

THE SPECIFIED BUILDINGS TAX ACT, 1993

ARRANGEMENT OF SECTIONS

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THE UNITED REPUBLIC OF TANZANIA



No. 12 OF 1993

I ASSENT,

A handwritten signature in dark ink, appearing to be 'Mwinyi', written over a dotted line.

President

11/10/93

An Act to impose a tax on certain buildings, lands and other property

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.**PART I****INTRODUCTORY PROVISIONS**

1.-(1) This Act may be cited as the Specified Buildings Tax Act, 1993.

(2) This Act shall come into operation on the first day of January, 1994.

Short title and
commencement

2. In this Act, except where the context requires otherwise—

Interpretation

“actual use” means the purpose for which the building is principally or predominantly utilized by the person in possession or occupation of the specified building;

“assessment” means the act or process of determining the value of a building, or part of it, subject to tax, including the discovery, listing and appraisal of buildings;

“assessed value” means the value placed on a building by the assessor for an valuation tax purposes;

“building” means any building whether or not for residential or industrial purposes, and whoever owns it;

“authorized representative” means an individual authorized in writing by any person to act on his behalf for the purposes of this Act who is—

(a) in any case—

(i) an accountant approved by the Commissioner;

(ii) an advocate or other legal representative;

(iii) an employee regularly employed by the person concerned; or

(iv) any other person approved by the Commissioner;

(b) in the case of an individual, a relative or spouse;

(c) in the case of a company, a director or officer of the company;

(d) in the case of a partnership, a partner;

(e) in the case of a body of persons, a member;

- "assessor"** means an a person appointed as assessor under and for the purposes of this Act;
- "body of persons"** means any body politic, corporate or collegiate and any company, fraternity, fellowship and society of persons whether, or not corporate;
- "Commissioner"** means the Commissioner of Income Tax;
- "executor"** means any executor, administrator, or other person administering the estate of a deceased person, and includes a trustee acting under or trust created by the last will of the author of the trust;
- "improvements"** means a valuable addition made to a building or other property or an amelioration in its condition, amounting to more than mere repairs or replacement of waste, costing labour of capital and intended to enhance its value, beauty utility or to adopt it for new or further purposes;
- incapacitated person** means any minor, lunatic, idiot, drunk, imbecile, or person of unsound mind;
- market value** means the highest price estimated in terms of money which the building will buy if exposed for sale in the open market allowing a reasonable time to find a purchaser who buys with knowledge of all the uses to which it is adapted and for which it is capable of being used;
- "person"** includes a company, partnership or body of persons;
- Minister** means the Minister for the time being responsible for finance;
- specified building** means a building specified under this Act as one in respect of which tax is payable under this Act;
- "tax"** means the specified building tax imposed by section 4;
- "trustee"** includes any trustee, guardian, curator, manager, or other person having the direction, control or management of any property on behalf of any person but does not include an executor.

Application

- 3.-(1) This Act shall apply to buildings within areas under the jurisdiction of a city council, a municipal council or a town council, and to no other area.
- (2) Notwithstanding subsection (1), the Minister may, by notice published in the *Gazette* specify any other area to which this Act or any provision of it shall apply.

PART II

THE SPECIFIED BUILDINGS TAX

Imposition of tax

- 4.-(1) There shall be levied, assessed and collected in all areas to which this Act applies a tax to be known as specified buildings tax payable in respect of each specified building by its owner or occupier.

(2) Every building whose current market value is at any time twenty or more million shillings is hereby declared to be a specified building.

Time for payment

5. The amount of specified buildings tax payable in respect of any specified building by any person shall be due and payable within the first six months of the opening of the financial year of the government save that in respect of the financial year ending on 30th June, 1994, the due date for the tax shall be the 31st day of March, 1994.

Rate of tax

- 6.-(1) Subject to the provisions of this section, the Minister may, on or before the first day of July in any year, by notice published in the *Gazette*, fix the rate at which the tax under this Act is to be paid in the next succeeding year.
- (2) If in any year the rate of tax is not fixed pursuant to subsection (1), the rate for the next succeeding year shall be the same as that last fixed under this section.

(3) Unless and until a rate of tax is fixed under the section, the rate of the tax payable under this Act shall be one percentum of the market value of the specified building in question.

7. (1) Any tax shall be deemed, when it becomes due and payable, to be a debt due to the United Republic and payable to the Commissioner in the manner and at the place prescribed.

Recovery
of tax

(2) Any tax unpaid may be sued for and recovered in any court of a resident magistrate by the Commissioner or an authorized officer suing in his official name.

(3) For the purposes of this section, the provisions of section 101, 103, 107, 108 and 109 of the Income Tax Act, 1973, shall apply in respect of procedure for recovery of Tax falling in arrears.

8. The production of a notice of assessment, or of a document under the hand of the Commissioner or his authorized representative purporting to be a copy of a notice of assessment, is conclusive evidence of the due making of the assessment and that the assessed value, the amount and all other particulars of the assessment are correct.

Evidence
recovery suits

9. (1) The Commissioner may, by notice in writing, a copy of which shall be served on the person liable to tax, require—

Recovery
from
third parties

- (a) a person by whom money is due to or accruing, or may become due, to a person liable to tax;
- (b) a person who holds or may subsequently hold money for or on account of a person liable to tax;
- (c) a person who holds or may subsequently hold money for or on account of some other person for payment to a person liable to tax; or
- (d) a person having authority from another person to pay money to a person liable to tax,

to pay to the Commissioner, either forthwith upon the money becoming due or being held, or at or within a time specified in the notice, not being a time before the money becomes due or is held—

- (i) so much of the money as is sufficient to pay the amount due in respect of tax by the person liable to tax, or the whole of the money when it is equal to or less than that amount; or
- (ii) such amount as is specified in the notice out of each of any payments that the person so notified becomes liable from time to time to make to the person liable to tax, until the amount due in respect of tax by the person is satisfied,

and may at any time, by further notice in writing, amend or revoke the first mentioned notice, or extend the time for making any payment in pursuance of that notice.

(2) A person making a payment in pursuance of this section shall be deemed to have been acting under the authority of the person liable to tax and of all other persons concerned and is by virtue of this section and without further assurance, indemnified in respect of that payment.

(3) If the Commissioner receives a payment in respect of the amount due by the person liable to tax before payment is made by the person so notified, he shall forthwith give notice of receipt of the payment to that person.

(4) In this section "person" includes a company, a partnership, a cooperative society, a parastatal organisation or other body of persons established by or under any written law of the United Republic; and "tax" includes any additional tax payable under this Act, a judgment debt or costs in respect of tax or additional tax and any fine or costs imposed by a court in respect of an offence against this Act.

Effect of
non-pay-
ment of tax

10. (1) Subject to section 11, where a person fails to pay tax payable by him on or before the date on which the tax is due and payable, that person, in addition to his liability to pay that tax, is liable to pay additional tax at the prevailing government borrowing rate upon the amount of tax that he has so failed to pay to be computed from the date on which the tax became due and liable.

(2) The Commissioner may, in a particular case, for reasons that, in his discretion, he thinks sufficient, remit the whole or a part of any additional tax payable under subsection (1).

Relief in
cases of
hardship

11. In any case where it is shown to the satisfaction of the Minister that any person who is liable to pay tax has suffered such loss or is in such circumstances that the exaction of the full amount of the tax would entail or has entailed serious hardship, the Minister may, upon appropriate recommendation of the Commissioner, release the person wholly or in part from his liability to pay the tax and may take such steps as are necessary for that purposes; and the Commissioner shall then, if the tax or any part of it has already been paid, refund the whole or any part of the amount paid.

Exemption
from liability

12. The following persons and properties are hereby exempted from specified building tax, namely—

- (a) buildings owned by the Government or by any body corporate owned by the Government, other than any such building the beneficial use of which is granted; for consideration or otherwise, to a taxable person;
- (b) buildings situated in non-profit cemeteries or burial grounds;
- (c) charitable institutions, churches, parsonages or convents appurtenant thereto, mosques, temples, and all lands, buildings and improvements actually, directly or exclusively used for religious or charitable purposes;
- (d) buildings in any one urban authority belonging to a single owner, the entire assessed valuation of which is not in excess of twenty million shillings;
- (e) such other buildings or persons as the Minister may, upon advice by the Commissioner, by writing under his hand exempt from tax.
- (f) buildings in use as factories, schools, colleges or other institutions of learning.

PART III

ADMINISTRATION AND ASSESSMENT

Appointment
of person
responsible for
administration
of tax

13.—(1) The Commissioner for Income Tax shall be the Commissioner for the purpose of this Act.

(2) Officers under the Commissioner performing functions in respect of income tax are hereby appointed assessors and such other officers in respect of the tax and for the purposes of the provisions of this Act.

Delegation of
function of
Commissioner

14.—(1) The functions of the Commissioner under this Act are hereby delegated in the same manner, to the same person and the same extent as the same are delegated under the Income Tax Act, 1973.

(2) Notwithstanding subsection (1), the Commissioner may in any case vary the terms of the delegation of his powers in relation to any matter or any purpose.

Declaration
of property
by owner or
administrator

15.—(1) It shall be the duty of all persons owning or administering specified buildings or their duly authorized representative, to prepare, cause to be prepared, and file with the Commissioner a sworn statement declaring the true value

of their buildings, whether previously declared or undeclared, taxable or exempt, which shall be the current and fair market value of the buildings, as determined by the declarant.

(2) A declaration under subsection (1) shall contain description of the property sufficient in detail to enable the Commissioner to identify it for assessment purposes.

(3) The sworn declaration of specified buildings referred to in this section shall be filed with the Commissioner once every three years during the period January to June thirtieth save that the declarations for the year 1993/94 shall be filed not later than the 31st day of March, 1994, unless required earlier by the Minister.

(4) It shall also be the duty of any person or his authorised representative acquiring at any time any specified building in any urban authority or making any improvement on any such building, to prepare or cause to be prepared, and file with the Commissioner a sworn statement declaring the true value of the subject property, within sixty days after its acquisition, or upon completion or occupancy of the improvement, whichever is the earlier date.

16. When any person by whom a specified building is required to be declared under section 14, refuses or fails for any reason to make such declaration within the time prescribed, the Commissioner, shall himself declare the property in the name of the defaulting owner, if known, or against an unknown owner, as the case may be, and shall assess the property for taxation in accordance with the provisions of this Act. No oath shall be required of a declaration thus made by the Commissioner.

Declaration
of property by
Commissioner

17.—(1) The Commissioner shall, subject to subsection (2), register or cause to be registered all persons liable to pay tax under this Act.

Registration of
persons liable
to tax

(2) The Minister shall, by rules to be published in the *Gazette*, prescribe the register and the particulars to be entered in the register in respect of any person in pursuance of this section, and also of any changes in registered particulars.

PART IV

MISCELLANEOUS PROVISIONS

18.—(1) For the purposes of this Act, a person authorized by the Commissioner to exercise power under this section may, at all reasonable times and on production of that authority:—

Power of
entry and
search

- (a) enter any building or place in which that person has reason to believe that any offence against this Act is being committed;
- (b) search any books or documents connected with any specified building or any offence in relation to it.

(2) A person shall not, without reasonable excuse, obstruct or hinder a person acting in pursuance of authority under this section.

19. Every person having a function to discharge in relation to tax under this Act shall, when in receipt of any information concerning any person liable to tax or his affairs keep such information secret and use it only for the purposes of this Act or as the Commissioner may direct.

Secrecy and
non-disclosure
of information

20.—(1) The Minister may make regulations for the better bringing into effect of the provisions of this Act.

Regulations

(2) Without prejudice to the generality of the power conferred by subsection (1), the Minister may in such regulations provide for:—

- (a) the manner of proof of exemption;
- (b) the manner of identifying buildings subject to tax, or verifying the value of declared specified buildings;
- (c) the role of urban authorities in the valuation of buildings;
- (d) the making of any appeals by any person aggrieved by any decision of the Commissioner or in relation to any assessment done by the Commissioner;
- (e) the procedure for revision of any assessment declared by any person or authority;
- (f) the giving of notices under this Act;
- (g) the payment of tax in instalments;
- (h) the powers of assessors and other officials in relation to the imposition or collection of tax;
- (i) the disposition of proceeds of tax and tax processes;
- (j) such other matters which is necessary or desirable they be provided for in the interests of efficiency, fairness and justice.

(3) Regulations made under this section shall be published in the *Gazette*.

Offences

21. —(1) A person shall be guilty of an offence against this section who:—

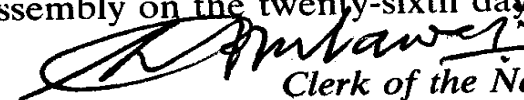
- (a) being required to declare a specified building whether taxable or exempt, fails to file such declaration under the terms and conditions prescribed for it;
- (b) being charged with the duty of assessing specified buildings, wilfully fails to assess or intentionally omits from the assessment or tax roll, any building which he knows to be lawfully taxable or through gross negligence under-assesses any building, or intentionally violates or fails to perform any duty imposed upon him by law relating to the assessment of specified buildings;
- (c) being a government official intentionally and deliberately delays the assessment of buildings or the filing of any appeal against its assessment, if such is patently indicated;
- (d) fails or neglects duly to furnish a return or information which he is required under this Act to furnish;
- (e) furnishes a return or information which, to his knowledge is false or misleading in a material particular;
- (f) is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of the payment of the tax, whether due from him or from any other person.

(2) Any person who is convicted of any offence under this section shall be liable to a fine of shs. 500,000/= or three times the amount of any tax involved, or that was or was intended to be evaded by his conduct, whichever is the greater amount.

General penalty

22. Any person who is convicted of an offence under this Act for which no specific penalty is provided by law, shall be liable to a fine of not more than shs. 300,000/=, or to imprisonment for a term not exceeding six months or to both such fine and imprisonment. If the person is a body corporate the penalty shall be a fine of not less than shs. 300,000/= nor more than shs. 5,000,000/=.

Passed in the National Assembly on the twenty-sixth day of August, 1993

 G. F. MLAWA,
Clerk of the National Assembly