

GOVERNMENT OF ZAMBIA

ACT

No. 3 of 2004

Date of Assent: 31st March, 2004

An Act to amend the Customs and Excise Act.

[1st April, 2004

ENACTED by the Parliament of Zambia.

Enactment

1. (1) This Act may be cited as the Customs and Excise (Amendment) Act, 2004, and shall be read as one with the Customs and Excise Act, in this Act referred to as the principal Act.

Short title and commencement Cap. 322

(2) This Act shall be deemed to have come into operation on 7th February, 2004.

2. Section *two* of the principal Act is amended in the definition of "excise duty" by the insertion of the words "and includes a tax on particular services" after the words "reference to their value".

Amendment of section 2

3. The principal Act is amended by the insertion immediately after section *thirty-three* of the following new section:

Insertion of new section 33A

33A. (1) Notwithstanding the provisions of sections *thirty-two* and *thirty-three*, the Commissioner-General may, subject to such terms and conditions as the Commissioner-General may impose, authorise a registered taxpayer on the declaration at registration to defer payment of duties due for a period not exceeding twelve months.

Commissioner-General may defer payment of duty

(2) Where payment of duties is deferred under subsection (1) the Commissioner-General shall make an assessment of the duties due on the imported goods and the goods shall be released to the registered taxpayer without payment of duty.

(3) If a taxpayer to whom goods are released under subsection (2) fails to comply with the terms and conditions imposed for the deferred payment under subsection (1), the Commissioner-General shall withdraw the authorisation to defer payment and shall require the registered taxpayer to pay the duties due forthwith.

(4) Where the Commissioner-General withdraws the authorisation to defer payment under subsection (3) and the taxpayer concerned has outstanding duty to be paid, the outstanding duty shall constitute a debt due to Government which shall be dealt with in accordance with the provisions of this Act.

Amendment
of
section 73

4. Section *seventy-three* of the principal Act is amended by the deletion in paragraph (b) of subsection (1) of the words " fifty per centum" and the substitution therefor of the words " thirty-five per centum".

Insertion of
section 76B

5. The principal Act is amended by the insertion immediately after section *seventy-six A* of the following new section:

Excise duty
on services

76B. There shall be charged, levied, collected, and paid in respect of services rendered, imported into or provided within Zambia excise duties at the rates specified in the service excise tariff set out in the Eighth Schedule, in this Act referred to as the service excise tariff.

Insertion of
new Part
XIA

6. The principal Act is amended by the insertion immediately after section *one hundred and thirty-nine* of the following new Part:

PART XIA

MANAGEMENT OF EXCISE DUTY ON SERVICES

Interpretation

139A. In this Part unless the context otherwise requires—
 "rendering a service" means providing a mobile cellular telephone service;
 "service" means a mobile cellular telephone service liable to excise duty;
 "service provider" means a service provider licensed under section *one hundred and thirty-nine D*; and
 "talk time" means the minutes of calls a subscriber makes from a mobile cellular telephone.

139B. (1) Subject to the provisions of section *one hundred and thirty-nine E*, a person shall not render services which are liable to excise duty except in accordance with this Part and under the authority of a licence issued under section *one hundred and thirty-nine D*.

Licensing of
service
providers

(2) Any person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

(3) Notwithstanding the penalty in subsection (2) all the machinery, equipment and materials used in rendering services liable to excise duty in contravention of subsection (1) shall be liable to seizure in accordance with the provisions of section *one hundred and sixty-two*.

(4) The provisions of section *one hundred and sixty-two* shall apply, with necessary modification, to the seizure of machinery, equipment and materials referred to in subsection (3).

139C.(1) A person may apply to the Commissioner-General for a licence to render services liable to excise duty.

Application
for Licence

(2) An application under subsection (1) shall—

(a) be in such form as the Minister may, by statutory instrument, prescribe; and

(b) specify the following:

- (i) the name of the service provider;
- (ii) the principal place of business of the service provider;
- (iii) the premises at which, and the machinery and equipment with which the services shall be provided;
- (iv) the business, the shareholders of the service provider, its assets, related businesses and accounting practices; and
- (v) such other information as the Commissioner-General may require.

139D. (1) The Commissioner-General shall, within thirty days of receipt of an application for a licence under section *one hundred and thirty-nine C*, issue a licence subject to such terms and conditions as the Commissioner-General may impose.

Issue of
Licence

(2) A licence issued under subsection (1) shall expire on the 31st of December in the year in which the licence was issued and may be renewed by the Commissioner-General.

(3) A licence shall be issued or renewed upon payment of a prescribed licence fee.

Commissioner-General may authorise service provider to render services without licence or payment of duty

139E. (1) Notwithstanding section *one hundred and thirty-nine B*, the Commissioner-General may, subject to the provisions of this Part and any rules made thereunder, authorise a service provider without a licence to render services liable to excise duty on an experimental or trial basis:

Provided that the services so rendered shall not be for sale or disposal for profit and shall be rendered without the payment of duty.

(2) Any service provider who being authorised by the Commissioner-General to render services in terms of subsection (1) sells or disposes of such services for profit commits an offence and shall be liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding three years or to both.

Surrender of licence

139F. Where the business of a licensed service provider is sold or a licensed service provider wishes to relocate its operations to new premises the licence shall be deemed to have been surrendered as at the date of the sale or relocation unless prior to the sale or relocation the written approval of the Commissioner-General is obtained and all the terms and conditions imposed by the Commissioner-General at the time of the approval have been fulfilled to the satisfaction of the Commissioner-General.

Duties of licensed service provider

139G. (1) Every service provider licensed under this Part shall—

(a) maintain in such form and manner as may be required under the terms and conditions of the licence and otherwise by any regulations or rules made under this Act, a record of—

- (i) all talk time sold;
- (ii) all talk time consumed, lost, or otherwise disposed of during any process of rendering the service; and
- (iii) all excised duty paid or payable;

(b) submit in such form and manner a return of all talk time sold in the preceding month and a duly completed entry in the prescribed form accounting for all talk time disposed of during that month.

(2) The return and entry required under this section shall be submitted on or before the twentieth day of the month following the month to which the return relates and any amount of duty on the return shall be due and payable within five days of the issuance of a notice of an assessment thereof.

(3) A service provider who is licensed under this Part and who fails to lodge a return within the time allowed by or under this Act shall pay a penalty of—

(a) one thousand penalty units; and

(b) an additional one hundred penalty units for each day the return is not lodged.

(4) Where a return has not been lodged within the time allowed by or under this Act, the Commissioner-General may assess the amount of duty that is due and may by written notice to a service provider require payment of the duty specified in the assessment.

(5) Any assessment made by the Commissioner-General under subsection (4) shall be deemed to be a correct assessment for the purposes of section *one hundred and thirty-nine H* and shall be due and payable within five days following the issue of the notice of assessment thereof.

(6) Where a service provider licensed under this Part fails to make payment as required under subsection (5) the duty specified in the assessment made under subsection (4) shall constitute a debt due to Government which debt shall be dealt with in accordance with the provisions of this Act.

139H. The duty payable in respect of any service liable to excise duty shall, from the time when it is due, constitute a debt due to the Government from the service provider concerned, and shall, at any time after it becomes due, be recoverable in a court of competent jurisdiction by proceedings in the name of the Commissioner-General.

Duty payable to constitute debt to Government

139I. The records maintained pursuant to section *one hundred and thirty-nine G* shall be kept on the service provider's premises, whether or not in electronic or written form and shall be made available to the Customs Division at any time on request by an officer.

Records to be kept on licensed premises

Stocktaking
or valuation
of equipment
and materials

139J. For purposes of verifying the information submitted by a service provider under section *one hundred and thirty-nine C*, an officer may, at anytime, enter any part of any licensed service provider's premises and take stock of, or value, all the equipment and materials at hand.

Entry and
search of
premises

139K.(1) An officer may at all times enter and search the premises of any service provider licensed in terms of section *one hundred and thirty-nine D* or the premises of any person who renders services liable to excise duty and who is suspected of providing such services in contravention of or without complying with the provisions of this Part, and may seize upon such premises all books, accounts, or documents relating to the services, in respect of which a contravention of, or non-compliance with, this Part is suspected of having taken place.

(2) An officer may remove all the machinery, equipment and materials used in rendering services liable to excise duty in contravention of, or without complying with the provisions of, this Part or pending removal seal the premises in which the services are so rendered.

Obligation
of service
provider

139L. Every service provider licensed under this Part shall, at the premises specified in their licence, provide free of charge, such accommodation and other facilities as the Commissioner-General may determine to enable officers to exercise their powers of inspection and supervision under this Act.

Procedure on
cessation of
service
provider to
render service

139M. (1) Where a service provider licensed under this Part intends to cease the provision of the service in respect of which the licence was issued, the service provider shall give to the Commissioner-General not less than one month's prior written notice of that intention and shall—

- (a) within twenty days from the date of ceasing to provide the service lodge with the Customs Division a true and complete return of all talk time sold and business activity since the last monthly return; and
- (b) submit to the Customs Division an entry in the prescribed form accounting for all talk time sold or otherwise disposed of on which excise duty has not been paid together with a bank certified cheque for the amount of excise duty payable.

(2) Nothing contained in this section shall be deemed to deprive the Republic of any right it may have against the property or estate of the service provider or those of its sureties in respect of any duty which may remain unpaid after cessation of business activity and shall not relieve the service provider of liability to prosecution under this Act.

7. The principal Act is amended by the repeal of section *two hundred and four* and the substitution therefor of the following section:

Repeal and replacement of section 204

204. (1) Notwithstanding the provisions of section *two hundred and three*, where the sale of goods in the opinion of the Commissioner-General may be inappropriate because of the sale price obtainable or the effect of such sale on local manufacture or for any other reason, the Commissioner-General may—

Goods to be donated by Commissioner-General

- (a) donate the goods to a charitable institution or any public institution within Zambia for the purpose of use not involving sale; or
- (b) order the goods destroyed under supervision.

(2) Subject to subsection (1), where the Commissioner-General decides to donate the goods to a public institution, the Commissioner-General shall apply to the Minister for approval.

8. The First Schedule to the principal Act is amended as set out in Appendix I to this Act.

Amendment of First Schedule

9. The Second Schedule to the principal Act is amended as set out in Appendix II to this Act.

Amendment of Second Schedule

10. The Fifth Schedule to the principal Act is amended in clause (a) of sub-paragraph (1) of paragraph 3 by the insertion immediately after item (viii) of the following item:

Amendment of Fifth Schedule

- (ix) Subject to paragraphs (vii) and (viii), the cost of insurance shall be the actual cost of insurance incurred on the imported goods:

Provided that where there is insufficient information on the cost of insurance incurred on the imported goods, the cost shall be deemed to be one per centum of the free on board value of the goods.

11. The principal Act is amended by the insertion after the Sixth Schedule of a new Seventh Schedule as set out in Appendix III to this Act.

Insertion of new Seventh Schedule

12. The principal Act is amended by the insertion after the Seventh Schedule of a new Eighth Schedule as set out in Appendix IV to this Act.

Insertion of new Eighth Schedule

APPENDIX I
(Section 8)

Amendment to the First Schedule

CUSTOMS TARIFF

1. Chapter 17 is amended by the deletion in the Customs Duty Rate Column opposite subheading 1702.40.00 of the figure "5%" and the substitution therefor of the word "free".

2. Chapter 27 is amended by the deletion in the Customs Duty Rate Column opposite subheading 2710.19.70 of the figure "5%" and the substitution therefor of the word "free".

3. Chapter 30 is amended by the deletion of subheading 3005.90.10 and the substitution therefor of the following new subheading:

<i>HS Code</i>	<i>Description of Goods</i>	<i>Statistical Unit Quantity</i>	<i>Duty Rate</i>	<i>Remarks</i>
3005.90.10	-Other: —Cotton Wool	kg	5%	
3005.90.20	—Wadding	kg	5%	

4. Chapter 38 is amended by the deletion in the Customs Duty Rate Column opposite subheadings 3811.21.00 and 3811.29.00 of the figure "5%" and the substitution therefor of the word "free".

5. Chapter 39 is amended by the deletion in the Customs Duty Rate Column opposite subheading 3923.50.00 of the figure "25%" and the substitution therefor of the figure "15%".

6. Chapter 52 is amended by the deletion in the Customs Duty Rate Column opposite subheadings 5208.31.00, 5208.32.00, 5208.33.00, 5208.39.00, 5208.41.00, 5208.42.00, 5208.49.00, 5208.51.00, 5208.52.00, 5208.53.00, 5208.59.00, 5209.31.00, 5209.32.00, 5209.39.00, 5209.41.00, 5209.42.00, 5209.43.00, 5209.49.00, 5209.51.00, 5209.52.00, 5209.59.00, 5210.31.00, 5210.32.00, 5210.39.00, 5210.41.00, 5210.42.00, 5210.49.00, 5210.51.00, 5210.52.00, 5210.59.00, 5211.31.00, 5211.32.00, 5211.39.99, 5211.41.00, 5211.42.00, 5211.43.00, 5211.49.00, 5211.51.00, 5211.52.00, 5211.59.00, 5212.13.00, 5212.14.00, 5212.15.00, 5212.23.00, 5212.24.00 and 5212.25.00 of the figure "15%" and the substitution therefor of the figure and words "15% or K3,500 per kg which ever is the greater".

7. Chapter 55 is amended by the deletion in the Customs Duty Rate Column opposite subheading 5509.31.00 and 5509.32.00 of the figure "5%" and the substitution therefor of the word "free".

8. Chapter 62 is amended by the deletion of subheading 6209.20.00 and the substitution therefor of the following new subheadings:

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<i>HS Code</i>	<i>Description of Goods</i>	<i>Statistical Unit Quantity</i>	<i>Duty Rate</i>	<i>Remarks</i>
6209.20.10	- of Cotton: ---Baby napkins	No.	25%	
6209.20.90	---Other	No.	25%	

9. Chapter 67 is amended by the deletion of heading 67.03 and the substitution therefor of the following new heading:

<i>HS Code</i>	<i>Description of Goods</i>	<i>Statistical Unit Quantity</i>	<i>Duty Rate</i>	<i>Remarks</i>
67.03	Human hair, dressed, thinned, bleached or otherwise worked; wool or other animal hair or other textile materials, prepared for use in making wigs and the like			
6703.00.10.	---Prepared for use in the making of wigs and the like	—	25%	
6703.00.90	---Other	—	25%	

10. Chapter 72 is amended by the deletion in the Customs Duty Rate Column opposite subheading 7217.10.00 and 7217.90.00 of the figure "15%" and the substitution therefor of the figure "5%".

11. Chapter 83 is amended by the deletion in the Customs Duty Rate Column opposite subheadings 8308.10.00, 8308.20.00 and 8308.90.00 of the figure "25%" and the substitution therefor of the figure "15%".

12. Chapter 84 is amended by the deletion in the Customs Duty Rate Column opposite subheadings 8471.10.00, 8471.30.00, 8471.41.00, 8471.49.00, 8471.50.00, 8471.60.00, 8471.70.00, 8471.80.00 and 8471.90.00 of the figure "15%" and the substitution therefor of the figure "5%".

13. Chapter 87 is amended—

(a) by the deletion of heading 87.02 and the substitution therefor of the following new headings:

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<i>HS Code</i>	<i>Description of Goods</i>	<i>Statistical Unit Quantity</i>	<i>Duty Rate</i>	<i>Remarks</i>
87.02	Motor vehicles for the transport of ten or more persons, including the driver -With compression-ignition internal combustion piston engine(diesel or semi diesel):			
8702.10.10	—Of a sitting capacity of ten but not exceeding fourteen persons including the driver	No.	*	
8702.10.90	—Other	No.	**	
8702.90.10	—Of a sitting capacity of ten but not exceeding fourteen persons including the driver	No.	*	
8702.90.90	— Other	No.	**	

*25% or K2,000,000 which ever is the greater

**15% or K2,000,000 which ever is the greater

(b) by the deletion of subheadings 8704.21.10, 8704.21.90, 8704.31.10 and 8704.31.90 and the substitution thereof of the following new subheadings:

<i>HS Code</i>	<i>Description of Goods</i>	<i>Statistical Unit Quantity</i>	<i>Duty Rate</i>	<i>Remarks</i>
8704.21.10	-Other, with compression-ignition internal combustion piston engine (diesel or semi-diesel): -g.v.w not exceeding 5 tonnes: —Dual purpose vehicles specifically designed for transport of both persons and goods			

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<i>HS Code</i>	<i>Description of Goods</i>	<i>Statistical Unit Quantity</i>	<i>Duty Rate</i>	<i>Remarks</i>
	(for example, twin cab type pick-up vehicles)	No.	*	
8704.10.90	--Other	No.	*	
	--Other, with spark-ignition internal combustion piston engine:			
	--g.v.w. not exceeding 5 tonnes:			
8704.31.10	--Dual purpose vehicle specifically designed for the transport of both persons and goods (for example, twin cab type pick-up vehicles)			
8704.31.90	--Other	No.	*	
		No.	*	

* 15% or K2,000,000 which ever is the greater

APPENDIX II
(Section 9)

AMENDMENT TO THE SECOND SCHEDULE
(Excise Tariff)

- (a) Heading 4 is amended by the deletion in the Excise Duty Rate Column opposite subheading 2207.10.00 of the figure "125%" and the substitution therefor of the word "free";
- (b) Heading 5 is amended by the deletion in the Excise Duty Rate Column opposite subheading 24.02 and 24.03 of the figure "125%" and the substitution therefor of the figure "115%";
- (c) Heading 10 is amended by--
- (i) the deletion of item No. 1 and the substitution therefor of the following new item:

Heading No.	Description of Goods	Harmonised Commodity Description and Coding System Heading No.	Statistical Unit Quantity	Duty Rate	Remarks
10.	<p>1. Motor vehicles for the transport of ten or more persons, including the driver</p> <p>(a) Diesel or semi diesel, of a sitting capacity of ten but not exceeding fourteen persons including the driver;</p> <p>(b) Other, of a sitting capacity of ten but not exceeding fourteen persons including the driver.</p>	<p>8702.10.10</p> <p>8702.90.10</p>	<p>No.</p> <p>No.</p>	<p>20%</p> <p>20%</p>	

(ii) in sub item No. 2, by the deletion in the Excise Duty Column opposite subheadings 8703.23.90, 8703.24.90, 8703.32.90, 8703.33.90 and 8703.90.90 of the figure "10%" and the substitution therefor of the figure "20%".

APPENDIX III

(Section 11)

SEVENTH SCHEDULE

(Section 76B)

VALUATION OF SERVICES FOR THE PURPOSE OF ASSESSING EXCISE DUTY
PAYABLE ON EXCISABLE SERVICES

1. The value of talk time for the purposes of section *seventy-six B* shall be the price at which the talk time is sold exclusive of excise duty, surtax and value added tax by a service provider licensed under section *one hundred and thirty-nine D*.

Value of talk
time for
excise duty

APPENDIX IV

(Section 12)

EIGHTH SCHEDULE

(Section 76B)

SERVICE EXCISE TARIFF

Heading No.	Description of Goods	Harmonised Commodity Description and Coding System Heading No.	Statistical Unit Quantity	Duty Rate	Remarks
1.0	Talk time	—	minute	10%	

