

Value Added Tax Act, 2052 (1996)

[Amended by Financial Act, 2068 (2011)]

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2068.7.03 (27 Oct. 2011)

An Act Made to Implement Proposals Relating to Finance of the Government of Nepal

Preamble: Whereas, it is expedient to levy some charges, taxes, duties, cesses and fees, continue or alter the existing ones and also to amend the laws in force relating to revenue administration in order to implement the proposals relating to finance of financial year 2068/69 of the Government of Nepal;

Now, therefore, be it enacted by the Constitution Assembly pursuant to Sub-articles (1) of Article 83 of Interim Constitution of Nepal, 2063 (2007).

1. Short title and commencement: (1) This Act may be called the "Financial Act, 2068 (2010)."

(2) This Act shall come into force immediately.

30. Amendment to the Value-added Tax Act, 2052 (1996): Of the Value-added Tax Act, 2052 (1996),-

(1) Of Section 2,-

(a) The following Clause (f1) shall be inserted after Clause (f):

“(f1) “Group of companies or entities” means a group of companies or entities in relation to which the following situation exists:

(a) If any business is carried on by a person or agent member associated with the group of entities,

- (b) If any goods or services are supplied by the group of entities to any entity or group of other entities associated with it,
 - (c) If any goods or services are supplied to the group of entity or member of the group,
 - (d) If the permanent address of operation of business of any two or more than two entities is in the same place, or
 - (e) If the group of entities is controlled directly or indirectly by any one person or some persons.”
- (b) The following Clause (h) shall be substituted for Clause (h):
- “(h) "Consideration" means any thing to be obtained in exchange for the price of any goods or services being supplied.”
- (c) The following Clause (h1) shall be inserted after Clause (h):
- “(h1) "Loan agreement" means a hire purchase agreement or financial lease.”
- (d) The following Clause (k1) shall be substituted for Clause (k):
- “(k1) Electronic medium" includes approved means such as the computer, fax, e-mail, internet, electronic cash register/machine and fiscal printer.
- (e) The following Clause (t) shall be substituted for Clause (t):
- “(t) “Tax Officer" means the Tax Officer, Chief Tax Officer and the Chief Tax Administrator appointed by the Government of Nepal for the purpose of this Act, and this term includes a section office, director and deputy

director at the Department or such other officer designated by the Government of Nepal authorizing to exercise the powers of Tax Officer under this Act.”

(2) The following Section 4 shall be substituted for Section 4:

“4. Jurisdiction of the Tax Officer: (1) The jurisdiction of Tax Officer shall be as prescribed by the Government of Nepal.

(2) The Director General may also so designate a Tax Office as to inspect and monitor also the transaction of taxpayers in other areas than those falling under his or her jurisdiction.”

(3) The following Section 5A. shall be substituted for Section 5A:

“5A. Tax not to be levied on transfer of ownership of transactions: (1) Notwithstanding anything contained elsewhere in this Act, in cases where a registered person sells the transaction being carried out by him or her to any other registered person or the transaction is transferred in the name of his or her heir by virtue of his or her death, such transfer of ownership shall not be subject to tax. The person registered in so selling or transferring the transaction shall give information thereof to the Department as prescribed.

(2) Notwithstanding anything contained in Sub-section (1), if any industry or business that is required to be registered or has been registered pursuant to laws is transferred, the transferee who obtains the ownership shall bear the transferor’s liability of tax specified by law.

(3) The person who obtains ownership shall, subject to Sub-section (3), bear the obligation of safely maintaining the

accounts, records and books of account of the transaction of such an industry or business until the prescribed period (before and after transfer) pursuant to this Act.”

- (4) The following Explanation shall be inserted in Clause (c) of Sub-section (2) of Section 6:

“**Explanation:** For the purposes of this Clause, acquisition shall be deemed in the following circumstance:

- (a) Copyrights, patents, licenses, trademarks and similar other rights,
- (b) Advertisement services,
- (c) Technical services, engineering services, services of suppliers providing technical services, legal services, accounting services, data and data processing services, information services and similar other services.
- (d) In supplying the services as referred to in Sub-section (1) or accepting any liability or undertaking or in exercising that undertaking fully or partly or doing any business activities in exercise of such right, or
- (e) Insurance or reinsurance services other than the facility of safe deposit.

- (5) The following Sub-section (1) shall be substituted for Sub-section (1) of Section 7:

“(1) The rate of tax to be levied pursuant to this Act shall be in single rate of 13 percent.”

- (6) Of Section 8:

- (a) The following Sub-section (2) shall be substituted for Sub-section (2):

“(2) A person, whether registered or not, who is the recipient of services from a person who is not registered and is outside Nepal shall have to assess and collect tax at the taxable value in accordance with this Act and the Rules framed under this Act.”

- (b) The following Sub-section (3) shall be inserted after Sub-section (2):

“(3) Even though the construction of a building or apartment or shopping complex and similar other structure as specified by the Department, of which value is more than Five Million Rupees, and which is built for business purpose is procured from a person who is not registered, tax shall be assessed and collected from a person who has ownership in that structure as if such construction were procured from a registered person.”

- (7) The following Section 8A. shall be inserted after Section 8:

“**8A. Provision of bank guarantee:** (1) An industry that exports more than Sixty percent of the total sale of the last Twelve months after the operation of the industry may make import by furnishing a bank guarantee with the concerned Tax Office in consideration for tax while importing the raw materials required to produce the goods in the quantity of export, and import of goods to be imported for a duty free shop through a bonded warehouse may be made by furnishing a bank guarantee with the concerned Tax Office in consideration for tax leviable on such goods.

Provided that, except for the import by a duty free shop through a bonded warehouse, in order for the other exporter to avail such a facility, the exporter has to make finished goods from the raw materials, with Ten percent value addition.

(2) Liquors and cigarettes imported through a bonded warehouse availing the facility as referred to in Sub-section (1) have to be sold only to the diplomatic and tariff facility enjoying persons or bodies that are recommended by the Government of Nepal, Ministry of Foreign Affairs.

(3) Liquors and cigarettes in stock at the duty free shop situated at the Tribhuvan International Airport at the time of commencement of this Act may be transferred to its own bonded warehouse that has been licensed or be sold upon paying leviable tax.

(4) The bank guarantee furnished pursuant to Sub-section (1) shall be released from the concerned Tax Office in accordance with the procedures specified by the Department.

(5) A person who enjoys the facility as referred to in this Section shall not be entitled to the facility as referred to in Sub-section (4) of Section 24.”

(8) The following Section 9 shall be substituted for Section 9:

“9. Exemption for small vendor: Notwithstanding anything contained in the other provisions of this Act, an exemption may be provided to a small vendor, having a prescribed annual taxable transaction threshold, from the requirements of registration and filing of tax returns and from such requirements as may be prescribed.

Provided that, if a small vendor wishes to have his or her transaction registered voluntarily, he or she may have such registration after completing the procedures as referred to in Section 10.”

(9) Of Section 10,-

(a) The following Sub-sections (1) and (2) shall be substituted for Sub-sections (1) and (2):

“(1) A person who intends to be engaged in any transactions has to make an application, in the prescribed format, to the Tax Officer, for registration, prior to commencing the transactions.

(2) If any goods transacted by a person is taxable or if any person operates hardware, sanitary, furniture, fixture, furnishing, automobiles, motor parts, electronics, marble, educational consultancy, discotheque, health club, catering service, party place business, parking service, dry cleaners using machinery and equipment, restaurant with bar, and color lab transactions within a Municipal Corporation, Sub-municipal Corporation, Municipality or Depart or within an area specified by the Department, the person has to make an application in the prescribed format, to the Tax Officer, for registration, within Thirty days after the date of imposition of such tax or the date of commencement of the transactions.”

(b) The word “application” shall be substituted for the word “petition” contained in Sub-section (4).

(10) The following Section 10A. shall be inserted after Section 10:

“10A. Special provision relating to provisional registration: (1) In the case of an exhibition, fair and similar other transaction to be organized temporarily, the organizer and any entrepreneur who carries on the transaction of any taxable goods or services in such an exhibition or fair and is not registered with the Value Added Tax shall have to be registered with the Value Added Tax temporarily. In the case of a person who is so registered, the Tax Officer may require a deposit in consideration for security.

(2) An entrepreneur who has been registered with the Value Added Tax since previously pursuant to Sub-section (1) may take back through stock transfer the goods exhibited in that program.

(3) A tax payer who has been registered only for the program as referred to in Sub-section (1) shall have to cancel the temporary registration by furnishing the details of transaction and paying all the leviable tax within Seven days after the completion of the organized exhibition or fair.”

(11) Of Section 11,-

(a) Of Sub-section (1),-

(1) The following Clause (c) shall be substituted for Clause (c):

“(c) In the case of a partnership firm, if such partnership firm is dissolved or the partner dies,”

- (2) The following Clause (d1) shall be inserted after Clause (d):

“(d1) If the taxpayer is one who gives zero return or does not give return at all within a consecutive period of One year,”

- (3) The following Clause (1b) shall be inserted after Clause (1a):

“(1b) A taxpayer has to submit his or her documents for auditing within fifteen days of the submission of the tax returns for cancellation of registration, and the Tax Officer shall perform the audit of such a taxpayer, cancel the registration within Three months or if registration is not to be so cancelled, the Tax Officer shall give information thereof to the taxpayer. If the Tax Officer does not cancel registration or make decision to cancel registration within that period, the taxpayer is not obliged to furnish the tax returns subsequent to that period.”

- (b) The following Sub-section (3) shall be substituted for Sub-section (3):

“(3) Out of the goods that have already enjoyed the tax deduction facility, the stock (capital goods as well) remain available for use at the time of the cancellation of registration shall be deemed supplied at the market price and tax shall be assessed and recovered accordingly.

Explanation: For the purposes of this Sub-section, “capital goods” shall mean any property or any part of property and property that is used in taxable transactions.”

- (c) The following Sub-section (4) shall be substituted for Sub-section (3):

“(4) If any act and liability as required to be performed and borne pursuant to this Act shall be due by the reason of commission or omission of any act at the time of carrying on taxable transaction, the cancellation of registration of such a taxpayer shall not in self result in the exemption of such a taxpayer from the consequence of such a liability.”

- (12) The following Clause (b) shall be substituted for Clause (b) of Sub-section (2) of Section 12:

“(b) Excise duty, ownership fee and other taxes save the tax imposed under this Act.”

Explanation: For the purposes of this Clause, "other tax amounts" means such tariffs, fees and charges as are specified and levied by the yearly Financial Act.

- (13) The following Section 12A. shall be inserted after Section 12:

“12A. Taxable value of timber transaction: (1) There shall be levied and collected tax on the amount of royalty of the timber of national forest or the amount of auction, whichever is higher, at the time of auction, release or saw order, whichever is earlier.

(2) If the timber of a personal cultivated, private forest or community forest for business purpose and despite that royalty is not chargeable, tax shall be leviable as if it were the timber of national forest.”

(14) Of Section 14,-

(a) The following proviso shall be inserted in Sub-section (1):

“Provided that, a person who carries on annual transaction of more than One Million Rupees shall issue invoices with serial number and permanent accounts number as well as his or her name, and address despite that he or she is not registered.”

(b) The following Sub-sections (4), (5), (6) and (7) shall be inserted after Sub-section (3):

“(4) One who transports goods attracting tax of more than Ten Thousand Rupees outside the area specified by the Department shall hold tax invoices with him or her.

(5) The Department may order taxpayers to issue invoices by using a cash machine or computer. Other procedures on so issuing invoices by using a cash machine or computer shall be as prescribed by the Department.

(6) The Department may, by publishing a notice or giving an order in writing, so specify that any person specified by such a notice or order has to make public the retail sale value or price of any such goods as specified in that order or notice for such period as

specified therein. No sale or transfer of any goods shall be made without making public the retail sale price after the receipt of such a notice or order.

(7) Provision shall be made that any person specified pursuant to Sub-section (6) shall, in selling such goods to any unregistered persons, have to issue invoices of the price made public in the specified format and collect also the tax at the consumer level.

Provided that, any persons not so specified pursuant to Sub-section (6) may issue invoices as referred to in this Sub-section.”

- (15) The following Sub-section (3) shall be inserted after Sub-section (2) of Section 15:

“(3) Notwithstanding anything contained in Sub-sections (1) and (2), a Local Body or an international organization or mission situated in Nepal or the Government of Nepal or public corporations doing transactions of goods not subject to value-added tax shall have to collect or recover tax at the time of sale of value-added taxable goods or services.

- (16) Of Section 16:

- (a) The following Sub-section (1a) shall be inserted after Sub-section (1):

“(1a) The Department may have continuous access to the computer database of taxpayers.”

- (b) The following Sub-section (3a) shall be inserted after Sub-section (3):

“(3a) A person who carries on the transactions of taxable goods or services but is not registered has himself or herself certify the account of purchase and sale for each financial year. The Tax Officer may at any time examine such an account.”

(17) The following Section 16A. shall be substituted for Section 16A:

“16A. Records processed by computer to be eligible as evidence:

(1) Notwithstanding contained in the laws in force, the records relating to taxpayer processed by the computer installed in the Department or offices thereunder shall be eligible as evidence for purposes of tax, except as otherwise proved.

(2) The Department may by publishing a notice, make necessary arrangements on the issuance of invoices, maintenance of accounts, submission of tax returns and payment through electronic medium.”

(18) The following Section 16B. shall be inserted after Section 16A:

“16B. Deduction of tax paid on goods in the event of loss: In the event of loss and damage due to arson, theft, accident, wear and tear or disruptive activity, deduction of value added tax paid on the goods shall be allowed as prescribed.”

(19) Of Section 17,-

(a) The following Sub-section (2) shall be substituted for Sub-section (2):

“(2) Notwithstanding anything contained in Sub-section (1), it may be provided that no deduction or only a partial deduction may be granted in the case of the prescribed

goods that can be used for personal purpose or for business purpose or for both purposes.”

- (b) The following Sub-section (5a) shall be substituted for Sub-section (5a):

“(5a) The concerned taxpayer shall be allowed to deduct tax paid on the capital goods that were imported or purchased by entering into a loan agreement under financial lease subject to Sub-section (2).”

- (c) The following Sub-section (5b) shall be inserted after Sub-section (5a):

“(5b) The concerned taxpayer shall be allowed to deduct tax paid pursuant to Sub-section (2) of Section 8, Section 12A. and Sub-section (3) of Section 15.”

- (d) The following Sub-section (8) shall be inserted after Sub-section (7):

“(8) Notwithstanding anything contained elsewhere in this Section, the name of a taxpayer who dies not submits the tax returns for Six months consecutively shall be made public, and if there is any amount due for tax deduction by such a taxpayer, such amount may be suspended and his or her registration may also be suspended.”

- (20) Of Section 18,-

- (a) The words “or by registered post” shall be inserted after the words “before the Tax Officer” contained in Sub-section (1).
- (b) The following Sub-sections (1a) and (1b) shall be inserted after Sub-section (1):

“(1a) Notwithstanding anything contained in Sub-section (1), a taxpayer in a district where there is no Inland Revenue Office may furnish the amount of tax and tax returns to be paid and submitted by him or her with the Office of Funds and Accounts Controller of the same district within the Fifteenth day of the month in which he or she has to furnish the tax returns. The Office of Funds and Accounts Controller shall forward the returns of tax and payment of tax so received to the Inland Revenue Office within Seven days.

(1b) The procedures for furnishing and forwarding the returns pursuant to Sub-section (1) may be determined by the Department.”

(21) Of Section 19,-

(a) The following Sub-section (2) shall be substituted for Sub-section (2):

“(2) If a taxpayer does not pay the tax within the time limit specified in Sub-section (1), an extra charge of Ten percent per annum shall be imposed on the amount of tax due and outstanding.”

(b) Sub-section (3) is hereby deleted.

(c) The words “pursuant to Sub-section (2)” shall be substituted for the words “pursuant to Sub-section (2) or (3)” contained in Sub-section (4).

(d) The words “pursuant to Sub-section (2)” shall be substituted for the words “pursuant to Sub-section (2) or (3)” contained in Sub-section (5).

(22) Of Section 20,-

- (a) The following Clauses (f), (g), (h) and (i) shall be inserted after Clause (e) of Sub-section (1):

“(f) If supply is made to the group company by making under invoicing,

(g) If transaction is carried out by a person required to be registered without being so registered,

(h) If sale is made without issuing invoices,

(i) If tax is collected by an unregistered person.”

- (b) The following Sub-section (4) shall be substituted for Sub-section (4):

“(4) In assessing the tax pursuant to Sub-section (1), tax assessment shall have to be made within Four years from the date of submission of the tax returns. If the tax assessment cannot be made within that period, the returns so filed shall *ipso facto* be considered to be valid.”

- (c) The following Sub-section (4a) shall be inserted after Sub-section (4):

“(4a) Notwithstanding anything contained in Sub-section (4), where any person has evaded tax by preparing false accounts or invoices or other documents or by fraud, the Department may at any time issue an order for the reassessment of tax.”

(23) Of Section 21,-

- (a) The following Clause (c) shall be substituted for Clause (c) of Sub-section (1):

“(c) By selling all or some of the properties of the taxpayer through sealed quotations or auction at the same time or various times.”

(b) Sub-section (2) shall be deleted.

(24) The following Section 22A. shall be inserted after Section 22:

“22A. Provision against tax evasion plan: Notwithstanding anything contained elsewhere in this Act, if any taxpayer commits any of the following acts with mala fide intention to take advantage of tax, the taxpayer shall be deemed to have committed enticement to evade tax through tax exemption scheme, and the Director General may order the Tax Officer to assess the tax of such a taxpayer and recover the same:

(a) To lessen the liability of tax by making or doing any scheme or act with mala fide intention to evade tax by manipulating any provision contained in this Act,

(b) If any person or entity does any act with mala fide intention to lessen the liability of tax or enters into agreement with that intention.”

(25) The following Sections 23C. and 23D. shall be inserted after Section 23B.:

“23C. Purchase of goods of under invoicing: (1) If any person sells any goods by under invoicing, showing the selling price lesser than the prevailing market price, the Tax Officer shall, notwithstanding anything contained in the laws in force, withhold the goods in stock similar to those goods so under invoiced and sold and the Inland Revenue Office may purchase or cause to be purchased the same at the price under invoiced and sold.

(2) If, in purchasing or caused to be purchased the goods by the Department or Office pursuant to Sub-section (1), such a person does not agree to sell the goods, the Department of office shall take such goods in its custody, make calculation on the basis of the price at which they were under invoiced and sold and make payment when such a person shows up to receive payment.

(3) The goods purchased or caused to be purchased pursuant to Sub-sections (1) and (2) may be sold or caused to be sold at such price and in accordance with such procedures as may be specified by the Director General.”

“23D. Power to make search, seizure or demand deposit or security: (1)

If the Tax Officer finds that any person, firm, company or organization has done transaction by evading tax and there is a possibility that the accused may go away or the evidence and proof of offence may disappear, the Tax Office may, with the approval of the Director General, do or cause to be done any of the following acts:

- (a) To seal the place of transaction,
- (b) To take custody of the electronic equipment or records thereof,
- (c) To demand cash deposit or wealth guarantee in a sum equivalent to the tax evaded from the person believed to have committed the offence, by executing a memorandum to that effect,
- (d) To withhold the bank account in the name of taxpayer for up to Three months.

Provided that where the tax assessment procedures have not been completed, the bank account may be withheld for an additional period

of Three months with the approval of the Director General.

- (e) To take into custody upto a period of Forty Five days not exceeding Fifteen days at a time till one does not pay cash deposit or give wealth guarantee pursuant to Clause (c)

(2) The Tax Officer shall have the same powers as the police may exercise under the laws in force in relation to the investigation of offences pursuant to this Act.”

- (26) The following Sub-section (4) shall be substituted for Sub-section (4) of Section 24:

“(4) Notwithstanding anything contained in Sub-sections (2) and (3), any registered person whose export sales for One month are 40 percent or more of his or her total sales for that month, and submits an application following the procedures set forth in this Section for the refund of the amount that is deductible pursuant to Section 17 shall be entitled to a refund of the remaining excess in lump sum after adjusting any outstanding amount.”

- (27) The following Sub-section (5) shall be substituted for Sub-section (5) of Section 24:

“(5) On the submission of an application pursuant to Sub-section (3) or (4), the Tax Officer shall refund the amount held to be refundable, and if such an amount is not refunded within Thirty days after the date of submission of application in relation to the matter referred to in Sub-section (3) and within Sixty days in relation to the matter referred to in Sub-section (4), the Government of Nepal shall have to provide interest on that amount, as prescribed.”

(28) The following Section 24A. shall be inserted after Section 24:

“24A. Tax not to be refunded: (4) Notwithstanding anything contained in Section 24, if an application is not made for the refund of the amount refundable pursuant to this Act within Three years after the date of expiration of the period of tax, such refund shall not be made.”

(29) Of Section 25,-

(a) The following Clause (a) shall be substituted for Clause (a) of Sub-section (1):

“(a) If a foreign county grants on reciprocity that tax exemption facility to Nepalese diplomats whom the Government of Nepal, Ministry of Foreign Affairs, has granted diplomatic recognition or to persons enjoying diplomatic facility and serving in regional or international missions or institutions, the amount of tax paid by the Nepal based diplomats of such country or regional or international missions or institutions to the extent of consumption by them.”

(b) The following Sub-section (1a) shall be inserted after Sub-section (1):

“(1a) Notwithstanding anything contained in Sub-section (1), the tax paid by a diplomatic body or diplomat on the purchase of taxable goods or services shall not be refunded if the amount purchase is less than One Thousand Five Hundred Rupees at one time.”

(30) The following Sections 25A. and 25B. shall be inserted after Section 25:

“25A. Refund of tax paid by foreign tourist on purchase: If a foreign tourist visiting Nepal and returning by air purchases taxable goods of more than Fifteen Thousand Rupees and takes them with him or her, the tax paid on such goods shall be refunded in accordance with the procedures specified by the Department.

25B. Return of tax at the customs point in the case of re-export: If any goods are re-exported, the concerned Customs Office shall, on the basis of the evidence of re-export of the goods, make refund out of the deposit amount in consideration for the value added tax with the customs by the concerned person.”

(31) The following Sub-section (2) shall be substituted for Sub-section (2) of Section 26:

“(2) For the purposes of Sub-section (1), the rate of interest shall be Fifteen per cent per annum.”

(32) The following Sub-section (1a) shall be inserted after Sub-section (1) of Section 28:

“(1a) If any goods manufactured or prepared within Nepal, after the completion of export procedures by the Customs Office or after reaching a foreign country, are re-imported because of rejection by the concerned party or other reason, and the same goods are to be exported within Three months of the import, the goods may be released against the deposit of the value added tax leviable at the time of such return, and the deposit shall be refunded after the re-export of such goods. The concerned Customs Office shall provide the details of amount so furnished as a deposit and refunded to the Inland Revenue Office.”

(33) Of Section 29,-

(a) Of Sub-section (1),-

(1) The following Clause (a) shall be substituted for Clause (a):

“(a) In the event of violation of Sub-section (1) or (2) of Section 10, Ten Thousand Rupees for every tax period.”

(2) The following Clause (b1) shall be inserted after Clause (b):

“(b1) In the event of failure to place a tax board in accordance with this Act or the Rules framed under this Act, a fine of Two Thousand Rupees for each week and in the event of failure to place it at the designate place, a fine of One Thousand Rupees.”

(3) The following Clause (c) shall be substituted for Clause (c):

“(c) In the event of violation of Sub-sections (1) and (4) of Section 14, Five Thousand Rupees for each instance.”

(4) The following Clause (d) shall be substituted for Clause (d):

“(d) In the event of violation of Section 15, cent percent amount of tax collected.”

(5) The following Clause (g1) shall be inserted after Clause (g):

“(g1) In the event of violation of Sub-section (3a) of Section 16, One Thousand Rupees for each instance.”

- (6) The following Clause (l) shall be inserted after Clause (k):
- “(l) If a taxpayer who has obtained permission to making computer billing is found to have used a software deleting and correcting data, Five Hundred Thousand Rupees.”
- (b) The following Sub-section (1a) shall be inserted after Sub-section (1):
- “(1a) In the event of lessening tax liability without observing this Act or the Rules framed under this Act, the Tax Officer may fine up to Twenty Five percent of the amount of tax, on the grounds as specified by the Department.”
- (c) The following Sub-section (2) shall be substituted for Sub-section (2):
- “(2) If a person commits any of the following offences, the Tax Officer may impose a fine of cent percent of the amount of tax or an imprisonment up to Six months or both the fine and the imprisonment on such a person:
- (a) Preparing false accounts, invoices or other documents;
 - (b) Committing an evasion of tax by fraud;
 - (c) If an unregistered person acts as if he or she were a registered person;
 - (d) Infringing Section 23C.;

(e) Carrying out a transaction by infringing Section 30.”

(d) The following Sub-section (3) shall be inserted after Sub-section (2):

In a case, an accomplice (accessory) who knowingly or negligently assists, helps, abets or provides advise to a person who commits an offence as specified in this Act, he/she shall be liable for a fine of Fifty percent of the tax amount which such a person has not paid (or paid the lesser amount) .

(34) The following Section 29A. shall be inserted after Section 29:

“29A. Power of Department to order to furnish the amount of fine: (1) Notwithstanding anything contained elsewhere in this Act, if any person, prior to the commencement of proceedings of action, admits in writing that he or she has committed another offence or more than such offence set forth in Sub-section (2) of Section 29, the Department my order such a person to furnish the amount of fine not exceeding the amount of fine imposable for the commission of such an offence.

(2) In issuing order as referred to in Sub-section (1), such an order has to set out the details of such offence, amount of fine to be paid and date for payment of the amount of fine.

(3) An order issued by the Department pursuant to this Section shall be final.”

(35) The following Section 30A. shall be inserted after Section 30:

“30A. Power to order for reassessment of tax: (1) In cases where, before tax is assessed, it appears from the information given to the Director General that any action relating to the assessment

of tax is about to be irregular or has been irregular, the Director General may, by executing a memorandum clearly setting out the reasons, give direction to the concerned Tax Officer to make reassessment of tax or order any other Tax Officer to do that act.

(2) In cases where it appears that tax liability has increased because of tax assessment made by the Tax Officer recklessly or with mala fide intention, the Director General may give order to amend such tax assessment order within Four months after the date of initial tax assessment.”

(36) The following Section 31A. shall be substituted for Section 31A:

“31A. Application may be made for administrative review: (1) A person who is not satisfied with any decision of tax assessment made by the Tax Officer may make an application to the Department against the decision within Thirty days of the date of receipt of a notice of that decision.

(2) In cases where the time limit for making application pursuant to Sub-section (1) expires and any person makes an application for the extension of time limit within Seven days from the date of expiration of the time limit, the Department may extend the time limit for a period not exceeding Thirty days from the date of expiration of the time limit.

(3) If the claim of the applicant appears to be true upon examining the evidence and documents including the application made by the taxpayer pursuant to Sub-section (1), the Director General may, by executing a memorandum setting out the clear reasons, void that tax assessment order and direct

the concerned Tax Officer to make re-assessment of tax or order any Tax Officer to do that act.

(4) The Department shall make decision on the application within Sixty days after the date of making of application pursuant to Sub-section (1).

(5) If the Department does not give decision within the time limit as referred to in Sub-section (4), the concerned person may make an appeal to the Revenue Tribunal pursuant to Section 32.

(6) The taxpayer who makes an application pursuant to Sub-section (1) has to pay undisputed amount of tax, out of the amount of tax assessed, and furnish a cash deposit of One Third of the amount of tax in controversy.

(7) In cases where excess of the amount to be furnished pursuant to Sub-section (1) has been furnished prior to the making of application, only the remaining amount upon deduction of the amount covered by that amount may be furnished as deposit.

(37) The following Section 32 shall be substituted for Section 32:

“32. Appeal in the Revenue Tribunal: (1) A person who is not satisfied with an order of suspension made by the Director General pursuant to Section 30 or a decision made by the Department pursuant to Sub-section (4) of Section 31A. may file an appeal in the Revenue Tribunal.

(2) The person who files an appeal pursuant to Sub-section (1) has to register a copy of the appeal with the Department within Fifteen days of the date of filing appeal.”

- (38) The following Section 32A. shall be inserted after Section 32:

“32A. Advance ruling: (1) If any person makes an application in writing to the Department for the removal of any confusion as to the application of this Act, the Department may issue its version by an advance ruling as prescribed, by notifying the person in writing.

(2) Notwithstanding anything contained in Sub-section (1), the Department shall not be entitled to issue an advance ruling referred to in Sub-section (1) on any matter of confusion occurred in the implementation of this Act in cases where such matter is *sub-judice* in the court or has already been decided by the court.

- (39) The following Section 34A. shall be inserted after Section 34:

“34A. Power to have expert's service: The Government of Nepal may obtain the service of the concerned expert for the act related to tax auditing; and the provision on governmental secrecy mentioned in Section 37 shall also apply to such an expert.”

- (40) The following Sub-section (1) shall be substituted for Sub-section (1) of Section 40:

“(1) A person who provides information, along with evidence, showing that a taxpayer has evaded or attempted to evade all or some portions of his or her tax liability may be awarded, by a decision of the Director General, as reward the amount that is equal to Twenty per cent of the amount of tax recovered on the basis of that information.”

- (41) The following Schedule-1 and Schedule-2 shall be substituted for Schedule-1 and Schedule-2:

“Schedule-1

(Relating to Sub-section (3) of Section 5)

List of VAT exempt goods and services

Group 1. Basic Agricultural Products

- (a) Paddy, rice (heading 10.06), wheat (heading 10.02), maize (heading 10.05), barley (heading 10.03), millet (sub heading 10.08.20), buckwheat (sub heading 10.08.10), pulses (heading 07.13), flour and rye flour(heading 11.02), grains (heading 11.04), paddy flakes (heading 19.04), peas, beans, chickpeas and kidney peas (heading 07.08 and 07.13) and similar basic unprocessed food materials and their extracts,
- (b) Green and fresh vegetable (from heading 07.01 to 07.11, 07.12.20) (except sub heading 07.03.20), fresh fruits (from headings and sub headings 08.01.19, 08.03, 08.04.30, 08.04.40, 08.04.50, 08.05, 08.06.10, 08.07 to 08.10), fresh eggs (sub heading 06.03.10), tuberous roots, corms, fruits, and vegetables and fresh and unprocessed agro-products, except those to be supplied to hotels, restaurants, bars, guest houses, cafeteria and other similar organizations)
- (c) Unprocessed cash crops/cereals (such as sugarcane (sub heading 12.12.99), cotton (heading 52.01), cardamom (sub heading 09.08.30), ginger and saffron (sub heading 09.10.10), flax (heading 53.01 and sub heading 53.03.10)), unprocessed tobacco, tea leaf sold by farmers(sub heading 09.02.10 and 09.02.20), tea chest (sub heading 44.15.10), coffee (sub heading 09.01.11 and 09.01.12), soybean (heading 12.01),ground-nuts (heading 12.02), turmeric(curcuma) (sub

heading 09.10.30), oil-cake and other solid residues (headings 23.04 and 23.05)

- (d) Herbs (including their extracts)

Group 2. Goods of Basic Needs:

- (a) Piped water, including water supplied by tankers
- (b) Fuel wood (sub heading 44.01.10)
- (c) Coal (heading 44.02)
- (d) Salt (sub heading 25.01.00.90)

Group 3. Live Animals and animal products

- (a) Goats (sub heading 01.04.20), sheep and mountain goats (sub heading 01.04.10), yak and buffalos (heading 01.02), bore and pigs (heading 01.03), rabbit (sub heading 01.06.19) and their unprocessed raw edible food items (from headings 02.01 to 02.04, heading 02.06)
- (b) Cows and she buffalos (01.02), she goats (01.04.20), and their fresh milk (04.01), (including pasteurized), curd (04.06.100, bees (01.06.90) and bee hives (44.15.100 and bee keeping machinery, including germination plant, metal barrel, bee brush, base roller, gear pump and wheel plate (heading 84.36) and bee harvesting or threshing machinery (heading 84.33)
- (c) Ducks, hens, cocks, turkey and similar other birds (heading 01.05) their fresh meat and unprocessed raw items (heading 02.07) and eggs (heading 04.07)
- (d) Fresh or dried fish (other than packed) (heading 03.01) (from sub heading 03.02.33 to 03.02.36, except 03.02.700 (heading 03.03 (except sub heading 03.03.80, sub headings 03.07.41 and 03.07.49)

4. Agricultural inputs

- (a) Crops, grasses, flowers or live trees and other plants, bulbs, tubers, tuberous roots and bulbs and roots used as seeds (headings 06.01, 06.02, 06.04, and 12.09)
- (b) Manure, fertilizer and soil conditioners (Chapter 31)
- (c) Hand tools, spades, shovels, mattocks, picks, hoes, forks and rakes, axes, bill hooks and similar hewing tools, secateurs of any kind, scythes, sickles, hay knives, other than hand saws, hedge shears, timber wedges, ploughshare and other tools of a kind used in agriculture (heading 82.01)
- (d) Insecticides, rodenticides, fungicides, herbicides and de-ratting drugs as mentioned in Chapter 38 of Customs Tariff used only for crops (sub headings 38.08.91.90, 38.08.92, 38.08.93, 38.08.99)
- (e) Tractors (heading 87.01), cultivators (sub heading 84.32.29), tantalum (sub heading 84.32.21), levelers (sub heading 84.32.80), harvesting or threshing machine (heading 84.33), threshers (sub heading 84.33.52), fishing nets (sub heading 56.08.11), ready-made cages for aquaculture, fish incubators, pumping sets with engines from Two to Eight horse power and up to 30 meters hose pipe accompanied with the sets, used in irrigation works.
- (f) Raw materials of feed supplements falling under Chapters 23, 28 and 29 of the Customs Tariff, animal feeds and feed supplements falling under Chapter 23 of the Customs Tariff, and lime stone dust, bone dust and fish dust falling in Chapter 25.
- (g) Special kind of utensils for feeding poultry feed except normal or general utensils, and special kinds of utensils for feeding water to poultry.

Group 5. Medicine, Medical and Similar Health services

- (a) Health services (other than health services provided by the institutions registered with the value added tax)
- (b) Human blood and human blood items and vaccines, (heading 30.020) plastic blood bags, transfusion sets, testing kits, and various tools, equipment and chemicals required for building reagents and blood test reagents that are imported by the Nepal Red Cross Society and required for blood transfusion service,
- (c) Human or animal organs or tissue for medical research (heading 30.01)
- (d) Medicaments for treatment of livestock and human beings and family planning means (headings 30.03, 30.04 (except *Chwanpras*) sub heading 40.14.10)
- (e) Pacemakers used in treatment of heart diseases (90.21.50), equipment required for the treatment of kidney disease, bath concentrate solid or liquid used in dialysis (38.24.90), goods made for, and suitable only for the use of, infirm and disabled persons, (including scooters) 987.13.10 and 87.14.20)
- (f) X-ray film (sub heading 37.02.10) and oxygen gas to be used for treatment (sub heading 28.04.40) and bandage (heading 30.05).
- (g) Raw materials for drug industries: metal salts, oxides and hydroxides used by drug industries and in the production of IOL, falling under Chapter 28 of the Customs Tariff, as well as raw materials of drugs (active ingredients of drugs) and raw materials used by drug industries in production of drugs or in production of IOL , and packing materials and equipment falling under headings 90.18 and

90.27 used in the research and development of industries and hospitals on the recommendation of the Department of Drug Management.

Group 6: Education

- (a) Research related acts in schools or universities
- (b) Vocational or professional trainings or refresher trainings provided by institutions fully owned by the Government of Nepal,
- (c) Educational services provided by schools and universities.

Group 7: Books, newspapers and printed materials

- (a) Books, calendars, newsletters (headings 49.01, 49.02, 49.04) and printing and publication thereof,
- (b) Newsprint (heading 48.01)

Group 8: Artistic and cultural goods and services, carving services

- (a) Painting, handicrafts, carving and similar other handicrafts and related services.
- (b) Cultural programs,
- (c) Admission fees to libraries, museums, art museums, zoos and botanical gardens, and national parks.

Group 9: Passengers and goods transportation services

Air transport, passenger transportation (except cabal car) and goods carrier service (except transportation related to supply) and cargo services for the purposes of exports

Group 10: Personal or Professional service:

Personal services rendered by artists, sportspersons, authors, writers, designers, translators and interpreters institutionally or individually, and services of supplying human resources to foreign countries.

Group 11: Other goods or services:

1. Agriculture products storage services provided by cold storage.
2. Postal services (only those provided by the Government of Nepal):
 - (a) Services of conveyance or transfer of letters, money and postal packets,
 - (b) Other services required for the services of conveyance or transfer of letters, money and postal packets,
 - (c) Postage stamps (heading 49.07),
 - (d) Services provided by the Government of Nepal.
3. Excise duty stamps and passports (heading 49.07), cash machines (sub heading 84.70.90)
4. Financial services, life insurance services and reinsurance services.
5. Bank notes, coins and cheque books:
 - (a) Printing and issue of bank notes,
 - (b) Supply of bank notes from foreign countries into Nepal (heading 49.07).
 - (c) Cheque books
6. Gold and silver:
 - (a) Gold (heading 71.08), gold coins (sub heading 71.18.90), gold ornaments (heading 71.130 and diamond ornaments
 - (b) Silver (heading 71.06), and silver coins (sub heading 71.18.90), silver ready-made goods and ornaments (heading 71.13)
7. Electricity supply,
8. Raw wool (heading 51.01)

9. Battery operated tempo (sub heading 87.03.21.10) and their chassis (sub heading 87.06.00.15)
10. Bio-gas, solar power and wind power operated power generation plants and their equipment and tubular battery, on the recommendation of the Alternative Energy Promotion Centre.
11. Aircrafts and helicopters (heading 88.02(except sub heading 88.02.60) and their engines (sub heading 84.09.10, gear box (sub heading 88.05.10), fire brigades (sub heading 87.05.30), ambulances and corpse carrying vehicles (heading 87.02 and 87.03)
12. Jute batching oil (sub heading 27.10.19.13) and jute products (headings 53.06, 53.07 and 53.10)
13. Mills, machineries and equipment, molding keys (except spare parts) other than those that can be used in household attracting up to 5 percent customs duty as falling under Part 84 of the Customs Tariff.
14. Woolen carpet and woolen carpet weaving, dying, washing and knitting.
15. 100 percent cotton sari, *Lungi*, *Dhoti* (for both men and women), *Gamcha* and cotton yarn (headings 52.05 and 52.07).
16. Woolen yarn to be used in hand knitting sweater (except artificial and acrylic) domestically.
17. Donated goods received for any natural calamities or philanthropic purpose, as approved by the Ministry of Finance, Government of Nepal.
18. Goods of personal use that do not attract customs duty and are imported under the Luggage and Baggage Order facility.

19. Amount equal to such tax as deemed payable that remains balance upon deducting the tax paid on purchase from the tax collected on the sale of goods by textile, match (only wooden stick) and tyre-tube industries shall be refunded to these industries in accordance with the procedures specified by the Department.
20. Only Twenty Five percent of the amount equal to such tax as deemed payable that remains balance upon deducting the tax paid on purchase from the tax collected on the sale of products (flour) by flour industries shall be refunded to these industries in accordance with the procedures specified by the Department.
21. Fifty percent value added tax of the value added tax collected by domestic industries producing mustard oil on selling their products of mustard oil and by industries producing *Vanaspati* ghee and other processed edible oil domestically to the taxpayers registered with the value added tax shall be refunded to these industries in accordance with the procedures specified by the Inland Revenue Department. Provided that the packaging industries that import processed oil in bulk and refilling the oil in consumer packages and sell the same shall not be entitled to such a facility.
22. If any native industry that manufactures cellular mobile phone sets and importer thereof submits evidence that they have sold the tax paid on the raw materials of cellular mobile phone sets or readymade goods to the taxpayers registered with the value added tax, sixty percent shall be refunded in accordance with the procedures specified by the Department.
23. Seventy y percent value added tax of the value added tax collected by domestic industries producing sugar on selling their products to the taxpayers registered with the value added tax shall be refunded to

these industries in accordance with the procedures specified by the Inland Revenue Department.

24. The value added tax shall be exempted in relation to imports of such machinery, equipment, tools and their spare parts, penstock pipes or iron sheets used in making thereof as required for hydro power projects and as are not produced in Nepal, on the recommendation of the Alternative Energy Promotion Center, in the case of those which are operated with the approval of that Center, and on the recommendation of the Electricity Development Department, in the case of the industries except those which are operated with the approval of the Alternative Energy Promotion Center.
25. The value added tax shall not be levied on transferring any motor vehicles that were imported by any foreign mission or donor agency with the enjoyment of the diplomatic facility or tariff facility to the project itself in consonance with the approval annual program of the project and converting their number plates into governmental ones or on transferring, with the approval of the Ministry of Finance, any motor vehicles that were imported in the name of any project with the enjoyment of full or partial tariff facility (except those imported on inventory or bank guarantee) to any governmental body after the completion of the project and converting their number plates into governmental ones.
26. If any diplomatic body, project or other body (governmental as well as non-governmental organization) intends to scrap and cancel the registration of any motor vehicle that it has imported with the enjoyment of the tariff facility and that is more than 15 years old after the year of initial production, with the approval of the Ministry of

Finance, the value added tax shall not be levied on such a motor vehicle.

27. If the owner of a motor vehicle imported by a citizen of Nepal for personal use with the enjoyment of value added tax exemption dies and the motor vehicle has to be transmitted to the husband or wife of the owner of motor vehicle, the value added tax shall not be levied on such a motor vehicle on the basis of the approval of the Department.
28. If any industries that have not enjoyed the facility of bonded warehouse or passbook import the raw materials, subsidiary raw materials, and packaging materials that are not produced in Nepal, required for the production of goods to be exported by them and export the goods produced from such raw materials in accordance with such procedures and within such period as prescribed, the value added tax levied on such raw materials, subsidiary raw materials and packaging materials at the customs points while importing them shall be refunded from the customs point in relation to such goods, from such a date and on such pro rata as specified in a notice published in the Nepal Gazette.
29. The following goods to be imported in the name of Nepal Army, Armed Police Force and Nepal Police Headquarters shall enjoy exemption, on the recommendation of the concerned Ministry:
 - (a) Ammunitions, arms, gunpowder and their spare parts, special kind of oil, accessories, explosives to be used by Nepal Army, Armed Police Force and Nepal Police, raw materials required to produce army materials and machineries, tools and spare parts used for security.

- (b) Machineries and equipment required for maintaining peace and security, crowd control materials, equipment and other goods required for the investigation of crimes, and communication materials to be used by personnel of Nepal Army, Armed Police Force and Nepal Police, on the recommendation of the Ministry of Communication.
- (c) Such equipment, materials, drugs and related goods as required for the treatment of Army personnel, armed police and Nepal police personnel and of horses.
- (d) Goods used in the exercise and training of Army, armed police and Nepal police personnel.
- (e) Heavy earth moving plant, tool and parts related thereto, optical equipment used in engineering survey and construction works carried out by Nepal Army, and such defense store goods as specified by the Ministry of Defense.
- (f) Camping equipment used by Nepal Army and various goods required for special force and paratroopers.
- (g) Aircrafts, helicopters and their spare parts, parachute (including bags), tools, lubricants and ground equipment imported in the name of Nepal Army.
- (h) Equipment and tools required for the operation of hospitals.
- (i) Goods required for scientific laboratories.
- (j) Goods used in natural calamity relief works.

Group 12: Lands and buildings

Purchase, sale and rental of lands and buildings (except the services provided by such entities carrying on business such as hotels and guest houses)

Group 13: Betting, casinos and lotteries

Activities relating to facilities provided for the organization of bets or gambling, and lottery.

Note:

- (1) The value added tax shall be exempted only on the goods and services specifically mentioned in the foregoing headings and sub headings. The Department may, as required, and in consultation with the Department of Customs, alter and revise the interpretation of the goods and services enjoying tax exemption and the Harmonized Code of Commodities.
- (2) Given that as mentioned above vanaspati ghee and mustard oil, flour and cellular mobile phone sets produced domestically enjoy partial facility and tax refund is made accordingly, the Inland Revenue Department shall make provision of coordination including the market monitoring of these goods.
- (3) If the Government of Nepal considers reasonable to grant any exemption to any taxable goods or to refund tax, it may grant such exemption by publishing a notice in the Nepal Gazette.

Schedule-2

(Relating to Sub-section (2) of Section 7)

Goods and services subject to zero rate

- 1. Goods exported from Nepal:** If it is proved that goods are supplied as follows:
 - (a) Goods exported outside Nepal, or
 - (b) Goods shipped for use as stores on an international flight of which destination is outside Nepal, or
 - (c) Goods put on board an international flight of which destination is outside Nepal for retail sale or supply or consumption.
- 2. Services to be supplied to persons outside Nepal:**
 - (a) A supply of services by a person residing in Nepal to a person outside Nepal, who has no business transaction, business representative or legally recognized agent in Nepal.
 - (b) A supply of goods or services by a person who is residing and is registered in Nepal to a person who is residing outside Nepal.
3. Goods or services imported by a person or mission enjoying diplomatic facility and a person serving in a diplomatic mission enjoying tariff facility, on the recommendation of the Ministry of Foreign Affairs, Government of Nepal.
4. If any previous treaty or agreement provides for the sales tax exemption on imports, and local purchase is made from the registered taxpayers, on the recommendation of the concerned project, the facility of zero rate shall be provided on such supplies, so long as such treaty or agreement is in effect.

5. Raw materials to be sold to and goods manufactured by any industries established pursuant to the laws in force and operated in the special economic zone.
6. If, on the recommendation of the Alternative Energy Promotion Center, the battery used in the equipment and mechanism generating energy from solar power is produced by any native industry and is to be supplied by that industry, the facility of zero rate shall be provided to that industry on that transaction on the recommendation of Alternative Energy Promotion Center and in accordance with the procedures specified by the Department.
7. If any machinery, equipment, tools and their spare parts, penstock pipes or iron sheets used in making thereof required for hydro power projects are produced by any native industry and are to be supplied by that industry, the facility of zero rate shall be provided to that industry on that transaction, on the recommendation of the Alternative Energy Promotion Center, in the case of a project that is operated with the approval of that Center, and on the recommendation of the Electricity Development Department, in the case of one other than that operated with the approval of the Alternative Energy Promotion Center and in accordance with the procedures specified by the Department.
8. If painting, handicrafts, carving and similar other handicrafts produced a cottage and small scale industry within Nepal are exported through an approved export trading house of Nepal, the value added tax paid on the raw materials used in the manufacture of such goods shall be refunded after fulfilling the procedures specified by the Inland Revenue Department.
9. The value added tax paid on the import or local purchase of scooters used by persons with disabilities shall, if such scooters are registered in their name in the Office of Transport Management, be refunded on the recommendation of the Women, Children and Social Welfare or the Chief District Officer of the

concerned district, and in accordance with the procedures as specified by the Department of Inland Revenue. If such goods are sold to any persons other than the persons with disabilities, the refunded value added tax shall be recovered.

NEPAL LAW COMMISSION