

GOVERNMENT NOTICE NO. 17

**TAXATION ACT
(CAP. 41:01)**

**INCOME TAX (P.A.Y.E) (DEDUCTION AND PAYMENT) (AMENDMENT)
RULES, 2023**

IN EXERCISE of the powers conferred by section 146 of the Taxation Act, I, SOSTEN ALFRED GWENGWE, Minister of Finance and Economic Affairs, make the following Rules—

1. These Rules may be cited as the Income Tax (P.A.Y.E) (Deduction and Payment) (Amendment) Rules, 2023. Citation

2. The Income Tax (P.A.Y.E) (Deduction and Payment) Rules are amended, by deleting rule 1 and replacing therefor a new rule 1, as follows— Replacement
of r. 1 to
Cap.41:01
Sub. leg. p.
110f

“Citation 1. These Rules may be cited as the Taxation (P.A.Y.E) (Deduction and Payment) Rules.”.

3. The principal Rules are amended, in rule 6, by deleting subrule 3 and inserting new subrules (3), (4) and (5) as follows— Amendment
of r. 6 of the
principal
Rules

“(3) Every employer of an employee to whom this Part applies shall, within fourteen days after the end of each month, or within such further time as the Commissioner General may in any case allow, furnish to the Commissioner General a return in a form prescribed by the Commissioner General setting forth the name and address of every employee, the emoluments paid or payable to him and the total amount of tax deducted from such emoluments.

(4) A person who fails to submit the return as required under subrule (3) shall be liable to a penalty of K300,000 for companies and K75,000 for individuals for the first month, or part thereof and a further penalty of K50,000 for companies and K10,000 for individuals for each month or part thereof during which the failure continues.

(5) The Commissioner General may reduce or waive the amount of penalty meted out under subrule (4) if a satisfactory explanation for the delay is given.”.

Made this 12th day of May, 2023.

S. A. GWENGWE
*Minister of Finance and
Economic Affairs*

(FILE NO. C/RPD/6/3/20)

GOVERNMENT NOTICE NO. 18

TAXATION ACT

(CAP. 41:01)

TAXATION (FRINGE BENEFITS TAX) (INFORMATION AND PAYMENT)
(AMENDMENT) REGULATIONS, 2023

IN EXERCISE of the powers conferred by section 146 of the Taxation Act, I, SOSTEN ALFRED GWENGWE, Minister of Finance and Economic Affairs, make the following Regulations—

Citation 1. These Regulations may be cited as the Taxation (Fringe Benefits Tax) (Information and Payment) (Amendment) Regulations, 2023.

Replacement of reg. 6 to Cap.41:01 Sub. leg. p. 124 2. The Taxation (Fringe Benefits Tax) (Information and Payment) Regulations are amended, by deleting regulation 6 and replacing therefor a new regulation 6, as follows—

“Payment of fringe benefits 6.—(1) The sums due as fringe benefits tax shall be paid to the Commissioner General in quarterly instalments not later than fourteen days after the end of each quarter of a period of twelve months ending 31st March each year and the remittance of such sums shall be accompanied with a duly completed fringe benefits tax return in Form FBT 2 set out in the Schedule.

(2) A person who fails to submit a fringe benefits tax return as required under subregulation (1) shall be liable to a penalty of K300,000 for companies and K75,000 for individuals for the first month, or part thereof and a further penalty of K50,000 for companies and K10,000 for individuals for each month or part thereof during which the failure continues.

(3) The Commissioner General may reduce or waive the amount of penalty meted out under subregulation (3) if a satisfactory explanation for the delay is given.”

Made this 12th day of May, 2023.

S. A. GWENGWE
*Minister of Finance and
Economic Affairs*

(FILE NO. C/RPD/6/3/20)

GOVERNMENT NOTICE NO. 19

CUSTOMS AND EXCISE ACT

(CAP. 42:01)

CUSTOMS AND EXCISE (TARIFFS) (AMENDMENT) (NO. 3) ORDER, 2023

IN EXERCISE of the powers conferred by section 83(1) of the Customs and Excise Act, I, SOSTEN ALFRED GWENGWE, Minister of Finance and Economic Affairs, make the following Order—

1. This Order may be cited as the Customs and Excise (Tariffs) (Amendment) (No. 3) Order, 2023. Citation

2. The Customs and Excise (Tariffs) Order (hereinafter referred to as the “principal Order”) is amended, in Part III of the *First Schedule*, by—

(a) deleting the entry “3%” in Column 12 under Section XXII and substituting therefor, the entry “10%”;

(b) deleting tariff subheading 4820.20.00 and the corresponding entries in columns 2,3,4,5,6,7,7A,8,9,10,11 and 12 and substituting therefor tariff subheadings 4820.20.10 and 4820.20.90 as shown hereunder—

Amendment of Part III of the *First Schedule* to Cap 42:01 sub. leg p.144c

2	3	4	5	6	7	7A	8	9	10	11	12
4820.20.10	---Exercise books with soft cover	kg	30%	25%	4%	30%	Free	Free	-	Zero	10%
4820.20.90	---Exercise books with hard cover	kg	30%	25%	4%	30%	Free	Free	-	16.5%	10%

; and

(c) deleting the entry “16.5%” in Column 11 under tariff subheadings 3926.90.10, 7321.11.10, 8516.60.91, 8702.40.11, 8702.40.12, 8702.40.13, 8702.40.21, 8702.40.22, 8702.40.23, 8702.40.24, 8702.40.25, 8702.40.26, 8702.40.27, 8702.40.28, 8702.40.29,8702.40.30, 8702.40.51, 8702.40.52, 8702.40.53, 8702.40.54,8702.40.55, 8703.80.10, 8703.80.20, 8703.80.90, 8704.60.00, and substituting therefor, the entry “Exempt”.

3. The principal Order is amended, in Part II of the *Second Schedule* by deleting paragraph 3 and substituting therefor, a new paragraph 3 as follows—

“3.—(1) Pursuant to section 82 (f) of the Act, there shall be charged, levied and paid, excise duties in respect of—

Amendment of Part II of the *Second Schedule* to the principal Order

(a) airtime, television subscriptions, at the rate of ten per cent; and

(b) gross gaming revenue, the value of a lottery ticket, at the rate of fifteen per cent.”.

4. The principal Order is amended in Part II of the *Fourth Schedule*, by deleting Part II and substituting therefor, a new Part II as follows—

“PART—II APPLICATION

Amendment of the *Fourth Schedule* to the principal Order

Pursuant to section 82 (e) of the Act there shall be charged, levied, collected and paid in respect of goods manufactured or produced and exported out of Malawi—

(a) advance income tax on exports at the rate of ten per cent; and

(b) export duties, at the rates set out in Column 3, on goods specified in Column 2 hereunder.” .

Made this 12th day of May, 2023.

(FILE NO. C/RPD/6/3/20)

S. A. GWENGWE
Minister of Finance and
Economic Affairs

GOVERNMENT NOTICE NO. 20

CUSTOMS AND EXCISE ACT

(CAP. 42:01)

CUSTOMS AND EXCISE (AMENDMENT) REGULATIONS, 2023.

IN EXERCISE of the powers conferred by section 175 of the Customs and Excise Act, I, SOSTEN ALFRED GWENGWE, Minister of Finance and Economic Affairs, make the following Regulations—

Citation 1. These Regulations may be cited as the Customs and Excise (Amendment) Regulations, 2023.

Amendment of reg. 39 to Cap. 42:01 sub. leg. p 79 2. The Customs and Excise Regulations (hereinafter referred to as the “principal Regulations”) are amended, in regulation 39, by deleting subregulation (1) and substituting therefor, a new subregulation (1) as follows—

“(1) Subject to this regulation, rent on goods placed in a customs warehouse shall be charged at the rate of K1,000 per tonne, per day or part thereof.”

Insertion of Part VIIIA into the principal Regulations 3. The principal Regulations are amended, by inserting, immediately after Part VIII, a new Part VIIIA as follows—

“PART—VIIIA

EXPORT WAREHOUSES

Goods required to be deposited into an export warehouse *Twelfth Schedule* 87A. In accordance with section 57E of the Act, the goods specified in the *Twelfth Schedule* shall be deposited into an export warehouse.

Application for a licence for an export warehouse 87B. A person who intends to apply for a licence for an export warehouse shall apply to the Commissioner General, in writing and shall supply plans of the warehouse and such other information as the Commissioner General may require.

Considerations prior to issue of licence 87C.—(1) In considering an application submitted under regulation 87B, the Commissioner General shall have regard to—

- (a) the applicant’s compliance with tax laws;
- (b) the financial standing of the applicant;
- (c) the situation of the proposed warehouse;

(d) the security arrangements at the proposed warehouse; and

(e) the export warehouse facilities already available to the public in the area.

(2) If the Commissioner General is satisfied that all considerations under subregulation (1) have been met, he shall call upon the applicant to pay a licence fee of K50,000.

Issuance of licence 87D. Upon receipt of the licence fee prescribed in regulation 87C, the Commissioner General shall issue the licence.

Licence to be displayed 87E. A licence issued under regulation 87D shall be prominently displayed in the export warehouse to which it applies.

Receipt for goods in the warehouse 87F. A licensee shall give a receipt to the owner of the goods, prescribed in Form No. 124 which shall be issued in triplicate, with the second copy issued to the proper officer and the third copy kept as a record of the licensee, for all goods placed in the export warehouse.

Transfer of ownership of goods in the warehouse 87G. If the ownership of any goods in an export warehouse changes, the licensee shall forthwith advise the proper officer of the particulars of the new owner.

Naked lights 87H. A person shall not install naked lights in an export warehouse except in emergencies.

Limitations on goods stored in an export warehouse 87I. When the Commissioner General has, as a condition for the issue of a licence, directed that only certain goods, or certain classes of goods, shall be stored in an export warehouse then only those goods and no others shall be stored therein.

Allowable deficiencies 87J. If any deficiencies or losses are found in any packages in an export warehouse and the proper officer is satisfied that such deficiencies or losses were not caused wilfully or negligently, the proper officer may, subject to the directions of the Commissioner General, write off such deficiencies or losses and a copy of the relevant customs document signed by the proper officer shall be the authority for such write off in the records kept by the licensee and by the proper officer.

Destruction of warehoused goods 87K. If an owner of goods stored in an export warehouse wishes to—

(a) destroy goods deposited in an export warehouse; or

(b) abandon warehoused goods to the Commissioner General,

the owner shall submit to the proper officer a request in the

prescribed Form No. 43, together with a full written explanation of the reason for such request, and the Commissioner General may, after considering all the circumstances, refuse the request or grant it in whole or in part.

Entry of
warehoused
goods for
exportation

87L. The entry of warehoused goods for exportation shall be effected by the submission to the proper officer of a completed declaration Form No. 12 accompanied by export documents, including—

(a) an export invoice or a goods export contract signed with a foreign client;

(b) a copy of the receipt for goods in the export warehouse in Form No. 124;

(c) an export licence or permit;

(d) a duly completed Currency Declaration Form CD1; and

(e) a copy of the national identification card of the owner of the goods or in the case of companies, a certificate of incorporation.

Authority for
release of
warehoused
goods

87M.—(1) Authority for the release of goods for export from an export warehouse shall be given by a proper officer—

(a) upon authentication of the original copy of the national identification card of the owner of the goods; and

(b) by signing and returning to the owner of the goods a copy of the relevant entry and Form No. 125 which shall be issued in triplicate, with the second copy issued to the licensee and the third copy kept as a record of the proper officer.

(2) The licensee shall only release the goods from the export warehouse, pursuant to Form No. 125, duly executed by the proper officer and load the goods for export, under the supervision and control of the proper officer.

Goods not
exported

87N.—(1) All goods that have been deposited into an export warehouse according to these Regulations shall not be marketed for consumption unless authorised, in writing, by the Commissioner General.

(2) If goods stored in an export warehouse are lost or fall short during the time of storage, such loss or shortage, apart from allowable deficiencies in accordance with regulation 87J, shall be deemed as having been exported and the licensee shall be held responsible for export compliance on such loss or shortage in accordance with relevant customs laws.

(3) If warehoused goods entered for exportation are not so exported, before the export entry is cancelled, the exporter, shall—

(a) notify the proper officer who may demand to physically examine the goods; and

(b) in a case where the goods are not exported after an officer has already authorised their release in accordance with regulation 87M, inform a proper officer who shall cancel the Export Warehouse Release Note and authorise re-warehousing of the goods on a new Form No. 124.”.

4. The principal Regulations are amended by repealing regulation 98F. Repeal of reg. 98F of the principal Regulations

5. The principal Regulations are amended by repealing regulation 98G. Repeal of reg. 98G of the principal Regulations

6. The principal Regulations are amended in the *First Schedule* by inserting in the correct numerical sequence— Amendment of the *First Schedule* of the principal Regulations

“124 Export warehouse goods receipt

125 Export warehouse goods release”.

7. The principal Regulations are amended, in Part I of the *Eighth Schedule*— Amendment of Part I of the *Eighth Schedule* of the principal Regulations

(a) in paragraph, 5 by—

(i) deleting subparagraphs (iv) and (v) and inserting new subparagraphs (iv), (v) and (vi) as follows—

“(iv) to determine value addition which is more than 35%, by using the applicable formula,

(v) to revise, from time to time, the list of existing industries and raw materials under the industrial rebate and recommend to the Commissioner General, and

(vi) inquiring into any allegation of breach, violation or abuse of the conditions imposed under these Regulations or misconduct of a registered manufacturer, including misconduct based on a breach of customs laws.”;

(b) by deleting paragraph 15 and substituting therefor, a new paragraph 15 as follows—

“15.—(1) The Commissioner General may convene a meeting of the Advisory Committee for the purposes of inquiring into any allegation of—

(a) breach, violation or abuse of the conditions imposed under these Regulations; or

(b) misconduct by a registered manufacturer, including misconduct based on a breach of customs laws.

(2) At a meeting convened under subparagraph (1), the

Advisory Committee shall inquire into, hear and deal with the allegation, subject to the following—

(a) the Advisory Committee shall, not less than seven days before the hearing, inform the registered manufacturer of the allegation, in writing, and give the registered manufacturer an opportunity to inspect any documentation in support of the allegation;

(b) the registered manufacturer has the right to appear and be heard in person before the Advisory Committee; and

(c) the Advisory Committee may hear witnesses and receive documentary evidence that is relevant to the allegation.

(3) At the conclusion of the meeting convened pursuant to subparagraph (1), the Advisory Committee may recommend to the Commissioner General that—

(a) the registered manufacturer be cleared of the allegation;

(b) the industrial rebate registration of the registered manufacturer be suspended for a specified period that the Advisory Committee deems appropriate;

(c) the industrial rebate licence of the registered manufacturer be terminated; or

(d) the registered manufacturer be given a warning or such other sanction as the Advisory Committee deems appropriate.

(4) The Advisory Committee shall, within fourteen days from the date of the hearing, submit to the Commissioner General its recommendation together with a transcript of the proceedings of the Committee.

(5) Upon receiving recommendations in accordance with subparagraph (3), the Commissioner General—

(a) shall, if the Advisory Committee has cleared the registered manufacturer of the allegation, clear the manufacturer; or

(b) may, in any other case, make such order, including warning, suspension of registration or termination of industrial rebate licence, as the Commissioner General deems appropriate.

(6) The Commissioner General shall, within fourteen days of receiving the recommendations from the Advisory Committee, communicate his decision under subparagraph (5) to the registered manufacturer.”.

8. The principal Regulations are amended by inserting a new *Twelfth Schedule* as follows—

Insertion of the *Twelfth Schedule* into the principal Regulations

“TWELFTH SCHEDULE

(reg. 87A)

GOODS REQUIRED TO BE DEPOSITED INTO AN EXPORT WAREHOUSE.

<i>Tariff Heading</i>	<i>Description</i>
1201.10.00	Soya Beans
0713.10.90	Pigeon Peas
1005.10.00	Maize Grains
1202.41.00, 1202.42.00	Groundnuts
1206.00.00	Sunflower
1207.40.00	Sesame Seeds
0713.32.90	Beans
1007.10.00	Sorghum
1008.10.00	Millet
0713.34.90	Cow Peas
1006.10.00	Rice”

Made this 12th day of May, 2023.

S. A. GWENGWE
*Minister of Finance and
 Economic Affairs*

(FILE NO. C/RPD/6/3/20)