

The Republic of the Sudan

Ministry of Justice



**The Value Added Tax Act, 2001**





*In the Name of Allah, the Gracious, the Merciful*

## **The Value Added Tax Act, 2001**

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*In the Name of Allah, the Gracious, the Merciful*

# **The Value Added Tax Act 2001<sup>1</sup>**

**(26/6/2001)**

## **Chapter I**

### **Preliminary Provisions**

#### **Title and commencement**

- 1.(1) This Act may be cited as the, “Value Added Tax Act, 2001”.
- (2) The provisions of this Act shall come into force, as such date, as the Minister may specify, by an order, to be made thereby.

#### **Interpretation**

2. In this Act, unless the context otherwise requires, :-<sup>2</sup>
  - “Business”, includes building, installation, repairs, scientific research and experimental designing business ;
  - “Secretary General”, means the Taxation Chamber’ Secretary General;
  - “Sale”, means the transfer of ownership of the commodity, or rendering the service, by the seller, even though it is imported, to the purchaser; and there shall be deemed sale, for the purposes of this Act, the following whichever may be the preceding :-

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<sup>1</sup> Act No. (23), 2001

<sup>2</sup> Act No. 32, 2010. Act No. 24, 2014 .

- (a) the issue of the tax invoice;
- (b) delivery of the commodity, or rendering the service;
- (c) payment of the price of the commodity, or the consideration of the service, whether all, or part thereof, payment on account, or settlement of an account, on credit or otherwise of the forms of payment of the price, in accordance with the various terms of payment;

“Manufacture”,

means transforming any organic, or non-organic substance, by manual, mechanical or otherwise of means, into a new product, or changing the size, form, components, nature or type thereof, and there shall be deemed as manufacture likewise, the installation of the parts of instruments, packing, re-packing and keeping into boxes, packages, bottles or any other receptacles; and there shall be excluded, from the same, the operations of filling agricultural products, in the natural condition

- thereof, and the operations of filling done by shops of retail, or installments, upon sale directly to the consumer,
- “Customs”, mean the Customs Police General Administration;
- “Registration threshold”, means the business turnover, upon the basis of which subsection, by the tax payer, to the provisions of this tax, and every tax payer, whose turnover reaches the Registration threshold prescribed by Section 16, shall be deemed to be subject, whether he is a manufacturer, whole seller, retailer, supplier of service, importer or exporter;
- “Service”, means any activity rendered, in consideration of charge, and does not fall within the classification of commodities, or business;
- “Chamber”, mean the Taxation Chamber;
- “Machine”, means the device used in issuing financial receipts and electronic invoices in commercial, industrial, agricultural and services places, and its parts composed of registration of financial data recording device that

works on saving financial information in the financial memory, and financial printer that print the financial receipts and saving financial information data in the financial memory, and taxation data record device that works on registering the taxation data after installing the Financial memory thereto;

“Business turnover” means the total revenue resulting out of sale of any commodity pertaining to business, or revenues resulting out of professional business, or rendering services, commissions or the returns of concession rights.

“Financial year”, means the twelve months, which commence by the beginning of the financial year of the tax payer and terminate by the end thereof;

“Registration certificate”, means the registration certificate, issued by the Chamber, in accordance with the provisions of this Act;

“Tax”, means the tax, on the added value, levied under the provisions of Section 12;

“Tax on inputs”, means the tax on the added value , paid to registered tax payers at previous

stages, and includes the tax on such intermediary commodities, as may enter into the production of such other commodities, as may be subject to tax;

"Financial Memory", means the external electronic storage to be installed to the financial device or printer, whereon the financial information data are stored;

"Taxation Invoice", means the invoice being prepared according to the prescribed and validated form by the Chamber, whether it was paper or electronic;

"Importer", means every person, who imports commodities, or services, from abroad, into the Sudan, through the Customs borders;

"Tax payer", means the person, who is charged to pay the tax, in accordance with the provisions of this Act, whether he is a manufacturing producer, trader or renderer of service; on condition that the turnover thereof reaches the Registration threshold, and likewise, every importer of a commodity, or service subject to tax, even though achieving profit is not meant by his

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|                     | business, however the turnover may be, likewise every exporter of commodity however the turnover thereof may reach.  |
| “Service supplier”, | means every tax payer, who supplies, or renders the service subject to tax;  |
| “Official”,         | means any of the employees, appointed at the Chamber, as the Secretary General may, by a decision thereby, designate, to implement the provisions of this Act; |
| “Minister”,         | means the Minister of Finance and Economic Planning;   |
| "Commodity",        | means any natural substance, digital, industrial, agricultural or animal product whether it was local or imported;   |
| "Manifesto",        | means the general information document pertaining to transportation of passengers and goods;   |

### **Provisions of this Act to prevail**

3. The provisions of this Act shall, in case of inconsistency with the provisions of any other law, prevail, as to such extent, as may remove such inconsistency.

**Chapter II**  
**Management**  
**Tax collected**

- 4.(1) The Secretary General shall implement the provisions of this Act, collect the tax levied thereunder, and be responsible therefor, and for all such matters, as may be related thereto.
- (2) Notwithstanding the provisions of Sub-section (1), the Customs shall collect the tax on imports, and deposit the proceeds directly for the account of tax.

**Responsibility for acts and errors**

5. Without prejudice, to the provisions of any other law, there shall not be entailed, upon the Secretary General, any official or Customs officer, any personal responsibility, for any act, or error, as may, in good faith, occur from him, in the course of his exercise of such powers, as may be conferred thereupon, under the provisions of this Act.

**Delegation of powers**

6. The Secretary General may delegate, to any of the officials, as to such restrictions, as he may deem fit, the exercise of any of the powers, conferred thereupon, under the provisions of this Act.

### **Secrecy abided by**

7. Every official, or Customs officer, who implements the provisions of this Act, shall give due regard, to the secrecy of all the documents and information, pertaining to the tax of any person, and all the instructions, in the course of his discharge of the duties thereof, and deal therein, as being secret; provided that this Section shall not preclude any official, or Customs officer, from disclosing any document, or any information, as may be connected, to the tax of any person, or any secret instructions, as may be connected to the implementation of the provisions of this Act, to any other official, in the course of his discharge of his duties, or to any court, or prosecution attorneys bureau, investigation authority, or any such body, as may legally, be authorized, as to the same, in order to achieve the objects of this Act.

### **Taking the oath**

8. every official shall, before discharging any duty, under the provisions of this Act , take the oath, set forth in the Form, hereto, before the Secretary General.

### **Penalty of offences committed by, or affecting officials**

9. There shall be punished every official, or Customs officer, who contravenes the provisions of Section 7, requires, or takes, for himself, or any other person, directly, or indirectly, any amount, or privilege of any type, in connection with his duties, under the



provisions of this Act, as by nature may deprive the State of the tax revenue or be in contravention of the provisions of this Act , other than any amount, as he may legally be authorized to receive; and every person, who abets any official, or Custom officer, to do, or attempts the same, with imprisonment for a term, not exceeding ten years, or with such fine, as the court may specify, or with both.

### **Form of notices, returns and otherwise<sup>3</sup>**

- 10.(1) The Secretary General may, from time to time, prescribe the form of any notice, tax return, about the commodities and services, or any other form, or return, as may be requisite for the purposes of this Act.
- (2) Notices addressed, by the Secretary General, under the provisions of this Act, may be signed by any official, as may be authorized, for the same ; and every notice purporting to be signed, by the order of the Secretary General, shall be deemed as if it is signed, by an official authorized, as aforesaid, unless the contrary is proved.
- (3) Every tax return, form, notice or other return issued, served or addressed, by the Secretary General, under the provisions of this Act, shall sufficiently be officially endorsed, whenever the name of the Secretary General, or the official authorized therefor, or the title thereof, is printed, sealed or written thereon.

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<sup>3</sup> Act No. 32, 2010, Act No. 24, 2014.

- (4) Any person may submit his return in writing or electronically in accordance with the bases and safeguard prescribed by the Secretary General.
- (5) The communication between the Chamber and the Tax payer, shall be, by any suitable electronic communication means, as the Tax payer may conclude his taxation transaction electronically.

### **Service of notices and otherwise<sup>4</sup>**

- 11.(1) Wherever provided, in this Act, for the mandatory service of any notice, any other document, or direction, by the Secretary General, upon any person, such notice, or other document, or addressing the same, to such person, shall be by sending it by post, addressed to his ordinary address or his electronic mail, the last known address thereof, or to any post office box, hired in the name of such person, his employer or to the address set forth, in the last tax return, as he may have presented himself, or on his behalf, to the Secretary General, or leave it at such address. Where he is a company, service, or addressing shall be made to the registered address of the company.
- (2) Whenever a notice, or other document is served, or addressed by ordinary registered post, or by electronic mail, service of the notice shall, in case the contrary is not proved, be deemed as has been done, at such time, as the notice may be delivered; and proof of the envelope containing the notice, or other document, having been

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<sup>4</sup> Act No. 24, 2014.

addressed, in accordance with the provisions of Sub-section (1), and posted, shall be sufficient.

## **Chapter III**

### **Levy and Accrual of Tax**

#### **Tax levied on commodities and services**

12. Tax shall be levied, upon sales of local and imported commodities, services and business, save as may, by special provision, be excluded.

#### **Accrual of tax**

- 13.(1) Tax shall accrue, by the verification of the fact of sale of the commodity, rendering the service or performance of the business, in accordance with the provisions of this Act; and there shall be deemed as sale, use of the commodity, or benefiting of the service, by the tax payer, in special, or personal purposes, or disposal thereof, by any of the legal disposals.
- (2) Tax shall accrue, with respect to imported commodities, at the stage of their being released, by the Customs, by verification of such fact, as may give rise to the Customs tax, and be collected, as to such measures, as may be prescribed, with respect thereto; and such fact shall be verified in respect of every importer, however the turnover thereof may be .

## **Tax rate<sup>5</sup>**

- 14.(1) The tax rate, on commodities, services and business, shall be 15% (fifteen per cent.) , and levy of tax upon such commodities and services, as may be exported abroad, shall be at the rate of (zero) , as to such terms and conditions, as the regulations may specify. \*
- (2) Notwithstanding the provisions of Sub-section (1), the tax rate on communications services shall be 30 % (thirty per cent).
- (3) Notwithstanding the provisions of Sub-section (1), the Secretary General may by a decision thereby, lay down some procedural safeguards pertaining to specify the value added tax amount, on the commodities, services, and businesses sabjeit to tax as the regulations may speicify.
- (4) Save as to the exempted commodities and services, the tax may not be included, into the cost of sale of the commodity, or service.

## **Amendment of the tax rate**

15. The Council of Ministers may, by an order to be made thereby, amend the tax rate set forth in Section 14(1).

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<sup>5</sup> Act No. 29 ,2007, Act No. 14,2006, Act No. 26, 2008, Act No. 23, 2011 , Act No.35, 2011.

\* the Council of Ministers issued on 19/6/2012 an order amending the tax rate to 17% , as the Council of Minister, issued on 7/5/2015. An order amending the value added tax on cigarette to 30% .

## Free Zones<sup>6</sup>

15A.(1) Save as to cars of personal usage, tax shall not accrue on the imports of projects of free zones, towns, and markets of the commodities and services necessary for practising the activity licensed therefor inside such places.

(2) Notwithstanding the provisions of Sub-section (1), the tax shall accrue, on such commodities, or services as maybe rendered or business subject to the tax in accordance to the provisions of this Act, to the areas, towns and free –zone markets for the local consumption of the same, or benefeting from the service or businece inside such places.

(3) The tax shall accrue on commodities, and services subject to tax in accordance to the provisions of this Act, imported from free zones, towns and markets to the local market inside the county.

(4) The services and manufactured commodities, in the projects of free zones, towns and markets shall be treated likewise the treatment of the commodities and services imported from abroad upon withdrawal for local consumption, or use, or upon benefiting by the service locally.

(5) The locally produced commodites, necessary for practising the licensed activity for the projects inside the free zones, towns and markets, shall be treated as to such measures and safeguards as may be specified by the regualtions.

(6) The tax shall not accrue on the transit commodities, provided that conveyance shall be under Customs control in accordance with the provisions of the Customs Act, 1986, and the regulations made thereunder.

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<sup>6</sup> Act No. 14, 2006

(7) The regulations shall specify the procedures and rules organizing the provisions provided for in this Section.

## **Chapter IV**

### **Registration**

#### **Registration mandatory<sup>7</sup>**

16.(1) The National Governmental Units and the State Government that deal in the sale of commodities and every person, the turnover of whom, in the financial year prior to the date of coming into force of the provisions of this Act, reaches the amount of one hundred thousand SDG, and more, or any person, the turnover of whom reaches, after the coming into force of the provisions of this Act such amount, or any importer, or exporter, however the turnover thereof may reach, shall apply, to the Chamber, for the registration of his name and data, on the form prepared for this purpose, within such period, as the Secretary General may specify; and the regulations shall specify the form of the application form, and such data, as have to be entered thereon, the conditions, rules and procedure concerning registration.

(2) A person , who is not charged with registration, may voluntarily apply for his registration, in accordance with the provisions of this Section . In case of his registration, he shall be among the tax payers, subject to the provisions of this Act, as of the date of registration thereof.

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<sup>7</sup> Act No. 29, 2007, Act No. 32, 2010.

### **Register to be kept**

- 17.(1) The Chamber shall keep a register, whereon shall be entered the data of registration applications, after revision and verification of accuracy thereof; and each registered person shall be granted a certificate thereof. The regulations shall specify the conditions, rules and procedure concerning certificates of registration, and the data contained thereon.
- (2) Every tax payer shall be bound to notify the Chamber, in writing, of any changes, as may occur in such data, as may have previously been presented, on the registration application, and cease to practise the activity subject to the tax or its liquidation, within a period not exceeding thirty days, of the date of occurrence of such changes, or cessation or liquidation.<sup>8</sup>

### **Registration threshold amended**

18. The Minister, upon approval of the Council of Ministers, may amend the Registration threshold, by an order, to be made thereby.

### **Registration Struck off**

19. The Secretary General may strike off the registration, in such cases, and as to such conditions and terms, as the regulations may specify.

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<sup>8</sup> Act No. 14, 2006

## **Obligations and duties of the taxpayer**

20.(1) A taxpayer shall :-

- (a) inscribe a tax bill, upon sale of any commodity, rendering a service or carrying out any business, in accordance with the provisions of this Act; and the regulations shall specify such rules and procedures, as may guarantee the regularity of bill and facilitate the control and auditing thereof;
- (b) keep accurate and regular accounts records and books, wherein there shall be entered, consecutively, at the times thereof, the particulars of sales and purchases and such value of the same, and such tax as may have been collected, and all such operations , as may be conducted thereby, supported by accurate documents and bills. Such records and copies of bills referred to in paragraph (a) , shall be kept, for the period of five years, subsequent to the end of the financial year, in which entry , on the records, has been made;<sup>9</sup>
- (c) present a monthly return, to the Secretary General, as to the tax due, on the form prepared for this purpose, within the fifteen days subsequent to the termination of the accountancy month. The Secretary General may, by a decision to be made thereby, extend such period, for another similar period, where necessity requires the same;

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<sup>9</sup> Act No. 32, 2010.



- (d) present the return, provided for in paragraph (c), even though he has not achieved sale, or rendered services, subject to tax, within the accountancy month.
- (2) Where the tax payer does not present the return, provided for in paragraph (c), at the date fixed therefor, the Secretary General shall be entitled to assess the tax, for the accountancy period, together with showing such bases, as on which he has relied, in assessment; without prejudice to legal responsibility, in all the same.

### **Tax bills printed and sealed**

- 21.(1) No tax payer shall fill, or use, any bills, for any commodity, or service, unless the bills are endorsed by the Chamber.
- (2) No person, or printing press, shall print any manifesto bills, in any of the means of printing, unless he obtains a written approval from the Secretary General, or whoever he may authorize.<sup>10</sup>

## **Chapter V**

### **Value of commodities and services assessed**

#### **value which has to be declared**

- 22.(1) The value which has to be returned, and adopted as a basis for assessing the tax, with respect to commodities, services as may be rendered or businesses subject to tax, shall be the true value in such conditions, as sale of the commodity, or rendering the service,

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<sup>10</sup> Act No. 32, 2010. Act No. 40,1974.

by a tax payer, to another person, who is independent therefrom, in accordance with the natural course of matters, or else the price of the commodity, or service shall be assessed, at such price, or consideration, as may be prevailing in the market, in the normal conditions, as to such rules, as the regulations may specify.<sup>11</sup>

- (2) The value of commodities, imported from abroad, shall be assessed, at the stage of release, by the Customs, at such value, as may be adopted as a basis for specifying the Customs tax, with the addition thereto, of the Customs taxes and otherwise of taxes and fees, levied on commodities, with the exception of the value added tax, levied under the provisions of this Act.

### **The value subject to tax amended**

23. Where it transpires, to the Secretary General, or whoever he may authorize, that the value of tax payer's sales of commodities, or services is different from what has been set out in his return, for any accountancy period, he may amend the value subject to tax, without prejudice to any other measures, as may be decreed by the provisions of this Act; and the tax payer, in all cases, may present his grievance against the assessment of the Secretary General, or whoever he may authorize, as to such ways and procedure, as may be specified in this Act.

### **Tax assessed for the basis period**

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<sup>11</sup> Act No. 32, 2010 ..

24. Where the tax payer does not keep regular and precise accounts records, supported by documents, or where such records are inaccurate, or he does not keep the tax invoices, or does not present the books and documents, in the period fixed by the Secretary - General, or whoever he may authorize, shall be entitled to assess the tax, for the accountancy period, as to such safeguards as the regulations may sepcify.<sup>12</sup>

## **Chapter VI**

### **Appeals**

#### **Taxpayer to appeal where not convinced by assessment**

- 25.(1) Where the tax payer is not convinced, by the assessment imposed upon him, in accordance with the provisions of this Act, he may present a written appeal, to the Secretary General, within thirty days, of the date of service of the tax payer by the assessment; on condition of payment of 25% of the assessed tax, or such as the Secretary General may deem fit, whichever is lesser.<sup>13</sup>
- (2) The appellant shall attach, with the application of appeal, all such instruments and documents , as may support his appeal, and present all the data and facts concerning the same.

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<sup>12</sup> Act No. 14, 2006

<sup>13</sup> Act No. 14, 2006 .

## **Amendment of the assessment by the Secretary General and appeal against it**

- 26.(1) The Secretary General, or whoever he may authorize may, upon considering the appeal, amend the assessment, as he may deem fit.
- (2) Where the appelland does not accept the decision of the Secretary General, he shall be entitled to appeal, against the decision of the Secretary General, to the Income Tax Committee, constituted under the provision of Section 54 of the Income Tax Act, 1986, within fifteen days, of the date of his being notified of the decision; on condition of payment of 35% of the value of the assessed tax.<sup>14</sup>

## **Appeal against the decision of the Income Tax Committee**

- 27.(1) The tax payer may appeal, against the decision of the Income Tax Committee, within thirty days, of the date of his being notified of the same, to the court having jurisdiction over administrative contests.
- (2) The Secretary General may appeal, against the decision of the Income Tax Committee, within forty five days, of the date of his being notified thereof, to the court having jurisdiction over administrative contests.

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<sup>14</sup> Ibid .

## **Chapter VII**

### **Tax collection**

#### **Addition and collection of the amount of tax<sup>15</sup>**

- 28.(1) Subject to the provisions of Section 14(4), the tax payer shall add the amount of tax to the price of sale of the sold commodity, or service, and collect the same, from the purchaser, as to such rate, as may be provided for in this Act.
- (2) The tax payer shall pay in cash or electronically the proceeds of the tax, periodically to the Secretary General, in accordance with the monthly return thereof, and at the same date provided for in Section 20(1) (c) ; provided that accountancy shall be done every quarter of the financial year.
- (3) The tax shall be paid, on imported commodities, at the stage of their being released by the Customs, as to such procedure as may be prescribed for payment of Customs duties, and final release shall not be done, for such commodities, before payment of the full tax due; and the Customs shall not postpone the tax due, or subject the same to instalments.
- (4) Issue of the invoice, by the person rendering the service, shall be deemed to be the fact giving rise to tax, in accordance with the provisions of this Act, with respect to the services of continuous nature; and the regulations shall specify the nature of such services.
- (5) For the purposes of taxation accounting, the Secretary General may bind any person exercising commercial, industrial, professional,

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<sup>15</sup> Act No. 32, 2010, Act No. 24, 2014, Act No. 35, 2015.

occupational or service activity, to use the machine, in accordance with the safeguards and conditions as he may prescribe.

- (6) The Secretary General shall :
- (a) constitute a committee from concerned, research and academic bodies for the purpose of issuing the machinery annual technical manual, according to the taxation work requirements;
  - (b) issue the conditions and safeguards pertaining to the duties and responsibilities of the machinery suppliers and those in charge of the same;
  - (c) approval of the machinery and validation of the annual manual and issuance thereof.
- (7) Every person resident in the Sudan and contracts with a person non-resident in the Sudan, and have no legal entity registered in the Sudan against rendering service or business subject to tax, shall add the tax amount to the service value or work, and deposit the same to the Chamber.

### **Sanction inflicted in case of non-payment of the tax at the fixed date**

- 29.(1) Where the tax due is not paid by the tax payer, within the fixed dates, the Secretary General, or whoever he may authorize, may inflict a financial sanction, to be specified by the regulations, for every month of arrears, and shall be collected with the tax, and by the same procedure.

- (2) Where the tax payer does not pay the tax due, and the additional amount, as set forth in this Act, the Secretary General, or whoever he may authorize, may institute a suit, before the competent civil court, for the amount of tax, or any other amounts due from the tax payer, and collect the same therefrom, as a debt due to the Government, together with all the costs of the suit.
- (3) Presentation of a certificate signed by the Secretary General, or whoever he may authorize, containing the name and address of the defendant and the value of the tax, in any suit under the provisions of Sub-section (2), shall be sufficient evidence, that the amount of such tax is due from such person, and an executive deed sufficient, to the court, to pass the judgement thereby, of such amount, and appearance, by the Secretary General, or whoever he may authorize, before the court, shall not be required, for passing the judgement thereof.<sup>16</sup>

### **Tax collected by way of attachment**

30. The Secretary General may, instead of instituting the suit for the amount of the tax due, make an order, in his own hand, licensing any official to attach the goods, or effects of the person, from whom the tax, is required to be collected and also any other property, including his balances, with banks. Such movables, property and attached effects shall be sold, within the maximum period of thirty days, of the date of attachment, by public auction,

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<sup>16</sup> Act No. 32, 2010.

and the balances deposited with banks shall also be withdrawn, after approval of the Minister, in payment of the tax due, all the same being, as to such rules and procedure, as the regulations may specify.<sup>17</sup>

### **Suspension of collection of tax prohibited**

31. Notwithstanding the provisions of any law, courts shall not suspend collection of such due tax, as may be levied under the provisions of this Act.

### **Tax deemed preferable debt<sup>18</sup>**

32. (1) The tax due, and the other amounts due to the Chamber under the provisions of this Act, shall have the preference right, to all the property of persons indebted, or charged with collecting and depositing the same, with the Chamber, by operation of the law, and shall have precedence, to all other debts.
- (2) Notwithstanding any contrary provision in any other Law, the competent bodies, and courts, shall not conduct liquidation or bankruptcy proceedings, unless the liquidation, or bankruptcy applicant produces a value added tax clearance certificate from the Chamber.

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<sup>17</sup> Act No. 14, 2006

<sup>18</sup> Act No. (14), 2006



### **Tax due for the purposes of this Act**

33. For the purposes of this Chapter, tax due means such tax, as the person charged therewith may have exhausted the stages of administrative appeals, provided for in Sections 25(1) and 26(2) , or the period fixed for appeal has expired.

### **Tax deducted**

- 34.(1) The tax payer may, upon calculation of the tax, deduct, out of the tax due on the amount of his sales of commodities and services, such tax, as has previously been paid, on the returns of his sales, and such tax, as has previously been paid, on his inputs, and also such tax as has been charged on sold commodities, by the Tax payer knowledge, at each stage of the stages of distribution thereof, in pursuance with such limits, and as to such terms and conditions, as the regulations may specify.
- (2) In cases of export, where the tax due for deduction is greater than the tax due, on the internal sales of the tax payer, the Secretary General shall draw back the difference, as to such procedure, as the regulations may specify.

### **Tax drawn back**

35. The tax shall be drawn back, in pursuance of such terms and conditions, as the regulations may specify, in the following cases :-

- (a) the tax previously collected on the exported commodities, whether exported in its own condition , or incorporated into other commodities;
- (b) the tax collected by mistake, upon a written application, to be presented by the tax payer;
- (c) any such other cases , as the Secretary General may prescribe .

### **Limitation**

- 36.(1) The right of the tax payer, to draw back the tax, shall lapse, by the lapse of twenty four months, commencing as from the end of the financial year, within which the return should have been presented.
- (2) The right of the Chamber, save evasion cases, to claim the tax, shall lapse, after the lapse of five years, of the date of end of the financial year , for which the tax is due, in case of not claiming the same.<sup>19</sup>

## **Chapter VIII**

### **Exemptions<sup>20</sup>**

37. (1) Notwithstanding the provisions of chapter III , there shall be exempted, from tax, the following commodities and services :-
- (a) with respect to commodities :-
    - (i) all agricultural products, sold in the natural condition thereof, as the regulations may specify;

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<sup>19</sup> Act No. 14, 2006

<sup>20</sup> Act No. 14 , 2006, Act No. 40, 1974, Act No. 32, 2010.

- (ii) cattle, meat, poultry and the products thereof, fish and milk and dairy products;
  - (iii) fertilizers;
  - (iv) seeds;
  - (v) insecticides and herbicides;
  - (vi) drugs, for human and veterinary use;
  - (vii) locally produced flour;
  - (viii) bread;
  - (ix) Imported goods exempted from taxes and fees, under the provisions of the Immunities and Privileges Act, 1956;
  - (x) goods imported, under agreements, with the Sudan Government providing for exemption;
- (b) with respect to services :-
- (i) financial services : include financial services of banks, companies of employment of funds, financing funds, sale of shares, bonds and stock;
  - (ii) insurance business;
  - (iii) education services;
  - (iv) medical services;
  - (v) leases and sale of estates prepared for private accomodation, as to the such manner, as the regulations may specify;
- (c) the regualtions shall determine the types of services set forth in Sub-paragraphs (i), (ii) , (iii) and (iv) of paragraph (b);

- (d) (i) such commodities and services, as the Council of Ministers may, by an order, to be made thereby, upon the recommendation of the Minister, exempt the same.
- (ii) The Council of Ministers upon recommendation of the Minister may revoke the exemption granted under the provisions of paragraph (i).
- (2) Notwithstanding any special provision in any other law providing expressly or impliedly for value added tax exemption, no commodity, service, or business shall be exempted from the tax, save in accordance with the provisions of this Act.

## **Chapter IX**

### **Places Entered and documents Perusal**

#### **The Secretary General and whoever he may authorize enabled to enter places**

38. The tax payer shall enable the Secretary General, or whoever he may authorize to enter places of work, such as factories, stores, shops and facilities, as wherein they may practise their activity in commodities and services, subject to tax, during work hours, and peruse any accounts, revenue lists or any other documents, or take the same to the Chamber, for examination, and audit; and the Secretary General, or whoever he may authorize shall be entitled to accompany such, as he may deem fit, of policemen, or officials of the Chamber , to achieve such purpose; and the tax payer shall

present any information, as the Secretary General may require therefor, and assist him, in the discharge of the duty thereof.<sup>21</sup>

### **Accounts, books, lists and documents impounded**

39. The Secretary General, or whoever he may authorize, may upon entry thereby, of the places of work of the tax payer, impound any accounts, books, lists or documents, for any reasonable period, to be specified by the regulations, for examination thereof, and the tax payer shall execute whatever may be required, by the Secretary General, or whoever he may authorize.

### **Summons<sup>22</sup>**

40. The Secretary General, or whoever he may authorize, may require the tax payer, or any person by a written notice, to appear at such time and place, as may be set forth, in such notice, for the purpose of questioning him, with respect to the commodities , services and the tax levied thereon, and any other matters pertaining thereto. (For the pupose of this Section, person: means any person who practices commercial activity and not being assigned before, in accordance with the provisions of this Act).

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<sup>21</sup> Act No. 14,2006.

<sup>22</sup> Ibid

## **Chapter X**

### **Sanctions and Contraventions**

#### **Sanctions**

- 41.(1) The Secretary General may inflict financial and administrative sanctions, in addition to the tax due, upon whoever contravenes the provisions of this Act; and the regulations made thereunder, without the same being an act of evasion, provided for therein, as the regulations may elaborate.
- (2) In case of the contravention being repeated, the financial sanction provided for in accordance with the provisions of Sub-section (1), may be redoubled.

#### **Contraventions<sup>23</sup>**

42. There shall be deemed, contravention of the provisions of this Act, the following cases :-
- (a) delay, in presenting the return, and payment of tax, for the period specified in Section 20(1)(c),
  - (b) presenting false data, about sales and purchasing of commodities, or services subject to tax, about whatever may have been set out in the return, unless presenting such as may justify the same;
  - (c) contravention of the procedure, or rules, provided for in this Act and the regulations made thereunder;

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<sup>23</sup> Act No. 14, 2006, Act No. 32, 2010.

- (d) non-notification, of the Chamber, by such changes, as may have occurred on the data set out in the registration application, within the fixed date;
- (e) non-enabling officials of the Chamber, to perform the duties and exercise the functions thereof, pertaining to control, inspection, viewing, auditing and requiring or perusal of documents.

### **Offences and penalties**

43. Without prejudice, to any severer penalty decreed by any other law, every tax payer, who evades payment of tax, or any person who abets, or assists in evasion of payment of tax, shall be punished, with imprisonment, for a term, not exceeding three years, or with fine, or with both; and in case of several offenders, they shall be sentenced jointly and severally.<sup>24</sup>

### **Evasion<sup>25</sup>**

44. There shall be deemed tax evasion, and be punished with the penalties, provided for in Section 43, the following :-
- (a) non-application, to the Chamber, for registration, at the fixed dates, without sufficient cause;
  - (b) sale, or import of the commodity, or rendering the service, without return thereon, and payment of the tax due;

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<sup>24</sup> Act No. 24, 2014.

<sup>25</sup> Act No. 32, 2010, Act No. 24, 2014, Act No. 35, 2015.

- (c) deducting the tax totally, or partially, without lawful cause, in contravention of the provisions and limits of deduction;
- (d) drawback of the tax, or attempt of drawback of the same totally, or partially, without lawful cause;
- (e) presenting forged, or fabricated documents or records, or false statements, to get rid of payment of all, or part of the tax ;
- (f) presenting false data, on sales and purchases about whatever may be set out in the return;
- (g) non-issue, by the tax payer, of bills about his sales of commodities, or services, subject to tax, or use of forged bills;
- (h) non-return, by the tax payer, of commodities or services, used or benefited thereby, in private, or personal purposes;
- (i) lapse of thirty days, after termination of the dates fixed for payment of tax, without filing return, or payment thereof;
- (j) issue, by a non-tax payer, of bills charged with tax;
- (k) failure to use the machine in the commercial, industrial, agricultural or service transactions, where he is bound to use the same in accordance with Section 28(5).
- (l) contravene the safeguards and conditions pertaining to machinery importers and whoever charged to use the same.



### **Trial approved**

45. No person shall be tried, for any offence, in contravention of the provisions of this Act, save upon the approval of the Minister of Justice, upon the recommendation of the Secretary – General .

### **Venue of trial**

46. A criminal suit may be instituted, against any person accused of an offence, in contravention of the provisions of this Act, and be tried and punished, at any place wherein he may be present, by virtue of such offence, as if the offence has been committed at that place. The offence, for all the aspects relating to institution of the criminal suit, the trial, punishment therefor or consequential thereto, shall be deemed as committed at that place.

### **Offences committed by corporate persons**

47. Where an offence, in contravention of the provisions of this Act, has been committed by a corporate person, every natural person, who at the time of committing the offence, is a member of the board of directors, general manager, secretary or other similar official of such company, or has been acting, or purporting to be acting in such capacity, shall be deemed, unless he proves that the same has been committed, without his consent, or knowledge, and he has exerted every effort to prevent commission of same, as is his duty, with respect to the nature of his functions, in such capacity, and in all circumstances, to have committed such offence.

**Tax levied due for payment  
irrespective of trial**

48. Institution of a criminal suit, against any person, for any offence, in contravention of the provisions of this Act, or inflicting the penalty, upon any person, as a result of such suit , shall not entail exempting such person , from the indebtedness of payment of any tax he is, or may be bound thereby.

**Powers of the Secretary General  
to compound offences**

- 49.(1) Where any person commits an offence, in contravention of the provisions of this Act, other than the offences referred to in Section 9, the Secretary General may, at any time before referring of the criminal suit to the court, consider any charge relating thereto, and compound such offence, by way of reconciliation, and order such person to pay such amount, as he may deem fit , without exceeding the amount of the fine, with which the person would have been punished, where he is convicted of such offence; provided that the Secretary General shall not exercise such powers, under the provisions of this Section, unless such person requests the Secretary General, in writing, to consider such offence, under the provisions of this Section.<sup>26</sup>

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<sup>26</sup> Act No. 14, 2006.

(2) In case the Secretary General compounds any offence, under the provisions of Sub-section (1), the following shall be given due regard:-

- (a) the order of the Secretary General shall be shown in writing, and thereto shall be attached the written request, referred to in the provision set out in Sub-section (1); and
- (b) there shall be shown, in such order, the offence which has been committed, the amount ordered to be paid and the date, or dates, at which payment has been made; and
- (c) a copy of the said order shall be given to the person, who has committed the offence, where he requests the same; and
- (d) such person shall not be subject to any trial, thereafter, for such offence, as has been compounded, by way of reconciliation, under the provisions of this Section; and
- (e) the order made by the Secretary General shall be final and not subject to any appeal; and
- (f) such order may be executed, in the same way, as the judgement passed, by the court, for payment of the amount, set forth in the order; and
- (g) such person shall bear all the judicial costs due for payment.

## **Chapter XI**

### **General Provisions**

#### **Tax proceeds distributed**

50. The tax proceeds shall be divided, at the rate of 60% , to the National Government, and 40% to states. The Council of Ministers may, by an order to be made thereby, amend such percentages, where necessity requires the same.<sup>27</sup>

#### **Disposal or use of commodities exempted from tax prohibited**

51. Without prejudice, to such special provisions, as have been provided for in this Act, there shall be prohibited disposal of any of the commodities, or use of the same, otherwise than in the purpose, for which they have been exempted, within the five years subsequent to exemption. There shall be deemed, as evasion, the disposal referred to, without notifying the Chamber, and payment of the tax due, which is punished with the penalties provided for in this Act.

#### **Seized things, instruments of evasion and means of conveyance disposed of**

- 52.(1) The Chamber shall have the right of disposal of such things seized, instruments of evasion and means of conveyance, as may have

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<sup>27</sup> Act No. 40, 1974 .

been decreed to be confiscated, as to such rules, as the regulations may specify.

- (2) The provisions relating, to disposal and sale, provided for in the Customs Act, shall apply, with respect to imported commodities.
- (3) The Chamber may dispose, of such seized things, as may be subject to perishing , decrease or loss; and shall likewise be entitled to destroy such commodities, as the circulation of which may be prohibited, as may be prejudicial to health, or the offer for sale of which may, for the security and safety of citizens, be fearful, after the opinion of the technical competent bodies has been sought.<sup>28</sup>
- (4) There shall apply, with respect of imported commodities, subject to tax, which have not been released by the Customs, the provisions of contraventions and evasion, provided for in the Customs Act.

### **Transitional provision<sup>29</sup>**

- 53.(1) Notwithstanding the provisions of this Act, the Secretary General may issue such circulars, as may organize and specify the manner of treatment of such stored commodities, as sales, consumption or excise taxes have been paid thereon, upon the application of the provisions of this Act.
- (2) In case of alteration of the tax price, the Secretary General may issue publications to regulate long term contracts.

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<sup>28</sup> Act No. 14, 2006.

<sup>29</sup> Act No.32, 2010.

### **Officials immunity**

- 54.(1) Neither the Secretary General, nor any of the officials shall be arrested, detained, any criminal investigation procedure taken, or criminal suit instituted, against him, with respect to any act, relating to the performance of his tasks, save upon permission of the Minister of Justice, after consultation with the Minister.
- (2) Notwithstanding the provisions of Sub-section (1), the Secretary General, or the official may be arrested, or detained, in case of red-handedness, in any of the offences of strict responsibility; provided that the Minister shall be notified of the fact of arrest or detention, in case of occurrence thereof.

### **Power to make regulations**

55. The Minister may make such regulations, as may be necessary, for the implementation of the provisions of this Act.

**Text of the Oath**  
**(See Section 8)**

“I .....

Swear by Almighty Allah, to discharge, honestly and honourably, such duties, as the discharge of which is required of me, under the provisions of the Value Added Tax Act, 2001 , deem all such documents and information, as may relate to the tax of any person, and all secret instructions, with respect to implementing the law, as may enter my possession, or come to my knowledge, in the course of discharge of my official duties, as secret, and deal in the same, on this basis, not to disclose any of such documents and information, to any person, and not to enable any person, to access to such documents, save in such cases, as the same may be allowed under the law.

**Signature :**.....

**Done and signed, before me, on the ....., of month .....,.....**

**The Secretary General”**





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