

PUBLIC FINANCE MANAGEMENT ACT  
(Act No. 17 of 2011)

PUBLIC FINANCE MANAGEMENT (LEVY ON TOBACCO AND TOBACCO  
PRODUCTS) FUND ORDER, 2014  
(Published on 31st January, 2014)

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IN EXERCISE of the powers conferred on the Minister of Finance and Development Planning by section 38 (1) of the Public Finance Management Act, the following Order is hereby made —

Citation	<b>1.</b> This Order may be cited as the Public Finance Management (Levy on Tobacco and Tobacco Products) Fund Order, 2014.
Interpretation	<b>2.</b> In this Order, unless the context otherwise requires — “Accounting Officer” means the Permanent Secretary in the Ministry of Health; “Committee” means the committee appointed by the Accounting Officer under paragraph 6; “Department” means the Department responsible for public health in the Ministry of Health; and “Fund” means the Levy on Tobacco and Tobacco Products Fund established under paragraph 3.
Establishment of Fund	<b>3.</b> There is hereby established a special fund to be known as the Levy on Tobacco and Tobacco Products Fund.
Purpose of Fund	<b>4.</b> The purpose of the Fund is — (a) to establish treatment, rehabilitation and counseling clinics for tobacco users; (b) promote projects and activities designed to combat the use of tobacco products, and the harmful effects thereof; (c) to provide training for health workers;

- (d) to promote advocacy for tobacco control programmes;
- (e) to support non-governmental and community based organisations involved in tobacco control;
- (f) to support research on issues related to tobacco use;
- (g) to empower law enforcement agencies in their implementation of legislation relevant to the control of tobacco and tobacco products;
- (h) to support country participation at fora on control of tobacco and tobacco products; and
- (i) to provide for any other activities that the Accounting Officer may, in writing, approve.

5. (1) The Permanent Secretary in the Ministry of Health shall be the Accounting Officer and he or she shall be responsible for the administration of the Fund in accordance with the provisions of this Order. Administration of Fund

(2) The Accounting Officer may exercise all powers and perform all duties as may be required to be exercised or performed for the proper discharge of his or her functions under this Order.

(3) The Accounting Officer may, in writing, authorise any other public officer or any agency of Government to exercise or perform all or any of the powers or duties required of the Accounting Officer.

(4) Without derogating from the generality of the functions and powers of the Accounting Officer as provided in this paragraph, the Accounting Officer shall cause the Department to —

- (a) be responsible for the day to day administration and management of the Fund;
- (b) keep and maintain proper books of accounts and records of accounts of the Fund; and
- (c) maintain an account into which shall be recorded all receipts into the Fund, all disbursements from the Fund, and the reconciliation of the monthly accounts of the Fund.

6. (1) The Accounting Officer shall appoint a Tobacco and Tobacco Products Levy Implementation Committee, which shall be responsible for overseeing the administration and management of the Fund and for advising the Accounting Officer with respect to the Fund. Tobacco and Tobacco Products Levy Implementation Committee

(2) The Accounting Officer shall appoint the following members to the Committee —

- (a) the Director of the Department as the Chairperson;
- (b) a member from the Ministry of Youth, Sports and Culture;
- (c) a member from Botswana Confederation of Commerce Industry and Manpower;
- (d) a member from the Botswana Unified Revenue Service;
- (e) a member from the Botswana Police Service; and
- (f) any other five members from the private and public sector as the Accounting Officer considers appropriate.

(3) The Committee shall determine its own procedures.

7. (1) The Botswana Unified Revenue Service established under the Botswana Unified Revenue Service Act, shall collect the levy charged on tobacco and tobacco products and credit the levy collected to the Fund. Receipt into Fund Cap. 42:10

(2) The levy shall be collected at the point of manufacturing, for the locally packaged tobacco and tobacco products, and at the point of import for the imported tobacco and tobacco products.

(3) The levy shall be calculated at a rate in accordance with the provisions of the Control of Goods, Prices and Other Charges (Tobacco Products (Levy)) Regulations.

(4) The Botswana Unified Revenue Service shall remit to the Fund the levy collected on a quarterly basis or at such times as may otherwise be agreed upon between the Botswana Unified Revenue Service and the Accounting Officer.

(5) The Botswana Unified Revenue Service shall, for the purpose of ensuring compliance with this Order, conduct an inspection of the books of any person required to pay the levy on tobacco and tobacco products in accordance with this Order.

Disbursement  
from Fund

**8.** The Committee shall cause to be paid out of the Fund —

- (a) costs for carrying out the purposes set out in paragraph 4; and
- (b) administrative costs relating to the —
  - (i) administrative management of the Fund,
  - (ii) financial auditing of the accounts of the Fund,
  - (iii) remuneration or sitting allowances of Committee members,
  - (iv) other matters affecting the administration of the Fund as approved by the Committee, and
  - (v) agency fees for the Botswana Unified Revenue Service, paid at a rate to be agreed upon by the Accounting Officer and Botswana Unified Revenue Service.

Surplus of Fund

**9.** Any surplus remaining in the Fund, after the deduction of disbursements referred to in paragraph 8, shall be paid into the Consolidated Fund.

Budget and  
Investment Plan  
of Fund

**10.** (1) The Committee shall cause to be prepared an annual budget for the funding of projects planned for the year.

(2) The Committee shall submit the annual budget for approval, in writing, to the Accounting Officer, not later than three months —

- (a) after the coming into operation of this Order; or
- (b) before the end of the financial year of the Fund.

(3) The Accounting Officer shall approve, in writing, any amendment or change to the annual budget before it is implemented.

Guidelines  
for approving  
funding

**11.** (1) The Committee shall, with the approval of the Accounting Officer, formulate guidelines for approving funding of projects for any activity intended to combat tobacco and tobacco products abuse and minimise the harmful effects of tobacco and tobacco products use and exposure to such use, as provided in paragraph 4.

(2) The guidelines for approving funding of projects referred to in subparagraph (1) shall provide, *inter alia*, for —

- (a) the criteria for evaluating and approving a project or activity to receive funds from the Fund;
- (b) the passing of a resolution to award funds for a project or activity;
- (c) the public notification for all funding awarded; and
- (d) the development, after consultation with the Accounting Officer, of a Funding Agreement with respect to each funding recipient, which shall, *inter alia*, provide for —
  - (i) the recipient and use of the funds,
  - (ii) a schedule for fund agreement process,
  - (iii) the auditing and reporting requirements for the funding and any project or activity financed by the funds,
  - (iv) representations and warranties,

- (v) the procedures to monitor performance of awarded funds; and
- (vi) the procedure to be followed for the return of an unused funds or the recovery of a misused funds.

**12. (1)** The Committee shall cause the preparation, for each financial year, of a balance sheet and statement of income and expenditure in such form as the Accountant General may approve, and shall no later than two months after the close of the financial year, forward a copy of the balance sheet and statement of income and expenditure in respect of the previous year to the Accountant General. Accounts of Fund

(2) The Committee shall not later than two months after the close of each financial year cause the accounts with respect to that year to be audited by an independent auditor appointed by the Auditor General.

(3) As soon as the accounts have been audited, and in any case not later than three months after the audit, the chairperson of the Committee shall submit to the Accounting Officer a copy of each audited account together with the auditor's report.

(4) The chairperson of the Committee shall within six months after the end of the financial year, submit to the Accounting Officer, a report on the conduct of the business of the Committee.

DATED this 16th day of January, 2014.

O.K. MATAMBO,  
*Minister of Finance and Development  
Planning.*