

J. S. MOMOH
President

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No. 3



Sierra Leone

1992

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The Income Tax (Amendment) Act, 1992

Being an Act to amend the Income Tax Act, Cap. 273

Short title.

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Date of Commencement.

BE IT ENACTED by the President and Members of Parliament in his present Parliament assembled as follows—

1. (1) Save as otherwise expressly provided, this Act shall be deemed to have come into force on the 1st day of April, 1991.

Commencement and Application.

(2) The provisions of this Act shall apply to income charged or chargeable for the year of assessment commencing on 1st April, 1991 and each succeeding year of assessment except as hereinafter otherwise expressly provided.

(3) The amendment of the Income Tax Act made by Section 14 shall come into force on the 1st day of April, 1992.

Amendment
of section
7 of Cap.
273.

2. The proviso to paragraph (b) of subsection (1) of section 7 of the Income Tax Act is repealed and replaced by the following proviso:—

“Provided that no tax shall be levied where redundancy payment for termination or loss of office or employment or similar type of payment does not exceed seventy thousand leones for the year of assessment commencing on 1st April, 1990 and ninety thousand leones for the year of assessment commencing on 1st April, 1991 and succeeding years of assessment, but where such payment exceeds seventy thousand leones or ninety-six thousand leones, as applicable, tax shall be levied on the excess at the rate of thirty per centum;”

Amendment
of section 9
of Cap.
273.

3. Section 9 of the principal Act is amended as follows—

(a) by repealing and replacing paragraph (u) of subsection (1) by the following new paragraph—

“(u) the income of a person, derived from any agricultural activity for a period of ten years from the commencement of the agricultural activity;

Provided that in the case of a company, the company is incorporated in Sierra Leone and proper records are kept and no dividend is payable during the period of exemption which is limited to six years from the commencement of such agricultural activity.

For the purposes of this paragraph the expression “agricultural activity” shall not include mining or fishing activities;”

(b) by repealing paragraph (w) of subsection (1).

4. Subsections (2) and (3) of Section 23 of the principal Act are repealed and replaced by the following new subsections—

Repeal and
Replacement
of
Section 23
(2) and (3)
of Cap. 273.

“(2) Notwithstanding the provisions of subsection (1) and subject to the provisions of subsections (3) and (4) the minimum chargeable income which a person shall be deemed to derive from any trade, business, profession or vocation carried on or exercised by him shall, irrespective of the actual profit made or loss suffered—

(i) as from the year of assessment commencing on 1st April, 1988 and each succeeding year of assessment up to the year of assessment commencing 1st April, 1991 be an amount equivalent to ten *per centum* of the amount of turnover of such trade, business, profession or vocation which turnover shall be determined by the Commissioner; and

(ii) for the year of assessment commencing on 1st April, 1992 and each succeeding year of assessment be an amount equivalent to fifteen *per centum* of the turnover of such trade, business, profession or vocation which turnover shall be determined by the Commissioner.

(3) Where the Commissioner is satisfied that any person engaged in or carrying on a trade, business, profession or vocation maintains proper books of accounts with respect to—

(a) all receipts obtained and expenses incurred in respect of that trade, business, profession or vocation and the matters to which such receipts and expenditures relate, and

(b) all sales and purchases of goods and services made in respect of that trade, business, profession or vocation, and

(c) all the assets and liabilities of such trade, business, profession or vocation,

the minimum chargeable income that such person shall be deemed to derive from his trade, business, profession or vocation shall, irrespective of the actual profit made or loss suffered and notwithstanding the provisions of subsection (2)—

(i) for the year of assessment commencing on 1st April, 1988 and each succeeding year of assessment up to the year of assessment commencing on 1st April, 1991 be an amount equivalent to seven *per centum* of the turnover of such trade, business, profession or vocation which turnover shall be determined by the Commissioner; and

- (ii) for the year of assessment commencing on 1st April 1992 and each succeeding year of assessment be an amount equivalent to ten *per centum* of the turnover of such trade, business, profession or vocation which turnover shall be determined by the Commissioner:

Provided that where the books of accounts maintained in respect of a trade, business, profession or vocation have been audited by a reputable firm of Accountants and the Commissioner is satisfied having conducted a tax field audit, that complete and proper records have been kept and that there have been no false, artificial or fictitious transactions aimed at reducing the chargeable income of such trade, business, profession or vocation, the provisions relating to Minimum Chargeable Income shall not apply and the excess of original tax paid over the tax due on profit basis shall be available for credit against future tax liability."

Repeal and
Replacement of
Section 28
of Cap. 273.

5. Section 28 of the principal Act is repealed and replaced by the following new section—

"Rates of
tax upon
companies
and other
bodies.

28 (1) Subject to the provisions of section 29 and any other relevant provisions of this Act, there shall be levied and paid for each year of assessment commencing on 1st April, 1988, upon the chargeable income of every company or body or persons or every other person other than a partnership or an individual referred to in section 27, tax at the rate of forty-five *per centum*:

Provided that where any part of the income of a person is actually paid to or for the benefit of a beneficiary (being an individual) or accumulated for the benefit of an infant under twenty-one years of age, tax shall be levied and paid on such part of such income at the rate applicable to the chargeable income of the beneficiary or infant, as the case may be, and not at the rate specified in this section.

(2) for the purposes of the proviso to subsection (1) the term "person" includes trustees or any person acting as a representative but does not include a company."

Repeal and
Replacement of
Section 30
of Cap. 273.

6. Section 30 of the principal Act is repealed and replaced by the following new section—

"Deduction of tax from dividends of companies.

30 (1) Every company incorporated or resident in Sierra Leone shall deduct from the amount of any dividend paid or payable to any shareholder, withholding tax at the rate of ten *per centum* of the total amount of such dividend unless the Commissioner certifies in writing that the recipient of such dividend is exempt from tax, and within fifteen days after the end of the month in which deduction was made, render an account to the Commissioner of the tax so deducted.

(2) Every amount deducted as withholding tax shall be a debt to the Government of Sierra Leone from the person required under this section to deduct tax at source and such debt may be recoverable in accordance with the provisions of this Act.

(3) Notwithstanding any provisions to the contrary contained in this Act, the dividend from which withholding tax has been deducted shall not be aggregated with other income for the purpose of ascertaining chargeable income under section 23 and shall not be subject to any additional income tax.

(4) Every company shall submit to the Commissioner a list indicating the name, address and description of each shareholder and the amount of dividend paid and tax deducted not later than ninety days after the end of the accounting period in which the dividend was paid, and the tax so deducted shall not be available as a set-off against the tax on other income."

7. Section 31 of the principal Act is repealed and replaced by the following new section—

Repeal and Replacement of Section 31 of Cap. 273.

"Deduction of tax from interest and discounts.

31 (1) Subject to the provisions of Section 46, any person who pays interest on money saved or deposited with him, mortgage or debenture interest, and discounts, shall upon paying any such interest or discount deduct therefrom, tax at the rate of ten *per centum* and shall within fifteen days after the end of the month in which the deduction was made, render an account to the Commissioner of the tax so deducted.

(2) Every amount deducted as tax shall be a debt to the Government from the person required to deduct tax and may be recoverable in accordance with the provisions of this Act.

- (a) that a deduction of ten *per centum* be made by the payer from such payment as advance payment of income tax, or
- (b) that a lower or higher rate than ten *per centum* be deducted to recover the tax charged or chargeable, and the payer shall render an account to the Commissioner of the amount so deducted not later than twenty-one days from the date such deduction was made.

(2) Any tax—

- (a) which has been deducted from any payment under subsection (1) or from rent, royalties, premium or other gains or profits arising from property under the provisions of section 31A, or
- (b) applicable to the share to which a person is entitled in the income of a body of persons (other than dividend and interest) or in the income of the estate of a deceased person,

shall, when such payment, rent, royalty, premium or other gains or profits arising from property, or share is included in the chargeable income of any person, be set off for the purposes of collection against the tax charged on that chargeable income.”

10 Section 58A of the principal Act is repealed and replaced by the following new section—

“Fixing of standard assessment.

58A (1) Without prejudice to the provisions of Section 58 or any other provisions to the contrary contained in this Act or any other enactment, every person being an individual belonging to a class or description of persons as specified in the Fifth Schedule hereto shall be liable to a standard assessment of a minimum tax applicable to the class or description of persons to which that person belongs.

(2) Every person who comes under a class or description of persons as specified in the Fifth Schedule shall inform the Commissioner in writing within twenty-one days of the coming into force of this section, that he comes under a class or description so specified and of his personal and business or office address and such other matters as may be stipulated by the Commissioner.

Repeal and Replacement of Section 58A of Cap. 273.

(3) Every person who comes under a class or description of persons as specified in the Fifth Schedule shall pay in respect of each year of assessment the tax fixed by Standard Assessment in respect of that class or description of persons to which he belongs which tax may be waived or varied as the Minister may from time to time specify by Order published in the *Gazette* and that tax shall be deemed to be the minimum tax chargeable and payable by such class or description of persons:

Provided that where—

(a) a person belonging to a class or description of persons as specified in the Fifth Schedule is in receipt of income from any other source or from more than one such source as specified therein the Commissioner may, at the end of each year of assessment—

(i) ascertain that person's total chargeable income for that year from all sources including the source specified in the Fifth Schedule;

(ii) calculate that person's total tax liability for that year by reference to his total chargeable income from all sources; and

(iii) if he considers it necessary, make an assessment accordingly for that year on the person.

(b) an assessment has not been made the amount of tax fixed by standard assessment shall be deemed to be the tax resulting from an assessment made in accordance with the provisions of section 58.

(4) The tax fixed by standard assessment shall be due and payable for each year of assessment within twenty one days of the commencement of that year of assessment:

Provided that on the written request of any person belonging to a class or description of persons specified in the Fifth Schedule, the Commissioner may approve payment of the tax at such regular intervals as the Commissioner may determine.

FIRST SCHEDULE

PART I

(Section 27 (1) (a))

Table A—Rates of tax applicable to individuals in employment resident in Sierra Leone for the year of assessment commencing 1st April, 1991.

<i>Chargeable Income</i>	<i>Le</i>	<i>Rate of Tax</i>
	<i>Per Annum</i>	
Up to but not exceeding	25,000.00	Nil per centum
Next	3,000.00	5 per centum
Next	5,000.00	10 per centum
Next	10,000.00	20 per centum
Next	70,000.00	35 per centum
Excess Over	113,000.00	45 per centum

Table B—Rates of tax applicable to individuals in employment resident in Sierra Leone for the year of assessment commencing 1st April, 1992 and each succeeding year of assessment.

<i>Chargeable Income</i>	<i>Le</i>	<i>Rate of Tax</i>
	<i>Per Annum</i>	
Up to but not exceeding	60,000.00	Nil per centum
Next	15,000.00	5 per centum
Next	25,000.00	10 per centum
Next	50,000.00	20 per centum
Next	350,000.00	35 per centum
Next	500,000.00	45 per centum
Excess Over	1,000,000.00	50 per centum

PART II

(Section 27(1) (b))

Table A—Rates of tax applicable to individuals in employment not resident in Sierra Leone for the year of assessment commencing 1st April, 1991.

<i>Chargeable Income</i>	<i>Le</i>	<i>Rate of Tax</i>
	<i>Per Annum</i>	
Up to but not exceeding	25,000.00	5 per centum
Next	3,000.00	10 per centum
Next	5,000.00	15 per centum
Next	10,000.00	25 per centum
Next	70,000.00	35 per centum
Excess Over	113,000.00	48 per centum

Table B—Rates of tax applicable to individuals in employment not resident in Sierra Leone for the year of assessment commencing 1st April, 1992 and each succeeding year of assessment.

<i>Chargeable Income</i>	<i>Le</i> <i>Per Annum</i>	<i>Rate of Tax</i>
Up to but not exceeding ..	60,000.00	Nil per centum
Next	15,000.00	10 per centum
Next	25,000.00	15 per centum
Next	50,000.00	25 per centum
Next	350,000.00	35 per centum
Next	500,000.00	48 per centum
Excess Over	1,000,000.00	53 per centum

14. The Second Schedule to the principal Act is repealed and replaced by the following new Schedule—

Repeal and
Replacement of
Second
Schedule to
Cap. 273.

SECOND SCHEDULE

PART I

(SECTION 27 (2) (a))

Rates of tax applicable to individuals in trade, business, profession or vocation resident in Sierra Leone for the year of assessment commencing 1st April, 1992 and each succeeding year of assessment.

<i>Chargeable Income</i>	<i>Le</i>	<i>Rate of Tax</i>
Up to but not exceeding ..	75,000.00	10 per centum
Next	25,000.00	15 per centum
Next	50,000.00	25 per centum
Next	350,000.00	40 per centum
Next	500,000.00	45 per centum
Excess Over	1,000,000.00	50 per centum

PART II

(SECTION 27 (2) (b))

Rates of tax applicable to individuals in trade, business, profession or vocation not resident in Sierra Leone for the year of assessment commencing 1st April, 1992 and each succeeding year of assessment.

<i>Chargeable Income</i>	<i>Le</i>	<i>Rate of Tax</i>
Up to but not exceeding	75,000.00	10 per centum
Next	25,000.00	20 per centum
Next	50,000.00	30 per centum
Next	350,000.00	42 per centum
Next	500,000.00	45 per centum
Excess Over	1,000,000.00	53 per centum

Amendment
of Cap. 273.

15. The principal Act is amended by the insertion after the Fourth Schedule thereto of the following new Schedule—

FIFTH SCHEDULE

(SECTION 358A)

Rates of Standard Assessment or minimum tax are as follows—

<i>Item</i>	<i>Class or Description of Persons</i>	<i>Minimum Tax payable by the Standard Assessment in the Western Area</i>	<i>Minimum Tax payable by the Standard Assessment in the Provinces</i>
		<i>Tax (Le)</i>	<i>Tax (Le)</i>
1.	Goldsmiths	2,100.00	1,800.00
2.	Goldsmiths in Makeni, Makali, Masingbi and Kono	2,100.00
3.	Blacksmiths, Tinsmiths and persons in allied trades	1,080.00	600.00
4.	Money Lenders	1,050.00	600.00
5.	Auctioners	4,950.00	1,800.00
6.	Wine and Beer Seellers	2,100.00	2,100.00
7.	Surveyors (self employed)	3,825.00	2,100.00
8.	Druggists and Midwives	3,825.00	2,700.00
9.	Owners of Furniture and upholstery Workshop	3,825.00	3,825.00
10.	Motor Mechanics and Fitters	10,000.00	7,450.00
11.	Tailors	3,825.00	2,700.00
12.	Seamstresses	3,825.00	2,700.00
13.	Hair Dressers	2,700.00	1,800.00

Item	Class or Description of Persons	Minimum Tax pay- able by the Standard Assessment in the Western Area	Minimum Tax pay- able by the Standard Assessment in the Provinces
		Tax (Le)	Tax (Le)
14.	Barbers	1,050.00	600.00
15.	Butchers	3,825.00	2,700.00
16.	Cattle Dealers	3,825.00	3,825.00
17.	Electricians (self employed)	2,700.00	2,100.00
18.	Radio Mechanics (self employed)	2,700.00	2,100.00
19.	Shoemaker and Repairer	1,050.00	600.00
20.	Booksellers	1,050.00	600.00
21.	Hawkers in general	1,500.00	1,000.00
22.	Watch Repairers	600.00	600.00
23.	Second Hand Clothes Dealers	2,700.00	1,800.00
24.	Second Hand Parts Dealers	1,050.00	600.00
25.	Cafes/Cookery Shops	1,050.00	600.00
26.	Petrol Peddlers	2,700.00	2,700.00
27.	Mill Operators	2,700.00	2,700.00
28.	Taxi Operators	4,950.00	4,950.00
29.	Lorry/Tipper Operators (carrying up to 20 passengers plying for hire/reward)	6,825.00	6,825.00
30.	Mini-Buses carrying over 20 passengers	10,000.00	10,000.00
31.	Omnibuses or Mini Bus operators carry- ing up to 20 passengers and plying for hire/reward	6,825.00	6,825.00
32.	Beer, stout or cigarettes Distributors	3,825.00	3,825.00
33.	Rice Dealers	6,825.00	6,825.00
34.	Fishing Boat Operators	3,825.00	3,825.00
35.	Petty Traders with Table or Baffa	1,050.00	1,050.00
36.	Trailers	10,000.00	10,000.00
37.	Gold Miners		10,000.00
		(per Licence Issued)	
38.	Individual Diamond Exporters	0.5%	0.5%
	(of export value)	(of export value)	
39.	Exporters Agents	500,000.00	500,000.00
40.	Each Non-Citizen Dealer	250,000.00	250,000.00
41.	Each Citizen Dealer	125,000.00	125,000.00
42.	Each Alluvial Diamond Miner		10,000.00
		(per licence issued)	

Passed in Parliament this 5th day of March in the year of our Lord one thousand nine hundred and ninety-two.

M. T. BETTS-PRIDDY,
Acting Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correctly printed copy of the said Bill.

M. T. BETT-PRIDDY,
Acting Clerk of Parliament.