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LEGAL NOTICE No. 112

THE TAX PROCEDURES ACT

(No. 29 of 2015)

THE TAX PROCEDURES (UNASSEMBLED MOTORCYCLES)
REGULATIONS, 2020

ARRANGEMENT OF REGULATIONS

Regulations

PART I—PRELIMINARY

- 1—Citation.
- 2—Interpretation.

PART II—APPROVAL FOR ASSEMBLY OF MOTORCYCLES

- 3—Restriction on importation of unassembled motorcycles.
- 4—Application for approval.
- 5—Conditions of approval.
- 6—Duty Remission Committee to ensure compliance.
- 7—Assembly of motorcycles.
- 8—Assembly plant.
- 9—Approval to transfer.
- 10—Notification on cessation.
- 11—Submission of report.
- 12—Offences.

PART III—MOTORCYCLE COMPLETELY KNOCKED DOWN
KITS

- 13—Breakdown of completely knocked down kits.
- 14—Parts to be sourced locally.
- 15—Transitional provisions.

THE TAX PROCEDURES ACT
(No. 29 of 2015)

THE TAX PROCEDURES (UNASSEMBLED MOTORCYCLES)
REGULATIONS, 2020

IN EXERCISE of the powers conferred by section 112 of Tax Procedures Act, 2015, the Cabinet Secretary for the National Treasury and Planning makes the following Regulations—

THE TAX PROCEDURES (UNASSEMBLED MOTORCYCLES)
REGULATIONS, 2020

PART I—PRELIMINARY

1. These Regulations may be cited as the Tax Procedures (Unassembled Motorcycle) Regulations, 2020.

Citation.

2. In these Regulations, unless the context otherwise requires –

Interpretation.

“assembly” means the manufacturing process which utilises precision jigs, fixtures, and specialised facilities and equipment;

“assembly plant” means a bonded warehouse facility with plant and equipment for the assembling of motorcycles operated by an authorised assembler;

“assembly line” means an arrangement of machines, tools and persons in which a motorcycle is assembled by having each machine, tool or person perform a specific successive or progressive operation on an incomplete unit as it passes by in a series of stages organised in a direct line;

“authorised assembler” means a person approved by the Cabinet Secretary to assemble motorcycles in a bonded warehouse facility;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to finance;

“chassis frame” means a motorcycle’s core structure that supports the engine, provides the hinge points for both front and rear suspension and supports the rider;

“Commissioner” has the meaning assigned to it under the East African Community Customs Management Act, 2004;

“component” means a uniquely identifiable input, part, piece, system or subsystem which is intended to be included as a part of a motorcycle;

“completely knocked down kit” means a motorcycle kit comprising parts used for the assembling of a motorcycle;

“Council” means the Council of Ministers of the East African Community established by Article 9 of the Treaty for the Establishment of the East African Community;

“duty remission” means the reduction of import duty on goods that is granted by the Council under section 140 of the East African Community Customs Management Act, 2004;

“duty remission committee” means the committee established under Regulation 4 of the East African Community Customs Management (Duty Remission) Regulations, 2008;

“engine” means a machine with moving parts that converts power into motion;

“motorcycle” means a vehicle having a seat or a saddle for the use of the rider and designed to travel on two wheels or three wheels in contact with the ground that is powered by a motor;

“part” means an individual component shaped, fashioned or otherwise manufactured from one piece of metal or any other material and not joined or connected in any way to another component or material; and

“unassembled” means a completely knocked down kit consisting of parts used for the assembling of a motorcycle.

PART II—APPROVAL FOR ASSEMBLING OF MOTORCYCLES

3. (1) A person who intends to import unassembled motorcycles under duty remission shall comply with the conditions specified in these Regulations.

Restriction on
importation of
unassembled
motorcycles.

(2) Motorcycles shall be classified as unassembled if imported in the conditions specified in these Regulations.

(3) A person shall not import unassembled motorcycles under duty remission if that person is not an authorised assembler.

(4) A person shall not be granted duty remission if that person does not source locally available parts as follows—

(a) in the case of parts specified in regulation 14 (1), three months from the coming into force of these Regulations; and

(b) in the case of parts specified in regulation 14 (2), twelve months from the coming into force of these Regulations.

4. (1) A person shall not be permitted to import unassembled motorcycles under duty remission unless that person is approved as an assembler in accordance with these Regulations.

Application for
approval.

(2) A person seeking approval as an assembler shall apply to the Cabinet Secretary upon recommendation by the Cabinet Secretary responsible for matters relating to industrialisation.

- (3) The application for approval shall provide details of the types and models of motorcycles the applicant intends to assemble.
- (4) The Cabinet Secretary shall, on receipt of an application under paragraph (2), approve or decline the application.
- (5) A decision under paragraph (4) shall be communicated to the applicant in writing and if the application is declined, the communication shall include the reasons thereof.
5. A person applying for approval as an authorised assembler shall—
- (a) be incorporated in Kenya;
- (b) have an assembly plant;
- (c) be tax compliant;
- (d) be required to provide a time-bound localisation plan for sourcing locally manufactured motorcycle parts within the East Africa Community;
- (e) provide a plan for the transfer of technology, knowledge and skills through training, mentoring and participation of Kenyan citizens; and
- (f) provide any other information or documents as may be required by the Cabinet Secretary.
6. The Duty Remission Committee shall be responsible for ensuring that authorised assemblers have complied with the provisions of the East African Community Customs Management (Duty Remission) Regulations, 2008, and these Regulations.
7. (1) The assembling of motorcycles shall be undertaken in an assembly plant which shall be a bonded warehouse facility licensed by the Commissioner for the assembling of motorcycles.
- (2) The Commissioner may allow the entry of locally manufactured parts into a bonded warehouse facility for the assembly of the motorcycles.
8. (1) An authorised assembler shall be required to assemble motorcycles at an assembly plant licenced by the Commissioner.
- (2) The assembly plant shall have an assembly line which shall—
- (a) have quality control procedures;
- (b) have been approved by the National Environment Management Authority;
- (c) comply with health and safety Regulations; and

Conditions for approval.

Duty Remission Committee to ensure compliance.

Assembling of motorcycles.

Assembly plant.

(d) meet any other requirement as may be specified by the Commissioner.

(3) The process of an assembly line shall be clearly defined in a process flow chart and positioned visibly within the assembly plant.

9. (1) An authorised assembler shall not transfer completely knocked down kits to another assembler without the approval of the Commissioner. Approval to transfer.

(2) The Commissioner may impose such conditions as may be necessary to an approval granted under paragraph (1).

10. (1) An authorised assembler who ceases or intends to cease the assembling of motorcycles shall notify the Commissioner and the Cabinet Secretary within one month of the intended date of cessation. Notification on cessation.

(2) A person who ceases the assembly of motorcycles shall comply with the provisions of the East Africa Community Customs Management Act, 2004, after the cancellation of the bonded warehouse licence.

11. An authorised assembler shall, at least once in each year, submit a report to the Cabinet Secretary responsible for industrialisation and a copy thereof to the Cabinet Secretary with respect to the implementation of the localisation plan. Submission of report.

12. A person who contravenes any of the provisions of these Regulations commits an offence and shall be liable, on conviction, to the relevant penalties specified under the Act. Offences.

PART III—MOTORCYCLE COMPLETELY KNOCKED DOWN KITS

13. (1) A completely knocked down kit shall be imported with the engine and chassis frame unattached to other parts. Breakdown of completely knocked down kits.

(2) Despite paragraph (1), the following parts shall be imported unattached to each other—

- (a) the engine box kit;
- (b) the chassis frame;
- (c) fuel or petrol tank;
- (d) silencer or muffler;
- (e) seat;
- (f) frame fittings;
- (g) engine mountings;
- (h) swing arm;

- (i) shock absorbers;
- (j) rider and pillion footrests;
- (k) gear changers or levers;
- (l) front and rear mudguards or fenders;
- (m) tyres;
- (n) tubes;
- (o) rim wheels;
- (p) front and rear hubs;
- (q) front and rear brake panels;
- (r) lever;
- (s) transmission mechanism;
- (t) fork suspension;
- (u) fuel cap;
- (v) fuel gauge;
- (w) speed meter gauge;
- (x) control cable;
- (y) drive and transmission sprocket;
- (z) drive chain;
- (aa) head lamp;
- (ab) fairing;
- (ac) tail lamp;
- (ad) indicator light;
- (ae) horn;
- (af) wiring harness;
- (ag) switches;
- (ah) flashers;
- (ai) starter relay;
- (aj) fuse;
- (ak) lock set;
- (al) cables;
- (am) handle bar;
- (an) mirrors; and

(oo) rubber hoses.

14. (1) The following parts shall be excluded from the Parts to be sources
locally.
completely knocked down kits for motorcycles within six months after
the publication of these Regulations—

- (a) centre or main stands;
- (b) crash guards;
- (c) handle bars, rear carriers and grips sets;
- (d) right third rider footrest or pillion set;
- (e) left third rider footrest or pillion rest;
- (f) side stand, kick stand and prop stand; and
- (g) battery liquid, acid or fluid.

(2) The following parts shall be excluded from the completely
knocked down kits for motorcycles within twelve months after the
publication of these Regulations—

- (a) air cleaner filter;
- (b) wire harness;
- (c) seat;
- (d) battery;
- (e) brakes rod or stopper;
- (f) headlight stay; and
- (g) main stay or bar-step.

15. A person who was an assembler of motorcycles before the Transition.
commencement of these Regulations shall apply for approval as an
authorised assembler in accordance with these Regulations within a
period of three months from the coming into force of these
Regulations.

Made on the 17th June, 2020.

UKUR YATANI,
Cabinet Secretary for the National Treasury and Planning.

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