

## SALES TAX ACT, 1982

No. 12



of 1982

### ARRANGEMENT OF SECTIONS

#### SECTION

1. Short title and commencement
2. Interpretation
3. Levy of sales tax
4. Determination of value of goods or services
5. Time of payment of sales tax
6. Persons liable to pay tax
7. Registration of persons liable to pay tax
8. Returns, declarations and payments of tax
9. Estimate of tax on failure to make proper returns
10. Interest on unpaid tax
11. Recovery of tax chargeable
12. Substitution of agent for person not resident in Botswana
13. Sales Tax to be additional to other taxes
14. Settlement of disputes
15. Offences
16. Offences by bodies of persons
17. Regulations

**An Act to provide for levying of sales tax on goods, services and other matters connected therewith.**

*Date of Assent: 26. 8.82*

*Date of Commencement: 30. 8.82*

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Sales Tax Act, 1982, and shall come into operation on 30th August, 1982.

Short title  
and com-  
mencement  
Inter-  
pretation

2. In this Act, unless the context otherwise requires —  
“Director” means the Director of Customs and Excise;  
“hotel” means a place used for the purchase and consumption on its premises of food and accommodation therein for payment and such other place as may be prescribed as an hotel;

“prescribed” means prescribed by regulations made under section 17;

“sales tax” has the meaning assigned to it under section 3;

“tax” means sales tax;

“transaction” includes the sale of any goods, rendering of any prescribed service, the provision of board and lodging or the importation of goods into Botswana;

“value” has the meaning assigned to it under section 4.

Levy of sales tax

3. (1) Subject to the provisions of this section, there shall be levied and paid a tax (in this Act referred to as “sales tax”) at a rate to be prescribed on the value of –

- (a) the sale of any of the goods specified in the Schedule hereto;
- (b) any prescribed service rendered by any person in the course of any business carried on by him;
- (c) board and lodging supplied by any person carrying on an hotel business; and
- (d) goods imported into Botswana.

(2) The Minister may by statutory instrument make regulations under section 17 amending the Schedule by adding thereto or deleting therefrom any item of goods.

Determination of value of goods or service

4. For the purposes of this Act, the value of any goods, service rendered or provision of board and lodging referred to in section 3 shall be, –

- (a) in the case of any sale of goods, the sum of all the amounts of the consideration accruing to the seller in respect of such sale;
- (b) in the case of any service rendered, each amount of the consideration which has accrued to the person rendering such services;
- (c) in the case of board and lodging, each amount of the consideration accruing to the person carrying on the hotel business in respect of such board and lodging; or
- (d) in the case of goods imported into Botswana, the price of the item of goods for assessing duty imposed under the Customs and Excise Act on the goods and the amount of customs duty paid under that Act on that item of goods.

Cap: 50:01

Time of payment of sales tax

5. (1) Tax payable under this Act shall be deemed to have become payable –

- (a) in the case of a sale of goods, on the date on which such sale is concluded;
- (b) in the case of any service rendered or the provision of any board and lodging, on the date of accrual to the person rendering the service or providing the board and lodging, of the consideration included in the value of the service rendered, or the provision of board and lodging, as the case may be; or

(c) in the case of goods imported into Botswana, on the date on which the goods are imported:

Provided that goods which are cleared under the Customs and Excise Act for home consumption in Botswana shall for the purposes of this Act be deemed to have been imported on the date on which they are so cleared.

(2) For the purposes of this Act, the date of conclusion of a sale of goods shall be deemed to be the date on which delivery of the goods is effected under the sale or the date on which the consideration payable by the purchaser under the sale is paid in full, whichever date is the earlier.

(3) Any tax due and payable under subsection (1) shall be paid before the last day of the next succeeding month:

Provided that in the case of any tax due and payable in respect of any goods imported, such tax shall be paid at the time of entry for home consumption of such goods under the Customs and Excise Act.

Cap. 50:01

6. (1) Tax shall be paid –

- (a) in the case of a sale of goods, by the seller;
- (b) in the case of any service rendered or any provision of board and lodging, by the person by whom such service is rendered or such board and lodging is supplied; or
- (c) in the case of goods imported into Botswana, by the importer.

Persons  
liable  
to pay tax

(2) Where any business in respect of which tax payable under this Act in relation to any transaction carried out in that business is unpaid before the sale of the business to another person, the purchaser of the business shall be liable for the payment of such tax.

7. (1) Subject to the provisions of this section, every person liable to pay tax shall be registered under this Act in such manner as may be prescribed.

Registration  
of persons  
liable  
to pay tax

(2) Regulations may provide for the conditions and issue of a registration certificate.

(3) Every person who is required by this Act to be registered shall keep such records and accounts in such form, and shall preserve them for such period, as the Director may require, and shall produce them for inspection by any officer or other person authorized in that behalf by the Director at such time and such place as that officer or person may require.

(4) A person shall not be registered under this section if he occasionally imports goods liable to tax under this Act for his personal use or consumption only.

8. (1) Every person who carries on any business in relation to which tax is required to be determined in accordance with the provisions of sections 3 and 4 shall, within 14 days before the end of the time specified under section 5 (3) for the payment of tax –

Returns,  
declarations  
and pay-  
ments of tax

- (a) furnish the Director with a return in such form as may be prescribed of the value of the transaction in respect of which tax has become payable by such a person during the previous month and containing such information as may be required; and
- (b) compute such tax in accordance with the said sections 3 and 4 and pay it to the Director within the period specified under section 5 (3).

(2) Every person registered under section 7 shall within the period allowed by subsection (1) furnish the return referred to in that subsection in respect of each month in relation to such transaction, whether or not tax is payable in respect of such month.

Estimates  
of tax on  
failure to  
make proper  
returns

9. (1) Where —

- (a) any person required under this Act to furnish any return or make any declaration fails to do so;
- (b) the Director is not satisfied that the tax return furnished by any person is true and correct; or
- (c) the Director has reason to believe that any person liable for payment of tax under this Act has not paid such tax,

the Director may estimate the amount of tax due.

(2) Where an estimate of the amount of tax due from any person has been made under subsection (1), then (without prejudice to the recovery of the full amount due or to the making of a further estimate in that behalf) the amount estimated shall be recoverable as tax properly due unless in any action relating thereto the person liable proves the amount properly due, and that amount is less than the amount estimated.

Interest on  
unpaid tax

10. Any tax due and payable which is not paid within the period specified in section 5 (3) shall bear interest at the rate of two per cent for each month or part of a month during which it remains unpaid:

Provided that where the Director considers that the circumstances warrant it, remit the whole or part of any interest payable under this section.

Recovery  
of tax  
chargeable

11. (1) Any amount of tax or interest payable in accordance with the provisions of this Act shall be recoverable as a debt due to the state from the person liable therefor in accordance with the provisions of this section.

(2) Where any person liable to pay tax or interest on such tax fails to pay such tax or interest within the period specified in section 5 (3), the Director may file with the clerk or registrar of any court a statement certified by him as correct and setting forth the amount thereof due or payable by that person, and such statement shall thereupon have all the effects of a civil judgment lawfully given in that court in favour of the Director for a liquid debt of the amount specified in the statement.

(3) The Director may in consequence of the provisions of subsection (2) institute proceedings for the sequestration of the estate of any person liable for payment of tax or interest under subsection (2) and shall for the purposes of such proceedings be deemed to be the creditor in respect of any tax or interest payable by such person under the provisions of this Act.

12. Where a person who is liable for payment of tax under this Act, or on whom any duties are imposed by this Act or regulations made thereunder, is not resident in Botswana, the Director may by notice in writing served on any agent, manager or factor, who is resident in Botswana and has acted on behalf of that person in the matters by reference to which that person is liable or those duties are imposed, direct that he shall be substituted for that person as the person liable for the tax, or that he shall be under an obligation to discharge those duties or any of them.

Substitution of agent for person not resident in Botswana

13. Notwithstanding anything to the contrary in any other enactment, the tax payable in accordance with the provisions of section 3 shall be in addition to any other tax imposed on any transaction mentioned in the said section.

Sales tax to be additional to other taxes

14. If there is any dispute as to whether any transaction is liable to tax, such dispute shall be decided by the Minister whose decision thereon shall be final.

Settlement of disputes

15. Any person who contravenes any provision of this Act shall be guilty of an offence and shall be liable on conviction to a term of imprisonment for a year or a fine of P500, or to both.

Offences

16. In the case of an offence committed under this Act by a body of persons –

Offences by bodies of persons

- (a) where the body of persons is a body corporate, every director and officer of that body shall be deemed to be guilty of that offence; and
- (b) where the body of persons is a firm, every partner of that firm shall be deemed to be guilty of that offence:

Provided that no person shall be deemed to be guilty of an offence under this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

17. The Minister may, by statutory instrument, make regulations in respect of the following matters –

Regulations

- (a) anything which is required to be prescribed or is to be provided for by regulations under this Act;
- (b) the registers, records, and accounts required to be kept by this Act;
- (c) the entry and examination of premises for the purposes of this Act;
- (d) the examination and inspection of records maintained for the purposes of this Act; and

(e) any other matter which may be necessary for the purpose of giving effect to or carrying out the provisions of this Act.

SCHEDULE

(s.3)

Beer  
Cigarettes  
Clothing  
Foodstuffs  
Fuel  
Furniture  
Leather goods  
Livestock  
Spirits  
Vehicles

PASSED by the National Assembly this 26th day of August, 1982.

B. K. TEMANE,  
*Clerk of the National Assembly.*