

(b) filed with the Commissioner General within seven days from the notice issued under section 67 after the third party debtor becomes aware of the inability.

(5) The Commissioner General may, upon the receipt of a notice by a third party debtor, accept the notification and cancel or amend the notice under section 67 or reject the notice of the third party debtor.

(6) The notice filed by a third party debtor under this section shall have no effect unless the Commissioner General cancels or amends the third party debtor notice issued under section 67.

(7) Where a third party debtor fails to pay an amount of tax specified in a notice within 30 days of the date-

(a) of service of such notice in him; or

(b) on which any money comes into his hands or becomes due by him to, his tax debtor whichever event is the latter and the payer has-

(i) not given a notification under subsection 3 of this section; or

(ii) given such notification which has been rejected by the Commissioner General,

the provisions of this Act relating to recovery of tax shall apply to the collection and recovery of such amount as if it where tax due and payable by the third party debtor, the due date for the payment of which was the date upon which such amount should have been

paid to the Commissioner General under this section.

Agents of non-residents

69.-(1) Where-

(a) a non-resident taxpayer fails to pay tax on time; or

(b) the Commissioner General has good reasons to believe that a non-resident taxpayer shall not pay tax on time,

the Commissioner General may, by notice in writing, require the agent who is in possession of an asset owned by the non-resident taxpayer to pay tax on behalf of that taxpayer.

(2) An agent shall, without prejudice to subsection (1), be required to pay tax up to the market value of the asset but not exceeding the amount of the taxpayer's unpaid tax.

(3) For the purposes of this section-

(a) a taxpayer who charters an aircraft or ship under a charter for period exceeding three years shall be treated as the owner of the aircraft or ship during that period; and

(b) the captain of any aircraft or ship shall be treated as being in possession of the aircraft or ship.

(4) The Commissioner General may, by notice in writing, require a resident partnership or a resident partner to pay tax due or that may become due by a non-resident partner.

(5) The resident partnership and any resident partner shall be jointly and severally liable to pay the tax up to the amount of the non-resident partner's share in the net assets of the partnership.

(6) Where a person makes payment to the Commissioner General pursuant to a notice issued under subsection (1) or (4) that-

(a) person may recover the payment from the taxpayer or non-resident partner;

(b) person may for the purposes of paragraph (a), retain out of any assets of the taxpayer or non-resident partner in or coming into the possession of the person an amount not exceeding the payment; and

(c) taxpayer, non-resident partner or any other person, may not make a claim against the person with respect to the retention.

PART IX
REMISSION AND REFUND OF TAX

Remission

70. Where the Commissioner General is satisfied that there is good cause to remit penalty or interest imposed under any tax law, he may remit the whole or part of the penalty or interest payable by that person.

Application for tax refund

71.-(1) A person may apply to the Commissioner General for refund of tax paid in excess.

(2) The application for refund shall be in writing, indicating the correct tax calculation and be supported by the documentary evidence to support the claim.

Decision on application

72.-(1) The Commissioner General shall consider and make a refund decision on an

application made under section 71 within ninety days from the date of the receipt of the application.

(2) The Commissioner General may make the appropriate decision without limiting his discretion-

(a) where he is of the opinion that the applicant has not paid excess tax, reject the application;

(b) where he is not satisfied that the applicant has paid excess tax-

(i) request for further information as may be reasonable in order to make a final decision on the application; or

(ii)refund the money paid in the excess subject to the application; or

(c) where he is satisfied that the applicant has paid excess tax, to refund to the extent to which the Commissioner General is satisfied.

(3) The Commissioner General shall serve the applicant with a written notice of the refund decision within the time prescribed in subsection (1).

(4) Where the Commissioner General makes a decision under subsection (2)(b), the Commissioner General shall reconsider the application after the applicant provides the information or where the applicant rejects the offer.

(5) The Commissioner General shall serve the applicant with notice of that decision within thirty days of receiving the information requested under subsection (2).

Payment of tax refund

73.-(1) Where the Commissioner General is satisfied that the taxpayer has paid excess tax, he shall-

(a) apply the excess to offset any tax due from the taxpayer under any tax law; and

(b) refund the balance, within fourteen days of making the decision.

(2) Where the Commissioner General accepts a taxpayer's refund application in part, he shall refund the amount accepted.

(3) Where the Commissioner General refunds an amount of tax to a person, he shall be liable to pay that person an interest in accordance with the provisions of the relevant tax law.

(4) The interest under this section shall be calculated at the statutory rate and shall be for the period commencing on the date the refund decision is issued and ending on the day the refund is made.

(5) The interest paid by a person under a tax law with respect to tax which has not been paid on time shall, to the extent that the tax is found to have been paid, be refunded to that person with any interest at the rate stipulated under subsection (4).

(6) The Commissioner General shall maintain a separate bank account and ensure that there are sufficient funds that account for the purposes of this section.

Short levy or erroneous refund

74.–(1) Where any duty has been shortlevied or erroneously refunded, a person who ought to have paid the amount short-levied or to whom the refund has erroneously been made, shall, on demand by the Commissioner General, pay the amount short-levied

or repay the amount erroneously refunded.

(2) The amount referred under subsection (1) may be recovered as if it were a tax in relation to which the amount was short-levied or erroneously refunded:

Provided that, the Commissioner General shall not make any such demand after five years from the date of such short levy or erroneous refund, unless such short levy or erroneous refund had been caused by fraud on the part of the person who has to paid the amount short-levied or to whom the refund was erroneously made.

PART X
INTEREST, PENALTIES AND OFFENCES
(a) Interest

Interest for unde-estimating tax payable

75.- (1) The amount of interest that an instalment payer shall pay for each period under subsection (4) shall be calculated at the statutory rate compounded monthly, applied to the excess of-

(a) eighty percent of the total amount that would have been paid by way of instalments during the year of income to the start of the period had the person's estimate or revised estimate equalled the correct amount; or

(b) the amount of income tax paid by instalments during the year of income to the start of the period.

(2) For the purposes of calculating interest payable under subsection (1), any extension granted

under section 39 or 55 or suspension under section 51(7) shall not be taken in consideration.

(3) This section applies where an instalment payer's estimate or revised estimate of income tax payable for a year of income under section 88 of the Income Tax Act is less than eighty percent of the correct amount.

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(4) Where this section applies, the instalment payer shall be liable for interest for each month or part of a month from the date the first instalment for the year of income is payable until the due date by which the person shall file a return of income for the year of income under section 91(1) of the Income Tax Act.

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(5) For the purposes of this section, "correct amount" means the income tax payable by the payer for the year of income under section 4(1)(a) and (b) of the Income Tax Act.

Interest for failing to pay tax

76.-(1) Where any amount of tax imposed under a tax law remains unpaid after the due date prescribed in a tax law or its regulations, the interest at the statutory rate shall be payable to the Commissioner General on the amount for the time being due and unpaid.

(2) For the purposes of calculating interest payable under subsection (1), any extension granted under section 39 or 55 or suspension under section 51(7) shall not be applied.

(3) A withholding agent may not recover from a withholdee an interest payable by the agent in respect of a failure to comply with section 81, 82 or 83 of the Income Tax Act.

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(b) Penalties

Penalty for failing to maintain documents

77.-(1) A person who fails to maintain proper documents as required by a tax law is liable for a penalty for each month or part of a month during which the failure continues.

(2) The penalty shall, in the case of an individual, be 1 currency point or, in the case of a body corporate 10 currency points.

(3) The Commissioner General shall determine tax attributable to a period on a just and reasonable basis including apportioning tax assessed with respect to a larger period or by reference to taxable events happening within the period.

Penalty for failing to file tax return

78.-(1) A person who fails to file a tax return or pay tax on due date as required by a tax law is liable for a penalty for each month or part of a month during which the failure continues.

(2) The penalty is-

(a) two point five percent of the amount of tax assessable with respect to the tax return less tax paid by the start of the period towards that amount;

(b) in the case of an individual, 5 currency points or in the case of a body corporate, 15 currency points, whichever is higher.

(3) The penalty applies separately for a failure to file a tax return that is an estimate or provisional amount and a failure to file a tax return incorporating the final amount.

Penalty for making false or misleading statements

79.-(1) A person is liable for a penalty if he-

(a) makes a statement to a tax officer which is false or misleading in a material particular; or

(b) omits to include in the statement made to the tax officer, any matter or thing without which the statement is misleading in a material particular.

(2) The penalty shall be-

(a) where the statement or omission is made without reasonable excuse, fifty percent of the tax shortfall; or

(b) where the statement or omission is made knowingly or recklessly, seventy five percent of the tax shortfall.

(3) Notwithstanding subsection (2), the penalty shall be-

(a) increased by ten percent for the second or subsequent application of this section to the person; and

(b) reduced by ten percent if the person voluntarily discloses the statement prior to its discovery by the tax officer or the next tax audit of the person.

(4) A statement shall be considered to have been made to the tax officer in the performance of duties under a tax law when it is made orally, in writing or in any other form and it includes a statement made-

(a) in any document or information required to be filed under a tax law;

(b) in a document furnished to the tax officer otherwise than under a tax law; or

(c) in an answer to a question put to a person by the tax officer;

(d) to another person with the knowledge or reasonable expectation that the statement shall be passed to the tax officer.

(5) A person who contravenes section 23(3) or 24(5) shall be considered to have made a false or misleading statement to a tax officer.

Penalty for aiding and abetting

80. A person who aids, abets, counsels or induces another person to commit an offence and shall be liable on conviction, for a penalty equal to one hundred percent of the tax shortfall.

(c) Assessment of Interest and Penalties

Assessment of interest and penalties

81.-(1) The Commissioner General shall assess the interest and penalties for which a person is liable under this Part.

(2) Liability for interest and penalties under this Part with respect to a particular failure or statement is calculated separately for each section of this Part.

(3) The imposition of interest and penalties under this Part is in addition to any other tax imposed by a tax law and does not relieve any person from liability to criminal proceedings.

(4) Where a particular failure or statement incurs interest or a penalty both under this Act and any other tax law, the Commissioner General shall assess the person under one tax law only with the higher rate of interest or penalty.

(5) Where an assessment is made under this section, the Commissioner General shall serve a written notice of the assessment, which may be incorporated with another notice of assessment under a tax law on the person, stating-

(a) the name of the person and the person's Taxpayer Identification Number;

(b) the amount of the interest or penalty assessed by the Commissioner General;

(c) the manner in which the assessment is calculated;

(d) the reasons for making the assessment;

(e) the date on which the interest or penalties shall be paid; and

(f) the time, place and manner of objecting to the assessment.

(6) An assessment made under this section is an original assessment for the purposes of section 48.

(d) Offences

Offence for failing to comply with tax law

82. A person who fails to comply with a provision of this Act commits an offence and shall be liable, on conviction -

(a) where the failure results or, if undetected may have resulted in an underpayment of tax in an amount exceeding 50 currency points, to a fine of not less than 20 currency points and not more than 50 currency points, or to imprisonment for a term of not more than six months, or to both; and

(b) in any other case, to a fine of not less than 10 currency points and not more than 20 currency points.

Offence for failing to pay tax

83. Any person who fails to pay any tax on, or before the date on which the tax is payable commits an offence and shall be liable on conviction-

(a) where the failure is to pay tax in excess of 50 currency points, to a fine of not less than 25 currency points and not more than 100 currency points or imprisonment for a term of not less than three months and not more than one year, or to both; and

(b) in any other case, to a fine of not less than 10 currency points and not more than 25 currency points or imprisonment for a term of not less than one month and not more than three months, or to both.

Offence for making or using false or misleading statements or documents

84. -(1) Any person who, in any matter relating to the excise duty-

(a) makes any entry of any building, room, place, or item of plant, which is false or incorrect in any material particular;

(b) makes or causes to be made any declaration, certificate, application, return, account, or other documents, which is false or incorrect in any material particular;

(c) when required to answer any question put to that person by an officer, refuses to answer such question or makes any false or incorrect statement in reply thereto;

(d) is in any way knowingly involved in any fraudulent evasion of the payment of any duty;

(e) obtains any remission, rebate, or refund, of duty which to his knowledge is not entitled to obtain;

(f) makes any false statement or false representation in order to obtain any remission, rebate or refund, of duty;

(g) acquires possession of, keeps, conceals, removes or in any way deals with, any excisable goods which have been manufactured or on which the full duties have not been paid; or

(h) counterfeits or in any way falsifies or knowingly uses when counterfeited or in any way falsified, any document required or issued by, or used for the purposes of, the excise, commits and offence.

(2) Any person who in any matter relating to any tax law-

(a) makes a statement to a tax officer which is false or misleading in material particular; or

(b) omits to include in the statement made to a tax officer, any matter or thing without which the statement is misleading in material particular,

commits an offence.

(3) The person who commits an offence under this section shall be liable, on conviction,-

(a) where the statement or omission is made without reasonable excuse-

(i) and, if the inaccuracy of the statement is undetected, and may have resulted in an underpayment of tax in an amount exceeding 50 currency points, to a fine of not less than 25 currency points and not more than 100 currency points or imprisonment for a term of not less than three months and not more than one year, or to both; and

(ii) in any other case, to a fine of not less than 10 currency point and not more than 25 currency points or imprisonment for a term of not less than one month and not more than three months, or to both; or

(b) where the statement or omission is made knowingly or recklessly-

(i) and, if the inaccuracy of the statement is undetected, and may have resulted in an underpayment of tax in an amount exceeding 50 currency points, to a fine of not less than 50 currency points and not more than 200 currency points or imprisonment for a term of not less than one year and not more than two years, or to both; and

(ii) in any other case, to a fine of not less than 20 currency point and not more than 50 currency points or imprisonment for a term of not less than six months and not more than one year, or to both.

(4) For the purposes of determining whether or not a statement is made to a tax officer, or when such statement is considered to be false or misleading, in material particular the provisions of section 79(4) and (5) shall apply.

Offence for impeding tax administration

85.-(1) A person who impedes or attempts to impede the administration of a tax law commits an offence.

(2) The person who commits an offence under this section shall be liable, on conviction-

(a) where the offence involves fraud or undue force, to a fine of twice the amount sought to be evaded or recovered or 200 currency points, whichever is greater or imprisonment for a term of not less than two years and not more than four years, or to both; and

(b) in any other case, to a fine of not less than 10 currency points and not more than 200 currency points or imprisonment for a term of not more than two years, or to both.

(3) In this section, "impeding administration of a tax law" includes-

(a) where a tax officer is acting in the performance of duties under a tax law,

assaulting, obstructing or attempting to assault or obstruct the officer or interfering with any asset used by the officer;

(b) failing to comply with a notice under section 44 or answer truthfully when being interrogated under section 94;

(c) evading or recovering tax;

(d) fraudulently dealing with an asset charged under section 61 so as to prevent seizure;

(e) recovering an asset seized under section 42, 62, 64 or 94;

(f) interfering with any lock, seal, mark, fastening or other security used to restrain an asset under section 64 or 94;

(g) with the intent of evading any obligation under a tax law, knowingly dealing in any way with a document or asset that is or contains or produces information (including by way of measurement) that is false or misleading in a material particular;

(h) disguising, warning or hiding a person with the intent that a liability, obligation or arrest of any person under a tax law is evaded;

(i) committing any offence under a tax law where the person has already been convicted of an offence under a tax law or had an offence compounded under section 92;

(j) refusal to produce documents;

(k) destroying, damaging, cutting away, casting adrift, defacy or interfering with any instrument or a property used for the purpose of tax authority;

(l) uses, keeps, or provides, any false or unjust scales, weighing or measuring instruments, weights or measures; or

(m) by any means prevents or contrives to prevent, the proper officer from taking a just and true account or making proper examination of, any excisable goods or materials.

Offence for failing to use electronic fiscal device

86. Any person who fails to acquire or use electronic fiscal device or issue fiscal receipt or fiscal invoice commits an offence and shall be liable, on conviction, to a fine of not less than 100 currency points and not more than 150 currency points, or to imprisonment for a term not exceeding three years, or to both.

Offences by authorised and unauthorised persons

87.-(1) A person authorised by the Authority to perform any function or carry on any duty under a tax law commits an offence where that person-

(a) directly or indirectly asks for or takes in connection with the person's duties, any payment or reward or promise or security for any such payment or reward, not being a payment or reward that the person is lawfully entitled to receive; or

(b) agrees to, permits, conceals, connives at or acquiesces in any act or thing whereby the Government is or may be defrauded with

respect to any matter under a tax law, including the payment of tax.

(2) A person who is not authorised by the Authority commits an offence if that person-

(a) collects or attempts to collect an amount of tax payable under a tax law or an amount which that person describes as tax; or

(b) makes representations with the intent to make another person to believe that, that person is a tax officer.

(3) A person who commits an offence under subsection (1) or (2) shall be liable, on conviction, to a fine of not less than 200 currency points or imprisonment for a term of not less than twelve months and not more than five years, or to both.

(4) Any person who contravenes section 24 commits an offence and is liable, on conviction, to a fine not exceeding 100 currency points or imprisonment for a term not exceeding one year, or to both.

Offences by entities

88.-(1) Where an entity has committed an offence under a tax law, every person who is a manager of the entity at the time of commission of that offence shall be treated to have committed that offence.

(2) Subsection (1) shall not apply where the manager has exercised the degree of care, diligence, and skill that would have been exercised by a reasonable person in preventing the commission of that offence.

Offence for aiding or abetting

89. Any person who aids, abets, counsels or induces another person to commit an offence under a tax law commits an offence and shall be liable, on conviction,-

(a) where the original offence involves a statement of the kind prescribed in section 84(1) and, if the inaccuracy of the statement were undetected, may have resulted in an underpayment of tax to a fine of not less than 100 and not more than 200 currency points, imprisonment for a term of not less than one year and not more than two years, or to both;

(b) where the original offence involves inducing an authorised person to commit an offence under section 87, to a fine of not less than 200 currency points, or imprisonment for a term of not less than twelve months and not more than five years, or to both; or

(c) in any other case, to a fine of not less than 50 currency points and not more than 100 currency points, or to imprisonment for a term of not less than six months and not more than one year, or to both.

VAT offences Cap. 148

90.-(1) A person commits an offence if that person-

(a) fails to apply for registration as required under the Value Added Tax Act;

(b) fails to notify the Commissioner General of ceasing to be liable for value added tax as required under the Value Added Tax Act;

(c) fails to notify the Commissioner General

of a change in circumstances as required under the Value Added Tax Act;

(d) fails to notify the Commissioner General the change in interest or ownership of property or control of business by reason of death, bankruptcy, winding-up or other legal process that vests in another person interest or ownership of property as required under the Value Added Tax.

(e) fails to notify the Commissioner General of a transfer as required under the Value Added Tax Act; or

(f) holds himself out as a taxable person under the Value Added Tax Act, where that person is not.

(2) The person who commits an offence under this section shall be liable, on conviction-

(a) where the failure or holding out is made knowingly or recklessly, to a fine of not less than 100 currency points and not more than 200 currency points or imprisonment for a term of not less than one year and not more than two years, or to both; or

(b) in any other case, to a fine of not less than 50 currency points and not more than 100 currency points or imprisonment for a term of not less than one month and not more than three months, or to both.

Stamp duty offences

91.-(1) A person commits an offence if that person-

(a) draws, signs or deals in any manner with any instrument, bill of exchange, cheque or promissory note that has not been duly stamped;

(b) votes or attempts to vote under any proxy not duly stamped;

(c) issues any share warrant not duly stamped;

Cap. 189

(d) fails to cancel a stamp as required under the Stamp Duty Act;

(e) executes or assists in the preparation of an instrument that breaches the requirements of the Stamp Duty Act;

(f) fails to give a receipt that is properly stamped as required under the Stamp Duty Act;

(g) is a person appointed to sell stamps who disobeys a lawful direction given by the Commissioner General;

(h) is not a person appointed to sell stamps but the person sells or offers for sale, other than by way of surrender to a stamp duty officer, any stamp other than adhesive stamps each of the value of fifty cents or less; or

(i) fails to comply with the terms of any composition agreement made under the Stamp Duty Act.

(2) The person who commits an offence under this section shall be liable, on conviction-

(a) where the action or failure is made knowingly or recklessly, to a fine of not less than 100 currency points and not more than 200 currency points or imprisonment for a term of not less than one year and not more than two years, or to both; or

(b) in any other case, to a fine of not less than 20 currency points and not more than 50 currency points or imprisonment for a term of not less than one month and not more than three months, or to both.

Compounding offences

92.-(1) Where a person commits an offence under a tax law, the Commissioner General may compound the offence and order that person to pay a sum of money to be specified by the Commissioner General and surrender any asset liable for forfeiture in respect of the offence.

(2) The Commissioner General shall not compound an offence-

(a) unless the person admits in writing that has committed the offence and accepts the proposed terms of compoundment;

(b) in respect of conduct of a transaction referred to in section 87; or

(c) after court proceedings commence with respect to the offence unless the consent of the Director of Public Prosecutions is obtained.

(3) The Commissioner General's order-

(a) shall be in writing and specify-

(i) the offence committed;

(i) the sum of money to be paid;
(ii) any asset forfeited; and
(iii) the date for payment of the money and surrender of the asset;

(b) shall have attached to the written submission referred to in paragraph (a) of subsection (2);

(c) shall be served on the person who committed the offence;

(d) shall be final and shall not be subject to appeal; and

(e) may be enforced in the same manner as an order of the High Court for the payment of the amount and delivery of any asset stated in the order.

(4) Where the Commissioner General compounds an offence under this section, a person whose offence is compounded shall not be liable for prosecution for that offence.

PART XI
TAX PROCEEDINGS

Multiple proceedings

93.-(1) The proceedings to recover tax or prosecution of a person under one provision of a tax law does not restrict simultaneous or separate proceedings to recover the same tax or to prosecute a person under a different provision of that law or a provision of a different tax law.

(2) Notwithstanding the provisions of tax law, a person may be convicted or fined for more than one offence with respect to same course of conduct or omission.

(3) Where two or more provisions which create an offence apply to the same part of a course of conduct or omission of a person, the adjudicator may choose under which provision the person is to be convicted or fined.

Power of search, seizure and arrest

94.-(1) A tax officer authorised to search, seize or arrest may apply to a magistrate for an order to arrest a person.

(2) The application under subsection (1), shall state the reasons which make an authorised tax officer to believe that a person-

(a) has committed an offence under a tax law;

(b) will abscond before the person is charged or stands trial for an offence under a tax law;

(c) will destroy, tamper or otherwise dispose of evidence of an offence under a tax law; or

(d) has in possession any good to which any offence under a tax law has been committed or full duty has not been paid as required by a tax law.

(3) The magistrate may, after being satisfied that the situation represents a serious risk to the collection of tax or the administration of justice, make an order authorising the tax officer, to be accompanied by the police officer, to-

(a) enter any premises or place and restrain assets that may reasonably provide evidence that an offence has been committed under a tax law;

(b) restrain and search any premises, place, vehicle or other asset on or in which the tax officer believes on reasonable grounds there is such evidence;

(c) interrogate and search or cause to be interrogated and searched a person who the tax officer believes on reasonable grounds has committed an offence under a tax law or to be in possession of assets mentioned in paragraph (a);

(d) arrest a person who the tax officer believes on reasonable grounds has committed an offence under a tax law; and

(e) use reasonable force for the purposes of the preceding paragraphs including by way of breaking into any premises, place or asset that may reasonably contain evidence referred to in paragraph (a).

(4) Upon restraining an asset under subsection (3), the tax officer shall-

(a) serve a written notice on the possessor of the asset and, where there is more than one possessor, service on a single possessor is sufficient; or

(b) where no possessor is available, leave the notice at the premises or place where the restraining takes place.

(5) The notice shall-

(a) identify and list the assets restrained;

(b) state the assets have been restrained under this section and the reason for the restraint; and

(c) set out the terms for release, including any as to security required, and terms for disposal of any assets seized.

(6) A tax officer arresting a person shall immediately take that person to the nearest police station.

(7) A person shall be searched by another person of the same sex.

(8) A tax officer may exercise any of the powers granted by a magistrate under this section in conjunction with any other of his powers granted under this Act.

Search without warrant

95.-(1) An authorised officer may, without a warrant, exercise the powers referred under section 94 where-

(a) the owner or person in control of the premises consented in writing; or

(b) he is on reasonable grounds satisfied that-

(i) there may be an imminent removal or destruction of relevant material likely to be found on the premises;

(ii) the delay in obtaining a warrant would defeat the object of the search and seizure.

(2) The authorised officer shall, before carrying out the search, inform the owner or person in control of the premises-

(a) that the search is being conducted under this section; and

(b) the law or tax offence that is the basis for the search.

(3) The provisions of section 94(3) to (7) shall apply to a search to be conducted under this section.

Provision of Security

96. A Security provided by any person for the purposes of complying with any provision of a tax law shall not act as a defence in any proceeding for recovery of tax or with respect to an offence under that tax law or any other tax law.

Publication of offenders

97.-(1) The Commissioner General may publish in a newspaper or any media of wide circulation within the United Republic, a list of persons who-

(a) have repeatedly failed to pay tax on time after been notified of his obligation to paytax by the Commissioner General;
(b) have been convicted of an offence under a tax law, where the time for appeal has expired; or
(c) had repeatedly such an offence compounded under section 92.

(2) The list may specify-
(a) the name and address of the person;
(b) the offence committed;
(c) the period during which the offence occurred;
(d) the amount of tax involved; and
(e) particulars of any fine or sentence imposed.

Regulations

98.-(1) The Minister may make regulations under any tax law for the better carrying into effect of the principles, purposes and provisions of that tax law.

(2) Regulations made under subsection (1) may relate to a tax law or tax laws.

Amendments by Minister

99. The Minister may, in consultation with the Commissioner General, by order published in the *Gazette,* amend, vary, add or replace any Schedule to this Act.

PART XII
TRANSITION AND SAVINGS PROVISIONS

Transition and Savings provisions

100.-(1) Subject to this section, the respective tax laws shall continue to apply for periods and events occurring before the date on which this Act comes into effect.

(2) All appointments made under the respective tax laws and subsisting at the date this Act comes into effect shall deemed to be appointments made under this Act.

(3) Any international agreement made by the Government of the United Republic that is effective under the respective tax laws at the time this Act comes into effect shall continue to have effect under this Act.

(4) Regulations, rules, practice notes, rulings, orders and notices made under the respective tax laws and in force at the commencement of this Act shall continue to be in force as if they were made under this Act until such time as they are amended or revoked.

(5) All blank forms and documents used in relation to the respective tax laws may continue to be used under this Act and all references in those forms

and documents to provisions of and expressions appropriate to the prior law shall be deemed to refer to the corresponding provisions and expressions of this Act.

(6) Any appeal, prosecution or other proceedings commenced before this Act comes into operation shall continue and be disposed of as if this Act had not come into force.

(7) Any tax liability that arose before this Act comes into operation may be recovered by fresh proceedings under this Act, but without prejudice to any action already taken for the recovery of the tax.

(8) A reference in this Act to "this Act" or to a provision of "this Act" includes, where the context requires, a reference to the prior law or to a corresponding provision of the prior law, respectively.

PART XIII
CONSEQUENTIAL AMENDMENTS
(a) Sub Part I
AMENDMENT OF THE TANZANIA REVENUE AUTHORITY ACT, CAP. 399

Construction Cap. 399

101. This Sub Part shall be read as one with the Tanzania Revenue Authority Act, hereinafter referred to as the "principal Act".

Repeal of section 6

102. Section 6 of the principal Act is repealed.

Amendment of section 7

103. Section 7 of the principal Act is amended by deleting subsection (2) and substituting for it the following new subsection-

"(2) The system referred to in subsection (1) shall be for the purposes of the provisions of Part III (b) of the Tax Administration Act.".

Amendment of section 8

104. Section 8 of the principal Act is amended by deleting subsection (2) and substituting for it the following-

"(2) The provisions of sections 21 of the Tax Administration Act which relates to official secrecy shall apply to this Act.".

Amendment of the First Schedule

105. The principal Act is amended by revoking the First Schedule and replacing it with the following new Schedule-

"FIRST SCHEDULE

(Made under section 5(1)(a))

1. The Income Tax Act, Cap. 332.
2. The Value Added Tax Act, Cap. 148.
3. The East African Customs Management Act, (No. 1 of 2005)
4. The Excise (Management and Tariff) Act, Cap. 147
5. The Stamp Duty Act, Cap. 189
6. The Road and Fuel Tolls Act, Cap. 220
7. The Airport Service Charges Act, Cap. 365.
8. The Motor Vehicle (Tax on Registration and Transfer) Act, Cap. 124
9. The Port Service Charges Act, Cap. 264
10. The Cashewnut Board of Tanzania Act, Cap. 203
11. Vocational Education And Training Act, Cap. 82
12. The Foreign Vehicles Transit Charges Act, Cap. 84
13. The Gaming Act, Cap. 41
14. The Tax Administration Act, 2014
15. The Road Traffic Act, Cap.168.
16. Any other law authorising the Authority to administer or collect revenue.".

Sub Part II
AMENDMENT OF THE TAX REVENUE APPEALS ACT, CAP. 408

Construction Cap. 408

106. This Sub Part shall be read as one with the Tax Revenue Appeals Act, hereinafter referred to as the "principal Act".

Amendment of section 7A

107. Section 7A of the principal Act is amended by deleting the words "section 12 of this Act" and substituting for the words "Part VII of the Tax Administration Act".

Repeal of sections 12, 13 and 14

108. The principal Act is amended by repealing sections 12, 13 and 14.

Amendment of section 15

109. Section 15(1) of the principal Act is amended:

(a) in paragraph (b) (i) by deleting the figure "12" and substituting for it the figure "52";

(b) in paragraph (b) (ii) by deleting the phrase "subsection (4) of section 12" and subsituing for it the phrase "subsection (3) of section 52."

Amendment of section 16

110. Section 16 of the principal Act is amended by-

(a) deleting subsection (1) and substituting for it the following-

"(1) Any person who is aggrieved by an objection decision of the Commissioner General made under the Tax Administration Act may appeal to the Board"

(b) deleting subsection (2); and

(c) deleting the phrase "section 12(3)" appearing in subsection (6) and substituting for them the phrase "section 51(5) of the Tax Administration Act".

(d) deleting the phrase "by the Board or, as the case may be, the Tribunal."

Amendment of section 19

111. The principal Act is amended in section 19 by deleting the words "the liability of" appearing at the chapeau.

Sub Part III

AMENDMENT OF THE INCOME TAX ACT, CAP. 332

Construction Cap. 332

112. This Sub Part shall be read as one with the Income Tax Act, hereinafter referred to as the "principal Act".

Amendment of section 3

113. Section 3 of the principal Act is amended by deleting-

(a) the definition of the terms "adjusted assessment" and "assessment" and substituting for them the following new definitions:

"adjusted assessment" means an assessment adjusted in accordance with section 48 of the Tax Administration Act; and

"assessment" means an assessment made in terms of section 94 of this Act or sections 46, 47, 48 or 81 of the Tax Administration Act;";

(b) the words "Commissioner of Income Tax" appearing in the definition of the term "Commissioner", and substituting for them the designation "Commissioner General";

(c) the definition of the terms "document", "Minister", "notice of assessment", "officer", "penalty", "Tanzania Revenue Authority", "tax payable on assessment" and "Tax Identification Number"; and

(d) the words "section 136" appearing in the definition of the term "service" and substituting for it the phrase "sections 32 and 33 of the Tax Administration Act";.

Amendment of section 15

114. The principal Act is amended in section 15(5)by deleting -

(a) the phrase "section 96" appearing in paragraph (a) and substituting for them the phrase "section 48 of the Tax Administration Act";

(b) the phrase reference to the phrase "sections 99 and 100" appearing in paragraph (b)(i) and substituting for them the phrase "sections 75 and 76 of the Tax Administration Act"; and

(c) by deleting the reference to section 101 appearing in paragraph (b)(ii) and substituting for it the phrase "section 79" of the Tax Administration Act."

Amendment of section 21

115. Section 21 of the principal Act is amended by adding immediately after subsection (6), the following new subsection-

"(7) In this section, "generally accepted accounting principles" means the principles adopted by the National Board of Accountants and Auditors."

Repeal of section 35

116. Section 35 of the principal Act is repealed.

Amendment of section 52

117. The principal Act is amended in section 52(5) by deleting the figure "116(5)" and substituting for it the words "66(5) of the Tax Administration Act".

Amendment of section 64

118. The principal Act is amended in section 64(8)(b) by deleting the figure "131" and substituting for it the phrase "11 of the Tax Administration Act".

Amendment of section 79

119. Section 79 of the principal Act is amended by deleting-

(a) paragraph (c), (d), (e), (f) and (g) of subsection (1) and substituting for them the following new paragraph:

"(c) in the case of income tax payable on an assessment under section 94, on the date by which the return of income must be filed;" and

(b) subsections (2) and (3).

Repeal of sections 80 and 80A

120. Sections 80 and 80A of the principal Act are repealed.

Amendment of section 89

121. Section 89 of the principal Act is amended by deleting-

(a) the figure "93" appearing in subsection (1) and substituting for it the words "39 of the Tax Administration Act";

(b) paragraph (b) of subsection (2) and substituting for it the following new paragraph-

"(c) be signed by the person and includes a declaration that, to the best of that person's knowledge and belief, the estimate is full and true; and"

(c) the figure "93" appearing in subsection (7(b)) and substituting for it the phrase "section 39 of the Tax Administration Act".

Amendment of section 91

122. Section 91 of the principal Act is amended by deleting-

(a) the figures "92, 93, 94 and 96" appearing in subsection (1) and substituting for them words "92 and 94 of this Act and sections 39 and 48 of the Tax Administration Act";

(b) paragraph (d)(ii) of subsection (2) and substituting for it the following-

"(ii) a person specified in section 37(2)(a) of the Tax Administration Act;";

(c) the figure "135(2)" appearing in paragraph (e)(ii) of subsection (2) and substituting for it the phrase "38(3) of the

Tax Administration Act"; and

(d) subsection (3).

Amendment of section 94

123. Section 94 of the principal Act is amended by deleting the words "under this Act" appearing in subsection (6) and substituting for them the words "under subsections (3), (4) or (5)".

Repeals

124. The following sections of the principal Act are repealed 93, 95 up to 127,129 up to 140.

Revocation of the Fourth Schedule

125. The Fourth Schedule to the principal Act is revoked.

Sub Part IV

AMENDMENT OF THE ROAD AND FUEL TOLLS ACT, CAP. 220

Construction Cap. 220

126. This Sub Part shall be read as one with the Road and Fuel Tolls Act, hereinafter referred to as the "principal Act".

Amendment of section 3

127. Section 3 of the principal Act is amended by deleting the definition of the term "Commissioner" and substituting for it the following new definition-

""Commissioner" means the Commissioner General appointed under the Tanzania Revenue Authority Act;".

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Amendment of section 13

128. Section 13 of the principal Act is amended by deleting subsection (2) and substituting for it the following new subsection-

"(2) In the discharge of duties under this Act, a road and fuel toll inspector shall have and exercise like powers granted under section 42 of the Tax Administration Act.".

Amendment of section 14

129. Section 14 is repealed and replaced by the following new section-

"Prohibited conduct

14.-(1) A person shall not-

(a) drive a vehicle through a toll station except by the route designated for the passage of that vehicle;

(b) refuse to stop a vehicle at a toll station when requested to do so by the owner or operator of the station;

(c) sell or offer for sale, in an area in which road and fuel tolls are paid upon purchase of fuel, any fuel in respect of which it is not reqired that any road and fuel toll be paid upon its

purchase; or

(d) sell or offer for sale, in any area of Mainland Tanzania, any fuel upon the purchase of which road and fuel tolls are to be paid, without the road and fuel toll payable in respect of it having been previously paid

(2) A person who commits an act or omission in violation of subsection (1) shall be treated as impeding the administration of this Act for the purposes of section 85 of the Tax Administration Act.".

Repeal of section 15

130. Sections 15 of the principal Act is repealed.

Sub Part V

AMENDMENT OFTHE FOREIGN VEHICLES TRANSIT CHARGES ACT, CAP. 84

Construction Cap. 84

131. This Sub Part shall be read as one with the Foreign Vehicles Transit Charges Act, hereinafter referred to as the "principal Act".

Amendment of section 2

132. Section 2 of the principal Act is amended by deleting the definition of the term "Commissioner" and substituting for it the following new definition-

""Commissioner" means the Commissioner General appointed under the Tanzania Revenue Authority Act;". Cap. 399

Amendment of section 6

133. Section 6 of the principal Act is amended by-

(a) deleting subsection (1) and substituting for it the following new subsections -

"(1) The Commissioner shall be responsible for the administration and collection of the transit charges payable under this Act.

(2) The Commissioner may appoint public officers to be transit charge and assistant transit charge collectors.

(3) The transit charge and assistant transit charge collectors shall collect transit charges at every entry point and perform such other functions and duties as may be specified by the Commissioner for the purposes of this Act.**"**; and

(b) renumbering subsection (2) as subsection (4).

Amendment of section 8

134. Section 8 of the principal Act is amended by deleting subsection (2) and substituting for it the following new subsection-

"(2) In the discharge of duties

under this Act, a transit charge inspector shall have and exercise like powers granted by section 42 of the Tax Administration Act.".

Repeal of sections 9 and 10

135. The principal Act is amended by repealing sections 9 and 10.

Amendment of section 11

136. Section 11 of the principal Act is repealed and replaced with the following new section-

"Prohibited conduct

11.- (1) A person shall not-

(a) drive a foreign vehicle through an entry point except by the route designated for the passage of that vehicle; or

(b) refuse to stop a foreign vehicle at an entry point when requested to do so by a transit charge inspector.

(2) A person who commits an act or omission in violation of subsection (1) shall be treated as impeding the administration of this Act for the purposes of section 85 of the Tax Administration Act.".

Sub Part VI
AMENDMENT OF THE AIRPORT SERVICE CHARGES ACT, CAP. 365

Construction Cap 365

137. This Sub Part shall be read as one with the Airport Service Charges Act, hereinafter referred to as the "principal Act".

Amendment of section 7

138. Section 7 of the principal Act is amended by-

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(a) deleting the designation "Commissioner for Value Added Tax" appearing in subsection (1) and substituting for them the designation "Commissioner General of the Tanzania Revenue Authority";
(b) deleting subsections (3), (4) and (5);
(c) adding immediately after subsection (2) the following new subsection-

"(3) Any agent who fails to collect a charge as required by subsections (1) and (2) shall be required to remit to the Commissioner General the amount that should have been collected from the passenger.".

Amendment of section 8

139. The principal Act is amended in section 8 by deleting subsection (2).

Repeal of sections 10, 10A and 11

140. Sections 10, 10A and 11 of the principal Act are repealed.

Sub Part VII
AMENDMENT OF THE PORT SERVICE CHARGES ACT, CAP. 264

Construction Cap. 264

141. This Sub Part shall be read as one with the Port Service Charges Act, hereinafter referred to as the "principal Act".

Amendment of section 7

142. Section 7 of the principal Act is amended by-

(a) deleting the phrase "Commissioner of the Value Added Tax (VAT)" appearing in subsection (2) and substituting for them the phrase "Commissioner General of the Tanzania Revenue Authority";

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(b) deleting subsections (3), (4), (5), (6) and (7); and

(c) adding immediately after subsection (2), the following new subsection-

"(3) Any agent who fails to collect a charge as required by subsection
(1) shall be required to remit to the Commissioner General the amount that would have been collected from the passenger.".

Repeal of sections 10, 10A and 11

143. Sections 10, 10A and 11 of the principal Act are repealed.

Sub Part VIII
AMENDMENT OF THE VOCATIONAL EDUCATION AND TRAINING ACT, CAP. 82

Construction Cap. 82

144. This Sub Part shall be read as one with the Vocational Education and Training Act, hereinafter referred to as the "principal Act".

Amendment of section 2

145. Section 2 of the principal Act is amended by deleting the definition of the term "Commissioner" and substituting for it the following new definition-

""Commissioner" means the Commissioner General appointed under the Tanzania Revenue Authority Act;".

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Amendment of section 16

146. Section 16 of the principal Act is repealed and replaced with the following-

"Returns and time for payment of levy

16.-(1) Every employer shall file with the Commissioner on or before the seventh day of each month a return setting out the total gross monthly emoluments payable by the employer to employees in respect of the preceding month and the levy payable with respect thereto.

(2) The employer shall pay to the Commissioner the levy that is due with respect to

those emoluments on the date specified under subsection (1)".

Repeal of sections 17, 18 and 20

147. Sections 17, 18 and 20 of the principal Act are repealed.

Amendment of section 21

148. The principal Act is amended in section 21 by deleting subsection (1).

Sub Part IX

AMENDMENT OF THE MOTOR VEHICLE (TAX ON REGISTRATION AND TRANSFER) ACT, CAP. 124

Construction Cap. 124

149. This Sub Part shall be read as one with the Motor Vehicle (Tax on Registration and Transfer) Act, hereinafter referred to as the "principal Act".

Amendment of section 2

150. Section 2 of the principal Act is amended by deleting -

(a) the definition of the term "Commissioner" and substituting for it the following new definition-

""Commissioner" means the Commissioner General appointed under the Tanzania Revenue Authority Act;"; and

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(b) subsection (3).

Amendment of section 5

151. Section 5 of the principal Act is amended by deleting subsections (3), (5), (6) and (7).

Amendment of section 9

152. Section 9 of the principal Act is amended by deleting subsection (2).

Repeal of sections 12 and 15

153. Sections 12 and 15 of the principal Act are repealed.

Amendment of section 16

154. Section 16 of the principal Act is repealed and replaced with the following new section-

'Forfeiture

16. Where a person is convicted of an offence under the Tax Administration Act with respect to tax payable under this Act, the court may in addition to any tax, penalty or fine imposed if the offence involves willful non-payment or evasion of tax, may order that the motor vehicle in relation to which the tax was not paid or was evaded be forfeited to the United Republic.

Repeal of sections 17,18, 19 and 21

155. Sections 17, 18, 19 and 21 of the principal Act are repealed.

Sub Part X

AMENDMENT OF THE GAMING ACT, CAP. 41

Construction Cap. 41

156. This Sub Part shall be read as one with the Gaming Act, hereinafter referred to as the "principal Act".

Amendment of section 3

157. Section 3 of the principal Act is amended by deleting the definition of the term "Commissioner" and substituting for it the following new definition-

Cap. 399 ""Commissioner" means the Commissioner General appointed under the Tanzania Revenue Authority Act;".

Amendment of section 31

158. Section 31 of the principal Act is amended by deleting subsection (6).

Repeal of section 35

159. Sections 35 of the principal Act is repealed.

Sub Part XI

AMENDMENT OF THE STAMP DUTY ACT, CAP. 189

Construction Cap. 189

160. This Sub Part shall be read as one with the Stamp Duty Act, hereinafter referred to as the "principal Act".

Amendment of section 14

161. Section 14 of the principal Act is repealed and replaced with the following new provision-

"Moneys due under composition agreement to be Government debt

14. Any sum of money due under a composition agreement, or an order under section 13 whether by way of compounded duty, additional compounded duty or penalty shall be a debt due to the United Republic and recovered as duty or tax under the provisions of this Act or the Tax Administration Act.".

Amendment of section 53

162. Section 53 of the principal Act is amended by adding immediately after the words "this Act", the phrase "or the Tax Administration Act".

Repeal of section 58

163. Section 58 of the principal Act is repealed.

Addition of section 66A

164. The principal Act is amended by adding immediately after section 66 the following new section-

"Application of allowance

66A. Where a person is granted an allowance under this Part, the Commissioner General may direct that, the allowance be applied in reduction of any tax due payable by the person under any tax law."

Amendment of section 72

165. The principal Act is amended in section 72 by deleting the designation "A Stamp Duty Officer" appearing in subsection (5) and substituting for them the designation "the Commissioner General".

Sub Part XII

AMENDMENT OF THE EXCISE (MANAGEMENT AND TARIFF) ACT, CAP. 147

Construction Cap. 147

166. This Sub Part shall be read as one with the Excise (Management and Tariff) Act, hereinafter referred to as the "principal Act".

Amendment of section 2

167. Section 2 of the principal Act is amended-

(a) in subsection (1), by-

(i) deleting the definition of the terms "Commissioner General", "Excise and the Excise", and "officer" and substituting for them the following new definitions in their appropriate alphabetical order-

""Commissioner General" means the Commissioner General appointed under the Tanzania Revenue Authority Cap. 399

Act;"; and

"Excise" or "the Excise" means the Tanzania Revenue Authority established under the Tanzania Revenue Authority Act acting under the authority of this Act;";

(ii) adding in its appropriate alphabetical order the following new definition-

"customs law or the East African Customs and Transfer Tax Management Act shall be construed as referring to the East African Community Customs Management Act, and any regulations made under that Act;".

(iii) adding immediately after the words "this Act" appearing in the definition of the term "regulations", the phrase "or under the Tax Administration Act"; and

(b) by deleting subsection (2).

Repeal of various sections

168. The following sections of the principal Act are repealed-

3,7, 56, 57, 58, 66, 73, 74, 75, 76, 77, 78, 79, 80, 82, 83, 84, 85, 86, 87, 88, 89, 90, 99, 101, 103, 104, 108, 109, 110, 111, 112, 114, 137(5),138 and 144.

Addition of new section 76A

169. The principal Act is amended by adding the following new section-

"Proof in proceedings

76A. In any proceedings for a breach of this Act, the onus of proving that-

(a) the place of manufacture of any excisable goods;

(b) any spirits in respect of which duty has been remitted for a particular purpose, have been used for that purpose;

(c) the lawful manufacture, removal, conveyance or exportation of any excisable goods;

(d) any materials or plant have been unlawfully seized; and

(e) a certificate of an analyst or chemist in the employment of the United Republic is inaccurate in any respect,

is on the person against whom proceedings have been commenced or person claiming for goods or things which were seized.".

Amendment of section 127

170. Section 127 of the principal Act is amended by adding immediately after the words "this Act" appearing in paragraph (a) the phrase "or the Tax Administration Act".

SCHEDULES

FIRST SCHEDULE

(Under section 3)

TAX RETURNS AND ASSESSMENTS

Tax Returns

1. The following are tax returns for the purposes of this Act:

(a) In relation to income tax-
  (i) a statement of tax withheld or treated as withheld filed under section 84 of the Income Tax Act;
  (ii) a statement of estimated tax payable filed under section 89 of the Income Tax Act; and
  (iii) a return of income filed under section 91 of the Income Tax Act;

(b) in relation to Value Added Tax, a return filed under section 26 of the Value added Tax Act;

(c) in relation to Vocational Education and Training Levy, a return filed under section 16 of the Vocational Education and Training Act;

(d) in relation to Gaming tax, are turn filed under section 31 of the Gaing Act, and

(e) in relation to Excise Duty, a return filed under section 137 of the Excise (Management and Tariff) Act.

Assessements

2.-(1) For the purposes of this Act, "assessment" includes-

(a) in relation to income tax, an assessment made under section 94 of the Income Tax;

(b) in relation to the taxes referred to in paragraphs 1(b) to (f), an assessment made under paragraph 3 of this Schedule in respect of the obligation to file a tax return;

(c) in relation to gaming tax, a demand notice of the Board made under section 31 of the Gaming Act;

(d) in relation to stamp duty, a note, certificate, decision or requirement of a Stamp Duty Officer under section 23,24, 44 or 50 of the Stamp Duty Act; and

(e) in relation to this act, an assessment made under sections 55 (jeopardy assessment), 56 (adjusted assessment) or 88 (interest and penalty assessement) of this Act.

(2) The Commissioner General may exercise all powers under this Act with respect to any assessment (including a self-assessment), including powers under Part VI of this Act.

Self-Assessments

3.-(1) Where a person files a tax return in accordance with an obligation to which this paragraph applies, an assessment is treated as made on the due date for filing the tax return.

(2) The assessment is in an amount equal to the net amount of tax due, if any, as shown in the tax return.

(3) An "obligation to which this paragraph applies" means an obligation to file a tax return in accordance with the provisions referred to in paragraphs 1(b) to (f).

SECOND SCHEDULE

(Under section 4 (3)

CURRENCY POINT

I currency point equals to 15,000/=Tanzania Shillings.

THIRD SCHEDULE

(Under section 24(2) and (4))

TRANSACTIONS FOR WHICH TAXPAYER IDENTIFICATION NUMBER IS REQUIRED

INSTITUTION	PURPOSE OF TRANSACTIONS
Commissioner General of the Tax Authority	New registrations under the Value Added Tax Act. Importation of goods; customs clearing and forwarding.
	Registration of ownership or transfer of vehicles under the Road Traffic Act.
	Licensing of motor vehicles under the Transport Licensing Act.
Commissioner for Lands	Registration of title upon transfer of ownership.
Central and Local Government	Trade licence

Business Registration and Licensing Authority	New registrations
Registrar of Patents and Trade Service Marks	New registrations
Ministry of Industry and Trade	Trade licensing and industrial licensing
Ministry of Natural Resources and Tourism	Licensing
Ministry of Energy and Minerals	Licensing
All Government Ministries, Government Agencies, Local Government Authorities, Financial Institutions, Cooperative Societies and Public Bodies	All contracts, including contract of supply of goods and services

Passed in the National Assembly on the 26th March, 2015.

THOMAS D. KASHILILAH
Clerk of the National Assembly