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Laws

Act

2005

The Finance Act,2005

Tanzania, United Republic

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THE FINANCE ACT, 2005

ARRANGEMENT OF CONTENTS

<i>Part</i>	<i>Title</i>
PART I	PRELIMINARY PROVISIONS
PART II	AMENDMENT OF THE EDUCATION FUND ACT, 2001
PART III	AMENDMENT OF THE EXCISE TARIFF ORDINANCE (CAP. 332)
PART IV	AMENDMENT OF THE INCOME TAX ACT, 2004
PART V	AMENDMENT OF THE STAMP DUTY ACT, 1972
PART VI	AMENDMENT OF THE TAX REVENUE APPEALS ACT, 2000
PART VII	AMENDMENT OF TRANSPORT LICENSING ACT, 1973
PART VIII	AMENDMENT OF VALUE ADDED TAX ACT, 1997
PART IX	AMENDMENT OF THE EAST AFRICAN DEVELOPMENT BANK ACT, 1984
PART X	AMENDMENT OF THE URBAN AUTHORITIES (RATING) ACT, 1983
PART XI	AMENDMENT OF THE ROAD AND FUEL TOLLS ACT, 1985
PART XII	AMENDMENT OF THE PUBLIC FINANCE ACT, 2001
PART XIII	AMENDMENT OF THE BIRTHS AND REGISTRATION ORDINANCE CAP. 108
PART XIV	AMENDMENT OF THE INSURANCE ACT, 1996
PART XV	AMENDMENT OF THE PUBLIC SERVICE RETIREMENT BENEFITS ACT, 1999

THE UNITED REPUBLIC OF TANZANIA



No. 13 OF 2005

I ASSENT,
Benjamin W. Mkapa

President
 5th September, 2005.

An Act to impose and alter certain taxes and to amend certain written laws relating to the collection and management of public revenues.

PART I

PRELIMINARY PROVISIONS

Short title

1. This Act may be cited as the Finance Act, 2005.

Commencement

2. The provisions of the various Parts of this Act shall, except where it is provided otherwise in respect of the commencement of any Part, be deemed to have come into operation on the 1st day of July, 2005.

PART II

AMENDMENT OF THE EDUCATION FUND ACT, 2001

Construction

3. This Part shall be read as one with the Education Fund Act, 2001 hereinafter referred to as the "principal Act".

Amendment of section 12

4. Section 12 of the principal Act is amended by deleting subsections (3) and (5) and substituting for them the following new subsections:—

"(3) Every awardee of a Certificate of Educational Appreciation shall be entitled to apply the amount stated in the Certificate of Education Appreciation as an allowable deduction under section 16(1) of the Income Tax Act, 2004.

(5) The Certificate of Educational Appreciation shall be valid to the awardee within a period not exceeding six years from the date of the award, but once submitted for purposes obtaining the relief it shall remain in the custody of the tax authority to which it is submitted until the amount thereon is fully utilized whereupon the Certificate of Educational Appreciation shall be water marked in bold across the face by the word "UTILISED".

PART III

AMENDMENT OF THE EXCISE TARIFF ORDINANCE (CAP. 332)

Constru-
tion Cap.
332

5. This Part shall be read as one with the Excise Tariff Ordinance, in this Part referred to as the "principal Ordinance".

Amend-
ment of
section 3

6. The principal Ordinance is amended in section 3 by—

(a) adding immediately after subsection (1) the following new subsection—

"(2) The specific excise duty rates imposed under subsection (1) shall be annually adjusted in accordance with the projected inflation rate."

(b) Renumbering subsections (2) to (8) as subsections (3) to (9).

Amend-
ment of
the First
Schedule

7. The First Schedule to the principal Ordinance is hereby amended—

(a) by deleting excise duty rates imposed on certain items and substituting for them the following new rates:

FIRST SCHEDULE

<i>Heading No.</i>	<i>H. S. Code</i>	<i>Description</i>	<i>Unit</i>	<i>Excise Duty Rate</i>
22.01		waters, including natural or artificial mineral water and aerated waters, not containing added sugar or other sweetening matter nor flavoured; ice and snow.		
	2201.10.90	-Mineral waters and aerated waters -Other, including club soda	l	Sh. 41.50 per litre
22.02		Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading No. 20.09.		
		-Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured.		
	2202.10.10	-Lemonade and flavoured mineral or aerated waters	l	Sh. 41.50 per litre
	2202.10.90	-Other	l	Sh. 41.50 per litre
	2202.90.00	-Other	l	Sh. 41.50 per litre
22.03		Beer made from malt		
	2203.00.10	-Stout and porter	l	Sh. 256.00 per litre
	2203.00.90	-Other		Sh. 256.00 per litre
22.04		Wine of fresh grapes, including fortified wines; grape must other than that of heading No.20.09		

Heading No.	H. S. Code	Description	Unit	Excise Duty Rate
		-Sparkling wine		
	2204.10.90	-Other	l	Sh. 820.00 per litre
		-Other wine; grape must with fermentation prevented or arrested by the addition of alcohol		
		-In containers holding 2l or less		
	2204.21.90	-Other	l	Sh. 820.00 per litre
		-Other		
	2204.29.90	-Other	l	Sh. 820.00 per litre
		-Other grape must		
	2204.30.90	-Other	l	Sh. 820.00 per litre
22.05		Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances.		
		-In containers holding 2l or less.		
	2205.10.90	-Other	l	Sh. 820.00 per litre
		-Other		
	2205.90.90	-Other	l	Sh. 820.00 per litre
22.06		Other fermented beverages (for example, cider, perry, mead) mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included		
	2206.00.30	-----Clear beer (from unmalted barley)	l	Sh. 150.00 per litre
22.08		Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other Spirituous beverages.		
	2208.20.00	-Spiritis obtained by distilling		

<i>Heading No.</i>	<i>H. S. Code</i>	<i>Description</i>	<i>Unit</i>	<i>Excise Duty Rate</i>
		grape wine or grape marc	l	Sh. 1,216.00 per litre
	2208.30.00	-Whiskies	l	Sh. 1,216.00 per litre
	2208.40.00	-Rum and tafia	l	Sh. 1,216.00 per litre
	2208.50.00	-Gin and Geneva	l	Sh. 1,216.00 per litre
	2208.60.00	-Vodka	l	Sh. 1,216.00 per litre
	2208.70.00	-Liqueurs and cordials	l	Sh. 1,216.00 per litre
		-Other		
	2208.90.10	-Distilled Spirits e.g. Konyagi	l	Sh. 1,216.00 per litre
	2208.90.90	-Other	l	Sh. 1,216.00 per litre
24.02		Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes.		
		-Cigarettes containing tobacco		
	2402.20.10	-Without filter and with the domestic tobacco contents exceeding 75%	mil	Sh. 4,170.00 per mil
	2402.20.20	-With filter and domestic tobacco contents exceeding 75%	mil	Sh. 9,840.00 per mil
	2402.20.90	-Other	mil	Sh. 17,870.00 per mil
24.03		Other manufactured tobacco and manufactured tobacco substitutes; "homogenized" or "reconstituted" tobacco; tobacco extracts and essences.		

Heading No.	H. S. Code	Description	Unit	Excise Duty Rate
		-Smoking tobacco, whether or not containing tobacco substitutes in any proportion		
	2403.10.10	-Cut rag/filler	kg	Sh. 9,025.00 per kg.,"

(b) by deleting the whole of items in tariff heading 2710 and substituting for it the following:

2710

		Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations; waste oils		
		---light oils land preparation		
	2710.11.10	--- Motor spirit (gasoline)regular	l	Sh.135.00 per litre
	2710.11.20	--- Motor spirit (gasoline) premium	l	Sh. 146.00 per litre
		--- Other		
		--- Medium oils and preparations		
		--- Preparations		
	2710.19.21	Kerosene type Jet Fuel	l	NIL
	2710.19.22	Illuminating kerosene (IK)	l	Sh.122.00 per litre
	2710.19.29	Other medium oils and preparations	l	Sh. 8.7145 per litre
		--- Gas oil or diesel oil		
	2710.19.31	--- Gas oil (automotive, light, amber or high speed engines)	l	Sh. 127.00 per litre

Heading No.	H. S. Code	Description	Unit	Excise Duty Rate
	2710.19.32	----Diesel oil (industrial heavy, blk, for low speed marine and stationery engines)	l	Sh. 201.00 per litre
		---- Residual oils		
	2710.19.41	--- Residual fuels oil (marine, furnace and similar fuel oils) of a Kinematic viscosity of 125 Centistrokes	l	Sh. 13.50 per litre
	2710.19.42	--- Residual fuel oils (marine, furnace and similar fuel oils) of a Kinematic viscosity of 180 Centistrokes		Sh. 13.50 per litre
	2710.19.43	--- Residual fuel oils (marine, furnace and similar fuel oils) of a Kinematic viscosity of 280 Centistrokes	l	Sh. 13.50 per litre
	2710.19.49	Other residual fuels	l	Sh.13.50 per litre
		--- Other		
	2710.19.51	--- lubricating oils	l	Sh.500.00 per m3
	2710.19.52	--- Lubricating greases	kg	Sh. 0.75 per kg."

PART IV

AMENDMENT OF THE INCOME TAX ACT, 2004

Constru-
tion Act
No. 11 of
2004

8. This Part shall be read as one with the Income Tax Act, 2004, hereinafter referred to as the "principal Act".

Amend-
ment of
section
16

9. Section 16 of the principal Act is amended—

- (a) in subsection (1), by inserting the phrase "referred to in subsection (8) of section 64" immediately after the word "institution" which appears in paragraph (a);

(b) by adding the following new paragraph immediately after paragraph (b):

“(c) amount paid to local government authority which are statutory obligations to support community development projects.”

10. The First Schedule to the principal Act is hereby amended in item 1 (1) by deleting the personal income tax rate imposed thereon and substituting for them the following new rates:

Amend-
ment of
the First
Schedule

TOTAL INCOME

RATE PAYABLE

Where total income does not exceed

shs. 960,000/= NIL

Where total income exceeds 960,000/=

but does not exceeds 2,160,000/=

18.5% of the amount
in excess of
shs.960,000/=

Where total income exceeds shs. 2,160,000/=

but does not exceed 4,320,000/=20% of the amount in
excess of shs.
2,160,000/=

Shs.222,000/= plus

Where total income exceeds shs. 4,320,000/=

but does not exceeds 6,480,000/=

Shs.654,000/= plus
25% of the amount in
excess of Shs.
4,320,000/=

Where total income exceeds shs. 6,480,000/=

Shs.1, 194,000 plus
30% of the amount in
excess of shs.
6,480,000/-.

PART V

AMENDMENT OF THE STAMP DUTY ACT, 1972

Construction Act
No. 20 of
1972

11. This Part shall be read as one with the Stamp Duty Act, 1972 hereinafter referred to as the "principal Act".

Amendment of
the
Schedule

12. The Schedule to the principal Act is amended by—

- (a) deleting the phrase "Tshs.40/= for each Tshs. 1000/= or part thereof" appearing in the third column of Article 1 and substituting for it the phrase "Tshs.500/=";
- (b) deleting the phrase "4 percent" wherever it appears in the third column of Articles 13, 17, 30,32,51 and 61 and substituting for it the phrase "1 percent";
- (c) deleting the phrase "2 percent" wherever it appears in the third column of Articles 43, 53 and 56 and substituting for it the phrase "1 percent".

PART VI

AMENDMENT OF THE TAX REVENUE APPEALS ACT, 2000

Construction Act
No. 15 of
2000

13. This Part shall be read as one with the Tax Revenue Appeals Act, 2000, hereinafter referred to as the "principal Act".

Amendment of
section
12

14. Section 12 of the principal Act is amended by—

- (a) adding immediately after subsection (6) the following new subsection—

"(7) If the Commissioner General is satisfied that owing to absence from the United Republic, sickness or other reasonable cause the person objecting to the assessment was prevented from giving notice within the time prescribed he may, upon application by that person, and subject to his satisfying the requirement of subsection (2) or, as the case may be, subsection (3), admit the notice after the expiry of the authorized period and the notice so admitted shall be valid as if it were submitted in time."

- (b) renumbering subsections (7), (8) and (9) as (8), (9) and (10) respectively.

PART VII

AMENDMENT OF THE TRANSPORT LICENSING ACT, 1973

15. This Part shall be read as one with the Transport Licensing Act, 1973 herein referred to as the principal Act. Constru-
ction

16. The principal Act is amended in section 11 by—

- (a) deleting subsection (4);
- (b) inserting the following paragraphs immediately below paragraph "(f) to the use of goods vehicles;
- (h) to the use of non public service vehicles;
- (c) numbering paragraph (g) as paragraph (i);
- (d) renumbering subsections (5), (6) and (7) as subsections (4), (5) and (6) respectively.

Amend-
ment of
Section
11

17. The principal Act is amended in section 12 by deleting the words "either" and the phrase "or for the carriage of goods for".

Amend-
ment of
section
12

18. The principal Act is amended in section 13 by:—

- (a) deleting subsections (1) and (2) and substituting for them the following subsection—

"Road
Service
licence

13.—(1) There shall be granted under the provisions of this Act a road service licence in respect of a public service vehicle."

Amend-
ment of
section
13

- (b) deleting paragraph (c) of subsection (4);
- (c) by repealing subsection (5);
- (d) by renumbering subsections (6) and (7) as subsections (5) and (6).

Amendment of section 14

19.—(1) The principal Act is amended in section 14 by—

- (a) deleting subsection (1) and substituting for it with the following -
 "14.—(1) Subject to the provisions of subsection (2) licences shall unless previously revoked, remain in force for a period of one year from the date of issue."
- (b) repealing subsection (4).

Repeal of sections 22 and 23

20. Sections 22 and 23 of the principal Act are hereby repealed.

PART VIII

AMENDMENT OF THE VALUE ADDED TAX ACT, 1997

Construction Act No. 24 of 1997

21. This Part shall be read as one with the Value Added Tax Act, 1997 hereinafter referred to as the "principal Act".

Amendment of section 19

22. The principal Act is amended in section 19 by repealing subsections (5), (6), (7) and (8).

"Amendment of the First Schedule

23. The First Schedule to the principal Act is amended in item 11, by adding immediately after paragraph (b) the following new paragraph—

"(c) mosquito coils and sanitary pads";

"Amendment of the Second Schedule

24. The Second Schedule to the principal Act is amended—

- (a) in item 3, by adding immediately after paragraph (3) the following new paragraph—

"(4) mosquito coils and sanitary pads";

- (b) by deleting item 12 and substituting for it the following new item—

"12. Petroleum products—

Aviation spirit, spirit type Jet fuel and kerosene type Jet fuel (Jet A-1)";

25. The Third Schedule to the principal Act is amended by—

Amend-
ment of
the Third
Schedule

- (a) adding immediately after the word “ambulance” appearing at the end of item 5, the words “and mobile health clinics”;
- (b) deleting item 13;
- (c) deleting item 25 and substituting for it the following—

“25. The importation by or supply of capital goods to any person.”; and

- (d) adding immediately after item 25 the following new items:-

“26. The importation by or supply of railway locomotives, rolling stocks, parts and accessories to a registered railways company, corporation or authority.

27. The importation by or supply of fire fighting vehicles to the Government or Government Agencies”;

PART IX

AMENDMENT OF THE EAST AFRICAN DEVELOPMENT BANK ACT, 1984

26. This Part shall be read as one with the East African Development Bank Act, 1984 hereinafter referred to as the “principal Act”.

Construc-
tion Act
No. 7 of
1984

“27. The Schedule to the principal Act is amended by—

Amend-
ment of the
Schedule

- (a) revoking Article 25;
- (b) renumbering Articles 43, 44, 45, 46, 47, 48, 49, 50 and 52 as Articles 42, 43, 44, 45, 46, 47, 48, 49 and 51 respectively; and
- (c) revoking Articles 44 and 45 as renumbered and substituting for them the following Articles:
‘Article 44 - Judicial Proceedings’;

1. The Bank shall enjoy immunity from every form of legal process except in cases arising out of exercise of its borrowing powers when it may be used only in a court of competent jurisdiction in a Member

State in which the Bank has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities.

2. No action shall be brought against the Bank by members or persons acting for or deriving claims from members. However, members shall have recourse to such special procedures for the settlement of disputes between the Bank and its members as may be prescribed in this Charter, in the regulations of the Bank or in contract entered into with the Bank.

Article 45 - Immunity of Assets:

1. Property and other assets of the Bank, wheresoever located and by whomsoever held, shall be immune from interference, search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative or judicial or administrative action and premises used for the business of the Bank shall be immune from search provided that in legal proceedings brought within the term of the Charter such immunity shall apply before delivery of a final judgement against the Bank by the highest court of competent jurisdiction.
2. The Bank shall prevent its premises from becoming refuges for fugitives from justice, or for persons subject to extradition, or persons avoiding service of legal process or a judicial proceeding.

PART X

AMENDMENT OF THE URBAN AUTHORITIES (RATING) ACT, 1983

Construction Act
No. 7 of
1984

28. This Part shall be read as one with the Urban Authorities (Rating) Act, 1983 hereinafter referred to as the "principal Act".

Amendment of the
Schedule

29. The principal Act is amended in subsection (1) of Section 7 by—

- (a) inserting the following paragraphs immediately below paragraph (h)—

“(i) property in the occupation of religious institutions used solely for the purpose of advancement of religion or charity;

(j) government property comprising of land used solely for residence or office;”;

(b) by renumbering paragraph (i) as paragraph (k).

PART XI

AMENDMENT OF THE ROAD AND FUEL TOLLS ACT, 1985

30. This part shall be read as one with the Road and Fuel Tolls Act, 1985 hereinafter referred to as the “principal Act”.

Construction Act
No. 13 of
1985

31. The principal Act is amended in section 7 by repealing subsection (3) and substituting for it the following provision:

Amend-
ments of
section 7

“(3) Paragraph (b) of subsection (2) shall not apply to vehicles:

(a) paying transit charges payable under the Foreign Vehicles Transit Charges Act, 1995; or

Act No. 19
of 1995

(b) bearing East African Community Partner States Registration.”

PART XII

AMENDMENT OF THE PUBLIC FINANCE ACT, 2001

32.—(1) This Part shall be read as one with the Public Finance Act, 2001 hereinafter referred to as the “principal Act”.

Construction and
Com-
mencement
Act No. 6
of 2001

(2) The provisions of section 34 shall be deemed to have come into operation on the 1st day of July, 2001.

33. The Schedule to the principal Act is amended by adding in the list of the funds, the following:

Amend-
ment of the
Schedule

“Advances Fund.

Government Stores Fund.”

PART XIII

AMENDMENT OF THE BIRTHS AND DEATHS REGISTRATION ORDINANCE,
CAP. 108

Construction
Cap.
108

34. This Part shall be read as one with the Birth and Deaths Registration Ordinance, in this part referred to as the "principal Ordinance".

Amend-
ment of
section 19

35. The principal Ordinance is amended in section 19 by—

(a) deleting a "semi-colon" appearing at the end of paragraph (b) and substituting for it a "full-stop"; and

(b) repealing the proviso.

PART XIV

AMENDMENT OF THE INSURANCE ACT, 1996

Construction
Act
No. 18 of
1996

36. This Part shall be read as one with the Insurance Act, 1996, in this Part referred to as the "principal Act".

Amend-
ment of
section 70

37. The principal Act is amended in section 70, by deleting the phrase "or in which every insurer shall place with the corporation" which appears in the sixth and seventh lines and substituting for it the word "and".

PART XV

AMENDMENT OF THE PUBLIC SERVICE RETIREMENT BENEFITS ACT, 1999

Construction
Act
No. 2 of
1999

38. This Part shall be read as one with the Public Service Retirement Benefits Act, 1999, in this Part referred to as the "principal Act".

Repeal and
replace-
ment of
section 28

39. The principal Act is amended by repealing section 28 and replacing therefore the following provisions—

Conditions
for
assigning
and
transfer-
ring
pensions,
gratuity or
allowances

28—(1) Subject to subsection (2), a pension, gratuity, or other allowances granted under this Act may be assigned or transferred for the purposes of satisfying—

- (a) a debt due to the Government;
- (b) a mortgage created upon an agreement for the grant of a loan to a member of the Fund;
- (c) an order of any court for the periodical payment of the sums of money towards the maintenance of the wife, former wife or a child of a member of the Fund.

(2) A pension, gratuity or any allowance granted pursuant to the provisions of subsection (1), shall not be attached, sequestered or levied upon for or in respect of any debt, mortgage or claim other than a claim of income tax due to the Government but, the Director General shall make arrangements necessary for satisfying any debt arising from, discharging a mortgage created or an order of the court issued consequent upon a loan granted to a member of the Fund.

40. The principal Act is amended in section 66 by inserting a comma after the word “officers” and inserting thereafter the phrase “members of the Fund”.

Amend-
ment of
section 66

Passed in the National Assembly on the 28th of July, 2005.

.....
Clerk of the National Assembly.