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**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

TOBACCO TAX ACT, No. 08 OF 1999

[Certified on 09th April, 1999]

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Tobacco Tax Act, No. 08 of 1999

[Certified on 09th April, 1999]

L.D.-O. 80/96.

AN ACT TO IMPOSE A TAX ON CIGARETTES, CIGARS, BEEDIES,
CIGARETTE SUBSTITUTES AND PIPE TOBACCO, MANUFACTURED IN
SRI LANKA; AND TO PROVIDE FOR MATTERS CONNECTED
THEREWITH OR INCIDENTAL THERETO.

1. This Act may be cited as the Tobacco Tax Act, No. 08 of 1999. Short title.
2. (1) There shall be charged, levied and paid on every cigarette, cigar, beedi, cigarette substitute and every kilogramme of pipe tobacco manufactured in Sri Lanka, a tax (hereinafter referred to as the “tobacco tax”) at such respective rates as may be fixed by the Minister by Order published in the Gazette. Imposition of tobacco tax.

(2) The rate or rates of tobacco tax levied in respect of any article referred to in subsection (1) may be determined by reference to the class or description of that article and accordingly, different rates of tobacco tax may be determined in respect of different classes or descriptions of that article.

(3) The rate of the tobacco tax charged respectively on cigarettes, cigars, beedies, cigarette substitutes and pipe tobacco or any class or description thereof may from time to time be varied by the Minister in charge of the subject of Finance by Order published in the Gazette.

(4) Every Order under subsection (1) or subsection (3) shall come into force on the date of its publication in the Gazette or on such later date as may be specified in the Order, and shall be brought before Parliament for approval as soon as may be convenient.

(5) Any Order under subsection (1) or subsection (3) which Parliament refuses to approve shall with effect from the date of such refusal, be deemed to be revoked but without prejudice to the validity of anything done thereunder. Notification of the date on which any such Order is deemed to be revoked shall be published in the Gazette.

(6) For the purposes of this Act, the cigarettes, cigars, beedies, cigarette substitutes and pipe tobacco, removed from any factory shall be presumed to be cigarettes, cigars, beedies, cigarette substitutes and pipe tobacco, manufactured at such factory.

Tax to be payable
by manufacturers
of cigarettes,
cigars, beedies
cigarette
substitutes of pipe
tobacco.

3. (1) The tobacco tax shall be payable by each person who carries on business as a manufacturer of cigarettes or cigars, beedies, cigarette substitutes or pipe tobacco. The amount of the tax shall be computed by reference to the number of cigarettes, cigars, beedies, cigarette substitutes and kilograms of pipe tobacco manufactured at, and removed from, the factory at which such manufacture is carried on; and the amount of the tax payable upon the total quantity of cigarettes, cigars, beedies, cigarette substitutes or kilograms of pipe tobacco so removed from a factory in any week shall be paid as provided in this Act not later than the end of the next succeeding week.

(2) Subject to the provisions of this Act, a person shall not cause or permit any cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco to be removed from any factory at which cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco are or is manufactured unless and until the tobacco tax payable thereon has been duly paid in accordance with the provisions of this Act.

(3) Where any quantity of tobacco leaf is delivered at a factory or any quantity of cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco is to be removed from a factory, it shall be the duty of the person in charge of the factory, within a period of forty eight hours after the time of such delivery or forty eight hours prior to the time of such removal, as the case may be, to furnish to the Commissioner General of Excise or to any officer designated by the Commissioner General of Excise for the purpose, a declaration signed by such person specifying the quantity of tobacco leaf so delivered or the quantity of cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco proposed to be so removed, as the case may be.

(4) Every declaration referred to in subsection (3) shall be in such form as may be approved or provided for the purpose by the Commissioner General of Excise.

4. (1) Where a manufacturer registered for the purpose under this Act, makes a declaration to the Commissioner General of Excise that he intends to export to such country as is specified in such declaration, cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco manufactured by him, of such quantity as is specified in such declaration, the Commissioner General of Excise shall allow such manufacturer to remove such cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco from any factory or warehouse in which they are stored, without the payment of the tobacco tax payable thereon, under this Act.

Manufacturer
intending to
export
cigarettes,
cigars, beedies
cigarette
substitutes or
pipe tobacco to
make declaration
to the
Commissioner
General of
Excise.

(2) Every manufacturer making a declaration under subsection (1) shall adduce proof to the satisfaction of the Commissioner General of Excise, within six months of such declaration, that he has exported cigarettes, cigars, beedies, cigarette substitutes of pipe tobacco of such quantity as is specified in such declaration, to the country specified in such declaration.

(3) Where a manufacture referred to in subsection (1) fails to adduce proof to the satisfaction of the commissioner General of Excise, that he has exported cigarettes, cigars beedies, cigarette substitutes ot pipe tobacco of such quantity as is specified in the declaration made by him under that subsection, to the country specified in such declaration, the Commissioner General of Excise shall direct him to pay the tobacco tax payable on such cigarettes, cigars, beedies. cigarette substitutes or pipe tobacco, with interest on the amount of such tax at the rate of ten per centum per annum, from the date on which such cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco were removed from any factory or warehouse in which they were stored, to the date of payment of such tax and the interest thereon.

Registration of
manufacturers.

5. (1) From and after the date of commencement of this Act, a person shall not use any tobacco leaf in the manufacture of cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco unless he has been registered by the Commissioner General of Excise as a manufacturer for the purposes of this Act.

(2) Every application for registration as a manufacturer for the purposes of this Act -

- (a) shall be made to the Commissioner General of Excise in such form as he may provide for the purpose;
- (b) shall contain all such particulars as may be set out in such form with respect to the use or the proposed use of tobacco leaf in the manufacture of cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco;
and
- (c) shall be accompanied by an application fee of the prescribed amount.

(3) A person who is registered as a manufacturer for the purposes of this Act shall, whenever so required by the Commissioner General of Excise, furnish a return containing particulars as to the quantity of cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco, as the case may be, being manufactured or estimated to be manufactured by the use of a specified quantity of tobacco leaf; and separate particulars shall be furnished in such return with respect to each class or description of cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco manufactured by that manufacturer.

Tobacco tax to
be paid to the
Commissioner
General of
Excise.

6. (1) The amount of the tobacco tax payable from time to time under this Act by any manufacturer shall be paid to the Commissioner General of Excise or to a person designated by such Commissioner General and shall be credited by the Commissioner General of Excise or such person to the Consolidated Fund.

(2) Regulations made under section 21 may provide for the manner or payment of the tobacco tax.

7. (1) The Commissioner General of Excise or any officer of the Excise Department of a rank not below that of inspector or any officer of the Customs Department of a rank not below that of Superintendent or any Police officer not below the rank of a Sub-inspector of police may -

Powers of inspection.

- (a) stop and board any vehicle or vessel in which tobacco leaf, cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco are or is being transported or suspected of being transported;
- (b) at any reasonable time enter and inspect any factory or premises in which any tobacco leaf, cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco are or is kept or stored or suspected to be kept or stored,

for the purpose of ascertaining whether any offence under this Act has been or is being committed or for the purpose of ascertaining the quantity of such tobacco leaf, cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco, which are or is in such vehicle, vessel, factory or premises, or of ascertaining whether or not the tobacco tax, Excise (Special Provisions) duty, customs duty or any other tax has been paid or is payable thereon, or of verifying the accuracy of any return, or declaration furnished to the Commissioner General of Excise under this Act, or of examining any books or documents relating to such tobacco leaf, cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco, as the case may be.

(2) Every person who resists or obstructs an officer referred to in subsection (1) in the exercise by such officer of the powers conferred on him by that subsection shall be guilty of an offence under this Act.

8. (1) A person who is registered as a manufacturer for the purposes of this Act shall not have in his factory any quantity of imported tobacco leaf, cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco unless he has in his

Imported tobacco leaf and tobacco products.

possession a duplicate of the bill of entry relating to the importation of that quantity of tobacco leaf, cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco, as the case may be, into Sri Lanka.

(2) Every person who registered as a manufacturer for the purposes of this Act shall, when requested to do so by any officer of the Excise Department of a rank not below that of Inspector or any Police officer not below the rank of an Inspector of Police, produce for inspection a duplicate of the bill of entry relating to any quantity of imported tobacco leaf, cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco, as the case may be, kept in his factory.

Weights and
weighing
instruments to
be
kept in factories

9. Every person who is registered as a manufacturer for the purposes of this Act shall keep in his factory such weights and weighing instruments for weighing quantities of tobacco leaf as are in conformity with the standards established under any law for the time being in force relating to weights and measures and stamped as provided by such law, and shall, when requested to do so by any officer of the Excise Department of a rank not below that of Inspector or any Police Officer not below the rank of sub-Inspector of Police weigh, or cause to be weighed, any quantity of tobacco leaf which is in such factory.

Appeals.

10. (1) Any person who is aggrieved by any decision made by any officer of the Excise Department other than the Commissioner General of Excise under the provisions of this Act or any regulation made thereunder may within thirty days after such decision is communicated to him, appeal therefrom to the Commissioner General of Excise.

(2) Any person who is aggrieved by any decision made by the Commissioner General of Excise under the provisions of this Act or any regulation made thereunder may, within thirty days after such decision is communicated to him, appeal therefrom to the Secretary of the Ministry of the Minister in charge of the subject of Finance.

(3) Every appeal under this section shall be in writing and shall state the grounds of appeal.

(4) The Commissioner General of Excise shall before determining any appeal made to him under subsection (1), afford the appellant an opportunity of being heard either in person or by his authorised representative.

(5) The Commissioner General of Excise or the Secretary to the Ministry of the Minister may, upon any appeal made to him under subsection (1) or subsection (2) as the case may be, affirm, vary or annul the decision against which such appeal was made.

11. Every person who stores, transports, supplies, possesses, sells or otherwise deals with any cigarettes which being cigarettes chargeable on their importation with customs or excise duty -

Dealing in improperly imported cigarettes be an offence.

- (a) were unshipped at or brought into, any port or other place in Sri Lanka or were unloaded from any aircraft in Sri Lanka, without payment of that duty except as provided by or under the Customs Ordinance, and Excise (Special Provisions) Act, No. 13 of 1989;
- (b) are imported into Sri Lanka concealed in a container holding goods of a different description;
- (c) are found whether before or after delivery in Sri Lanka, not to correspond to the bill of entry made in respect thereof; or
- (d) are concealed or packed in any manner appearing to be intended to deceive an officer of the Customs Department or the Excise Department,

shall be guilty of an offence under this Act.

12. Every person who transports, supplies, sells or stores or exposes for sale any cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco on which tobacco tax or Customs duty or excise duty has not been paid shall be guilty of an offence under this Act.

Dealing in illicitly manufactured or imported tobacco products be an offence.

Non compliance with the provision of the Consumer Protection Act be an offence.

13. Every person who, being a manufacturer of or trader in, or importer or dealer of, cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco fails or neglects to comply with any direction issued to him under the Consumer Protection Act, No. 01 of 1979, shall be guilty of an offence under this Act.

Miscellaneous offences.

14. Any person who contravenes or fails to comply with any of the provision of this Act or of any regulation made thereunder shall be guilty of any offence under this Act.

Penalty.

15. (1) Every person guilty of an offence under this Act shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding one million rupees or to imprisonment of either description for a term not exceeding five years.

(2) The court which convicts any person of any offence under this Act committed in respect of any tobacco leaf, cigarettes, cigars, beedies, cigarette substitute or pipe tobacco, may in addition to any other punishment which it may impose, make order declaring that such tobacco leaf, cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco and any vehicle or article used in or in connection with the commission of that offence shall be forfeited to the State.

(3) An order made under subsection (2) shall take effect-

- (a) where an appeal has been preferred to a High Court established under Article 154P of the Constitution against the order of forfeiture, upon the final determination of such appeal confirming or upholding the order of forfeiture;
- (b) where an appeal has not been preferred to a High Court established under Article 154P of the Constitution against the order of forfeiture within the period allowed therefor, after the expiration of that period.

(4) Where a person convicted of an offence under this Act has been registered as a manufacturer for the purposes of this Act, the court may in addition to any other punishment hereinbefore provided make order cancelling the registration of that person as a manufacturer ;

Provided, however, that any such person may again be registered as a manufacturer by the Commissioner General of Excise if he thinks fit so to do in his discretion.

(5) Where an offence under this Act is committed by a body corporate, every person, who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of that body corporate shall be deemed to be guilty of that offence, unless he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(6) Any officer of the Excise Department, of a rank not below that Commissioner of Excise may, with the written approvals of the Secretary to the Ministry of the Minister and the Commissioner General of Excise compound any offence under this Act for a sum of money equal to not less than one fifth of the maximum fine imposable for such offence.

(7) The Commissioner- General of Excise shall take possession of any tobacco leaf, cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco forfeited to the State by an order made under subsection (2), and shall cause the same to be sold by public auction and the proceeds of sales disposed of as provided for in section 17.

16. (1) For the purposes of this Act, any tobacco leaf, cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco on which no customs duty or excise duty has been paid shall be presumed to be Sri Lanka tobacco leaf or cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco manufactured in Sri Lanka until the contrary is proved. Evidence.

(2) Where in any prosecution instituted under this Act, a question arises as to whether any substance or article is tobacco leaf, a cigarette, cigar, beedi, cigarette substitute or pipe tobacco, a certificate under the hand of the Government Analyst or a tobacco officer of the Department of Agriculture or an Excise Officer of sufficient experience, to the effect that the substance or article described in the certificate is tobacco leaf, cigarette, cigar, beedi, cigarette substitute or pipe tobacco, as the case may be, shall be admissible in evidence and shall be *prima facie* proof of the facts stated therein.

Disbursement of forfeitures and penalties recovered under the Act.

17. The amount -

(a) of all sums received under subsection (6) of section 15; and

(b) the proceeds of sale of articles forfeited under subsection (2) of section 15,

shall be paid into the hands of the Commissioner General of Excise and shall (after deducting any expenses incurred) be applied as follows: -

- (i) three fourths shall be paid to the Deputy Secretary to the Treasury, and shall be credited by him to the Consolidated Fund; and
- (ii) the balance one fourth shall be paid into a Reward Fund to be established by this Act under the control of the Commissioner -General of Excise, for distribution in accordance with a scheme to be approved by the Minister, among Excise Officers, Customs Officers, Police Officers and informers, and others assisting in the enforcement of this Act.

Payment to Excise Officers for special services and attendances.

18. Where any manufacturer registered for the purposes of this Act or other person requires -

(a) any service which is determined by the Minister as a special service; or

(b) the attendance of any Excise officer at any factory or warehouse or premises other than his proper place of employment,

payment shall be made for such service or attendance, as the case may be, to the Commissioner-General of Excise by such manufacturer or person at such rates as may be specified by the Commissioner-General of Excise.

19. The Commissioner-General of Excise may delegate in writing to the Director-General of Customs or Director General of Excise any power, duty or function conferred or imposed on or assigned to him by this Act if he is of opinion that it is expedient to do so for the efficient administration of the provisions of this Act.

Delegation of powers to the Director-General of Customs and Director General of Excise.

20. No action shall lie against the Commissioner General of Excise, the Director General of Customs or the Director General of Excise or any excise officer, for damages in any civil court for any act done in good faith in pursuance or supposed pursuance of any provisions of this Act, or of any delegation made thereunder.

Protection of action.

21. (1) The Minister in charge of the subject of Finance may make regulations for the purpose of carrying out and giving effect to the provisions of this Act and for the prevention of the evasion of the tobacco tax imposed by this Act, and in respect of all matters which are required by this Act to be prescribed.

Regulations.

(2) Without prejudice to the generality of the powers conferred by subsection (1) regulations made under that subsection may provide for the maintenance, at any factory at which any tobacco leaf is used, of a separate warehouse or room for the storage of cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco manufactured from such tobacco leaf prior to the payment of the tobacco tax payable thereon and for the measures that may be taken by the Commissioner General of Excise to supervise or control the removal of such cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco from such warehouse or room prior to payment of the tobacco

tax payable thereon, and the terms and conditions subject to which the exemption from the tobacco tax, payable on cigarettes, cigars, beedies, and pipe tobacco intended for export shall be granted under section 4.

(3) Every regulation made under this section shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(4) Every regulation shall as soon as convenient after its publication in the Gazette be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of its disapproval but without prejudice to anything previously done thereunder.

(5) Notification of the date on which any regulation is deemed to be so rescinded shall be published in the Gazette.

Repeal and savings.

22. (1) Tobacco Tax Act, No. 27 of 1953 (Chapter 245) is hereby repealed.

(2) Notwithstanding the repeal of the Tobacco Tax Act, No. 27 of 1953 -

(a) the regulations made under that Act, and in force on the day preceding the date of commencement of this Act shall, except where and insofar as they are not inconsistent with the provisions of this Act be deemed to be regulations made under this Act and shall continue in force until altered, amended or rescinded by regulations made under this Act;

(b) all persons registered as manufacturers for the purpose of that Act shall be deemed to be manufactures registered under section 5 of this Act.

Sinhala text to prevail in case of inconsistency.

23. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

24. In this Act -

Interpretation.

“beedi” means tobacco specially grown for the manufacture of beedi whether cut, crushed, broken or powdered -

- (i) rolled in a leaf of the tropical tree botanically known as *Diospyros Melanoxylon* or *Diospyros Ebinum* of the family of *Ebenaceae* or any of its substitutes; and

- (ii) intended for smoking;

“cigar” means tobacco whether cut, crushed, broken or powdered -

- (i) rolled in a tobacco leave; and

- (ii) intended for smoking;

“cigarette” means tobacco specially grown for the manufacture of cigarettes whether cut, crushed, broken or powdered -

- (i) rolled in any type of wrapper (other than tobacco leaf or leaf meant for the manufacture of beedi); and

- (ii) intended for smoking;

“cigarette substitute” means tobacco in any form rolled in any type of wrapper and intended for smoking, and does not include a beedi, cigar or cigarette;

“Commissioner General of Excise” means the Commissioner General of Excise appointed under the Excise Ordinance;

“Customs duty” means Customs duty charged and levied under the Customs Ordinance;

“Director General of Customs” means the Director General of Customs appointed under the Customs Ordinance;.

“Director General of Excise” means the Director General of Excise appointed under the Excise (Special Provisions) Act, No. 13 of 1989;

“Excise Duty” means Excise Duty charged and levied under the Excise Duty (Special Provisions) Act, No. 13 of 1989;

“factory” -

- (a) means any premises at which the manufacture of cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco is carried on; and
- (b) includes any store or other place maintained in connection with any premises referred to in paragraph (a);

“import” means to bring into Sri Lanka, by sea or air, from any place outside or beyond the limits of Sri Lanka;

“Minister” means the Minister appointed under Article 44 of the Constitution, to whom the subject of Finance is assigned;

“pipe tobacco” means cut tobacco or tobacco compressed into slabs which can be used, or is intended for smoking in pipes;

“Prescribed” means prescribed by regulations made under this Act;

“Sale or purchase” with their grammatical variations and cognate expressions in relation to any cigarettes, cigars, beedies, cigarette substitutes or pipe tobacco means any transfer of the possession of the same by one person to another in the ordinary course of trade or business for cash or deferred payment or for other valuable consideration ;

“Sri Lanka tobacco leaf” means the leaf of the tobacco plant grown in Sri Lanka and includes any tobacco leaf found in Sri Lanka the origin of which is not established otherwise;

“transport” means to move from one place to another within Sri Lanka.

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