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GOVERNMENT NOTICE No. 296 published on 30/9/2005

THE LOCAL GOVERNMENT FINANCES ACT, 1982

(No. 9 of 1982)

BY-LAWS*Made under section 6(1) and 13(1)***THE DODOMA MUNICIPAL COUNCIL (SERVICE LEVY)
BY-LAWS 2005**

1. These By-laws may be cited as the Dodoma Municipal Council (Service Levy) By-laws, 2005 and shall come into operation on the date of its publication in the *Gazette*.

2. These By-laws shall apply throughout the area of jurisdiction of the Council.

Applica-
tion

3. In these By-laws unless the context requires otherwise:—

Interpreta-
tion

“Act” means the Local Government Finance Act, 1982 Act No. 9 of 1982.

“Council” means the Dodoma Municipal Council;

“Accounting Period” means the period for which the Council makes up the accounts of the business;

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- "Authorised Officer" means any employee of the Council or agent of the Council duly authorized to make assessment of the levy made under these By-laws;
- "Business" means any form of trade, profession or vocation but does not include employment;
- "Business Enterprise" means any corporate or incorporate or any person registered by Tanzania Revenue Authority (TRA) with TIN to pay Value Added Tax (VAT) and is engaged in the economic activities consisting of industrial or agricultural production, distribution of goods or rendering of services and commerce and includes importation of goods or services for sale;
- "Director" means the Municipal director and shall include any Employee of the Council acting in that capacity;
- "Final return of turnover" means any return to be furnished by enterprise or agency after the end of the accounting period under these By-laws together with any documents or particulars required to be furnished under these By-laws;
- "Levy" means a service levy chargeable and payable under these By-laws;
- "Levy Collector" means any person employed by the council or agent appointed by the council to collect levy on its behalf;
- "Turnover" means gross sales or receipts inclusive of taxes and duties;
- "Levy Payer" means the resident business entity liable to pay the levy under these By-laws;
- "Provisional return of turnover" means an interim return of turnover to be submitted during the accounting period of any business, enterprise or agency under these By-laws;
- "Resident business entity" means any entity corporate or incorporate which ordinarily carries on business within the area of jurisdiction of the council;
- "Return" means reports, records or accounts or any information of particulars regarding the quantity and gross financial values of goods or services produced, distributed, rendered and or sold for commercial purposes and includes interim, provisional and final returns;
- "Year of income" means the financial year.

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PART II
ADMINISTRATION OF LEVY

4.-(1) There shall be levied and collected a service levy from, every business enterprise at a rate of zero point three percent of (0.3%) of the turnover net of the Value Added Tax (VAT) and Excise Duty for all activities including manufacturing, processing, agricultural production, distribution of goods rendering of services, commercial importation of goods, services within the area of jurisdiction of the Council.

(2) The levy chargeable and payable under these By-laws shall be due and payable Council or Levy Collector within thirty (30) days from the date of the service of Demand notice, was served.

5. For the purpose of ascertaining the turnover, the Director may by notice in writing require any levy payer or levy collector to furnish him with returns containing full particulars of his business activities including units and monetary values of goods or services produced, rendered, imported, distributed or sold for commercial purposes and financial statement within a reasonable time, not being less than thirty (30) days from the date of such notice.

Returns to
be fur-
nished to
the
Director

6.-(1) The Director, may by notice in writing, require any person in possession of any information or particulars in respect of any business enterprises or agency liable to pay levy under these By-laws, to furnish with him such information or particulars within a reasonable time not being less than twenty one (21) days from date of receiving such notice.

Demand
Notice

(2) The form of the demand notice shall be as specified in the schedule to these By-laws.

7. The Director may direct any authorized officer, to enter into the premises of a levy payer or collector for the purposes of making inquiries and examination of business records, books of accounts and such other particulars as he deems fit and conduct investigation for the purposes of ascertaining the true liability of any levy payer.

Entering
the levy
payer
premises

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Submi-
ssion of
Records

8. The Director may by notice in writing, require any levy payer or collector to submit business records books of account and such other particulars as he deems fit and to conducting investigations for purposes of ascertaining the true liability of any levy payer.

Appearing
before the
Director

9. Without prejudice to provision of By-law 8, for the purpose of obtaining information under the preceding By-law, the Director may require any person to appear before him or an authorized officer at such time and place he may appoint.

To furnish
a provi-
sional
returns

10. Every levy payer or collector shall be required to furnish a provisional return and pay the levy due payable by the business enterprise or agency at the time specified by the Director.

Appoint-
ment of
the levy
Collectors

11.-(1) Subject to the provision of these By-laws, the Director may appoint a person or institution for the Collection of the levy imposed by the Council within its area of jurisdiction and within the due dates as specified under By-law (10) of these By-laws.

(2) Any levy collector who without reasonable cause fail to remit the levy due from a levy payer, shall become liable as if it were a debt due from him to the Council and all recovery and collection measures shall be applicable to him as if he was the levy payer.

(3) Without prejudice to the provisions of By-laws 11(1), the Director may by notice in writing appoint any resident business enterprise to be the levy collector, and shall be the duty of such resident business entity to;

(a) furnish any information or return required under these By-laws;

(b) make a provisional or final assessment of the levy and make payment thereon within the due dates in one or four instalments as provided for in these By-laws.

12. Every levy collector appointed under these By-laws shall prepare such returns and within such time as may be specified by the Council shall,

- (a) submit the return to the Director or to an authorized officer;
- (b) remit to the Council all the amount so collected within the specified period.

13. Where a levy payer has not delivered a return of turnover for any period of income whether or not he has been required by the Director to do so and the authorized officer considers that such levy payer is liable to the levy for that year of income, he may, according to the best of his judgment determine the amount of turnover of that levy payer, but the assessment shall not affect any liability otherwise incurred by such levy payer under these By-laws in consequence of his failure to deliver such return.

Failure to deliver return of turnover

14.—(1) Any person who in relation to any year of income fails to furnish a return required by these By-laws within the specified period shall be surcharged with an additional levy equal to one point five percent a month or five thousands shillings whichever is greater of the levy payable by him.

Additional levy in event of default

(2) Any person who in relation to any year of income omits from his return makes any incorrect statement in relation to any matter affecting his liability to the levy shall, where that omission or statement was due to any fraud or gross neglect, be charged with additional levy equal to fifty percent of the difference between the levy per the return so submitted and the amount of the levy as determined.

15.—(1) Whereas the levy remains unpaid after the due date specified in these By-laws, surcharge of one point five percent (1.5%) a month or part thereon shall accrue and become payable together with the principal Sum.

Compound Surcharge Levy

(2) The surcharge levied under these By-laws shall be deemed to be the levy due and payable and all collection and recovery measures shall apply to it "*mutatis mutandis*" as if it were the levy payable by the levy payer.

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PART III
OFFENCES AND PENALTIES

Offences

16. Any person who:-

- (a) recklessly or knowingly refers false returns whether orally or in writing of numbers of levy payer or amount or the amount of rates collected or received to him;
- (b) fails to furnish, return, document, information, or any reasonable particulars required to be furnished to the authority within the time prescribed as required by those By-laws;
- (c) fails to keep any records, books of accounts in accordance with the requirements of these By-laws;
- (d) fails to produce any record or document for the examination in accordance with the requirements of any notice served on him under these By-laws;
- (e) not being an authorized auditor or an authorized accountant certifies a provisional or final return commits an offence and is liable on conviction to a fine not exceeding of Tanzania Shillings fifty thousand (50,000/=) or imprisonment for twelve months or to both the fine and imprisonment.

Making
incorrect
fraudulent

17. Any person who with reasonable cause;

- (a) Fraudulently alters, or defaces any such return by omitting or understanding therein, or turnover which should have been stated therein;
- (b) Makes an incorrect statement in relation to his liability;
- (c) Gives any false information in relation to any matter or thing affecting the liability to levy of himself or any other person;
- (d) Gives any false information in relation to any matter or thing affecting his liability to levy; or that of any other person;
- (e) Prepares, Maintains, authorized the preparation or maintenance of, any false books of account or other records; or falsified or authorizes the falsification of such books of accounts or records; or;

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(c) Makes use of any fraud or authorizes the use of any fraud; commits an offence and is liable on conviction to a fine of Tanzania Shillings fifty thousand (50,000/=) or imprisonment for not exceeding twelve months or both the fine and imprisonment;

(d) obstructs or attempts to obstruct any authorised officer in the execution of his duties or in the exercise of his powers under these By-laws.

(h) Being the owner or agent of business enterprises or any services refuses or wilfully omits to disclose any information or wilfully mistakes the name of the owner commits an offence and shall upon conviction be liable to a fine pay Tanzanian Shillings fifty thousands (50,000/=) or to imprisonment for a term not exceeding twelve months or to both the fine and imprisonment;

19. The Dodoma Municipal Council (Service Levy) By-laws 2000 are hereby revoked.

The Common Seal of Dodoma Municipal Council was affixed pursuant to a resolution at a meeting of the said Council duly convened and held on the 26th day of May, 2005 and the same was affixed in the presence of

(YOHANA G. CHETTI,
The Lord Mayor
Dodoma Municipal Council

(MONICA P. Z. KWILUHYA,
Municipal Director



I APPROVE

BRG. GEN. (RTD) HASSAN NGWILIZI (MP),
Minister of State, President's Office Regional
Administration and Local Government

Dodoma
12 August 2005