

Value Added Tax Act, 2052 (1996)
(Amendment up to financial year 2072)

Act made to impose and Collect Value Added Tax

Preamble: Whereas, for increasing revenue mobilization by making effective process of revenue collection required for economic development of the country, it is expedient to impose a value added tax on all transactions including sale, distribution, delivery, importation, exportation of goods or services and to collect revenues effectively by regulating the process of collection.

Now, therefore, parliament has made this act in the twenty fourth year of the rule of His Majesty King Birendra Bir Bikram Shah Dev.

Section 1. Short Title and Commencement:

- **SubSection 1**

This Act may be called as the "Value Added Tax Act, 2052 (1996)".

- **SubSection 2**

This Act shall come into force on such date as Government of Nepal may specify by notification published in the Nepal Gazette.

Section 2. Definitions:

Unless the subject or the context otherwise requires in this Act, -

- (a) "Tax" means the value added tax to be levied pursuant to this Act.

- (b) "Transaction" means the activity of supplying any good or services.
- (c) "Taxable Transaction" means the transactions as referred to in Sub-section (1) of Section 5.
- (d) "Taxable Value" means the value to be determined pursuant to Section 12 & section 12(a) in relation to any good or service.
- (e) "Goods" means movable or immovable both kind of property.
- (f) "Service" means anything other than goods.
movable or immovable both kind of property
- (f1)
- (g) "Supply" means the act of selling, exchanging transferring of any goods and services or the act of licensing or the act of contracting by taking consideration or without Consideration.
- (h) "Consideration" means anything to be obtained in exchange for the price of any goods or services being supplied.”
- (h1).....
- (i) "Import" means the act of importing of any good or service into the Nepal in accordance with the prevailing laws.

- (j) "Export" means the act of exporting of any goods or services outside of Nepal or Export Unit or SEZ in pursuant to the prevailing law.
- (k) "Market Value" means the value determined pursuant to Section 13.
- (k1) "Electronic medium" means approved medium including computer, internet, e-mail, fax, electronic cash Machine (electronic cash register) and fiscal printer.
- (l) "Person" means any Individual, firm, company, association, institution, partnership firm, co-operative, joint venture, trust or fund and this term also includes the government entity, religious organization, charitable institution or other similar association and their branch or sub-branch thereof engaged with or without the objective of profit, in Taxable transaction.
- (m) "Registered Person" means the person registered pursuant to Section 10 to carry out the transaction.
- (n) "Registration Number" means the number provided to the registered person pursuant to Section 10.
- (o) "Supplier" means the person who supplies any goods and services.
- (p) "Recipient" means the person who receives any goods and services.
- (q) "Taxpayer" means the person involved in the taxable transaction or the person who has liability to pay Tax.

- (q1) "Tax period means the period in which the taxpayer has to submit tax return pursuant to Section 18.
- (r) "Department" means Inland Revenue Department.
- (s) "Director General" means the Director General of the Department.
- (t) "Tax Officer" means the Tax Officer, Chief Tax Officer and the Chief Tax Administrator appointed by the Government of Nepal for the purpose of this Act, and this term includes a section officer, director and deputy director at the Department or such other officer designated by the Government of Nepal authorizing to exercise the powers of Tax Officer under this Act.
- (u) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules made under this Act.

Section 3. Tax Officer may be appointed or Designated:

For the propose of this Act Government of Nepal may appoint Tax Officers in required numbers and, Government of Nepal, if deems necessary, may designate any Officer to act as a Tax Officer.

Section 4. Jurisdiction of the Tax Officer:

- **SubSection 1**

The jurisdiction of Tax Officer shall be as prescribed by the Government of Nepal.

- **SubSection 2**

Director General may authorize tax officer for inspection, monitoring and tax assessment of transaction of taxpayer of other than his own jurisdiction.

Section 5. Value added Tax to be levied:

- **SubSection 1**

Notwithstanding anything contained in this Act, the value added tax shall be levied on the following transactions: -

(a) On goods or services supplied within Nepal,

(b) On goods or services imported into Nepal,

(c) On goods or services exported outside of Nepal.

- **SubSection 2**

The tax shall be levied on the value of each taxable transaction.

- **SubSection 3**

Notwithstanding anything contained in Sub-section (1), the tax shall not be levied on the transaction of goods or services as referred to in Schedule -1. Further, the tax already paid on purchase of such goods or services shall not be allowed to deduct pursuant to Section 17 and to get refund pursuant to Section 24.

Section 5a. Tax not to be levied on transfer of ownership of transactions:

- **SubSection 1**

Notwithstanding anything contained elsewhere in this Act, no tax shall be levied in the transfer of ownership of registered person by sale of its transaction to any other registered person or in the transfer of ownership of transaction due to death of registered person to legal heir. The person registered or the transferee of owner shall inform such sale of transaction or transfer to the department as prescribed.

- **SubSection 2**

Notwithstanding anything contained in Subsection (1), the registered person who gets the ownership of any industry or Business registered or to be registered under the law shall be liable for tax liability of predecessor as prescribed by Law.

- **SubSection 3**

The person getting ownership as stipulated under sub-section (2), shall maintain safely the accounts, books and records of the transaction (before and after transfer) of such industry or business for the prescribed period.

Section 5b. Power to order for registration:

In cases where the Tax Officer has a reasonable ground to believe that a person required to be registered is carrying out any transactions without getting registered, he/she may order such person to get registered.

Provided that, a person who pleads for not required to get registered for carrying out transactions value up to amount prescribed pursuant to Section 9, shall furnish evidence there for within thirty days from the date of obtaining the order for registration.

Section 6. Place and Time of supply:

- **Sub Section 1**

For the purpose of assessment or realization of tax pursuant to this Act, the matter whether the supply of any goods or services is made within or outside of Nepal shall be determined as prescribed.

- **SubSection 2**

For the purpose of assessing and realizing the tax pursuant to this Act, the time of supply of any good or service which occurs first out of the time mentioned hereunder shall be regarded as the time of supply of such goods or services:

(a) At the time the supplier issued the invoice,

(b) In case of supply of goods, at the time the recipient receive or take the goods from the place of transaction of supplier,

(c) In case of supply of service, at the time the service is rendered.

(d) At the time supplier receives the consideration for goods or services.

- **SubSection 3**

Notwithstanding anything contained in Sub-section (2), the following time shall be regarded as the time of supply on the following circumstances: -

- (a) In case of telecommunication service to be supplied continuously or other similar type of public services, the time in which the invoice is issued.
- (b) Where according to the Contract, if the mode of payment of the value of any good or service is in installment or on partial basis in more than a day, the day in which the payment is made or the day mentioned in the Contract in which the payment has to be made, the time which occurs first.
- (c) In case of goods or services where one does not to get the tax deduction facility pursuant to this Act for their use, the time in which such goods or service is used.

- **SubSection 4**

If more than one circumstances appear to be applied at a time, as prescribed in Sub-section (2) regarding the time of supply in any transaction the Director General shall determine such a time objectively.

Section 7. Rate of Tax:

- **SubSection 1** The rate of tax to be levied pursuant to this Act shall be in single rate of 13 percent.

- **SubSection 2**

Notwithstanding anything contained in Sub-section (1), in the transaction of goods or services as mentioned in Schedule-2, the tax rate shall be zero.

Section 8. Assessment and Collection of Tax:

- **SubSection 1**

A registered person shall assess and collect tax on taxable value in accordance with provisions of this Act and Rules framed there under.

- **SubSection 2**

Any person whether registered or not in Nepal receiving services from a person who is not registered and is outside Nepal shall have to assess and collect tax at the taxable value at the time of payment in accordance with this Act and the Rules framed under this Act.

- **SubSection 3**

If a construction of commercial purpose building or apartment or shopping complex or similar other structure as specified by the Department, of which value is more than Five Million Rupees, has been made from a person who is not registered, it shall be deemed as it has been constructed from registered person and shall deposit the tax. In case tax is not deposited, it shall be assessed and collected from the owner of such structure.

Explanation: for the purpose of this sub-section “commercial purpose” means building, apartment, shopping complex or similar other structure as specified by the Department is constructed for sale and such structure is accounted as current or fixed assets and used for generating income.

Section 8A. Provision of bank guarantee:

- **SubSection 1**

Industry exporting more than Forty percent of the total sale of the last twelve months after the operation of the industry may import by furnishing a bank guarantee with the concerned Custom office in consideration for tax while importing the raw materials required to produce the goods in the quantity of export, and import of goods to be imported for a tax free shop through a bonded warehouse may be made by furnishing a bank guarantee with the concerned Custom office in consideration for tax leviable on such goods.

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

- **SubSection 2**

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

- **SubSection 3**

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

- **SubSection 4**

The bank guarantee furnished pursuant to Subsection (1) can be released from the concerned Custom Office as per the procedures specified by the Department.

- **SubSection 5.....**

Section 9. Exemption for vendor of small transaction:

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

Provided that, a small vendor may, if it desires to register its transactions, get transaction registered upon completing the process as referred to in section 10 except for tax payer who deals with Value Added Tax applicable transaction and files estimated income Tax referred as per sub-section 4 of section 4 of Income Tax act, 2058.

Section 10. Registration:

- **SubSection 1**

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

- **SubSection 2**

In case a person engaged in any goods or service which is declared as taxable, then it has to apply for registration to tax officer in prescribed format within Thirty-Five days of declaration as taxable or engagement to such services.

- **SubSection 3**

Notwithstanding anything contained in Sub-section (1) and (2), a person who carries out exempted transaction of goods or services as mentioned in Schedule 1, shall not be required to get registered

- **SubSection 4**

The tax officer shall register each person who has duly submitted an application under Sub-section (1) or (2) and shall issue registration certificate in a prescribed format along with the registration number within the prescribed time frame.

- **SubSection 5**

The registered person shall display the registration certificate in a conspicuous place at their principal place of transaction and if there are more than one places of transaction, it shall be displayed in a conspicuous manner at each place, in addition to the principal place, a copy of the registration certificate attested by a tax officer.

- **SubSection 6**

The registered person shall use their registration number for all transactions relating to value added tax, excise and customs duty and to other prescribed transactions as well.

- **SubSection 7**

The registered person shall inform the tax officer within fifteen days of any changes in the particulars given in application for registration as required under Sub-section (1) and (2).

Section 10a. Special provision relating to temporary registration:

- **SubSection 1**

In the case of an exhibition, fair and similar other transaction to be organized temporarily, the organizer and any entrepreneur who carries on the transaction of any taxable goods or services in such an exhibition or fair and is not registered with the Value Added Tax shall have to be temporarily registered with the Value Added Tax as prescribed.

- **SubSection 2**

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

- **SubSection 3**

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

Section 10b.Provision of Joint Venture Registration .

- (1) Two or more persons working together in joint venture for specified period and prescribed work shall temporary registered for Value Added Tax.
- (2) The joint venture registered as per sub-section (1), shall be cancelled of such joint venture term as mentioned in agreement.

Section 11. Cancellation of Registration:

- **SubSection 1**

The Tax Officer may cancel the registration of a registered person in any of the following circumstances:

- (a) In the case of body corporate, if the body corporate is closed down, sold or transferred or if the body corporate otherwise ceases to exist;
- (b) In the case of an individual ownership, if the owner dies;
- (c) In the case of a partnership firm, if such partnership firm is dissolved or the partner dies,
- (d) If a registered person ceases to be engaged in taxable transactions;
- (d1) If the taxpayer is one who gives zero return or does not give return at all within a consecutive period of One year,
- (e) If registered mistakenly.

- **SubSection 1(a)**

In case a person has applied for cancellation of its registration number has to produce its records and documents for audit within Fifteen day of the application to the Tax office. The Tax officer shall accept the record & documents, and within three months of the application submitted may allow or reject for cancellation. In case the tax officer has neither allow the application nor reject it, the person may stop the filing of the further returns.

- **SubSection 1(b)**

The tax officer shall order the cancellation of registration of small vender carrying transaction of taxable goods. If the turnover of such small vender Not exceed Fifty Lakh within Twelve month of the implementation of this provision.

Provided that, the person desirous of registration voluntarily as per section 9 of the act, may continue to be a registered person by making an application as prescribed within Ashad end 2073.

- **SubSection 1(c)**

During the time of commencement of this sub-section, if the turnover of such business is less than the prescribed limit for the purpose of registration and its registration is existing then the tax on remaining amount, tax deduction on stock and cancellation of registration shall be prescribed.

- **SubSection 2**

The cancellation procedure of a registration shall be as prescribed.

- **SubSection 3**

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

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

- **SubSection 4**

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

Section 12. Taxable Value:

- **SubSection 1**

Except otherwise provided in this Act, in case only the money is consideration, the taxable value shall be the price which the supplier takes from the recipient.

- **SubSection 2**

The following amounts shall also be included in a taxable value:

- (a) The amount of all expenditures relating to transportation and distribution which was borne by the supplier in connection with the transactions, and the amount of profit; and
- (b) Amount of Excise duty, ownership fee and all other tax other than a tax imposed under this Act.

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

- **SubSection 3**

Taxable value shall not be included in the amount of discount, commission or other similar commercial rebate granted on value in supplying goods or services.

- **SubSection 4**

The taxable value of any goods or service exchanged or bartered shall be equal to the market value of the goods or services so exchanged or bartered.

- **SubSection 5**

Except otherwise provided in this Act, the taxable value for any imported goods shall be its customs value including transportation, insurance, freight, commissions of agents and other persons, plus customs duties, countervailing duties plus any other taxes if levied on imports, except the value added tax.

- **SubSection 6**

If the value of any goods or services is found to be much lower than the prevailing market value, the taxable value of such goods or services shall be equal to the market value.

- **SubSection 7**

The taxable value of goods or services supplied for partial consideration shall be equal to the market value.

- **SubSection 8**

The deposit, given in respect of goods or services, shall not be held to be taxable value until the supplier applies the deposit as a consideration for the supply.

Section 12a. Taxable value of transaction of wood :

- **SubSection 1**

The earlier of Auction sale, release letter or order to sale the wood from the national forest, Tax shall be imposed and recovered on the higher of the royalty amount or auction amount.

- **SubSection 2**

On sale of wood from privately cultivated land, private forest or community forest for commercial purpose though there is no royalty imposed, tax shall be imposed as equivalent to the wood from the national forest as per sub-section (1).

- **SubSection 3**

- **SubSection 4**

Section 13. Market Value:

- **SubSection 1**

The market value of goods or services supplied on a particular day shall be determined taking into account the consideration to be received for similar kind of goods or services freely supplied between unconnected persons.

- **SubSection 2**

For the purpose of this Section, the procedure for the determination of market value shall be as prescribed.

- **SubSection 3**

If the market value of any goods or services could not be determined under Sub-section (1) and (2), it shall be determined in accordance with the procedure determined by the Director General.

Section 14. Invoices to be Issued:

- **SubSection 1**

Except otherwise mentioned, every registered person is required to issue an invoice to the recipient, in supplying any goods and services to the buyer.

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- **SubSection 2**

The format of an invoice shall be as prescribed.

- **SubSection 3**

It shall be the duty of the recipient to obtain an invoice.

- **SubSection 4**

In case of transportation of goods for more than Ten thousand outside the area specified by IRD, tax invoice shall have to be carried along with the goods.

- **SubSection 5**

The Department may give instruction to taxpayer to issue invoices using cash machine or computer. The procedures to issue invoice by using cash machine or computer shall be as prescribed by Department.

- **SubSection 6**

Department may issue notice publicly or to any specified person to publish the retail price of specification for specified period. In case of such notice is issued, the respective person should not sell or transfer such goods without publishing the retail price of the specified goods.

- **SubSection 7**

In case notice is issued for any specified goods, the person as mentioned in sub-section (6) while selling such goods to any unregistered person shall have to issue the invoice as prescribed at the publicly announced consumer price and tax shall have to be charged on the consumer price. But a person, not specified as per sub-section (6) of section 14, may issue invoice as prescribed at his own will as per this section.

Section 15. Unregistered Person not to collect Tax:

- **SubSection 1**

A person who is not registered shall not issue an invoice or other document showing the collection of tax and shall not recover the tax.

- **SubSection 2**

If a person who is not registered collects tax, the tax so collected shall be assessed and recovered from him/her.

- **SubSection 3**

Notwithstanding anything written in Sub-sections (1) and (2), a local bodies or international institution/association, commission based in Nepal or Nepal Government or

public entities dealing in VAT exempt goods have to collect VAT if they engage in supply of goods or services which attract VAT.

Section 16. Accounts of Transactions to be mentioned:

- **SubSection 1**

A taxpayer shall maintain an up-to-date accounts of his/her transactions of the tax period under Section 18 and such accounts, wherever placed shall be made available for inspection to the tax officer on his/her request.

- **SubSection 1a**

Department may have an access, as and when needed to the computer database of taxpayers.

- **SubSection 2**

The accounts maintained by a taxpayer shall also include:

(a) Date of transactions

(b) Value of each transaction

(c) If the other party of the transaction is registered, his registration number, and

(d) Other prescribed matters related with transaction.

- **SubSection 3**

A registered person shall use, for the purpose of keeping accounts, the purchase book and sales book certified by the concerned tax officer.

- **SubSection 3a**

An unregistered person dealing in taxable goods or service shall keep the purchase and sales book self-certified for each fiscal year. Tax officer can inspect such book at any time.

- **SubSection 4**

Every taxpayer shall preserve the accounts of transactions for a period as prescribed.

- **SubSection 5**

The accounts maintained by a taxpayer by fulfilling the procedures specified by this Act or the Rules framed hereunder shall be recognized unless proved otherwise.

Section 16a. Records processed by computer to be eligible as evidence:

- **SubSection 1**

Notwithstanding anything contained in the prevailing law the record of taxpayer maintained in the computer installed in the department or offices these under shall be acceptable as evidence for purpose of tax, except it is otherwise proved.

- **SubSection 2**

The Department may by publishing a notice, make necessary provision for issuing invoice, keeping records, submitting tax returns and payment through electronic means.

Section 16b. Deduction of tax paid on goods in the event of loss:

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

Section 17. Tax Deduction:

- **SubSection 1**

A Taxpayer may deduct the amount of tax which he/she has collected against the tax he/she had paid or due in importing or receiving goods or services related with his/her own taxable transactions.

- **SubSection 2**

Notwithstanding anything contained in Subsection (1), it may be provided that no deduction or only a partial deduction may be granted in the case of the specified goods that can be used for personal purpose as well as for business purpose.

- **SubSection 3**

If the entire portions of goods or services transacted in a month were not used for taxable transactions, the tax previously paid on the goods or services shall be deducted as prescribed for the portion that was solely used for taxable transaction of the goods or services.

- **SubSection 4**

If goods or services, for which deductions facilities pursuant to this Section have been allowed, cease to be used for taxable transaction, such goods or services shall be treated as sold at the immediate market value and tax shall be recovered as prescribed.

- **SubSection 5**

Notwithstanding anything contained in Sub-section (1), deduction facility to be given for a registered person who deals with the used goods shall be as prescribed.

- **SubSection 5a**

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

- **SubSection 5b**

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

- **SubSection 6**

The deduction facility under this Act shall be given only when a claim is substantiated by documents as prescribed.

- **SubSection 7**

The provision of deduction on paid or payable tax for the goods to be used in the tax payable transaction remained at the time of registrations shall be as prescribed.

- **SubSection 8**

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

- **SubSection 9.....**

Section 18. Description of tax to be submitted:

- **SubSection 1**

Every taxpayer shall, upon making assessment of the tax payable by him/her in every month, submit the tax description, as prescribed, before the Tax Officer or by registered post within Twenty Five days of completion of that month. Such description shall be submitted whether or not a taxable transaction was carried out in that month or not.

- **SubSection 1a**

Notwithstanding anything contained in Sub-section (1), if there is no IRO at a district where in the taxpayer is situated, he can deposit and submit tax return at an office of the comptroller general of the same district within fifteen days of the month in which return is to be submitted. The office of the comptroller General has to send the amount and the returns to the respective IRO within seven days of the receipt.

- **SubSection 1b**

The procedures for submitting and sending returns pursuant to Sub-section (1) shall be prescribed by the Department.

- **SubSection 2**

Notwithstanding anything contained in Sub-section (1), taxpayers, as prescribed, may submit a return of a period that is longer or shorter than one month.

Section 19. Tax Payment:

- **SubSection 1**

A taxpayer shall pay the tax for each tax period within Twenty Five days of the completion of that period.

- **SubSection 2**

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

- **SubSection3**

- **SubSection 4**

If a taxpayer submits an application to the Director General for the exemption of the additional charges imposed by Sub-section (2) stating the reason that the failure to make a timely payment was caused by extraordinary circumstances beyond the taxpayer's control (force majeure), the Director General may, if he/she finds the reason reasonable, exempt such charges.

- **SubSection 5**

The charges pursuant to Sub-section (2), and the interest pursuant to Section 26, shall be charged from the date on which the tax first became due.

- **SubSection 6**

In cases where, in assessing the tax of any taxpayer pursuant to Section 20, it appears that the amount of tax which he/she could get refunded exceeds the tax recoverable from

him/her in that tax period, additional fee and interest shall not be recovered in assessing his/her tax in that tax period.

- **SubSection 7**

Tax may also be paid within the time-limit mentioned in Sub-section (1) by a cheque guaranteed by a bank (good for payment cheque). Tax shall be deemed paid on the date of receipt by the Office of such cheque guaranteed by the bank (good for payment cheque).

- **SubSection 8**

No interest shall be charged and collected in interest, additional fee/charge and fine."

Section 20. Tax Officer May Assess Tax:

- **SubSection 1**

A Tax Officer may make an assessment in any of the following circumstances:

(a) If the return of tax is not submitted within the time limit;

(b) If an incomplete or erroneous tax description is filed;

(c) If a fraudulent tax description is filed,

(d) If the Tax Officer has a reason to believe that the amount of tax was understated or otherwise incorrect.

- (e) If the Tax Officer has a reason to believe that the price of supply is under-invoiced.
- (f) If supply is made to the group company by making under invoicing,
- (g) If transaction is carried out by a person liable to be registered without getting so registered,
- (h) If sale is made without issuing invoices,
- (i) If tax is collected by an unregistered person.
- (j) If tax is not paid under sub-section(2) or(3) of section (8)
- (k) If sub-section(4) of section 17 exists.

SubSection 2

In assessing the tax pursuant to Sub-section (1), the assessment may be made on any or the entire following basis:

- (a) Proof of transaction;
- (b) A tax audit report on transactions submitted by the concerned Tax Officer;
- (c) Tax paid on a similar transaction by another person.

- **SubSection2a**

- **SubSection 3**

Notwithstanding anything contained in Sub-section (2), the burden of proof shall lie with the concerned Tax Officer in assessing tax in accordance with the above provisions.

- **SubSection 4**

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

- **SubSection 4a**

Notwithstanding anything contained in Subsection (4), if any person has evaded tax by preparing false accounts or invoices or other documents or Fraudulently, Department may order for the reassessment at any time.

- **SubSection 5**

In assessing tax pursuant to this Section, the tax officer shall provide a period of Fifteen days to the concerned person for submitting the proof of defence.

Section 21. Tax Recovery:

- **SubSection 1**

If the tax due by any taxpayer is not paid within the specified period, the Tax Officer may, collect the tax by using any or all of the following methods:

- (a) By deducting the amount, if any, to be refunded to the taxpayer.
- (b) By seizing movable and immovable property of the taxpayer,
- (c) By selling all or some of the properties of the taxpayer through sealed quotations or auction at the same time or various times.
- (d) By causing to deduct amounts from the taxpayer's bank account or other financial institutions.
- (e) By causing to deduct amounts due to the taxpayer by Government of Nepal, or a body corporate owned by Government of Nepal, or local bodies;
- (f) By claiming the amounts, a third party owes to the taxpayer.
- (g) By suspending imports, exports, and other transactions of the taxpayer.
- (h) By imposing Restriction to go out of Nepal.

- **SubSection 2**

Tax officer is required to provide information in respect of his duties to Director General within 24 hours under sub-section(1) .

- **SubSection 3**

A sum that is less than One Rupee shall not be counted in recovering or refunding the tax.

Section 22. Assessment of Tax in a Jeopardy Situation:

Notwithstanding anything contained in other places of this Act, whenever there is a reason to believe that the recovery of tax is in jeopardy because any person is about to leave Nepal or to transfer his/her property to anybody or to remove or conceal assets, a Tax Officer, with the approval of the Director General, may immediately assess and recover the tax due, or about to become due or ask an guarantee.

Section 22a. Provision against tax evasion plan:

Notwithstanding anything contained elsewhere in this Act, if any taxpayer commits any of the following acts with mala fide intention to take advantage of tax, the taxpayer shall be deemed to have committed planning to evade tax and the Director General may order the Tax Officer to assess the tax of such a taxpayer and recover the same:

- **SubSection 1**

- (a) By manipulating any provision contained in this Act, with an intention to evade tax by planning or doing any act to reduce tax liability.

(b) if any person or entity does any act with mala fide intension to reduce the liability of tax or enters in to agreement with that intention.

- **SubSection 2**

Section 23. Powers of Inspection and Audit:

- **SubSection 1**

A Tax Officer may examine, if there is a reasonable ground to believe that a taxpayer required to be registered under this Act has been involved in a taxable transaction without being registered.

- **SubSection 2**

In order to examine pursuant to Sub-section (1), verify the tax return submitted by a registered person under Section 18 and assess the tax under Section 20, a tax officer shall have the following powers:

- (a) To inspect goods, premise, Document, Records and accounts related to the tax liability.
- (b) To search the tax payer's place of transaction and other places where there is grounds for suspecting to have evidence related to an offence under this act in those places.
- (c) To prepare records, Books, accounts or other documents in the course of discharging duties or to require information from a person who makes entry in such documents.

- (d) Take possession of, remove or transfer a document, books and records that are situated in the taxpayer's place of transaction and other places related there to.
- (e) To carry out tax audit at the tax payer's place of transaction or tax office or other appropriate place.

- **SubSection 3**

If a Tax Officer requests any person, including a bank or financial institution for access to any information about taxpayer's transactions, it shall be the duty of such person to furnish such information to the Tax Officer.

Section 23a. Local administration and police to render assistance:

In cases where, in the course of implementing this Act, the Tax Officer seeks assistance of the local administration, it shall be the duty of the local administration and police to render such assistance.

Section 23b. This Act to prevail on tax provision:

Notwithstanding anything contained in the law in force, except in cases where the Financial Act to be enforced in every year amends this Act and provides for imposition, assessment, increase, decrease, exemption, or remission of tax, no other Act shall make any amendment to, or alter tax provisions referred to in this Act or make other tax related provisions.

Section 23c. Purchase of goods of under invoicing:

- **SubSection 1**

Notwithstanding anything mentioned in other laws in force, where a person sells goods under invoice by stating a lower price than the prevailing market price of the goods, the

tax officer shall suspend the sale of goods in the stock and the tax officer may purchase or cause to purchase the goods.

- **SubSection 2**

Where the person refuses to sale the goods while purchasing or causing to purchase by the department or Inland Revenue Office as per sub/rule (1), the department or the office may take in possession of the goods and shall pay the amount, calculated on the basis of under invoice value, to the person when the person comes to receive the payment.

- **SubSection 3**

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

Section 23d. Power to make search, seizure or demand deposit or security:

- **SubSection 1**

A person, firm, company or organization has transacted by evading tax and if immediates actions are not taken, the accused may elope or the evidence could be given, in that case the tax officer with the approval of Director General could order for following actions:

- (a) To seize the place of transaction.
- (b) To seize the electronic equipment and the record of such equipment.
- (c) By creating the decision for evaded tax and to ask for cash Deposit or pledge of property from the person who is believed to be caused.
- (d) To instruct for stoppage of Bank accounts of the tax payer for three months.
However, if the assessment is not completed, with the approval of Director

General, stoppages of Bank accounts could be done for additional three months.

- (e) If the deposit is not given or securities is not provided as mentioned in cause (c), until the deposit is given or securities is provided, he shall be imprisoned up to fifteen days once at a time and maximum up to thirty-five days.

Section 24. Treatment of Deduction exceeding Tax Liability:

- **SubSection 1**

If a registered person's deduction fixed under Section 17 for a month exceeds tax liability for such month, such excess amount may be adjusted with any outstanding amount, if any, under this Act.

- **SubSection 2**

The remainder of the excess deduction pursuant to Subsection (1) may be adjusted with the amount, if any, to be paid for the next month.

- **SubSection 3**

A registered person may submit an application to the Tax Officer for a lump sum refund, as prescribed, of the amount of the remaining excess after adjusting for a continuous period of six months under this Section.

- **SubSection 4**

Notwithstanding anything contained in Sub-sections (2) and (3), any registered person whose export sales for One month are 40 percent or more of his or her total sales for that month, and submits an application following the procedures set forth in this Section for

the refund of the amount that is deductible pursuant to Section 17 shall be entitled to a refund of the remaining excess in lump sum after adjusting any outstanding amount.

- **SubSection 5**

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

- **SubSection 6**

Where a registered person has submitted an application claiming for a refund under Sub-section (3) and (4), the amount claimed shall not be available for adjustment against tax liability for the next month.

Section 24a. Tax not to be refunded:

Notwithstanding anything contained in Section 24, if an application is not made for the refund of the amount refundable pursuant to this Act within Three years from the end of the tax period, such amount shall not be refunded.

Section 25. Tax May Be Refunded:

- **SubSection 1**

The following amounts recovered as tax shall be refunded if an application for refund is submitted within Three years from the date of the transaction:

- (a) The amount of tax paid, to the extent of own consumption, inside the territory of Nepal by a diplomat, situated in Nepal, of a foreign country, regional, International commission or institution, grants earn reciprocal basis tax exemption privileges to Nepalese Diplomates recognized by the ministry of foreign affairs, Government of Nepal to that foreign country.
- (b) Tax amount paid by the international institutions for which Government of Nepal, Ministry of Finance, has granted the privileges of tax exemption;
- (c) Tax paid in carrying out a project conducted in Nepal under a bilateral or multilateral agreement for which Government of Nepal, Ministry of Finance, has approved to grant a tax exemption;
- (d) Any tax amount recovered by mistake.

- **SubSection 1a**

Notwithstanding anything contained in Subsection (1), the tax paid by a diplomatic mission or diplomat on the purchase of taxable goods or services that is less than rupees Five thousand at one time shall not be refunded.

SubSection 2

While refunding the tax amount pursuant to Clause (d) of Sub-section (1), refund shall be made only to that person who bears real burden of the tax.

Section 25a. Refund of tax paid by foreign tourist on purchase:

Foreign tourist visiting in Nepal, if purchases and takes along with himself the goods from Nepal via air transport shall be refunded, as per the procedures fixed by the department the tax paid on those goods, if the amount paid is higher than Rs. Twenty-Five thousand. But service charge of 3% shall be deducted on such amount.

Section 25b. : Refund of Tax at the Custom point in the case of Re-Export:

If any goods are Re-exported, the concerned custom office shall, on the basis of the evidences of re-export of the goods, make refund out of the deposit amount in consideration for the value added Tax with the custom by the concerned person.

Section 25c. :Refund of Tax in case of Re-Export:

If any goods are Re-exported, Value Added Tax paid on purchase against Re-export of goods where payment is received in advance is to be refunded to tax payers.

Section 26. Interest:

- **SubSection 1**

If any amount including the tax under this Act is not paid within the time limit, interest for the period during which such tax remains unpaid shall be imposed. Such interest shall be imposed even where application is submitted for an administrative review under section 31(a) and appeal under section 32.

- **SubSection 2**

For the purposes of Sub-section (1), the rate of interest shall be Fifteen percent per annum.

Section 27. To be treated as Tax:

Any fees, interest and penalty to be levied under this Act shall be treated as a tax payable under this Act.

Section 28. Provision relating to Imports:

- **SubSection 1**

Except otherwise specified by the Ministry of Finance, Government of Nepal, the customs officer shall recover the tax under this Act for goods which are imported.

- **SubSection 1a**

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

- **SubSection 2**

A customs officer may use the power under this Act or other prevailing Customs Act to recover tax with respect to goods which are to be imported.

Section 29. Penalties:

- **Sub-Section 1**

In cases where any person commits any of the following offenses, the Tax Officer may impose fines as follows: -

- (a) For breach of order given by tax officer section 5(b) or for breach Sub-section (1) or (2) of Section 10, or not getting registered as per sub-section (1) of section 10(a), Rs. Ten Thousand for each tax period.
- (b) For breach of Sub-section (5), (6) or (7) of Section 10, One Thousand Rupees for each time of breach.
- (b1) On infringement of non-displaying the tax registration number as per act/rule or for displaying at another place then prescribed of fine of Rs. Two thousand for each time.
- (c) In the event of violation of Sub-sections (1) and (4) of Section 14, Five Thousand Rupees for each instance.
- (d) In the event of violation of Section 15, cent percent amount of tax collected.
- (e) For failure to maintain up-to-date accounts of transaction pursuant to Sub-section (1) of Section 16, Ten Thousand Rupees and for refusal of inspection of the books of accounts, Twenty Thousand Rupees for each time.

- (f) For breach of Sub-section (2) of Section 16, upto Five Thousand Rupees.
- (g) For breach of Sub-section (3) or (4) of Section 16, Ten Thousand Rupees
- (g1) In the event of violation of Sub-section (3a) of Section 16, One Thousand Rupees for each instance.
- (h) For breach of provision of Section 18, One Thousand Rupees per tax period or 0.05 percent of the tax payable per day whichever is higher.
- (i) For obstructing to carry out the functions under Section 23, Five Thousand Rupees for each time of obstruction.
- (j) For under invoicing the sales price Two Thousand Rupees for each invoice or the fine imposed under Sub-section (2) whichever is higher.
Provided that, if the office thinks appropriate, it may purchase or cause to purchase the goods that are under invoiced, as prescribed
- (k) For breach of Act and Rules made there under One Thousand Rupees, for each time of breach.
- (l) on infringement of using software in which data maintained in computer, whether approval taken or not, can be erased or amended Rs. Five-Lakh.

- **SubSection 1a**

Incase tax officer fines that a tax payer has reduced tax liability by making infringement of any provisions of the act or rule there-under, the tax officer, may charge, following a procedure set by department, a penalty up to 25% of the tax payable.

SubSection 1(b)

During physical verification of stock, if purchase register shows less than goods then the stock available, then the tax officer shall order tax payer to record income on available goods and shall charge penalty equivalent to 50% of market price of excess stock.

- **SubSection 2**

If a person commits any of the following offences, the Tax Officer may impose a fine equal to the amount of tax or an imprisonment up to Six months or penalize with both the fine and the imprisonment.

(a) Preparing false accounts, invoices or other documents;

(b) Committing a fraud and there by an evasion of tax,

(c) If an unregistered person acts as if it was a registered person;

(d) Infringing Section 23C.

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

- **SubSection 3**

If any person assists or advises or help or induces, to a person who infringe any of the provisions of the act, knowingly or haphazardly, shall be liable for fine equal to 50% of the amount of tax short paid by such person.

Section 29a. Power for Deposit the amount of fine:

- **SubSection 1**

Notwithstanding anything contained this Act, In case a person, admits in writing that he has committed one or more of the offences set forth in Sub-section (2) of Section 29, before action is being taken against him, Department my order such a person to Deposit the amount of fine not exceeding the amount of fine chargeable as per the section.

- **SubSection 2**

The order given by Department as per sub-section (1) of section 29(a) must include the detail of the offence he has committed, the amount of fine to be paid and the last of payment of the fine.

- **SubSection 3**

An order issued by the Department pursuant to this Section shall be final.

Section 29b . Concerned officer shall be held responsible:

Sub-section 1:

If any entity has not complied with the provision of the act, employees working as officer in such entity at that times shall be held responsible.

Sub-section 2 :

If any entity has not deposited tax within the specified time limit, every employee working at that time or within prior six month shall be jointly or severally held responsible for deposit of Tax.

Sub-section 3:

Notwithstanding anything contain in sub-section 1 or 2 ,provision of such sub-section shall not be applicable under the following circumstances.

- a. The entity has committed offence without the information or consent of such person and
- b. The person has applied caution diligence and expertise of the level of general human consequences in similar circumstances so as to avoid such offence.

Sub-section 4:

If the person has deposited Tax as per sub-section 2, then the person may act as following:

- a. Such person may recovered the amount from such entity,
- b. To seize or take possession of the asset not exceeding the value of deposited.

Sub-section 5:

If the person has seized or taken possession of the asset as per sub-section 4(b), the entity or other person shall not be able to claim from such person.

Explanation:

For the purpose of this section, “Related officer means manager of entity or the person who does such work.”

Section 30. Suspension of Transactions:

If a registered person commits twice or more of any of the offences as mentioned in Section 29, the Director General may order a Tax Officer to suspend such person's place of transactions up to Seven days so that transactions are not carried out.

Section 30a. Power to order for reassessment of tax:

- **SubSection 1**

In cases where, before tax is assessed, it appears from the information received by Director General that any action relating to the assessment of tax is about to be irregular or has been irregular, the Director General may, by executing a memorandum clearly setting out the reasons, give direction to the concerned Tax Officer to make reassessment of tax or order any other Tax Officer to do that act.

- **SubSection 2**

In cases where the tax liability has decreased because of tax assessment made by the Tax Officer with recklessness or ulterior motive, the Director General may, within four years from the date of initial assessment of tax, give order to amend such tax assessment order.

Section 31. Power equal to a Court:

For the purpose of this Act, a Tax Officer may issue a summons, record the statements of persons, receive evidence and cause to submit documents in the same manner as a court is empowered.

Section 31a. Application for administrative review:

- **SubSection 1**

In case a person is not satisfied with any decision on tax assessment made by a Tax Officer, it can file application to the Director general against the decision within Thirty days of receipt of the notice of the decision.

- **SubSection 2**

In case the tax payer is not able to submit an application within the specified date, it can applied to the Department for extension of the time specifying the valid reason for the delay, within seven days from the expiry of the time, Department may extent the time for a period not exceeding thirty days from the expiry of the time.

- **SubSection 3**

In case the Department, on scrutiny of the application and the document submitted by the tax payer under sub-section (1) of section 31(ka), thinks that the application is allowable, offer noting the fact in a file, it may order a Re-assessment by the same tax officer or by any other tax officer.

- **SubSection 4**

The Department has to decide on the application by tax payer under sub-section (1) of section 31(a), within sixty days of the application being received.

SubSection 5

If the Department fails to decision within the time limit as referred to in Sub-section (4), the concerned person may appeal to the Revenue Tribunal pursuant to Section 32.

- **SubSection 6**

A taxpayer who applies for department review under Sub-section (1) has to make payment in cash 100% of the undisputed tax amount and one third of the disputed tax amount before the application is submitted.

- **SubSection 7**

In case the tax payer has Deposited more than the required amount before submitting the application, he shall have to make payment the balance amount only.

Section 32. Appeal in the Revenue Tribunal:

- **Sub-Section 1**

A person who is not satisfied with a decision of suspension of the business made by the Director General pursuant to Section 30 or a decision made by the Department pursuant to Sub-section (4) of Section 31A, may file an appeal to the Revenue Tribunal accordance with Revenue Tribunal Act,2031.

- **Sub-Section 2**

A taxpayer who appeals to a revenue tribunal, within fifteen days of such application should submit a copy of such appeal to the Department.

Section 32a. Advance ruling:

- **Sub-Section 1**

Any person seeking certification of any of the provisions, may apply in writing to Inland Revenue Department and the Department shall reply to the person in writing of Departments opinion on such certification sought through advance ruling.

- **Sub-Section 2**

Notwithstanding anything written sub-section (1) of the act, if any of the confusion in implementation of the act is under consideration of the court or Decision on such subject is already been given by the court, Department shall not issue advance ruling as per sub-section (1).

Section 32b.Public Circular:

- **Sub-section 1:**

For bringing uniformity on execution of this act, making tax administration simple and to give direction to the person who may get affected by this act including the officer of the Department, the department may issue written public circular with explanation on the provision of the act.

- **Sub-section 2:**

For the information to the public, the department may make available by any medium the public circular issued as per sub-section 1 at the department itself or any other person.

- **Sub-section 3:**

Until the circular issued as per sub-section 1 is cancelled, such circular shall be binding in nature for the Department.

Section 33. Security to be deposited:

In making an appeal to the Revenue Tribunal pursuant to this Act, one has to pay undisputed amount of tax, out of the amount of tax assessed, and furnish a deposit in a sum equal to the amount of tax in controversy and Fifty percent of the fine or furnish a bank guarantee for such amount.

Section 34. Delegation of power:

- **SubSection 1**

Except the authority of tax assessment and penalties, a Tax Officer may delegate all or any of the authority conferred on him/her by this Act to his/her subordinate staff.

- **SubSection 2**

No authority specified in this Act to be exercised by the Director General shall be delegated.

Section 34a. Power to have expert's service:

Government of Nepal or the Department may obtain the services of experts for conducting tax Audits, research or management related assignment and the provision of official secrecy under section 37 shall be applicable to such experts also.

Section 35. Identity Card of Tax Officers:

Every Tax Officer shall keep with him/her an identity card as prescribed and the identity card has to be shown to the concerned person in the course of performing duty.

Section 36. Serving of Notice:

Any notice, order or document issued by the Director General or the Tax Officer shall be considered to have been served on a taxpayer after the procedure, as prescribed, has been completed.

Section 37. Confidentiality:

Documents or other information related with tax received from any person shall not be disclosed or published except in the following cases:

- **SubSection a**

To inform a revenue collecting officer in connection with the protection of the revenue of Government of Nepal.

- **SubSection b**

To produce in the court of law as per the law related with revenue in connection with verifying the liabilities of a taxpayer.

- **SubSection c**

To keep as a part of public record in the proceedings of a Revenue Tribunal or a court of law.

Section 38. Tax Officers to be punished:

If the Director General decides that a tax assessment was so made maliciously or negligently so that the tax amount was reduced or increased, he/she shall initiate a Departmental action against the assessing Tax Officer in accordance with the law related with his/her conditions of service. Provided that, a reasonable opportunity shall be given to the Tax Officer to submit his/her clarification.

Section 39. No Responsibility for the act Carried out with Good Faith:

Notwithstanding anything contained in other places of this Act, a Tax Officer shall not be individually responsible for the action he/she had carried out in pursuance of discharging his/her duties with good faith.

Section 40. Reward:

- **SubSection 1**

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

- **SubSection 2**

If there is more than one informer under Sub-section (1), the allotment of reward amount shall be proportionately.

- **SubSection 3**

Notwithstanding anything contained in sub-section (1), information expenses up to rupees Ten thousand may be provided immediately on the basis of the truthfulness of the information, to the person providing the information related to the revenue leakage as per the specified procedure.

- **SubSection 4**

Name, Surname and Address shall be kept confidential with regards to the person providing information as per sub-section (1) and (3).

Section 40a.:

Section 41. Power to Frame Rules:

Government of Nepal may frame Rules to implement the objectives of this Act.

Section 42. Addition and Alteration in the Schedules:

Government of Nepal may make required changes in the schedules by publishing a Notification in the Nepal Gazette.

Section 43. Prevailing Laws to Prevail in Other:

This Act and Rules framed thereunder shall prevail to the extent of the provisions, and in other cases other prevailing laws shall prevail.

Section 44. Repeal and saving:

- **SubSection 1**

The following Acts are, hereby, repealed:

(a) Sales Tax Act, 2023 (1967)

(b) Hotel Tax Act, 2018 (1962)

(c) Contract Tax Act, 2023 (1967)

(d) Entertainment Act, 2017(1961)

- **SubSection 2**

The acts and proceedings carried out under the repealed Acts pursuant to Sub-section (1) shall be deemed to have been carried out under this Act.