

MINISTRY OF FINANCE AND BUDGET

DECREE n° 11 826 MFB

*relating to remission of penalties and fines relating to the customs, tax infringements and of currencies repatriation of resulting from exports of goods*

THE MINISTER OF FINANCE AND BUDGET,

- Considering the Constitution;
- Considering the Customs Code , in particular in its article 296;
- Considering the General Tax Code, especially in its articles 20.01.51 and following as well as articles 20.02.02 and following;
- Considering the law n°67-028 of 18 December,1967 relating to the financial relations of the Republic of Madagascar with the Foreigner;
- Considering the Decree n°62-671 of 27 September,1962 relating to general instruction on the collection and the recording of the direct taxes and assimilated taxes;
- Considering the Decree n°72-446 of 25 November,1972 setting the modalities of detailed rules for application of the law n°67-028 of 18 December, 1967 relating to the financial relations of the Republic of Madagascar with the Foreigner;
- Considering the Decree n°2007-022 of 20 January, 2007 relating to the appointment of the Prime Minister, Head of the Government;
- Considering the Decree n°2007-025 of 25 January, 2007 modified by the decree n°2007-120 of 19 February, 2007 relating to the appointment of the members of the Government;
- Considering the Decree n°2007-185 of 27 February, 2007 modified by the decree n°2007-633 of 10 July, 2007 setting the attributions of the Minister of Finance and Budget as well as the general organization of its Ministry;
- Considering the Circular n°005 of 30 June, 1994 relating to the domiciliation and the payment of exports;

Within the context of the reinforcement of the tax, customs and financial administration; and of the reinforced auditing program with respect of the tax and customs obligations and the exchange control;

Pursuant to the instructions of His Excellency Mr. President of the Republic of Madagascar at the time of his speech to the Nation on 25 June, 2007;

**DECIDES :**

**Article first.** - Free remissions of penalties, fines and confiscations normally exigible are granted to the customs infringements as well as those relating to repatriation of currencies resulting from exports of goods when these infringements are spontaneously brought the attention of customs and Treasury Department.

**Article 2.** - In the tax field, are gracefully remitted the fines and penalties normally exigible relating to the irregularities represented by any default in tax return, delay of registration of return and payment, any insufficiency, inaccuracy, omission and undervaluation ; when these irregularities are spontaneously brought the attention of the tax administration.

**Article 3.** - The concerned infringements or irregularities are those which were noted by an administrative decision or which were the subject of final compromise or jurisdictional decisions of the competent authority on the matter before 26 June 2007; and those made before 26 June 2007 which are spontaneously brought the attention of customs, tax and treasury departments.

However, the possible infringements resulting from the current operations of reconciliation on RIE and RIR are not covered by this decree.

**Article 4.** - This decree applies to the taxpayers, importers, or exporters in irregular situation as regards tax, customs and exchange obligations which arise spontaneously before 31 December 2007 at the concerned administrations to regularize their customs, tax situation, or as regards repatriation of currencies resulted from exports of goods.

It is accompanied by the reinforcement of tax, customs control measures and as regards repatriation of currencies.

**Article 5.** - The interests of delays of payment settled at 0,4% monthly since the date of exigibility of the compromised and/or eluded taxes are applied on these taxes and are immediately exigible.

**Article 6.** - The compromised and/or eluded taxes generated by the aforementioned infringements or irregularities as well as the arrears of interest are and remain exigible in their totality.

**Article 7.** - The arrears of foreign exchange earnings resulted from exports of goods will have to be repatriated within three (3) months from the date of publication of this decree.

**Article 8.** - Any payment made as penalties or fines, even as payment on account, and already deposited to the coffer of the State before this date is neither refundable, nor imputable on the principal remaining due.

**Article 9.** - The benefit of the remission of penalties and fines cannot be pronounced before payment of the principal taxes, or repatriations of the currencies resulted from exports, as well as the arrears of interest.

**Article 10.** - The implementation of this decree will be the subject of evaluation report which will be published in the Official Journal during first quarter 2008. This report will indicate especially the amount of the remitted penalties and fines, that of the principal taxes collected and that of the foreign exchange earnings resulted from exports of repatriated goods, as well as the arrears of interest.

**Article 11.** - The General manager of the customs Department, the General manager of the tax Department as well as the General manager of the Treasury, each one in what relates to it, are in charge of the execution of this decree which will be published in the Official Journal of the Republic of Madagascar.

Antananarivo, the

17 JUIL 2007

