

Value Added Tax Act, 2052 (1996)

Date of Royal Seal and Publication

2052-12-7 (20 March, 1996)

Amendment:

1. Value Added Tax (First Amendment) Act, 2058 2058.10.4 (17 Jan. 2002)
2. Some Nepal laws Amendment Act, 2063 2063.6.28 (14 Oct. 2006)
3. Republic Strengthening and Some Nepal Laws
Amendment Act, 2066 (2010)¹ 2066.10.7 (21 Jan. 2010)

Act Number 14 of the year 2052 (1966)

An Act Made to levy and recovery Value Added Tax

Preamble: Whereas, it is expedient to increase the mobilization of revenue needed for the economic development of the country, by making the process of revenue recovery effective and to levy the revenue in effective manner by systematizing the process of recovering the Value Added Tax on all kinds of transaction including sale, distribution, transfer, import and export of goods and services and to realize the tax;

Now, therefore, Parliament has enacted this Act in the Twenty-fourth year of the reign of His Majesty King Birendra Bir Bikram Shah Dev.

1. **Short Title and Commencement:** (1) This Act may be called as the "Value Added Tax Act, 2052 (1996)".

(2) It shall come into force on such date as Government of Nepal by publishing a Notification in the Nepal Gazette may appoint.²

^{*} Each year Amended version of the Financial Act is put at the end.

¹ This Act came into force on 15 *Jestha* 2065, "*Prasasti*" and the word "Kingdom" has been deleted.

² This Act came into force since 2054.8.1 (16 Nov 1997) by Notification in Nepal Gazette dated 2054.5.2 (01 Aug. 1997).

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 act 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 in relation to any good and service.
- (e) "Goods" means both movable and immovable property.
- (f) "Service" means anything other than goods.
- (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.
- (h) "Consideration" means anything to be obtained for cash, goods, service or value.
- (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 pursuant to the prevailing law.
- (k) "Market Value" means the value determined pursuant to Section 13.
- (l) "Person" means any person, firm, company, association institution, partnership institution, co-operative, joint venture, trust or fund

and this term also includes the government body which are involved in the taxable transaction with or without the objective of profit making, religious organization, charity association or other similar association and their branch or sub-branch thereof.

- (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.
- ³(q1) "Tax period" means the period in which the taxpayer has to submit tax return pursuant to Section 18.
- (r) "Department" means any Department under the Ministry of Finance designated by Government of Nepal as to be responsible for tax administration.
- (s) "Director General" means the Director General of the Department.
- (t) "Tax Officer" means the tax Officer, ⁴Chief Tax Officer, Chief Tax Administrator, Director General appointed by Government of Nepal for the purpose of this Act or any Officer designated by

³ Inserted by First Amendment.

⁴ Amended by First Amendment.

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.

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.

4. **Jurisdiction of a Tax Officer**: The jurisdiction of a Tax Officer shall be as prescribed by the Government of Nepal.

5. **Value added Tax to be levied**: (1) Notwithstanding anything contained in this Act, the value added tax shall be levied on the following transactions:-

- (a) On goods and services supplied within Nepal,
- (b) On goods and services imported into Nepal,
- (c) On goods and services exported outside of Nepal.

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

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

⁵5A. Tax not to be levied on Transfer of ownership of transactions

may not affect: Notwithstanding anything contained elsewhere in this Act, in cases where a registered person sells the transaction being carried out by him/her to any other registered person, not tax shall be levied on such transfer of ownership. The registered person shall, in so selling the transactions, give information thereof to the Department as prescribed.

Provided that, the registered person who purchases such transactions shall bear the tax liability of the predecessor.

⁶5B. 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 claims that he/she is not required to get registered for carrying out transactions valued up to the amount prescribed pursuant to Section 9, shall have the burden to furnish evidence therefor.

6. Place and Time of supply: 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.

(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 in which the supplier issued the invoice,

⁵ Inserted by First Amendment.

- (b) In case of supply of goods, at the time in which the recipient received or took the goods from the place of transaction of supplier,
- (c) In case of supply of service, at the time in which the service is rendered,
- (d) At the time in which the supplier received consideration for the goods and services.

(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 the telecommunication service to be supplied continuously and 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 made in installment or partial basis in more than one 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 and services where one does not to get the tax deduction facility pursuant to this Act for their use, the time in which such goods and service is used.

(4) If more than one circumstances may appear to be applied at a time, as prescribed in Sub-section (2) regarding the time of supply in

⁶ Inserted by First Amendment.

any transaction the Director General shall determine such a time objectively.

7. **Rate of Tax:** (1) The rate of tax to be levied in any fiscal year shall be in a single rate as prescribed in the Financial Act made for that fiscal year.

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

8. **Assessment of Tax and Collection:** (1) A registered person shall assess and collect tax at the taxable value in accordance with the provisions of this Act and Rules framed thereunder.

(2) The recipient of services in Nepal from a person who is not registered and is outside of Nepal shall have to assess and collect the tax at the taxable value in accordance with this Act and Rules framed thereunder.

9. **Exemption for Small Vendor:** Notwithstanding anything contained in this Act, an exemption may be provided to a small vendor, having a prescribed annual taxable transaction threshold, from the requirements of registration and filing of tax returns and from such requirements as may be prescribed.

Provided that, a small vendor may, if he/she desires to register his/her transactions get his/her transactions registered upon completing the process as referred to in Section 10.

10. **Registration:** (1) Every person engaged in any transactions at the time of commencement of this Act shall apply within Ninety days from the date of commencement of this Act to the Tax Officer, in the prescribed format for registration.

(2) Every person, who intends to engage into a transaction after the commencement of this Act, shall apply to the Tax Officer in the prescribed format for registration, before the commencement of such transactions.

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

(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.

(5) The registered person shall display the registration certificate in a conspicuous place at his/her 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, other than the principal one, a copy of the registration certificate attested by a Tax Officer.

(6) A registered person shall use his/her registration number for all transactions relating to value added tax, excise and customs duty and to other prescribed transactions as well.

(7) Every registered person shall inform the Tax Officer within Fifteen days of any changes in the information pertaining to the application for registration as required under Sub-section (1) and (2).

11. Cancellation of Registration: (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 it is dissolved;
- (d) If a registered person ceases to be engaged in taxable transactions;
- (e) If registered mistakenly.

⁷(1a.) In circumstances other than those mentioned in Sub-section (1), any entrepreneur carrying out small transactions who has got his/her transactions registered voluntarily shall not be entitled to cancel such registration of his/her transactions voluntarily until completion of one year from the date of registration of the transaction. An entrepreneur carrying out a small transaction who intends to get registration of such transactions to be canceled after completion of one year from the date of registration of the transaction may file an application as prescribed to the concerned Tax Officer for cancellation of registration. If such an application is so filed, the concerned Tax Officer shall cancel registration of such transaction.

(2) The cancellation procedure of a registration shall be as prescribed.

(3) All the goods and services that remain available for use at the time of the cancellation of registration (capital goods as well) on which tax deduction facility has already been taken, tax shall be assessed and recovered as prescribed.

⁷ Inserted by First Amendment.

12. Taxable Value: (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.

(2) The following amounts shall 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) Excise and all other tax amounts save the tax imposed under this Act.

⁸**Explanation:** For purpose of this Clause, "other tax amounts" means such tariffs, fees and charges as specified by the yearly Financial Act.

(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.

(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.

(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.

⁸ Inserted by First Amendment.

(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.

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

(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.

13. Market Value: ⁹ (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.

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

(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.

14. Invoices to be Issued: (1) Every registered person is required to issue an invoice to the recipient, in supplying any goods and services save the circumstances as prescribed.

(2) The format of an invoice shall be as prescribed.

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

15. Unregistered Person not to collect Tax: (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.

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

16. Accounts of Transactions to be mentioned: (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 demand.

(2) The following matters shall also be included in the accounts so maintained by the taxpayer:-

- (a) Date of transactions,
- (b) Registration number, Value of each transaction,
- (c) If the other party of the transaction is registered, and
- (d) Other prescribed matters related with transaction.

(3) A registered person shall use, for the purpose of keeping accounts, the purchase and sales book certified by the concerned Tax Officer.

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

¹⁰(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.

¹¹16A. Records processed by computer to be acceptable as evidence:

Notwithstanding anything contained in the prevailing law the record of s

⁹ Amended by First Amendment.

¹⁰ Inserted by First Amendment.

¹¹ Inserted by First Amendment.

taxpayer maintained in the computer installed in the Department or offices thereunder shall be acceptable as evidence for purposes of tax, except it is otherwise proved.

17. Tax Deduction: (1) A registered person 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.

(2) Notwithstanding anything contained in Sub-section (1), it may be provided that no deduction or only a partial deduction shall be granted in the case of the following goods that can be used for personal purposes as well as for business purposes:

- (a) Aeroplanes,
- (b) Motor vehicle,
- (c) ¹²
- (d) Other high priced items as prescribed.

(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.

(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.

¹² Deleted by First Amendment.

(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.

¹³(5a) The concerned taxpayer shall be allowed to deduct tax paid on the capital goods such as machineries imported or purchased in the name of any bank or financial institution on hire-purchase loan or mortgage as if such goods were imported or purchased by the concerned industry, company etc.

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

(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.

18. Description of tax to be submitted: (1) Every taxpayer shall, upon making assessment of the tax payable by him/her in every month, submit the tax description, as prescribed, to the Tax Officer 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.

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

19. Tax Payment: (1) A taxpayer shall pay the ¹⁴tax for each tax period within Twenty Five days of the completion of that period.

¹³ Inserted by First Amendment.

¹⁴ Amended by First Amendment.

(2) If a taxpayer does not pay the tax within the time limit specified under Sub-section (1), an extra charge of ¹⁵Five percent shall be imposed on the due tax until the last day of the next month from the date (month) that the tax first becomes due.

(3) If the tax is not paid even within the time specified in Sub-section (2) another additional of ¹⁶Five per cent shall be imposed on the tax due at that time.

(4) If a taxpayer submits an application to the Director General for the exemption of the additional charges imposed by ¹⁷Sub-section (2) or (3) 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.

(5) The charges pursuant to Sub-section (2) and (3), and the interest pursuant to Section 26, shall be charged from the date on which the tax first became due.

¹⁸(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.

¹⁹(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).

¹⁵ Amended by First Amendment.

¹⁶ Amended by First Amendment.

¹⁷ Amended by First Amendment.

¹⁸ Inserted by First Amendment.

¹⁹ Inserted by First Amendment.

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

20. Tax Officer May Assess Tax: (1) A Tax Officer may make an assessment in any of the following circumstances:

- (a) If the description 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.
- ²¹(e) If the Tax Officer has a reason to believe that the price of supply is under-invoiced.

(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.

²⁰ Inserted by First Amendment.

²¹ Inserted by First Amendment.

(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.

(4) In assessing the tax pursuant to Sub-section (1), the assessment shall be made within Four years from the earliest date that a tax description was filed or the tax was due, which occurs earlier. If the stipulated time expires, the description so filed shall *ipso facto* be considered to be true and valid.

(5) In assessing tax pursuant to this Section, the tax officer shall have to give a period of ²²Fifteen days to the concerned person to submit his/her clarification.

21. Tax Recovery: (1) If the tax due by any taxpayer is not paid within the specified period, the Tax Officer may, with the pre-approval of the Director General, 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 through auction all or some part of the taxpayer's assets at a time or in a series of auctions, as prescribed;
- (d) By causing to deduct amounts from the taxpayer's bank account or other financial institutions;

²² Amended by First Amendment.

- (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 deducting, with the pre-approval of the taxpayer, the amounts a third party owes to the taxpayer;
- (g) By withholding imports, exports, and other transactions of the taxpayer.

(2) Notwithstanding anything contained in other places of this Act, tax assessed under this Act shall not be recovered after Six years from the date of assessment.

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

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.

23. Powers of Inspection and Audit: (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.

²³ Inserted by First Amendment.

(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 all goods, premises, documents, records and accounts relating to the liability for tax;
- (b) To search the place of transaction of the tax payer or other places where the evidence related to an offence under this Act may be found.
- (c) To require, in pursuance of discharging his/her duty, information from a person who prepares any records, books, ledger or other documents or makes entry therein;
- (d) To take on possession of, remove and transfer any documents, books and records from the taxpayer's transaction place and other transaction places related thereto; and
- (e) To perform audits at the taxpayer's place of transaction, in the Tax Office, or at any other appropriate place.

(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.

²⁴**23A. Local administration and police to render assistance:** In cases where, in the course of implementing this Act, the Tax Officer seeks

²⁴ Inserted by First Amendment.

assistance of the local administration, it shall be the duty of the local administration and police to render such assistance.

²⁵**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.

24. Treatment of Deduction exceeding Tax Liability: (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.

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

(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.

(4) Notwithstanding anything contained in Sub-section (2) and (3), any registered person, whose export sales for a month are Fifty percent or more of his/her total sales for that month, and submits an application following the procedures underlined in this Section for the refund of the amount pursuant to Section 17, shall be entitled to a refund of the remaining excess after adjusting any outstanding amount.

²⁵ Inserted by First Amendment.

(5) On submission of an application pursuant to Sub-section (3) or (4), the amount eligible for refund shall be paid immediately and if it is not refunded within Sixty days of the submission of application, Government of Nepal shall have to provide interest on that amount, as prescribed.

(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.

25. Tax May Be Refunded: (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) Tax amount paid in Nepal by a diplomat of a foreign country to Nepal if the foreign country grants, on reciprocal basis, the tax exemption to Nepalese diplomats to that 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.

(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.

- 26. Interest:** (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 a petition is submitted for an appeal under Section 32.

(2) For the purpose of Sub-section (1), Government of Nepal, Ministry of Finance, shall specify the rate of interest from time to time. The rate of such interest shall not be less than One Hundred and Twenty per cent of the average prevailing rate the commercial bank charges.

- 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.

- 28. Provision relating to Imports:** (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.

(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.

- 29. Penalties:**²⁶(1) In cases where any person commits any of the following offenses, the Tax Officer may impose fines as follows:-

- (a) For breach of Sub-sections (1) or (2) of Section 10, tax payable for each tax period plus Ten Thousand Rupees.
- (b) For breach of Sub-section (5), (6) or (7) of Section 10, One Thousand Rupees for each time of breach.

- (c) For breach of Sub-sections (1) and (4) of Section 14, the amount of tax payable plus Two Thousand Rupees.
- (d) For breach of Section 15, the amount of tax collected plus cent percent of that amount.
- (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, Five 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.
- (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 Ten Thousand Rupees, for each time of breach.

(2) If a person commits any of the following offences, a Tax Officer may impose a fine not exceeding twice 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 or an evasion of tax;
- (c) If an unregistered person acts as if he/she were a registered person;
- (d) Carrying out a transaction by infringing Section 30.

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.

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.

²⁷**31A. Power to assess tax by taking action again:** (1) In cases where, before tax is assessed, it appears from the information received by the Director General that any action relating to 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 thereof, give direction to the concerned Tax Officer to assess tax by taking action again or order to any other officer to carry out that act.

²⁷ Inserted by First Amendment.

(2) In cases where a taxpayer makes an application, within Thirty Five days of receipt of the tax assessment order, claiming that tax liability has increased because of failure of the Tax Officer to observe any matter required to be observed in assessing tax or irregularity or recklessness committed by that Officer, and where that matter appears to be true upon investigation, the Director General may, by executing a memorandum setting out the reasons thereof, cancel the tax assessment order and order to reassess tax. In cases where an order is so issued for reassessment of tax, the Director General has to give information thereof to the Government of Nepal, Ministry of Finance within Three days.

Provided that, if an appeal has already been made pursuant to Section 32, the Director General shall not issue an order pursuant to this Sub-section.

(3) The taxpayer who makes an application pursuant to Sub-section (2) 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 bank guarantee for such amount.

(4) In cases where the tax liability decreases because of tax assessment 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.

32. Appeal: An appeal may be filed at the Revenue Tribunal within thirty-five days against a tax assessment or a penalty order made by the Tax Office or an order made by the Director General under Section 30.

33. Security To be Deposited: ²⁸In making an appeal to the Revenue Tribunal pursuant to this Act, one has to pay undisputed amount of tax,

²⁸ Amended by First Amendment.

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.

- 34. Delegation of power:** (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.

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

- 35. Identity Card of Tax Officers:** Every Tax Officer shall keep with him/her an identity card as prescribed and ²⁹the identity card has to be shown to the concerned person in the course of performing duty.

- 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.

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

- (a) To inform a revenue collecting officer in connection with the protection of the revenue of Government of Nepal.
- (b) To produce in the court of law as per the law related with revenue in connection with verifying the liabilities of a tax payer.
- (c) To keep as a part of public record in the proceedings of a Revenue Tribunal or a court of law.

²⁹ Amended by First Amendment.

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.

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 act he/she had carried out in pursuance of discharging his/her duties with good faith.

40. **Reward:** (1) A person who provides information with evidence showing that a taxpayer has evaded or attempted to evade all or some portions of tax shall be awarded as reward the amount equal to Twenty per cent of the amount of tax recovered on the basis of that information.³⁰ **Decision to award such reward shall be made by the Director General.**

(2) If there is more than one informer under Sub-section (1), the allotment of reward between or among them shall be as determined by the Director General.

41. **Power to Frame Rules:** Government of Nepal may frame Rules to implement the objectives of this Act.
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.

³⁰ Inserted by First Amendment.

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.

44. Repeal and saving: (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, 2016 (1960)

(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.

NEPAL LAW COMMISSION

³¹**Schedule-1**

(Relating to Sub-section (3) of Section 5)

List of VAT exempt goods and services

Group 1. Basic Agricultural Products

- (a) Paddy, rice, wheat, maize, barley, millet, buckwheat, pulses, flour and rye flour, grains, paddy flakes, peas, beans, chickpeas and kidney peas and similar basic unprocessed food materials and their extracts.
- (b) Green and fresh vegetables, fresh fruits, fresh eggs and fresh and unprocessed agricultural products to be used as fruits, vegetables and raw vegetables (except those to be supplied by hotel, restaurant, bar, guest house, cafeteria or other similar institution).
- (c) Unprocessed cash crops (like sugarcane, cotton, cardamom, jute, unprocessed tobacco to be sold by the farmer, tea-leaf, granular coffee, oil seeds (soybean, ground-nuts, granular of yellow flowers, sun-flower, linseed and similar kinds of other basic agricultural products to be used in the production of edible oil) and solid remaining thereof.
- (d) Herbs.

Group 2. Goods of Basic Needs:

- (a) Edible oil (produced manually by local oil mills only).
- (b) Drinking water to be supplied openly through taps and tankers.
- (c) Fire wood and Coal.

³¹ Amended by Notice published in Nepal Gazette dated in 2054.5.2 (15 Aug. 1997).

- (d) Kerosene (except air fuel).
- (e) Salt.

Group 3. Live Animals and their products:

- (a) He-goat, sheep, yak, he buffalo, bore, pigs, rabbit and similar other animals; their fresh milk and unprocessed and uncooked, varieties.
- (b) Cow, she buffalo and she goat.
- (c) Ducks, hens, cocks, turkey and similar other birds, their fresh meat, eggs and unprocessed and uncooked varieties.
- (d) Fresh or dried fish (other than packed).

Group 4. Agricultural inputs:

- (a) Seeds of plants as mentioned in group 1.
- (b) Manure, fertilizer and soil conditioners.
- (c) General tools to be used in agriculture acts (hand tools to dig and clear the land, hand tools to cut wood and grasses except hand file, tools to be used for thrashing granular, tools for cutting grasses for animal and tool to be used in ploughing share).
- (d) Pesticides to be used mainly or absolutely in crops.

Group 5. Medicine, Medical cure and Similar Health services:

- (a) Services provided by operation conducting hospitals, clinics and health institutions to provide medical treatment conducted with the approval of government of Nepal.

- (b) Professional services to be provided on institutional or personnel basis by health workers (doctor, nurse, *vaidya*, *kaviraj*, compounder etc.).
- (c) Goods to be supplied to the recipient necessary in the process of making available the service as mentioned in Clause (a) and (b) above.
- (d) Human blood and products derived from human blood.
- (e) Human or animal organs or tissue to be used in medical research.
- (f) Professional services to be provided by veterinary surgeons and veterinary doctors.
- (g) Medicine for the treatment of human being and animals and means of family planning.
- (h) Means made or suitable only for the use of disabled persons.
- (i) Oxygen gas to be used in the treatment and X-ray films.
- (j) Raw-materials, for the production of medicine, imported or purchased by the medical industry own-self or prescribed by the Department of Drug management in the prescribed limit.

Group 6: Education:

- (a) Acts relating to research in a school or university.
- (b) Vocational or refresher trainings without having profit making objectives.
- (c) Goods to be supplied to the recipient as being necessary in the process of making available service and educational service to be provided by schools and universities.

Group 7: Books, news papers, printed materials and printing and publishing:

- (a) Books, booklets and pamphlets.
- (b) News paper, journals and periodicals.
- (c) Pictures and maps.
- (d) Cover, envelopes and boxes used in supplying the goods as mentioned in Clause (a) to (c) (if not separately charged for them).
- (e) Printing and publishing.
- (f) News prints.

Group 8: Artistic, cultural and carving services:

- (a) Artistic and carving services (fine art, sculpture, architecture and similar kinds of other arts and services relating thereto.)
- (b) Cultural programmes.
- (c) Entry fee of library, museum, art gallery, zoo and botanical garden.
- (d) Demonstration of Nepali moves produced in the native land.

Group 9: Passenger transportation and transportation services:

Public passenger transportation and transportation services.

Group 10: Business or Professional services:

Professional services to be rendered institutionally or personally by lawyers, auditors, engineers, artists, sportsmen, writers, designers, insurers, translators, interpreters etc.

NEPAL LAW COMMISSION

Group 11: Other goods and services:

- (1) Postal services (only conducted by the Government of Nepal)
 - (a) Service relating to transportation or handing over of letters, money and postal packets.
 - (b) Other services to be necessary for the transportation or handing over of letters, money and postal packets.
 - (c) Postage stamps.
- (2) Financial and insurance services.
- (3) Bank note and cheque book.
 - (a) Printing and issuance of bank notes.
 - (b) Supply of notes into the Nepal from outside of the Nepal.
 - (c) Cheque book.
- (4) Gold and silver.
 - (a) Gold and gold coins (other than ornaments and goods made of gold).
 - (b) Silver and silver coins (other than ornaments and goods made of silver).
- (5) Electricity.
- (6) Scrip of copper and brass.
- (7) Raw wool.

Group 12: Building and Land:

Transaction of house and land and rental thereof (except service to be rendered by the institution conducted professionally as hotel, guest houses).

Group 13: Gambling, casino and lottery:

- (1) Activities relating to facility to be provided for gambling.
- (2) Lottery.

NEPAL LAW COMMISSION

³²**Schedule-2**

(Relating to Sub-section (2) of Section 7)

Goods and services subject to zero rate

1. ³³
2. **Goods to be exported out of Nepal:** If it has been proved that the goods had been supplied in the following manner:
 - (a) Goods exported outside Nepal, or
 - (b) Goods put on the flight to be flown from the Nepal, or
 - (c) Goods put on board an international flight of which destination is outside Nepal for retail sale or supply or consumption.
3. **Services to be supplied to persons outside Nepal:**
 - (a) A supply of services by a person residing in Nepal to a person outside Nepal, who has no business transaction, business representative or legally recognized agent in Nepal.
 - (b) A supply of goods or services by a person who is residing and is registered in Nepal to a person who is residing outside Nepal.
4. Goods or services imported by a person enjoying diplomatic facility.

³² Amended by Notice published in Nepal Gazette dated in 2054.5.2 (15 Aug. 1997).

³³ Deleted by Some Nepal Laws Amendment Act, 2063.

Note : The words "His majesty's" has been changed into "Government of Nepal" by some Nepal law amending Act, 2063 :

Financial Ordinance, 2059 (2002)

Date of Authentication and Publication

2059.3.24 (8 July 2002)

Ordinance number 2 of the year 2059

An Ordinance Made to Implement Proposals Relating to Finance of the Government of Nepal

Preamble: Whereas, it is expedient to levy some charges, taxes, duties, cesses and fees, continue or alter the existing ones and also to amend the laws in force relating to revenue administration in order to implement the proposals relating to finance of the Government of Nepal and at the moment Parliament is not in session;

Now, therefore, be it enacted by His Majesty the King Gyanendra Bir Bikram Shah Dev, in accordance Articles 72 of Constitution Kingdom of Nepal, 2047(1990).

1. **Short title and commencement:** (1) This Act may be called as the "Financial Ordinance, 2059 (2002)."

(2) This ordinance come into force immediately.

20. **Amendment to the Value-added Tax Act, 2052 (1996):** Of the Value-added Tax Act, 2052 (1996),-

(1) The following Clause (t) shall be substituted for Clause (t):

“(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 office, 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.”

- (2) The following Sub-section (1) shall be substituted for Sub-section (1) of Section 7:

“(1) The rate of tax to be levied pursuant to this Act shall be in single rate of Ten percent.”

- (3) The following Clause (d1) shall be inserted after Clause (d) of Sub-section (1) of Section 11:

“(d1) If the taxpayer is one who gives zero return or does not give return at all within a consecutive period of One year,”

- (4) The following Section 12A. Shall be inserted after Section 12:

“12A. Taxable value of timber transaction: (1) There shall be levied and collected tax on the amount of royalty of the timber of national forest, added cent percent in amount of royalty, at the time of auction, release or saw order, whichever is earlier.

(2) If the timber of a personal cultivated, private forest or community forest for business purpose and despite that royalty is not chargeable, tax shall be leviable as if it were the timber of national forest.”

(3) Notwithstanding anything contained in Sub-section (1) and (2) where the sum of royalty amount and cent percent of royalty amount happens lower than the

price of auction sale, tax shall be imposed on the auction sale amount.

(4) A registered person may offset tax paid under Sub-section (1), (2) and (3).

(5) Of Section 14,-

(a) The following proviso shall be inserted in Sub-section (1):

“Provided that, a person who carries on annual transaction of more than One Million Rupees shall issue invoices with serial number and permanent accounts number as well as his or her name, and address despite that he or she is not registered.”

(b) The following Sub-sections (4) shall be inserted after Sub-section (3):

“(4) A person who purchases goods or service worth more than Ten Thousand Rupees for commercial purpose is required to take an invoice from the registered person. The invoice shall be kept with while transporting such goods.”

(6) The words “or by registered post” shall be inserted after the words “before the Tax Officer” contained in Sub-section (1) of Section 18,-

(7) The following Sub-section (1a) shall be inserted after Sub-section (1) of Section 25:

“(1a) Notwithstanding anything contained in Sub-section (1), a diplomatic body or person on the purchase of taxable

goods or services shall not be refunded if the amount purchase is less than One Thousand Five Hundred Rupees at one time.”

- (8) The following Sub-section (2) shall be substituted for Sub-section (2) of Section 26:

“(2) For the purposes of Sub-section (1), the rate of interest shall be Fifteen per cent per annum.”

- (9) The following Clause (c) shall be substituted for Clause (c) of Sub-section (1) of Section 29:

“(c) In the event of violation of Sub-sections (1) and (4) of Section 14, Five Thousand Rupees for each instance fine including recover the liable tax.”

- (10) The following Section 34A. shall be inserted after Section 34:

“**34A. Power to have expert's service:** The Government of Nepal may obtain the service of the concerned expert for the act related to tax auditing; and the provision on governmental secrecy mentioned in Section 37 shall also apply to such an expert.”

- (11) The following Schedule-1 and Schedule-2 shall be substituted for Schedule-1 and Schedule-2:

“Schedule-1

(Relating to Sub-section (3) of Section 5)

List of VAT exempt goods and services

Group 1. Basic Agricultural Products

- (a) Paddy, rice, wheat, maize, barley, millet, buckwheat, pulses, flour, rye flour, grains, peas, chickpeas, kidney peas, beans and similar basic unprocessed food materials and their extracts,
- (b) Green and fresh vegetable, fresh fruits, fresh eggs, tuberous roots, and fruits, vegetables and as use in vegetable and tuberous roots, fresh and unprocessed agro-products. (Except those to be supplied hotels, restaurants, bars, guest houses, cafeteria and other similar organizations)
- (c) Unprocessed cash crops/cereals (such as sugarcane, cotton, cardamom, ginger and saffron, flax, unprocessed tobacco, tea leaf sold by farmers, proved orthodox tea producing using biological fertilizer, coffee, soybean, ground-nuts, rape-seed, mustard seed, *sarsyuko geda*, sunflower, sesamum seed) and oil-cake.
- (d) Herbs (including their extracts)

Group 2. Goods of Basic Needs:

- (a) Unprocessed mustard oil.
- (b) Piped water, including water supplied by tankers.
- (c) Wood and coal.
- (d) Kerosene (Except fuel of aircraft).

- (e) Salt.

Group 3. Live Animals and animal products

- (a) Goats, sheep and mountain goats, yak and buffalos, bore and pigs, rabbit and other such animal and their unprocessed raw edible food items .
- (b) Cows and she buffalos, she goats, and their fresh milk, (including pasteurized), Fresh curd, bees and bee hives.
- (c) Ducks, hens, cocks, turkey and similar other birds their fresh meat and unprocessed raw items and eggs.
- (d) Fresh or dried fish (except other than packed).

4. Agricultural inputs

- (a) Seeds of any crops and plants as mentioned in group One.
- (b) Manure, fertilizer and soil conditioners.
- (c) **Tools used in agriculture** : Hand tools, mattocks, picks, forks and rakes, axes, bill hooks and similar hewing tools, secateurs of any kind, scythes, sickles, hay knives, other than hand saws, hedge shears, timber wedges, ploughshare and other tools of a kind used in agriculture.
- (d) Insecticides, fully or partially used only for crops.
- (e) Use in agriculture function Tractors, cultivators, tantalum, levelers, harvesting or threshing machine, threshers, fishing nets, to Eight horse power up to pumping sets and up to 30 meters hose pipe.

- (f) Utensils for feeding poultry feed, box for chicken (*challa*), and crate for keeping egg.
- (g) Feed and ingredient of feed supplements.

Group 5. Medicine, Medical and Similar Health services

- (a) Medical or surgical services provided by health institution operated in Government ownership.
- (b) Human blood and human blood items and vaccines.
- (c) Human or animal organs or tissue for medical research.
- (d) Medicaments for treatment of livestock and human beings and family planning means.
- (e) Goods made for, and suitable only for the use of, infirm and disabled persons.
- (f) X-ray film and oxygen gas to be used for treatment and.
- (g) Raw material purchased or imported by the medicine industries to the extent approved by the Department of Drug Management.

Group 6: Education

- (a) Research related acts in schools or universities.
- (b) Getting purpose for non-profit, Vocational or professional trainings or refresher trainings.
- (c) Educational services provided by schools and universities.

Group 7: Books, newspapers and printed materials

- (a) Books, newsletters and periodicals publications.

- (b) Newsprint.

Group 8: Artistic and cultural goods and services, carving services

- (a) Painting, handicrafts, carving and similar other handicrafts and related services.
- (b) Cultural programs.
- (c) Admission fees to libraries, museums, art museums, zoos and botanical gardens, and national parks.

Group 9: Passengers and goods transportation services

Air transport, non tourist passenger transportation (except cabal car) and goods carrier service (except transportation related to supply).

Group 10: Personal or Professional service:

Personal services rendered by artists, sportspersons, authors, writers, designers, translators and interpreters institutionally or individually.

Group 11: Other goods or services:

1. Postal services (only those provided by the Government of Nepal):
 - (a) Services of conveyance or transfer of letters, money and postal packets.
 - (b) Other services required for the services of conveyance or transfer of letters, money and postal packets.
 - (c) Postage stamps.
2. Financial and insurance services.

3. Bank notes and cheque books:
 - (a) Printing and issue of bank notes.
 - (b) Supply of bank notes from foreign countries into Nepal.
 - (c) Cheque books.
4. Gold and silver:
 - (a) Gold, gold coins and gold ornaments.
 - (b) Silver, silver coins (Except others silver ready-made goods and ornaments).
5. Electricity.
6. Raw wool.
7. Battery operated tempo and their chassis and Battery.
8. Bio-gas, solar power and wind power operated machine and equipments recommended by Alternate Energy Center.
9. Aircrafts, helicopters, fire engine (*Damcal*), ambulances.
10. Jute products.
11. Industries and machine up to 5 percent customs duty as falling under Part 84 of the Customs Tariff.
12. Woolen carpet and woolen carpet weaving, dying, washing and knitting.
13. Cotton sari, *Lungi*, *Dhoti* (for both men and women), *Gamcha* and cotton yarn.

14. Cotton thread.
15. Woolen yarn used in domestic hand kittening of sweater (except artificial and acrylic.
16. Donated goods received for any natural calamities or philanthropic purpose, as approved by the Ministry of Finance, Government of Nepal.
17. Goods of personal use that do not attract customs duty and are imported under the Luggage and Baggage Order facility.
18. The value added tax collected by textile or match (only wooden stick) industries and the domestic industries producing rod and ingot using cent percent domestic iron scrap in their value addition shall be refunded to those industries as prescribed by Government of Nepal.

Provided that, using cent percent domestic iron scrap industry shall be refunded only Fifty percent from own collected tax.

Group 12: Lands and buildings

Purchase, sale and rental of lands and buildings (except the services provided by such entities carrying on business such as hotels and guest houses).

Group 13: Betting, casinos and lotteries

Activities relating to facilities provided for the organization of bets or gambling, and lottery.

Note:

The Department, as prescribed, and in consultation with the Department of Customs, interpretation of the goods and services enjoying tax exemption and the Harmonized Code of Commodities as necessary.

NEPAL LAW COMMISSION

Schedule-2

(Relating to Sub-section (2) of Section 7)

Goods and services subject to zero rate

1. Goods and services purchased or imported by His Majesty the King, His Majesty the Queen, His Royal Highness the Crown Prince and other members of the Royal family.
2. **Goods exported from Nepal:** If it is proved that goods are supplied as follows:
 - (a) Goods exported outside Nepal, or
 - (b) Goods shipped for use as stores on an international flight of which destination is outside Nepal, or
 - (c) Goods put on board an international flight of which destination is outside Nepal for retail sale or supply or consumption.
3. **Services to be supplied to persons outside Nepal:**
 - (a) A supply of services by a person residing in Nepal to a person outside Nepal, who has no business transaction, business representative or legally recognized agent in Nepal.
 - (b) A supply of goods or services by a person who is residing and is registered in Nepal to a person who is residing outside Nepal.
4. Goods or services imported by a person enjoying diplomatic facility.
5. Zero rate facility shall be available to medicine industries if the industry desires for such a facility.

6. If any previous treaty or agreement provides for the sales tax exemption on imports, and local purchase is made from the registered taxpayers, on the recommendation of the concerned project, the facility of zero rate shall be provided on such supplies, so long as such treaty or agreement is in effect.”

NEPAL LAW COMMISSION

Financial Ordinance, 2059 (2003)

Date of Authentication and the Publication

2059.9.22 (6 January 2003)

Ordinance number 8 of the year 2059

An Ordinance Made to Implement Proposals Relating to Finance of the Government of Nepal

Preamble: Whereas, it is expedient to levy some charges, taxes, duties, cesses and fees, continue or alter the existing ones and also to amend the laws in force relating to revenue administration in order to implement the proposals relating to finance of the Government of Nepal and at the moment Parliament is not in session;

Now, therefore, be it enacted by His Majesty the King Gyanendra Bir Bikram Shah Dev, in accordance with Articles 72 of Constitution kingdom of Nepal, 2047(1990).

1. **Short title and commencement:** (1) This Act may be called as the "Financial Ordinance, 2059 (2003)."

(2) This ordinance come into force immediately.

20. **Amendment to the Value-added Tax Act, 2052 (1996):** Of the Value-added Tax Act, 2052 (1996),-

(1) The following Clause (t) shall be substituted for Clause (t):

“(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 office, 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.”

- (2) The following Sub-section (1) shall be substituted for Sub-section (1) of Section 7:

“(1) The rate of tax to be levied pursuant to this Act shall be in single rate of Ten percent.”

- (3) The following Clause (d1) shall be inserted after Clause (d) of Sub-section (1) of Section 11:

“(d1) If the taxpayer is one who gives zero return or does not give return at all within a consecutive period of One year,”

- (4) The following Section 12A. Shall be inserted after Section 12:

“12A. Taxable value of timber transaction: (1) There shall be levied and collected tax on the amount of royalty of the timber of national forest, added cent percent in amount of royalty, at the time of auction, release or saw order, whichever is earlier.

(2) If the timber of a personal cultivated, private forest or community forest for business purpose and despite that royalty is not chargeable, tax shall be leviable as if it were the timber of national forest.”

(3) Notwithstanding anything contained in Sub-section (1) and (2) where the sum of royalty amount and cent percent of royalty amount happens lower than the

price of auction sale, tax shall be imposed on the auction sale amount.

(4) A registered person may offset tax paid under Sub-section (1), (2) and (3).

(5) Of Section 14,-

(a) The following proviso shall be inserted in Sub-section (1):

“Provided that, a person who carries on annual transaction of more than One Million Rupees shall issue invoices with serial number and permanent accounts number as well as his or her name, and address despite that he or she is not registered.”

(b) The following Sub-sections (4) shall be inserted after Sub-section (3):

“(4) A person who purchases goods or service worth more than Ten Thousand Rupees for commercial purpose is required to take an invoice from the registered person. The invoice shall be kept with while transporting such goods.”

(6) Of Section 18,-

(a) The words “or by registered post” shall be inserted after the words “before the Tax Officer” contained in Sub-section (1).

(b) The following Sub-sections (1a) shall be inserted after Sub-section (1):

“(1a) Notwithstanding anything contained in Sub-section (1), a taxpayer for every month in a district where there is no Inland Revenue Office may furnish the amount of tax returns to be paid and submitted by him/her with the Office of Funds and Accounts Controller of the same district within the Fifteenth day of the month in which he/she has to furnish the tax returns paying the tax. The Office of Funds and Accounts Controller shall forward the returns of tax and payment of tax so received to the Inland Revenue Office within Seven days.”

- (7) The following proviso shall be inserted in Sub-section (1) of Section 19,-

Provided that, a taxpayer, who submits tax details in the Financial Comptroller Office pursuant to Sub-section (1a) of Section 18, shall submit tax details of each tax duration to such office within Fifteen days of the expiry of such period.

- (8) The following Sub-sections (2a) shall be inserted after Sub-section (2) of Section 23:

“(2a) If it is found from the inquiry carried out by the tax officer to the place of transaction of a tax payer pursuant to Sub-section (2) that bills are issued by showing unnatural (not real) lower sale price or under invoiced price than the prevailing market price of any goods, notwithstanding anything contained elsewhere in the prevailing laws, such an officer shall hold the sale of the remaining such type of goods in the stock and the Inland Revenue Department or Inland Revenue Office may purchased or cause to purchase in the under invoice price so sold by the taxpayer.”

- (9) The following Sub-section (1a) shall be inserted after Sub-section (1) of Section 25:

“(1a) Notwithstanding anything contained in Sub-section (1), a diplomatic body or person on the purchase of taxable goods or services shall not be refunded if the amount purchase is less than One Thousand Five Hundred Rupees at one time.”

- (10) The following Sub-section (2) shall be substituted for Sub-section (2) of Section 26:

“(2) For the purposes of Sub-section (1), the rate of interest shall be Fifteen per cent per annum.”

- (11) The following Clause (c) shall be substituted for Clause (c) of Sub-section (1) of Section 29:

“(c) In the event of violation of Sub-sections (1) and (4) of Section 14, Five Thousand Rupees for each instance fine including recover the liable tax.”

- (12) The following Section 34A. shall be inserted after Section 34:

“34A. Power to have expert's service: The Government of Nepal may obtain the service of the concerned expert for the act related to tax auditing; and the provision on governmental secrecy mentioned in Section 37 shall also apply to such an expert.”

- (35) The following Schedule-1 and Schedule-2 shall be substituted for Schedule-1 and Schedule-2:

“Schedule-1

(Relating to Sub-section (3) of Section 5)

List of VAT exempt goods and services

Group 1. Basic Agricultural Products

- (a) Paddy, rice, wheat, maize, barley, millet, buckwheat, pulses, flour, rye flour, grains, peas, chickpeas, kidney peas, beans and similar basic unprocessed food materials and their extracts,
- (b) Green and fresh vegetable, fresh fruits, fresh eggs, tuberous roots, and fruits, vegetables and as use in vegetable and tuberous roots, fresh and unprocessed agro-products. (Except those to be supplied hotels, restaurants, bars, guest houses, cafeteria and other similar organizations)
- (c) Unprocessed cash crops/cereals (such as sugarcane, cotton, cardamom, ginger and saffron, flax, unprocessed tobacco, tea leaf sold by farmers, proved orthodox tea producing using biological fertilizer, coffee, soybean, ground-nuts, rape-seed, mustard seed, *sarsyuko geda*, *sunflower*, sesamum seed) and oil-cake.
- (d) Herbs (including their extracts)

Group 2. Goods of Basic Needs:

- (a) Unprocessed mustard oil.
- (b) Piped water, including water supplied by tankers.
- (c) Wood and coal.
- (d) Kerosene (Except fuel of aircraft).

- (e) Salt.

Group 3. Live Animals and animal products

- (a) Goats, sheep and mountain goats, yak and buffalos, bore and pigs, rabbit and other such animal and their unprocessed raw edible food items.
- (b) Cows and she buffalos, she goats, and their fresh milk, (including pasteurized), Fresh curd, bees and bee hives.
- (c) Ducks, hens, cocks, turkey and similar other birds their fresh meat and unprocessed raw items and eggs.
- (d) Fresh or dried fish (except other than packed).

4. Agricultural inputs

- (a) Seeds of any crops and plants as mentioned in group One.
- (b) Manure, fertilizer and soil conditioners.
- (c) **Tools used in agriculture** : Hand tools, mattocks, picks, forks and rakes, axes, bill hooks and similar hewing tools, secateurs of any kind, scythes, sickles, hay knives, other than hand saws, hedge shears, timber wedges, ploughshare and other tools of a kind used in agriculture.
- (d) Insecticides, fully or partially used only for crops.
- (e) Use in agriculture function Tractors, cultivators, tantalum, levelers, harvesting or threshing machine, threshers, fishing nets, to Eight horse power up to pumping sets and up to 30 meters hose pipe.

- (f) Utensils for feeding poultry feed, box for chicken (*challa*), and crate for keeping egg.
- (g) Feed and ingredient of feed supplements.

Group 5. Medicine, Medical and Similar Health services

- (a) Medical or surgical services provided by health institution operated in Government ownership.
- (b) Human blood and human blood items and vaccines.
- (c) Human or animal organs or tissue for medical research.
- (d) Medicaments for treatment of livestock and human beings and family planning means.
- (e) Goods made for, and suitable only for the use of, infirm and disabled persons.
- (f) X-ray film and oxygen gas to be used for treatment and.
- (g) Raw material purchased or imported by the medicine industries to the extent approved by the Department of Drug Management.

Group 6: Education

- (a) Research related acts in schools or universities.
- (b) Getting purpose for non-profit, Vocational or professional trainings or refresher trainings.
- (c) Educational services provided by schools and universities.

Group 7: Books, newspapers and printed materials

- (a) Books, newsletters and periodicals publications.

- (b) Newsprint.

Group 8: Artistic and cultural goods and services, carving services

- (a) Painting, handicrafts, carving and similar other handicrafts and related services.
- (b) Cultural programs.
- (c) Admission fees to libraries, museums, art museums, zoos and botanical gardens, and national parks.

Group 9: Passengers and goods transportation services

Air transport, non tourist passenger transportation (except cabal car) and goods carrier service (except transportation related to supply).

Group 10: Personal or Professional service:

Personal services rendered by artists, sportspersons, authors, writers, designers, translators and interpreters institutionally or individually.

Group 11: Other goods or services:

1. Postal services (only those provided by the Government of Nepal):
 - (a) Services of conveyance or transfer of letters, money and postal packets.
 - (b) Other services required for the services of conveyance or transfer of letters, money and postal packets.
 - (c) Postage stamps.
2. Financial and insurance services.

3. Bank notes and cheque books:
 - (a) Printing and issue of bank notes.
 - (b) Supply of bank notes from foreign countries into Nepal.
 - (c) Cheque books.
4. Gold and silver:
 - (a) Gold, gold coins and gold ornaments.
 - (b) Silver, silver coins (Except others silver ready-made goods and ornaments).
5. Electricity.
6. Raw wool.
7. Battery operated tempo and their chassis and Battery.
8. Bio-gas, solar power and wind power operated machine and equipments recommended by Alternate Energy Center.
9. Aircrafts, helicopters, fire engine (*Damcal*), ambulances.
10. Jute products.
11. Industries and machine up to Five percent customs duty as falling under Part 84 of the Customs Tariff.
12. Woolen carpet and woolen carpet weaving, dying, washing and knitting.
13. Cotton sari, *Lungi*, *Dhoti* (for both men and women), *Gamcha* and cotton yarn.

14. Cotton thread.
15. Woolen yarn used in domestic hand kittening of sweater (except artificial and acrylic.
16. Donated goods received for any natural calamities or philanthropic purpose, as approved by the Ministry of Finance, Government of Nepal.
17. Goods of personal use that do not attract customs duty and are imported under the Luggage and Baggage Order facility.
18. The value added tax collected by textile or match (only wooden stick) industries and the domestic industries producing rod and ingot using cent percent domestic iron scrap in their value addition shall be refunded to those industries as prescribed by Government of Nepal.

Provided that, using cent percent domestic iron scrap industry shall be refunded only Fifty percent from own collected tax.

Group 12: Lands and buildings

Purchase, sale and rental of lands and buildings (except the services provided by such entities carrying on business such as hotels and guest houses).

Group 13: Betting, casinos and lotteries

Activities relating to facilities provided for the organization of bets or gambling, and lottery.

Note:

The Department, as prescribed, and in consultation with the Department of Customs, interpretation of the goods and services enjoying tax exemption and the Harmonized Code of Commodities as necessary.

NEPAL LAW COMMISSION

Schedule-2

(Relating to Sub-section (2) of Section 7)

Goods and services subject to zero rate

1. Goods and services purchased or imported by His Majesty the King, His Majesty the Queen, His Royal Highness the Crown Prince and other members of the Royal family.
2. **Goods exported from Nepal:** If it is proved that goods are supplied as follows:
 - (a) Goods exported outside Nepal, or
 - (b) Goods shipped for use as stores on an international flight of which destination is outside Nepal, or
 - (c) Goods put on board an international flight of which destination is outside Nepal for retail sale or supply or consumption.
3. **Services to be supplied to persons outside Nepal:**
 - (a) A supply of services by a person residing in Nepal to a person outside Nepal, who has no business transaction, business representative or legally recognized agent in Nepal.
 - (b) A supply of goods or services by a person who is residing and is registered in Nepal to a person who is residing outside Nepal.
4. Goods or services imported by a person enjoying diplomatic facility.
5. Zero rate facility shall be available to medicine industries if the industry desires for such a facility.

6. If any previous treaty or agreement provides for the sales tax exemption on imports, and local purchase is made from the registered taxpayers, on the recommendation of the concerned project, the facility of zero rate shall be provided on such supplies, so long as such treaty or agreement is in effect.

NEPAL LAW COMMISSION

Financial Ordinance, 2060 (2003)

Date of Authentication and Publication

2060.3.16 (1 July 2003)

Ordinance number 3 of the year 2060

An Ordinance Made to Implement Proposals Relating to Finance of the Government of Nepal

Preamble: Whereas, it is expedient to levy some charges, taxes, duties, cesses and fees, continue or alter the existing ones and also to amend the laws in force relating to revenue administration in order to implement the proposals relating to finance of the Government of Nepal and at the moment Parliament is not in session;

Now, therefore, be it enacted by His Majesty the King Gyanendra Bir Bikram Shah Dev, in accordance with Articles 72 of Constitution kingdom of Nepal, 2047(1990).

1. Short title and commencement: (1) This Act may be called as the "Financial Ordinance, 2060 (2003)."

(2) This ordinance come into force immediately.

(3) This ordinance shall prevail till the last day of *Ashad*, 2060 B.S.

20. Amendment to the Value-added Tax Act, 2052 (1996): Of the Value-added Tax Act, 2052 (1996),-

(1) The following Clause (t) shall be substituted for Clause (t):

“(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 office, 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.”

- (2) The following Sub-section (1) shall be substituted for Sub-section (1) of Section 7:

“(1) The rate of tax to be levied pursuant to this Act shall be in single rate of Ten percent.”

- (3) The following Clause (d1) shall be inserted after Clause (d) of Sub-section (1) of Section 11:

“(d1) If the taxpayer is one who gives zero return or does not give return at all within a consecutive period of One year,”

- (4) The following Section 12A. Shall be inserted after Section 12:

“12A. Taxable value of timber transaction: (1) There shall be levied and collected tax on the amount of royalty of the timber of national forest or the amount of auction, whichever is higher, at the time of auction, release or saw order, whichever is earlier.

(2) If the timber of a personal cultivated, private forest or community forest for business purpose and despite that royalty is not chargeable, tax shall be leviable as if it were the timber of national forest.”

(3) Notwithstanding anything contained in Sub-section (1) and (2) where the sum of royalty amount and cent percent of royalty amount happens lower than the price of auction sale, tax shall be imposed on the auction sale amount.

(4) A registered person may offset tax paid under Sub-section (1), (2) and (3).”

(5) Of Section 14,-

(a) The following proviso shall be inserted in Sub-section (1):

“Provided that, a person who carries on annual transaction of more than One Million Rupees shall issue invoices with serial number and permanent accounts number as well as his or her name, and address despite that he or she is not registered.”

(b) The following Sub-sections (4) and (5) shall be inserted after Sub-section (3):

“(4) A person who purchases goods or service worth more than Ten Thousand Rupees for commercial purpose is required to take an invoice from the registered person. The invoice shall be kept with while transporting such goods.”

(6) Of Section 18,-

(a) The words “or by registered post” shall be inserted after the words “before the Tax Officer” contained in Sub-section (1).

- (b) The following Sub-sections (1a) shall be inserted after Sub-section (1):

“(1a) Notwithstanding anything contained in Sub-section (1), a taxpayer in a district where there is no Inland Revenue Office may furnish the amount of tax returns to be paid and submitted by him/her with the Office of Funds and Accounts Controller of the same district within the Fifteenth day of the month in which he/she has to furnish the tax returns paying the tax. The Office of Funds and Accounts Controller shall forward the returns of tax and payment of tax so received to the Inland Revenue Office within Seven days.”

- (7) The following proviso shall be inserted in Sub-section (1) of Section 19,-

Provided that, a taxpayer, who submits tax details in the Financial Comptroller Office pursuant to Sub-section (1a) of Section 18, shall submit tax details of each tax duration to such office within Fifteen days of the expiry of such period.

- (8) The following Sub-sections (2a) shall be inserted after Sub-section (2) of Section 23:

(2a) If it is found from the inquiry carried out by the tax officer to the place of transaction of a tax payer pursuant to Sub-section (2) that bills are issued by showing unnatural (not real) lower sale price or under invoiced price than the prevailing market price of any goods, notwithstanding anything contained elsewhere in the prevailing laws, such an officer shall hold the sale of the remaining such type of goods in the stock and the Inland Revenue Department or Inland Revenue Office may

purchased or cause to purchase in the under invoice price so sold by the taxpayer.

- (9) The following Sub-section (1a) shall be inserted after Sub-section (1) of Section 25:

“(1a) Notwithstanding anything contained in Sub-section (1), a diplomatic body or diplomat on the purchase of taxable goods or services shall not be refunded if the amount purchase is less than One Thousand Five Hundred Rupees at one time.”

- (10) The following Sub-section (2) shall be substituted for Sub-section (2) of Section 26:

“(2) For the purposes of Sub-section (1), the rate of interest shall be Fifteen per cent per annum.”

- (11) The following Clause (c) shall be substituted for Clause (c) of Sub-section (1) of Section 29:

“(c) In the event of violation of Sub-sections (1) and (4) of Section 14, Five Thousand Rupees for each instance fine including recover the liable tax.”

- (12) The following Section 34A. shall be inserted after Section 34:

“34A. Power to have expert's service: The Government of Nepal may obtain the service of the concerned expert for the act related to tax auditing; and the provision on governmental secrecy mentioned in Section 37 shall also apply to such an expert.”

- (20) The following Schedule-1 and Schedule-2 shall be substituted for Schedule-1 and Schedule-2:

Schedule-1

(Relating to Sub-section (3) of Section 5)

List of VAT exempt goods and services

Group 1. Basic Agricultural Products

- (a) Paddy, rice, wheat, maize, barley, millet, buckwheat, pulses, flour, rye flour, grains, peas, chickpeas, kidney peas, beans and similar basic unprocessed food materials and their extracts,
- (b) Green and fresh vegetable, fresh fruits, fresh eggs, tuberous roots, and fruits, vegetables and as use in vegetable and tuberous roots, fresh and unprocessed agro-products. (Except those to be supplied hotels, restaurants, bars, guest houses, cafeteria and other similar organizations)
- (c) Unprocessed cash crops/cereals (such as sugarcane, cotton, cardamom, ginger and saffron, flax, unprocessed tobacco, tea leaf sold by farmers, proved orthodox tea producing using biological fertilizer, coffee, soybean, ground-nuts, rape-seed, mustard seed, *sarsyuko geda*, *sunflower*, *sesamum seed*) and oil-cake.
- (d) Herbs (including their extracts)

Group 2. Goods of Basic Needs:

- (a) Unprocessed mustard oil.
- (b) Piped water, including water supplied by tankers.
- (c) Wood and coal.
- (d) Kerosene (Except fuel of aircraft).

- (e) Salt.

Group 3. Live Animals and animal products

- (a) Goats, sheep and mountain goats, yak and buffalos, bore and pigs, rabbit and other such animal and their unprocessed raw edible food items.
- (b) Cows and she buffalos, she goats, and their fresh milk, (including pasteurized), Fresh curd, bees and bee hives.
- (c) Ducks, hens, cocks, turkey and similar other birds their fresh meat and unprocessed raw items and eggs.
- (d) Fresh or dried fish (except other than packed).

4. Agricultural inputs

- (a) Seeds of any crops and plants as mentioned in group One.
- (b) Manure, fertilizer and soil conditioners.
- (c) **Tools used in agriculture** : Hand tools, mattocks, picks, forks and rakes, axes, bill hooks and similar hewing tools, secateurs of any kind, scythes, sickles, hay knives, other than hand saws, hedge shears, timber wedges, ploughshare and other tools of a kind used in agriculture.
- (d) Insecticides, fully or partially used only for crops.
- (e) Use in agriculture function Tractors, cultivators, tantalum, levelers, harvesting or threshing machine, threshers, fishing nets, to Eight horse power up to pumping sets and up to 30 meters hose pipe.

- (f) Utensils for feeding poultry feed, box for chicken (*challa*), and crate for keeping egg.
- (g) Feed and ingredient of feed supplements.

Group 5. Medicine, Medical and Similar Health services

- (a) Medical or surgical services provided by health institution operated in Government ownership.
- (b) Human blood and human blood items and vaccines.
- (c) Human or animal organs or tissue for medical research.
- (d) Medicaments for treatment of livestock and human beings and family planning means.
- (e) Goods made for, and suitable only for the use of, infirm and disabled persons.
- (f) X-ray film and oxygen gas to be used for treatment, and
- (g) Raw material purchased or imported by the medicine industries to the extent approved by the Department of Drug Management.

Group 6: Education

- (a) Research related acts in schools or universities.
- (b) Getting purpose for non-profit, Vocational or professional trainings or refresher trainings.
- (c) Educational services provided by schools and universities.

Group 7: Books, newspapers and printed materials

- (a) Books, newsletters and periodicals publications.

- (b) Newsprint.

Group 8: Artistic and cultural goods and services, carving services

- (a) Painting, handicrafts, carving and similar other handicrafts and related services.
- (b) Cultural programs.
- (c) Admission fees to libraries, museums, art museums, zoos and botanical gardens, and national parks.

Group 9: Passengers and goods transportation services

Air transport, non tourist passenger transportation (except cabal car) and goods carrier service (except transportation related to supply).

Group 10: Personal or Professional service:

Personal services rendered by artists, sportspersons, authors, writers, designers, translators and interpreters institutionally or individually.

Group 11: Other goods or services:

1. Postal services (only those provided by the Government of Nepal):
 - (a) Services of conveyance or transfer of letters, money and postal packets.
 - (b) Other services required for the services of conveyance or transfer of letters, money and postal packets.
 - (c) Postage stamps.
2. Financial and insurance services.

3. Bank notes and cheque books:
 - (a) Printing and issue of bank notes.
 - (b) Supply of bank notes from foreign countries into Nepal.
 - (c) Cheque books.
4. Gold and silver:
 - (a) Gold, gold coins and gold ornaments.
 - (b) Silver, silver coins (Except others silver ready-made goods and ornaments).
5. Electricity.
6. Raw wool.
7. Battery operated tempo and their chassis and Battery.
8. Bio-gas, solar power and wind power operated machine and equipments recommended by Alternate Energy Center.
9. Aircrafts, helicopters, fire engine (*Damcal*), ambulances.
10. Jute products.
11. Industries and machine up to 5 percent customs duty as falling under Part 84 of the Customs Tariff.
12. Woolen carpet and woolen carpet weaving, dying, washing and knitting.
13. Cotton sari, *Lungi*, *Dhoti* (for both men and women), *Gamcha* and cotton yarn.

14. Cotton thread.
15. Woolen yarn used in domestic hand kittening of sweater (except artificial and acrylic.
16. Donated goods received for any natural calamities or philanthropic purpose, as approved by the Ministry of Finance, Government of Nepal.
17. Goods of personal use that do not attract customs duty and are imported under the Luggage and Baggage Order facility.
18. The value added tax collected by textile or match (only wooden stick) industries and the domestic industries producing rod and ingot using cent percent domestic iron scrap in their value addition shall be refunded to those industries as prescribed by Government of Nepal.

Provided that, using cent percent domestic iron scrap industry shall be refunded only Fifty percent from own collected tax.

Group 12: Lands and buildings

Purchase, sale and rental of lands and buildings (except the services provided by such entities carrying on business such as hotels and guest houses).

Group 13: Betting, casinos and lotteries

Activities relating to facilities provided for the organization of bets or gambling, and lottery.

Note:

The Department, as prescribed, and in consultation with the Department of Customs, interpretation of the goods and services enjoying tax exemption and the Harmonized Code of Commodities as necessary.

NEPAL LAW COMMISSION

Schedule-2

(Relating to Sub-section (2) of Section 7)

Goods and services subject to zero rate

1. Goods and services purchased or imported by His Majesty the King, His Majesty the Queen, His Royal Highness the Crown Prince and other members of the Royal family.
2. **Goods exported from Nepal:** If it is proved that goods are supplied as follows:
 - (a) Goods exported outside Nepal, or
 - (b) Goods shipped for use as stores on an international flight of which destination is outside Nepal, or
 - (c) Goods put on board an international flight of which destination is outside Nepal for retail sale or supply or consumption.
3. **Services to be supplied to persons outside Nepal:**
 - (a) A supply of services by a person residing in Nepal to a person outside Nepal, who has no business transaction, business representative or legally recognized agent in Nepal.
 - (b) A supply of goods or services by a person who is residing and is registered in Nepal to a person who is residing outside Nepal.
4. Goods or services imported by a person enjoying diplomatic facility.
5. Zero rate facility shall be available to medicine industries if the industry desires for such a facility.

6. If any previous treaty or agreement provides for the sales tax exemption on imports, and local purchase is made from the registered taxpayers, on the recommendation of the concerned project, the facility of zero rate shall be provided on such supplies, so long as such treaty or agreement is in effect.

NEPAL LAW COMMISSION

Financial Ordinance, 2060 (2003)

Date of Authentication and Publication

2060.4.1(17 July 2003)

Ordinance number 7 of the year 2060

An Ordinance Made to Implement Proposals Relating to Finance of the Government of Nepal

Preamble: Whereas, it is expedient to levy some charges, taxes, duties, cesses and fees, continue or alter the existing ones and also to amend the laws in force relating to revenue administration in order to implement the proposals relating to finance of the Government of Nepal and at the moment Parliament is not in session;

Now, therefore, be it enacted by His Majesty the King Gyanendra Bir Bikram Shah Dev, in accordance with Articles 72 of Constitution kingdom of Nepal, 2047(1990).

1. **Short title and commencement:** (1) This Act may be called as the "Financial Ordinance, 2060 (2003)."

(2) This ordinance come into force immediately.

22. **Amendment to the Value-added Tax Act, 2052 (1996):** Of the Value-added Tax Act, 2052 (1996),-

(1) The following Clause (t) shall be substituted for Clause (t):

“(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 office, 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.”

- (2) The following Sub-section (1) shall be substituted for Sub-section (1) of Section 7:

“(1) The rate of tax to be levied pursuant to this Act shall be in single rate of Ten percent.”

- (3) The following Clause (d1) shall be inserted after Clause (d) of Sub-section (1) of Section 11:

“(d1) If the taxpayer is one who gives zero return or does not give return at all within a consecutive period of One year,”

- (4) The following Section 12A. Shall be inserted after Section 12:

“12A. Taxable value of timber transaction: (1) There shall be levied and collected tax on the amount of royalty of the timber of national forest or the amount of auction, whichever is higher, at the time of auction, release or saw order, whichever is earlier.

(2) If the timber of a personal cultivated, private forest or community forest for business purpose and despite that royalty is not chargeable, tax shall be leviable as if it were the timber of national forest.”

- (5) Of Section 14,-

(a) The following proviso shall be inserted in Sub-section (1):

“Provided that, a person who carries on annual transaction of more than One Million Rupees shall issue invoices with serial number and permanent accounts number as well as his or her name, and address despite that he or she is not registered.”

- (b) The following Sub-sections (4) and (5) shall be inserted after Sub-section (3):

“(4) A person who purchases goods or service worth more than Ten Thousand Rupees for commercial purpose is required to take an invoice from the registered person. The invoice shall be kept with while transporting such goods.”

“(5) The Department may order taxpayers to issue invoices by using a cash machine or computer. Procedures of such order shall be as prescribed by the Director General.”

- (6) The following Sub-section (3) shall be inserted after Sub-section (2) of Section 15:

“(3) Notwithstanding anything contained in Sub-sections (1) and (2), a Local Body or Government of Nepal shall have to collect or recover tax at the time of sale of taxable goods or services.

- (7) The following Sub-section (1a) shall be inserted after Sub-section (1) of Section 16:

“(1a) The Department may have continuous access to the computer database of taxpayers.”

- (8) The following Section 16B. shall be inserted after Section 16A:

“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 expired the date of uses goods of value
added tax paid on the goods shall be deducted as
prescribed.”

- (9) The following Sub-section (5b) shall be inserted after Sub-section (5a) of Section 17:

“(5b) The concerned taxpayer shall be allowed to deduct
tax paid pursuant to Section 12A. and Sub-section (3) of Section
15.”

- (10) Of Section 18,-

(a) The words “or by registered post” shall be inserted after
the words “before the Tax Officer” contained in Sub-
section (1).

(b) The following Sub-sections (1a) shall be inserted after
Sub-section (1):

“(1a) Notwithstanding anything contained in Sub-
section (1), a taxpayer in a district where there is no
Inland Revenue Office may furnish the amount of tax
returns to be paid and submitted by him/her with the
Office of Funds and Accounts Controller of the same
district within the Fifteenth day of the month in which
he/she has to furnish the tax returns paying the tax. The
Office of Funds and Accounts Controller shall forward the
returns of tax and payment of tax so received to the Inland
Revenue Office within Seven days.”

- (11) Sub-section (2) of Section 21 shall be deleted.
- (12) The following Sections 23C shall be inserted after Section 23B.:

“23C. Purchase of goods of under invoicing: (1) If any person sells any goods by under invoicing, showing the selling price lesser than the prevailing market price, the Tax Officer shall, notwithstanding anything contained in the laws in force, withhold the goods in stock similar to those goods so under invoiced and sold and the Inland Revenue Office may purchase or cause to be purchased the same at the price under invoiced and sold.

(2) If, in purchasing or caused to be purchased the goods by the Department or Office pursuant to Sub-section (1), such a person does not agree to sell the goods, the Department or office shall take such goods in its custody, make calculation on the basis of the price at which they were under invoiced and sold and make payment when such a person shows up to receive payment.

(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.”

- (13) The following Sub-section (1a) shall be inserted after Sub-section (1) of Section 25:

“(1a) Notwithstanding anything contained in Sub-section (1), a diplomatic body or diplomat on the purchase of taxable

goods or services shall not be refunded if the amount purchase is less than One Thousand Five Hundred Rupees at one time.”

- (14) The following Sub-section (2) shall be substituted for Sub-section (2) of Section 26:

“(2) For the purposes of Sub-section (1), the rate of interest shall be Fifteen per cent per annum.”

- (15) Of section 29

- (a) The following Clause (c) shall be substituted for Clause (c) of Sub-section (1):

“(c) In the event of violation of Sub-sections (1) and (4) of Section 14, Five Thousand Rupees for each instance fine including recover the liable tax.”

- (b) The following Clause (e) shall be inserted after Clause (d) of Sub-section.

(e) Infringing Section 23c.

- (16) The following Section 30A. shall be inserted after Section 30:

30A. Power to order for reassessment of tax: (1) In cases where, before tax is assessed, it appears from the information given to the 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.

(2) In cases where it appears that tax liability has increased because of tax assessment made by the Tax Officer recklessly or with *mala fide* intention, the Director General may give order to amend such tax assessment order within Four months after the date of initial tax assessment.”

(17) The following Section 31A. shall be substituted for Section 31A:

“31A. Application may be made for administrative review:

(1) A person who is not satisfied with any decision of tax assessment made by the Tax Officer may make an application to the Department against the decision within Thirty days of the date of receipt of a notice of that decision.

(2) In cases where the time limit for making application pursuant to Sub-section (1) expires and any person makes an application for the extension of time limit within Seven days from the date of expiration of the time limit, the Department may extend the time limit for a period not exceeding Thirty days from the date of expiration of the time limit.

(3) A taxpayer who makes an application pursuant to Sub-section (1) has to pay total undisputed amount of tax, out of the amount of tax assessed, and deposit of Fifty percent cash of fine or furnish bank guarantee of such cash out of the disputed tax assessed.

(4) If the claim of the applicant appears to be true upon examining the evidence and documents including the application made by the taxpayer pursuant to Sub-section

(1), the Director General may, by executing a memorandum setting out the clear reasons, void that tax assessment order and direct the concerned Tax Officer to make re-assessment of tax or order any Tax Officer to do that act.

(5) The Department shall make decision on the application within ninety days after the date of making of application pursuant to Sub-section (1).

(6) If the Department does not give decision within the time limit as referred to in Sub-section (4), the concerned person may make an appeal to the Revenue Tribunal pursuant to Section 32.”

(18) The following Section 32 shall be substituted for Section 32:

“32. Appeal in the Revenue Tribunal: (1) A person who is not satisfied with an order of suspension 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 in the Revenue Tribunal according to the Revenue Tribunal Act, 2031.

(2) The person who files an appeal pursuant to Sub-section (1) has to register a copy of the appeal with the Department within Fifteen days of the date of filing appeal.”

(19) The following Section 34A. shall be inserted after Section 34:

“34A. Power to have expert's service: The Government of Nepal may obtain the service of the concerned expert for the act related to tax auditing; and the provision on

governmental secrecy mentioned in Section 37 shall also apply to such an expert.”

- (20) The following Schedule-1 and Schedule-2 shall be substituted for Schedule-1 and Schedule-2:

NEPAL LAW COMMISSION

“Schedule-1

(Relating to Sub-section (3) of Section 5)

List of VAT exempt goods and services

Group 1. Basic Agricultural Products

- (a) Paddy, rice, wheat, maize, barley, millet, buckwheat, pulses, flour, rye flour, grains, peas, chickpeas, kidney peas, beans and similar basic unprocessed food materials and their extracts.
- (b) Green and fresh vegetable, fresh fruits, fresh eggs, tuberous roots, and fruits, vegetables and as use in vegetable and tuberous roots, fresh and unprocessed agro-products. (Except those to be supplied hotels, restaurants, bars, guest houses, cafeteria and other similar organizations).
- (c) Unprocessed cash crops/cereals (such as sugarcane, cotton, cardamom, ginger and saffron, flax, unprocessed tobacco, tea leaf sold by farmers, proved orthodox tea producing using biological fertilizer, coffee, soybean, ground-nuts, rape-seed, mustard seed, *sarsyuko geda*, *sunflower*, sesamum seed) and oil-cake.
- (d) Herbs (including their extracts).

Group 2. Goods of Basic Needs:

- (a) Piped water, including water supplied by tankers.
- (b) Wood and coal.
- (c) Kerosene (Except fuel of aircraft).
- (d) Salt.

Group 3. Live Animals and animal products

- (a) Goats, sheep and mountain goats, yak and buffalos , bore and pigs, rabbit and other such animal and their unprocessed raw edible food items.
- (b) Cows and she buffalos, she goats, and their fresh milk, (including pasteurized), Fresh curd, bees and bee hives.
- (c) Ducks, hens, cocks, turkey and similar other birds their fresh meat and unprocessed raw items and eggs.
- (d) Fresh or dried fish (except other than packed).

4. Agricultural inputs

- (a) Seeds of any crops and plants as mentioned in group One.
- (b) Manure, fertilizer and soil conditioners.
- (c) **Tools used in agriculture** : Hand tools, mattocks, picks, forks and rakes, axes, bill hooks and similar hewing tools, secateurs of any kind, scythes, sickles, hay knives, other than hand saws, hedge shears, timber wedges, ploughshare and other tools of a kind used in agriculture.
- (d) Insecticides, fully or partially used only for crops.
- (e) Use in agriculture function Tractors, cultivators, tantalum, levelers, harvesting or threshing machine, threshers, fishing nets, to Eight horse power up to pumping sets and up to 30 meters hose pipe.
- (f) Utensils for feeding poultry feed, box for chicken (*challa*), and crate for keeping egg.

- (g) Feed and ingredient of feed supplements.

Group 5: Medicine, Medical and Similar Health services

- (a) Medical or surgical services provided by health institution operated in Government ownership.
- (b) Human blood and human blood items and vaccines.
- (c) Human or animal organs or tissue for medical research.
- (d) Medicaments for treatment of livestock and human beings and family planning means.
- (e) Goods made for, and suitable only for the use of, infirm and disabled persons.
- (f) X-ray film and oxygen gas to be used for treatment and
- (g) Raw material purchased or imported by the medicine industries to the extent approved by the Department of Drug Management.

Group 6: Education

- (a) Research related acts in schools or universities.
- (b) Getting purpose for non-profit, Vocational or professional trainings or refresher trainings.
- (c) Educational services provided by schools and universities.

Group 7: Books, newspapers and printed materials

- (a) Books, newsletters and periodicals publications.
- (b) Newsprint.

Group 8: Artistic and cultural goods and services, carving services

- (a) Painting, handicrafts, carving and similar other handicrafts and related services.
- (b) Cultural programs.
- (c) Admission fees to libraries, museums, art museums, zoos and botanical gardens, and national parks.

Group 9: Passengers and goods transportation services

Air transport, non tourist passenger transportation (except cabal car) and goods carrier service (except transportation related to supply).

Group 10: Personal or Professional service:

Personal services rendered by artists, sportspersons, authors, writers, designers, translators and interpreters institutionally or individually.

Group 11: Other goods or services:

1. Postal services (only those provided by the Government of Nepal):
 - (a) Services of conveyance or transfer of letters, money and postal packets.
 - (b) Other services required for the services of conveyance or transfer of letters, money and postal packets.
 - (c) Postage stamps.
2. Financial and insurance services.
3. Bank notes and cheque books:
 - (a) Printing and issue of bank notes.

- (b) Supply of bank notes from foreign countries into Nepal.
- (c) Cheque books.
- 4. Gold and silver:
 - (a) Gold, gold coins and gold ornaments.
 - (b) Silver, silver coins (Except others silver ready-made goods and ornaments).
- 5. Electricity.
- 6. Raw wool.
- 7. Battery operated tempo and their chassis and Battery.
- 8. Bio-gas, solar power and wind power operated machine and equipments recommended by Alternate Energy Center.
- 9. Aircrafts, helicopters, fire engine (*Damcal*), ambulances.
- 10. Jute products.
- 11. Industries and machine up to 5 percent customs duty as falling under Part 84 of the Customs Tariff.
- 12. Woolen carpet and woolen carpet weaving, dying, washing and knitting.
- 13. Cotton sari, *Lungi*, *Dhoti* (for both men and women), *Gamcha* and cotton yarn.
- 14. Cotton thread.
- 15. Woolen yarn used in domestic hand kitting of sweater (except artificial and acrylic).

16. Donated goods received for any natural calamities or philanthropic purpose, as approved by the Ministry of Finance, Government of Nepal.
17. Goods of personal use that do not attract customs duty and are imported under the Luggage and Baggage Order facility.
18. The value added tax collected by textile or match (only wooden stick) industries and the domestic industries producing rod and ingot using cent percent domestic iron scrap in their value addition shall be refunded to those industries as prescribed by Government of Nepal.

Provided that, using cent percent domestic iron scrap industry shall be refunded only Fifty percent from own collected tax.

Group 12: Lands and buildings

Purchase, sale and rental of lands and buildings (except the services provided by such entities carrying on business such as hotels and guest houses).

Group 13: Betting, casinos and lotteries

Activities relating to facilities provided for the organization of bets or gambling, and lottery.

Note:

The Department, as prescribed, and in consultation with the Department of Customs, interpretation of the goods and services enjoying tax exemption and the Harmonized Code of Commodities as necessary.

Schedule-2

(Relating to Sub-section (2) of Section 7)

Goods and services subject to zero rate

1. Goods and services purchased or imported by His Majesty the King, His Majesty the Queen, His Royal Highness the Crown Prince and other members of the Royal family.
2. **Goods exported from Nepal:** If it is proved that goods are supplied as follows:
 - (a) Goods exported outside Nepal, or
 - (b) Goods shipped for use as stores on an international flight of which destination is outside Nepal, or
 - (c) Goods put on board an international flight of which destination is outside Nepal for retail sale or supply or consumption.
3. **Services to be supplied to persons outside Nepal:**
 - (a) A supply of services by a person residing in Nepal to a person outside Nepal, who has no business transaction, business representative or legally recognized agent in Nepal.
 - (b) A supply of goods or services by a person who is residing and is registered in Nepal to a person who is residing outside Nepal.
4. Goods or services imported by a person enjoying diplomatic facility.
5. Zero rate facility shall be available to medicine industries if the industry desires for such a facility.

6. If any previous treaty or agreement provides for the sales tax exemption on imports, and local purchase is made from the registered taxpayers, on the recommendation of the concerned project, the facility of zero rate shall be provided on such supplies, so long as such treaty or agreement is in effect.

NEPAL LAW COMMISSION

Financial Ordinance, 2060 (2004)

Date of Authentication and the Publication

2060.10.1 (15 January 2004)

Ordinance number 19 of the year 2060

An Ordinance Made to Implement Proposals Relating to Finance of the Government of Nepal

Preamble: Whereas, it is expedient to levy some charges, taxes, duties, cesses and fees, continue or alter the existing ones and also to amend the laws in force relating to revenue administration in order to implement the proposals relating to finance of the Government of Nepal and at the moment Parliament is not in session;

Now, therefore, be it enacted by His Majesty the King Gyanendra Bir Bikram Shah Dev, in accordance with Articles 72 of Constitution kingdom of Nepal, 2047(1990).

1. **Short title and commencement:** (1) This Act may be called as the "Financial Ordinance, 2060 (2004)."

(2) This ordinance come into force immediately.

22. **Amendment to the Value-added Tax Act, 2052 (1996):** Of the Value-added Tax Act, 2052 (1996),-

(1) The following Clause (t) shall be substituted for Clause (t):

“(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 office, 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.”

- (2) The following Sub-section (1) shall be substituted for Sub-section (1) of Section 7:

“(1) The rate of tax to be levied pursuant to this Act shall be in single rate of Ten percent.”

- (3) The following Clause (d1) shall be inserted after Clause (d) of Sub-section (1) of Section 11:

“(d1) If the taxpayer is one who gives zero return or does not give return at all within a consecutive period of One year.”

- (4) The following Section 12A. Shall be inserted after Section 12:

“12A. Taxable value of timber transaction: (1) There shall be levied and collected tax on the amount of royalty of the timber of national forest or the amount of auction, whichever is higher, at the time of auction, release or saw order, whichever is earlier.

(2) If the timber of a personal cultivated, private forest or community forest for business purpose and despite that royalty is not chargeable, tax shall be leviable as if it were the timber of national forest.”

- (5) Of Section 14,-

(a) The following proviso shall be inserted in Sub-section (1):

“Provided that, a person who carries on annual transaction of more than One Million Rupees shall issue invoices with serial number and permanent accounts number as well as his or her name, and address despite that he or she is not registered.”

- (b) The following Sub-sections (4) and (5) shall be inserted after Sub-section (3):

“(4) A person who purchases goods or service worth more than Ten Thousand Rupees for commercial purpose is required to take an invoice from the registered person. The invoice shall be kept with while transporting such goods.

(5) The Department may order taxpayers to issue invoices by using a cash machine or computer. Procedures of such order shall be as prescribed by the Director General.”

- (6) The following Sub-section (3) shall be inserted after Sub-section (2) of Section 15:

“(3) Notwithstanding anything contained in Sub-sections (1) and (2), a Local Body or Government of Nepal shall have to collect or recover tax at the time of sale of taxable goods or services.

- (7) The following Sub-section (1a) shall be inserted after Sub-section (1) of Section 16:

“(1a) The Department may have continuous access to the computer database of taxpayers.”

- (8) The following Section 16B. shall be inserted after Section 16A:

“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 expired the date of uses goods of value
added tax paid on the goods shall be deducted as
prescribed.”

- (9) The following Sub-section (5b) shall be inserted after Sub-section (5a) of Section 17:

“(5b) The concerned taxpayer shall be allowed to deduct
tax paid pursuant to Section 12A. and Sub-section (3) of Section
15.”

- (10) Of Section 18,-

(a) The words “or by registered post” shall be inserted after
the words “before the Tax Officer” contained in Sub-
section (1).

(b) The following Sub-sections (1a) shall be inserted after
Sub-section (1):

“(1a) Notwithstanding anything contained in Sub-
section (1), a taxpayer in a district where there is no
Inland Revenue Office may furnish the amount of tax
returns to be paid and submitted by him/her with the
Office of Funds and Accounts Controller of the same
district within the Fifteenth day of the month in which
he/she has to furnish the tax returns paying the tax. The
Office of Funds and Accounts Controller shall forward the
returns of tax and payment of tax so received to the Inland
Revenue Office within Seven days.”

- (11) Sub-section (2) of Section 21 shall be deleted.
- (12) The following Sections 23C shall be inserted after Section 23B.

“23C. Purchase of goods of under invoicing: (1) If any person sells any goods by under invoicing, showing the selling price lesser than the prevailing market price, the Tax Officer shall, notwithstanding anything contained in the laws in force, withhold the goods in stock similar to those goods so under invoiced and sold and the Inland Revenue Office may purchase or cause to be purchased the same at the price under invoiced and sold.

(2) If, in purchasing or caused to be purchased the goods by the Department or Office pursuant to Sub-section (1), such a person does not agree to sell the goods, the Department or office shall take such goods in its custody, make calculation on the basis of the price at which they were under invoiced and sold and make payment when such a person shows up to receive payment.

(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.”

- (13) The following Sub-section (1a) shall be inserted after Sub-section (1) of Section 25:

“(1a) Notwithstanding anything contained in Sub-section (1), a diplomatic body or diplomat on the purchase of taxable

goods or services shall not be refunded if the amount purchase is less than One Thousand Five Hundred Rupees at one time.”

- (14) The following Sub-section (2) shall be substituted for Sub-section (2) of Section 26:

“(2) For the purposes of Sub-section (1), the rate of interest shall be Fifteen per cent per annum.”

- (15) Of section 29

- (a) The following Clause (c) shall be substituted for Clause (c) of Sub-section (1):

“(c) In the event of violation of Sub-sections (1) and (4) of Section 14, Five Thousand Rupees for each instance fine including recover the liable tax.”

- (b) The following Clause (e) shall be inserted after Clause (d) of Sub-section.

(e) Infringing Section 23c.

- (16) The following Section 30A. shall be inserted after Section 30:

30A. Power to order for reassessment of tax: (1) In cases where, before tax is assessed, it appears from the information given to the 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.

(2) In cases where it appears that tax liability has increased because of tax assessment made by the Tax Officer recklessly or with mala fide intention, the Director General may give order to amend such tax assessment order within Four months after the date of initial tax assessment.”

(17) The following Section 31A. shall be substituted for Section 31A:

“31A. Application may be made for administrative review:

(1) A person who is not satisfied with any decision of tax assessment made by the Tax Officer may make an application to the Department against the decision within Thirty days of the date of receipt of a notice of that decision.

(2) In cases where the time limit for making application pursuant to Sub-section (1) expires and any person makes an application for the extension of time limit within Seven days from the date of expiration of the time limit, the Department may extend the time limit for a period not exceeding Thirty days from the date of expiration of the time limit.

(3) The taxpayer who makes an application pursuant to Sub-section (1) has to pay total undisputed amount of tax, out of the amount of tax assessed, and deposit of Fifty percent cash of fine or furnish bank guarantee of such cash out of the disputed tax assessed.

(4) If the claim of the applicant appears to be true upon examining the evidence and documents including the application made by the taxpayer pursuant to Sub-section

(1), the Director General may, by executing a memorandum setting out the clear reasons, void that tax assessment order and direct the concerned Tax Officer to make re-assessment of tax or order any Tax Officer to do that act.

(5) The Department shall make decision on the application within Ninety days after the date of making of application pursuant to Sub-section (1).

(6) If the Department does not give decision within the time limit as referred to in Sub-section (4), the concerned person may make an appeal to the Revenue Tribunal pursuant to Section 32.”

(18) The following Section 32 shall be substituted for Section 32:

“32. Appeal in the Revenue Tribunal: (1) A person who is not satisfied with an order of suspension 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 in the Revenue Tribunal according to the Revenue Tribunal Act, 2031.

(2) The person who files an appeal pursuant to Sub-section (1) has to register a copy of the appeal with the Department within Fifteen days of the date of filing appeal.”

(19) The following Section 34A. shall be inserted after Section 34:

“34A. Power to have expert's service: The Government of Nepal may obtain the service of the concerned expert for the act related to tax auditing; and the provision on

governmental secrecy mentioned in Section 37 shall also apply to such an expert.”

- (20) The following Schedule-1 and Schedule-2 shall be substituted for Schedule-1 and Schedule-2:

NEPAL LAW COMMISSION

“Schedule-1

(Relating to Sub-section (3) of Section 5)

List of VAT exempt goods and services

Group 1. Basic Agricultural Products

- (a) Paddy, rice, wheat, maize, barley, millet, buckwheat, pulses, flour, rye flour, grains, peas, chickpeas, kidney peas, beans and similar basic unprocessed food materials and their extracts.
- (b) Green and fresh vegetable, fresh fruits, fresh eggs, tuberous roots, and fruits, vegetables and as use in vegetable and tuberous roots, fresh and unprocessed agro-products. (Except those to be supplied hotels, restaurants, bars, guest houses, cafeteria and other similar organizations).
- (c) Unprocessed cash crops/cereals (such as sugarcane, cotton, cardamom, ginger and saffron, flax, unprocessed tobacco, tea leaf sold by farmers, proved orthodox tea producing using biological fertilizer, coffee, soybean, ground-nuts, rape-seed, mustard seed, *sarsyuko geda*, *sunflower*, sesamum seed) and oil-cake.
- (d) Herbs (including their extracts).

Group 2. Goods of Basic Needs:

- (a) Piped water, including water supplied by tankers.
- (b) Wood and coal.
- (c) Kerosene (Except fuel of aircraft).
- (d) Salt.

Group 3. Live Animals and animal products

- (a) Goats, sheep and mountain goats , yak and buffalos , bore and pigs , rabbit and other such animal and their unprocessed raw edible food items.
- (b) Cows and she buffalos, she goats, and their fresh milk, (including pasteurized), Fresh curd, bees and bee hives.
- (c) Ducks, hens, cocks, turkey and similar other birds their fresh meat and unprocessed raw items and eggs.
- (d) Fresh or dried fish (except other than packed).

4. Agricultural inputs

- (a) Seeds of crops plants, mentioned above in group One.
- (b) Manure, fertilizer and soil conditioners.
- (c) **Tools used in agriculture** : Hand tools, mattocks, picks, forks and rakes, axes, bill hooks and similar hewing tools, secateurs of any kind, scythes, sickles, hay knives, other than hand saws, hedge shears, timber wedges, ploughshare and other tools of a kind used in agriculture.
- (d) Insecticides, fully or partially used only for crops.
- (e) Use in agriculture function Tractors, cultivators, tantalum, levelers, harvesting or threshing machine, threshers, fishing nets, to Eight horse power up to pumping sets and up to 30 meters hose pipe.
- (f) Utensils for feeding poultry feed, box for chicken (*challa*), and crate for keeping egg.

- (g) Feed and ingredient of feed supplements.

Group 5: Medicine, Medical and Similar Health services

- (a) Medical or surgical services provided by health institution operated in Government ownership.
- (b) Human blood and human blood items and vaccines.
- (c) Human or animal organs or tissue for medical research.
- (d) Medicaments for treatment of livestock and human beings and family planning means.
- (e) Goods made for, and suitable only for the use of, infirm and disabled persons.
- (f) X-ray film and oxygen gas to be used for treatment, and
- (g) Raw material purchased or imported by the medicine industries to the extent approved by the Department of Drug Management.

Group 6: Education

- (a) Research related acts in schools or universities,
- (b) Getting purpose for non-profit, Vocational or professional trainings or refresher trainings.
- (c) Educational services provided by schools and universities.

Group 7: Books, newspapers and printed materials

- (a) Books, newsletters and periodicals publications.
- (b) Newsprint.

Group 8: Artistic and cultural goods and services, carving services

- (a) Painting, handicrafts, carving and similar other handicrafts and related services.
- (b) Cultural programs.
- (c) Admission fees to libraries, museums, art museums, zoos and botanical gardens, and national parks.

Group 9: Passengers and goods transportation services

Air transport, non tourist passenger transportation (except cabal car) and goods carrier service (except transportation related to supply).

Group 10: Personal or Professional service:

Personal services rendered by artists, sportspersons, authors, writers, designers, translators and interpreters institutionally or individually.

Group 11: Other goods or services:

1. Postal services (only those provided by the Government of Nepal):
 - (a) Services of conveyance or transfer of letters, money and postal packets.
 - (b) Other services required for the services of conveyance or transfer of letters, money and postal packets.
 - (c) Postage stamps.
2. Financial and insurance services.
3. Bank notes and cheque books:
 - (a) Printing and issue of bank notes.

- (b) Supply of bank notes from foreign countries into Nepal.
 - (c) Cheque books.
4. Gold and silver:
- (a) Gold, gold coins and gold ornaments.
 - (b) Silver, silver coins (Except others silver ready-made goods and ornaments).
5. Electricity.
6. Raw wool.
7. Battery operated tempo and their chassis and Battery.
8. Bio-gas, solar power and wind power operated machine and equipments recommended by Alternate Energy Center.
9. Aircrafts, helicopters, fire engine (*Damcal*), ambulances and corpse carrying vehicles.
10. Jute products.
11. Industries and machine up to 5 percent customs duty as falling under Part 84 of the Customs Tariff.
12. Woolen carpet and woolen carpet weaving, dying, washing and knitting.
13. Cotton sari, *Lungi*, *Dhoti* (for both men and women), *Gamcha* and cotton yarn.
14. Cotton thread.

15. Woolen yarn used in domestic hand kittening of sweater (except artificial and acrylic.
16. Donated goods received for any natural calamities or philanthropic purpose, as approved by the Ministry of Finance, Government of Nepal.
17. Goods of personal use that do not attract customs duty and are imported under the Luggage and Baggage Order facility.
18. The value added tax collected by textile or match (only wooden stick) industries and the domestic industries producing rod and ingot using cent percent domestic iron scrap in their value addition shall be refunded to those industries as prescribed by Government of Nepal.

Provided that, using cent percent domestic iron scrap industry shall be refunded only Fifty percent from own collected tax.

Group 12: Lands and buildings

Purchase, sale and rental of lands and buildings (except the services provided by such entities carrying on business such as hotels and guest houses).

Group 13: Betting, casinos and lotteries

Activities relating to facilities provided for the organization of bets or gambling, and lottery.

Note:

The Department, as prescribed, and in consultation with the Department of Customs, interpretation of the goods and services enjoying tax exemption and the Harmonized Code of Commodities as necessary.

NEPAL LAW COMMISSION

Schedule-2

(Relating to Sub-section (2) of Section 7)

Goods and services subject to zero rate

1. Goods and services purchased or imported by His Majesty the King, His Majesty the Queen, His Royal Highness the Crown Prince and other members of the Royal family.
2. **Goods exported from Nepal:** If it is proved that goods are supplied as follows:
 - (a) Goods exported outside Nepal, or
 - (b) Goods shipped for use as stores on an international flight of which destination is outside Nepal, or
 - (c) Goods put on board an international flight of which destination is outside Nepal for retail sale or supply or consumption.
3. **Services to be supplied to persons outside Nepal:**
 - (a) A supply of services by a person residing in Nepal to a person outside Nepal, who has no business transaction, business representative or legally recognized agent in Nepal.
 - (b) A supply of goods or services by a person who is residing and is registered in Nepal to a person who is residing outside Nepal.
4. Goods or services imported by a person enjoying diplomatic facility.
5. Zero rate facility shall be available to medicine industries if the industry desires for such a facility.

6. If any previous treaty or agreement provides for the sales tax exemption on imports, and local purchase is made from the registered taxpayers, on the recommendation of the concerned project, the facility of zero rate shall be provided on such supplies, so long as such treaty or agreement is in effect.”

NEPAL LAW COMMISSION

Financial Ordinance, 2061 (2004)

Date of Authentication and Publication

2061.4.1 (16 July 2004)

Ordinance number 3 of the year 2061

An Ordinance Made to Implement Proposals Relating to Finance of the Government of Nepal

Preamble: Whereas, it is expedient to levy some charges, taxes, duties, cesses and fees, continue or alter the existing ones and also to amend the laws in force relating to revenue administration in order to implement the proposals relating to finance of the Government of Nepal and at the moment Parliament is not in session;

Now, therefore, be it enacted by His Majesty the King Gyanendra Bir Bikram Shah Dev, in accordance with Articles 72 of Constitution kingdom of Nepal, 2047(1990).

1. **Short title and commencement:** (1) This Act may be called as the "Financial Ordinance, 2061 (2004)."

(2) This ordinance come into force immediately.

22. **Amendment to the Value-added Tax Act, 2052 (1996):** Of the Value-added Tax Act, 2052 (1996),-

(1) The following Clause (t) shall be substituted for Clause (t):

“(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 office, 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.”

- (2) The following Section 5A. Shall be substituted for Section 5A:

“5A. Tax not to be levied on transfer of ownership of transactions: Notwithstanding anything contained elsewhere in this Act, in cases where a registered person sells the transaction being carried out by him or her to any other registered person or the transaction is transferred in the name of his or her heir by virtue of death, such transfer of ownership shall not be subject to tax. The person registered in so selling or transferring the transaction shall give information thereof to the Department as prescribed.

Provided that, a person who registered for purchasing such transaction shall bear the transferor’s liability of tax.

- (3) The following Sub-section (1) shall be substituted for Sub-section (1) of Section 7:

“(1) The rate of tax to be levied pursuant to this Act shall be in single rate of Ten percent.”

- (4) The following Section 8A. shall be inserted after Section 8:

“8A. Provision of bank guarantee: (1) A productive industry that exports more than ninety percent of the total sale of the last Twelve months after minimum Twenty percent value added, raw materials or subsidiary raw material

required to produce the goods in the quantity of import to be imported by furnishing a bank guarantee.

(2) The bank guarantee furnished pursuant to Sub-section (1) and it shall be released from accordance with the procedures prescribed by the Department.

- (5) The following Clause (d1) shall be inserted after Clause (d) of Sub-section (1) of Section 11:

“(d1) If the taxpayer is one who gives zero return or does not give return at all within a consecutive period of One year,”

- (6) The following Section 12A. Shall be inserted after Section 12:

“12A. Taxable value of timber transaction: (1) There shall be levied and collected tax on the amount of royalty of the timber of national forest or the amount of auction, whichever is higher, at the time of auction, release or saw order, whichever is earlier.

(2) If the timber of a personal cultivated, private forest or community forest for business purpose and despite that royalty is not chargeable, tax shall be leviable as if it were the timber of national forest.”

- (7) Of Section 14,-

- (a) The following proviso shall be inserted in Sub-section (1):

“Provided that, a person who carries on annual transaction of more than One Million Rupees shall issue invoices with serial number and permanent accounts

number as well as his or her name, and address despite that he or she is not registered.”

- (b) The following Sub-sections (4) and (5) shall be inserted after Sub-section (3):

“(4) A person who purchases goods or service worth more than Ten Thousand Rupees for commercial purpose is required to take an invoice from the registered person. The invoice shall be kept with while transporting such goods.

(5) The Department may order taxpayers to issue invoices by using a cash machine or computer. Procedures of such order shall be as prescribed by the Director General.”

- (8) The following Sub-section (3) shall be inserted after Sub-section (2) of Section 15:

“(3) Notwithstanding anything contained in Sub-sections (1) and (2), a Local Body or Government of Nepal shall have to collect or recover tax at the time of sale of taxable goods or services.”

- (9) The following Sub-section (1a) shall be inserted after Sub-section (1) of Section 16:

“(1a) The Department may have continuous access to the computer database of taxpayers.”

- (10) The following Section 16B. shall be inserted after Section 16A:

“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 expired the date of uses goods of value added tax paid on the goods shall be deducted as prescribed.”

(11) Of Section 17,-

(a) The words "high price" shall be deleted contained in Clause (d) of Sub-section (2).

(b) The following Sub-section (5a) shall be substituted for Sub-section (5a):

“(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).”

(c) The following Sub-section (5b) shall be inserted after Sub-section (5a) :

“(5b) The concerned taxpayer shall be allowed to deduct tax paid pursuant to Section 12A. and Sub-section (3) of Section 15.”

(12) Of Section 18,-

(a) The words “or by registered post” shall be inserted after the words “before the Tax Officer” contained in Sub-section (1).

(b) The following Sub-sections (1a) shall be inserted after Sub-section (1):

“(1a) Notwithstanding anything contained in Sub-section (1), a taxpayer in a district where there is no

Inland Revenue Office may furnish the amount of tax returns to be paid and submitted by him/her with the Office of Funds and Accounts Controller of the same district within the Fifteenth day of the month in which he/she has to furnish the tax returns paying the tax. The Office of Funds and Accounts Controller shall forward the returns of tax and payment of tax so received to the Inland Revenue Office within Seven days.”

(13) Of Section 19,-

(a) The following Sub-section (2) shall be substituted for Sub-section (2):

“(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.”

(b) Sub-section (3) shall be deleted.

(c) The word and number “or (3)” shall be deleted contained in Sub-section (4).

(d) The word and number “and (3)” shall be deleted contained in Sub-section (5).

(14) Sub-section (2) of Section 21 shall be deleted.

(15) The following Sections 23C shall be inserted after Section 23B.

“23C. Purchase of goods of under invoicing: (1) If any person sells any goods by under invoicing, showing the selling price lesser than the prevailing market price, the Tax Officer shall, notwithstanding anything contained in the

laws in force, withhold the goods in stock similar to those goods so under invoiced and sold and the Inland Revenue Office may purchase or cause to be purchased the same at the price under invoiced and sold.

(2) If, in purchasing or caused to be purchased the goods by the Department or Office pursuant to Sub-section (1), such a person does not agree to sell the goods, the Department of office shall take such goods in its custody, make calculation on the basis of the price at which they were under invoiced and sold and make payment when such a person shows up to receive payment.

(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.”

- (16) The following Sub-section (1a) shall be inserted after Sub-section (1) of Section 25:

“(1a) Notwithstanding anything contained in Sub-section (1), a diplomatic body or diplomat on the purchase of taxable goods or services shall not be refunded if the amount purchase is less than One Thousand Five Hundred Rupees at one time.”

- (17) The following Sections 25A. shall be inserted after Section 25:

“25A. Refund of tax paid by foreign tourist on purchase: If a foreign tourist visiting Nepal and returning by air purchases taxable goods of more than Fifteen Thousand

Rupees and takes them with him or her, the tax paid on such goods shall be refunded in accordance with the procedures specified by the Department.”

- (18) The following Sub-section (2) shall be substituted for Sub-section (2) of Section 26:

“(2) For the purposes of Sub-section (1), the rate of interest shall be Fifteen per cent per annum.”

- (19) Of section 29

- (a) The following Clause (c) shall be substituted for Clause (c) of Sub-section (1):

“(c) In the event of violation of Sub-sections (1) and (4) of Section 14, Five Thousand Rupees for each instance fine including recover the liable tax.”

- (b) The following Sub-section (1a) shall be inserted after Sub-section (1):

“(1a) In the event of lessening tax liability without observing this Act or the Rules framed under this Act, the Tax Officer may fine up to Twenty Five percent of the amount of tax, on the grounds as specified by the Department.”

- (c) The following Sub-section (2) shall be substituted for Sub-section (2):

“(2) If a person commits any of the following offences, the Tax Officer may impose a fine of cent percent of the amount of tax or an imprisonment up to Six

months or both the fine and the imprisonment on such a person:

- (a) Preparing false accounts, invoices or other documents;
- (b) Committing an evasion of tax by fraud;
- (c) If an unregistered person acts as if he/she were a registered person;
- (d) Transaction in Infringing Section 30,
- (e) Infringing Section 23c.

(20) The following Section 30A. shall be inserted after Section 30:

“30A. Power to order for reassessment of tax: (1) In cases where, before tax is assessed, it appears from the information given to the 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.

(2) In cases where it appears that tax liability has increased because of tax assessment made by the Tax Officer recklessly or with mala fide intention, the Director General may give order to amend such tax assessment order within Four months after the date of initial tax assessment.”

(21) The following Section 31A. shall be substituted for Section 31A:

“31A. Application may be made for administrative review:

(1) A person who is not satisfied with any decision of tax assessment made by the Tax Officer may make an application to the Department against the decision within Thirty days of the date of receipt of a notice of that decision.

(2) In cases where the time limit for making application pursuant to Sub-section (1) expires and any person makes an application for the extension of time limit within Seven days from the date of expiration of the time limit, the Department may extend the time limit for a period not exceeding Thirty days from the date of expiration of the time limit.

(3) If the claim of the applicant appears to be true upon examining the evidence and documents including the application made by the taxpayer pursuant to Sub-section (1), the Director General may, by executing a memorandum setting out the clear reasons, void that tax assessment order and direct the concerned Tax Officer to make re-assessment of tax or order any Tax Officer to do that act.

(4) The Department shall make decision on the application within Sixty days after the date of making of application pursuant to Sub-section (1).

(5) If the Department does not give decision within the time limit as referred to in Sub-section (4), the concerned person may make an appeal to the Revenue Tribunal pursuant to Section 32.”

(22) The following Section 32 shall be substituted for Section 32:

“32. Appeal in the Revenue Tribunal: (1) A person who is not satisfied with an order of suspension 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 in the Revenue Tribunal according to the Revenue Tribunal Act, 2031.

(2) The person who files an appeal pursuant to Sub-section (1) has to register a copy of the appeal with the Department within Fifteen days of the date of filing appeal.”

(23) The following Section 32A. shall be inserted after Section 32:

“32A. Advance ruling: (1) If any person makes an application in writing to the Department for the removal of any confusion as to the application of this Act, the Department may issue its version by an advance ruling as prescribed, by notifying the person in writing.

(2) Notwithstanding anything contained in Sub-section (1), the Department shall not be entitled to issue an advance ruling referred to in Sub-section (1) on any matter of confusion occurred in the implementation of this Act in cases where such matter is *sub judice* in the court or has already been decided by the court.”

(24) The following Section 34A. shall be inserted after Section 34:

“34A. Power to have expert's service: The Government of Nepal may obtain the service of the concerned expert for the act related to tax auditing; and the provision on

governmental secrecy mentioned in Section 37 shall also apply to such an expert.”

- (25) The following Schedule-1 and Schedule-2 shall be substituted for Schedule-1 and Schedule-2:

Schedule-1

(Relating to Sub-section (3) of Section 5)

List of VAT exempt goods and services

Group 1. Basic Agricultural Products

- (a) Paddy, rice, wheat, maize, barley, millet, buckwheat, pulses, flour, rye flour, grains, peas, chickpeas, kidney peas, beans and similar basic unprocessed food materials and their extracts.
- (b) Green and fresh vegetable, fresh fruits, fresh eggs, tuberous roots, and fruits, vegetables and as use in vegetable and tuberous roots, fresh and unprocessed agro-products. (Except those to be supplied hotels, restaurants, bars, guest houses, cafeteria and other similar organizations).
- (c) Unprocessed cash crops/cereals (such as sugarcane, cotton, cardamom, ginger and saffron, flax, unprocessed tobacco shall be sold by farmers, tea leaf, proved orthodox tea producing using biological fertilizer, seed of coffee, soybean, ground-nuts, rape-seed, mustard seed, *sarsyu* seed, *sunflower* seed, sesamum seed) and oil-cake.
- (d) Herbs (including their extracts).

Group 2. Goods of Basic Needs:

- (a) Piped water, including water supplied by tankers.

- (b) Wood and coal.
- (c) Kerosene (Except fuel of aircraft).
- (d) Salt.

Group 3. Live Animals and animal products

- (a) Goats, sheep and mountain goats , yak and buffalos , bore and pigs , rabbit and other such animal and their unprocessed raw edible food items.
- (b) Cows and she buffalos, she goats, and their fresh milk, (including pasteurized), Fresh curd, bees and bee hives.
- (c) Ducks, hens, cocks, turkey and similar other birds their fresh meat and unprocessed raw items and eggs.
- (d) Fresh or dried fish (except other than packed).

4. Agricultural inputs

- (a) Seeds of any crops and plants as mentioned in group One.
- (b) Manure, fertilizer and soil conditioners.
- (c) **Tools used in agriculture** : Hand tools, mattocks, picks, forks and rakes, axes, bill hooks and similar hewing tools, secateurs of any kind, scythes, sickles, hay knives, other than hand saws, hedge shears, timber wedges, ploughshare and other tools of a kind used in agriculture.
- (d) Insecticides, fully or partially used only for crops.
- (e) Use in agriculture function Tractors, cultivators, tantalum, levelers, harvesting or threshing machine, threshers, fishing nets,

to Eight horse power up to pumping sets and up to 30 meters hose pipe.

- (f) Utensils for feeding poultry feed, box for chicken (*challa*), and crate for keeping egg.
- (g) Feed and ingredient of feed supplements.

Group 5. Medicine, Medical and Similar Health services

- (a) Medical or surgical services provided by health institution operated in Government ownership.
- (b) Human blood and human blood items and vaccines.
- (c) Human or animal organs or tissue for medical research.
- (d) Medicaments for treatment of livestock and human beings and family planning means.
- (e) Goods made for, and suitable only for the use of, infirm and disabled persons.
- (f) X-ray film and oxygen gas to be used for treatment, and
- (g) Raw material purchased or imported by the medicine industries to the extent approved by the Department of Drug Management.

Group 6: Education

- (a) Research related acts in schools or universities.
- (b) Getting purpose for non-profit, Vocational or professional trainings or refresher trainings.
- (c) Educational services provided by schools and universities.

Group 7: Books, newspapers and printed materials

- (a) Books, newsletters and printing and publication thereof.
- (b) Newsprint.

Group 8: Artistic and cultural goods and services, carving services

- (a) Painting, handicrafts, carving and similar other handicrafts and related services.
- (b) Cultural programs.
- (c) Admission fees to libraries, museums, art museums, zoos and botanical gardens, and national parks.

Group 9: Passengers and goods transportation services

Air transport, non tourist passenger transportation (except cabal car) and goods carrier service (except transportation related to supply).

Group 10: Personal or Professional service:

Personal services rendered by artists, sportspersons, authors, writers, designers, translators and interpreters institutionally or individually.

Group 11: Other goods or services:

1. Postal services (only those provided by the Government of Nepal):
 - (a) Services of conveyance or transfer of letters, money and postal packets.
 - (b) Other services required for the services of conveyance or transfer of letters, money and postal packets.

- (c) Postage stamp.
- 2. Excise duty stamp.
- 3. Financial and insurance services.
- 4. Bank notes and cheque books:
 - (a) Printing and issue of bank notes.
 - (b) Supply of bank notes from foreign countries into Nepal.
 - (c) Cheque books.
- 5. Gold and silver:
 - (a) Gold, gold coins and gold ornaments,
 - (b) Silver, silver coins (Except others silver ready-made goods and ornaments)
- 6. Electricity.
- 7. Raw wool.
- 8. Battery operated tempo and their chassis and Battery.
- 9. Bio-gas, solar power and wind power operated machine and equipments recommended by Alternate Energy Center.
- 10. Aircrafts, helicopters, fire engine (*Damcal*), ambulances,
- 11. Jute products.
- 12. Industries and machine up to 5 percent customs duty as falling under Part 84 of the Customs Tariff.

13. Woolen carpet and woolen carpet weaving, dying, washing and knitting.
14. Cotton sari, *Lungi*, *Dhoti* (for both men and women), *Gamcha* and cotton yarn.
15. Cotton thread (Sub-heading no of custom 5205 and 5207)
16. Woolen yarn used in domestic hand knitting of sweater (except artificial and acrylic).
17. Donated goods received for any natural calamities or philanthropic purpose, as approved by the Ministry of Finance, Government of Nepal.
18. Goods of personal use that do not attract customs duty and are imported under the Luggage and Baggage Order facility.
19. The value added tax collected by textile or match (only wooden stick) industries and the domestic industries producing rod and ingot using cent percent domestic iron scrap in their value addition shall be refunded to those industries as prescribed by Government of Nepal.

Provided that, using cent percent domestic iron scrap industry shall be refunded only Twenty Five percent from own collected tax.

Group 12: Lands and buildings

Purchase, sale and rental of lands and buildings (except the services provided by such entities carrying on business such as hotels and guest houses).

Group 13: Betting, casinos and lotteries

Activities relating to facilities provided for the organization of bets or gambling, and lottery.

Note:

The Department, as prescribed, and in consultation with the Department of Customs, interpretation of the goods and services enjoying tax exemption and the Harmonized Code of Commodities as necessary.

NEPAL LAW COMMISSION

Schedule-2

(Relating to Sub-section (2) of Section 7)

Goods and services subject to zero rate

1. Goods and services purchased or imported by His Majesty the King, His Majesty the Queen, His Royal Highness the Crown Prince and other members of the Royal family.
2. **Goods exported from Nepal:** If it is proved that goods are supplied as follows:
 - (a) Goods exported outside Nepal, or
 - (b) Goods shipped for use as stores on an international flight of which destination is outside Nepal, or
 - (c) Goods put on board an international flight of which destination is outside Nepal for retail sale or supply or consumption.
3. **Services to be supplied to persons outside Nepal:**
 - (a) A supply of services by a person residing in Nepal to a person outside Nepal, who has no business transaction, business representative or legally recognized agent in Nepal.
 - (b) A supply of goods or services by a person who is residing and is registered in Nepal to a person who is residing outside Nepal.
4. Goods or services imported by a person or mission enjoying diplomatic facility and a person serving in a diplomatic mission enjoying tariff facility, on the recommendation of the Ministry of Foreign Affairs, Government of Nepal.

5. Zero rate facility shall be available to medicine industries if the industry desires for such a facility.
6. If any previous treaty or agreement provides for the sales tax exemption on imports, and local purchase is made from the registered taxpayers, on the recommendation of the concerned project, the facility of zero rate shall be provided on such supplies, so long as such treaty or agreement is in effect.

NEPAL LAW COMMISSION

Financial Ordinance, 2062 (2005)

Date of Authentication and Publication

2062.4.1(16, July 2005)

Ordinance number 12 of the year 2062

An Ordinance Made to Implement Proposals Relating to Finance of the Government of Nepal

Preamble: Whereas, it is expedient to levy some charges, taxes, duties, cesses and fees, continue or alter the existing ones and also to amend the laws in force relating to revenue administration in order to implement the proposals relating to finance of the Government of Nepal and at the moment Parliament is not in session;

Now, therefore, be it enacted by His Majesty the King Gyanendra Bir Bikram Shah Dev, in accordance with Article 72 of Constitution Kingdom of Nepal, 2047(1990).

1. **Short title and commencement:** (1) This Ordinance may be called as the "Financial Ordinance, 2062 (2005)."

(2) This ordinance come into force immediately.

24. **Amendment to the Value-added Tax Act, 2052 (1996):** Of the Value-added Tax Act, 2052 (1996),-

(1) The following Clause (t) shall be substituted for Clause (t):

“(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 office, 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.”

- (2) The following Section 4 shall be substituted for Section 4:

“4. Jurisdiction of the Tax Officer: (1) The jurisdiction of Tax Officer shall be as prescribed by the Government of Nepal.

(2) The Director General may also so designate a Tax Office as to inspect and monitor also the transaction of taxpayers in other areas than those falling under his or her jurisdiction.”

- (3) The following Section 5A. shall be substituted for Section 5A:

“5A. Tax not to be levied on transfer of ownership of transactions: Notwithstanding anything contained elsewhere in this Act, in cases where a registered person sells the transaction being carried out by him or her to any other registered person or the transaction is transferred in the name of his or her heir by virtue of death, such transfer of ownership shall not be subject to tax. The person registered in so selling or transferring the transaction shall give information thereof to the Department as prescribed.

Provided that, the registered person who has purchased such transaction shall bear the liability of tax of the predecessor.

- (4) The following Sub-section (1) shall be substituted for Sub-section (1) of Section 7:

“(1) The rate of tax to be levied pursuant to this Act shall be in single rate of Thirteen percent.”

(5) The following Section 8A. shall be inserted after Section 8:

“8A. Provision of bank guarantee: (1) A productive industry that exports more than ninety percent of the total sale of the last Twelve months after minimum Twenty percent value added, raw materials or subsidiary raw material required to produce the goods in the quantity of import to be imported by furnishing a bank guarantee.

(2) Duty free shop may furnish value added tax as bank guarantee of tax liable in export goods through a bonded warehouse. (3) The bank guarantee furnished pursuant to Sub-section (1) and (2) and it shall be released from accordance with the procedures prescribed by the Department.

Provided that, in the case of garment export industry the concerned custom office, in the recommendation of Inland Revenue Department, shall permit export upon accepting the bank guarantee.

(6) The following Section 9 shall be substituted for Section 9:

“9. Exemption for small vendor: 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 and filing of tax returns and from such requirements as may be prescribed.

Provided that, if any transaction of hardware, sanitary, furniture, fixture, furnishing, automobiles, motor parts, electronics, and marble has to be registered compulsorily within a Municipal Corporation, Sub-municipal Corporation, Municipality or other small vendor wishes to have his/her transaction registered voluntarily, he/she may have such registration after completing the procedures as referred to in Section 10.”

- (7) The following Clause (c) shall be substituted for Clause (c) of Sub-section (1) of Section 11:

“(c) In the case of a partnership firm, if such partnership firm is dissolved or the partner dies,”

- (8) The following Clause (d1) shall be inserted after Clause (d) of Sub-section (1) of Section 11:

“(d1) If the taxpayer is one who gives zero return or does not give return at all within a consecutive period of One year,”

- (9) The following Section 12A. Shall be inserted after Section 12:

“12A. Taxable value of timber transaction: (1) There shall be levied and collected tax on the amount of royalty of the timber of national forest or the amount of auction, whichever is higher, at the time of auction, release or saw order, whichever is earlier.

(2) If the timber of a personal cultivated, private forest or community forest for business purpose and despite that royalty is not chargeable, tax shall be leviable as if it were the timber of national forest.”

(10) Of Section 14,-

- (a) The following proviso shall be inserted in Sub-section (1):

“Provided that a person who carries on annual transaction of more than One Million Rupees shall issue invoices with serial number and permanent accounts number as well as his or her name, and address despite that he or she is not registered.”

- (b) The following Sub-sections (4) and (5) shall be inserted after Sub-section (3):

“(4) A person who purchases goods or service worth more than Ten Thousand Rupees for commercial purpose is required to take an invoice from the registered person. The invoice shall be kept with while transporting such goods.

(5) The Department may order taxpayers to issue invoices by using a cash machine or computer. Procedures of such order shall be as prescribed by the Director General.

- (11) The following Sub-section (3) shall be inserted after Sub-section (2) of Section 15:

“(3) Notwithstanding anything contained in Sub-sections (1) and (2), a Local Body or Government of Nepal shall have to collect or recover tax at the time of sale of taxable goods or services.

- (12) The following Sub-section (1a) shall be inserted after Sub-section (1) of Section 16:

“(1a) The Department may have continuous access to the computer (database) of taxpayers.”

(13) The following Section 16B. shall be inserted after Section 16A:

“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 expired the date of uses goods of value added tax paid on the goods shall be deducted as prescribed.”

(14) Of Section 17,-

(a) The words "high price" shall be deleted contained in Clause (d) of Sub-section (2).

(b) The following Sub-section (5a) shall be substituted for Sub-section (5a):

“(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).”

(c) The following Sub-section (5b) shall be inserted after Sub-section (5a):

“(5b) The concerned taxpayer shall be allowed to deduct tax paid pursuant to Section 12A. and Sub-section (3) of Section 15.”

(15) Of Section 18,-

- (a) The words “or by registered post” shall be inserted after the words “before the Tax Officer” contained in Sub-section (1).
- (b) The following Sub-sections (1a) shall be inserted after Sub-section (1):

“(1a) Notwithstanding anything contained in Sub-section (1), a taxpayer in a district where there is no Inland Revenue Office may furnish the amount of tax returns to be paid and submitted by him/her with the Office of Funds and Accounts Controller of the same district within the Fifteenth day of the month in which he/she has to furnish the tax returns paying the tax. The Office of Funds and Accounts Controller shall forward the returns of tax and payment of tax so received to the Inland Revenue Office within Seven days.”

(16) Of Section 19,-

- (a) The following Sub-section (2) shall be substituted for Sub-section (2):

“(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.”

- (b) Sub-section (3) shall be deleted.
- (c) The word and number “or (3)” shall be deleted contained in Sub-section (4).

(d) The word and number “or (3)” shall be deleted contained in Sub-section (5).

(17) The following Sub-section (4) shall be substituted for Sub-section (4) then inserted Sub-section (4a) of Section 20:

“(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.”

“(4a) Notwithstanding anything contained in Sub-section (4), where any person has evaded tax by preparing false accounts or invoices or other documents or by fraud, the Department may at any time issue an order for the reassessment of tax.”

(18) Sub-section (2) of Section 21 shall be deleted.

(19) The following Sections 23C and 23d shall be inserted after Section 23B.

“23C. Purchase of goods of under invoicing: (1) If any person sells any goods by under invoicing, showing the selling price lesser than the prevailing market price, the Tax Officer shall, notwithstanding anything contained in the laws in force, withhold the goods in stock similar to those goods so under invoiced and sold and the Inland Revenue Office may purchase or cause to be purchased the same at the price under invoiced and sold.

(2) If, in purchasing or caused to be purchased the goods by the Department or Office pursuant to Sub-section (1), such a person does not agree to sell the goods,

the Department of office shall take such goods in its custody, make calculation on the basis of the price at which they were under invoiced and sold and make payment when such a person shows up to receive payment.

(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.”

“23D. Power to make search, seizure or demand deposit or

security: (1) If the Tax Officer finds that any person, firm, company or organization has done transaction by evading tax and there is a possibility that the accused may go away or the evidence and proof of offence may disappear, the Tax Office may, with the approval of the Director General, do or cause to be done any of the following acts:

- (a) To seal the place of transaction,
- (b) To demand cash deposit or wealth guarantee in a sum equivalent to the tax evaded from the person believed to have committed the offence, by executing a memorandum to that effect,

(2) The Tax Officer shall have the same powers as the police may exercise under the laws in force in relation to the investigation of offences pursuant to this Act.”

(20) The following Sub-section (1a) shall be inserted after Sub-section (1) of Section 25:

“(1a) Notwithstanding anything contained in Sub-section (1), a diplomatic body or diplomat on the purchase of taxable goods or services shall not be refunded if the amount purchase is less than One Thousand Five Hundred Rupees at one time.”

(21) The following Sections 25A. shall be inserted after Section 25:

“25A. Refund of tax paid by foreign tourist on purchase: If a foreign tourist visiting Nepal and returning by air purchases taxable goods of more than Fifteen Thousand Rupees and takes them with him or her, the tax paid on such goods shall be refunded in accordance with the procedures specified by the Department.

(22) The following Sub-section (2) shall be substituted for Sub-section (2) of Section 26:

“(2) For the purposes of Sub-section (1), the rate of interest shall be Fifteen per cent per annum.”

(23) Of section 29

(a) The following Clause (c) shall be substituted for Clause (c) of Sub-section (1):

“(c) In the event of violation of Sub-sections (1) and (4) of Section 14, Five Thousand Rupees for each instance fine including recover the liable tax.”

(b) The following Sub-section (1a) shall be inserted after Sub-section (1):

“(1a) In the event of lessening tax liability without observing this Act or the Rules framed under this Act, the Tax Officer may fine up to Twenty Five

percent of the amount of tax, on the grounds as specified by the Department.”

- (c) The following Sub-section (2) shall be substituted for Sub-section (2):

“(2) If a person commits any of the following offences, the Tax Officer may impose a fine of cent percent of the amount of tax or an imprisonment up to Six months or both the fine and the imprisonment on such a person:

- (a) Preparing false accounts, invoices or other documents;
- (b) Committing an evasion of tax by fraud;
- (c) If an unregistered person acts as if he/she were a registered person;
- (d) Transaction in Infringing Section 30,
- (e) Infringing Section 23c.

- (24) The following Section 30A. shall be inserted after Section 30:

“30A. Power to order for reassessment of tax: (1) In cases where, before tax is assessed, it appears from the information given to the 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.

(2) In cases where it appears that tax liability has increased because of tax assessment made by the Tax Officer recklessly or with *mala fide* intention, the Director General may give order to amend such tax assessment order within Four months after the date of initial tax assessment.”

(25) The following Section 31A. shall be substituted for Section 31A:

“31A. Application may be made for administrative review:

(1) A person who is not satisfied with any decision of tax assessment made by the Tax Officer may make an application to the Department against the decision within Thirty days of the date of receipt of a notice of that decision.

(2) In cases where the time limit for making application pursuant to Sub-section (1) expires and any person makes an application for the extension of time limit within Seven days from the date of expiration of the time limit, the Department may extend the time limit for a period not exceeding Thirty days from the date of expiration of the time limit.

(3) If the claim of the applicant appears to be true upon examining the evidence and documents including the application made by the taxpayer pursuant to Sub-section (1), the Director General may, by executing a memorandum setting out the clear reasons, void that tax assessment order and direct the concerned Tax Officer to make re-assessment of tax or order any Tax Officer to do that act.

(4) The Department shall make decision on the application within Sixty days after the date of making of application pursuant to Sub-section (1).

(5) If the Department does not give decision within the time limit as referred to in Sub-section (4), the concerned person may make an appeal to the Revenue Tribunal pursuant to Section 32.

(26) The following Section 32 shall be substituted for Section 32:

“32. Appeal in the Revenue Tribunal: (1) A person who is not satisfied with an order of suspension 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 in the Revenue Tribunal according to the Revenue Tribunal Act, 2031.

(2) The person who files an appeal pursuant to Sub-section (1) has to register a copy of the appeal with the Department within Fifteen days of the date of filing appeal.”

(27) The following Section 32A. shall be inserted after Section 32:

“32A. Advance ruling: (1) If any person makes an application in writing to the Department for the removal of any confusion as to the application of this Act, the Department may issue its version by an advance ruling as prescribed, by notifying the person in writing.

(2) Notwithstanding anything contained in Sub-section (1), the Department shall not be entitled to issue an advance ruling referred to in Sub-section (1) on any

matter of confusion occurred in the implementation of this Act in cases where such matter is *sub judice* in the court or has already been decided by the court.

(28) The following Section 34A. shall be inserted after Section 34:

“34A. Power to have expert's service: The Government of Nepal may obtain the service of the concerned expert for the act related to tax auditing; and the provision on governmental secrecy mentioned in Section 37 shall also apply to such an expert.”

(29) The following Sub-section (1) shall be substituted for Sub-section (1) of Section 40:

“(1) Award: 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 may be awarded, by a decision of the Director General, as reward the amount that is equal to Twenty per cent of the amount of tax recovered on the basis of that information.”

(30) The following Section 40A and 40B shall be inserted after Section 40:

40A. Rebate in fine: If a taxpayer, who has not submitted tax details till the end of *Ashad* of year 2062 B.S., submits remaining tax details and Twenty-Five percent of fine within Twenty fifth day of *Chaitra* of 2062 B.S., the rebate of Seventy Five percent in fine for not submitting details shall be provided.

40B. Rebate in fees, interest and fine: If someone submits all the remaining amount of tax to be paid till the end of

Ashad 2062 B.S. and Twenty percent additional fees pursuant to Section 19, interest pursuant to Section 26 and Fifty percent of interest and fine pursuant to Section 29 within Twenty fifth day of the *Chaitra* of 2062 B.S., a rebate on remaining additional fees, interest and fine shall be provided.

- (31) The following Schedule-1 and Schedule-2 shall be substituted for Schedule-1 and Schedule-2:

NEPAL LAW COMMISSION

“Schedule-1

(Relating to Sub-section (3) of Section 5)

List of VAT exempt goods and services

Group 1. Basic Agricultural Products

- (a) Paddy, rice, wheat, maize, barley, millet, buckwheat, pulses, flour, rye flour, grains, peas, chickpeas, kidney peas, beans and similar basic unprocessed food materials and their extracts.
- (b) Green and fresh vegetable, fresh fruits, fresh eggs, tuberous roots, and fruits, vegetables and as use in vegetable and tuberous roots, fresh and unprocessed agro-products. (Except those to be supplied hotels, restaurants, bars, guest houses, cafeteria and other similar organizations).
- (c) Unprocessed cash crops/cereals (such as sugarcane, cotton, cardamom, ginger and saffron, flax, unprocessed tobacco shall be sold by farmers, tea leaf, proved orthodox tea producing using biological fertilizer, packing of tea (tea chest), seed of coffee, soybean, ground-nuts, rape-seed, mustard seed, *sarsyu* seed, *sunflower* seed, sesamum seed) and oil-cake.
- (d) Herbs (including their extracts).

Group 2. Goods of Basic Needs:

- (a) Piped water, including water supplied by tankers.
- (b) Wood and coal.
- (c) Kerosene (Except fuel of aircraft).
- (d) Salt.

Group 3. Live Animals and animal products

- (a) Goats, sheep and mountain goats , yak and buffalos , bore and pigs , rabbit and other such animal and their unprocessed raw edible food items.
- (b) Cows and she buffalos, she goats, and their fresh milk, (including pasteurized), Fresh curd, bees and bee hives.
- (c) Ducks, hens, cocks, turkey and similar other birds their fresh meat and unprocessed raw items and eggs.
- (d) Fresh or dried fish (except other than packed).

4. Agricultural inputs

- (a) Crops, grasses, flowers or live trees and other plants, bulbs, tubers, tuberous roots and bulbs and roots used as seeds.
- (b) Manure, fertilizer and soil conditioners.
- (c) **Tools used in agriculture** : Hand tools, mattocks, picks, forks and rakes, axes, bill hooks and similar hewing tools, secateurs of any kind, scythes, sickles, hay knives, other than hand saws, hedge shears, timber wedges, ploughshare and other tools of a kind used in agriculture.
- (d) Insecticides, fully or partially used only for crops.
- (e) Use in agriculture function Tractors, cultivators, tantalum, levelers, harvesting or threshing machine, threshers, fishing nets, to Eight horse power up to pumping sets and up to 30 meters hose pipe.
- (f) Utensils for feeding poultry feed, box for chicken (*challa*), and crate for keeping egg.

- (g) Feed and ingredient of feed supplements.

Group 5. Medicine, Medical and Similar Health services

- (a) Medical or surgical services provided by health institution operated in Government ownership.
- (b) Human blood and human blood items and vaccines.
- (c) Human or animal organs or tissue for medical research.
- (d) Medicaments for treatment of livestock and human beings and family planning means.
- (e) Pacemakers used in treatment of heart diseases, stint, valve of heart, goods made for, and suitable only for the use of, infirm and disabled persons.
- (f) X-ray film and oxygen gas to be used for treatment.
- (g) Raw material purchased or imported by the medicine industries to the extent approved by the Department of Drug Management.

Group 6: Education

- (a) Research related acts in schools or universities
- (b) Getting purpose for non-profit, Vocational or professional trainings or refresher trainings,
- (c) Educational services provided by schools and universities.

Group 7: Books, newspapers and printed materials

- (a) Books, newsletters and printing and publication thereof,
- (b) Newsprint.

Group 8: Artistic and cultural goods and services, carving services

- (a) Painting, handicrafts, carving and similar other handicrafts and related services.
- (b) Cultural programs,
- (c) Admission fees to libraries, museums, art museums, zoos and botanical gardens, and national parks.

Group 9: Passengers and goods transportation services

Air transport, non tourist passenger transportation (except cabal car) and goods carrier service (except transportation related to supply).

Group 10: Personal or Professional service:

Personal services rendered by artists, sportspersons, authors, writers, designers, translators and interpreters institutionally or individually.

Group 11: Other goods or services:

1. Postal services (only those provided by the Government of Nepal):
 - (a) Services of conveyance or transfer of letters, money and postal packets.
 - (b) Other services required for the services of conveyance or transfer of letters, money and postal packet.
 - (c) Postage stamp.
2. Excise duty stamp.
3. Financial and insurance services.
4. Bank notes and cheque books:

- (a) Printing and issue of bank notes.
 - (b) Supply of bank notes from foreign countries into Nepal.
 - (c) Cheque books.
5. Gold and silver:
- (a) Gold, gold coins and gold ornaments.
 - (b) Silver, silver coins (Except others silver ready-made goods and ornaments).
6. Electricity.
7. Raw wool.
8. Battery operated tempo and their chassis and Battery.
9. Bio-gas, solar power and wind power operated machine and equipments recommended by Alternate Energy Center.
10. Aircrafts, helicopters, fire engine (*Damcal*), ambulances,
11. Jute products.
12. Industries and machine up to 5 percent customs duty as falling under Part 84 of the Customs Tariff.
13. Woolen carpet and woolen carpet weaving, dying, washing and knitting.
14. Cotton sari, *Lungi*, *Dhoti* (for both men and women) and *Gamcha*.
15. Cotton thread (Sub-heading no of custom 5205 and 5207).

16. Woolen yarn used in domestic hand knitting of sweater (except artificial and acrylic).
17. Donated goods received for any natural calamities or philanthropic purpose, as approved by the Ministry of Finance, Government of Nepal.
18. Goods of personal use that do not attract customs duty and are imported under the Luggage and Baggage Order facility.
19. The value added tax collected by textile or match (only wooden stick) industries shall be refunded to those industries as prescribed by Government of Nepal. Twenty Five percent tax shall be refunded from own collected tax for mustard oil, flour and incense producing industries

Group 12: Lands and buildings

Purchase, sale and rental of lands and buildings (except the services provided by such entities carrying on business such as hotels and guest houses)

Group 13: Betting, casinos and lotteries

Activities relating to facilities provided for the organization of bets or gambling, and lottery.

Note:

The Department, as prescribed, and in consultation with the Department of Customs, interpretation of the goods and services enjoying tax exemption and the Harmonized Code of Commodities as necessary.

Schedule-2

(Relating to Sub-section (2) of Section 7)

Goods and services subject to zero rate

1. Goods and services purchased or imported by His Majesty the King, His Majesty the Queen, His Royal Highness the Crown Prince and other members of the Royal family.
2. **Goods exported from Nepal:** If it is proved that goods are supplied as follows:
 - (a) Goods exported outside Nepal, or
 - (b) Goods shipped for use as stores on an international flight of which destination is outside Nepal, or
 - (c) Goods put on board an international flight of which destination is outside Nepal for retail sale or supply or consumption.
3. **Services to be supplied to persons outside Nepal:**
 - (a) A supply of services by a person residing in Nepal to a person outside Nepal, who has no business transaction, business representative or legally recognized agent in Nepal.
 - (b) A supply of goods or services by a person who is residing and is registered in Nepal to a person who is residing outside Nepal.
4. Goods or services imported by a person or mission enjoying diplomatic facility and a person serving in a diplomatic mission enjoying tariff facility, on the recommendation of the Ministry of Foreign Affairs, Government of Nepal.

5. Zero rate facility shall be available to medicine industries if the industry desires for such a facility.
6. If any previous treaty or agreement provides for the sales tax exemption on imports, and local purchase is made from the registered taxpayers, on the recommendation of the concerned project, the facility of zero rate shall be provided on such supplies, so long as such treaty or agreement is in effect.
7. Commodities supplied for the propose of export to the export house which is so prescribed by the Government of Nepal and earns convertible foreign currency upon exporting all commodities.

NEPAL LAW COMMISSION

Revenue Related Some Nepal Acts (Amendment) Ordinance, 2062 (2005)

Date of Authentication and Publication

2062.6.16 (2 Oct 2005)

Ordinance number 34 of the year 2062

Revenue Related Some Nepal Acts (Amendment) Ordinance

Preamble: Whereas, it is expedient to amend Revenue Related Some Nepal Acts and at the moment Parliament is not in session;

Now, therefore, be it enacted by His Majesty the King Gyanendra Bir Bikram Shah Dev., in accordance with Article 72 of Constitution Kingdom of Nepal, 2047(1990).

1. Short title and commencement: (1) This Ordinance may be called “Revenue Related Some Nepal Acts (Amendment) Ordinance, 2062 (2005)”

(2) This ordinance shall come into force immediately.

2. Amendment to Value-added Tax Act, 2052 (1996): Of Value-added Tax Act, 2052 (1996),-

(1) The following proviso shall be substituted proviso of Section 9:

Provided that, that if a small vendor wishes to have his or her transaction registered voluntarily, he or she may have such registration after completing the procedures as referred to in Section 10.”

(2) Of Section 10,-

- (a) The following Sub-sections (1) and (2) shall be substituted for Sub-sections (1) and (2):

“(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.

(2) If any goods transacted by a person is taxable or if any person operates of hardware, sanitary, furniture, fixture, furnishing, automobiles, electronics, marble, and color lab transactions within a Municipal Corporation, Sub-municipal Corporation, Municipality or Depart or within an area specified by the Department, the person has to make an application in the prescribed format, to the Tax Officer, for registration, within Thirty days after the date of imposition of such tax or the date of commencement of the transactions.”

- (b) The word “application” shall be substituted for the word “petition” contained in Sub-section (4).

- (3) The following Section 10A. Shall be inserted after Section 10:

10A. Declaration of Stock: (1) A taxpayer may declare the actual stock of the taxable goods under his/her possession till the end of *Magh* of the year 2062 B.S.

(2) If a taxpayer declares the stock pursuant to Sub-section (1) in a format as prescribed by the Department, he/she shall deposit Nine percent amount of

declared goods as a tax and an amount equal to prevailing custom duty as a fine.

(3) While declaring a stock pursuant to Sub-section (1), a taxpayer shall not be entitled to set additional price to any goods than prevailing price at the time of declaration of stock.

(4) A taxpayer shall be entitled to get tax reduction pursuant to Section 17 to the tax amount of the goods declared as stock pursuant to Sub-section (1).

(5) If the quantity of stock or price of goods declared by a taxpayer pursuant to Sub-section (1) seems unnatural, the tax officer may conduct inquiry of the stock upon showing the grounds and reasons therefor and if it seems from the inquiry that goods are found to be sold in the lower than that of declared price, such sale shall not be recognized for the purpose of tax assessment.

(6) The quantity, price and source declared by a taxpayer pursuant to this Section shall not proceed by any institution (agency) for the purpose of tax.

- (4) The following Sub-sections (4) shall be substituted for Sub-section (4) of Section 14:

“(4) One who transports goods attracting tax of more than Ten Thousand Rupees outside the area specified by the Department shall hold tax invoices with him/her.”

- (5) The following Clause (b1) shall be inserted after Clause (b) of Sub-section (1) of Section 29:

“(b1) In the event of violation of Section 10A, additional cent percent of tax in different price.”

(6) The following Section 40c shall be inserted after Section 40B:

40C. Not levying Fine on fees: Notwithstanding anything contained elsewhere in this Act, if the burden of tax seems different but not the tax recovery amount by the reason of interpretation or decision made under this Act or Rules framed hereunder, fine on fees shall not be levied before the such interpretation or decision is made.

NEPAL LAW COMMISSION

Financial Ordinance, 2062 (2005)

Date of Authentication and Publication

2062.10.1(14 Jananuary2005)

Ordinance number 49 of the year 2062

An Ordinance Made to Implement Proposals Relating to Finance of the Government of Nepal

Preamble: Whereas, it is expedient to levy some charges, taxes, duties, cesses and fees, continue or alter the existing ones and also to amend the laws in force relating to revenue administration in order to implement the proposals relating to finance of the Government of Nepal and at the moment Parliament is not in session;

Now, therefore, be it enacted by His Majesty the King Gyanendra Bir Bikram Shah Dev, in accordance with Article 72 of Constitution kingdom of Nepal, 2047(1990).

1. Short title and commencement: (1) This Ordinance may be called as the "Financial Ordinance, 2062 (2005)."

(2) This ordinance come into force immediately.

24. Amendment to the Value-added Tax Act, 2052 (1996): Of the Value-added Tax Act, 2052 (1996),-

(1) The following Clause (t) shall be substituted for Clause (t):

“(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 office, 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.”

- (2) The following Section 4 shall be substituted for Section 4:

“4. Jurisdiction of the Tax Officer: (1) The jurisdiction of Tax Officer shall be as prescribed by the Government of Nepal.

(2) The Director General may also so designate a Tax Office as to inspect and monitor also the transaction of taxpayers in other areas than those falling under his or her jurisdiction.”

- (5) The following Section 5A. shall be substituted for Section 5A:

“5A. Tax not to be levied on transfer of ownership of transactions: Notwithstanding anything contained elsewhere in this Act, in cases where a registered person sells the transaction being carried out by him or her to any other registered person or the transaction is transferred in the name of his or her heir by virtue of death, such transfer of ownership shall not be subject to tax. The person registered in so selling or transferring the transaction shall give information thereof to the Department as prescribed.

Provided that, the registered person who has purchased such transaction shall bear the liability of tax of the predecessor.

- (4) The following Sub-section (1) shall be substituted for Sub-section (1) of Section 7:

“(1) The rate of tax to be levied pursuant to this Act shall be in single rate of Thirteen percent.”

(5) The following Section 8A. shall be inserted after Section 8:

“8A. Provision of bank guarantee: (1) A productive industry that exports more than ninety percent of the total sale of the last Twelve months after minimum Twenty percent value added, raw materials or subsidiary raw material required to produce the goods in the quantity of import to be imported by furnishing a bank guarantee.

(2) in order to export making finished goods from the raw materials and subsidiary raw material, with minimum Ten percent value addition in price of transaction prescribed by Custom.

(3) Duty free shop may furnish value added tax as bank guarantee of tax liable in export goods through a bonded warehouse. (4) The bank guarantee furnished pursuant to Sub-section (1) or (3) and process of its release shall be as accordance with the procedures prescribed by the Department.

Provided that, in the case of garment export industry the concerned custom office, in the recommendation of Inland Revenue Department, shall permit export upon accepting the bank guarantee.

(5) A person who enjoys the facility as referred to in this Section shall not be entitled to the facility as referred to in Sub-section (4) of Section 24.”

(6) The following Section 9 shall be substituted for Section 9:

- “9. Exemption for small vendor:** 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 and filing of tax returns and from such requirements as may be prescribed.

Provided that, that if a small vendor wishes to have his or her transaction registered voluntarily, he or she may have such registration after completing the procedures as referred to in Section 10.”

This provision shall not be applicable In a case of organizing exhibition, fair or other such transactions. In the case of such registration the Tax Officer may call security a guarantee.

(7) Of Section 10,-

- (a) The following Sub-sections (1) and (2) shall be substituted for Sub-sections (1) and (2):

“(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.

(2) If any goods transacted by a person is taxable or if any person operates of hardware, sanitary, furniture, fixture, furnishing, automobiles, electronics, marble, and color lab transactions within a Municipal Corporation, Sub-municipal Corporation, Municipality or Depart or within an area specified by the Department, the person has

to make an application in the prescribed format, to the Tax Officer, for registration, within Thirty days after the date of imposition of such tax or the date of commencement of the transactions.”

- (b) The word “application” shall be substituted for the word “petition” contained in Sub-section (4).

(8) Amendment of Section 10A :

10A. Declaration of Stock: (1) A taxpayer may declare the actual stock of the taxable goods under his/her possession till the last day of Magh of the year 2062 B.S.

(2) If a taxpayer declares the stock pursuant to Sub-section (1) in a format as prescribed by the Department, he/she shall deposit Nine percent amount of the cost of declared goods as a tax and an amount equal to prevailing custom duty as a fine.

(3) While declaring a stock pursuant to Sub-section (1), a taxpayer shall not be entitled to set additional price to any goods than prevailing market price at the time of declaration of stock.

(4) A taxpayer shall be entitled to get tax reduction subject to Section 17 to the tax amount of the goods declared as stock pursuant to Sub-section (1).

(5) If the quantity of stock or price of goods declared by a taxpayer pursuant to Sub-section (1) deems unnatural (not real), the tax officer may conduct inquiry of the stock upon showing the grounds and reasons thereto

and if it seems from the inquiry that goods are found to be sold in the lower price than that of the declared price, such sale shall not be recognized for the purpose of tax assessment.

(6) The importer, who opens letter of credit (*Pratitpatra*) within the last day of *Paush* of the year 2062 B.S., shall declare the difference price in the Custom point within the last day of the *Chaitra* of the year 2062 B.S.

(7) The quantity, price and source declared by a taxpayer pursuant to this Section shall not be liable to institute any action by an institution (agency) for the purpose of tax.

(9) The following Clause (c) shall be substituted for Clause (c) of Sub-section (1) of Section 11:

“(c) In the case of a partnership firm, if such partnership firm is dissolved or the partner dies,”

(10) The following Clause (d1) shall be inserted after Clause (d) of Sub-section (1) of Section 11:

“(d1) If the taxpayer is one who gives zero return or does not give return at all within a consecutive period of One year,”

(11) The following Section 12A. Shall be inserted after Section 12:

“12A. Taxable value of timber transaction: (1) There shall be levied and collected tax on the amount of royalty of the timber of national forest or the amount of auction,

whichever is higher, at the time of auction, release or saw order, whichever is earlier.

(2) If the timber of a personal cultivated, private forest or community forest for business purpose and despite that royalty is not chargeable, tax shall be leviable as if it were the timber of national forest.”

(12) Of Section 14,-

(a) The following proviso shall be inserted in Sub-section (1):

“Provided that, a person who carries on annual transaction of more than One Million Rupees shall issue invoices with serial number and permanent accounts number as well as his or her name, and address despite that he or she is not registered.”

(b) The following Sub-sections (4) and (5) shall be inserted after Sub-section (3):

“(4) A person who purchases goods or service worth more than Ten Thousand Rupees for commercial purpose is required to take an invoice from the registered person. The invoice shall be kept with while transporting such goods.

(5) The Department may order taxpayers to issue invoices by using a cash machine or computer. Procedures of such order shall be as prescribed by the Director General.

(6) The Government of Nepal may, by publishing a notice in Nepal Gazette, so specify that any person

specified by such a notice has to make public the retail sale value or price of any such goods as specified in that notice for such period as specified therein.

(7) Provision shall be made that any person specified pursuant to Sub-section (6) shall, in selling such goods to any unregistered persons, have to issue invoices of the price made public in the specified format and collect also the tax at the consumer level.

Provided that, any persons ~~not~~ so specified pursuant to Sub-section (6) may issue invoices as referred to in this Sub-section.”

- (13) The following Sub-section (3) shall be inserted after Sub-section (2) of Section 15:

“(3) Notwithstanding anything contained in Sub-sections (1) and (2), a Local Body or Government of Nepal shall have to collect or recover tax at the time of sale of taxable goods or services.

- (14) The following Sub-section (1a) shall be inserted after Sub-section (1) of Section 16:

“(1a) The Department may have continuous access to the computer (database) of taxpayers.”

- (15) The following Section 16B. shall be inserted after Section 16A:

“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 expired the date of uses goods of value

added tax paid on the goods shall be deducted as prescribed.”

NEPAL LAW COMMISSION

(16) Of Section 17,-

- (a) The words "high price" shall be deleted contained in Clause (d) of Sub-section (2).
- (b) The following Sub-section (5a) shall be substituted for Sub-section (5a):

“(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).”

- (c) The following Sub-section (5b) shall be inserted after Sub-section (5a):

“(5b) The concerned taxpayer shall be allowed to deduct tax paid pursuant to Section 12A. and Sub-section (3) of Section 15.”

- (d) The following Sub-section (8) and (9) shall be inserted after Sub-section (7):

“(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/ her registration may also be suspended.”

(9) Office gives information to tax payer about those taxpayers whose registration is suspended pursuant to Sub-section (8) and after getting such information, an

customer who brought goods or service from such taxpayer, those tax could no refund or reduce

(17) Of Section 18,-

- (a) The words “or by registered post” shall be inserted after the words “before the Tax Officer” contained in Sub-section (1).
- (b) The following Sub-sections (1a) shall be inserted after Sub-section (1):

“(1a) Notwithstanding anything contained in Sub-section (1), a taxpayer in a district where there is no Inland Revenue Office may furnish the amount of tax returns to be paid and submitted by him/her with the Office of Funds and Accounts Controller of the same district within the Fifteenth day of the month in which he/she has to furnish the tax returns paying the tax. The Office of Funds and Accounts Controller shall forward the returns of tax and payment of tax so received to the Inland Revenue Office within Seven days.”

(19) Of Section 19,-

- (a) The following Sub-section (2) shall be substituted for Sub-section (2):

“(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.”

- (b) Sub-section (3) shall be deleted.

- (c) The word and number “or (3)” shall be deleted contained in Sub-section (4).
- (d) The word and number “or (3)” shall be deleted contained in Sub-section (5).
- (20) The following Sub-section (4) shall be substituted for Sub-section (4) then inserted Sub-section (4a) of Section 20:

“(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.”

“(4a) Notwithstanding anything contained in Sub-section (4), where any person has evaded tax by preparing false accounts or invoices or other documents or by fraud, the Department may at any time issue an order for the reassessment of tax.”
- (21) Sub-section (2) of Section 21 shall be deleted.
- (22) The following Sections 23C and 23d shall be inserted after Section 23B.

“23C. Purchase of goods of under invoicing: (1) If any person sells any goods by under invoicing, showing the selling price lesser than the prevailing market price, the Tax Officer shall, notwithstanding anything contained in the laws in force, withhold the goods in stock similar to those goods so under invoiced and sold and the Inland Revenue Office may purchase or cause to be purchased the same at the price under invoiced and sold.

(2) If, in purchasing or caused to be purchased the goods by the Department or Office pursuant to Sub-section (1), such a person does not agree to sell the goods, the Department of office shall take such goods in its custody, make calculation on the basis of the price at which they were under invoiced and sold and make payment when such a person shows up to receive payment.

(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.”

“23D. Power to make search, seizure or demand deposit or

security: (1) If the Tax Officer finds that any person, firm, company or organization has done transaction by evading tax and there is a possibility that the accused may go away or the evidence and proof of offence may disappear, the Tax Office may, with the approval of the Director General, do or cause to be done any of the following acts:

- (a) To seal the place of transaction,
- (b) To demand cash deposit or wealth guarantee in a sum equivalent to the tax evaded from the person believed to have committed the offence, by executing a memorandum to that effect,

(2) The Tax Officer shall have the same powers as the police may exercise under the laws in force in relation to the investigation of offences pursuant to this Act.”

- (23) The following Sub-section (1a) shall be inserted after Sub-section (1) of Section 25:

“(1a) Notwithstanding anything contained in Sub-section (1), a diplomatic body or diplomat on the purchase of taxable goods or services shall not be refunded if the amount purchase is less than One Thousand Five Hundred Rupees at one time.”

- (24) The following Sections 25A. shall be inserted after Section 25:

“25A. Refund of tax paid by foreign tourist on purchase: If a foreign tourist visiting Nepal and returning by air purchases taxable goods of more than Fifteen Thousand Rupees and takes them with him or her, the tax paid on such goods shall be refunded in accordance with the procedures specified by the Department.

- (25) The following Sub-section (2) shall be substituted for Sub-section (2) of Section 26:

“(2) For the purposes of Sub-section (1), the rate of interest shall be Fifteen per cent per annum.”

- (26) Of section 29

- (a) The following Clause (b1) and (b2) shall be inserted after Clause (b) of Sub-section (1):

(b1) In the event of violation of Section 10A, additional cent percent of tax in different price.”

(b2) In the event of failure to place a tax board in accordance with this Act or the Rules framed under this Act, a fine of Two Thousand Rupees for each

week and in the event of failure to place it at the designate place, a fine of One Thousand Rupees.”

- (b) The following Clause (c) shall be substituted for Clause (c) of Sub-section (1):

“(c) In the event of violation of Sub-sections (1) and (4) of Section 14, Five Thousand Rupees for each instance fine including recover the liable tax.”

- (c) The following Sub-section (1a) shall be inserted after Sub-section (1):

“(1a) In the event of lessening tax liability without observing this Act or the Rules framed under this Act, the Tax Officer may fine up to Twenty Five percent of the amount of tax, on the grounds as specified by the Department.”

- (d) The following Sub-section (2) shall be substituted for Sub-section (2):

“(2) If a person commits any of the following offences, the Tax Officer may impose a fine of cent percent of the amount of tax or an imprisonment up to Six months or both the fine and the imprisonment on such a person:

- (a) Preparing false accounts, invoices or other documents;
- (b) Committing an evasion of tax by fraud;

- (c) If an unregistered person acts as if he/she were a registered person;
- (d) Transaction in Infringing Section 30,
- (e) Infringing Section 23c.

(27) The following Section 30A. shall be inserted after Section 30:

“30A. Power to order for reassessment of tax: (1) In cases where, before tax is assessed, it appears from the information given to the 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.

(2) In cases where it appears that tax liability has increased because of tax assessment made by the Tax Officer recklessly or with *mala fide* intention, the Director General may give order to amend such tax assessment order within Four months after the date of initial tax assessment.”

(28) The following Section 31A. shall be substituted for Section 31A:

“31A. Application may be made for administrative review:

(1) A person who is not satisfied with any decision of tax assessment made by the Tax Officer may make an application to the Department against the decision within Thirty days of the date of receipt of a notice of that decision.

(2) In cases where the time limit for making application pursuant to Sub-section (1) expires and any person makes an application for the extension of time limit within Seven days from the date of expiration of the time limit, the Department may extend the time limit for a period not exceeding Thirty days from the date of expiration of the time limit.

(3) If the claim of the applicant appears to be true upon examining the evidence and documents including the application made by the taxpayer pursuant to Sub-section (1), the Director General may, by executing a memorandum setting out the clear reasons, void that tax assessment order and direct the concerned Tax Officer to make re-assessment of tax or order any Tax Officer to do that act.

(4) The Department shall make decision on the application within Sixty days after the date of making of application pursuant to Sub-section (1).

(5) If the Department does not give decision within the time limit as referred to in Sub-section (4), the concerned person may make an appeal to the Revenue Tribunal pursuant to Section 32.

(29) The following Section 32 shall be substituted for Section 32:

“32. Appeal in the Revenue Tribunal: (1) A person who is not satisfied with an order of suspension 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 in the Revenue Tribunal according to the Revenue Tribunal Act, 2031.

(2) The person who files an appeal pursuant to Sub-section (1) has to register a copy of the appeal with the Department within Fifteen days of the date of filing appeal.”

(30) The following Section 32A. shall be inserted after Section 32:

“**32A. Advance ruling:** (1) If any person makes an application in writing to the Department for the removal of any confusion as to the application of this Act, the Department may issue its version by an advance ruling as prescribed, by notifying the person in writing.

(2) Notwithstanding anything contained in Sub-section (1), the Department shall not be entitled to issue an advance ruling referred to in Sub-section (1) on any matter of confusion occurred in the implementation of this Act in cases where such matter is *sub judice* in the court or has already been decided by the court.

(31) The following Section 34A. shall be inserted after Section 34:

“**34A. Power to have expert's service:** The Government of Nepal may obtain the service of the concerned expert for the act related to tax auditing; and the provision on governmental secrecy mentioned in Section 37 shall also apply to such an expert.”

(32) The following Sub-section (1) shall be substituted for Sub-section (1) of Section 40:

“(1) **Award:** 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 may be awarded, by a decision of the Director General, as reward the amount that is equal to Twenty per cent of the amount of tax recovered on the basis of that information.”

(33) The following Section 40A, 40B and 40c shall be inserted after Section 40:

40A. Rebate in fine: If a taxpayer, who has not submitted tax details till the end of *Ashad* of year 2062 B.S., submits remaining tax details and Twenty-Five percent of fine within Twenty fifth day of *Chaitra* of 2062 B.S., the rebate of Seventy Five percent in fine for not submitting details shall be provided.

40B. Rebate in fees, interest and fine: If someone submits all the remaining amount of tax to be paid till the end of *Ashad* 2062 B.S. and Twenty percent additional fees pursuant to Section 19, interest pursuant to Section 26 and Fifty percent of interest and fine pursuant to Section 29 within Twenty Fifth day of the *Chaitra* of 2062 B.S., a rebate on remaining additional fees, interest and fine shall be provided.

40C. Not levying Fine on fees: Notwithstanding anything contained elsewhere in this Act, if the burden of tax seems different but not the tax recovery amount by the reason of interpretation or decision made under this Act or Rules framed hereunder, fine on fees shall not be levied before the such interpretation or decision is made.

- (34) The following Schedule-1 and Schedule-2 shall be substituted for Schedule-1 and Schedule-2:

NEPAL LAW COMMISSION

“Schedule-1

(Relating to Sub-section (3) of Section 5)

List of VAT exempt goods and services

Group 1. Basic Agricultural Products

- (a) Paddy, rice, wheat, maize, barley, millet, buckwheat, pulses, flour, rye flour, grains, peas, chickpeas, kidney peas, beans and similar basic unprocessed food materials and their extracts.
- (b) Green and fresh vegetable, fresh fruits, fresh eggs, tuberous roots, and fruits, vegetables and as use in vegetable and tuberous roots, fresh and unprocessed agro-products. (Except those to be supplied hotels, restaurants, bars, guest houses, cafeteria and other similar organizations).
- (c) Unprocessed cash crops/cereals (such as sugarcane, cotton, cardamom, ginger and saffron, flax, unprocessed tobacco shall be sold by farmers, tea leaf, proved orthodox tea producing using biological fertilizer, packing of tea (tea chest), seed of coffee, soybean, ground-nuts, and oil-cake.
- (d) Herbs (including their extracts).

Group 2. Goods of Basic Needs:

- (a) Piped water, including water supplied by tankers.
- (b) Wood and coal.
- (c) Salt.

Group 3. Live Animals and animal products

- (a) Goats, sheep and mountain goats , yak and buffalos , bore and pigs , rabbit and other such animal and their unprocessed raw edible food items .
- (b) Cows and she buffalos, she goats, and their fresh milk, (including pasteurized), Fresh curd, bees and bee hives.
- (c) Ducks, hens, cocks, turkey and similar other birds their fresh meat and unprocessed raw items and eggs.
- (d) Fresh or dried fish (except other than packed).

4. Agricultural inputs

- (a) Crops, grasses, flowers or live trees and other plants, bulbs, tubers, tuberous roots and bulbs and roots used as seeds
- (b) Manure, fertilizer and soil conditioners.
- (c) **Tools used in agriculture** : Hand tools, mattocks, picks, forks and rakes, axes, bill hooks and similar hewing tools, secateurs of any kind, scythes, sickles, hay knives, other than hand saws, hedge shears, timber wedges, ploughshare and other tools of a kind used in agriculture.
- (d) Insecticides, fully or partially used only for crops.
- (e) Use in agriculture function Tractors, cultivators, tantalum, levelers, harvesting or threshing machine, threshers, fishing nets, to Eight horse power up to pumping sets and up to 30 meters hose pipe.

- (f) Utensils for feeding poultry feed, box for chicken (*challa*), and crate for keeping egg.
- (g) Feed and ingredient of feed supplements.

Group 5. Medicine, Medical and Similar Health services

- (a) Health service.
- (b) Human blood and human blood items and vaccines.
- (c) Human or animal organs or tissue for medical research.
- (d) Medicaments for treatment of livestock and human beings and family planning means.
- (e) Pacemakers used in treatment of heart diseases, stint, valve of heart, goods made for, and suitable only for the use of, infirm and disabled persons.
- (f) X-ray film and oxygen gas, bandage to be used for treatment.
- (g) Raw material, subsidiary raw material and packing goods purchased or imported by the medicine industries to the extent approved by the Department of Drug Management.

Group 6: Education

- (a) Research related acts in schools or universities.
- (b) Getting purpose for non-profit, Vocational or professional trainings or refresher trainings.
- (c) Educational services provided by schools and universities.

Group 7: Books, newspapers and printed materials

- (a) Books, calendar, newsletters and printing and publication thereof.
- (b) Newsprint.

NEPAL LAW COMMISSION

Group 8: Artistic and cultural goods and services, carving services

- (a) Painting, handicrafts, carving and similar other handicrafts and related services.
- (b) Cultural programs.
- (c) Admission fees to libraries, museums, art museums, zoos and botanical gardens, and national parks.

Group 9: Passengers and goods transportation services

Air transport.

Group 10: Personal or Professional service:

Personal services rendered by artists, sportspersons, authors, writers, designers, translators and interpreters institutionally or individually, and services of supplying human resources to foreign countries.

Group 11: Other goods or services:

1. Postal services (only those provided by the Government of Nepal):
 - (a) Services of conveyance or transfer of letters, money and postal packets.
 - (b) Other services required for the services of conveyance or transfer of letters, money and postal packets.
 - (c) Postage stamps.
2. Excise duty stamp.
3. Financial and insurance services.

4. Bank notes and cheque books:
 - (a) Printing and issue of bank notes.
 - (b) Supply of bank notes from foreign countries into Nepal.
 - (c) Cheque books.
5. Gold and silver:
 - (a) Gold, gold coins and gold ornaments.
 - (b) Silver, silver coins (Except others silver ready-made goods and ornaments).
6. Electricity supply of 440, 220 volt.
7. Raw wool.
8. Battery operated tempo and their chassis and Battery.
9. Bio-gas, solar power and wind power operated machine and equipments recommended by Alternate Energy Center.
10. Aircrafts, helicopters, fire engine (*Damcal*), ambulances.
11. Jute products.
12. Industries and machine up to 5 percent customs duty as falling under Part 84 of the Customs Tariff.
13. Woolen carpet and woolen carpet weaving, dying, washing and knitting and other threat shall be used by woolen, carpet industry.

14. In Cent percent Cotton sari, *Lungi*, *Dhoti* (for both men and women) and *Gamcha* proved by professional institutions, prescribed by department.
15. Woolen yarn used in domestic hand kitting of sweater (except artificial and acrylic).
16. Donated goods received for any natural calamities or philanthropic purpose, as approved by the Ministry of Finance, Government of Nepal.
17. Goods of personal use that do not attract customs duty and are imported under the Luggage and Baggage Order facility.
18. The value added tax collected by tire, textile, dot pen, match (only wooden stick) industries shall be refunded to those industries as prescribed by Government of Nepal. Twenty Five percent tax shall be refunded from own collected tax for flour and incense producing industries.
19. The tax paid by the textile industry on subsidiary raw materials, domestic raw materials and machinery spare parts or tax paid by woolen carpet industry on subsidiary raw materials or the tax paid by production industry on raw materials or subsidiary raw materials shall be refunded as a whole as prescribed by Government of Nepal.

Group 12: Lands and buildings

Purchase, sale and rental of lands and buildings (except the services provided by such entities carrying on business such as hotels and guest houses)

Group 13: Betting, casinos and lotteries

Activities relating to facilities provided for the organization of bets or gambling, and lottery.

NEPAL LAW COMMISSION

Note:

The Department, as prescribed, and in consultation with the Department of Customs, interpretation of the goods and services enjoying tax exemption and the Harmonized Code of Commodities as necessary.

NEPAL LAW COMMISSION

Schedule-2

(Relating to Sub-section (2) of Section 7)

Goods and services subject to zero rate

1. Goods and services purchased or imported by His Majesty the King, His Majesty the Queen, His Royal Highness the Crown Prince and other members of the Royal family.
2. **Goods exported from Nepal:** If it is proved that goods are supplied as follows:
 - (a) Goods exported outside Nepal, or
 - (b) Goods shipped for use as stores on an international flight of which destination is outside Nepal, or
 - (c) Goods put on board an international flight of which destination is outside Nepal for retail sale or supply or consumption.
3. **Services to be supplied to persons outside Nepal:**
 - (a) A supply of services by a person residing in Nepal to a person outside Nepal, who has no business transaction, business representative or legally recognized agent in Nepal.
 - (b) A supply of goods or services by a person who is residing and is registered in Nepal to a person who is residing outside Nepal.
4. Goods or services imported by a person or mission enjoying diplomatic facility and a person serving in a diplomatic mission enjoying tariff facility, on the recommendation of the Ministry of Foreign Affairs, Government of Nepal.

- 5 If any previous treaty or agreement provides for the sales tax exemption on imports, and local purchase is made from the registered taxpayers, on the recommendation of the concerned project, the facility of zero rate shall be provided on such supplies, so long as such treaty or agreement is in effect
6. Commodities supplied for the propose of export to the export house which is so prescribed by the Government of Nepal and earns convertible foreign currency upon exporting all commodities.

NEPAL LAW COMMISSION

Financial Act, 2063 (2006)

Date of Authentication and Publication

2063.7.20 (6 Nov. 2006)

Act number 12 of the year 2063 (2006)

An Act Made to Implement Proposals Relating to Finance of the Government of Nepal

Preamble: Whereas, it is expedient to levy some charges, taxes, duties, cesses and fees, continue or alter the existing ones and also to amend the laws in force relating to revenue administration in order to implement the proposals relating to finance of the Government of Nepal;

Now, therefore, be it enacted by the House of Representatives in the First Year of the issuance of the Proclamation of the House of Representatives, 2063 (2006).

1. **Short title and commencement:** (1) This Act may be called as the "Financial Act, 2063 (2006)."

(2) Sections 1, 2, 3, 4, 5, 9 and 18 of this Act shall be deemed to have come into force on 28 *Ashad* 2063 (12 July 2006) and the other Sections on 1 *Shrawan* 2063 (17 July 2006).

28. **Amendment to the Value-added Tax Act, 2052 (1996):** Of the Value-added Tax Act, 2052 (1996),-

(1) Of Section 2,-

(a) The following Clause (f1) shall be inserted after Clause (f):

“(f1) “Group of companies or entities” means a group of companies or entities in relation to which the following situation exists:

- (a) If any business is carried on by a person or agent member associated with the group of entities,
- (b) If any goods or services are supplied by the group of entities to any entity or group of other entities associated with it,
- (c) If any goods or services are supplied to the group of entity or member of the group,
- (d) If the permanent address of operation of business of any two or more than two entities is in the same place, or
- (e) If the group of entities is controlled directly or indirectly by any one person or some persons.”

(b) The following Clause (h) shall be substituted for Clause (h):

“(h) “Consideration” means anything to be obtained in exchange for the price of any goods or services being supplied.”

(c) The following Clause (h1) shall be inserted after Clause (h):

“(h1) “Loan agreement” means a hire purchase agreement or financial lease.”

- (d) The following Clause (t) shall be substituted for Clause (t):

“(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 office, 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.”

- (2) The following Section 4 shall be substituted for Section 4:

“4. **Jurisdiction of the Tax Officer:** (1) The jurisdiction of Tax Officer shall be as prescribed by the Government of Nepal.

(2) The Director General of Department may also so designate a Tax Office as to inspect and monitor also the transaction of taxpayers in other areas than those falling under his or her jurisdiction.”

- (3) The following Section 5A. shall be substituted for Section 5A:

“5A. **Tax not to be levied on transfer of ownership of transactions:** Notwithstanding anything contained elsewhere in this Act, in cases where a registered person sells the transaction being carried out by him or her to any other registered person or the transaction is transferred in the name of his or her heir by virtue of death, such transfer of ownership shall not be subject to tax. The person

registered in so selling or transferring the transaction shall give information thereof to the Department as prescribed.

(2) Notwithstanding anything contained in Sub-section (1), if any industry or business that is required to be registered or has been registered pursuant to laws is transferred, the transferee who obtains the ownership shall bear the transferor's liability of tax specified by law.

(3) The person who obtains ownership shall, subject to Sub-section (3), bear the obligation of safely maintaining the accounts, records and books of account of the transaction of such an industry or business until the prescribed period (before and after transfer) pursuant to this Act."

- (4) The following Explanation shall be inserted in Clause (c) of Sub-section (2) of Section 6:

“Explanation: For the purposes of this Clause, acquisition shall be deemed in the following circumstance:

- (a) Copyrights, patents, licenses, trademarks and similar other rights,
- (b) Advertisement services,
- (c) Technical services, engineering services, services of suppliers providing technical services, legal services, accounting services, data and data processing services, information services and similar other services.
- (d) In supplying the services as referred to in Sub-section (1) or accepting any liability or undertaking or in exercising that undertaking fully or partly or

doing any business activities in exercise of such right, or

- (e) Insurance or reinsurance services other than the facility of safe deposit.

- (5) The following Sub-section (1) shall be substituted for Sub-section (1) of Section 7:

“(1) The rate of tax to be levied pursuant to this Act shall be in single rate of 13 percent.”

- (6) The following Section 8A. shall be inserted after Section 8:

“8A. Provision of bank guarantee: (1) An industry that exports more than Eighty percent of the total sale of the last Twelve months after the operation of the industry may make import by furnishing a bank guarantee in consideration for tax while importing the raw materials required to produce the goods in the quantity of export, bank guarantee in consideration for tax leviable on such goods.

Provided that, in order to avail such a facility, the exporter has to make finished goods from the raw materials, with Twenty percent value addition.

(2) The bank guarantee furnished pursuant to Sub-section (1) and process of its release shall be as prescribed by the Department.

(3) A person who enjoys the facility as referred to in this Section shall not be entitled to the facility as referred to in Sub-section (4) of Section 24.”

- (7) The following Section 9 shall be substituted for Section 9:

“9. Exemption for small vendor: 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 and filing of tax returns and from such requirements as may be prescribed.

Provided that, if a small vendor wishes to have his/her transaction registered voluntarily, he or she may have such registration after completing the procedures as referred to in Section 10.”

This provision shall not be applicable in a case of organizing exhibition, fair or other such transactions. In the case of such registration the Tax Officer may call security a guarantee.

- (8) Of Section 10,-

(a) The following Sub-sections (1) and (2) shall be substituted for Sub-sections (1) and (2):

“(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.

(2) If any goods transacted by a person is taxable or if any person operates of hardware, sanitary, furniture, fixture, furnishing, automobiles, electronics and marble within a Municipal Corporation, Sub-municipal Corporation, Municipality or Depart or within an area

specified by the Department, the person has to make an application in the prescribed format, to the Tax Officer, for registration, within Thirty days after the date of imposition of such tax or the date of commencement of the transactions.”

(b) The word “application” shall be substituted for the word “petition” contained in Sub-section (4).

(9) Section 10A. shall be deleted.

(10) Of Section 11,-

(a) Of Sub-section (1),-

(1) The following Clause (c) shall be substituted for Clause (c):

“(c) In the case of a partnership firm, if such partnership firm is dissolved or the partner dies,”

(2) The following Clause (d1) shall be inserted after Clause (d):

“(d1) If the taxpayer is one who gives zero return or does not give return at all within a consecutive period of One year,”

(b) The following Sub-section (3) shall be substituted for Sub-section (3):

“(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: “capital goods” means any property or any part of property and property that is used in taxable transactions.”

- (c) The following Sub-section (4) shall be substituted for Sub-section (3):

“(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 from the consequence of such a liability.”

- (11) The following Section 12A Shall be inserted after Section 12:

“12A. Taxable value of timber transaction: (1) There shall be levied and collected tax on the amount of royalty of the timber of national forest or the amount of auction, whichever is higher, at the time of auction, release or saw order, whichever is earlier.

(2) If the timber of a personal cultivated, private forest or community forest for business purpose and despite that royalty is not chargeable, tax shall be leviable as if it were the timber of national forest.”

- (12) Of Section 14,-

- (a) The following proviso shall be inserted in Sub-section (1):

“Provided that, a person who carries on annual transaction of more than One Million Rupees shall issue invoices with serial number and permanent accounts number as well as his or her name, and address despite that he or she is not registered.”

- (b) The following Sub-sections (4), (5), (6) and (7) shall be inserted after Sub-section (3):

“(4) One who transports goods attracting tax of more than Ten Thousand Rupees outside the area specified by the Department shall hold tax invoices with him or her.

(5) The Department may order taxpayers to issue invoices by using a cash machine or computer. Procedures of such order shall be as prescribed by the Director General.

(6) The Department may, by publishing a notice or giving an order in writing, so specify that any person specified by such a notice or order has to make public the retail sale value or price of any such goods as specified in that order or notice for such period as specified therein. No sale or transfer of any goods shall be made without making public the retail sale price after the receipt of such a notice or order.

(7) Provision shall be made that any person specified pursuant to Sub-section (6) shall, in selling such goods to any unregistered persons, have to issue invoices of the price made public in the specified format and collect also the tax at the consumer level.

Provided that, any person not so specified pursuant to Sub-section (6) may issue invoices as referred to in this Sub-section in a prescribed format.”

- (13) The following Sub-section (3) shall be inserted after Sub-section (2) of Section 15:

“(3) Notwithstanding anything contained in Sub-sections (1) and (2), a Local Body or Government of Nepal shall have to collect or recover tax at the time of sale of taxable goods or services.

- (14) The following Sub-section (1a) shall be inserted after Sub-section (1) of Section 16:

“(1a) The Department may have continuous access to the computer database of taxpayers.”

- (15) The following Section 16B. shall be inserted after Section 16A:

“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 expired the date of uses goods of value added tax paid on the goods shall be deducted as prescribed.”

If there is lost by disruptive activity, to applicant for reduce tax within One year.

- (16) Of Section 17,-

- (a) The words "high price" shall be deleted contained in Clause (d) of Sub-section (2) of Section 17:

- (b) The following explanation shall be inserted after Sub-section (2):

NEPAL LAW COMMISSION

Explanation:

- (a) "Personal use" means to be used by oneself or his/her relative.
- (b) "Relative" means husband, wife, son, daughter (including adopted son adopted daughter) father, mother, grandfather, grandmother, elder brother, younger brother, wife of elder brother, wife of younger brother, elder sister, younger sister, mother-in-law, father-in-law, brother-in-laws, sister-in-laws, elder sister of wife, uncle, aunt, nephew, niece, grandson and granddaughter of natural person.
- (c) The following Sub-section (5a) shall be substituted for Sub-section (5a):
- “(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).”
- (d) The following Sub-section (5b) shall be inserted after Sub-section (5a):
- “(5b) The concerned taxpayer shall be allowed to deduct tax paid pursuant to Section 12A. and Sub-section (3) of Section 15.”
- (e) The following Sub-section (8) and (9) shall be inserted after Sub-section (7):

“(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 shall also be *ipso facto* suspended.”

(9) Office shall give information of those taxpayers whose registration is suspended pursuant to Sub-section (8) and after getting such information, a customer who purchases goods or service from such taxpayer, he/she shall not be eligible to refund or rebate the tax.

(17) Of Section 18,-

- (a) The words “or by registered post” shall be inserted after the words “before the Tax Officer” contained in Sub-section (1).
- (b) The following Sub-sections (1a) shall be inserted after Sub-section (1):

“(1a) Notwithstanding anything contained in Sub-section (1), a taxpayer in a district where there is no Inland Revenue Office may furnish the amount of tax returns to be paid and submitted by him/her with the Office of Funds and Accounts Controller of the same district within the Fifteenth day of the month in which he/she has to furnish the tax returns paying the tax. The Office of Funds and Accounts Controller shall forward the returns of tax and payment of tax so received to the Inland Revenue Office within Seven days.”

(18) Of Section 19,-

- (a) The following Sub-section (2) shall be substituted for Sub-section (2):

“(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.”

- (b) Sub-section (3) is hereby deleted.
- (c) The word and number “or (3)” shall be deleted contained in Sub-section (4).
- (d) The word and number “or (3)” shall be deleted contained in Sub-section (5).

(19) Of Section 20,-

- (a) The following Clauses (f) shall be inserted after Clause (e) of Sub-section (1):

“(f) If supply is made to the group company,

- (b) The following Sub-section (2A) shall be inserted after Sub-section (2):

“(2A) Any manager or director, with an intention to totally or partially evade tax commits an act and such an act if the liability to pay tax, penalty or fine to any bodies such a manager or director who acts with such intention shall be personally responsible for such liability.

If such a manager or director intentionally evades tax with the help of wrong information, wrong document, wrong data (facts and figure) or any other similar wrongful acts, he/she shall be liable to bear the responsibility of such amount and the charge and fine so imposed by the law.

Provided that, the manager or director of a body, who has performed his/her duty or responsibility with a bona fide intention and the tax has been evaded in such situation, the body shall be responsible for the tax so evaded. ”

- (c) The following Sub-section (4) shall be substituted for Sub-section (4):

“(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.”

- (c) The following Sub-section (4a) shall be inserted after Sub-section (4):

“(4a) Notwithstanding anything contained in Sub-section (4), where any person has evaded tax by preparing false accounts or invoices or other documents or by fraud, the Department may at any time issue an order for the reassessment of tax.”

- (20) Of Section 21,-

- (a) The following Clause (c) shall be substituted for Clause (c) of Sub-section (1):

“(c) By selling all or some of the properties of the taxpayer through sealed quotations or auction at the same time or various times.”

- (b) Sub-section (2) shall be deleted.

- (21) The following Section 22A. shall be inserted after Section 22:

“22A. Provision against tax evasion plan: Notwithstanding anything contained elsewhere in this Act, if any taxpayer commits any of the following acts with intention to take advantage of tax, the taxpayer shall be deemed to have committed enticement to evade tax through tax exemption scheme, and the Director General may order the Tax Officer to assess the tax of such a taxpayer and recover the same:

- (a) To lessen the liability of tax by making or doing any scheme or act with mala fide intention to evade tax by manipulating any provision contained in this Act,
- (b) If any person or entity does any act with mala fide intention to lessen the liability of tax or enters into agreement with that intention.

Explanation: For the purpose of this Section:

- (a) "Plan" means any agreement, system, advantage and any act directly or indirectly related to the implementation of plan.

(b) "Advantage of tax" means any of the following act of a person committed for the purpose of reducing the tax liability or increasing the tax..... or tax reduction or evading the responsibility of paying tax:

- (1) If a person who is not registered for the purpose of tax is involved in an act as if he/she is registered or in an act to receive (get) advantage of tax,
- (2) If a person who is not registered for the purpose of tax supplies goods and services which are taxable or non-taxable and such supply system affects the person who is registered for the purpose of tax,
- (3) If supplies any goods or services affecting the market price.

(22) The following Sections 23C. and 23D. shall be inserted after Section 23B.:

“23C. Purchase of goods of under invoicing: (1) If any person sells any goods by under invoicing, showing the selling price lesser than the prevailing market price, the Tax Officer shall, notwithstanding anything contained in the laws in force, withhold the goods in stock similar to those goods so under invoiced and sold and the Inland Revenue Office may purchase or cause to be purchased the same at the price under invoiced and sold.

(2) If, in purchasing or caused to be purchased the goods by the Department or Office pursuant to Sub-section (1), such a person does not agree to sell the goods, the Department of office shall take such goods in its custody, make calculation on the basis of the price at which they were under invoiced and sold and make payment when such a person shows up to receive payment.

(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.”

“23D. Power to make search, seizure or demand deposit or

security: (1) If the Tax Officer finds that any person, firm, company or organization has done transaction by evading tax and there is a possibility that the accused may go away or the evidence and proof of offence may disappear, the Tax Office may, with the approval of the Director General, do or cause to be done any of the following acts:

- (c) To seal the place of transaction,
- (d) To demand cash deposit or wealth guarantee in a sum equivalent to the tax evaded from the person believed to have committed the offence, by executing a memorandum to that effect,

(2) The Tax Officer shall have the same powers as the police may exercise under the laws in force in relation to the investigation of offences pursuant to this Act.”

(23) Of Section 25,-

(a) The following Clause (a) shall be substituted for Clause (a) of Sub-section (1):

“(a) If a foreign country grants on reciprocity that tax exemption facility to Nepalese diplomats whom the Government of Nepal, Ministry of Foreign Affairs, has granted diplomatic recognition or to persons enjoying diplomatic facility and serving in regional or international missions or institutions, the amount of tax paid by the Nepal based diplomats of such country or regional or international missions or institutions to the extent of consumption by them.”

(b) The following Sub-section (1a) shall be inserted after Sub-section (1):

“(1a) Notwithstanding anything contained in Sub-section (1), the tax paid by a diplomatic body or diplomat on the purchase of taxable goods or services shall not be refunded if the amount purchase is less than One Thousand Five Hundred Rupees at one time.”

(24) The following Sections 25A. shall be inserted after Section 25:

“25A. Refund of tax paid by foreign tourist on purchase: If a foreign tourist visiting Nepal and returning by air purchases taxable goods of more than Fifteen Thousand Rupees and takes them with him or her, the tax paid on such goods shall be refunded in accordance with the procedures specified by the Department.

- (25) The following Sub-section (2) shall be substituted for Sub-section (2) of Section 26:

“(2) For the purposes of Sub-section (1), the rate of interest shall be Fifteen per cent per annum.”

- (26) Of Section 29,-

- (a) Of Sub-section (1),-

- (1) The following Clause (b1) shall be inserted after Clause (b):

“(b1) In the event of failure to place a tax board in accordance with this Act or the Rules framed under this Act, a fine of Two Thousand for each week and in the event of failure to place it at the designate place, a fine of One Thousand.”

- (2) The following Clause (c) shall be substituted for Clause (c):

“(c) In the event of violation of Sub-sections (1) and (4) of Section 14, Five Thousand Rupees for each instance fine including recover the liable tax.”

- (b) The following Sub-section (1a) shall be inserted after Sub-section (1):

“(1a) In the event of lessening tax liability without observing this Act or the Rules framed under this Act, the Tax Officer may fine up to Twenty Five

percent of the amount of tax, on the grounds as specified by the Department.”

- (c) The following Sub-section (2) shall be substituted for Sub-section (2):

“(2) If a person commits any of the following offences, the Tax Officer may impose a fine of cent percent of the amount of tax or an imprisonment up to Six months or both the fine and the imprisonment on such a person:

- (a) Preparing false accounts, invoices or other documents;
- (b) Committing an evasion of tax by fraud;
- (c) If an unregistered person acts as if he or she were a registered person;
- (d) Carrying out a transaction by infringing Section 30.”
- (e) Infringing Section 23C.;

- (27) The following Section 29A. shall be inserted after Section 29:

“29A. Power of Department to order to furnish the amount of fine: (1) Notwithstanding anything contained elsewhere in this chapter, if any person, prior to the commencement of proceedings of action, admits in writing that he or she has committed another offence or more than such offence set forth in Sub-section (2) of Section 29, the Department may order such a person to furnish the amount of fine not

exceeding the amount of fine imposable for the commission of such an offence.

(2) In issuing order as referred to in Sub-section (1), such an order has to set out the details of such offence, amount of fine to be paid and date for payment of the amount of fine.

(3) An order issued by the Department pursuant to this Section shall be final.”

(28) The following Section 30A. shall be inserted after Section 30:

“30A. Power to order for reassessment of tax: (1) In cases where, before tax is assessed, it appears from the information given to the 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.

(2) In cases where it appears that tax liability has increased because of tax assessment made by the Tax Officer recklessly or with mala fide intention, the Director General may give order to amend such tax assessment order within Four months after the date of initial tax assessment.”

(29) The following Section 31A. shall be substituted for Section 31A:

“31A. Application may be made for administrative review:

(1) A person who is not satisfied with any decision of tax

assessment made by the Tax Officer may make an application to the Department against the decision within Thirty days of the date of receipt of a notice of that decision.

(2) In cases where the time limit for making application pursuant to Sub-section (1) expires and any person makes an application for the extension of time limit within Seven days from the date of expiration of the time limit, the Department may extend the time limit for a period not exceeding Thirty days from the date of expiration of the time limit.

(3) If the claim of the applicant appears to be true upon examining the evidence and documents including the application made by the taxpayer pursuant to Sub-section (1), the Director General may, by executing a memorandum setting out the clear reasons, void that tax assessment order and direct the concerned Tax Officer to make re-assessment of tax or order any Tax Officer to do that act.

(4) The Department shall make decision on the application within Sixty days after the date of making of application pursuant to Sub-section (1).

(5) If the Department does not give decision within the time limit as referred to in Sub-section (4), the concerned person may make an appeal to the Revenue Tribunal pursuant to Section 32.

(6) The taxpayer who makes an application has to furnish a cash deposit of One Third of the amount of tax in controversy.

(7) In cases where excess of the amount to be furnished pursuant to Sub-section (1) has been furnished prior to the making of application, only the remaining amount upon deduction of the amount covered by that amount may be furnished as deposit.

NEPAL LAW COMMISSION

(30) The following Section 32 shall be substituted for Section 32:

“32. Appeal in the Revenue Tribunal: (1) A person who is not satisfied with an order of suspension 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 in the Revenue Tribunal according to the Revenue Tribunal Act, 2031.

(2) The person who files an appeal pursuant to Sub-section (1) has to register a copy of the appeal with the Department within Fifteen days of the date of filing appeal.”

(31) The following Section 32A. shall be inserted after Section 32:

“32A. Advance ruling: (1) If any person makes an application in writing to the Department for the removal of any confusion as to the application of this Act, the Department may issue its version by an advance ruling as prescribed, by notifying the person in writing.

(2) Notwithstanding anything contained in Sub-section (1), the Department shall not be entitled to issue an advance ruling referred to in Sub-section (1) on any matter of confusion occurred in the implementation of this Act in cases where such matter is *sub judice* in the court or has already been decided by the court.

(32) The following Section 34A. shall be inserted after Section 34:

“34A. Power to have expert's service: The Government of Nepal may obtain the service of the concerned expert for the act related to tax auditing; and the provision on

governmental secrecy mentioned in Section 37 shall also apply to such an expert.”

- (33) The following Sub-section (1) shall be substituted for Sub-section 91) of Section 40:

“(1) **Award**: A person who provides information, along with evidence, showing that a taxpayer has evaded or attempted to evade all or some portions of his/her tax liability may be awarded, by a decision of the Director General, as reward the amount that is equal to Twenty per cent of the amount of tax recovered on the basis of that information.”

- (34) The following Section (40A) shall be inserted after Section 40.

“**40A. Fine and charge shall not be levied**: Notwithstanding anything contained elsewhere in this Act, if the burden of tax so matters but the as such amount of tax collection does not matters by virtue of the interpretation or decision of this Act or Rules hereunder, no fine or charge shall be collected before such interpretation or decision.”

- (35) The following Schedule-1 and Schedule-2 shall be substituted for Schedule-1 and Schedule-2:

“Schedule-1

(Relating to Sub-section (3) of Section 5)

List of VAT exempt goods and services

Group 1. Basic Agricultural Products

- (a) Paddy, rice, wheat, maize, barley, millet, buckwheat, pulses, flour, rye flour, grains, paddy flakes, peas, chickpeas, kidney peas, beans and similar basic unprocessed food materials and their extracts.
- (b) Green and fresh vegetable, fresh fruits, fresh eggs, tuberous roots, and fruits, vegetables and as use in vegetable and tuberous roots, fresh and unprocessed agro-products. (Except those to be supplied hotels, restaurants, bars, guest houses, cafeteria and other similar organizations).
- (c) Unprocessed cash crops/cereals (such as sugarcane, cotton, cardamom, ginger and saffron, flax, unprocessed tobacco, tea leaf sold by farmers, proved orthodox tea producing using biological fertilizer, packing of tea (tea chest), coffee, soybean, ground-nuts, turmeric and oil-cake.
- (d) Herbs (including their extracts).

Group 2. Goods of Basic Needs:

- (a) Piped water, including water supplied by tankers.
- (b) Wood and coal.
- (c) Salt.

Group 3. Live Animals and animal products

- (a) Goats, sheep and mountain goats, yak and buffalos, bore and pigs, rabbit and their unprocessed raw edible food items.
- (b) Cows and she buffalos, she goats, and their fresh milk, (including pasteurized), Fresh curd, bees and bee hives.
- (c) Ducks, hens, cocks, turkey and similar other birds their fresh meat and unprocessed raw items and eggs.
- (d) Fresh or dried fish (except other than packed).

4. Agricultural inputs

- (a) Crops, grasses, flowers or live trees and other plants, bulbs, tubers, tuberous roots and bulbs and roots used as seeds.
- (b) Manure, fertilizer and soil conditioners.
- (c) Hand tools, spades, shovels, mattocks, picks, hoes, forks and rakes, axes, bill hooks and similar hewing tools, secateurs of any kind, scythes, sickles, hay knives, other than hand saws, hedge shears, timber wedges, ploughshare and other tools of a kind used in agriculture.
- (d) Insecticides, fully or partially used only for crops.
- (e) Use in agriculture function Tractors, cultivators, tantalum, levelers to be used harvesting or threshing machine, threshers, fishing nets, to Eight horse power up to pumping sets.
- (f) Feed and ingredient of feed supplements and bone dust.

Group 5. Medicine, Medical and Similar Health services

- (a) Health services.
- (b) Human blood and human blood items and vaccines.
- (c) Human or animal organs or tissue for medical research.
- (d) Medicaments for treatment of livestock and human beings and family planning means.
- (e) Pacemakers used in treatment of heart diseases, stint, valve of heart, goods made for, and suitable only for the use of, infirm and disabled persons.
- (f) X-ray film and oxygen gas to be used for treatment, bandage and
- (g) **Raw materials for drug industries:** metal salts, oxides and hydro-oxides used by drug industries and in the production of IOL, falling under Chapter 28 of the Customs Tariff, as well as raw materials of drugs (active ingredients of drugs) and raw materials used by drug industries in production of drugs and packing materials.

Group 6: Education

- (a) Research related acts in schools or universities.
- (b) Getting purpose for non-profit, Vocational or professional trainings or refresher trainings.
- (c) Educational services provided by schools and universities.

Group 7: Books, newspapers and printed materials

- (a) Books, calendars, newsletters and printing and publication thereof.
- (b) Newsprint.

NEPAL LAW COMMISSION

Group 8: Artistic and cultural goods and services, carving services

- (a) Painting, handicrafts, carving and similar other handicrafts and related services.
- (b) Cultural programs.
- (c) Admission fees to libraries, museums, art museums, zoos and botanical gardens, and national parks.

Group 9: Passengers and goods transportation services

Air transport.

Group 10: Personal or Professional service:

Personal services rendered by artists, sportspersons, authors, writers, designers, translators and interpreters institutionally or individually, and services of supplying human resources to foreign countries.

Group 11: Other goods or services:

1. Postal services (only those provided by the Government of Nepal):
 - (a) Services of conveyance or transfer of letters, money and postal packets.
 - (b) Other services required for the services of conveyance or transfer of letters, money and postal packets.
 - (c) Postage stamps.
 - (d) Services provided by the Government of Nepal.
2. Excise duty stamp, cash machine and passport.

3. Financial services and life insurance services.
4. Bank notes and cheque books:
 - (a) Printing and issue of bank notes.
 - (b) Supply of bank notes from foreign countries into Nepal.
 - (c) Cheque books.
5. Gold and silver:
 - (a) Gold coins, gold ornaments and diamond ornaments.
 - (b) Silver and silver coins, silver ready-made goods and ornaments.
6.
 - (a) Electricity supply of 440, 220 volt,
 - (b) Hydro power project upto Three megawatt.
7. Raw wool.
8. Battery operated tempo and their chassis and Battery.
9. Bio-gas, solar power and wind power operated machine and equipments.
10. Aircrafts and helicopters, fire engine (*Damcal*), ambulances and corpse carrying vehicles.
11. Jute products.
12. Industrial machines up to 5 percent customs duty as falling under Part 84 of the Customs Tariff.
13. Woolen carpet and woolen carpet weaving, dying, washing and knitting.

14. 100 percent cotton sari, *Lungi*, *Dhoti* (for both men and women), *Gamcha* and cotton yarn.
15. Woolen yarn to be used in hand knitting sweater (except artificial and acrylic) domestically.
16. Donated goods received for any natural calamities or philanthropic purpose, as approved by the Ministry of Finance, Government of Nepal.
17. Goods of personal use that do not attract customs duty and are imported under the Luggage and Baggage Order facility.
18. If the Government of Nepal considers reasonable to grant any exemption to any taxable goods or to refund tax, it may grant such exemption by publishing a notice in the Nepal Gazette.

Group 12: Lands and buildings

Purchase, sale and rental of lands and buildings (except the services provided by such entities carrying on business such as hotels and guest houses).

Group 13: Betting, casinos and lotteries

Activities relating to facilities provided for the organization of bets or gambling, and lottery.

Note:

- (1) The Department, as prescribed, and in consultation with the Department of Customs, interpretation of the goods and services enjoying tax exemption and the Harmonized Code of Commodities as necessary.

- (2) Tax paid for the purpose of value added tax, among them Seventy Five percent for Textile industries and Twenty Five percent for flour or rubber industries shall be refunded after fulfilling the procedures specified by the Department.

NEPAL LAW COMMISSION

Schedule-2

(Relating to Sub-section (2) of Section 7)

Goods and services subject to zero rate

1. **Goods exported from Nepal:** If it is proved that goods are supplied as follows:
 - (a) Goods exported outside Nepal, or
 - (b) Goods shipped for use as stores on an international flight of which destination is outside Nepal, or
 - (c) Goods put on board an international flight of which destination is outside Nepal for retail sale or supply or consumption.
2. **Services to be supplied to persons outside Nepal:**
 - (a) A supply of services by a person residing in Nepal to a person outside Nepal, who has no business transaction, business representative or legally recognized agent in Nepal.
 - (b) A supply of goods or services by a person who is residing and is registered in Nepal to a person who is residing outside Nepal.
3. Goods or services imported by a person or mission enjoying diplomatic facility and a person serving in a diplomatic mission enjoying tariff facility, on the recommendation of the Ministry of Foreign Affairs, Government of Nepal.
4. If any previous treaty or agreement provides for the sales tax exemption on imports, and local purchase is made from the registered taxpayers, on the recommendation of the concerned project, the facility of zero rate

shall be provided on such supplies, so long as such treaty or agreement is in effect.

NEPAL LAW COMMISSION

Financial Act, 2064 (2007)

Date of Authentication and Publication

2064.3.28 (12 July, 2007)

An Act Made to Implement Proposals Relating to Finance of the Government of Nepal

Preamble: Whereas, it is expedient to levy some charges, taxes, duties, cesses and fees, continue or alter the existing ones and also to amend the laws in force relating to revenue administration in order to implement the proposals relating to finance of the Government of Nepal;

Now, therefore, be it enacted by Legislature-Parliament.

1. Short title and commencement: (1) This Act may be called as the “Financial Act, 2064 (2007).”

(2) Sections 1, 2, 3, 4, 5, 9 and 11 of this Act shall be deemed to have come into force on 28 *Ashad* 2064 (11 July 2007) and the other Sections on 1 *Shrawan* 2064 (17 July 2007).

35. Amendment to the Value-added Tax Act, 2052 (1996): Of the Value-added Tax Act, 2052 (1996),-

(1) Of Section 2,-

(a) The following Clause (f1) shall be inserted after Clause (f):

“(f1) “Group of companies or entities” means a group of companies or entities in relation to which the following situation exists:

- (a) If any business is carried on by a person or agent member associated with the group of entities,
 - (b) If any goods or services are supplied by the group of entities to any entity or group of other entities associated with it,
 - (c) If any goods or services are supplied to the group of entity or member of the group,
 - (d) If the permanent address of operation of business of any two or more than two entities is in the same place, or
 - (e) If the group of entities is controlled directly or indirectly by any one person or some persons.”
- (b) The following Clause (h) shall be substituted for Clause (h):
- “(h) "Consideration" means anything to be obtained in exchange for the price of any goods or services being supplied.”
- (c) The following Clause (h1) shall be inserted after Clause (h):
- “(h1) "Loan agreement" means a hire purchase agreement or financial lease.”
- (d) The following Clause (k1) shall be substituted for Clause (k):

“(k1) Electronic medium" includes approved means such as the computer, fax, e-mail, internet, electronic cash register/machine and fiscal printer.

(e) The following Clause (t) shall be substituted for Clause (t):

“(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 office, 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.”

(2) The following Section 4 shall be substituted for Section 4:

“4. Jurisdiction of the Tax Officer: (1) The jurisdiction of Tax Officer shall be as prescribed by the Government of Nepal.

(2) The Director General of Department may also so designate a Tax Office as to inspect and monitor also the transaction of taxpayers in other areas than those falling under his or her jurisdiction.”

(3) The following Section 5A. shall be substituted for Section 5A:

“5A. Tax not to be levied on transfer of ownership of transactions: Notwithstanding anything contained elsewhere in this Act, in cases where a registered person sells the transaction being carried out by him or her to any other registered person or the transaction is transferred in

the name of his or her heir by virtue of death, such transfer of ownership shall not be subject to tax. The person registered in so selling or transferring the transaction shall give information thereof to the Department as prescribed.

(2) Notwithstanding anything contained in Sub-section (1), if any industry or business that is required to be registered or has been registered pursuant to laws is transferred, the transferee who obtains the ownership shall bear the transferor's liability of tax specified by law.

(3) The person who obtains ownership shall, subject to Sub-section (3), bear the obligation of safely maintaining the accounts, records and books of account of the transaction of such an industry or business until the prescribed period (before and after transfer) pursuant to this Act."

- (4) The following Explanation shall be inserted in Clause (c) of Sub-section (2) of Section 6:

Explanation: For the purposes of this Clause, acquisition shall be deemed in the following circumstance:

- (a) Copyrights, patents, licenses, trademarks and similar other rights,
- (b) Advertisement services,
- (c) Technical services, engineering services, services of suppliers providing technical services, legal services, accounting services, data and data processing services, information services and similar other services.

- (d) In supplying the services as referred to in Sub-section (1) or accepting any liability or undertaking or in exercising that undertaking fully or partly or doing any business activities in exercise of such right, or
 - (e) Insurance or reinsurance services other than the facility of safe deposit.
- (5) The following Sub-section (1) shall be substituted for Sub-section (1) of Section 7:
- “(1) The rate of tax to be levied pursuant to this Act shall be in single rate of 13 percent.”
- (6) The following Section 8A. shall be inserted after Section 8:

“8A. Provision of bank guarantee: (1) An industry that exports more than Sixty percent of the total sale of the last Twelve months after the operation of the industry may make import by furnishing a bank guarantee with the concerned Tax 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 duty free shop through a bonded warehouse may be made by furnishing a bank guarantee with the concerned Tax Office in consideration for tax leviable on such goods.

Provided that, except for the import by a duty 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 Twenty percent value addition.

(2) The bank guarantee furnished pursuant to Sub-section (1) shall be released from the concerned Tax Office in accordance with the procedures specified by the Department.

(3) A person who enjoys the facility as referred to in this Section shall not be entitled to the facility as referred to in Sub-section (4) of Section 24.”

(7) The following Section 9 shall be substituted for Section 9:

“9. Exemption for small vendor: 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 and filing of tax returns and from such requirements as may be prescribed.

Provided that, if a small vendor wishes to have his or her transaction registered voluntarily, he or she may have such registration after completing the procedures as referred to in Section 10.”

(8) Of Section 10,-

(a) The following Sub-sections (1) and (2) shall be substituted for Sub-sections (1) and (2):

“(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.

(2) If any goods transacted by a person is taxable or if any person operates of hardware, sanitary, furniture, fixture, furnishing, automobiles, electronics and marble within a Municipal Corporation, Sub-municipal Corporation, Municipality or Depart or within an area specified by the Department, the person has to make an application in the prescribed format, to the Tax Officer, for registration, within Thirty days after the date of imposition of such tax or the date of commencement of the transactions.”

(b) The word “application” shall be substituted for the word “petition” contained in Sub-section (4).

(9) Section 10A. shall be repealed.

(10) The following Section 10B. shall be inserted after Section 10A:

“10B. Special provision relating to provisional registration:

(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 registered with the Value Added Tax. In the case of a person who is so registered, the Tax Officer may require a deposit in consideration for security.

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

(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.”

(11) Of Section 11,-

(a) Of Sub-section (1),-

(1) The following Clause (c) shall be substituted for Clause (c):

“(c) In the case of a partnership firm, if such partnership firm is dissolved or the partner dies,”

(2) The following Clause (d1) shall be inserted after Clause (d):

“(d1) If the taxpayer is one who gives zero return or does not give return at all within a consecutive period of One year,”

(3) The following Sub-section (1b) shall be inserted after Sub-section (1a) of Section 11:

“(1b) A taxpayer has to submit his or her documents for auditing within fifteen days of the submission of the tax returns for cancellation of registration, and the Tax Officer shall perform the audit of such a taxpayer, cancel the registration within

Three months or if registration is not to be so cancelled, the Tax Officer shall give information thereof to the taxpayer. If the Tax Officer does not cancel registration or make decision to cancel registration within that period, the taxpayer is not obliged to furnish the tax returns subsequent to that period.”

- (b) The following Sub-section (3) shall be substituted for Sub-section (3):

“(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.”

- (c) The following Sub-section (4) shall be substituted for Sub-section (3):

“(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 from the consequence of such a liability.”

NEPAL LAW COMMISSION

(12) The following Section 12A. Shall be inserted after Section 12:

“12A. Taxable value of timber transaction: (1) There shall be levied and collected tax on the amount of royalty of the timber of national forest or the amount of auction, whichever is higher, at the time of auction, release or saw order, whichever is earlier.

(2) If the timber of a personal cultivated, private forest or community forest for business purpose and despite that royalty is not chargeable, tax shall be leviable as if it were the timber of national forest.”

(13) Of Section 14,-

(a) The following proviso shall be inserted in Sub-section (1):

“Provided that, a person who carries on annual transaction of more than One Million Rupees shall issue invoices with serial number and permanent accounts number as well as his or her name, and address despite that he or she is not registered.”

(b) The following Sub-sections (4), (5), (6) and (7) shall be inserted after Sub-section (3):

“(4) One who transports goods attracting tax of more than Ten Thousand Rupees outside the area specified by the Department shall hold tax invoices with him or her.

(5) The Department may order taxpayers to issue invoices by using a cash machine or computer. Procedures

of such order shall be as prescribed by the Director General.

(6) The Department may, by publishing a notice or giving an order in writing, so specify that any person specified by such a notice or order has to make public the retail sale value or price of any such goods as specified in that order or notice for such period as specified therein. No sale or transfer of any goods shall be made without making public the retail sale price after the receipt of such a notice or order.

(7) Provision shall be made that any person specified pursuant to Sub-section (6) shall, in selling such goods to any unregistered persons, have to issue invoices of the price made public in the specified format and collect also the tax at the consumer level.

Provided that, any persons not so specified pursuant to Sub-section (6) may issue invoices as referred to in this Sub-section as prescribed format.”

- (14) The following Sub-section (3) shall be inserted after Sub-section (2) of Section 15:

“(3) Notwithstanding anything contained in Sub-sections (1) and (2), a Local Body or Government of Nepal shall have to collect or recover tax at the time of sale of taxable goods or services.

- (15) The following Sub-section (1a) shall be inserted after Sub-section (1) of Section 16:

“(1a) The Department may have continuous access to the computer database of taxpayers.”

- (16) The following Sub-section (3a) shall be inserted after Sub-section (3) of Section 16:

“(3a) A person who carries on the transactions of taxable goods or services but is not registered has himself or herself certify the account of purchase and sale for each financial year. The Tax Officer may at any time examine such an account.”

- (17) The following Section 16A. Shall be substituted for Section 16A:

“16A. Records processed by computer to be eligible as evidence: (1) Notwithstanding contained in the laws in force, the records relating to taxpayer processed by the computer installed in the Department or offices thereunder shall be eligible as evidence for purposes of tax, except as otherwise proved.

(2) The Department may by publishing a notice, make necessary arrangements on the issuance of invoices, maintenance of accounts, submission of tax returns and payment through electronic medium."

- (18) The following Section 16B. shall be inserted after Section 16A:

“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, disruptive activity or expired the date of uses goods of value added tax paid on the goods shall be deducted as prescribed.”

- (19) Of Section 17,-

- (a) The following Sub-section (2) shall be substituted for Sub-section (2):

“(2) Notwithstanding anything contained in Sub-section (1), it may be provided that no deduction or only a partial deduction may be granted in the case of the prescribed goods that can be used for personal purpose or for business purpose or for both purposes.”

- (b) The following Sub-section (5a) shall be substituted for Sub-section (5a):

“(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).”

- (c) The following Sub-section (5b) shall be inserted after Sub-section (5a):

“(5b) The concerned taxpayer shall be allowed to deduct tax paid pursuant to Section 12A. and Sub-section (3) of Section 15.”

- (d) The following Sub-section (8) shall be inserted after Sub-section (7):

“(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.”

NEPAL LAW COMMISSION

(20) Of Section 18,-

- (a) The words “or by registered post” shall be inserted after the words “before the Tax Officer” contained in Sub-section (1).
- (b) The following Sub-sections (1a) shall be inserted after Sub-section (1):

“(1a) Notwithstanding anything contained in Sub-section (1), a taxpayer in a district where there is no Inland Revenue Office may furnish the amount of tax returns to be paid and submitted by him/her with the Office of Funds and Accounts Controller of the same district within the Fifteenth day of the month in which he/she has to furnish the tax returns paying the tax. The Office of Funds and Accounts Controller shall forward the returns of tax and payment of tax so received to the Inland Revenue Office within Seven days.”

(21) Of Section 19,-

- (a) The following Sub-section (2) shall be substituted for Sub-section (2):

“(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.”

- (b) Sub-section (3) is hereby deleted.
- (c) The word and number “or (3)” shall be deleted contained in Sub-section (4).

- (d) The word and number “or (3)” shall be deleted contained in Sub-section (5).

(22) Of Section 20,-

- (a) The following Clauses (f) shall be inserted after Clause (e) of Sub-section (1):

“(f) If supply is made to the group company by making under invoicing,

- (b) The following Sub-section (4) shall be substituted for Sub-section (4):

“(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.”

- (c) The following Sub-section (4a) shall be inserted after Sub-section (4):

“(4a) Notwithstanding anything contained in Sub-section (4), where any person has evaded tax by preparing false accounts or invoices or other documents or by fraud, the Department may at any time issue an order for the reassessment of tax.”

(23) Of Section 21,-

- (a) The following Clause (c) shall be substituted for Clause (c) of Sub-section (1):

“(c) By selling all or some of the properties of the taxpayer through sealed quotations or auction at the same time or various times.”

(b) Sub-section (2) shall be deleted.

(24) The following Section 22A. shall be inserted after Section 22:

“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 enticement to evade tax through tax exemption scheme, and the Director General may order the Tax Officer to assess the tax of such a taxpayer and recover the same:

(a) To lessen the liability of tax by making or doing any scheme or act with mala fide intention to evade tax by manipulating any provision contained in this Act,

(b) If any person or entity does any act with mala fide intention to lessen the liability of tax or enters into agreement with that intention.”

(25) The following Sections 23C. and 23D. shall be inserted after Section 23B.:

“23C. Purchase of goods of under invoicing: (1) If any person sells any goods by under invoicing, showing the selling price lesser than the prevailing market price, the Tax Officer shall, notwithstanding anything contained in the laws in force, withhold the goods in stock similar to those

goods so under invoiced and sold and the Inland Revenue Office may purchase or cause to be purchased the same at the price under invoiced and sold.

(2) If, in purchasing or caused to be purchased the goods by the Department or Office pursuant to Sub-section (1), such a person does not agree to sell the goods, the Department of office shall take such goods in its custody, make calculation on the basis of the price at which they were under invoiced and sold and make payment when such a person shows up to receive payment.

(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.”

“23D. Power to make search, seizure or demand deposit or security: (1) If the Tax Officer finds that any person, firm, company or organization has done transaction by evading tax and there is a possibility that the accused may go away or the evidence and proof of offence may disappear, the Tax Office may, with the approval of the Director General, do or cause to be done any of the following acts:

- (a) To seal the place of transaction.
- (b) To take custody of the electronic equipment or records thereof.
- (c) To demand cash deposit or wealth guarantee in a sum equivalent to the tax evaded from the person believed to have committed the

offence, by executing a memorandum to that effect.

(2) The Tax Officer shall have the same powers as the police may exercise under the laws in force in relation to the investigation of offences pursuant to this Act.”

(26) The following Sub-section (5) shall be substituted for Sub-section (5) of Section 24:

“(5) On the submission of an application pursuant to Sub-section (3) or (4), the Tax Officer shall refund immediately the amount held to be refundable, and if such an amount is not refunded within Thirty days after the date of submission of application in relation to the matter referred to in Sub-section (3) and within Sixty 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.”

(27) Of Section 25,-

(a) The following Clause (a) shall be substituted for Clause (a) of Sub-section (1):

“(a) If a foreign county grants on reciprocity that tax exemption facility to Nepalese diplomats whom the Government of Nepal, Ministry of Foreign Affairs, has granted diplomatic recognition or to persons enjoying diplomatic facility and serving in regional or international missions or institutions, the amount of tax paid by the Nepal based diplomats of such

country or regional or international missions or institutions to the extent of consumption by them.”

- (b) The following Sub-section (1a) shall be inserted after Sub-section (1):

“(1a) Notwithstanding anything contained in Sub-section (1), the tax paid by a diplomatic body or diplomat on the purchase of taxable goods or services shall not be refunded if the amount purchase is less than One Thousand Five Hundred Rupees at one time.”

- (28) The following Sections 25A. shall be inserted after Section 25:

“25A. Refund of tax paid by foreign tourist on purchase: If a foreign tourist visiting Nepal and returning by air purchases taxable goods of more than Fifteen Thousand Rupees and takes them with him or her, the tax paid on such goods shall be refunded in accordance with the procedures specified by the Department.

- (29) The following Sub-section (2) shall be substituted for Sub-section (2) of Section 26:

“(2) For the purposes of Sub-section (1), the rate of interest shall be Fifteen per cent per annum.”

- (30) The following Sub-section (1a) shall be inserted after Sub-section (1) of Section 28:

“(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 customer 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.”

(31) Of Section 29,-

(a) Of Sub-section (1),-

- (1) The following Clause (b1) shall be inserted after Clause (b):

“(b1) In the event of failure to place a tax board in accordance with this Act or the Rules framed under this Act, a fine of Two Thousand for each week and in the event of failure to place it at the designate place, a fine of One Thousand.”

- (2) The following Clause (c) shall be substituted for Clause (c):

“(c) In the event of violation of Sub-sections (1) and (4) of Section 14, Five Thousand Rupees for each instance fine including recover the liable tax.”

- (3) The following Clause (g1) shall be inserted after Clause (g):

“(g1) In the event of violation of Sub-section (3a) of Section 16, One Thousand Rupees for each instance.”

NEPAL LAW COMMISSION

- (b) The following Sub-section (1a) shall be inserted after Sub-section (1):

“(1a) In the event of lessening tax liability without observing this Act or the Rules framed under this Act, the Tax Officer may fine up to Twenty Five percent of the amount of tax, on the grounds as specified by the Department.”

- (c) The following Sub-section (2) shall be substituted for Sub-section (2):

“(2) If a person commits any of the following offences, the Tax Officer may impose a fine of cent percent of the amount of tax or an imprisonment up to Six months or both the fine and the imprisonment on such a person:

- (a) Preparing false accounts, invoices or other documents;
- (b) Committing an evasion of tax by fraud;
- (c) If an unregistered person acts as if he or she were a registered person;
- (d) Infringing Section 23C.;
- (e) Carrying out a transaction by infringing Section 30.”

- (32) The following Section 29A. shall be inserted after Section 29:

“29A. Power of Department to order to furnish the amount of fine: (1) Notwithstanding anything contained elsewhere

in this chapter, if any person, prior to the commencement of proceedings of action, admits in writing that he or she has committed another offence or more than such offence set forth in Sub-section (2) of Section 29, the Department may order such a person to furnish the amount of fine not exceeding the amount of fine imposable for the commission of such an offence.

(2) In issuing order as referred to in Sub-section (1), such an order has to set out the details of such offence, amount of fine to be paid and date for payment of the amount of fine.

(3) An order issued by the Department pursuant to this Section shall be final.”

(33) The following Section 30A. shall be inserted after Section 30:

“30A. Power to order for reassessment of tax: (1) In cases where, before tax is assessed, it appears from the information given to the 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.

(2) In cases where it appears that tax liability has increased because of tax assessment made by the Tax Officer recklessly or with *mala fide* intention, the Director General may give order to amend such tax assessment

order within Four months after the date of initial tax assessment.”

(34) The following Section 31A. shall be substituted for Section 31A:

“31A. Application may be made for administrative review:

(1) A person who is not satisfied with any decision of tax assessment made by the Tax Officer may make an application to the Department against the decision within Thirty days of the date of receipt of a notice of that decision.

(2) In cases where the time limit for making application pursuant to Sub-section (1) expires and any person makes an application for the extension of time limit within Seven days from the date of expiration of the time limit, the Department may extend the time limit for a period not exceeding Thirty days from the date of expiration of the time limit.

(3) If the claim of the applicant appears to be true upon examining the evidence and documents including the application made by the taxpayer pursuant to Sub-section (1), the Director General may, by executing a memorandum setting out the clear reasons, void that tax assessment order and direct the concerned Tax Officer to make re-assessment of tax or order any Tax Officer to do that act.

(4) The Department shall make decision on the application within Sixty days after the date of making of application pursuant to Sub-section (1).

(5) If the Department does not give decision within the time limit as referred to in Sub-section (4), the concerned person may make an appeal to the Revenue Tribunal pursuant to Section 32.

(6) The taxpayer who makes an application pursuant to Sub-section (1) has to pay undisputed amount of tax, out of the amount of tax assessed, and furnish a cash deposit of One Third of the amount of tax in controversy.

(7) In cases where excess of the amount to be furnished pursuant to Sub-section (1) has been furnished prior to the making of application, only the remaining amount upon deduction of the amount covered by that amount may be furnished as deposit.

(35) The following Section 32 shall be substituted for Section 32:

“32. Appeal in the Revenue Tribunal: (1) A person who is not satisfied with an order of suspension 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 in the Revenue Tribunal according to the Revenue Tribunal Act, 2031.

(2) The person who files an appeal pursuant to Sub-section (1) has to register a copy of the appeal with the Department within Fifteen days of the date of filing appeal.”

(36) The following Section 32A. shall be inserted after Section 32:

“32A. Advance ruling: (1) If any person makes an application in writing to the Department for the removal of any confusion as to the application of this Act, the Department may issue its version by an advance ruling as prescribed, by notifying the person in writing.

(2) Notwithstanding anything contained in Sub-section (1), the Department shall not be entitled to issue an advance ruling referred to in Sub-section (1) on any matter of confusion occurred in the implementation of this Act in cases where such matter is *sub judice* in the court or has already been decided by the court.

(37) The following Section 34A. shall be inserted after Section 34:

“34A. Power to have expert's service: The Government of Nepal may obtain the service of the concerned expert for the act related to tax auditing; and the provision on governmental secrecy mentioned in Section 37 shall also apply to such an expert.”

(38) The following Sub-section (1) shall be substituted for Sub-section 91) of Section 40:

“(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 may be awarded, by a decision of the Director General, as reward the amount that is equal to Twenty per cent of the amount of tax recovered on the basis of that information.”

(39) The following Schedule-1 and Schedule-2 shall be substituted for Schedule-1 and Schedule-2:

“Schedule-1

(Relating to Sub-section (3) of Section 5)

List of VAT exempt goods and services

Group 1. Basic Agricultural Products

- (a) Paddy, rice, wheat, maize, barley, millet, buckwheat, pulses, flour, rye flour, grains, paddy flakes, peas, chickpeas, kidney peas, beans and similar basic unprocessed food materials and their extracts.
- (b) Green and fresh vegetable, fresh fruits, fresh eggs, tuberous roots, and fruits, vegetables and as use in vegetable and tuberous roots, fresh and unprocessed agro-products. (Except those to be supplied hotels, restaurants, bars, guest houses, cafeteria and other similar organizations).
- (c) Unprocessed cash crops/cereals (such as sugarcane, cotton, cardamom, ginger and saffron, flax, unprocessed tobacco, tea leaf sold by farmers, tea chest, proved orthodox tea producing using biological fertilizer, coffee, soybean, ground-nuts, turmeric, oil-cake and other solid residues.
- (d) Herbs (including their extracts).

Group 2. Goods of Basic Needs:

- (a) Piped water, including water supplied by tankers.
- (b) Wood and coal.
- (c) Salt.

- (d) Kerosene.

Group 3. Live Animals and animal products

- (a) Goats, sheep and mountain goats , yak and buffalos , bore and pigs , rabbit and their unprocessed raw edible food items.
- (b) Cows and she buffalos, she goats, and their fresh milk, (including pasteurized), curd, bees and bee hives and bee keeping machinery, including germination plant, metal barrel, bee brush, base roller, gear pump and wheel plate and bee harvesting or threshing machinery.
- (c) Ducks, hens, cocks, turkey and similar other birds their fresh meat and unprocessed raw items and eggs.
- (d) Fresh or dried fish (except other than packed).

4. Agricultural inputs

- (a) Crops, grasses, flowers or live trees and other plants, bulbs, tubers, tuberous roots and bulbs and roots used as seeds
- (b) Manure, fertilizer and soil conditioners.
- (c) Hand tools, spades, shovels, mattocks, picks, hoes, forks and rakes, axes, bill hooks and similar hewing tools, secateurs of any kind, scythes, sickles, hay knives, other than hand saws, hedge shears, timber wedges, ploughshare and other tools of a kind used in agriculture.
- (d) Insecticides, rodenticides, fungicides, herbicides and de-ratting drugs as mentioned in Chapter 38 of Customs Tariff used only for crops.

- (e) Use in agriculture function Tractors, cultivators, tantalum, levelers, harvesting or threshing machine, threshers, fishing nets, ready-made cages for aquaculture, fish incubators, pumping sets with engines from Two to Eight horse power and up to 30 meters hose pipe accompanied with the sets, used in irrigation works.
- (f) Raw materials of deed supplements falling under Chapter 23 of the Customs Tariff, and lime stone dust, bone dust and fish dust.
- (g) Special kind of utensils for feeding poultry feed except normal or general utensils, and special kinds of utensils for feeding water to poultry.

Group 5. Medicine, Medical and Similar Health services

- (a) Health services.
- (b) Human blood and human blood items and vaccines.
- (c) Human or animal organs or tissue for medical research.
- (d) Medicaments for treatment of livestock and human beings and family planning means.
- (e) Pacemakers used in treatment of heart diseases, stint, valve of heart, goods made for, and suitable only for the use of, infirm and disabled persons.
- (f) X-ray film and oxygen gas to be used for treatment, bandage and
- (g) **Raw materials for drug industries:** metal salts, oxides and hydro-oxides used by drug industries and in the production of IOL, falling under Chapter 28 of the Customs Tariff, as well as raw materials of drugs (active ingredients of drugs) and raw

materials used by drug industries in production of drugs and packing materials.

Group 6: Education

- (a) Research related acts in schools or universities
- (b) Getting purpose for non-profit, Vocational or professional trainings or refresher trainings
- (c) Educational services provided by schools and universities.

Group 7: Books, newspapers and printed materials

- (a) Books, calendars, newsletters (headings 49.01, 49.02, 49.04) and printing and publication thereof,
- (b) Newsprint (heading 48.01)

Group 8: Artistic and cultural goods and services, carving services

- (a) Painting, handicrafts, carving and similar other handicrafts and related services.
- (b) Cultural programs,
- (c) Admission fees to libraries, museums, art museums, zoos and botanical gardens, and national parks.

Group 9: Passengers and goods transportation services

Air transport, passenger transportation (except cabal car) and goods carrier service (except transportation related to supply).

Group 10: Personal or Professional service:

Personal services rendered by artists, sportspersons, authors, writers, designers, translators and interpreters institutionally or individually, and services of supplying human resources to foreign countries.

NEPAL LAW COMMISSION

Group 11: Other goods or services:

1. Postal services (only those provided by the Government of Nepal):
 - (a) Services of conveyance or transfer of letters, money and postal packets.
 - (b) Other services required for the services of conveyance or transfer of letters, money and postal packets.
 - (c) Postage stamps.
 - (d) Services provided by the Government of Nepal.
2. Excise duty stamp, cash machine and passport.
3. Financial services and life insurance services.
4. Bank notes, coins and cheque books:
 - (a) Printing and issue of bank notes.
 - (b) Supply of bank notes from foreign countries into Nepal.
 - (c) Cheque books.
5. Gold and silver:
 - (a) Gold, gold coins, gold ornaments and diamond ornaments.
 - (b) Silver, and silver coins, silver ready-made goods and ornaments.
6. Electricity supply.
7. Raw wool.

8. Battery operated tempo and their chassis and Battery.
9. Bio-gas, solar power and wind power operated power generation plants and their equipment and solar photovoltaic flat plate or tubular battery, on the recommendation of the Alternative Energy Promotion Centre.
10. Aircrafts and helicopters and their engines, ambulances and corpse carrying vehicles.
11. Jute batching oil and jute products.
12. Mills, machineries and equipment, molding keys (except spare parts) other than those that can be used in household attracting up to 5 percent customs duty as falling under Part 84 of the Customs Tariff.
13. Woolen carpet and woolen carpet weaving, dying, washing and knitting.
14. 100 percent cotton sari, *Lungi*, *Dhoti* (for both men and women), *Gamcha* and cotton yarn.
15. Woolen yarn to be used in hand knitting sweater (except artificial and acrylic) domestically.
16. Donated goods received for any natural calamities or philanthropic purpose, as approved by the Ministry of Finance, Government of Nepal.
17. Goods of personal use that do not attract customs duty and are imported under the Luggage and Baggage Order facility.
18. Amount equal to such tax as deemed payable that remains balance upon deducting the tax paid on purchase from the tax

collected on the sale of goods by textile, match (only wooden stick) and tyre-tube industries shall be refunded to these industries in accordance with the procedures specified by the Department.

19. Only Fifty percent of the amount equal to such tax as deemed payable that remains balance upon deducting the tax paid on purchase from the tax collected on the sale of products (sugarcane and flour) by sugarcane and flour industries shall be refunded to these industries in accordance with the procedures specified by the Department.
20. If any native industry that manufactures mobile hand set and importer thereof submits evidence that they have sold the tax paid on the raw materials of mobile hand set or readymade goods to Fifty percent shall be refunded in accordance with the procedures specified by the Department.
21. The value added tax shall be exempted in relation to imports of such as required for not more than 3 megawatt small hydro power projects and as are not produced in Nepal, on the recommendation of the Alternative Energy Promotion Center, in the case of those which are operated with the approval of that Center, other not more than 3 megawatt projects on the recommendation of the Electricity Development Department, in the case of the industries except those which are operated with the approval of the Alternative Energy Promotion Center.
22. The value added tax shall not be levied on transferring any motor vehicles that were imported by any foreign mission or donor agency with the enjoyment of the diplomatic facility or tariff facility to the project itself in consonance with the approval annual program of the project and converting their number plates

into governmental ones or on transferring, with the approval of the Ministry of Finance, any motor vehicles that were imported in the name of any project with the enjoyment of full or partial tariff facility (except those imported on inventory or bank guarantee) to any governmental body after the completion of the project and converting their number plates into governmental ones.

23. If any diplomatic body, project or other body (governmental as well as non-governmental organization) intends to scrap and cancel the registration of any motor vehicle that it has imported with the enjoyment of the tariff facility and that is more than 15 years old after the year of initial production, with the approval of the Ministry of Finance, the value added tax shall not be levied on such a motor vehicle.
24. If the owner of a motor vehicle imported by a citizen of Nepal for personal use with the enjoyment of value added tax exemption dies and the motor vehicle has to be transmitted to the husband or wife of the owner of motor vehicle, the value added tax shall not be levied on such a motor vehicle on the basis of the approval of the Department.
25. If any industries that have not enjoyed the facility of bonded warehouse or passbook import the raw materials, subsidiary raw materials, and packaging materials that are not produced in Nepal, required for the production of goods to be exported by them and export the goods produced from such raw materials in accordance with such procedures and within such period as prescribed, the value added tax levied on such raw materials, subsidiary raw materials and packaging materials at the customs points while importing them shall be refunded from the customs

point in relation to such goods, from such a date and on such pro rata as specified in a notice published in the Nepal Gazette.

26. If the Government of Nepal considers reasonable to grant any exemption to any taxable goods or to refund tax, it may grant such exemption by publishing a notice in the Nepal Gazette.

Group 12: Lands and buildings

Purchase, sale and rental of lands and buildings (except the services provided by such entities carrying on business such as hotels and guest houses)

Group 13: Betting, casinos and lotteries

Activities relating to facilities provided for the organization of bets or gambling, and lottery.

Note:

The Department, as prescribed, and in consultation with the Department of Customs, interpretation of the goods and services enjoying tax exemption and the Harmonized Code of Commodities as necessary.

Schedule-2

(Relating to Sub-section (2) of Section 7)

Goods and services subject to zero rate

1. **Goods exported from Nepal:** If it is proved that goods are supplied as follows:
 - (a) Goods exported outside Nepal, or
 - (b) Goods shipped for use as stores on an international flight of which destination is outside Nepal, or
 - (c) Goods put on board an international flight of which destination is outside Nepal for retail sale or supply or consumption.
2. **Services to be supplied to persons outside Nepal:**
 - (a) A supply of services by a person residing in Nepal to a person outside Nepal, who has no business transaction, business representative or legally recognized agent in Nepal.
 - (b) A supply of goods or services by a person who is residing and is registered in Nepal to a person who is residing outside Nepal.
3. Goods or services imported by a person or mission enjoying diplomatic facility and a person serving in a diplomatic mission enjoying tariff facility, on the recommendation of the Ministry of Foreign Affairs, Government of Nepal.

4. If any previous treaty or agreement provides for the sales tax exemption on imports, and local purchase is made from the registered taxpayers, on the recommendation of the concerned project, the facility of zero rate shall be provided on such supplies, so long as such treaty or agreement is in effect.
5. Raw materials to be sold to and goods manufactured by any industries established pursuant to the laws in force and operated in the special economic zone.
6. If, on the recommendation of the Alternative Energy Promotion Center, the battery used in the equipment and mechanism generating energy from solar power is produced by any native industry and is to be supplied by that industry, the facility of zero rate shall be provided on that transaction on the recommendation of Alternative Energy Promotion Center and in accordance with the procedures specified by the Department.
7. If not more than 3 megawatt small hydro power projects are produced by any native industry and are to be supplied by that industry, the facility of zero rate shall be provided to that industry on that transaction, on the recommendation of the Alternative Energy Promotion Center, in the case of a project that is operated with the approval of that Center, other not more than 3 megawatt projects on the recommendation of the Electricity Development Department, in the case of one other than that operated with the approval of the Alternative Energy Promotion Center and in accordance with the procedures specified by the Department.
8. If painting, handicrafts, carving and similar other handicrafts produced a cottage and small scale industry within Nepal are exported through an approved export trading house of Nepal, the value added tax paid on the raw materials used in the manufacture of such goods shall be refunded

after fulfilling the procedures specified by the Inland Revenue Department.

Financial Act, 2065 (2008)

Date of Authentication and Publication

2065.6.3 (19 Nov. 2008)

An Act Made to Implement Proposals Relating to Finance of the Government of Nepal

Preamble: Whereas, it is expedient to levy some charges, taxes, duties, cesses and fees, continue or alter the existing ones and also to amend the laws in force relating to revenue administration in order to implement the proposals relating to finance of the Government of Nepal;

Now, therefore, be it enacted by the Constitution Assembly pursuant to Sub-articles (1) of Article 83 of Interim Constitution of Nepal, 2063 (2006).

1. Short title and commencement: (1) This Act may be called the "Financial Act, 2065 (2008)."

(2) This Act shall come into force immediately.

37. Amendment to the Value-added Tax Act, 2052 (1996): Of the Value-added Tax Act, 2052 (1996),-

(1) Of Section 2,-

(a) The following Clause (f1) shall be inserted after Clause (f):

“(f1) “Group of companies or entities” means a group of companies or entities in relation to which the following situation exists:

- (a) If any business is carried on by a person or agent member associated with the group of entities,
- (b) If any goods or services are supplied by the group of entities to any entity or group of other entities associated with it,
- (c) If any goods or services are supplied to the group of entity or member of the group,
- (d) If the permanent address of operation of business of any two or more than two entities is in the same place, or
- (e) If the group of entities is controlled directly or indirectly by any one person or some persons.”

(b) The following Clause (h) shall be substituted for Clause (h):

“(h) “Consideration” means anything to be obtained in exchange for the price of any goods or services being supplied.”

(c) The following Clause (h1) shall be inserted after Clause (h):

“(h1) “Loan agreement” means a hire purchase agreement or financial lease.”

- (d) The following Clause (k1) shall be substituted for Clause (k):

“(k1) Electronic medium" includes approved means such as the computer, fax, e-mail, internet, electronic cash register/machine and fiscal printer.

- (e) The following Clause (t) shall be substituted for Clause (t):

“(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 office, 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.”

- (2) The following Section 4 shall be substituted for Section 4:

“4. Jurisdiction of the Tax Officer: (1) The jurisdiction of Tax Officer shall be as prescribed by the Government of Nepal.

(2) The Director General may also so designate a Tax Office as to inspect and monitor also the transaction of taxpayers in other areas than those falling under his or her jurisdiction.”

- (3) The following Section 5A. shall be substituted for Section 5A:

“5A. Tax not to be levied on transfer of ownership of transactions: Notwithstanding anything contained

elsewhere in this Act, in cases where a registered person sells the transaction being carried out by him or her to any other registered person or the transaction is transferred in the name of his or her heir by virtue of death, such transfer of ownership shall not be subject to tax. The person registered in so selling or transferring the transaction shall give information thereof to the Department as prescribed.

(2) Notwithstanding anything contained in Sub-section (1), if any industry or business that is required to be registered or has been registered pursuant to laws is transferred, the transferee who obtains the ownership shall bear the transferor's liability of tax specified by law.

(3) The person who obtains ownership shall, subject to Sub-section (3), bear the obligation of safely maintaining the accounts, records and books of account of the transaction of such an industry or business until the prescribed period (before and after transfer) pursuant to this Act."

- (4) The following Explanation shall be inserted in Clause (c) of Sub-section (2) of Section 6:

Explanation: For the purposes of this Clause, acquisition shall be deemed in the following circumstance:

- (a) Copyrights, patents, licenses, trademarks and similar other rights,
- (b) Advertisement services,
- (c) Technical services, engineering services, services of suppliers providing technical services, legal services, accounting services, data and data

processing services, information services and similar other services.

(d) In supplying the services as referred to in Sub-section (1) or accepting any liability or undertaking or in exercising that undertaking fully or partly or doing any business activities in exercise of such right, or

(e) Insurance or reinsurance services other than the facility of safe deposit.

(5) The following Sub-section (1) shall be substituted for Sub-section (1) of Section 7:

“(1) The rate of tax to be levied pursuant to this Act shall be in single rate of 13 percent.”

(6) The following Section 8A. shall be inserted after Section 8:

“8A. Provision of bank guarantee: (1) An industry that exports more than Sixty percent of the total sale of the last Twelve months after the operation of the industry may make import by furnishing a bank guarantee with the concerned Tax 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 duty free shop through a bonded warehouse may be made by furnishing a bank guarantee with the concerned Tax Office in consideration for tax leviable on such goods.

Provided that, except for the import by a duty 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.

(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.

(3) Liquors and cigarettes in stock at the duty 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 be sold upon paying leviable tax.

(4) The bank guarantee furnished pursuant to Sub-section (1) shall be released from the concerned Tax Office in accordance with the procedures specified by the Department.

(5) A person who enjoys the facility as referred to in this Section shall not be entitled to the facility as referred to in Sub-section (4) of Section 24.”

(7) The following Section 9 shall be substituted for Section 9:

“9. Exemption for small vendor: 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 and filing of tax returns and from such requirements as may be prescribed.

Provided that, if a small vendor wishes to have his or her transaction registered voluntarily, he or she may have such registration after completing the procedures as referred to in Section 10.”

(8) Of Section 10,-

- (a) The following Sub-sections (1) and (2) shall be substituted for Sub-sections (1) and (2):

“(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.

(2) If any goods transacted by a person is taxable or if any person operates of hardware, sanitary, furniture, fixture, furnishing, automobiles, electronics, marble, and color lab transactions within a Municipal Corporation, Sub-municipal Corporation, Municipality or Depart or within an area specified by the Department, the person has to make an application in the prescribed format, to the Tax Officer, for registration, within Thirty days after the date of imposition of such tax or the date of commencement of the transactions.”

- (b) The word “application” shall be substituted for the word “petition” contained in Sub-section (4).

(9) The following Section 10A. shall be inserted after Section 10:

“10A. Special provision relating to provisional registration:

(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 registered with the Value Added Tax. In the case of a person who is so registered, the Tax Officer may require a deposit in consideration for security.

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

(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.”

(10) Of Section 11,-

(a) Of Sub-section (1),-

(1) The following Clause (c) shall be substituted for Clause (c):

“(c) In the case of a partnership firm, if such partnership firm is dissolved or the partner dies,”

(2) The following Clause (d1) shall be inserted after Clause (d):

“(d1) If the taxpayer is one who gives zero return or does not give return at all within a consecutive period of One year,”

- (3) The following Sub-section (1b) shall be inserted after Sub-section (1a):

“(1b) A taxpayer has to submit his or her documents for auditing within fifteen days of the submission of the tax returns for cancellation of registration, and the Tax Officer shall perform the audit of such a taxpayer, cancel the registration within Three months or if registration is not to be so cancelled, the Tax Officer shall give information thereof to the taxpayer. If the Tax Officer does not cancel registration or make decision to cancel registration within that period, the taxpayer is not obliged to furnish the tax returns subsequent to that period.”

- (b) The following Sub-section (3) shall be substituted for Sub-section (3):

“(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.”

- (c) The following Sub-section (4) shall be substituted for Sub-section (3):

“(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 from the consequence of such a liability.”

- (11) The following Clause (b) shall be substituted for Clause (b) of Sub-section (2) of Section 12:

“(b) Excise duty, ownership fee and other taxes save the 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.

- (12) The following Section 12A. Shall be inserted after Section 12:

“12A. Taxable value of timber transaction: (1) There shall be levied and collected tax on the amount of royalty of the timber of national forest or the amount of auction,

whichever is higher, at the time of auction, release or saw order, whichever is earlier.

(2) If the timber of a personal cultivated, private forest or community forest for business purpose and despite that royalty is not chargeable, tax shall be leviable as if it were the timber of national forest.”

(13) Of Section 14,-

(a) The following proviso shall be inserted in Sub-section (1):

“Provided that, a person who carries on annual transaction of more than One Million Rupees shall issue invoices with serial number and permanent accounts number as well as his or her name, and address despite that he or she is not registered.”

(b) The following Sub-sections (4), (5), (6) and (7) shall be inserted after Sub-section (3):

“(4) One who transports goods attracting tax of more than Ten Thousand Rupees outside the area specified by the Department shall hold tax invoices with him or her.

(5) The Department may order taxpayers to issue invoices by using a cash machine or computer. Other procedures on so issuing invoices by using a cash machine or computer shall be as prescribed by the Department.

(6) The Department may, by publishing a notice or giving an order in writing, so specify that any person specified by such a notice or order has to make public the

retail sale value or price of any such goods as specified in that order or notice for such period as specified therein. No sale or transfer of any goods shall be made without making public the retail sale price after the receipt of such a notice or order.

(7) Provision shall be made that any person specified pursuant to Sub-section (6) shall, in selling such goods to any unregistered persons, have to issue invoices of the price made public in the specified format and collect also the tax at the consumer level.

Provided that, any persons not so specified pursuant to Sub-section (6) may issue invoices as referred to in this Sub-section.”

- (14) The following Sub-section (3) shall be inserted after Sub-section (2) of Section 15:

“(3) Notwithstanding anything contained in Sub-sections (1) and (2), a Local Body or Government of Nepal shall have to collect or recover tax at the time of sale of taxable goods or services.

- (15) Of Section 16:

- (a) The following Sub-section (1a) shall be inserted after Sub-section (1):

“(1a) The Department may have continuous access to the computer database of taxpayers.”

- (b) The following Sub-section (3a) shall be inserted after Sub-section (3):

“(3a) A person who carries on the transactions of taxable goods or services but is not registered has himself or herself certify the account of purchase and sale for each financial year. The Tax Officer may at any time examine such an account.”

(16) The following Section 16A. Shall be substituted for Section 16A:

“16A. Records processed by computer to be eligible as evidence: (1) Notwithstanding contained in the laws in force, the records relating to taxpayer processed by the computer installed in the Department or offices thereunder shall be eligible as evidence for purposes of tax, except as otherwise proved.

(2) The Department may by publishing a notice, make necessary arrangements on the issuance of invoices, maintenance of accounts, submission of tax returns and payment through electronic medium.”

(17) The following Section 16B. shall be inserted after Section 16A:

“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, disruptive activity or expired the date of uses goods of value added tax paid on the goods shall be deducted as prescribed.”

(18) Of Section 17,-

(a) The following Sub-section (2) shall be substituted for Sub-section (2):

“(2) Notwithstanding anything contained in Sub-section (1), it may be provided that no deduction or only a partial deduction may be granted in the case of the prescribed goods that can be used for personal purpose or for business purpose or for both purposes.”

- (b) The following Sub-section (5a) shall be substituted for Sub-section (5a):

“(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).”

- (c) The following Sub-section (5b) shall be inserted after Sub-section (5a):

“(5b) The concerned taxpayer shall be allowed to deduct tax paid pursuant to Section 12A. and Sub-section (3) of Section 15.”

- (d) The following Sub-section (8) shall be inserted after Sub-section (7):

“(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.”

- (19) Of Section 18,-

- (a) The words “or by registered post” shall be inserted after the words “before the Tax Officer” contained in Sub-section (1).
- (b) The following Sub-sections (1a) shall be inserted after Sub-section (1):

“(1a) Notwithstanding anything contained in Sub-section (1), a taxpayer in a district where there is no Inland Revenue Office may furnish the amount of tax returns to be paid and submitted by him/her with the Office of Funds and Accounts Controller of the same district within the Fifteenth day of the month in which he/she has to furnish the tax returns paying the tax. The Office of Funds and Accounts Controller shall forward the returns of tax and payment of tax so received to the Inland Revenue Office within Seven days.”

(20) Of Section 19,-

- (a) The following Sub-section (2) shall be substituted for Sub-section (2):

“(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.”

- (b) Sub-section (3) is, hereby, deleted.
- (c) The words “pursuant to Sub-section (2)” shall be substituted for the words “pursuant to Sub-section (2) or (3)” contained in Sub-section (4).

- (d) The words “pursuant to Sub-section (2)” shall be substituted for the words “pursuant to Sub-section (2) or (3)” contained in Sub-section (5).

(21) Of Section 20,-

- (a) The following Clauses (f), (g), (h) and (i) shall be inserted after Clause (e) of Sub-section (1):

“(f) If supply is made to the group company by making under invoicing,

(g) If transaction is carried out by a person required to be registered without being so registered,

(h) If sale is made without issuing invoices,

(i) If tax is collected by an unregistered person.”

- (b) The following Sub-section (4) shall be substituted for Sub-section (4):

“(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.”

- (c) The following Sub-section (4a) shall be inserted after Sub-section (4):

“(4a) Notwithstanding anything contained in Sub-section (4), where any person has evaded tax by preparing false accounts or invoices or other documents or by fraud,

the Department may at any time issue an order for the reassessment of tax.”

(22) Of Section 21,-

(a) The following Clause (c) shall be substituted for Clause (c) of Sub-section (1):

“(c) By selling all or some of the properties of the taxpayer through sealed quotations or auction at the same time or various times.”

(b) Sub-section (2) shall be deleted.

(23) The following Section 22A. shall be inserted after Section 22:

“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 enticement to evade tax through tax exemption scheme, and the Director General may order the Tax Officer to assess the tax of such a taxpayer and recover the same:

(a) To lessen the liability of tax by making or doing any scheme or act with mala fide intention to evade tax by manipulating any provision contained in this Act,

(b) If any person or entity does any act with mala fide intention to lessen the liability of tax or enters into agreement with that intention.”

- (24) The following Sections 23C. and 23D. shall be inserted after Section 23B.:

“23C. Purchase of goods of under invoicing: (1) If any person sells any goods by under invoicing, showing the selling price lesser than the prevailing market price, the Tax Officer shall, notwithstanding anything contained in the laws in force, withhold the goods in stock similar to those goods so under invoiced and sold and the Inland Revenue Office may purchase or cause to be purchased the same at the price under invoiced and sold.

(2) If, in purchasing or caused to be purchased the goods by the Department or Office pursuant to Sub-section (1), such a person does not agree to sell the goods, the Department of office shall take such goods in its custody, make calculation on the basis of the price at which they were under invoiced and sold and make payment when such a person shows up to receive payment.

(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.”

“23D. Power to make search, seizure or demand deposit or security: (1) If the Tax Officer finds that any person, firm, company or organization has done transaction by evading tax and there is a possibility that the accused may go away or the evidence and proof of offence may disappear, the

Tax Office may, with the approval of the Director General, do or cause to be done any of the following acts:

- (a) To seal the place of transaction,
- (b) To take custody of the electronic equipment or records thereof,
- (c) To demand cash deposit or wealth guarantee in a sum equivalent to the tax evaded from the person believed to have committed the offence, by executing a memorandum to that effect,
- (d) To withhold the bank account in the name of taxpayer for up to Three months.

(2)The Tax Officer shall have the same powers as the police may exercise under the laws in force in relation to the investigation of offences pursuant to this Act.”

- (25) The following Sub-section (5) shall be substituted for Sub-section (5) of Section 24:

“(5) On the submission of an application pursuant to Sub-section (3) or (4), the Tax Officer shall refund immediately the amount held to be refundable, and if such an amount is not refunded within Thirty days after the date of submission of application in relation to the matter referred to in Sub-section (3) and within Sixty 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.”

- (26) The following Section 24A. shall be inserted after Section 24:

“24A. Tax not to be refunded: (4) 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 after the date of expiration of the period of tax, such refund shall not be made.”

(27) Of Section 25,-

(a) The following Clause (a) shall be substituted for Clause (a) of Sub-section (1):

“(a) If a foreign country grants on reciprocity that tax exemption facility to Nepalese diplomats whom the Government of Nepal, Ministry of Foreign Affairs, has granted diplomatic recognition or to persons enjoying diplomatic facility and serving in regional or international missions or institutions, the amount of tax paid by the Nepal based diplomats of such country or regional or international missions or institutions to the extent of consumption by them.”

(b) The following Sub-section (1a) shall be inserted after Sub-section (1):

“(1a) Notwithstanding anything contained in Sub-section (1), the tax paid by a diplomatic body or diplomat on the purchase of taxable goods or services shall not be refunded if the amount purchase is less than One Thousand Five Hundred Rupees at one time.”

(28) The following Sections 25A. shall be inserted after Section 25:

“25A. Refund of tax paid by foreign tourist on purchase: If a foreign tourist visiting Nepal and returning by air

purchases taxable goods of more than Fifteen Thousand Rupees and takes them with him or her, the tax paid on such goods shall be refunded in accordance with the procedures specified by the Department.

- (29) The following Sub-section (2) shall be substituted for Sub-section (2) of Section 26:

“(2) For the purposes of Sub-section (1), the rate of interest shall be Fifteen per cent per annum.”

- (30) The following Sub-section (1a) shall be inserted after Sub-section (1) of Section 28:

“(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.”

(31) Of Section 29,-

(a) Of Sub-section (1),-

- (1) The following Clause (a) shall be substituted for Clause (a):

“(a) In the event of violation of Sub-section (1) or (2) of Section 10, Ten Thousand Rupees for every tax period.”

- (2) The following Clause (b1) shall be inserted after Clause (b):

“(b1) In the event of failure to place a tax board in accordance with this Act or the Rules framed under this Act, a fine of Two Thousand Rupees for each week and in the event of failure to place it at the designate place, a fine of One Thousand Rupees.”

- (3) The following Clause (c) shall be substituted for Clause (c):

“(c) In the event of violation of Sub-sections (1) and (4) of Section 14, Five Thousand Rupees for each instance.”

- (4) The following Clause (d) shall be substituted for Clause (d):

“(d) In the event of violation of Section 15, cent percent amount of tax collected.”

- (5) The following Clause (g1) shall be inserted after Clause (g):

“(g1) In the event of violation of Sub-section (3a) of Section 16, One Thousand Rupees for each instance.”

- (b) The following Sub-section (1a) shall be inserted after Sub-section (1):

“(1a) In the event of lessening tax liability without observing this Act or the Rules framed under this Act, the Tax Officer may fine up to Twenty Five percent of the amount of tax, on the grounds as specified by the Department.”

- (2) The following Sub-section (2) shall be substituted for Sub-section (2):

“(2) If a person commits any of the following offences, the Tax Officer may impose a fine of cent percent of the amount of tax or an imprisonment up to Six months or both the fine and the imprisonment on such a person:

- (a) Preparing false accounts, invoices or other documents;
- (b) Committing an evasion of tax by fraud;
- (c) If an unregistered person acts as if he or she were a registered person;
- (d) Infringing Section 23C.;

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

NEPAL LAW COMMISSION

- (32) The following Section 29A. shall be inserted after Section 29:

“29A. Power of Department to order to furnish the amount

of fine: (1) Notwithstanding anything contained elsewhere in this Act, if any person, prior to the commencement of proceedings of action, admits in writing that he or she has committed another offence or more than such offence set forth in Sub-section (2) of Section 29, the Department may order such a person to furnish the amount of fine not exceeding the amount of fine imposable for the commission of such an offence.

(2) In issuing order as referred to in Sub-section (1), such an order has to set out the details of such offence, amount of fine to be paid and date for payment of the amount of fine.

(3) An order issued by the Department pursuant to this Section shall be final.”

- (33) The following Section 30A. shall be inserted after Section 30:

“30A. Power to order for reassessment of tax: (1) In cases

where, before tax is assessed, it appears from the information given to the 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.

(2) In cases where it appears that tax liability has increased because of tax assessment made by the Tax Officer recklessly or with mala fide intention, the Director General may give order to amend such tax assessment order within Four months after the date of initial tax assessment.”

(34) The following Section 31A. shall be substituted for Section 31A:

“31A. Application may be made for administrative review:

(1) A person who is not satisfied with any decision of tax assessment made by the Tax Officer may make an application to the Department against the decision within Thirty days of the date of receipt of a notice of that decision.

(2) In cases where the time limit for making application pursuant to Sub-section (1) expires and any person makes an application for the extension of time limit within Seven days from the date of expiration of the time limit, the Department may extend the time limit for a period not exceeding Thirty days from the date of expiration of the time limit.

(3) If the claim of the applicant appears to be true upon examining the evidence and documents including the application made by the taxpayer pursuant to Sub-section (1), the Director General may, by executing a memorandum setting out the clear reasons, void that tax assessment order and direct the concerned Tax Officer to make re-assessment of tax or order any Tax Officer to do that act.

(4) The Department shall make decision on the application within Sixty days after the date of making of application pursuant to Sub-section (1).

(5) If the Department does not give decision within the time limit as referred to in Sub-section (4), the concerned person may make an appeal to the Revenue Tribunal pursuant to Section 32.

(6) The taxpayer who makes an application pursuant to Sub-section (1) has to pay undisputed amount of tax, out of the amount of tax assessed, and furnish a cash deposit of One Third of the amount of tax in controversy.

(7) In cases where excess of the amount to be furnished pursuant to Sub-section (1) has been furnished prior to the making of application, only the remaining amount upon deduction of the amount covered by that amount may be furnished as deposit.

(35) The following Section 32 shall be substituted for Section 32:

“32. Appeal in the Revenue Tribunal: (1) A person who is not satisfied with an order of suspension 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 in the Revenue Tribunal according to the Revenue Tribunal Act, 2031.

(2) The person who files an appeal pursuant to Sub-section (1) has to register a copy of the appeal with

the Department within Fifteen days of the date of filing appeal.”

- (36) The following Section 32A. shall be inserted after Section 32:

“32A. Advance ruling: (1) If any person makes an application in writing to the Department for the removal of any confusion as to the application of this Act, the Department may issue its version by an advance ruling as prescribed, by notifying the person in writing.

(2) Notwithstanding anything contained in Sub-section (1), the Department shall not be entitled to issue an advance ruling referred to in Sub-section (1) on any matter of confusion occurred in the implementation of this Act in cases where such matter is *sub judice* in the court or has already been decided by the court.

- (37) The following Section 34A. shall be inserted after Section 34:

“34A. Power to have expert's service: The Government of Nepal may obtain the service of the concerned expert for the act related to tax auditing; and the provision on governmental secrecy mentioned in Section 37 shall also apply to such an expert.”

- (38) The following Sub-section (1) shall be substituted for Sub-section 91) of Section 40:

“(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 may be awarded, by a decision of the Director General, as reward the

amount that is equal to Twenty per cent of the amount of tax recovered on the basis of that information."

NEPAL LAW COMMISSION

- (39) The following Schedule-1 and Schedule-2 shall be substituted for Schedule-1 and Schedule-2:

NEPAL LAW COMMISSION

“Schedule-1

(Relating to Sub-section (3) of Section 5)

List of VAT exempt goods and services

Group 1. Basic Agricultural Products

- (a) Paddy, rice, wheat, maize, barley, millet, buckwheat, pulses, flour, rye flour, grains, paddy flakes, peas, chickpeas, kidney peas, beans and similar basic unprocessed food materials and their extracts.
- (b) Green and fresh vegetable, fresh fruits, fresh eggs, tuberous roots, and fruits, vegetables and as use in vegetable and tuberous roots, fresh and unprocessed agro-products. (Except those to be supplied hotels, restaurants, bars, guest houses, cafeteria and other similar organizations).
- (c) Unprocessed cash crops/cereals (such as sugarcane, cotton, cardamom, ginger and saffron, flax, unprocessed tobacco, tea leaf sold by farmers, tea chest, coffee, soybean, ground-nuts, turmeric, oil-cake and other solid residues.
- (d) Herbs (including their extracts).

Group 2. Goods of Basic Needs:

- (a) Piped water, including water supplied by tankers.
- (b) Fuel wood.
- (c) Coal.
- (d) Salt.

Group 3. Live Animals and animal products

- (a) Goats, sheep and mountain goats , yak and buffalos , bore and pigs , rabbit and their unprocessed raw edible food items.
- (b) Cows and she buffalos, she goats, and their fresh milk, (including pasteurized), curd, bees and bee hives and bee keeping machinery, including germination plant, metal barrel, bee brush, base roller, gear pump and wheel plate and bee harvesting or threshing machinery.
- (c) Ducks, hens, cocks, turkey and similar other birds their fresh meat and unprocessed raw items and eggs.
- (d) Fresh or dried fish (except other than packed).

4. Agricultural inputs

- (a) Crops, grasses, flowers or live trees and other plants, bulbs, tubers, tuberous roots and bulbs and roots used as seeds.
- (b) Manure, fertilizer and soil conditioners.
- (c) Hand tools, spades, shovels, mattocks, picks, hoes, forks and rakes, axes, bill hooks and similar hewing tools, secateurs of any kind, scythes, sickles, hay knives, other than hand saws, hedge shears, timber wedges, ploughshare and other tools of a kind used in agriculture.
- (d) Insecticides, rodenticides, fungicides, herbicides and de-ratting drugs as mentioned in Chapter 38 of Customs Tariff used only for crops.
- (e) Use in agriculture function Tractors, cultivators, tantalum, levelers, harvesting or threshing machine, threshers, fishing nets,

ready-made cages for aquaculture, fish incubators, pumping sets with engines from Two to Eight horse power and up to 30 meters hose pipe accompanied with the sets, used in irrigation works.

- (f) Raw materials of deed supplements falling under Chapters 23, 28 and 29 of the Customs Tariff, animal feeds and feed supplements falling under Chapter 23 of the Customs Tariff, and lime stone dust, bone dust and fish dust falling in Chapter 25.
- (g) Special kind of utensils for feeding poultry feed except normal or general utensils, and special kinds of utensils for feeding water to poultry.

Group 5. Medicine, Medical and Similar Health services

- (a) Health services.
- (b) Human blood and human blood items and vaccines.
- (c) Human or animal organs or tissue for medical research.
- (d) Medicaments for treatment of livestock and human beings and family planning means.
- (e) Pacemakers used in treatment of heart diseases, stint, valve of heart, goods made for, and suitable only for the use of, infirm and disabled persons.
- (f) X-ray film and oxygen gas to be used for treatment, bandage, and
- (g) **Raw materials for drug industries and production of Intra Ocular Lance (I.O.L.):** metal salts, oxides and hydro-oxides used by drug industries and in the production of IOL, falling under Chapter 28 of the Customs Tariff, as well as raw materials of

drugs (active ingredients of drugs) and raw materials used by drug industries in production of drugs and packing materials.

Group 6: Education

- (a) Research related acts in schools or universities
- (b) Getting purpose for non-profit, Vocational or professional trainings or refresher trainings
- (c) Educational services provided by schools and universities.

Group 7: Books, newspapers and printed materials

- (a) Books, calendars, newsletters (headings 49.01, 49.02, 49.04) and printing and publication thereof,
- (b) Newsprint (heading 48.01)

Group 8: Artistic and cultural goods and services, carving services

- (a) Painting, handicrafts, carving and similar other handicrafts and related services.
- (b) Cultural programs,
- (c) Admission fees to libraries, museums, art museums, zoos and botanical gardens, and national parks.

Group 9: Passengers and goods transportation services

Air transport, passenger transportation (except cabal car) and goods carrier service (except transportation related to supply).

Group 10: Personal or Professional service:

Personal services rendered by artists, sportspersons, authors, writers, designers, translators and interpreters institutionally or individually, and services of supplying human resources to foreign countries.

NEPAL LAW COMMISSION

Group 11: Other goods or services:

1. Postal services (only those provided by the Government of Nepal):
 - (a) Services of conveyance or transfer of letters, money and postal packets.
 - (b) Other services required for the services of conveyance or transfer of letters, money and postal packets.
 - (c) Postage stamps.
 - (d) Services provided by the Government of Nepal.
2. Excise duty stamp, cash machine and passport.
3. Financial services and life insurance services.
4. Bank notes, coins and cheque books:
 - (a) Printing and issue of bank notes.
 - (b) Supply of bank notes from foreign countries into Nepal.
 - (c) Cheque books.
5. Gold and silver:
 - (a) Gold, gold coins, gold ornaments and diamond ornaments.
 - (b) Silver and silver coins, silver ready-made goods and ornaments.
6. Electricity supply.
7. Raw wool.

8. Battery operated tempo and their chassis.
9. Bio-gas, solar power and wind power operated power generation plants and their equipment and tubular battery, on the recommendation of the Alternative Energy Promotion Centre.
10. Aircrafts and helicopters and their engines, gear box, fire brigades, ambulances and corpse carrying vehicles.
11. Jute batching oil and jute products.
12. Mills, machineries and equipment, molding keys (except spare parts) other than those that can be used in household attracting up to 5 percent customs duty as falling under Part 84 of the Customs Tariff.
13. Woolen carpet and woolen carpet weaving, dying, washing and knitting.
14. 100 percent cotton sari, *Lungi*, *Dhoti* (for both men and women), *Gamcha* and cotton yarn.
15. Woolen yarn to be used in hand knitting sweater (except artificial and acrylic) domestically.
16. Donated goods received for any natural calamities or philanthropic purpose, as approved by the Ministry of Finance, Government of Nepal.
17. Goods of personal use that do not attract customs duty and are imported under the Luggage and Baggage Order facility.
18. Amount equal to such tax as deemed payable that remains balance upon deducting the tax paid on purchase from the tax collected on the sale of goods by textile, match (only wooden

stick) and tyre-tube industries shall be refunded to these industries in accordance with the procedures specified by the Department.

19. Only Fifty percent of the amount equal to such tax as deemed payable that remains balance upon deducting the tax paid on purchase from the tax collected on the sale of products (sugarcane and flour) by sugarcane and flour industries shall be refunded to these industries in accordance with the procedures specified by the Department.
20. Fifty percent value added tax of the value added tax collected by domestic industries producing goods (mustard oil) on selling their products of mustard oil and by industries producing *Vanaspati* ghee and other processed edible oil domestically to be refunded to these industries in accordance with the procedures specified by the Inland Revenue Department.
21. If any native industry that manufactures cellular mobile phone sets and importer thereof submits evidence that they have sold the tax paid on the raw materials of cellular mobile phone sets or readymade goods to Fifty percent shall be refunded in accordance with the procedures specified by the Department.
22. The value added tax shall be exempted in relation to imports of such penstock pipes or iron sheets used in making thereof as required for hydro power projects and as are not produced in Nepal, on the recommendation of the Alternative Energy Promotion Center, in the case of those which are operated with the approval of that Center, and on the recommendation of the Electricity Development Department, in the case of the industries except those which are operated with the approval of the Alternative Energy Promotion Center.

23. The value added tax shall not be levied on transferring any motor vehicles that were imported by any foreign mission or donor agency with the enjoyment of the diplomatic facility or tariff facility to the project itself in consonance with the approval annual program of the project and converting their number plates into governmental ones or on transferring, with the approval of the Ministry of Finance, any motor vehicles that were imported in the name of any project with the enjoyment of full or partial tariff facility (except those imported on inventory or bank guarantee) to any governmental body after the completion of the project and converting their number plates into governmental ones.
24. If any diplomatic body, project or other body (governmental as well as non-governmental organization) intends to scrap and cancel the registration of any motor vehicle that it has imported with the enjoyment of the tariff facility and that is more than 15 years old after the year of initial production, with the approval of the Ministry of Finance, the value added tax shall not be levied on such a motor vehicle.
25. If the owner of a motor vehicle imported by a citizen of Nepal for personal use with the enjoyment of value added tax exemption dies and the motor vehicle has to be transmitted to the husband or wife of the owner of motor vehicle, the value added tax shall not be levied on such a motor vehicle on the basis of the approval of the Department.
26. If any industries that have not enjoyed the facility of bonded warehouse or passbook import the raw materials, subsidiary raw materials, and packaging materials that are not produced in Nepal, required for the production of goods to be exported by them and export the goods produced from such raw materials in

accordance with such procedures and within such period as prescribed, the value added tax levied on such raw materials, subsidiary raw materials and packaging materials at the customs points while importing them shall be refunded from the customs point in relation to such goods, from such a date and on such pro rata as specified in a notice published in the Nepal Gazette.

27. The following goods to be imported in the name of Nepal Army, Armed Police Force and Nepal Police Headquarters shall enjoy exemption, on the recommendation of the concerned Ministry:

- (a) Ammunitions, arms, gunpowder and their spare parts, special kind of oil, accessories, explosives to be used by Nepal Army, Armed Police Force and Nepal Police, raw materials required to produce army materials and machineries, tools and spare parts used for security.
- (b) Machineries and equipment required for maintaining peace and security, crowd control materials, equipment and other goods required for the investigation of crimes, and communication materials to be used by personnel of Nepal Army, Armed Police Force and Nepal Police, on the recommendation of the Ministry of Communication.
- (c) Such equipment, materials, drugs and related goods as required for the treatment of Army personnel, armed police and Nepal police personnel and of horses.
- (d) Goods used in the exercise and training of Army, armed police and Nepal police personnel.
- (e) Heavy earth moving plant, tool and parts related thereto, optical equipment used in engineering survey and

construction works carried out by Nepal Army, and such defense store goods as specified by the Ministry of Defense.

- (f) Camping equipment used by Nepal Army and various goods required for special force and paratroopers.
- (g) Aircrafts, helicopters and their spare parts, parachute (including bags), tools, lubricants and ground equipment imported in the name of Nepal Army.
- (h) Equipment and tools required for the operation of hospitals.
- (i) Goods required for scientific laboratories.
- (j) Goods used in natural calamity relief works.

28. If the Government of Nepal considers reasonable to grant any exemption to any taxable goods or to refund tax, it may grant such exemption by publishing a notice in the Nepal Gazette.

Group 12: Lands and buildings

Purchase, sale and rental of lands and buildings (except the services provided by such entities carrying on business such as hotels and guest houses)

Group 13: Betting, casinos and lotteries

Activities relating to facilities provided for the organization of bets or gambling, and lottery.

Note:

The Department, as prescribed, and in consultation with the Department of Customs, interpretation of the goods and services enjoying tax exemption and the Harmonized Code of Commodities as necessary.

NEPAL LAW COMMISSION

Schedule-2

(Relating to Sub-section (2) of Section 7)

Goods and services subject to zero rate

1. **Goods exported from Nepal:** If it is proved that goods are supplied as follows:
 - (a) Goods exported outside Nepal, or
 - (b) Goods shipped for use as stores on an international flight of which destination is outside Nepal, or
 - (c) Goods put on board an international flight of which destination is outside Nepal for retail sale or supply or consumption.
2. **Services to be supplied to persons outside Nepal:**
 - (a) A supply of services by a person residing in Nepal to a person outside Nepal, who has no business transaction, business representative or legally recognized agent in Nepal.
 - (b) A supply of goods or services by a person who is residing and is registered in Nepal to a person who is residing outside Nepal.
3. Goods or services imported by a person or mission enjoying diplomatic facility and a person serving in a diplomatic mission enjoying tariff facility, on the recommendation of the Ministry of Foreign Affairs, Government of Nepal.
4. If any previous treaty or agreement provides for the sales tax exemption on imports, and local purchase is made from the registered taxpayers, on the recommendation of the concerned project, the facility of zero rate

shall be provided on such supplies, so long as such treaty or agreement is in effect.

5. Raw materials to be sold to and goods manufactured by any industries established pursuant to the laws in force and operated in the special economic zone.
6. If, on the recommendation of the Alternative Energy Promotion Center, the battery used in the equipment and mechanism generating energy from solar power is produced by any native industry and is to be supplied by that industry, the facility of zero rate shall be provided to that industry on that transaction on the recommendation of Alternative Energy Promotion Center and in accordance with the procedures specified by the Department.
7. If penstock pipes or iron sheets used in making thereof required for hydro power projects are produced by any native industry and are to be supplied by that industry, the facility of zero rate shall be provided to that industry on that transaction, on the recommendation of the Alternative Energy Promotion Center, in the case of a project that is operated with the approval of that Center, and on the recommendation of the Electricity Development Department, in the case of one other than that operated with the approval of the Alternative Energy Promotion Center and in accordance with the procedures specified by the Department.
8. If painting, handicrafts, carving and similar other handicrafts produced a cottage and small scale industry within Nepal are exported through an approved export trading house of Nepal, the value added tax paid on the raw materials used in the manufacture of such goods shall be refunded after fulfilling the procedures specified by the Inland Revenue Department.

9. The following (3) and (4) is repealed which information published in Nepal gazette of Finance Ministry at dated 2065.2.5 in supplement issue (3b), Clause 58 of part 5.

NEPAL LAW COMMISSION

Financial Act, 2066 (2010)

Date of Authentication and Publication

2066.3.29 (13 July 2009)

An Act Made to Implement Proposals Relating to Finance of the Government of Nepal

Preamble: Whereas, it is expedient to levy some charges, taxes, duties, cesses and fees, continue or alter the existing ones and also to amend the laws in force relating to revenue administration in order to implement the proposals relating to finance of the Government of Nepal;

Now, therefore, be it enacted by the Constitution Assembly pursuant to Sub-articles (1) of Article 83 of Interim Constitution of Nepal, 2063 (2007).

1. Short title and commencement: (1) This Act may be called the "Financial Act, 2067 (2010)."

(2) Sections 1, 2, 3, 4, 5 and 10 of this Act shall be deemed to have come into force immediately and the other Sections on 1 *Shrawan* 2066 (17 July 2009).

30. Amendment to the Value-added Tax Act, 2052 (1996): Of the Value-added Tax Act, 2052 (1996),-

(1) Of Section 2,-

(a) The following Clause (f1) shall be inserted after Clause (f):

“(f1) “Group of companies or entities” means a group of companies or entities in relation to which the following situation exists:

- (a) If any business is carried on by a person or agent member associated with the group of entities,
- (b) If any goods or services are supplied by the group of entities to any entity or group of other entities associated with it,
- (c) If any goods or services are supplied to the group of entity or member of the group,
- (d) If the permanent address of operation of business of any two or more than two entities is in the same place, or
- (e) If the group of entities is controlled directly or indirectly by any one person or some persons.”

(b) The following Clause (h) shall be substituted for Clause (h):

“(h) “Consideration” means anything to be obtained in exchange for the price of any goods or services being supplied.”

(c) The following Clause (h1) shall be inserted after Clause (h):

“(h1) “Loan agreement” means a hire purchase agreement or financial lease.”

- (d) The following Clause (k1) shall be substituted for Clause (k):

“(k1) Electronic medium" includes approved means such as the computer, fax, e-mail, internet, electronic cash register/machine and fiscal printer.

- (e) The following Clause (t) shall be substituted for Clause (t):

“(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 office, 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.”

- (2) The following Section 4 shall be substituted for Section 4:

“4. Jurisdiction of the Tax Officer: (1) The jurisdiction of Tax Officer shall be as prescribed by the Government of Nepal.

(2) The Director General may also so designate a Tax Office as to inspect and monitor also the transaction of taxpayers in other areas than those falling under his or her jurisdiction.”

- (3) The following Section 5A. shall be substituted for Section 5A:

“5A. Tax not to be levied on transfer of ownership of transactions: Notwithstanding anything contained

elsewhere in this Act, in cases where a registered person sells the transaction being carried out by him or her to any other registered person or the transaction is transferred in the name of his or her heir by virtue of his or her death, such transfer of ownership shall not be subject to tax. The person registered in so selling or transferring the transaction shall give information thereof to the Department as prescribed.

(2) Notwithstanding anything contained in Sub-section (1), if any industry or business that is required to be registered or has been registered pursuant to laws is transferred, the transferee who obtains the ownership shall bear the transferor's liability of tax specified by law.

(3) The person who obtains ownership shall, subject to Sub-section (3), bear the obligation of safely maintaining the accounts, records and books of account of the transaction of such an industry or business until the prescribed period (before and after transfer) pursuant to this Act."

- (4) The following Explanation shall be inserted in Clause (c) of Sub-section (2) of Section 6:

“Explanation: For the purposes of this Clause, acquisition shall be deemed in the following circumstance:

- (a) Copyrights, patents, licenses, trademarks and similar other rights,
- (b) Advertisement services,
- (c) Technical services, engineering services, services of suppliers providing technical services, legal

services, accounting services, data and data processing services, information services and similar other services.

(d) In supplying the services as referred to in Sub-section (1) or accepting any liability or undertaking or in exercising that undertaking fully or partly or doing any business activities in exercise of such right, or

(e) Insurance or reinsurance services other than the facility of safe deposit.

(5) The following Sub-section (1) shall be substituted for Sub-section (1) of Section 7:

“(1) The rate of tax to be levied pursuant to this Act shall be in single rate of 13 percent.”

(6) Of Section 8:

(a) The following Sub-section (2) shall be substituted for Sub-section (2):

“(2) A person, whether registered or not, who is the recipient of services from a person who is not registered and is outside Nepal shall have to assess and collect tax at the taxable value in accordance with this Act and the Rules framed under this Act.”

(b) The following Sub-section (3) shall be inserted after Sub-section (2):

“(3) Even though the construction of a building or apartment or shopping complex and similar other structure as specified by the Department, of which value is more

than Five Million Rupees, and which is built for business purpose is procured from a person who is not registered, tax shall be assessed and collected from a person who has ownership in that structure as if such construction were procured from a registered person.”

(7) The following Section 8A. Shall be inserted after Section 8:

“8A. Provision of bank guarantee: (1) An industry that exports more than Sixty percent of the total sale of the last Twelve months after the operation of the industry may make import by furnishing a bank guarantee with the concerned Tax 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 duty free shop through a bonded warehouse may be made by furnishing a bank guarantee with the concerned Tax Office in consideration for tax leviable on such goods.

Provided that, except for the import by a duty 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.

(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.

(3) Liquors and cigarettes in stock at the duty 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 be sold upon paying leviable tax.

(4) The bank guarantee furnished pursuant to Sub-section (1) shall be released from the concerned Tax Office in accordance with the procedures specified by the Department.

(5) A person who enjoys the facility as referred to in this Section shall not be entitled to the facility as referred to in Sub-section (4) of Section 24.”

(8) The following Section 9 shall be substituted for Section 9:

“9. Exemption for small vendor: 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 and filing of tax returns and from such requirements as may be prescribed.

Provided that, if a small vendor wishes to have his/her transaction registered voluntarily, he/she may have such registration after completing the procedures as referred to in Section 10.”

(9) Of Section 10,-

(a) The following Sub-sections (1) and (2) shall be substituted for Sub-sections (1) and (2):

“(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.

(2) If any goods transacted by a person is taxable or if any person operates hardware, sanitary, furniture, fixture, furnishing, automobiles, motor parts, electronics, marble and color lab transactions within a Municipal Corporation, Sub-municipal Corporation, Municipality or Depart or within an area specified by the Department, the person has to make an application in the prescribed format, to the Tax Officer, for registration, within Thirty days after the date of imposition of such tax or the date of commencement of the transactions.”

(b) The word “application” shall be substituted for the word “petition” contained in Sub-section (4).

(10) The following Section 10A. Shall be inserted after Section 10:

“10A. Special provision relating to provisional registration:

(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 registered with the Value Added Tax temporarily. In the case of a person who is so registered, the Tax Officer may require a deposit in consideration for security.

(2) An entrepreneur who has been registered with the Value Added Tax since previously pursuant to Sub-

section (1) may take back through stock transfer the goods exhibited in that program.

(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.”

(11) Of Section 11,-

(a) Of Sub-section (1),-

(1) The following Clause (c) shall be substituted for Clause (c):

“(c) In the case of a partnership firm, if such partnership firm is dissolved or the partner dies,”

(2) The following Clause (d1) shall be inserted after Clause (d):

“(d1) If the taxpayer is one who gives zero return or does not give return at all within a consecutive period of One year,”

(3) The following Clause (1b) shall be inserted after Clause (1a):

“(1b) A taxpayer has to submit his or her documents for auditing within fifteen days of the submission of the tax returns for cancellation of registration, and the Tax Officer shall perform the

audit of such a taxpayer, cancel the registration within Three months or if registration is not to be so cancelled, the Tax Officer shall give information thereof to the taxpayer. If the Tax Officer does not cancel registration or make decision to cancel registration within that period, the taxpayer is not obliged to furnish the tax returns subsequent to that period.”

- (b) The following Sub-section (3) shall be substituted for Sub-section (3):

“(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.”

- (c) The following Sub-section (4) shall be substituted for Sub-section (3):

“(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.”

- (12) The following Clause (b) shall be substituted for Clause (b) of Sub-section (2) of Section 12:

“(b) Excise duty, ownership fee and other taxes save the 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.

- (13) The following Section 12A. shall be inserted after Section 12:

“12A. Taxable value of timber transaction: (1) There shall be levied and collected tax on the amount of royalty of the timber of national forest or the amount of auction, whichever is higher, at the time of auction, release or saw order, whichever is earlier.

(2) If the timber of a personal cultivated, private forest or community forest for business purpose and despite that royalty is not chargeable, tax shall be leviable as if it were the timber of national forest.”

- (14) Of Section 14,-

- (a) The following proviso shall be inserted in Sub-section (1):

“Provided that, a person who carries on annual transaction of more than One Million

Rupees shall issue invoices with serial number and permanent accounts number as well as his or her name, and address despite that he or she is not registered.”

- (b) The following Sub-sections (4), (5), (6) and (7) shall be inserted after Sub-section (3):

“(4) One who transports goods attracting tax of more than Ten Thousand Rupees outside the area specified by the Department shall hold tax invoices with him or her.

(5) The Department may order taxpayers to issue invoices by using a cash machine or computer. Other procedures on so issuing invoices by using a cash machine or computer shall be as prescribed by the Department.

(6) The Department may, by publishing a notice or giving an order in writing, so specify that any person specified by such a notice or order has to make public the retail sale value or price of any such goods as specified in that order or notice for such period as specified therein. No sale or transfer of any goods shall be made without making public the retail sale price after the receipt of such a notice or order.

(7) Provision shall be made that any person specified pursuant to Sub-section (6) shall, in selling such goods to any unregistered persons, have to issue invoices of the price made public in

the specified format and collect also the tax at the consumer level.

Provided that, any persons not so specified pursuant to Sub-section (6) may issue invoices as referred to in this Sub-section.”

- (15) The following Sub-section (3) shall be inserted after Sub-section (2) of Section 15:

“(3) Notwithstanding anything contained in Sub-sections (1) and (2), a Local Body or an international organization or mission situated in Nepal or the Government of Nepal has to collect or recover tax for sale goods or services.

- (16) Of Section 16:

- (a) The following Sub-section (1a) shall be inserted after Sub-section (1):

“(1a) The Department may have continuous access to the computer database of taxpayers.”

- (b) The following Sub-section (3a) shall be inserted after Sub-section (3):

“(3a) A person who carries on the transactions of taxable goods or services but is not registered has himself or herself certify the account of purchase and sale for each financial year. The Tax Officer may at any time examine such an account.”

- (17) The following Section 16A. Shall be substituted for Section 16A:

“16A. Records processed by computer to be eligible as evidence: (1) Notwithstanding contained in the laws in force, the records relating to taxpayer processed by the computer installed in the Department or offices thereunder shall be eligible as evidence for purposes of tax, except as otherwise proved.

(2) The Department may by publishing a notice, make necessary arrangements on the issuance of invoices, maintenance of accounts, submission of tax returns and payment through electronic medium."

(18) The following Section 16B. Shall be inserted after Section 16A:

“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.”

(19) Of Section 17,-

(a) The following Sub-section (2) shall be substituted for Sub-section (2):

“(2) Notwithstanding anything contained in Sub-section (1), it may be provided that no deduction or only a partial deduction may be granted in the case of the prescribed goods that can be used for personal purpose or for business purpose or for both purposes.”

(b) The following Sub-section (5a) shall be substituted for Sub-section (5a):

“(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).”

- (c) The following Sub-section (5b) shall be inserted after Sub-section (5a):

“(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.”

- (d) The following Sub-section (8) shall be inserted after Sub-section (7):

“(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.”

- (20) Of Section 18,-

- (a) The words “or by registered post” shall be inserted after the words “before the Tax Officer” contained in Sub-section (1).
- (b) The following Sub-sections (1a) and (1b) shall be inserted after Sub-section (1):

“(1a) Notwithstanding anything contained in Sub-section (1), a taxpayer in a district where there is no

Inland Revenue Office may furnish the amount of tax and tax returns to be paid and submitted by him or her with the Office of Funds and Accounts Controller of the same district within the Fifteenth day of the month in which he or she has to furnish the tax returns. The Office of Funds and Accounts Controller shall forward the returns of tax and payment of tax so received to the Inland Revenue Office within Seven days.

(1b) the procedures for furnishing and forwarding the returns pursuant to Sub-section (1) may be determined by the Department.”

(21) Of Section 19,-

(a) The following Sub-section (2) shall be substituted for Sub-section (2):

“(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.”

(b) Sub-section (3) is, hereby, deleted.

(c) The words “pursuant to Sub-section (2)” shall be substituted for the words “pursuant to Sub-section (2) or (3)” contained in Sub-section (4).

(d) The words “Sub-section (2)” shall be substituted for the words “pursuant to Sub-section (2) or (3)” contained in Sub-section (5).

(22) Of Section 20,-

- (a) The following Clauses (f), (g), (h) and (i) shall be inserted after Clause (e) of Sub-section (1):

“(f) If supply is made to the group company by making under invoicing,

(g) If transaction is carried out by a person required to be registered without being so registered,

(h) If sale is made without issuing invoices,

(i) If tax is collected by an unregistered person.”

- (b) The following Sub-section (4) shall be substituted for Sub-section (4):

“(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.”

- (c) The following Sub-section (4a) shall be inserted after Sub-section (4):

“(4a) Notwithstanding anything contained in Sub-section (4), where any person has evaded tax by preparing false accounts or invoices or other documents or by fraud, the Department may at any time issue an order for the reassessment of tax.”

- (23) Of Section 21,-

- (a) The following Clause (c) shall be substituted for Clause (c) of Sub-section (1):

“(c) By selling all or some of the properties of the taxpayer through sealed quotations or auction at the same time or various times.”

(b) Sub-section (2) shall be deleted.

(24) The following Section 22A. Shall be inserted after Section 22:

“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 enticement to evade tax through tax exemption scheme, and the Director General may order the Tax Officer to assess the tax of such a taxpayer and recover the same:

(a) To lessen the liability of tax by making or doing any scheme or act with mala fide intention to evade tax by manipulating any provision contained in this Act,

(b) If any person or entity does any act with mala fide intention to lessen the liability of tax or enters into agreement with that intention.”

(25) The following Sections 23C. and 23D. Shall be inserted after Section 23B.

“23C. Purchase of goods of under invoicing: (1) If any person sells any goods by under invoicing, showing the selling price lesser than the prevailing market price, the Tax Officer shall, notwithstanding anything contained in the laws in force, withhold the goods in stock similar to those

goods so under invoiced and sold and the Inland Revenue Office may purchase or cause to be purchased the same at the price under invoiced and sold.

(2) If, in purchasing or caused to be purchased the goods by the Department or Office pursuant to Sub-section (1), such a person does not agree to sell the goods, the Department of office shall take such goods in its custody, make calculation on the basis of the price at which they were under invoiced and sold and make payment when such a person shows up to receive payment.

(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.”

“23D. Power to make search, seizure or demand deposit or security: (1) If the Tax Officer finds that any person, firm, company or organization has done transaction by evading tax and there is a possibility that the accused may go away or the evidence and proof of offence may disappear, the Tax Office may, with the approval of the Director General, do or cause to be done any of the following acts:

- (a) To seal the place of transaction,
- (b) To take custody of the electronic equipment or records thereof,
- (c) To demand cash deposit or wealth guarantee in a sum equivalent to the tax evaded from the person believed to have committed the

offence, by executing a memorandum to that effect,

- (d) To withhold the bank account in the name of taxpayer for up to Three months.

(2) The Tax Officer shall have the same powers as the police may exercise under the laws in force in relation to the investigation of offences pursuant to this Act.”

- (26) The following Sub-section (4) shall be substituted for Sub-section (4) of Section 24:

“(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.”

- (27) The following Sub-section (5) shall be substituted for Sub-section (5) of Section 24:

“(5) On the submission of an application pursuant to Sub-section (3) or (4), the Tax Officer shall refund the amount held to be refundable immediately and if such an amount is not refunded within Thirty days after the date of submission of application in relation to the matter referred to in Sub-section (3) and within Sixty 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.”

(28) The following Section 24A. Shall be inserted after Section 24:

“24A. Tax not to be refunded: (4) 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 after the date of expiration of the period of tax, such refund shall not be made.”

(29) Of Section 25,-

(a) The following Clause (a) shall be substituted for Clause (a) of Sub-section (1):

“(a) If a foreign country grants on reciprocity that tax exemption facility to Nepalese diplomats whom the Government of Nepal, Ministry of Foreign Affairs, has granted diplomatic recognition or to persons enjoying diplomatic facility and serving in regional or international missions or institutions, the amount of tax paid by the Nepal based diplomats of such country or regional or international missions or institutions to the extent of consumption by them.”

(b) The following Sub-section (1a) shall be inserted after Sub-section (1):

“(1a) Notwithstanding anything contained in Sub-section (1), the tax paid by a diplomatic body or diplomat on the purchase of taxable goods or services shall not be refunded if the amount purchase is less than One Thousand Five Hundred Rupees at one time.”

(30) The following Sections 25A. Shall be inserted after Section 25:

“25A. Refund of tax paid by foreign tourist on purchase: If a foreign tourist visiting Nepal and returning by air purchases taxable goods of more than Fifteen Thousand Rupees and takes them with him or her, the tax paid on such goods shall be refunded in accordance with the procedures specified by the Department.

(31) The following Sub-section (2) shall be substituted for Sub-section (2) of Section 26:

“(2) For the purposes of Sub-section (1), the rate of interest shall be Fifteen per cent per annum.”

(32) The following Sub-section (1a) shall be inserted after Sub-section (1) of Section 28:

“(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.”

(33) Of Section 29,-

(a) Of Sub-section (1),-

(1) The following Clause (a) shall be substituted for Clause (a):

“(a) In the event of violation of Sub-section (1) or (2) of Section 10, Ten Thousand Rupees for every tax period.”

(2) The following Clause (b1) shall be inserted after Clause (b):

“(b1) In the event of failure to place a tax board in accordance with this Act or the Rules framed under this Act, a fine of Two Thousand Rupees for each week and in the event of failure to place it at the designate place, a fine of One Thousand Rupees.”

(3) The following Clause (c) shall be substituted for Clause (c):

“(c) In the event of violation of Sub-sections (1) and (4) of Section 14, Five Thousand Rupees for each instance.”

(4) The following Clause (d) shall be substituted for Clause (d):

“(d) In the event of violation of Section 15, cent percent amount of tax collected.”

(5) The following Clause (g1) shall be inserted after Clause (g):

“(g1) In the event of violation of Sub-section (3a) of Section 16, One Thousand Rupees for each instance.”

- (b) The following Sub-section (1a) shall be inserted after Sub-section (1):

“(1a) In the event of lessening tax liability without observing this Act or the Rules framed under this Act, the Tax Officer may fine up to Twenty Five percent of the amount of tax, on the grounds as specified by the Department.”

- (2) The following Sub-section (2) shall be substituted for Sub-section (2):

“(2) If a person commits any of the following offences, the Tax Officer may impose a fine of cent percent of the amount of tax or an imprisonment up to Six months or both the fine and the imprisonment on such a person:

- (a) Preparing false accounts, invoices or other documents;
- (b) Committing an evasion of tax by fraud;
- (c) If an unregistered person acts as if he or she were a registered person;
- (d) Infringing Section 23C.;
- (e) Carrying out a transaction by infringing Section 30.”

- (34) The following Section 29A. shall be inserted after Section 29:

“29A. Power of Department to order to furnish the amount of fine: (1) Notwithstanding anything contained elsewhere in this Act, if any person, prior to the commencement of

proceedings of action, admits in writing that he or she has committed another offence or more than such offence set forth in Sub-section (2) of Section 29, the Department may order such a person to furnish the amount of fine not exceeding the amount of fine imposable for the commission of such an offence.

(2) In issuing order as referred to in Sub-section (1), such an order has to set out the details of such offence, amount of fine to be paid and date for payment of the amount of fine.

(3) An order issued by the Department pursuant to this Section shall be final.”

(35) The following Section 30A, shall be inserted after Section 30:

“30A. Power to order for reassessment of tax: (1) In cases where, before tax is assessed, it appears from the information given to the 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.

(2) In cases where it appears that tax liability has increased because of tax assessment made by the Tax Officer recklessly or with mala fide intention, the Director General may give order to amend such tax assessment order within Four months after the date of initial tax assessment.”

(36) The following Section 31A. shall be substituted for Section 31A:

“31A. Application may be made for administrative review:

(1) A person who is not satisfied with any decision of tax assessment made by the Tax Officer may make an application to the Department against the decision within Thirty days of the date of receipt of a notice of that decision.

(2) In cases where the time limit for making application pursuant to Sub-section (1) expires and any person makes an application for the extension of time limit within Seven days from the date of expiration of the time limit, the Department may extend the time limit for a period not exceeding Thirty days from the date of expiration of the time limit.

(3) If the claim of the applicant appears to be true upon examining the evidence and documents including the application made by the taxpayer pursuant to Sub-section (1), the Director General may, by executing a memorandum setting out the clear reasons, void that tax assessment order and direct the concerned Tax Officer to make re-assessment of tax or order any Tax Officer to do that act.

(4) The Department shall make decision on the application within Sixty days after the date of making of application pursuant to Sub-section (1).

(5) If the Department does not give decision within the time limit as referred to in Sub-section (4), the

concerned person may make an appeal to the Revenue Tribunal pursuant to Section 32.

(6) The taxpayer who makes an application pursuant to Sub-section (1) has to pay undisputed amount of tax, out of the amount of tax assessed, and furnish a cash deposit of One Third of the amount of tax in controversy.

(7) In cases where excess of the amount to be furnished pursuant to Sub-section (1) has been furnished prior to the making of application, only the remaining amount upon deduction of the amount covered by that amount may be furnished as deposit.

(37) The following Section 32 shall be substituted for Section 32:

“32. Appeal in the Revenue Tribunal: (1) A person who is not satisfied with an order of suspension 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 in the Revenue Tribunal accordance to Revenue Tribunal Act, 2031.

(2) The person who files an appeal pursuant to Sub-section (1) has to register a copy of the appeal with the Department within Fifteen days of the date of filing appeal.”

(38) The following Section 32A. shall be inserted after Section 32:

“32A. Advance ruling: (1) If any person makes an application in writing to the Department for the removal of any confusion as to the application of this Act, the Department

may issue its version by an advance ruling as prescribed, by notifying the person in writing.

(2) Notwithstanding anything contained in Sub-section (1), the Department shall not be entitled to issue an advance ruling referred to in Sub-section (1) on any matter of confusion occurred in the implementation of this Act in cases where such matter is *sub judice* in the court or has already been decided by the court.

(39) The following Section 34A. shall be inserted after Section 34:

“34A. Power to have expert's service: The Government of Nepal may obtain the service of the concerned expert for the act related to tax auditing; and the provision on governmental secrecy mentioned in Section 37 shall also apply to such an expert.”

(40) The following Sub-section (1) shall be substituted for Sub-section (91) of Section 40:

“(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 may be awarded, by a decision of the Director General, as reward the amount that is equal to Twenty per cent of the amount of tax recovered on the basis of that information.”

(41) The following Schedule-1 and Schedule-2 shall be substituted for Schedule-1 and Schedule-2:

“Schedule-1

(Relating to Sub-section (3) of Section 5)

List of VAT exempt goods and services

Group 1. Basic Agricultural Products

- (a) Paddy, rice (heading 10.06), wheat (heading 10.02), maize (heading 10.05), barley (heading 10.03), millet (sub heading 10.08.20), buckwheat (sub heading 10.08.10), pulses (heading 07.13), flour and rye flour (heading 11.01, 11.02), grains (heading 11.04), paddy flakes (heading 19.04), peas, beans, chickpeas and kidney peas (heading 07.08 and 07.13) and similar basic unprocessed food materials and their extracts.
- (b) Green and fresh vegetable (from heading 07.01 to 07.11)(except (sub heading 07.03.20), fresh fruits (from headings and sub headings 08.01.19, 08.03, 08.04.30, 08.04.40, 08.04.50, 08.05, 08.06.10, 08.07 to 08.10), fresh eggs (sub heading 06.03.10), tuberous roots, corms, fruits, and vegetables and fresh and unprocessed agro-products, except those to be supplied to hotels, restaurants, bars, guest houses, cafeteria and other similar organizations).
- (c) Unprocessed cash crops/cereals (such as sugarcane (sub heading 12.12.99), cotton (heading 52.01), cardamom (sub heading 09.08.30), ginger and saffron (sub heading 09.10.10), flax (heading 53.01 and sub heading 53.03.10)), unprocessed tobacco, tea leaf sold by farmers(sub heading 09.02.10 and 09.02.20), tea chest (sub heading 44.15.10), coffee (sub heading

09.01.11 and 09.01.12), soybean (heading 12.01), ground-nuts (heading 12.02), turmeric (curcuma) (sub heading 09.10.30), oil-cake and other solid residues (headings 23.04 and 23.05).

- (d) Herbs (including their extracts).

Group 2. Goods of Basic Needs:

- (a) Piped water, including water supplied by tankers.
- (b) Fuel wood (sub heading 44.01.10).
- (c) Coal (heading 44.02).
- (d) Salt (sub heading 25.01.00.90).

Group 3. Live Animals and animal products

- (a) Goats (sub heading 01.04.20), sheep and mountain goats (sub heading 01.04.10), yak and buffalos (heading 01.02), bore and pigs (heading 01.03), rabbit (sub heading 01.06.19) and their unprocessed raw edible food items (from headings 02.01 to 02.04, heading 02.06).
- (b) Cows and she buffalos (heading 01.02), she goats (Sub-heading 01.04.20), and their fresh milk (including pasteurized) (heading 04.01), curd (Sub-heading 04.06.100, bees (Sub-heading 01.06.90) and bee hives (Sub-heading 44.15.100).
- (c) Ducks, hens, cocks, turkey and similar other birds (heading 01.05) their fresh meat and unprocessed raw items (heading 02.07) and eggs (heading 04.07)
- (d) Fresh or dried fish (other than packed) (heading 03.01) (from sub heading 03.02.33 to 03.02.36, except 03.02.700 (heading 03.03

(except sub heading 03.03.80, sub headings 03.07.41 and 03.07.49).

4. Agricultural inputs

- (a) Crops, grasses, flowers or live trees and other plants, bulbs, tubers, tuberous roots and bulbs and roots used as seeds (headings 06.01, 06.02, 06.04, and 12.09).
- (b) Manure, fertilizer and soil conditioners (Chapter 31).
- (c) Hand tools, spades, shovels, mattocks, picks, hoes, forks and rakes, axes, bill hooks and similar hewing tools, secateurs of any kind, scythes, sickles, hay knives, other than hand saws, hedge shears, timber wedges, ploughshare and other tools of a kind used in agriculture (heading 82.01).
- (d) Insecticides, rodenticides, fungicides, herbicides and de-ratting drugs as mentioned in Chapter 38 of Customs Tariff used only for crops (sub headings 38.08.91.90, 38.08.92, 38.08.93, 38.08.99)
- (e) Tractors (heading 87.01), cultivators (sub heading 84.32.29), tandalum (sub heading 84.32.21), levelers (sub heading 84.32.80), harvesting or threshing machine (heading 84.33), threshers (sub heading 84.33.52), fishing nets (sub heading 56.08.11), ready-made cages for aquaculture, fish incubators, pumping sets with engines from Two to Eight horse power and up to 30 meters hose pipe accompanied with the sets, used in irrigation works.

- (f) Raw materials of deed supplements falling under Chapters 23, 28 and 29 of the Customs Tariff, animal feeds and feed supplements falling under Chapter 23 of the Customs Tariff, and lime stone dust, bone dust and fish dust falling in Chapter 25.
- (g) Special kind of utensils for feeding poultry feed except normal or general utensils, and special kinds of utensils for feeding water to poultry.

Group 5. Medicine, Medical and Similar Health services

- (a) Health services (other than health services provided by the institutions registered with the value added tax).
- (b) Human blood and human blood items and vaccines, (heading 30.02).
- (c) Human or animal organs or tissue for medical research (heading 30.01).
- (d) Medicaments for treatment of livestock and human beings and family planning means (headings 30.03, 30.04 (except *Chwanpras*) sub heading 40.14.10).
- (e) Pacemakers used in treatment of heart diseases (Sub-headings 90.21.50), Stent, valve of heart (Sub-headings 90.21.90), bath concentrate solid or liquid used in dialysis (Sub-headings 38.24.90), goods made for, and suitable only for the use of, infirm and disabled persons, (including scooters) (Sub-headings 87.13.10 and 87.14.20),
- (f) X-ray film (sub heading 37.02.10) and oxygen gas to be used for treatment (sub heading 28.04.40) and bandage (heading 30.05).

- (g) **Raw materials for drug industries and production of Intra Ocular Lance (I.O.L.)** : metal salts, oxides and hydro-oxides used by drug industries and in the production of IOL, falling under Chapter 28 of the Customs Tariff, as well as raw materials of drugs (active ingredients of drugs) and raw materials used by drug industries in production of drugs or in IOL , and packing materials.

Group 6: Education

- (a) Research related acts in schools or universities,
- (b) Vocational or professional trainings or refresher trainings, provided by institutions fully owned by the Government of Nepal,
- (c) Educational services provided by schools and universities.

Group 7: Books, newspapers and printed materials

- (a) Books, calendars, newsletters (headings 49.01, 49.02, 49.04) and printing and publication thereof.
- (b) Newsprint (heading 48.01).

Group 8: Artistic and cultural goods and services, carving services

- (a) Painting, handicrafts, carving and similar other handicrafts and related services.
- (b) Cultural programs.
- (c) Admission fees to libraries, museums, art museums, zoos and botanical gardens, and national parks.

Group 9: Passengers and goods transportation services:

Air transport, passenger transportation (except cabal car) and goods carrier service (except transportation related to supply).

NEPAL LAW COMMISSION

Group 10: Personal or Professional service:

Personal services rendered by artists, sportspersons, authors, writers, designers, translators and interpreters institutionally or individually, and services of supplying human resources to foreign countries.

Group 11: Other goods or services:

1. Postal services (only those provided by the Government of Nepal):
 - (a) Services of conveyance or transfer of letters, money and postal packets,
 - (b) Other services required for the services of conveyance or transfer of letters, money and postal packets,
 - (c) Postage stamps (heading 49.07),
 - (d) Services provided by the Government of Nepal.
2. Excise duty stamps and passports (heading 49.07), cash machines (sub heading 84.70.90)
3. Financial services and life insurance services.
4. Bank notes, coins and cheque books:
 - (a) Printing and issue of bank notes,
 - (b) Supply of bank notes from foreign countries into Nepal (heading 49.07).
 - (c) Cheque books

5. Gold and silver:
 - (a) Gold (heading 71.08), gold coins (sub heading 71.18.90), gold ornaments (heading 71.130 and diamond ornaments.
 - (b) Silver (heading 71.06), and silver coins (sub heading 71.18.90), silver ready-made goods and ornaments (heading 71.13)
6. Electricity supply,
7. Raw wool (heading 51.01).
8. Battery operated tempo (sub heading 87.03.21.10) and their chassis (sub heading 87.06.00.15).
9. Bio-gas, solar power and wind power operated power generation plants and their equipment and tubular battery, on the recommendation of the Alternative Energy Promotion Centre.
10. Aircrafts and helicopters (heading 88.02 (except sub heading 88.02.60) and their engines (sub heading 84.09.10, gear box (sub heading 88.05.10), fire brigades (sub heading 87.05.30), ambulances and corpse carrying vehicles (heading 87.02 and 87.03)
11. Jute batching oil (sub heading 27.10.19.13) and jute products (headings 53.06, 53.07 and 53.10)
12. Mills, machineries and equipment, molding keys (except spare parts) other than those that can be used in household attracting up to 5 percent customs duty as falling under Part 84 of the Customs Tariff.

13. Woolen carpet and woolen carpet weaving, dying, washing and knitting.
14. 100 percent cotton sari, *Lungi*, *Dhoti* (for both men and women), *Gamcha* and cotton yarn (headings 52.05 and 52.07).
15. Woolen yarn to be used in hand knitting sweater (except artificial and acrylic) domestically.
16. Donated goods received for any natural calamities or philanthropic purpose, as approved by the Ministry of Finance, Government of Nepal.
17. Goods of personal use that do not attract customs duty and are imported under the Luggage and Baggage Order facility.
18. Amount equal to such tax as deemed payable that remains balance upon deducting the tax paid on purchase from the tax collected on the sale of goods by textile, match (only wooden stick) and tyre-tube industries shall be refunded to these industries in accordance with the procedures specified by the Department.
19. Only Twenty Five percent of the amount equal to such tax as deemed payable that remains balance upon deducting the tax paid on purchase from the tax collected on the sale of own products (flour) by flour industries shall be refunded to these industries in accordance with the procedures specified by the Department.
20. If any native industry that manufactures cellular mobile phone sets and importer thereof submits evidence that they have sold the tax paid on the raw materials of cellular mobile phone sets or

readymade goods sixty percent shall be refunded in accordance with the procedures specified by the Department.

21. The value added tax shall be exempted in relation to imports of such machinery, equipment, tools and their spare parts, penstock pipes or iron sheets used in making thereof as required for hydro power projects and as are not produced in Nepal, on the recommendation of the Alternative Energy Promotion Center, in the case of those which are operated with the approval of that Center, and on the recommendation of the Electricity Development Department, in the case of the industries except those which are operated with the approval of the Alternative Energy Promotion Center.
22. The value added tax shall not be levied on transferring any motor vehicles that were imported by any foreign mission or donor agency with the enjoyment of the diplomatic facility or tariff facility to the project itself in consonance with the approval annual program of the project and converting their number plates into governmental ones or on transferring, with the approval of the Ministry of Finance, any motor vehicles that were imported in the name of any project with the enjoyment of full or partial tariff facility (except those imported on inventory or bank guarantee) to any governmental body after the completion of the project and converting their number plates into governmental ones.
23. If any diplomatic body, project or other body (governmental as well as non-governmental organization) intends to scrap and cancel the registration of any motor vehicle that it has imported with the enjoyment of the tariff facility and that is more than 15 years old after the year of initial production, with the approval of

the Ministry of Finance, the value added tax shall not be levied on such a motor vehicle.

24. If the owner of a motor vehicle imported by a citizen of Nepal for personal use with the enjoyment of value added tax exemption dies and the motor vehicle has to be transmitted to the husband or wife of the owner of motor vehicle, the value added tax shall not be levied on such a motor vehicle on the basis of the approval of the Department.
25. If any industries that have not enjoyed the facility of bonded warehouse or passbook import the raw materials, subsidiary raw materials, and packaging materials that are not produced in Nepal, required for the production of goods to be exported by them and export the goods produced from such raw materials in accordance with such procedures and within such period as prescribed, the value added tax levied on such raw materials, subsidiary raw materials and packaging materials at the customs points while importing them shall be refunded from the customs point in relation to such goods, from such a date and on such pro rata as specified in a notice published in the Nepal Gazette.
26. The following goods to be imported in the name of Nepal Army, Armed Police Force and Nepal Police Headquarters shall enjoy exemption, on the recommendation of the concerned Ministry:
 - (a) Ammunitions, arms, gunpowder and their spare parts, special kind of oil, accessories, explosives to be used by Nepal Army, Armed Police Force and Nepal Police, raw materials required to produce army materials and machineries, tools and spare parts used for security.

- (b) Machineries and equipment required for maintaining peace and security, crowd control materials, equipment and other goods required for the investigation of crimes, and communication materials to be used by personnel of Nepal Army, Armed Police Force and Nepal Police, on the recommendation of the Ministry of Communication.
- (c) Such equipment, materials, drugs and related goods as required for the treatment of Army personnel, armed police and Nepal police personnel and of horses.
- (d) Goods used in the exercise and training of Army, armed police and Nepal police personnel.
- (e) Heavy earth moving plant, tool and parts related thereto, optical equipment used in engineering survey and construction works carried out by Nepal Army, and such defense store goods as specified by the Ministry of Defense.
- (f) Camping equipment used by Nepal Army and various goods required for special force and paratroopers.
- (g) Aircrafts, helicopters and their spare parts, parachute (including bags), tools, lubricants and ground equipment imported in the name of Nepal Army.
- (h) Equipment and tools required for the operation of hospitals.
- (i) Goods required for scientific laboratories.
- (j) Goods used in natural calamity relief works.

- (27) If the Government of Nepal considers reasonable to grant any exemption to any taxable goods or to refund tax, it may grant such exemption by publishing a notice in the Nepal Gazette.

Group 12: Lands and buildings

Purchase, sale and rental of lands and buildings (except the services provided by such entities carrying on business such as hotels and guest houses)

Group 13: Betting, casinos and lotteries

Activities relating to facilities provided for the organization of bets or gambling, and lottery.

Note:

The value added tax shall be exempted only on the goods specifically mentioned in the foregoing headings and sub headings. The Department may, as required, and in consultation with the Department of Customs, alter and revise the interpretation of the goods and services enjoying tax exemption and the Harmonized Code of Commodities.

NEPAL LAW COMMISSION

Schedule-2

(Relating to Sub-section (2) of Section 7)

Goods and services subject to zero rate

- 1. Goods exported from Nepal:** If it is proved that goods are supplied as follows:
 - (a) Goods exported outside Nepal, or
 - (b) Goods shipped for use as stores on an international flight of which destination is outside Nepal, or
 - (c) Goods put on board an international flight of which destination is outside Nepal for retail sale or supply or consumption.
- 2. Services to be supplied to persons outside Nepal:**
 - (a) A supply of services by a person residing in Nepal to a person outside Nepal, who has no business transaction, business representative or legally recognized agent in Nepal.
 - (b) A supply of goods or services by a person who is residing and is registered in Nepal to a person who is residing outside Nepal.
- 3.** Goods or services imported by a person or mission enjoying diplomatic facility and a person serving in a diplomatic mission enjoying tariff facility, on the recommendation of the Ministry of Foreign Affairs, Government of Nepal.
- 4.** If any previous treaty or agreement provides for the sales tax exemption on imports, and local purchase is made from the registered taxpayers, on the recommendation of the concerned project, the facility of zero rate

shall be provided on such supplies, so long as such treaty or agreement is in effect.

5. Raw materials to be sold to and goods manufactured by any industries established pursuant to the laws in force and operated in the special economic zone.
6. If, on the recommendation of the Alternative Energy Promotion Center, the battery used in the equipment and mechanism generating energy from solar power is produced by any native industry and is to be supplied by that industry, the facility of zero rate shall be provided to that industry on that transaction on the recommendation of Alternative Energy Promotion Center and in accordance with the procedures specified by the Department.
7. If any machinery, equipment, tools and their spare parts, penstock pipes or iron sheets used in making thereof required for hydro power projects are produced by any native industry and are to be supplied by that industry, the facility of zero rate shall be provided to that industry on that transaction, on the recommendation of the Alternative Energy Promotion Center, in the case of a project that is operated with the approval of that Center, and on the recommendation of the Electricity Development Department, in the case of one other than that operated with the approval of the Alternative Energy Promotion Center and in accordance with the procedures specified by the Department.
8. If painting, handicrafts, carving and similar other handicrafts produced a cottage and small scale industry within Nepal are exported through an approved export trading house of Nepal, the value added tax paid on the raw materials used in the manufacture of such goods shall be refunded after fulfilling the procedures specified by the Inland Revenue Department.

9. The value added tax paid on the import or local purchase of scooters used by persons with disabilities shall, if such scooters are registered in their name in the Office of Transport Management, be refunded on the recommendation of the Women, Children and Social Welfare or the Chief District Officer of the concerned district, and in accordance with the procedures as specified by the Department of Inland Revenue. If such goods are sold to any persons other than the persons with disabilities, the refunded value added tax shall be recovered.

NEPAL LAW COMMISSION

Financial Act, 2067 (2011)

Date of Authentication and Publication

2067.11. 03 (15 Feb. 2011)

An Act Made to Implement Proposals Relating to Finance of the Government of Nepal

Preamble: Whereas, it is expedient to levy some charges, taxes, duties, cesses and fees, continue or alter the existing ones and also to amend the laws in force relating to revenue administration in order to implement the proposals relating to finance of the Government of Nepal;

Now, therefore, be it enacted by the Constitution Assembly pursuant to Sub-articles (1) of Article 83 of Interim Constitution of Nepal, 2063 (2007).

1. Short title and commencement: (1) This Act may be called the "Financial Act, 2067 (2010)."

(2) This Act shall come into force immediately.

30. Amendment to the Value-added Tax Act, 2052 (1996): Of the Value-added Tax Act, 2052 (1996),-

(1) Of Section 2,-

(a) The following Clause (f1) shall be inserted after Clause (f):

"(f1) "Group of companies or entities" means a group of companies or entities in relation to which the following situation exists:

- (a) If any business is carried on by a person or agent member associated with the group of entities,
 - (b) If any goods or services are supplied by the group of entities to any entity or group of other entities associated with it,
 - (c) If any goods or services are supplied to the group of entity or member of the group,
 - (d) If the permanent address of operation of business of any two or more than two entities is in the same place, or
 - (e) If the group of entities is controlled directly or indirectly by any one person or some persons.”
- (b) The following Clause (h) shall be substituted for Clause (h):
- “(h) "Consideration" means anything to be obtained in exchange for the price of any goods or services being supplied.”
- (c) The following Clause (h1) shall be inserted after Clause (h):
- “(h1) "Loan agreement" means a hire purchase agreement or financial lease.”
- (d) The following Clause (k1) shall be substituted for Clause (k):
- “(k1) Electronic medium" includes approved means such as the computer, internet, e-mail, fax, electronic cash register/machine and fiscal printer.

- (e) The following Clause (t) shall be substituted for Clause (t):

“(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 also 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.”

- (2) The following Section 4 shall be substituted for Section 4:

“4. **Jurisdiction of the Tax Officer:** (1) The jurisdiction of Tax Officer shall be as prescribed by the Government of Nepal.

(2) The Director General may also designate a Tax Officer to inspect and monitor the transaction of taxpayers in other areas than those falling under his or her jurisdiction.”

- (3) The following Section 5A. shall be substituted for Section 5A:

“5A. **Tax not to be levied on transfer of ownership of transactions:** Notwithstanding anything contained elsewhere in this Act, in cases where a registered person sells the transaction being carried out by him or her to any other registered person or the transaction is transferred in the name of his or her heir by virtue of his or her death, such transfer of ownership shall not be subject to tax. The person registered in so selling or transferring the transaction shall give information thereof to the Department as prescribed.

(2) Notwithstanding anything contained in Sub-section (1), if any industry or business that is required to be registered or has been registered pursuant to laws is transferred, the transferee who obtains the ownership shall bear the transferor's liability of tax specified by law.

(3) The person who obtains ownership shall, subject to Sub-section (3), bear the obligation of safely maintaining the accounts, records and books of account of the transaction of such an industry or business until the prescribed period (before and after transfer) pursuant to this Act."

- (4) The following Explanation shall be inserted in Clause (c) of Sub-section (2) of Section 6:

“Explanation: For the purposes of this Clause, acquisition shall be deemed in the following circumstance:

- (f) Copyrights, patents, licenses, trademarks and similar other rights,
- (g) Advertisement services,
- (h) Technical services, engineering services, services of suppliers providing technical services, legal services, accounting services, data and data processing services, information services and similar other services.
- (i) In supplying the services as referred to in Sub-section (1) or accepting any liability or undertaking or in exercising that undertaking fully or partly or doing any business activities in exercise of such right, or

- (j) Insurance or reinsurance services other than the facility of safe deposit.
- (5) The following Sub-section (1) shall be substituted for Sub-section (1) of Section 7:

“(1) The rate of tax to be levied pursuant to this Act shall be in single rate of 13 percent.”
- (6) Of Section 8:
 - (a) The following Sub-section (2) shall be substituted for Sub-section (2):

“(2) A person, whether registered or not, who is the recipient of services from a person who is not registered and is outside of Nepal shall have to assess and collect tax at the taxable value in accordance with this Act and the Rules framed under this Act.”
 - (b) The following Sub-section (3) shall be inserted after Sub-section (2):

“(3) Even though the construction of a building or apartment or shopping complex and similar other structure as specified by the Department, of which value is more than Five Million Rupees, and which is built for business purpose is procured from a person who is not registered, tax shall be assessed and collected from a person who has ownership in that structure as if such construction were procured from a registered person.”
- (7) The following Section 8A. shall be inserted after Section 8:

“8A. Provision of bank guarantee: (1) An industry that exports more than Sixty percent of the total sale of the last Twelve months after the operation of the industry may make import by furnishing a bank guarantee with the concerned Tax 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 duty free shop through a bonded warehouse may be made by furnishing a bank guarantee with the concerned Tax Office in consideration for tax leviable on such goods.

Provided that, except for the import by a duty 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.

(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.

(3) Liquors and cigarettes in stock at the duty 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 be sold upon paying leviable tax.

(4) The bank guarantee furnished pursuant to Sub-section (1) shall be released from the concerned Tax Office in accordance with the procedures specified by the Department.

(5) A person who enjoys the facility as referred to in this Section shall not be entitled to the facility as referred to in Sub-section (4) of Section 24.”

(8) The following Section 9 shall be substituted for Section 9:

“9. **Exemption for small vendor:** 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 and filing of tax returns and from such requirements as may be prescribed.

Provided that, if a small vendor intends to have his or her transaction registered voluntarily, he or she may have such registration after completing the procedures as referred to in Section 10.”

(9) Of Section 10,-

(a) The following Sub-sections (1) and (2) shall be substituted for Sub-sections (1) and (2):

“(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.

(2) If any goods transacted by a person is taxable or if any person operates hardware, sanitary, furniture, fixture, furnishing, automobiles, motor parts, electronics, marble, educational consultancy, discotheque, health club, catering service, party place business, parking service, dry cleaners using machinery equipment, restaurant with bar, and colour lab transactions within a Municipal Corporation, Sub-municipal Corporation, Municipality or within an area specified by the Department, the person has to make an application in the prescribed format, to the Tax Officer, for registration, within Thirty days after the date of imposition of such tax or the date of commencement of the transactions.”

(b) The word “application” shall be substituted for the word “petition” contained in Sub-section (4).

(10) The following Section 10A. shall be inserted after Section 10:

“10A. Special provision relating to provisional registration:

(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 registered with the Value Added Tax temporarily. In the case of a person who is so registered, the Tax Officer may require a deposit in consideration for security.

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

(3) A tax payer who has been registered only for the programme 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.”

(11) Of Section 11,-

(a) Of Sub-section (1),-

(1) The following Clause (c) shall be substituted for Clause (c):

“(c) In the case of a partnership firm, if such partnership firm is dissolved or the partner dies,”

(2) The following Clause (d1) shall be inserted after Clause (d):

“(d1) If the taxpayer is one who gives zero return or does not give return at all within a consecutive period of One year,”

(3) The following Clause (1b) shall be inserted after Clause (1a):

“(1b) A taxpayer has to submit his or her documents for auditing within fifteen days of the submission of the tax returns for cancellation of registration, and the Tax Officer shall perform the audit of such a taxpayer, cancel the registration within Three months or if registration is not to be

so cancelled, the Tax Officer shall give information thereof to the taxpayer. If the Tax Officer does not cancel registration or make decision to cancel registration within that period, the taxpayer is not obliged to furnish the tax returns subsequent to that period.”

- (b) The following Sub-section (3) shall be substituted for Sub-section (3):

“(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.”

- (c) The following Sub-section (4) shall be inserted after Sub-section (3):

“(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.”

- (12) The following Clause (b) shall be substituted for Clause (b) of Sub-section (2) of Section 12:

“(b) Excise duty, ownership fee and other taxes save the 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.

- (13) The following Section 12A. shall be inserted after Section 12:

“12A. Taxable value of timber transaction: (1) There shall be levied and collected tax on the amount of royalty of the timber of national forest or the amount of auction, whichever is higher, at the time of auction, release or saw order, whichever is earlier.

(2) If the timber of a personal cultivated, private forest or community forest for business purpose and despite that royalty is not chargeable, tax shall be leviable as if it were the timber of national forest.”

- (14) Of Section 14,-

- (a) The following proviso shall be inserted in Sub-section (1):

“Provided that, a person who carries on annual transaction of more than One Million Rupees shall issue invoices with serial number and permanent accounts number as well as his or her name, and address despite that he or she is not registered.”

- (b) The following Sub-sections (4), (5), (6) and (7) shall be inserted after Sub-section (3):

“(4) One who transports goods attracting tax of more than Ten Thousand Rupees outside the area specified by the Department shall hold tax invoices with him or her.

(5) The Department may order taxpayers to issue invoices by using a cash machine or computer. Other procedures on so issuing invoices by using a cash machine or computer shall be as prescribed by the Department.

(6) The Department may, by publishing a notice or issuing an order in writing, so specify that any person specified by such a notice or order has to make public the retail sale value or price of any such goods as specified in that order or notice for such period as specified therein. No sale or transfer of any goods shall be made without making public the retail sale price after the receipt of such a notice or order.

(7) Provision shall be made that any person specified pursuant to Sub-section (6) shall, in selling such goods to any unregistered persons, have to issue invoices of the price made public in the specified format and collect also the tax at the consumer level.

Provided that, any persons not so specified pursuant to Sub-section (6) may issue invoices as referred to in this Sub-section.”

- (15) The following Sub-section (3) shall be inserted after Sub-section (2) of Section 15:

“(3) Notwithstanding anything contained in Sub-sections (1) and (2), a Local Body or an international organization or diplomatic mission situated in Nepal or the Government of Nepal or public corporations doing transactions of goods not subject to value-added tax shall have to collect or recover tax at the time of sale of value-added taxable goods or services.

(16) Of Section 16:

(a) The following Sub-section (1a) shall be inserted after Sub-section (1):

“(1a) The Department may have continuous access to the computer database of taxpayers.”

(b) The following Sub-section (3a) shall be inserted after Sub-section (3):

“(3a) A person who carries on the transactions of taxable goods or services but is not registered has to himself or herself certify the account of purchase and sale for each financial year. The Tax Officer may at any time examine such an account.”

(17) The following Section 16A. shall be substituted for Section 16A:

“16A. Records processed by computer to be acceptable as evidence: (1) Notwithstanding anything contained in the laws in force, the records relating to taxpayer processed by the computer installed in the Department or offices thereunder shall be acceptable as evidence for purposes of tax, except it is otherwise proved.

(2) The Department may, by publishing a notice, make necessary arrangements on the issuance of invoices, maintenance of accounts, submission of tax returns and payment through electronic medium."

NEPAL LAW COMMISSION

- (18) The following Section 16B. shall be inserted after Section 16A:

“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.”

- (19) Of Section 17,-

- (a) The following Sub-section (2) shall be substituted for Sub-section (2):

“(2) Notwithstanding anything contained in Sub-section (1), it may be provided that no deduction or only a partial deduction may be granted in the case of the prescribed goods that can be used for personal purpose or for business purpose or for both purposes.”

- (b) The following Sub-section (5a) shall be substituted for Sub-section (5a):

“(5a) The concerned taxpayer shall be allowed to deduct the 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).”

- (c) The following Sub-section (5b) shall be inserted after Sub-section (5a):

“(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.”

- (d) The following Sub-section (8) shall be inserted after Sub-section (7):

“(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.”

- (20) Of Section 18,-

- (a) The words “or by registered post” shall be inserted after the words “before the Tax Officer” contained in Sub-section (1).
- (b) The following Sub-sections (1a) and (1b) shall be inserted after Sub-section (1):

“(1a) Notwithstanding anything contained in Sub-section (1), a taxpayer in a district where there is no Inland Revenue Office may furnish the amount of tax and tax returns to be paid and submitted by him or her with the Office of Funds and Accounts Controller of the same district within the Fifteenth day of the month in which he or she has to furnish the tax returns. The Office of Funds and Accounts Controller shall forward the returns of tax and payment of tax so received to the Inland Revenue Office within Seven days.

(1b) The procedures for furnishing and forwarding the returns pursuant to Sub-section (1) may be determined by the Department.”

(21) Of Section 19,-

(a) The following Sub-section (2) shall be substituted for Sub-section (2):

“(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.”

(b) Sub-section (3) is hereby deleted.

(c) The words “pursuant to Sub-section (2)” shall be substituted for the words “pursuant to Sub-section (2) or (3)” contained in Sub-section (4).

(d) The words “pursuant to Sub-section (2)” shall be substituted for the words “pursuant to Sub-section (2) or (3)” contained in Sub-section (5).

(22) Of Section 20,-

(a) The following Clauses (f), (g), (h) and (i) shall be inserted after Clause (e) of Sub-section (1):

“(f) If supply is made to the group of company by making under invoicing,

(g) If transaction is carried out by a person required to be registered without being so registered,

(h) If sale is made without issuing invoices,

(i) If tax is collected by an unregistered person.”

(b) The following Sub-section (4) shall be substituted for Sub-section (4):

“(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.”

(c) The following Sub-section (4a) shall be inserted after Sub-section (4):

“(4a) Notwithstanding anything contained in Sub-section (4), where any person has evaded tax by preparing false accounts or invoices or other documents or by fraud, the Department may at any time issue an order for the reassessment of tax.”

(23) Of Section 21,-

(a) The following Clause (c) shall be substituted for Clause (c) of Sub-section (1):

“(c) By selling all or some of the properties of the taxpayer through sealed quotations or auction at the same time or various times.”

(b) Sub-section (2) shall be deleted.

(24) The following Section 22A. shall be inserted after Section 22:

“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 enticement to evade tax through tax exemption scheme, and the Director General may order the Tax Officer to assess the tax of such a taxpayer and recover the same:

- (a) To lessen the liability of tax by making or doing any scheme or act with *mala fide* intention to evade tax by manipulating any provision contained in this Act,
- (b) If any person or entity does any act with *mala fide* intention to lessen the liability of tax or enters into agreement with that intention.”

(25) The following Sections 23C. and 23D. shall be inserted after Section 23B.:

“23C. Purchase of goods of under invoicing: (1) If any person sells any goods by under invoicing, showing the selling price lesser than the prevailing market price, the Tax Officer shall, notwithstanding anything contained in the laws in force, withhold the goods in stock similar to those goods so under invoiced and sold and the Inland Revenue Office may purchase or cause to be purchased the same at the price under invoiced and sold.

(2) If, in purchasing or caused to be purchased the goods by the Department or Office pursuant to Sub-section (1), such a person does not agree to sell the goods, the Department of office shall take such goods in its custody, make calculation on the basis of the price at

which they were under invoiced and sold and make payment when such a person shows up to receive payment.

(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.”

“23D. Power to make search, seizure or demand deposit or

security: (1) If the Tax Officer finds that any person, firm, company or organization has done transaction by evading tax and there is a possibility that the accused may abscond or the evidence and proof of offence may disappear, the Tax Office may, with the approval of the Director General, do or cause to be done any of the following acts:

- (a) To seal the place of transaction,
- (b) To take custody of the electronic equipment or records thereof,
- (c) To demand cash deposit or wealth guarantee in a sum equivalent to the tax evaded from the person believed to have committed the offence, by executing a memorandum to that effect,
- (d) To withhold the bank account in the name of taxpayer for up to Three months.

Provided that, where the tax assessment procedures have not been completed, the bank account may be withheld for an additional period of Three

months with the approval of the Director General.

(2) The Tax Officer shall have the same powers as the police may exercise under the laws in force in relation to the investigation of offences pursuant to this Act.”

(26) The following Sub-section (4) shall be substituted for Sub-section (4) of Section 24:

“(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.”

(27) The following Sub-section (5) shall be substituted for Sub-section (5) of Section 24:

“(5) On the submission of an application pursuant to Sub-section (3) or (4), the Tax Officer shall refund the amount held to be refundable, and if such an amount is not refunded within Thirty days after the date of submission of application in relation to the matter referred to in Sub-section (3) and within Sixty 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.”

(28) The following Section 24A. shall be inserted after Section 24:

“24A. Tax not to be refunded: (4) 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 after the date of expiration of the period of tax, such refund shall not be made.”

NEPAL LAW COMMISSION

(29) Of Section 25,-

(a) The following Clause (a) shall be substituted for Clause (a) of Sub-section (1):

“(a) If a foreign country grants on reciprocity that tax exemption facility to Nepalese diplomats whom the Government of Nepal, Ministry of Foreign Affairs, has granted diplomatic recognition or to persons enjoying diplomatic facility and serving in regional or international missions or institutions, the amount of tax paid by the Nepal based diplomats of such country or regional or international missions or institutions to the extent of consumption by them.”

(b) The following Sub-section (1a) shall be inserted after Sub-section (1):

“(1a) Notwithstanding anything contained in Sub-section (1), the tax paid by a diplomatic body or diplomat on the purchase of taxable goods or services shall not be refunded if the amount purchase is less than One Thousand Five Hundred Rupees at one time.”

(30) The following Sections 25A. and 25B. shall be inserted after Section 25:

“25A. Refund of tax paid by foreign tourist on purchase: If a foreign tourist, visiting Nepal and returning by air, purchases taxable goods of more than Fifteen Thousand Rupees and takes them with him or her, the tax paid on such goods shall be refunded in accordance with the procedures specified by the Department.

25B. Return of tax at the customs point in the case of re-export: If any goods are re-exported, the concerned Customs Office shall, on the basis of the evidence of re-export of the goods, make refund out of the deposit amount in consideration for the value added tax with the customs by the concerned person.”

- (31) The following Sub-section (2) shall be substituted for Sub-section (2) of Section 26:

“(2) For the purposes of Sub-section (1), the rate of interest shall be Fifteen per cent per annum.”

- (32) The following Sub-section (1a) shall be inserted after Sub-section (1) of Section 28:

“(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.”

- (33) Of Section 29,-

(a) Of Sub-section (1),-

- (1) The following Clause (a) shall be substituted for Clause (a):

“(a) In the event of violation of Sub-section (1) or (2) of Section 10, Ten Thousand Rupees for every tax period.”

(2) The following Clause (b1) shall be inserted after Clause (b):

“(b1) In the event of failure to place a tax board in accordance with this Act or the Rules framed under this Act, a fine of Two Thousand Rupees for each week and in the event of failure to place it at the designate place, a fine of One Thousand Rupees.”

(3) The following Clause (c) shall be substituted for Clause (c):

“(c) In the event of violation of Sub-sections (1) and (4) of Section 14, Five Thousand Rupees for each instance.”

(4) The following Clause (d) shall be substituted for Clause (d):

“(d) In the event of violation of Section 15, cent percent amount of tax collected.”

(5) The following Clause (g1) shall be inserted after Clause (g):

“(g1) In the event of violation of Sub-section (3a) of Section 16, One Thousand Rupees for each instance.”

- (6) The following Clause (l) shall be inserted after Clause (k):

“(l) If a taxpayer who has obtained permission to making computer billing is found to have used a software deleting and correcting data, Five Hundred Thousand Rupees.”

- (b) The following Sub-section (1a) shall be inserted after Sub-section (1):

“(1a) In the event of lessening tax liability without observing this Act or the Rules framed under this Act, the Tax Officer may fine up to Twenty Five percent of the amount of tax, on the grounds as specified by the Department.”

- (2) The following Sub-section (2) shall be substituted for Sub-section (2):

“(2) If a person commits any of the following offences, the Tax Officer may impose a fine of cent percent of the amount of tax or an imprisonment up to Six months or both the fine and the imprisonment on such a person:

- (a) Preparing false accounts, invoices or other documents;
- (b) Committing an evasion of tax by fraud;
- (c) If an unregistered person acts as if he or she were a registered person;
- (d) Infringing Section 23C.;

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

(34) The following Section 29A. shall be inserted after Section 29:

“29A. Power of Department to order to furnish the amount

of fine: (1) Notwithstanding anything contained elsewhere in this Act, if any person, prior to the commencement of proceedings of action, admits in writing that he or she has committed another offence or more than such offence set forth in Sub-section (2) of Section 29, the Department may order such a person to furnish the amount of fine not exceeding the amount of fine imposable for the commission of such an offence.

(2) In issuing order as referred to in Sub-section (1), such an order has to set out the details of such offence, amount of fine to be paid and date for payment of the amount of fine.

(3) An order issued by the Department pursuant to this Section shall be final.”

(35) The following Section 30A. shall be inserted after Section 30:

“30A. Power to order for reassessment of tax: (1) In cases

where, before tax is assessed, it appears from the information received by the 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.

(2) In cases where it appears that tax liability has increased because of tax assessment made by the Tax Officer recklessly or with *mala fide* intention, the Director General may give order to amend such tax assessment order within Four months after the date of initial tax assessment.”

(36) The following Section 31A. shall be substituted for Section 31A:

“31A. Application may be made for administrative review:

(1) A person who is not satisfied with any decision of tax assessment made by the Tax Officer may make an application to the Department against the decision within Thirty days of the date of receipt of a notice of that decision.

(2) In cases where the time limit for making application pursuant to Sub-section (1) expires and any person makes an application for the extension of time limit within Seven days from the date of expiration of the time limit, the Department may extend the time limit for a period not exceeding Thirty days from the date of expiration of the time limit.

(3) If the claim of the applicant appears to be true upon examining the evidence and documents including the application made by the taxpayer pursuant to Sub-section (1), the Director General may, by executing a memorandum setting out the clear reasons, void that tax assessment order and direct the concerned Tax Officer to

make re-assessment of tax or order any Tax Officer to do that act.

(4) The Department shall make decision on the application within Sixty days after the date of making of application pursuant to Sub-section (1).

(5) If the Department does not give decision within the time limit as referred to in Sub-section (4), the concerned person may make an appeal to the Revenue Tribunal pursuant to Section 32.

(6) The taxpayer who makes an application pursuant to Sub-section (1) has to pay undisputed amount of tax, out of the amount of tax assessed, and furnish a cash deposit of One Third of the amount of tax in controversy.

(7) In cases where excess of the amount to be furnished pursuant to Sub-section (1) has been furnished prior to the making of application, only the remaining amount upon deduction of the amount covered by that amount may be furnished as deposit.

(37) The following Section 32 shall be substituted for Section 32:

“32. Appeal in the Revenue Tribunal: (1) A person who is not satisfied with an order of suspension 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 in the Revenue Tribunal.

(2) The person who files an appeal pursuant to Sub-section (1) has to register a copy of the appeal with

the Department within Fifteen days of the date of filing appeal.”

(38) The following Section 32A. shall be inserted after Section 32:

“32A. Advance ruling: (1) If any person makes an application in writing to the Department for the removal of any confusion as to the application of this Act, the Department may issue its version by an advance ruling as prescribed, by notifying the person in writing.

(2) Notwithstanding anything contained in Sub-section (1), the Department shall not be entitled to issue an advance ruling referred to in Sub-section (1) on any matter of confusion occurred in the implementation of this Act in cases where such matter is *sub judice* in the court or has already been decided by the court.

(39) The following Section 34A. shall be inserted after Section 34:

“34A. Power to have expert's service: The Government of Nepal may obtain the service of the concerned expert for the act related to tax auditing; and the provision on governmental secrecy mentioned in Section 37 shall also apply to such an expert.”

(40) The following Sub-section (1) shall be substituted for Sub-section (1) of Section 40:

“(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 may be awarded, by a decision of the Director General, as reward the

amount that is equal to Twenty per cent of the amount of tax recovered on the basis of that information.”

- (41) The following Schedule-1 and Schedule-2 shall be substituted for Schedule-1 and Schedule-2:

NEPAL LAW COMMISSION

“Schedule-1

(Relating to Sub-section (3) of Section 5)

List of VAT exempt goods and services

Group 1. Basic Agricultural Products

- (a) Paddy, rice (heading 10.06), wheat (heading 10.01 and 10.02), maize (heading 10.05), barley (heading 10.03), millet (sub heading 10.08.20), buckwheat (sub heading 10.08.10), pulses (heading 07.13), flour and rye flour (heading 11.01, 11.02), grains (heading 11.04), paddy flakes (bitten rice) (heading 19.04), peas, beans, chickpeas and kidney peas (heading 07.08 and 07.13) and similar basic unprocessed food materials and their extracts.
- (b) Green and fresh vegetable (from heading 07.01 to 07.11)(except (sub heading 07.03.20), fresh fruits (from headings and sub headings 08.01.19, 08.03, 08.04.30, 08.04.40, 08.04.50, 08.05, 08.06.10, 08.07 to 08.10), fresh flowers (sub heading 06.03.10), tuberous roots, corms, fruits, and vegetables and fresh and unprocessed agro-products (except those to be supplied to hotels, restaurants, bars, guest houses, cafeteria and other similar organizations).
- (c) Unprocessed cash crops/cereals (such as sugarcane (sub heading 12.12.99), cotton (heading 52.01), cardamom (sub heading 09.08.30), ginger and saffron (sub heading 09.10.10), flax (heading 53.01 and sub heading 53.03.10)), unprocessed tobacco, tea leaf sold by farmers(sub heading 09.02.10 and

09.02.20), tea chest (sub heading 44.15.10), coffee (sub heading 09.01.11 and 09.01.12), soybean (heading 12.01), ground-nuts (heading 12.02), turmeric(curcuma) (sub heading 09.10.30), oil-cake and other solid residues (headings 23.04 and 23.05).

- (d) Herbs (including their extracts).

Group 2. Goods of Basic Needs:

- (a) Piped water, including water supplied by tankers.
- (b) Fuel wood (sub heading 44.01.10).
- (c) Coal (heading 44.02).
- (d) Salt (sub heading 25.01.00.90).

Group 3. Live Animals and animal products

- (a) He-goats (sub heading 01.04.20), sheep and mountain goats (sub heading 01.04.10), yak and buffalos (heading 01.02), bore and pigs (heading 01.03), rabbit (sub heading 01.06.19) and their unprocessed raw edible food items (from headings 02.01 to 02.04, heading 02.06).
- (b) Cows and she buffalos (01.02), she goats (01.04.20), and their fresh milk (04.01), (including pasteurized), curd (04.06.100, bees (01.06.90) and bee hives (44.15.100 and bee keeping machinery, including germination plant, metal barrel, bee brush, base roller, gear pump and wheel plate (heading 84.36) and bee harvesting or threshing machinery (heading 84.33).
- (c) Ducks, hens, cocks, turkey and similar other birds (heading 01.05) their fresh meat and unprocessed raw items (heading 02.07) and eggs (heading 04.07).

- (d) Fresh or dried fish (other than packed) (heading 03.01) (from sub heading 03.02.33 to 03.02.36, except 03.02.700 (heading 03.03 (except sub heading 03.03.80, sub headings 03.07.41 and 03.07.49)

4. Agricultural inputs

- (a) Crops, grasses, flowers or live trees and other plants, bulbs, tubers, tuberous roots and bulbs and roots used as seeds (headings 06.01, 06.02, 06.04, and 12.09).
- (b) Manure, fertilizer and soil conditioners (Chapter 31).
- (c) Hand tools, spades, shovels, mattocks, picks, hoes, forks and rakes, axes, bill hooks and similar hewing tools, secateurs of any kind, scythes, sickles, hay knives, other than hand saws, hedge shears, timber wedges, ploughshare and other tools of a kind used in agriculture (heading 82.01).
- (d) Insecticides, rodenticides, fungicides, herbicides and de-ratting drugs as mentioned in Chapter 38 of Customs Tariff used only for crops (sub headings 38.08.91.90, 38.08.92, 38.08.93, 38.08.99)
- (e) Tractors (heading 87.01), cultivators (sub heading 84.32.29), tantom (sub heading 84.32.21), levelers (sub heading 84.32.80), harvesting or threshing machine (heading 84.33), threshers (sub heading 84.33.52), fishing nets (sub heading 56.08.11), ready-made cages for aquaculture, fish incubators, pumping sets with engines from Two to Eight horse power and up to 30 meters hose pipe accompanied with the sets, used in irrigation works.
- (f) Raw materials of feed supplements falling under Chapters 23, 28 and 29 of the Customs Tariff, animal feeds and feed supplements

falling under Chapter 23 of the Customs Tariff, and lime stone dust, bone dust and fish dust falling in Chapter 25.

- (g) Special kind of utensils for feeding poultry feed except normal or general utensils, and special kinds of utensils for feeding water to poultry.

Group 5. Medicine, Medical and Similar Health services

- (a) Health services (other than health services provided by the institutions registered with the value added tax).
- (b) Human blood and human blood items and vaccines, (heading 30.020) plastic blood bags, transfusion sets, testing kits, and various tools, equipment and chemicals required for building reagents and blood test reagents that are imported by the Nepal Red Cross Society and required for blood transfusion service.
- (c) Human or animal organs or tissue for medical research (heading 30.01).
- (d) Medicaments for treatment of livestock and human beings and family planning means (headings 30.03, 30.04 (except *Chwanpras*) sub heading 40.14.10).
- (e) Pacemakers used in treatment of heart diseases (90.21.50), equipment required for the treatment of kidney disease, bath concentrate solid or liquid used in dialysis (38.24.90), goods made for, and suitable only for the use of, infirm and disabled persons, (including scooters) 987.13.10 and 87.14.20).
- (f) X-ray film (sub heading 37.02.10) and oxygen gas to be used for treatment (sub heading 28.04.40) and bandage (heading 30.05).

- (g) Raw materials for drug industries: metal salts, oxides and hydro-oxides used by drug industries and in the production of IOL, falling under Chapter 28 of the Customs Tariff, as well as raw materials of drugs (active ingredients of drugs) and raw materials used by drug industries in production of drugs or in production of IOL , and packing materials and equipment falling under headings 90.18 and 90.27 used in the research and development of industries and hospitals on the recommendation of the Department of Drug Management.

Group 6: Education

- (a) Research related acts in schools or universities.
- (b) Vocational or professional trainings or refresher trainings. provided by institutions fully owned by the Government of Nepal.
- (c) Educational services provided by schools and universities.

Group 7: Books, newspapers and printed materials

- (a) Books, calendars, newspapers, magazines (headings 49.01, 49.02, 49.04) and printing and publication thereof.
- (b) Newsprint (heading 48.01).

Group 8: Artistic and cultural goods and services, carving services

- (a) Painting, handicrafts, carving and similar other handicrafts and related services.
- (b) Cultural programmes.
- (c) Admission fees to libraries, museums, art museums, zoos and botanical gardens, and national parks.

Group 9: Passengers and goods transportation services

Air transport, passenger transportation (except cabal car) and goods carrier service (except transportation related to supply) and cargo services for the purposes of exports

Group 10: Personal or Professional service:

Personal services rendered by artists, sportspersons, authors, writers, designers, translators and interpreters institutionally or individually, and services of supplying human resources to foreign countries.

Group 11: Other goods or services:

1. Agriculture products storage services provided by cold storage.
2. Postal services (only those provided by the Government of Nepal):
 - (a) Services of conveyance or transfer of letters, money and postal packets,
 - (b) Other services required for the services of conveyance or transfer of letters, money and postal packets,
 - (c) Postage stamps (heading 49.07),
 - (d) Services provided by the Government of Nepal.
3. Excise duty stamps and passports (heading 49.07), cash machines (sub heading 84.70.90)
4. Financial services, life insurance services and reinsurance services.
5. Bank notes, coins and cheque books:

- (a) Printing and issue of bank notes.
 - (b) Supply of bank notes from foreign countries into Nepal (heading 49.07).
 - (c) Cheque books (heading 49.07).
6. Gold and silver:
- (a) Gold (heading 71.08), gold coins (sub heading 71.18.90), gold ornaments (heading 71.13) and diamond ornaments.
 - (b) Silver (heading 71.06), and silver coins (sub heading 71.18.90), silver ready-made goods and ornaments (heading 71.13).
7. Electricity supply.
8. Raw wool (heading 51.01).
9. Battery operated tempo (sub heading 87.03.21.10) and their chassis (sub heading 87.06.00.15).
10. Bio-gas, solar power and wind power operated power generation plants and their equipment and tubular battery, on the recommendation of the Alternative Energy Promotion Centre.
11. Aircrafts and helicopters (heading 88.02(except sub heading 88.02.60) and their engines (sub heading 84.09.10, gear box (sub heading 88.05.10), fire brigades (sub heading 87.05.30), ambulances and corpse carrying vehicles (heading 87.02 and 87.03).
12. Jute batching oil (sub heading 27.10.19.13) and jute products (headings 53.06, 53.07 and 53.10).

13. Mills, machineries and equipment, molding keys (except spare parts) other than those that can be used in household attracting up to 5 percent customs duty as falling under Part 84 of the Customs Tariff.
14. Woolen carpet and woolen carpet weaving, dying, washing and knitting.
15. 100 percent cotton sari, *Lungi*, *Dhoti* (for both men and women), *Petani*, *Gamcha* and cotton yarn (headings 52.05 and 52.07).
16. Woolen yarn to be used in hand knitting sweater (except artificial and acrylic) domestically.
17. Donated goods received for any natural calamities or philanthropic purpose, as approved by the Ministry of Finance, Government of Nepal.
18. Goods of personal use that do not attract customs duty and are imported under the Luggage and Baggage Order facility.
19. Amount equal to such tax as deemed payable that remains balance upon deducting the tax paid on purchase from the tax collected on the sale of goods by textile, match (only wooden stick) and tyre-tube industries shall be refunded to these industries in accordance with the procedures specified by the Department.
20. Only Twenty Five percent of the amount equal to such tax as deemed payable that remains balance upon deducting the tax paid on purchase from the tax collected on the sale of products (flour) by flour industries shall be refunded to these industries in accordance with the procedures specified by the Department.

21. Fifty percent value added tax of the value added tax collected by domestic industries producing mustard oil on selling their products of mustard oil and by industries producing *Vanaspati* ghee and other processed edible oil domestically to the taxpayers registered with the value added tax shall be refunded to these industries in accordance with the procedures specified by the Inland Revenue Department. Provided that, the packaging industries that import processed oil in bulk and refilling the oil in consumer packages and sell the same shall not be entitled to such a facility.
22. If any native industry that manufactures cellular mobile phone sets and importer thereof submits evidence that they have sold the tax paid on the raw materials of cellular mobile phone sets or readymade goods to the taxpayers registered with the value added tax, sixty percent shall be refunded in accordance with the procedures specified by the Department.
23. The value added tax shall be exempted in relation to imports of such machinery, equipment, tools and their spare parts, penstock pipes or iron sheets used in making thereof as required for hydro power projects and as are not produced in Nepal, on the recommendation of the Alternative Energy Promotion Centre, in the case of those which are operated with the approval of that Center, and on the recommendation of the Electricity Development Department, in the case of the industries except those which are operated with the approval of the Alternative Energy Promotion Center.
24. The value added tax shall not be levied on transferring any motor vehicles that were imported by any foreign mission or donor agency with the enjoyment of the diplomatic facility or tariff

facility to the project itself in consonance with the approval annual program of the project and converting their number plates into governmental ones or on transferring, with the approval of the Ministry of Finance, any motor vehicles that were imported in the name of any project with the enjoyment of full or partial tariff facility (except those imported on inventory or bank guarantee) to any governmental body after the completion of the project and converting their number plates into governmental ones.

25. If any diplomatic body, project or other body (governmental as well as non-governmental organization) intends to scrap and cancel the registration of any motor vehicle that it has imported with the enjoyment of the tariff facility and that is more than 15 years old after the year of initial production, with the approval of the Ministry of Finance, the value added tax shall not be levied on such a motor vehicle.
26. If the owner of a motor vehicle imported by a citizen of Nepal for personal use with the enjoyment of value added tax exemption dies and the motor vehicle has to be transmitted to the husband or wife of the owner of motor vehicle, the value added tax shall not be levied on such a motor vehicle on the basis of the approval of the Department.
27. If any industries that have not enjoyed the facility of bonded warehouse or passbook import the raw materials, subsidiary raw materials, and packaging materials that are not produced in Nepal, required for the production of goods to be exported by them and export the goods produced from such raw materials in accordance with such procedures and within such period as prescribed, the value added tax levied on such raw materials, subsidiary raw materials and packaging materials at the customs

points while importing them shall be refunded from the customs point in relation to such goods, from such a date and on such pro rata as specified in a notice published in the Nepal Gazette.

28. The following goods to be imported in the name of Nepal Army, Armed Police Force and Nepal Police Headquarters shall enjoy exemption, on the recommendation of the concerned Ministry:

- (a) Ammunitions, arms, gunpowder and their spare parts, special kind of oil, accessories, explosives to be used by Nepal Army, Armed Police Force and Nepal Police, raw materials required to produce army materials and machineries, tools and spare parts used for security.
- (b) Machineries and equipment required for maintaining peace and security, crowd control materials, equipment and other goods required for the investigation of crimes, and communication materials to be used by personnel of Nepal Army, Armed Police Force and Nepal Police, on the recommendation of the Ministry of Communication.
- (c) Such equipment, materials, drugs and related goods as required for the treatment of Army personnel, armed police and Nepal police personnel and of horses.
- (d) Goods used in the exercise and training of Army, armed police and Nepal police personnel.
- (e) Heavy earth moving plant, tool and parts related thereto, optical equipment used in engineering survey and construction works carried out by Nepal Army, and such defense store goods as specified by the Ministry of Defense.

- (f) Camping equipment used by Nepal Army and various goods required for special force and paratroopers.
- (g) Aircrafts, helicopters and their spare parts, parachute (including bags), tools, lubricants and ground equipment imported in the name of Nepal Army.
- (h) Equipment and tools required for the operation of hospitals.
- (i) Goods required for scientific laboratories.
- (j) Goods used in natural calamity relief works.

Group 12: Lands and buildings

Purchase, sale and rental of lands and buildings (except the services provided by such entities carrying on business such as hotels and guest houses)

Group 13: Betting, casinos and lotteries

Activities relating to facilities provided for the organization of bets or gambling, and lottery.

Note:

- (1) The value added tax shall be exempted only on the goods and services specifically mentioned in the foregoing headings and sub headings. The Department may, as required, and in consultation with the Department of Customs, alter and revise the interpretation of the goods and services enjoying tax exemption and the Harmonized Code of Commodities.
- (2) Given that as mentioned above *vanaspati* ghee and mustard oil, flour and cellular mobile phone sets produced domestically enjoy

partial facility and tax refund is made accordingly, the Inland Revenue Department shall make provision of coordination including the market monitoring of these goods.

- (3) If the Government of Nepal considers reasonable to grant any exemption to any taxable goods or to refund tax, it may grant such exemption by publishing a notice in the Nepal Gazette.

NEPAL LAW COMMISSION

Schedule-2

(Relating to Sub-section (2) of Section 7)

Goods and services subject to zero rate

- 1. Goods exported from Nepal:** If it is proved that goods are supplied as follows:
 - (a) Goods exported outside Nepal, or
 - (b) Goods shipped for use as stores on an international flight of which destination is outside Nepal, or
 - (c) Goods put on board an international flight of which destination is outside Nepal for retail sale or supply or consumption.
- 2. Services to be supplied to persons outside Nepal:**
 - (a) A supply of services by a person residing in Nepal to a person outside Nepal, who has no business transaction, business representative or legally recognized agent in Nepal.
 - (b) A supply of goods or services by a person who is residing and is registered in Nepal to a person who is residing outside Nepal.
- 3.** Goods or services imported by a person or mission enjoying diplomatic facility and a person serving in a diplomatic mission enjoying tariff facility, on the recommendation of the Ministry of Foreign Affairs, Government of Nepal.
- 4.** If any previous treaty or agreement provides for the sales tax exemption on imports, and local purchase is made from the registered taxpayers, on the recommendation of the concerned project, the facility of zero rate

shall be provided on such supplies, so long as such treaty or agreement is in effect.

5. Raw materials to be sold to and goods manufactured by any industries established pursuant to the laws in force and operated in the special economic zone.
6. If, on the recommendation of the Alternative Energy Promotion Centre, the battery used in the equipment and mechanism generating energy from solar power is produced by any native industry and is to be supplied by that industry, the facility of zero rate shall be provided to that industry on that transaction on the recommendation of Alternative Energy Promotion Center and in accordance with the procedures specified by the Department.
7. If any machinery, equipment, tools and their spare parts, penstock pipes or iron sheets used in making thereof required for hydro power projects are produced by any native industry and are to be supplied by that industry, the facility of zero rate shall be provided to that industry on that transaction, on the recommendation of the Alternative Energy Promotion Centre, in the case of a project that is operated with the approval of that Centre, and on the recommendation of the Electricity Development Department, in the case of one other than that operated with the approval of the Alternative Energy Promotion Centre and in accordance with the procedures specified by the Department.
8. If painting, handicrafts, carving and similar other handicrafts produced a cottage and small scale industry within Nepal are exported through an approved export trading house of Nepal, the value added tax paid on the raw materials used in the manufacture of such goods shall be refunded after fulfilling the procedures specified by the Inland Revenue Department.

9. The value added tax paid on the import or local purchase of scooters used by persons with disabilities shall, if such scooters are registered in their name in the Office of Transport Management, be refunded on the recommendation of the Women, Children and Social Welfare or the Chief District Officer of the concerned district, and in accordance with the procedures as specified by the Department of Inland Revenue. If such goods are sold to any persons other than the persons with disabilities, the refunded value added tax shall be recovered.

NEPAL LAW COMMISSION