

BECHUANALAND PROTECTORATE.

No. 42 of 1941.

(Promulgated 4th July, 1941.)

PROCLAMATION

By His Excellency THE HIGH COMMISSIONER
Entitled the Bechuanaland Protectorate New Motor
Car Sales Tax Proclamation, 1941.

Whereas it is expedient to provide for the taxation of new motor cars delivered or deemed to be delivered in certain circumstances in the Bechuanaland Protectorate, hereinafter referred to as "the Territory":

Now therefore under and by virtue of the powers in me vested I do hereby declare, proclaim and make known as follows:—

1. In this Proclamation, unless the context **Definitions.** otherwise requires—

"agreement" means any agreement whatsoever by or under which the right to use a motor car permanently or for a defined or undefined period is disposed of or acquired;

"motor dealer" means a person who, as a business or trade, manufactures, assembles or deals in motor vehicles;

"motor dealer's licence" means a special licence which is issued to any motor dealer in terms of any motor vehicle law and which relieves him from the obligation imposed upon him by that law to effect the registration of any particular motor vehicle owned, kept or used by him in the course of his business or trade;

"motor vehicle" means any vehicle designed for propulsion on a road by means of any power (other than human or animal power or electrical power communicated to the vehicle through a conductor) without the aid of rails;

"motor car" means a motor vehicle which is designed solely or primarily for the conveyance of persons not exceeding eight in number, but does not include—
(a) a motor cycle or motor cycle and side car; or

(b) a motor vehicle not exceeding five hundred pounds in weight which is specially constructed (and not merely adapted) for the use of persons who suffer from some physical defect or disability;

“new motor car” means a motor car which has never been used on any road otherwise than—

(a) in connection with any delivery thereof; or

(b) under the authority of a motor dealer's licence;

“motor vehicle law” means any law in force anywhere in the Territory relating to the registration of motor vehicles;

“registration” means the registration or licensing of a particular motor vehicle under any motor vehicle law, whether such registration or licensing is effected with or without the payment of any fee, and includes the registration or licensing of a particular motor vehicle effected by the transfer of an existing registration or licence to that motor vehicle from any other motor vehicle;

“tax” means the New Motor Car Sales Tax imposed by this Proclamation;

“weight” means the weight of a motor vehicle ready to travel on the road, excluding the weight of water or fuel carried but including the weight of all accessories and tools supplied by the makers as standard equipment, and in the case of electric vehicles the weight of accumulators.

Levy of tax.

2. There shall be paid for the benefit of the Bechuanaland Protectorate Government a tax (to be called the New Motor Car Sales Tax) at the rate of one penny in respect of each one pound of the weight of every new motor car delivered or deemed to be delivered on or after the first day of July, 1941, in pursuance of any agreement.

Circumstances in which new motor car deemed to be delivered.

3. Save as provided in section *four* a new motor car shall be deemed to be delivered in pursuance of an agreement—

(a) if a motor dealer, notwithstanding any motor dealer's licence which he may hold, is by any motor vehicle law required to effect the registration of that new motor car, or applies for the registration thereof; or

- (b) if any person who is not the holder of a motor dealer's licence imports that new motor car into the Territory.

4. A new motor car shall for the purposes of this Proclamation be deemed not to be delivered in pursuance of an agreement, if it is delivered—

Circumstances in which new motor car actually delivered is deemed not to be delivered.

- (a) to the Government of the Territory; or
(b) to the Government of any of the States—members of the British Commonwealth of Nations other than the Territory; or
(c) to any person for use solely as an ambulance; or
(d) to any motor dealer by any other motor dealer if the former is the holder of a motor dealer's licence; or
(e) to any person who carries on business as a motor dealer outside the Territory for sale by him outside the Territory; or
(f) to any person resident in the Territory when the new motor car has been delivered to such person in the Union of South Africa and the tax imposed under the provisions of the New Motor Sales Tax Act, 1941, of the Union of South Africa has been paid on that new motor car in the Union of South Africa.

5. (1) Subject to the provisions of subsections (2) and (3), the tax payable in respect of any new motor car shall be due and payable when that new motor car is delivered in pursuance of an agreement, and shall be paid by the person by whom that new motor car is so delivered.

When tax due and payable; by whom and to whom payable.

(2) Subject to the provisions of subsection (3), the tax in respect of any new motor car which, in terms of section *three*, is deemed to be delivered in pursuance of an agreement shall be due and payable—

- (a) in the case referred to in paragraph (a) of that section, when an obligation to effect the registration thereof first arises, or when an application for such registration is first made, whichever event first occurs, and shall be paid by the person who is obliged to discharge the obligation or who makes the application, as the case may be; and
(b) in the case referred to in paragraph (b) of that section, when the car is released by the collector of customs at the port of entry, and shall be paid by the person who has imported the car.

(3) The tax payable in respect of any new motor car which was delivered or which in terms of section *three* is deemed to have been delivered on or after the first day of July, 1941, and before the date on which this Proclamation is first published in the *Gazette*, shall be due and payable on the day immediately after the date on which the Proclamation is so published.

(4) The tax in respect of any new motor car shall be paid to the District Commissioner of the district in which the person by whom the tax is payable resides or carries on business.

(5) If the tax in respect of any new motor car is not paid by the person by whom it is payable in terms of sub-section (1), the tax may be recovered from the person by whom the right to use that new motor car in pursuance of an agreement may have been acquired:

Provided that any person from whom any tax has been recovered in terms of this sub-section may recover the amount thereof from the person by whom the tax should have been paid in terms of sub-section (1).

(6) Any person by whom tax is payable in respect of any new motor car shall, immediately on payment thereof, deliver to the person by whom the registration of that new motor car is required to be effected the receipt, or a duplicate thereof, issued in acknowledgment of such payment.

(7) Notwithstanding anything to the contrary contained in any agreement entered into before the first day of July, 1941, the tax paid in respect of any new motor car delivered on or after that date in pursuance of that agreement may be recovered by the person by whom the tax has been paid from the person by whom the right to use the new motor car in pursuance of that agreement was acquired.

Motor cars
may not be
registered
unless tax
paid.

6. (1) Notwithstanding anything to the contrary contained in any motor vehicle law, no authority appointed in terms of any such law for the registration of motor vehicles shall permit the registration of any motor car to be effected unless that authority is satisfied that no tax is payable in respect of that motor car, or, if tax is payable, unless the person who applies for the registration of the motor car has first surrendered to that authority in respect of the motor car the receipt, or a duplicate thereof, issued in acknowledgment of the tax paid thereon.

(2) The authority mentioned in sub-section (1) shall satisfy himself that the receipt or duplicate thereof surrendered to him as aforesaid refers to the motor car to be registered, and shall upon the registration of the motor car endorse on the document issued in respect thereof and on all copies thereof the number, date and place of issue of the receipt and the amount of tax paid.

(3) Nothing in this section shall be deemed to defer the date on or before which any registration of a motor car is required to be effected, or on or before which any fees payable in respect of such registration are required to be paid, or to relieve any person from payment of any penalties which may accrue in terms of any motor vehicle law for late payment of such fees, if the late payment is due to inability or failure to produce a receipt or a duplicate thereof issued in acknowledgment of the tax paid in respect of the motor car:

Provided that if such inability or failure is due to the failure or neglect of any other person to comply with the provisions of sub-section (6) of section *five*, the person who is liable for the payment of any penalties, as aforesaid, and who has paid such penalties may recover the amount thereof from such other person.

7. Every person by whom tax is payable in respect of any new motor car shall furnish to the District Commissioner to whom the tax is payable a declaration in the form prescribed in terms of section *twelve* giving such particulars as may be required to determine the amount of the tax, and the District Commissioner shall be entitled to refuse to accept payment of the tax unless accompanied by a declaration as aforesaid.

8. (1) The Financial Secretary may require any motor dealer to furnish the weight of a new motor car of any type or model, which that dealer manufactures, assembles or deals in, together with such other particulars relating thereto as may be necessary for the administration of this Proclamation.

(2) Any person who has in his control or custody any particular new motor car or any type or model of a new motor car, and any motor dealer who, in terms of sub-section (1), is required to furnish the weight of any type or model of a new motor car, may be required

Declara-
tion.

Evidence of
weight of
new motor
car.

by the Financial Secretary to cause that new motor car or a new motor car of that type or model to be weighed in the presence of, and on a weigh-bridge approved by, the Financial Secretary.

(3) The Financial Secretary may from time to time, on the information obtained by him under this section, determine the weight of new motor cars of any type or model, and for the purposes of this Proclamation the weight so determined by him shall, unless the contrary is proved, be accepted as the correct weight of new motor cars of that type or model.

Power to call for documents and information.

9. For the purposes of ascertaining whether any tax is payable in accordance with the provisions of this Proclamation, the Financial Secretary may call upon any person to produce any deeds, books, accounts, invoices, trade-lists, stock-lists, shipping or customs documents or any other document he may deem necessary, or to furnish any information which may be reasonably required for that purpose.

Dealers to render returns.

10. Every motor dealer who in any calendar month delivers in pursuance of any agreement any new motor car or cars [other than any new motor car or cars to which paragraph (d) of section *four* applies] shall, not later than the tenth day of the next succeeding month, furnish to the District Commissioner of the district in which he carries on business a return in the form prescribed in terms of section *twelve* giving such particulars as may be required in regard to the new motor car or cars so delivered by him.

Penalties.

11. (1) Any person who wilfully makes a false declaration or return, or knowingly makes one which contains any mis-statement, or conceals or fails to disclose any fact necessary for the correct determination of tax in terms of this Proclamation, shall be guilty of an offence and liable to a fine not exceeding fifty pounds, or in default of payment to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

(2) Any person who—

- (a) fails to comply with the provisions of section *ten*, or with any demand made under this Proclamation; or
- (b) obstructs or interferes with the Financial Secretary or any officer referred to in sub-section (2) of section *twelve* in the performance of his duties under this Proclamation,

shall be guilty of an offence and liable to a fine not exceeding twenty-five pounds, or in default of payment to imprisonment for a period not exceeding three months, or to both such fine and such imprisonment.

12. (1) The Financial Secretary shall be responsible for the administration of this Proclamation and may prescribe any forms, returns or declarations required for the purpose.

(2) The powers conferred and the duties imposed upon the Financial Secretary under the provisions of this Proclamation may be exercised or performed by the Financial Secretary personally or by any officer engaged in carrying out the said provisions under the control, direction or supervision of the Financial Secretary.

(3) Any notice or communication issued or signed by any officer referred to in sub-section (2) may be withdrawn and amended by the Financial Secretary or by the officer concerned and shall, for the purposes of the said provisions, until it has been so withdrawn, be deemed to have been issued or signed by the Financial Secretary.

13. The tax shall be a debt due to the Bechuanaland Protectorate Government and may be recovered by the Financial Secretary in any court of competent jurisdiction.

14. This Proclamation may be cited as the Bechuanaland Protectorate New Motor Car Sales Tax Proclamation, 1941, and shall be deemed to have had force and effect as from the first day of July, 1941.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Thirtieth day of June, One thousand Nine hundred and Forty-one.

HARLECH,
High Commissioner.

By Command of His Excellency
the High Commissioner.

H. E. PRIESTMAN,
Administrative Secretary.