

THE FINANCE ACT, 1992

No. 3 of 1992

*Date of Assent: 19th May, 1992**Date of Commencement: 1st February, 1992*

An Act of Parliament to amend the law relating to various taxes and duties and for matters incidental thereto

ENACTED by the Parliament of Kenya, as follows:-

PART I - PRELIMINARY

1. This Act may be cited as the Finance Act, ~~Short title and~~ 1992 and shall be deemed to have come into ~~commencement~~ operation on the 1st February, 1992.

PART II - CUSTOMS AND EXCISE

2. The First Schedule to the Customs and Excise Act (import duties) is amended by inserting the new rates of import duty set out in the First Schedule to this Act. Amendment of First Schedule to Cap. 472.

3. The Third Schedule to the Customs and Excise Act is amended . Amendment of Third Schedule to Cap. 472.

(a) in Part A (special exemptions) by inserting the following new items --

26. Members of the National Assembly

One motor vehicle (excluding a bus and a mini-bus of seating capacity of more than 14 passengers and a load carrying vehicle of a load carrying capacity exceeding two tonnes) imported or purchased prior to clearance through the customs by a Member of the National Assembly subject to a written recommendation of the Clerk of the National Assembly:

Provided that the exemption under this item shall apply only once in every parliamentary term.

27. Returning Kenya Government's Foreign Missions Personnel

One personal motor vehicle (excluding a bus and a mini-bus of seating capacity of more than 14 passengers or a vehicle for transport of goods and materials) imported by an officer returning from a posting in Kenya's Missions abroad and which is not exempted from duty under item 8(3) of Part B of this Schedule:

Provided that the exemption under this item shall not apply--

(a) to an officer who has been recalled for re-posting to another mission outside Kenya;

(b) unless the motor vehicle was ordered for or purchased prior to the officer's departure from his station of posting;

(c) unless the Treasury has issued its approval, in writing, of the exemption;

(d) if the officer has either enjoyed a similar privilege within the previous four years from the date of importation or has imported a vehicle free of duty under item 8 (3) of Part B of this Schedule within the two years immediately before his arrival.

28. Safari Rally Drivers

(1) One motor vehicle for each rally driver and spare parts specified in paragraph (2), which--

(a) are imported or purchased prior to clearance through customs for use in the Safari Rally;

(b) having been temporarily imported under section 143 of the Act for use in

the Safari Rally, are purchased during the period of temporary importation by a rally driver resident in Kenya for use in the Safari Rally;

(c) having been imported under conditions whereby exemption from payment of duty is granted under this Schedule, or whereby remission or refund of duty has been granted by the Minister, are purchased by a rally driver resident in Kenya for use in the Safari Rally; and

(d) in the case of vehicles only, are assembled in Kenya and purchased by a rally driver for use in the Safari Rally.

(2) Paragraph (1) shall apply to the following spare parts imported by a rally driver for use in the Safari Rally --

(a) one engine assembly complete, or such individual parts making up one engine as the rally driver requires, including, in either case, a starter motor, alternator and clutch;

(b) one gear box assembly complete;

(c) one differential assembly and one front and rear axle assembly, or such individual parts making up one front and rear axle assembly as the rally driver requires;

(d) not more than four front suspension assemblies, or such individual parts making up those assemblies as the rally driver requires;

(e) not more than two sets of rear shock absorbers;

(f) not more than twelve rally type rims;
and

(g) not more than thirty rally tyres.

(3) Exemption of duty under paragraph (1) is made on the conditions that -

(a) it applies only to motor vehicles and parts imported or purchased for use by bona fide rally drivers resident in Kenya who have been approved and recommended to the Minister, or a person authorised by him in writing, by the Safari Rally Limited and accepted as such by him; and

(b) the Minister, or a person authorized by him in writing, shall issue to the Commissioner his written approval for the exemption in each case; and

(c) where the motor vehicle or parts cease to be used, or, in the case of parts, to be assigned for use, for Safari Rally purposes, or are disposed of in Kenya to persons not entitled to exemption from, or remission of, duty, duty shall, subject to paragraph (5), immediately become payable at the appropriate rate.

(4) Nothing in paragraph (3)(a) or (c) shall prevent a motor vehicle or spare parts from being used in other rallies in Kenya.

(5) Where a motor vehicle has been kept in Kenya in compliance with the conditions specified in this item, and in particular has been entered for, and has taken part in, each Safari Rally during the period of three years from the date of importation, it may, thereafter be sold without payment of duty.

(b) in Part B (general exemptions) by inserting immediately after sub-paragraph (c) of item 8 (3) the following proviso --

Provided that the Commissioner may waive the ninety day condition in respect of any duration not exceeding three hundred and sixty days spent in Kenya, if he is satisfied--

(a) that the goods are imported by sportsmen who are recalled to participate or to represent Kenya in national or international sports competitions subject to confirmation to that effect by the Permanent Secretary in the Ministry for the time being responsible for sports; or

(b) that the goods are imported by students who in the course of study in recognized educational institutions returned to Kenya to do research subject to confirmation by the sponsor, the educational institution and on production of written approval by the Office of the President that the research has been authorized.

4. The Fifth Schedule to the Customs and Excise Act (excise duties) is amended by inserting the new rates of excise duty set out in the Second Schedule to this Act. Amendment of the Fifth Schedule to Cap.472.

PART III - VALUE ADDED TAX

5. The First Schedule to the Value Added Tax Act, 1989 (rates of tax) is amended by inserting the new rates of tax set out in the Third Schedule to this Act. Amendment of the First Schedule to No.7 of 1989.

6. The Eighth Schedule to the Value Added Tax Act, 1989 is amended -- Amendment of the Eighth Schedule to No.7 of 1989.

(a) in Part A (zero rated status) by inserting the following new item:-

27. Members of the National Assembly

One motor vehicle (excluding a bus and a mini-bus of seating capacity of more than 14 passengers and a load carrying vehicle of a load carrying capacity exceeding two tonnes) imported or

purchased prior to clearance through the customs by a Member of the National Assembly subject to a written recommendation of the Clerk of the National Assembly:

Provided that the zero rating under this item shall apply only once in every parliamentary term.

28. Returning Kenya Government's Foreign Missions Personnel

One personal motor vehicle (excluding a bus and a mini-bus of seating capacity of more than 14 passengers or a vehicle for transport of goods and materials) imported by an officer returning from a posting in Kenya's Missions abroad and which is not zero rated under item 6 of Part B of this Schedule:

Provided that zero rating under this item shall not apply--

(a) to an officer who has been recalled for re-posting to another mission outside Kenya;

(b) unless the motor vehicle was ordered for and purchased prior to the officer's departure from his station of posting;

(c) unless the Treasury has issued its approval in writing of the zero rating; and

(d) if the officer has either enjoyed a similar privilege within the previous four years from the date of importation or has imported a vehicle free of taxes under item 6 of Part B of this Schedule within the two years immediately before his arrival.

29. Safari Rally Drivers

(1) one motor vehicle for each Safari Rally driver and spare parts specified in paragraph (2), which--

(a) are imported or purchased prior to clearance through customs for use in the Safari Rally;

(b) having been temporarily imported under section 143 of the Customs and Excise Act for use in the Safari Rally, are purchased during the period of temporary importation by a rally driver resident in Kenya for use in the Safari Rally;

(c) having been imported under conditions whereby they have been zero rated under this Schedule, or whereby remission or refund of tax has been granted by the Minister, are purchased by a rally driver resident in Kenya for use in the Safari Rally; and

(d) in the case of vehicles only, are assembled in Kenya and purchased by a rally driver for use in the Safari Rally.

(2) Paragraph (1) shall apply to the following spare parts imported by a rally driver for use in the Safari Rally --

(a) one engine assembly complete, or such individual parts making up one engine as the rally driver requires, including, in either case, a starter motor, alternator and clutch;

(b) one gear box assembly complete;

(c) one differential assembly and one front rear axle assembly, or such individual parts making up one front and rear axle assembly as the rally driver requires;

(d) not more than four front suspension assemblies, or such individual parts making

up those assemblies as the rally driver requires;

(e) not more than two sets of rear shock absorbers;

(f) not more than twelve rally type rims; and

(g) not more than thirty rally tyres.

(3) Zero rating under paragraph (1) is made on the conditions that -

(a) it applies only to motor vehicles and parts imported or purchased for use by bona fide rally drivers resident in Kenya who have been approved and recommended to the Minister, or a person authorised by him in writing, by the Safari Rally Limited and accepted as such by him;

(b) the Minister, or a person authorized by him in writing, shall issue to the Commissioner his written approval for the zero rating in each case;

(c) where the motor vehicles or parts cease to be used, or, in the case of parts, to be assigned for use, for Safari Rally purposes, or are disposed of in Kenya to persons not entitled to zero rating, or remission of tax, tax shall, subject to paragraph (5), immediately become payable at the appropriate rate.

(4) Nothing in paragraph (3)(a) or (c) shall prevent a motor vehicle or spare parts from being used in other rallies in Kenya.

(5) Where a motor vehicle has been kept in Kenya in compliance with the conditions specified in this item, and in particular has been entered for, and has taken part in, each Safari Rally during the period of three years from the date of importation, it may thereafter be sold without payment of duty.

has been entered for, and has taken part in, each Safari Rally during the period of three years from the date of importation, it may thereafter be sold without payment of duty.

(b) in Part B (special goods subject to zero rating) by inserting the following proviso immediately after subparagraph (c) of item 6 (2)

Provided that the Commissioner may waive the ninety day condition in respect of any duration not exceeding three hundred and sixty day spent in Kenya if he is satisfied--

(a) that the goods are imported by sportsmen who are recalled to participate or represent the country in national or international sports competitions subject to confirmation to that effect by the Permanent Secretary in the Ministry for the time being responsible for sports; or

(b) that the goods are imported by students who in the course of study in recognized educational institutions returned to this country to do research subject to confirmation by the sponsor, the educational institution and on production of written approval by the Office of the President that the research has been authorized.

FIRST SCHEDULE

(S. 2)

(Amendments to rates of duty in the First Schedule to the Customs and Excise Act, Cap. 472)

Delete the existing rates of duty in respect of the tariff numbers and descriptions in the second and third columns and substitute the rates of duty respectively set out in the fourth column:-

H.S. Code	Tariff No.	Tariff Description	New Rate of Duty
2710.00	2710.00.41	Diesel oil (industrial, heavy, black, for low speed marine and stationary engines).	Per 1,000 litres @ 20°C sh. 400.00
2710.00	2710.00.44	Residual fuel oils (marine, furnace and similar fuel oils) of 125 Centistokes (cSt).	Per 1,000 litres @ 20°C sh. 400.00
2710.00	2710.00.45	Residual fuel oils of 180 Centistokes (cSt).	Per 1,000 litres @ 20°C sh. 400.00
2710.00	2710.00.46	Residual fuel oils of 280 Centistokes (cSt).	Per 1,000 litres @ 20°C sh. 400.00
2710.00	2710.00.47	Other residual fuel oils.	Per 1,000 litres @ 20°C sh. 400.00
2710.00	2710.00.52	Transformer oil.	5%

SECOND SCHEDULE

(S. 4)

(Amendments of the rates of duty in the Fifth Schedule of the Customs and Excise Act Cap. 472)

Delete the existing rates of excise duty in respect of the tariff numbers and descriptions in the first and second columns and substitute the rates of duty respectively set out in the fourth column:-

Tariff No.	Tariff Description	Quantity or Value	Rate of Excise Duty
1701.11.90	Other raw cane sugar, not containing added flavouring or colouring matter, in solid form.	Per Kg.	sh. 1.50
1701.12.00	Raw beet sugar, not containing added flavouring or colouring matter, in solid form.	Per Kg.	sh. 1.50
1701.91.00	Chemically pure sucrose, containing added flavouring or colouring matter, in solid form.	Per Kg.	sh. 1.50
1701.99.00	Chemically pure sucrose, not containing added flavouring or colouring matter, in solid form.	Per Kg.	sh. 1.50

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THIRD SCHEDULE

(S. 5)

(Amendments of rates of tax in the First Schedule to the Value Added Tax Act, 1989 (No.7 of 1989))

Delete the existing rates of tax in respect of the tariff numbers and descriptions in the first and second columns and substitute the rates of tax respectively set out in the fourth column:-

Tariff No.	Tariff Description	Quantity or Value	New Rate of Tax
2710.00.22	Motor spirit (gasolene), premium.	Per 1,000 litres	sh. 7,565.45
2710.00.23	Motor spirit (gasolene), regular.	Per 1,000 litres	sh. 7,543.25
2710.00.31	Jet fuel (Kerosene type).	Per 1,000 litres	sh. 1,326.45
2710.00.32	Kerosene.	Per 1,000 litres	sh. 2,000.85
2710.00.41	Diesel oil (industrial, heavy, black, for low speed marine and stationary engines).	Per 1,000 litres	sh. 3,330.25
2710.00.42	Gas oil (automotive, light, amber, for high speed engines).	Per 1,000 litres	sh. 4,320.85
2710.00.44	Residual fuel oils (marine, furnace and similar fuel oils) of 125 Centistokes (cSt).	Per 1,000 litres	sh. 2,935.05
2710.00.45	Residual fuel oils of 180 Centistokes (cSt).	Per 1,000 litres	sh. 2,930.15
2710.00.46	Residual fuel oils of 280 Centistokes (cSt).	Per 1,000 litres	sh. 2,926.10
2710.00.47	Other residual fuel oils.	Per 1,000 litres	sh. 2,935.05

THIRD SCHEDULE - (CONTINUED)

Tariff No.	Tariff Description	Quantity or Value	New Rate of Tax
2711.11.00	Liquefied natural gas other than propane and butanes.	Per Kg.	sh. 3.57459
2711.12.00	Liquefied propane.	Per Kg.	sh. 3.57459
2711.13.00	Liquefied butanes.	Per Kg.	sh. 3.57459
2711.14.00	Liquefied ethylene, propylene, butylene and butadiene.	Per Kg.	sh. 3.57459
2711.19.00	Other liquefied petroleum gases and gaseous hydrocarbons.	Per Kg.	sh. 3.57459
2711.21.00	Natural gas in gaseous state.	Per Kg.	sh. 3.57459
2711.29.00	Other petroleum gases and other gaseous hydrocarbons in gaseous state.	Per Kg.	sh. 3.57459
2713.20.00	Petroleum bitumen.	Per Kg.	sh. 3.35165
2713.90.00	Other residues of petroleum oils or of oils obtained from bituminous minerals.	Per Kg.	sh. 3.35165