

# **TAX AMNESTY NO. 9 OF 2004**

## **ARRANGEMENT OF SECTIONS**

### **Section**

1. Short title and commencement
2. Interpretation
3. Scope of amnesty
4. Application for amnesty
5. Eligibility for amnesty
6. Granting of amnesty
7. Payment conditions
8. Withdrawal of amnesty
9. Powers of Commissioner General
10. Transition
11. Regulations

# TAX AMNESTY BILL NO 2004

## A Bill

### for

**An Act to provide for an amnesty in respect of taxes and duties administered by the Lesotho Revenue Authority; and for related matters.**

**ENACTED** by the Parliament of Lesotho.

### **Short title and commencement**

1. This Act may be cited as the Tax Amnesty Act, 2004 and shall come into operation on a date appointed by the Minister by Notice published in the Gazette.

### **Interpretation**

2. In this Act, unless the context otherwise requires—

“**amnesty**” means the relief contemplated in section 4;

“**Authority**” means the Lesotho Revenue Authority as established by the Lesotho Revenue Authority Act 2001<sup>1</sup>;

“**Commissioner General**” means the Commissioner General appointed under the Lesotho Revenue Authority Act 2001;

“**covered tax**” means a tax or duty administered by the Lesotho Revenue Authority under the Lesotho Revenue Authority Act 2001;

“**Minister**” means the Minister of Finance and Development Planning;

“**tax irregularity**” means any transgression of any covered tax.

## Scope of amnesty

3. (1) A tax amnesty may be applied for in respect of any irregularities arising from any tax or duty administered by the Authority and arising before April 1 2003.

(2) Notwithstanding subsection (1), under the amnesty, taxpayers are absolved of the obligation to pay or incur–

- (a) the principal amount of covered tax which was due before 1<sup>st</sup> April, 1999;
- (b) interest relating to covered tax described in paragraph (a); and
- (c) penalties relating to covered tax described in paragraph (a).

(3) The amnesty shall not extend to the principal amount of any tax or duty due between 1<sup>st</sup> April, 1999 and 31 March, 2003, both inclusive.

(4) Subject to the conditions set out in this Act for the amnesty being complied with, when an amnesty is granted for any covered tax , as contemplated in this Act, it shall preclude the Authority and the Director of Public Prosecutions, from:

- (a) prosecuting any offender or imposing administrative fines for false declarations or evasion of covered tax;
- (b) imposing penalties for not having made the returns or payments of covered tax in due time;
- (c) prosecuting or fining any offender for non-payment of covered tax or non-submission of returns of covered tax;
- (d) imposing any penalties for fraud, negligence or wilful default with respect to covered tax;
- (e) seeking payments of any covered tax due on or before 31<sup>st</sup> March, 1999; or

- (f) seeking payments of any interest on covered tax due between 1<sup>st</sup> April, 1999 and 31<sup>st</sup> March, 2003, both inclusive.

### **Application for amnesty**

4. (1) Subject to section 6, a person may, within the amnesty period, apply for amnesty in terms of this Act.

(2) An application for amnesty shall be in writing and in a form as shall be prescribed by the Commissioner-General.

(3) An application for amnesty shall only be considered if it is lodged with any office of the Authority within the amnesty period.

(4) The Minister shall, by notice published in the Gazette, determine the amnesty period and the Minister may, if circumstances so warrant, extend the amnesty period but such extension shall not exceed two months.

### **Eligibility for amnesty**

5. Any application for amnesty shall be invalid:

- (a) where a criminal investigation of the taxpayer relating to tax matters had commenced on or before the date of application;
- (b) in respect of covered tax, penalties, and interest for tax periods with respect to which a tax audit had commenced before the date of application;
- (c) in respect of any action resulting in the detention, seizure or forfeiture of any property or goods, which action commenced on or before the date of application;
- (d) in respect of any other tax irregularities which had both been identified and the taxpayer notified of them, on or before the date of application.

## **Granting of amnesty**

6. An amnesty shall be granted only on a form, as shall be prescribed by the Commissioner-General, upon the applicant having made full disclosure in such manner or form, as shall be prescribed by the Commissioner-General, in respect of unpaid taxes, and having provided such supporting documents as may be required.

## **Payment conditions**

7. (1) When an amnesty is granted, the tax or duty due shall be payable as set out on the payment Schedule Form, as shall be prescribed by the Commissioner-General, and, save as may otherwise be allowed or directed by the Commissioner-General, is to be paid in a maximum of 24 equal monthly instalments due on or before the last working day of each month, starting from the date of granting the amnesty.

(2) Notwithstanding subsection (1), the Commissioner General may extend the payment period on good cause.

## **Withdrawal of amnesty**

8. The amnesty granted to any applicant shall be withdrawn and become automatically null and void if:

- (a) the taxpayer makes any false declaration to the Authority in applying for the amnesty or subsequently during the period covered by the payment Schedule, as indicated in section 7;
- (b) the taxpayer, without reasonable grounds, defaults from the payment Schedule; or
- (c) the taxpayer, without reasonable grounds, fails to pay the current tax or duty liabilities in full and by the due dates.

## **Powers of Commissioner-General**

9. (1) The Commissioner-General shall have the authority to do anything necessary for the efficient and effective application or implementation of this Act.

(2) Without prejudice to the generality of subsection (1), the Commissioner-General may:

- (a) delegate his functions under this Act to a task force, division or unit within the Authority, existing or set up specifically to implement the provisions of this Act;
- (b) prescribe, by notice published in the Gazette, such forms as may be necessary for application or implementation of this Act.

## **Transition**

10 (1) This Act shall lapse upon the expiry of the amnesty period or at such later date as the Minister may, by Notice published in the Gazette, determine.

(2) Notwithstanding subsection (1), this Act shall remain in force for purposes of processing applications submitted within the amnesty period, settlement of disputes, and any related matters.

## **Regulations**

11. The Minister may make Regulations for the effective implementation of this Act.

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### NOTE

1. Act No. 9 of 2001