



**SALES TAX, CUSTOMS AND EXCISE ACT
OF THE
KINGDOM OF BHUTAN
2000**

**MINISTRY OF FINANCE
ROYAL GOVERNMENT OF BHUTAN**

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SALES TAX, CUSTOMS AND EXCISE ACT OF THE KINGDOM OF BHUTAN, 2000

PREAMBLE

Whereas, we the people of the Kingdom of Bhutan, in order to ensure economic progress, promote social justice, general welfare, fairness in the levy and collection of taxes and duties and to secure financial sustainability, growth and prosperity, do hereby, give to ourselves and enact this legislation on the Sales Tax, Customs and Excise Act of the Kingdom of Bhutan.

General Preliminary

1. *Short Title, Commencement and Extent*

Be it enacted by the National Assembly of the Kingdom of Bhutan in the year 2000 as follows:

This Act shall:

- (a) be called the Sales Tax, Customs and Excise Act of the Kingdom of Bhutan, 2000;
- (b) come into force from 18th day, 5th month of the Iron Dragon Year corresponding to 19th July of the year 2000;
- (c) on commencement, supersede all rules and notifications not otherwise arising out of this Act;
- (d) extend to the whole of the Kingdom of Bhutan; and
- (e) be implemented by the Ministry of Finance.

2. *Definitions*

In this Act, unless the context otherwise requires:

- (1) **Ad Valorem Duty** means duty calculated as a percent on the value.
- (2) **Alcoholic Beverages** means spirits, liquors, wines, beers or any beverages containing alcohol.
- (3) **Assessment** means the process of establishing the amount of tax and duty.
- (4) **Baggage** means personal belongings of a passenger either carried by hand or checked with a carrier and excludes motor vehicle and merchandise.
- (5) **Cargo** means import or export of any other goods not covered under baggage and post parcel.
- (6) **Confiscation** means to deprive the ownership of goods as the right transfers to the Government by way of penalty.
- (7) **Container** means anything that may be used for carrying or accommodating any items or goods or articles of transport used for consolidation of goods and animals.
- (8) **Contraband** goods mean those goods prohibited by law for import into, or export out of Bhutan.
- (9) **Conveyance** means and includes any vehicle, vessel, aircraft or any other means of transport.
- (10) **Customs and Excise Authorities** means the Department of Revenue and Customs under the Ministry of Finance.
- (11) **Customs Area** means any specified area wherein imported goods or export goods are kept.

- (12) **Customs Duty** means a duty levied on import or export goods.
- (13) **Customs Station** means and includes ports or any other designated stations for the purpose of this Act.
- (14) **Demand Notice** means a notice issued to the taxpayer or entity for the payment of assessed tax or duty.
- (15) **Denatured Spirit** means spirit rendered unfit for human consumption.
- (16) **Department** means the Department of Revenue and Customs, Ministry of Finance including its branch offices.
- (17) **Detention** means the temporary custody of persons or goods.
- (18) **Examination** means an investigation made in order to form a judgement and includes checking, measuring, weighing, taking samples and inquiry or search.
- (19) **Excise Duty** means duty levied on goods manufactured in the country.
- (20) **Excisable Goods** means goods subject to Excise duty as specified in the Excise Tariff by the Royal Government of Bhutan.
- (21) **Exemption Certificate** means a document issued by the Ministry of Finance permitting import and purchase without Sales Tax, Customs or Excise duty.
- (22) **Export Fee** means a payment levied on export of alcoholic beverages or any other specified goods.
- (23) **Export Declaration Form** means the form prescribed to be filed for clearance of export goods.
- (24) **Export Goods** means any goods brought into a Customs area for the purpose of taking them to a place outside Bhutan by land, sea or air.
- (25) **Export Licence** means a document permitting the export of goods.
- (26) **Factory** means a place of manufacture or processing of goods and includes a distillery.
- (27) **Goods** mean movable property and include aircraft, vehicle, baggage, currency and negotiable instruments.
- (28) **Government** means the Royal Government of Bhutan.
- (29) **Head of the Department** means the Head of Revenue and Customs under the Ministry of Finance.
- (30) **Illicit Liquor** means liquor sold for commercial purposes without a licence or permit or any other alcoholic beverage that may be deemed illegal.
- (31) **Import Declaration Form** means the form prescribed to be filed for clearance of imported goods.
- (32) **Import License** means a document permitting the import of goods.
- (33) **Imported goods** means any goods brought into from a place outside the Kingdom by land, sea or air.
- (34) **Kingdom** means the Kingdom of Bhutan.
- (35) **Ministry** means the Ministry of Finance of the Kingdom of Bhutan.
- (36) **Officer** means a person appointed by the Royal Government and empowered to exercise any powers or discharge any functions conferred upon him under this Act.
- (37) **Passenger Declaration Form** means a Customs form filled in by passengers arriving or departing by air or land into and out of Bhutan.
- (38) **Person** means any individual, entity, company, body corporate or any other organisation, institution or group of persons having a status under this Act.
- (39) **Prohibited Goods** means any goods, for which the import or export is not allowed under this Act or any other Acts.
- (40) **Re-export** means export of imported goods.
- (41) **Re-import** means import of goods that have been exported for the purpose of processing, reconditioning, repairs or improvement, thereof.

- (42) **Regional Office** means the Regional Revenue and Custom Offices under the Department.
- (43) **Restricted Goods** means goods on which limitations shall apply to the quantity or quality of the import or export of goods.
- (44) **Sales Tax** means a consumption tax levied on goods and services.
- (45) **Seizure** means the detention of goods which have been incorrectly declared, not declared or have come into the country illegally.
- (46) **Smuggling** means conveying of goods secretly or without proper declaration, for import or export, with the intent to evade duty or prohibition.
- (47) **Third Country** means any country other than India for the purpose of this Act.
- (48) **Transaction**, unless the context otherwise indicates, means deed by way of purchase, sale, lease, or loan between two or more independent parties.
- (49) **Under bond goods** means movement or storage of goods under the control of the Department without payment of duty.
- (50) **Valuation** means the process of determining monetary value for the purpose of computing tax or duty.
- (51) **Warehouse** means any approved place of storage by the Department wherein goods can be stored without payment of tax or duty.

3 Rules of construction

In this act, unless the context indicates otherwise, the singular shall include plural and masculine shall include the feminine.

PART I - SALES TAX

Chapter 1 Preliminary

1 *Applicability*

This part of the Act shall apply to:

- Ka) Persons importing goods by land, sea or air into Bhutan; and
- Kha) Persons manufacturing, producing, and selling goods and services.

Chapter 2 Tax Liability and Exemption

2 *Liability to Tax*

A person, business entity, public body and government institution within the Kingdom of Bhutan.

3 *Exemption of tax on goods and services*

3.1 Foreign Diplomatic Missions, International organisations and agencies shall be exempted from paying Sales Tax; provided that exemption thereof, is in accordance with the obligations under international conventions, covenant, existing multilateral or bilateral agreements signed with the Kingdom of Bhutan.

- 3.2 On the satisfaction and in the public interest, the Ministry of Finance may exempt a person from the payment of Bhutan Sales Tax.
- 3.3 Any person importing goods on behalf of an exempt organization shall pay Sales Tax at the point of entry.
- 3.4 Refund of the Sales Tax levied under Sub-section 3.3 above and that of local purchases shall be made to the exempt organization.
- 3.5 Exemption under Sub-section 3.1 to 3.4 above shall be in accordance with the rules prescribed by the Ministry.

Chapter 3 Levy and Rate of Tax

4 *Levy and Rates*

- 4.1 Sales Tax shall be levied on goods and services, as per the Bhutan Sales Tax Schedule.
- 4.2 The fixation of the rates of Sales Tax and any revision thereof, and the range of commodities and services under the Sales Tax Schedule shall be approved by the Royal Government of Bhutan.

Chapter 4 Valuation, Assessment and Collection

5 *Assessment*

Assessment and re-assessment for Sales Tax shall be carried out as per Section 4 of General Provisions to ensure that the Bhutan Sales Tax is correctly levied, accounted for, collected and deposited.

6 *Collection*

- 6.1 Sales Tax shall be collected at the time of import or at the point of sale.
- 6.2 (Ka). Where Sales Tax is levied at the point of entry, valuation shall be on Free on Board (FOB).
- 6.2 (Kha). Where Sales Tax is levied at the point of sale, valuation shall be on the sales price.
- 6.3 The Ministry shall prescribe methods of valuation in case of imported goods in accordance with international norms and practices.
- 6.4 Whereas persons shall be liable to pay Sales Tax on domestic goods and services, specified public and private entity, body and institution shall be liable to collect and deposit the Sales Tax. The Sales Tax collected at the point of sales of goods and services shall be deposited with the Department.
- 6.5 Collection of Sales Tax under Sub-sections 6.1, 6.2 and 6.4 above shall be in accordance with the rules prescribed by the Ministry.

Chapter 5
Import and Export Clearance, Entry and Exit of Conveyance and Goods, Warehousing, Inspection and Search and Import and Export Restrictions and Prohibitions

7 *General*

For the purpose of this Part of the Act, Import and Export clearance, Entry and Exit of conveyance and goods, Warehousing, Inspection and Search and Import and Export Restrictions and Prohibitions thereof shall be in accordance with provisions under Chapters 7, 8, 9, 12 and 13 of Part II of this Act.

PART II - CUSTOMS

Chapter 1
Preliminary

1 *Applicability*

This part of the Act shall apply to persons, importing or exporting goods by land, sea or air into and out of the Kingdom of Bhutan.

2 *License and permits*

Where a license or permit is required for import or export transaction under this Part of the Act, such license or permit shall be obtained from the relevant authority.

Chapter 2
Liability

3 *Payment of duty*

Person, entity or his agent importing or exporting goods into and out of Bhutan shall be liable to pay Customs duty.

Chapter 3
Exemptions

4 *Trade with India*

No customs duty shall be levied on goods of Indian origin imported into Bhutan in accordance with the existing “Agreement on Trade and Commerce” between the Kingdom of Bhutan and the Government of the Republic of India.

5 *Exemption of duty on goods and services*

5.1. Foreign Diplomatic Missions, International organisations and agencies shall be exempted from paying Customs duty provided that exemption thereof, is in accordance with the obligations under international conventions, covenant, existing multilateral or bilateral agreements signed with the Kingdom of Bhutan and rules thereto prescribed by the Ministry.

5.2. On the satisfaction and in the public interest, the Ministry may exempt a person from the payment of Customs duty.

Chapter 4

Levy and Customs Tariff

6 Levy of Customs duty

6.1 Customs Tariff and revisions thereof, shall be approved by the Royal Government of Bhutan.

6.2. Customs duty shall be payable, at the time of entry, exit or clearance of goods.

7 Duty on lost or pilfered goods

Where any imported goods are pilfered, lost or abandoned before being cleared from Customs control, no duty shall be payable by the importer on such goods. However, duty shall be levied if the goods are recovered and restored to the importer.

8 Duty on damaged goods

7.1. Where any imported goods are damaged, deteriorated or mutilated before being cleared from Customs control, Customs duty shall be levied on such goods as if the goods were imported in the damaged, deteriorated or mutilated condition.

7.2. Notwithstanding Sub-section 8.1 above where damage or deterioration of the goods is caused by negligence, default or any willful act or omission, duty shall be levied as if the goods were not damaged, deteriorated or mutilated.

9 Duty on re-export goods

Custom duty shall not be levied on the re-export of imported goods, provided that the goods remain under Customs control till the time of re-exportation.

10 Duty on goods re-imported after processing, reconditioning or repairs

Where any goods are exported temporarily for the purpose of processing, reconditioning or repairs, the re-import of such goods shall be allowed on payment of partial duty due on the cost of processing, repairs or reconditioning as the case may be provided that:

- Ka) the importer proves it to the satisfaction of the Customs Officer that the goods being re-imported are the same; and
- Kha) at the time of taking the goods out of Bhutan, a declaration was made to the Department and the certificate of identification was obtained thereto.
- Ga) goods exported is re-imported within a period of six months from the date of issue of a Export Declaration Form. The period of six months may be extended by the Head of the Department on written request by the owner.

11 Temporary import of goods

11.1 If any goods are imported into Bhutan temporarily for a period not exceeding 3 months from the date of the import or such extended time as the Department may allow, no duty shall be levied on such goods, provided that:

- Ka) such goods are imported for demonstration, exhibition, fair, experiment, publicity, travel, transportation, scientific, cultural or educational purposes;
- Kha) such goods are re-exported to a place outside Bhutan or deposited in a bonded warehouse for export within the time permitted; or
- Ga) at the time of import, such goods are cleared against a bond or undertaking with or without bank guarantee or cash security equivalent to Customs duty for ensuring re-export of the goods.

11.2 Where any goods, vehicles and equipment imported for temporary use or for such time of the completion of a project, are disposed off and no bond or guarantee has been executed, the importer shall pay Customs duty and Sales Tax.

12 Duty on conveyance in a Customs area

Any conveyance from a third country entering a Customs station carrying passengers or imported goods shall not pay Customs duty, provided that such conveyance returns within a reasonable period as may be permitted by the Department or by any other Act in force.

Chapter 5 Valuation of Imported Goods

13 Valuation

13.1 Valuation for the purpose of this Act shall be on the cost, insurance and freight (CIF value) at the point of entry in Bhutan.

13.2 The Ministry shall prescribe methods of valuation for imported goods in accordance with international norms and practices where the CIF value cannot be determined.

Chapter 6 Assessment and Collection

14 Assessment

14.1 Assessment and re-assessment for Customs duty shall be carried out as per Section 4 of General Provisions to ensure that the Customs duty is correctly levied, accounted for, collected and deposited.

14.2 Where Customs duty has not been levied, incorrectly levied, refunded, adjusted, an officer may demand duty after reassessment.

15 Collection

Customs duty shall be collected at the time of entry, exit or clearance of goods.

Chapter 7

Import and Export Clearance

16 Imported Goods

- 16.1 Notwithstanding Chapter 11 of this Part, all goods imported by land, sea or air shall be deposited in the Customs area and remain under Customs control until they have been cleared on presentation of import documents.
- 16.2 No goods shall be removed from the Customs area or otherwise dealt with without the written permission from a Customs Officer not below the rank of Assistant Commissioner.
- 16.3 The procedures for the clearance of imported goods shall be prescribed by the Ministry.
- 16.4 Storing charges for the goods stored in a Departmental warehouse/storage shall be levied as per the rates approved by the Department if not cleared within the prescribed period.
- 16.5 Ownership of imported goods shall vest with the Royal Government, if not cleared from Customs control or moved to the approved Customs warehouse by the importer within 90 days from the date of arrival. Such goods may be disposed off by the Department through public auction or tender.
- 16.6 Notwithstanding Sub-section 16.5 above hazardous or dangerous goods as well as animals and perishable goods may be disposed off within 48 hours.
- 16.7 Removal of goods from Customs control shall be allowed on payment of duty and tax, or on execution of a bond in the form of security or collateral equivalent to the tax and duty.

17 Import and disposal of goods by privileged personnel

Rules on import and disposal of goods by the officials of Diplomatic Missions and International organisations shall be prescribed by the Ministry.

18. Export goods

- 18.1 Notwithstanding Chapter 11 of this Part, all export goods by land, sea or air shall be allowed on presentation of export documents.
- 18.2 The procedure for the clearance of export goods shall be as prescribed by the Ministry in consultation with the concerned authorities

19 Declaration

Notwithstanding the provisions under Sections 16, 17 and 18 of this Part, all imported and export goods whether dutiable or exempted shall be declared to Customs at the entry and the exit points.

20 Clearing and Forwarding agents

- 20.1 Only licensed and registered clearing and forwarding agents shall be permitted to act as agents for the importer and the exporter.

- 20.2 Licence/permits for clearing and forwarding agents may be issued by the Ministry of Trade and Industry on recommendation of the Ministry.
- 20.3 Registration of clearing and forwarding agents and the conditions thereof shall be laid down by the Ministry

Chapter 8

Entry and Exit of Conveyance and Goods

21 *Entry and Exit*

Conveyance entering and leaving Bhutan with or without goods shall enter or leave only through the designated Customs stations as notified by the Ministry.

22 *Accidental entry of conveyance*

Where a conveyance enters or lands at a place other than a designated Customs station, the person in charge of the conveyance shall within 24 hours of such entry:

- Ka) report its arrival to the nearest Customs Office or Police station;
- Kha) produce on demand the papers relating to the conveyance; or
- Ga) not allow any goods to be unloaded or any crew member or passengers to depart unless permitted to do so by a Customs Officer, except in case where unloading and departure may become necessary for the reason of safety to life and property.

23 *Unloading of imported goods*

Imported goods shall not be unloaded from a conveyance other than in a designated Customs station, unless:

- Ka) permitted to do so by a Customs Officer; or
- Kha) goods are perishable, hazardous, dangerous, or being animals, and a report thereto, is made with the nearest Customs office within 24 hours.

24 *Loading of export goods*

Goods shall not be loaded in a conveyance, unless the exporter has produced documents duly cleared by a Customs Officer.

Chapter 9

Warehousing

25 *Approval*

The Department may approve a Customs warehouse at any station wherein dutiable or taxable goods may be deposited without payment of tax or duty.

25 *Control of goods*

- 26.1. All goods stored in a Customs warehouse shall remain under Customs control.

- 26.2. Entry, removal of goods, packing or re-packing, inspections, taking samples, changing container, or any other act shall be done only with the permission and supervision of the Customs Officer.
- 26.3. The Customs Officer shall have access to the entire part of a warehouse and be empowered to examine the goods therein.

27 *Owner's right to warehoused goods*

With the permission of the Customs Officer and on payment of prescribed fees, the owner of the goods may either before or after warehousing:

- Ka) inspect the goods;
- Kha) separate damaged or deteriorated goods from the rest;
- Ga) sort the goods or change their container for the purpose of preservation, sale, export, or disposal or transport of the goods;
- Nga) deal with the goods and their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods; or
- Cha) show the goods for sale.

28 *Clearance of warehoused goods*

On presentation of prescribed documents and on payment of duties, taxes, rent and any other fees, warehoused goods may be cleared by the importer or his agent.

29 *Transfer of goods from one warehouse to another*

The owner of warehoused goods may remove and transport the goods underbond from one warehouse to another with the permission of the Customs Officer.

30 *Warehouse operation*

The Department shall prescribe rules for the operation of both public and private warehouses.

30 *Storage period for goods in warehouses*

- 31.1. Imported goods shall not be stored in a designated warehouse by the importer beyond a period of 5 years from the date of its warehousing.
- 31.2. The Head of the Department may allow goods to remain in a warehouse for a period longer than as prescribed under Sub-section 31.1 above on a written request by the importer.

32 *Disposal of warehoused goods*

If warehoused goods are not cleared as per Section 31 above, the goods shall be disposed off by the Department through public auction or tender.

Chapter 10
Import, Sale and Transfer of Vehicles

33 *Sale of duty exempt Vehicles*

- 33.1 Sale or transfer of vehicles imported under exempt basis by persons shall be liable to pay Customs duty, taxes, fees and charges.
- 33.2 Officials of Diplomatic Missions, International organisations and experts may instead of new vehicles bring in their used and second hand vehicles along with them on their transfer to Bhutan. Such vehicles however shall not be permitted to be sold or transferred to any Bhutanese or privileged persons and shall have to be re-exported on his repatriation.
- 33.3 The sale or transfer of vehicles by the Foreign Diplomatic Missions and International organisations whether by public auction or tender, the buyer if not a privileged person shall pay the Customs duty, taxes, fees and charges.
- 33.4 No Customs duty shall be levied if a vehicle imported under exempt basis is sold or transferred after 5 year of its registration in Bhutan.
- 33.5 Notwithstanding Sub-sections 33.1, 33.2, 33.3 and 33.4 above, the Ministry shall prescribe rules for the import, sale and transfer of vehicles.

34 *Unauthorised Import*

Where a vehicle of third country origin is imported into Bhutan without an authorisation, it shall be confiscated without notice pursuant to Section 10 in the General Provisions.

Chapter 11
Baggage, Import and Export of Goods by Post

35 *Baggage*

The Ministry shall prescribe rules regulating baggage allowances and such rules shall specify the following:

- Ka) Duty free allowances of baggage;
- Kha) Period of use of articles and the depreciation thereof; and
- Ga) Provisions applicable to diplomatic personnel and privileged persons under Sub-section 5.1 or any particular group of persons or professionals.

36 *Declaration of baggage*

- 36.1 Where a passenger brings dutiable or prohibited goods in his baggage and makes a declaration thereof, such goods, by request, may be detained for their return on departure from Bhutan.
- 36.2 Passengers shall be liable to declare the contents of baggage to the Customs authorities in the prescribed declaration form.

37 *Import and export of goods by Post and Courier Services*

The Ministry shall in the rules prescribe Customs procedures for the import and export of goods by post or courier services.

Chapter 12 Inspection and Search

38 *General*

38.1 Customs Officers shall have the authority to control the movement of goods in designated areas, public roads, airplanes, airports and conveyances.

38.2 Where necessary, the Royal Bhutan Police shall assist the Customs authorities in search and seizure for illegal arms, ammunitions, explosives, drugs and narcotics, or any other contraband.

38 *Search of person*

When a Customs Officer suspects or has sufficient ground to believe that a person has concealed goods on his person which are liable to confiscation or any documents relevant to an enquiry or investigation, he may search or order search of that person.

39 *Body search*

Any body search of a person shall be done by a person of the same gender.

40 *Search of goods inside body*

If a person is suspected for concealment of goods inside his body and such goods are prohibited or liable for confiscation, and if such person does not volunteer for suitable action, a Customs Officer may direct the person to be taken to a radiologist for x-ray or other tests if required. If the tests confirm that the goods are concealed inside the body of the person, the officer may charge the person for violation of the Act.

41 *Power to Search and detain*

42.1 A Customs Officer not below the rank of Assistant Commissioner shall have the power to search where he has reason to believe that a person has violated the provisions of this Act.

42.2 Where a person refuses to be searched, such person may be detained for the conduct of search.

42.3 The person so detained shall be handed over to the Royal Bhutan Police with a statement in writing of the grounds for such detention.

42 *Search of premises*

43.1 A search warrant shall be obtained from the nearest court of jurisdiction for conducting the search of premises.

42.2 Only a Customs Officer not below the rank of Assistant Commissioner may conduct the search of premises.

42.3 A search without warrant may be done where:

- Ka) there exists an imminent risk of disposing or destroying evidence of dutiable or prohibited goods liable for seizure or confiscation; or
- Kha) there exists reasonable cause to believe that the premise houses contraband, prohibited goods or documents that may be required in the process of investigation.

42.4 Where a search without warrant is conducted the court shall be informed in writing with grounds for the search within 24 hours.

42.5 The procedures for conducting search with or without warrant shall be as per the provision of search under the Civil and Criminal Court procedures of the Kingdom of Bhutan.

44 *Search of a conveyance*

A Customs Officer shall have authority to stop the conveyance and conduct a search for any goods or documents, where such conveyance is suspected of being engaged or used for smuggling.

Chapter 13

Import and Export Restrictions and Prohibitions

45. *Import restrictions*

The import of the following goods into Bhutan shall be restricted:

- Ka) Arms and ammunition;
- Kha) Explosive and explosive devices;
- Ga) Animal and plants classified as endangered species and their parts and products;
- Nga) Industrial and toxic wastes and residues;
- Cha) Wireless and remote sensing telecommunication and broadcasting equipment;
- Chha) Chemicals of certain kind as notified by the National Environment Commission Secretariat.
- Ja) Scraps as notified by the National Environment Commission Secretariat;
- Nya) Used or second hand goods, vehicles, machinery and equipment;
- Ta) Any goods which do not have domestic market in Bhutan; and
- Tha) Any other goods which are restricted by any other laws in force.

46. *Import prohibitions*

The import of the following goods into Bhutan shall be prohibited

- Ka) Narcotics and psychotropic drugs and substances;
- Kha) Pornographic materials; and
- Ga) Any other goods which are prohibited by any laws or international conventions or treaties to which Bhutan is a signatory.

47. Export prohibitions

47.1 The export of the following goods shall be prohibited

- Ka) Animals and plants classified as endangered species and their parts and products;
- Kha) Antiques such as zee and any other items as specified by the Royal Government.
- Ga) Narcotic and psychotropic drugs and substances; and
- Nga) Any other goods which are prohibited by any other laws in force.

47.2 Notwithstanding the provisions laid down in Sections 45, 46 and 47 of this Part, the Government may impose restrictions and prohibitions on any other goods from time to time.

Chapter 14 Special Provision

48. Special Provision

The Government may enter into an agreement with any country or group of countries for

- Ka) Mutual administrative assistance for the proper application of Customs Laws and for the prevention, investigation and combating Customs offences
- Kha) Preferential tariff arrangement.
- Ga) Free trade arrangement.
- Nga) Customs Unions.

PART III - EXCISE

Chapter 1 Preliminary

1 Applicability

This part of the Act shall apply to:

- Ka) Manufacturers & dealers of excisable goods, and
- Kha) Persons importing, exporting or transporting any excisable goods in and out of Bhutan.

Chapter 2 Liability and Exemption

2 Liability to duty.

2.1 Persons manufacturing and dealing with excisable goods shall be liable to pay Excise duty.

2.2 On the satisfaction and in the public interest, the Ministry may exempt any person from the payment of duty.

Chapter 3 Excisable Goods, Rates and Fees

3 *Excisable goods*

Excise duties shall apply to goods manufactured or produced in Bhutan as prescribed by the Ministry.

4 *Rates of Excise duty and fees*

4.1. Rates of Excise duty on excisable goods shall be fixed and revised by the Royal Government.

4.2. Fees and revision thereof, on excisable goods shall be in accordance with rules prescribed by the Ministry.

Chapter 4 Registration and Collection

5 *Registration*

5.1. Manufacturers and wholesale dealers under Section 1 shall register with the Department.

5.2 Requirements for registration under Section 5.1 above, shall be in accordance with the rules prescribed by the Ministry.

6 *Levy and collection*

Excise duty or fees shall be levied and collected by the Department or the manufacturer at the time of sale or removal of the goods from the factory or warehouse as the case may be.

Chapter 5 Control of Excisable goods

7 *Control of excisable goods*

7.1 All excisable goods in the factory and distillery shall be under the control of the Department.

7.2 Manufacturers shall maintain and submit to the Excise authorities information and records regarding the import, production and sale of excisable goods as per the rules prescribed by the Ministry.

7.3 Notwithstanding Section 7.1 and 7.2 above, manufacturers shall ensure that the quality and content of the product are in keeping with the specification and standard declared to the consumer.

8 *Removal of the goods*

8.1 Person or entity intending to export excisable goods shall inform the Excise authorities in writing within 24 hours before the removal of the goods from the factory or warehouse.

8.2 The Ministry shall prescribe rules and procedure thereof for export of excisable goods.

9 *Permit*

9.1 Where a permit may be required for the purpose of import, export or transport of excisable goods, such permit shall be obtained from the Department as per the rules prescribed by the Ministry.

9.2 In case of loss or damage of any goods during transport or transit under bond, the owner shall pay the Excise duty to the concerned Regional Office.

Chapter 6 Warehousing

10 *Approval*

The Department may approve an Excise warehouse wherein excisable goods may be deposited without payment of duty.

11 *Control over warehoused goods*

11.1. All goods stored in the Excise warehouse shall remain under Excise control.

11.2 Entry, removal, packing or re-packing, inspections, taking samples, changing container, or any other act shall be done under the permission and supervision of the Excise Officer.

11.3. The Excise Officer shall have access to the entire part of a warehouse and be empowered to examine the goods therein.

11.4. The removal of excisable goods from the factory or warehouse shall be allowed on the presentation of a duty assessment form, a gate pass and a duty paid receipt. Duty paid receipt may not be required for the transfer of excisable goods under bond.

11.5. The Department shall in the rules prescribe for the control of warehoused goods, keeping of accounts and work on holidays by the Excise authorities.

Chapter 7 Search, Seizure, and Confiscation

12 *Search and seizure*

Notwithstanding Chapter 3 of General Provisions, the following procedure for search and seizure shall apply for the commission of an offence under this Act or any other Act in force:

Ka) A search warrant shall be obtained from the nearest court with jurisdiction for conducting the search of the premises;

- Kha) The procedures for conducting search with or without warrant shall be as per the provision of search under the Civil and Criminal Court Procedure of the Kingdom of Bhutan;
- Ga) Excise Officer not below the rank of Assistant Commissioner may authorise any officer not below the rank of an Inspector to conduct the search;
- Nga) A search without warrant may be conducted where there exists an imminent risk of disposing or destroying evidence of excisable goods liable for seizure or confiscation; or where there exists reasonable cause to believe that the premises house illicit goods that may be required in the process of investigation;
- Cha) If a search without warrant is conducted, the court shall be informed in writing, the grounds for the search within reasonable time;
- Chha) The seizure of any unauthorized excisable goods during search shall be done in presence of the owner or the witnesses;
- Ja) The seized excisable goods shall be packed and sealed in the presence of the owner or the witnesses and a report thereto, shall be made, listing the goods seized; and
- Nya) The seized goods shall remain in the custody of the Excise authorities till the case has been finalized.

13 *Confiscation of excisable goods*

Prohibited goods manufactured, imported, exported, sold and transported may be confiscated along with the container or equipment.

Chapter 8 Disposal of Excisable goods

14 *Disposal*

- 14.1. Any confiscated dutiable or excisable goods, including liquor or spirits in a sealed container may be sold by public auction or sealed tender.
- 14.2. Confiscated illicit liquor may be disposed off by way of destruction in the presence of witnesses whether fines and penalties have been paid or not.
- 14.3. Notwithstanding Sub-section 14.1 above, confiscated hazardous or dangerous goods may be disposed of at any time by Excise authorities.

GENERAL PROVISIONS

These provisions shall apply to Part I, Part II and Part III of this Act.

Chapter 1

Inspection of Accounts, Taxes and Duties

1 *Books of accounts and documentation*

- 1.1. Persons engaged in commercial activities shall maintain books of accounts and documents in accordance with the Companies Act of the Kingdom of Bhutan or any other rules thereto.
- 1.2 The Department may demand any person or entity to furnish information on the Sales Tax, Customs and Excise duties on the basis of the books of accounts or any other information that may be related to the business.
- 1.3 On demand, the person or entity shall produce documentary proof of taxes or duties paid to the Department on goods or services manufactured, purchased, imported or sold.
- 1.4 The books and records shall be kept compulsorily up to 5 years from the relevant income year.

2 *Information*

- 2.1 On written demand, all public, private entities and individuals shall furnish any information on the tax payer that may be required by the Department.
- 2.2 On written demand, the Financial Institutions and Insurance Companies shall furnish information to the Department on the financial status and the accounts of any taxable entity or person.
- 2.3 Only the Head of the Department or officer of superior rank may demand the information under Sub-section 2.2 above.

3 *Inspection*

Officer of the Department not below the rank of an Inspector shall have the right to inspect business premises and exhibits of the entity in accordance with the rules prescribed by the Ministry.

4 *Assessment and reassessment*

- 4.1 The Ministry shall prescribe rules for assessments of Sales Tax, Customs and Excise duties on imports, exports and for desk and field assessments.
- 4.2 The Department may carry out reassessment on the basis of a petition from a taxpayer or on obtaining additional information on the taxpayer.

5 *Refund*

- 5.1. Any refund of Sales Tax, duties or fees shall be granted by the Department provided that a person has no outstanding tax or duty of any kind to the Government.

- 5.2. Refund of Sales Tax, duties or fees due to a taxpayer shall be adjusted against outstanding tax to the Government if any. Outstanding tax shall include taxes and duties from any other entity or business that may be owned by such person.

Chapter 2 Transit goods

6 *Goods in transit*

- 6.1 A transit permit issued by the Regional office or its authorized check posts shall accompany the goods in transit from one part of Bhutan to another through Indian territories.
- 6.2 Movement of goods in transit to and from Bhutan through Indian territories shall be governed by the Protocol to the Agreement on Trade and Commerce between the Royal Government of Bhutan and the Government of the Republic of India.
- 6.3 The owner of the goods shall be liable to pay Customs duty including fines and penalties under the provision of this Act, where the loss of goods in transit is proved to be caused by negligence, default or any willful act or omission.

Chapter 3 Detention, Seizure and Confiscation

7 *Detention*

- 7.1. Where goods liable for tax or duty are incorrectly declared or the value of the goods under-invoiced, such goods may be liable for detention.
- 7.2 Where an officer of the Department has reason to believe that the goods have been illegally imported or exported, the officer shall have the power to detain the goods for further inquiry.

8 *Seizure*

- 8.1 Restricted and prohibited goods, or goods imported, exported or sold without prescribed documents, permit or pass, shall be seized or confiscated.
- 8.2 Where taxable, dutiable, restricted or prohibited goods are unloaded or attempted to be unloaded without authorization, or removed from an area or a warehouse without permission, goods shall be considered illegal and seized or confiscated.
- 8.3 Where a person or entity fails to produce documentary evidence for the taxes and duties paid thereof, the officer of the Department shall seize such goods.

9 *Expenses*

Any expenses incurred with regard to the transport and handling of detained or seized goods shall be borne by the offender.

10 *Confiscation*

- 10.1 Goods requiring import licenses or permits shall be confiscated if imported without required import licenses or permits.

10.2 Any goods imported, exported or sold contrary to the restrictions or prohibition under this Act shall be liable for confiscation.

10.3 A conveyance shall be confiscated on the commission of following offences:

Ka) Concealment and smuggling of goods; or

Kha) Goods liable for seizure or confiscation are thrown from the conveyance or refusing to stop when asked.

10.4 Notwithstanding Sub-sections 10.1 to 10.3 above, any restrictions or prohibitions on sale, import or export of goods as may be prescribed under any other laws, rules and orders in effect, shall be treated as having the same force under this Act.

10.5 Goods detained, seized or confiscated may include any documents, records or articles relevant to an enquiry under the provisions of this Act.

11 Seizure, confiscation and arrest of person

11.1 Seizure or confiscation of taxable and dutiable goods shall take place only in the presence of the owner of goods or witnesses.

11.2 An officer, not below the rank of Assistant Commissioner, may arrest a person for an offence without a warrant from the court of law on sufficient reasons or grounds to believe that an arrest is necessary to prevent any crime under this Act.

11.3 The officer shall hand over the offender to the Royal Bhutan Police with the grounds of arrest in writing and shall be produced before the court of law as per the provision of the Civil and Criminal Court Procedure of the Kingdom of Bhutan.

Chapter 4 Fines and Penalties

12 *Late payment of tax*

A penal interest at the rate of 24 per cent per annum on the amount of tax due in addition to the tax in arrears shall be imposed on failure to pay Sales Tax, Customs and Excise duty due as required under this Act.

13 *Failure to maintain books of accounts and documents*

Depending on the size and nature of the business, a fine ranging from Nu.1000 to Nu.100,000 shall be imposed for failure to maintain books of accounts, documents or furnish information as may be required under this Act.

14 *Failure to comply with the notice*

A fine of Nu.500 to Nu.5,000 for each default shall be imposed for failure to comply with the notice issued by the Department to furnish evidence and produce books of accounts or any other documents.

15 *Collecting agent*

Collecting agent responsible for the collection and remittance of Sales Tax, Customs and Excise duty shall be liable for penalties as follows-

- Ka) Failure to collect the whole or part of tax or duty as required under this Act shall pay a penal interest at the rate of 24 per cent per annum on the amount due in addition to the tax or duty in arrears; and
- Kha) Failure to deposit the tax or duty collected as required under this Act, shall pay penal interest at the rate of 24 per cent per annum from the due date it is required to be deposited in addition to the tax or duty in arrears.

16 *Under-invoicing, non-declaration or concealment etc.*

A fine of 50 per cent of the value of the goods in addition to the amount of Sales Tax, Customs and Excise duty shall be imposed for the commission of following offences:

- Ka) Under-invoicing or non-declaration of either the value or quantity of goods or services sold in case of sales tax;
- Kha) Non-declaration, mis-declaration or concealment of goods;
- Ga) Misuse of tax or duty exemption; or
- Nga) Misuse of permits or any other offence that may be prescribed in this rules.

17 *Illicit liquor*

For the purpose of the Excise Act, fines for illicit liquor shall be levied as per the rules prescribed by the Ministry.

18 *Prosecutions*

Notwithstanding the provision of fines and penalties under this Act, the offender shall be liable for a term of imprisonment ranging from 3 months to 6 years for the commission of following offences-

- Ka) Dealing with seized assets in contravention of the order made by the Department;
- Kha) Smuggling of contraband if not specified in any other laws;
- Ga) Willful act or omission to collect tax or duty at source or pay tax or duty to the Government;
- Nga) Willful act or omission to produce books of accounts and documents;
- Cha) Making a false statement or deliver a false account; or
- Chha) Abet or attempt to abet any offence under the provisions of this Act.

Chapter 5

Auction of Goods

19 *Auction of goods*

- 19.1 Notwithstanding Sub-sections 16.5, 16.6 and Section 32 of Part II and Sub-section 14.1 and 14.3 of Part III of this Act, seized and confiscated goods shall be auctioned only after the administrative appeal procedures under the provisions of Appeal have been finalised.
- 19.2 On confiscation of any goods under the provisions of this Act, the right of the goods shall vest with the Royal Government.
- 19.3 Goods seized and confiscated resulting from the commission of any offence under this Act or any other Act in force shall be sold by public auction or tender as per the rules prescribed by the Ministry.

Chapter 6

Settlement of Disputes and Appeals

20 *Appeal*

- 20.1 A person or business entity may appeal an assessment of Sales Tax, Customs or Excise duty or any other decision passed by an officer of the Department.
- 20.2 Filing an appeal against an assessment, does not postpone the date for depositing the Sales Tax or duty.
- 20.3 An appeal shall be admitted only if the undisputed part of the Sales Tax or duty has been deposited.
- 20.4 Where the order in appeal does not reverse or the appeal is otherwise unsuccessful, the appellant shall be liable for the disputed amount along with the penal interest of 24 per cent per annum from the due date.

21 *Appeal Committee and Appeal Board*

- 21.1 An Appeal Committee shall be established at the Regional Office of the Department consisting of three officers of the Regional Office and chaired by the Regional Director but excluding the officer passing the assessment.
- 21.2 An Appeal Committee shall be established at the Head Office of the Department consisting of five members.
- 21.3 An Appeal Board shall be established at the Ministry of Finance, consisting of four regular members and one ad hoc member as mentioned below-
- Ka) Two from the Ministry of Finance,
 - Kha) One from Ministry of Trade and Industry;
 - Ga) One from the Bhutan Chamber of Commerce and Industry; and

Nga)One ad hoc member.

21.4 Notwithstanding the Appeal Committee at the Regional and the Head Office, the quorum of the Board shall not be less than three members, one being always from the Bhutan Chamber of Commerce and Industry.

22 *Appeal procedure*

- 22.1 The Appeal shall be filed before the Appeal Committee within 30 days from the date of the issue of demand notice or seizure notice.
- 22.2 The Appeal Committee at the Regional Office shall pass its decision within 30 days from the date of filing an appeal.
- 22.3 Where an Appeal Committee fails or does not pass a decision within 30 days of filing an appeal, a person or entity may appeal to the Appeal Committee at the Head Office.
- 22.4 The decision of the Appeal Committee of the Regional Office may be appealed to the Appeal Committee at the Head Office within 30 days from the date of a decision has been passed.
- 22.5 The Appeal Committee at the Head Office shall pass its decision within 60 days from the date of filing an appeal.
- 22.6 Where an Appeal Committee fails or does not pass a decision within 60 days of filing an appeal, a person or entity may appeal to the Appeal Board.
- 22.7 The decision of the Appeal Committee of the Head Office may be appealed to the Appeal Board within 60 days from the date a decision has been passed.
- 22.8 The Appeal Board shall pass its decision within 60 days from the date of filing an appeal.
- 22.9 The decision of the Appeal Board may be appealed to the Court of Law within 30 days from the date a decision has been passed.
- 22.10 Where an Appeal Board fails or does not pass a decision within 60 days of filing an appeal, a person or entity may appeal to the Court of Law.
- 22.11 Any decisions passed thereto by the Appeal committee or the Board shall be in writing.

23 *Appeal to the Courts*

Nothing in the provisions of appeal under this Act shall bar a person from filing an appeal to the Court of Law.

24 *Waiver*

Any penal interest or fine imposed on a person or entity may be waived in whole or in part by the Department on satisfaction that the violation of the provisions of this Act was unintentional.

Chapter 7 Recovery

25 General

25.1 Notwithstanding Chapter 4 of this Part, and where a person or entity does not pay or deduct the tax or duty; or does not pay fines, penalties or deducted tax or duty within the due date, recovery shall be made in accordance with the provisions of this Chapter.

25.2 The Department shall recover the dues by-

Ka) entering into an agreement with the offender for payments of any dues in instalments;

Kha) executing bond or security by the entity or person;

Ga) selling any goods seized by the Department through an auction with or without the consent of the person; or

Nga) deducting the amount from any sum which may be due to the entity or person.

25.3. Notwithstanding Sub-section 25.2 above, the any license required to operate a business shall be suspended or cancelled by the appropriate authority on the recommendation of the Ministry.

25 Restraints on assets

26.1 Where a person or entity fails or refuses to comply with the provision of Sub-section 25.2(a) of this Part, the Department may put a restraint on the assets of person or entity.

26.2 The Department shall publish by public notification the restraining order to prevent the person from disposing off the asset.

26.3 The Department shall not put a restraint on the asset or the property that may have prior interest by way of mortgage, lease and hypothecation or by operation of any other Law in force.

26.4 Claims for tax and duty shall respect prior claims from third persons on the same asset but shall have priority to subsequent claims, unless the Department has neglected to notify under Sub-section 26.2 above.

26.5 Subject to and the commission of any act contrary to the restraint of asset the Department may attach the asset and dispose off through auction.

26.6 Proceeds from the auction of the asset shall be adjusted against the dues and the excess amount if any paid to the person or the entity.

27 Transfer, closure or winding up of a business

27.1 In case of transfer, closure or winding up of a business as a result of bankruptcy, all outstanding claims on account of Sales Tax and duty shall be subject to the provision of Section 112 of the Bankruptcy Act of the Kingdom of Bhutan.

27.2 Tax clearance certificate shall be obtained from the Department in case of transfer, closure or winding up of a business failing which the current owner of an entity shall be liable for any tax due or duty.

28 Tax clearance certificate

A person shall produce a tax clearance certificate in the following cases-

- a) Before leaving the country for 6 months or more;
- b) At the time of obtaining and renewal of license or bidding for any work or service contracts;
- c) Transfer of ownership or location of business; or
- d) At the time of closing or winding up of business.

Chapter 8 Duties and Functions of Staff

29 Assignment

A Revenue and Customs Officer shall not take on any assignment or task in which his relatives are involved or a case in which he may have a conflict of interest.

30 Confidentiality

Any information obtained by any staff of the Department in the course of their employment shall be treated with confidentiality and considered privileged and such information shall not be disclosed to any unauthorized person.

31 Intelligence and anonymity

31.1 It shall be the duty of any employee under the Department to communicate intelligence or information relating to the interest of the Department, Ministry or to the National security.

31.2 It shall be the duty of the Head of the Department to treat all such information or intelligence as privileged and confidential and to communicate it to the Government after verifying the validity of the information or intelligence.

31.3 The informant shall always be treated under confidence and his identity shall not be disclosed.

31.4 The informant shall not disclose any source of information or intelligence to any person who is not authorized under this Act or any other Laws.

32 Complaint against officers

32.1 Any complaint against an officer of the Department shall be made to and inquired into and determined only by the Head of the Department.

32.2 No prosecution or legal liability shall lie personally against any officer of the Department for any act or omission that may be committed in discharge of lawful duties under this Act or any other Laws.

33 Identification

33.1 The Head of the Department shall issue identity cards to all employees of the Department.

33.2 An officer shall identify himself by producing Departmental identity card during any field assignment.

Chapter 9 Miscellaneous

34 Work on holidays

Except in the case of baggage carried by a passenger and postal or diplomatic mail bags, no imported goods shall be brought, unloaded or cleared in a Customs area on any public holiday or on any other day beyond prescribed working hours, except on giving prior notice to Customs and payment of prescribed fees.

35 Work at owner's expense

Any work necessary for examination or movement of any goods for clearance from Customs and Excise control shall be done by or at the expense of the owner, importer, exporter or agent of the goods as the case may be.

35 Execution of bond under special circumstances

Where a Customs or Excise Officer is satisfied beyond reasonable doubt that the delay in compliance is unavoidable, he may allow movement of goods out of Customs and Excise control on execution of a bond. However, if the obligations under the bond are not fulfilled within the time specified, the Customs and Excise Officer shall proceed against the person in accordance with terms of the bond.

36 Regulation

The Head of the Department may under the provisions of this Act may make regulations to levy fees in respect of Customs and Excise forms or Customs work or furnishing of documents to the person or the entity.

38 Responsibility of the Department

The Department shall be responsible for the compensation of losses and damages caused by unwarranted levying of execution, detention and auctioning of assets.