



**GUYANA**

**ACT NO. 15 OF 2003**

**FISCAL ENACTMENTS (AMENDMENT) (NO. 2) ACT 2003**

I assent,

Samuel Hinds,  
Prime Minister  
Performing the duties  
of the President,  
22<sup>nd</sup> August, 2003

**ARRANGEMENT OF ARTICLES**

**Section**

1. Short title.
2. Amendment of section 5A of the Motor Vehicles and Road Traffic Act.
3. Amendment of section 6 of the Financial Administration and Audit Act.
4. Insertion of new section 6A, in the Financial Administration and Audit Act.
5. Insertion of new section 6B in the Financial Administration and Audit Act.
6. Amendment of section 12A of the Tax Act.
7. Amendment of First Schedule to the Tax Act.
8. Amendment of section 56 of the Tax Act.
9. Amendment of section 57 of the Tax Act.
10. Amendment of section 14 of the Consumption Tax Act.
11. Repeal and re-enactment of section 18 of the Consumption Tax Act.
12. Amendment of section 3 of the Travel Voucher Tax Act.
13. Insertion of new section 28 in the Income Tax Act.
14. Insertion of new section 37A in the Income Tax Act.
- 14A. Amendment of section 39 of the Income Tax Act.
15. Repeal of section 70(5) of the Income Tax Act.
16. Amendment of section 60 of the Income Tax Act.

**PRICE: \$1300.00 To be purchased from the office of the President, Georgetown.**

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17. Amendment of section 97 of the Income Tax Act.
18. Repeal and re-enactment of section 99 of the Income Tax Act.
19. Repeal of section 105 of the Income Tax Act.
20. Repeal and re-enactment of section 108 of the Income Tax Act.
21. Amendment of section 2 of the Income Tax (In Aid of Industry) Act.
22. Repeal of section 12 of the Customs Act.
23. Insertion of new section 23 in the Customs Act.

**A BILL**  
**Intituled**

AN ACT to amend the Motor Vehicles and Road Traffic Act, the Financial Administration and Audit Act, the Tax Act, the Consumption Tax Act, the Travel Voucher Tax Act, the Income Tax Act, the Income Tax (In Aid of Industry) Act, and the Customs Act to institute certain tax policy reforms as regards remission of tax, adjustment of tax rates and allowing tax administration resources to be used more efficiently.

A.D. 2003      Enacted by the Parliament of Guyana.

Short title.  
Cap. 51:02  
Cap. 73:01  
Cap. 80:01  
Cap. 80:02  
Cap. 80:09  
Cap. 81:01  
Cap. 81:02  
Cap. 82:01

1. (1) This Act, which amends the Motor Vehicles and Road Traffic Act, the Financial Administration and Audit Act, the Tax Act, the Consumption Tax Act, the Travel voucher Tax Act, the Income Tax Act, the Income Tax (In Aid of Industry) Act and the Customs Act, may be cited as the Fiscal Enactments (Amendments) (No. 2) Act 2003.

“(2) Except as otherwise provided in section 7 the laws as amended by this Act shall come into operation with effect from 1<sup>st</sup> September, 2003.”

Amendment  
of section  
5A of the Motor  
Vehicles  
and Road Traffic  
Act.  
Cap. 51:02

2. Section 5A of the Motor Vehicles and Road Traffic Act is hereby amended by the insertion immediately after subsection (1) of the following as subsections (1A), (1B) and (1C) –

“(1A) The motor vehicle purchase tax shall be remitted on the import or purchase of a motor vehicle by a person eligible for remission of import duty under section 23 of the Customs Act.

Provided that section 23(3) of the Customs Act shall as it applies, *inter alia* to foregone duty due and payable thereunder apply *mutatis mutandis* to foregone purchase tax that may become due and payable under this subsection in circumstances mentioned in section 23(3) of the Customs Act.

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(1B) The motor vehicle purchase tax shall be remitted on the import or purchase of a motor vehicle by a person listed in the First Schedule, Part III(B), to the Customs Act, in accordance with regulations.

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(1C) On the import or purchase of a motor vehicle for use in an activity granted a tax exemption under section 2 of the Income Tax (In Aid of Industry) Act, the motor vehicle purchase tax thereon is remitted with respect to a vehicle placed in service during the period of exemption, subject to such restrictions and limitations as may be provided by regulations made by the Minister under this subsection.”.

Amendment of  
section 6 of the  
Financial  
Administration and  
Audit Act  
Cap 73:01

3. Section 6(1) of the Financial Administration and Audit Act is hereby amended by the substitution therefor of the following as subsections (1) to (1E) –

“Limitations on discretionary re-missions of tax; control of expenditure. (1) Save as may be expressly provided by any law for the time being in force, no expenditure involving a charge on the revenue shall be incurred; nor shall any sum due to the revenue be remitted, unless the Minister is empowered by the specific provisions of the relevant tax Act to permit the remission or by Order or other subsidiary legislation made under such Act.

(1A) Except as provided in subsection (1C), no remission, concession, or waiver of tax is valid unless the remission is expressly provided for in a tax Act or subsidiary legislation.

(1B) No remission, concession, or waiver of tax by Order or other subsidiary legislation is valid unless the Act under which the

subsidiary legislation is made expressly permits the Minister to provide such a remission, concession, or waiver.

(1C) The Minister may make regulations or other subsidiary legislation to release the taxpayer under the procedure and conditions specified therein in whole or in part from the liability to pay tax otherwise due in cases where the taxpayer's ability to pay tax due has been affected by natural disaster, disability, mental incapacity, or death, or if the taxpayer has been rendered homeless or destitute.

(1D) The Minister has the power to issue a notice making an adjustment in the tax rate so as to take into account fluctuations in the price of essential imported goods (for example, fuel); provided, however, that the effect of the change is at least revenue neutral.

(1E) Nothing in this section shall be construed to limit or restrain the Minister in the exercise of his duty to enforce the law and to exercise oversight in respect of the operations of the Ministry.

Insertion of new  
section 6A in the  
Financial  
Administration and  
Audit Act.  
Cap. 73:01

4. The Financial Administration and Audit Act is hereby amended by

insertion immediately after section 6 of the following as section 6A –

<p>"Goods for public works funded by grants free of import duty and tax.</p>	<p>6A. Goods imported in relation to a public works project funded by grants or loans supplied by an international agency shall be free of import duty and tax; regulations may be made under this section specifying such conditions as may be appropriate to prevent abuse."</p>
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Insertion of new  
section 6B in the  
Financial  
Administration and  
Audit Act.  
Cap. 73:01

5. The Financial Administration and Audit Act is hereby amended by insertion immediately after section 6A of the following as section 6B -

- “Standard interest charged on late tax payments.
- 6B.(1) Interest is charged on all late payments of tax payable under the tax Acts administered by the Guyana Revenue Authority.
- (2) The Commissioner-General shall specify quarterly by public notice the rate of interest applicable to tax arrears, using the average market rate of interest for the preceding quarter.
- (3) For purposes of this section, “market rate of interest” means the prime lending rate, as published by the Bank of Guyana, plus 500 basis points.
- (4) Interest charged under this section shall be deemed to be part of the tax assessed and shall be recoverable accordingly; provided, however, that if under any provision of the tax Acts the Minister or the Commissioner-General has the authority to reduce or waive the amount of penalty related to the tax on which interest is charged, a reduction or waiver of interest due is also permitted, subject to the same restrictions and limitations that attach to exercise of the penalty waiver.
- (5) Nothing in this section shall alter any penalties imposed under the affected Acts.”

Amendment of  
section 12A  
of the Tax Act,  
Cap. 80:01

No. 14 of 1993

6. Section 12A of the Tax Act is hereby amended in the following manner -
- (a) in subsection (1) by the insertion immediately after paragraph (b) of the following paragraphs as paragraphs (c), (d) and (e) -

“(c) at the rate of ten percent upon the gross sum paid in respect of any services provided in a hotel subject to the Hotel Accommodation Tax Act 1993, except for gambling activities;

(d) at the rate of ten percent upon the gross sum paid in respect of any services provided by real estate agents or by professionals listed in the First Schedule to this Act.

Provided that in the case of a dentist, medical practitioner, optometrist, pharmacist, or physiotherapist, the rate of five per cent shall be charged upon the gross sum paid in respect of any services provided.

(e) For the purposes of this section “real estate agents” means persons engaged in the business of brokering real property for sale or lease in exchange for commissions on completion of the sale or lease, or otherwise arranging for the matching of buyer and seller or lessor and lessee in a commercial transaction involving real property.”.

- (b) in subsection (2) by the substitution for the words “(1)(a)” of the words “(1)(a)(c) and (d)”.

"Amendment  
of First Schedule  
to the Tax Act  
Cap. 80:01

7. The First Schedule to the Tax Act is hereby amended by the substitution therefor of the following as the First Schedule -

**"FIRST SCHEDULE**

<b>Person</b>	<b>Annual Fee</b>
<b>Category A</b>	
Accountant	\$250,000
Auditor	\$250,000
Legal Practitioner	\$250,000
Medical Practitioner	\$250,000
Architect	\$250,000
Dentist	\$250,000
Optometrist	\$250,000
<b>Category B</b>	
Engineer	\$150,000
Veterinary Surgeon	\$150,000
<b>Category C</b>	
Physiotherapist	\$ 75,000
Pharmacist	\$ 75,000
Surveyor	\$ 75,000

A professional shall pay the prescribed fee with effect from 1<sup>st</sup> January, 2004:

Provided that a professional who qualified within three years preceding the date of application for the practice certificate is permitted to pay the annual fee of \$25,000 and shall hereafter be liable to pay the full prescribed fee."

8. Section 56 of the Tax Act is hereby amended as follows -

- (a) in subsection (1), by deletion of the proviso;
- (b) in subsection (4) by re-numbering subsection (4)(a) as subsection (4) and, by deletion of paragraph (b);

Amendment of  
section 56 of the  
Tax Act.  
Cap. 80:01



- (c) in subsection (8)(a) and (d) by the substitution for the colons of full stops and by the deletion of the provisos;
- (d) by the insertion immediately after subsection (8) of the following as subsection (9) -
  - “(9) Entertainment tax imposed by this section shall not be charged on payments for admission to any entertainment where the takings thereof are devoted to religious, educational, scientific, philanthropic, or charitable purposes, subject to procedures and conditions specified by any regulations made under this section.”.

Amendment of  
section 57 of the  
Tax Act.  
Cap. 80:01

9. Section 57(3)(i) of the Tax Act is hereby amended by the substitution of the following subparagraph therefor -

- (i) any other person who is exempted from this tax as specified by regulations made under this section allowing exemption for humanitarian reasons or for travel by members of charitable organizations, sports teams, and official delegations.”.

Amendment of  
section 14 of the  
Consumption Tax  
Act.  
Cap. 80:02

10. Section 14 of the Consumption Tax Act is hereby amended in the following manner -

- (a) by re-numbering the section as subsection (1);
- (b) by inserting immediately after subsection (1), as so re-numbered, the following as subsections (2) and (3) -

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“(2) On the import of a motor vehicle by a person eligible for remission of import duty under section 23 of the Customs Act, the consumption tax thereon is reduced in accordance with the Table below –

## TABLE

PAGE 10.....

Public Officers and other Public Officials Cubic Capacity	USED		RE-MIGRANTS MOTOR VEHICLES
	USED	NEW	
Less than 1500cc	US\$430	10 percent	5 percent
1500-1800	US\$1800	30 percent	5 percent
1801-2000	US\$1950	30 percent	10 percent
2001-3000	US\$8950	30 percent	10 percent
Above 3000	US\$9950	30 percent	10 percent”

(3) Section 23(3) of the Customs Act shall as it applies, inter alia, to foregone duty due and payable thereunder apply mutatis mutandis to foregone consumption tax that may become due and payable under subsection (2) in circumstances mentioned in section 23(3) of the Customs Act.

11. Section 18 of the Consumption Tax Act is hereby repealed and the following

section substituted therefor -

“Application of 18. For the purposes of administration of the tax, including Customs of collection, enforcement, remission and refund of the tax or of deposits enactments made in respect of the tax -

to chargeable (a) the procedural rules set out in the Customs

goods. Cap. 82:01 Act and, except where the contrary intention appears, any other law relating to customs generally (whether enacted or made before

Repeal and  
reenactment of  
section 18 of the  
Consumption Tax  
Act.  
Cap. 80:02

or after the commencement of this Act), shall have effect in relation to goods chargeable under this Act to the extent that the afore-mentioned rules are not inconsistent with the provisions of this Act or regulations thereunder;

- (b) the rules mentioned in paragraph (a) shall be modified by regulations as necessary to take into account the differing contexts; and
- (c) items listed in the First Schedule, Part III(B), to the Customs Act may also by regulations be exempted from tax under this Act.”.

Amendment of  
section 3 of the  
Travel Voucher  
Tax Act.  
Cap. 80:09

12. Section 3 of the Travel Voucher Tax Act is hereby amended by the insertion immediately after subsection (2) of the following as subsection (2A) -

“(2A) The Minister may by regulations provide specified exemptions from tax with respect to classes of persons travelling for purposes of diplomacy, military service, participation in official delegations, (for example, sports, educational, or humanitarian), or other similar causes.”.

Insertion of new  
section 28A in  
the Income Tax  
Act.  
Cap. 81:01

13. The Income Tax Act is hereby amended by the insertion immediately after section 28 of the following as section 28A -

"Presumptive method of determining income of certain self-employed individuals. 28.A(1) The Minister may by regulations prescribe a presumptive method of ascertaining taxable income for purposes of determining liability for tax on income from self-employment of individuals who have annual turnover from self-employment of less than ten million dollars.

(2) Under the presumptive method, annual taxable income for each category of self-employment shall be fixed—

- (a) using factors such as size of business premises; number of employees; assets used in the business; education, training, years in practice, specialty certification, and salaries of comparable employed individuals; and
- (b) specifying a standard deduction amount for each category.

(3) Tax payable under the presumptive method is due on the first day of each tax year, although by regulations made by the Minister the Commissioner-General may allow the tax liability to be paid in installments.

(4) The Commissioner-General may, by written notice to a taxpayer submitting a presumptive tax return as provided under section 60(4B) for a year, require that taxpayer to file a regular tax return under section 60(1) with respect to the following tax year in addition to the presumptive return for that year.

(5) A taxpayer required under subsection (4) to file both a regular and a presumptive tax return for a year shall be liable in respect of income from self-employment for the higher of the presumptive tax or the regular tax, and shall be given credit against tax due for the year for any tax paid with respect to that year's tax liability.

(6) Any regulations made under this section requiring a presumptive method may phase-in the presumptive method, beginning with selected categories of taxpayers and gradually extending the reach of the presumptive regime.

(7) For purposes of this section, "turnover" shall have the same meaning as under section 10A of the Corporation Tax Act."

Cap. 81:03

Insertion of  
new section  
37A of the  
Income Tax  
Act.  
Cap. 81:01

14. The Income Tax Act is hereby amended by the insertion immediately after section 37 of the following as section 37A -

"Minimum tax on self-employed professionals. 37A.(1) Self-employed individuals whose turnover from the performance of services exceeds the threshold specified in section 28A(1) shall pay a minimum tax in respect of income from the performance of services in lieu of the regular income tax in circumstances specified in subsection (3).

(2) The minimum tax is equal to two percent of annual turnover arising from self-employment in the performance of services.

(3) Liability for minimum tax is imposed only if the amount of income tax payable for a year is less than the amount of the minimum tax computed for the year, and is payable at the same time and subject to the same procedures as regular income tax liability.

(4) The Minister may by regulations phase-in the application of the minimum tax imposed under this section, beginning with selected categories of taxpayers and gradually extending the reach of the minimum tax regime.

(5) For the purposes of this section "turnover" shall have the same meaning as in section 28A."

"Amendment of section 39 of the Income Tax Act. Cap. 81:01

14A. Section 39(11)(c) of the Income Tax Act is hereby amended by the substitution for the words beginning with the word "bills" and ending with the word "subsection" of the words "bills and on gross payments, being interest earned on loans secured by bonds and similar instruments, shall be exempted from the provisions of this section."

Repeal of section 70(5) of the Income Tax Act. Cap. 81:01

15. Section 70(5) of the Income Tax is hereby repealed.

Amendment of section 60 of the Income Tax Act. Cap. 81:01

16. Section 60 of the Income Tax Act is hereby amended by the insertion immediately after subsection (4A) of the following as subsections (4B) and (4C)

"(4B) Notwithstanding subsection (1) individuals taxable on income determined by a presumptive method under section 28A for a year shall file a simplified return for that year in accordance with regulations under that section.

(4C) The Minister may by regulations provide that individuals having no income for a year other than employment income with respect to which tax is withheld by the employer or interest income subject to withholding tax, or both, are not

required to file a return for that year, provided that the Minister is satisfied that adequate compliance measures are in place.”

Amendment  
of section 97  
of the Income  
Tax Act,  
Cap. 81:01

17. Section 97 of the Income Tax Act is hereby amended by the insertion immediately after subsection (4) of the following as subsections (5) and (6) -

“(5) If any tax is not paid on or before the prescribed due date, the Commissioner-General shall serve a demand note upon the persons assessed, and if payment is not made within thirty days the Commissioner-General may proceed to enforce payment by process of parate execution.

(6) Any document signed by the Commissioner-General containing a statement of the amount due in respect of income tax shall without proof of the signature or without proof of any other matter or thing be deemed by all courts to be prima facie evidence of the amount claimed being due and correct.”

Repeal and  
re-enactment of  
section 99 of the  
Income Tax Act,  
Cap. 81:01

18.(1) Section 99 of the Income Tax Act is hereby repealed and the following section substituted therefor -

“Penalties for late payment and failure to file a return. 99.(1) If a taxpayer fails to pay income tax on or before the due date, the taxpayer shall be liable to pay a penalty of -

(a) two percent of the unpaid amount for each month or part thereof that the tax remains unpaid during the first three months after the due date;

(b) three percent per month or part thereof during the next three months;

(c) four percent per month or part thereof during the next six months;

(d) five percent per month or part thereof thereafter:

Provided, however, that if the taxpayer has entered into an installment arrangement with the Commissioner-General the penalty amount shall be one percent per month or part thereof beginning on the date the installment arrangement takes effect.

(2) If a taxpayer fails to file a tax return as required under section 60(1) or (4B) by the due date specified therein, the taxpayer is liable to pay a penalty of two percent of the amount of tax assessed.

(3) If a taxpayer fails to file a tax return as required under section 60(4) by the due date specified therein, the taxpayer is liable to pay a penalty of five percent of the amount of tax assessed.

(4) In the case of any penalty imposed under this section, the amount of penalty shall be deemed to be part of the tax assessed and shall be recoverable accordingly; provided, however, that nothing in this subsection shall limit the Commissioner-General's authority to reduce or waive the amount of penalty as provided in section 108."



Repeal and  
re-enactment  
of section 108  
of the Income  
Tax Act.  
Cap. 81:01

20. Section 108 of the Income Tax Act is hereby repealed and the following section substituted therefor -

"Remission of  
certain penalties.

(1) The Commissioner-General may without the authority of any subsidiary or other legislation for good cause shown, remit the whole or part of any penalty imposed under section 99.

(2) For purposes of this section, "good cause" means circumstances specified in section 6(1C) of the Financial

Cap. 73:01

Administration and Audit Act, or, with respect to a particular taxpayer, when there is doubt as to collectability that can be resolved by a whole or partial waiver of the penalty."

Amendment  
of section 2 of  
the Income  
Tax (In Aid of  
Industry) Act.  
Cap. 81:02

21. Section 2 of the Income Tax (In Aid of Industry) Act is hereby amended by the substitution for subsection (1) of the following as subsections (1), (1A) and (1B)-

Cap. 81:01

Cap. 81:03

"(1) Notwithstanding anything to the contrary contained in the Income Tax Act or the Corporation Tax Act, it is hereby provided that the Minister may grant an exemption from Corporation Tax with respect to income from economic activity qualifying under one of the following circumstances—

(a) the activity demonstrably creates new employment in one of the following regions —

- (i) Region 1: Barima-Waini
- (ii) Region 8: Cuyuni-Mazaruni
- (iii) Region 9: Upper Takatu-Upper Essequibo
- (vii) Region 10: Upper Demerara-Upper Berbice;

- (b) the activity is new economic activity in one of the following fields—
- (i) non-traditional agro processing (excluding sugar refining, rice milling and chicken farming);
  - (ii) information and communications technology (excluding retail and distribution);
  - (iii) petroleum exploration, extraction, or refining;
  - (iv) mineral exploration, extraction, or refining;
  - (viii) tourist hotels or eco-tourist hotels.

(1A) Any exemption from tax granted under this section shall not exceed five years; except that, in the case of new economic activity specified in subsection (1)(b)(ii) – (iv), the Minister may grant an exemption of up to ten years.

(1B) For the purposes of subsection (1)-

“tourist hotel” means a hotel having at least thirty rooms and providing accommodation, services, and activities intended to attract visitors on holiday;

“eco-tourist hotel” means a tourist hotel in a location and having activities intended to attract persons who have an interest in the natural environment and wildlife of Guyana, and having installations and operations designed to protect and preserve the natural environment and wildlife.”.

22. Section 12 of the Customs Act is hereby repealed.

Insertion of  
new section 23  
in the Customs  
Act,  
Cap. 81:02

23. The Customs Act is hereby amended by the insertion immediately after section 22 of the following as section 23 -

“Narrow concession for duty-free Vehicle import by public officers.

23.(1) A remission of import duty on a motor vehicle is allowed on the import of a motor vehicle by eligible public officers and qualifying re-migrants; provided, however, that the remission under this section is available to re-migrants only once, within six months of re-assuming residence in Guyana.

(2) Exercise of the right to import a motor vehicle without payment of duty by eligible public officers is permitted once in three years for a used vehicle and once in five years for a new vehicle.

(3) The foregone duty shall become due and payable, reduced pro-rata by the same percentage of the specified period as the time between the import and the transfer, lease or change of status under the following circumstances -

- (a) in the case of a public officer, the officer ceases to be an eligible public officer;

(4) Public officers eligible for duty-free importation of motor vehicles under this section include senior public officials at or above the GS5 of the public service salary scale or its equivalent who are traveling officers.

(5) For the purposes of this section -

**“new vehicle” and “used vehicle” shall have the meaning specified in regulations;**

**“qualifying re-migrants” means Guyanese citizens returning to reside in Guyana after a period of continuous bona fide residence of at least five years abroad who have attained the age of eighteen as of the date of return and meet criteria specified in regulations;**

**“transfer or lease” means any transfer, lease, sale, gift, or other assignment or disposition of the vehicle; and**

**“traveling officers” has the meaning specified by regulation.**

**“(5A) The provisions of this section shall mutatis mutandis apply to members of Parliament, judges, magistrates, eligible members of the Defence Force and other public officials who immediately before the commencement of this Act were eligible for duty free concession on the importation of motor vehicles.**

**Provided that members of Parliament and judges shall continue to enjoy the same concessions they enjoyed immediately before the commencement of this Act.”.**

Passed by the National Assembly on 18<sup>th</sup> August. 2003.

*S. E. Isaacs,*  
Clerk of the National Assembly

(BILL No. 16/2003)