

N.P.R.C. Decree
No. 16



Sierra Leone

1994

The Income Tax (Amendment) Decree, 1994

Short title.

Being a Decree to amend provisions in the Income Tax Act relating to withholding tax.

[27th October, 1994.]

Date of
Commence-
ment.

PURSUANT to paragraph 3 of the Proclamation entitled "The Administration of Sierra Leone (National Provisional Ruling Council) Proclamation, 1992", the National Provisional Ruling Council makes and issues the following Decree—

1. The Income Tax Act is amended as follows—

Amendment
of Income
Tax Act.
Cap 273.

- (a) by the repeal of the proviso to subsection (3) of section 23;

(b) by the insertion immediately after section 23 of the following new section—

"Tax field audit.

23A(1) Where the books of accounts maintained by a taxpayer in respect of a trade, business, profession, or vocation have been audited by a reputable firm of accountants and the Commissioner is satisfied, after having conducted a tax field audit—

(a) that complete and proper records have been kept; and

(b) that there has been no false, artificial or fictitious transaction 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 any original tax paid over the tax due on profit basis shall be set off against any future tax liability of the taxpayer.

(2) Where the Commissioner is unable to conduct a tax field audit for any year of assessment within a period of four years—

(a) the Commissioner shall be deemed to be satisfied with the audited books of accounts of the taxpayer for that particular year within the period; and

(b) the taxpayer shall be entitled to any relief or refund, which shall be set off against any future tax liability of the taxpayer."

(c) by the repeal and replacement of subsection (1) of section 30 with the following new subsection—

"Deduction of tax from dividends of companies.

30(1) Subject to section 30A, every company incorporated or resident in Sierra Leone shall deduct from the amount of any dividend paid or payable—

(a) to any resident shareholder, withholding tax at the rate of ten percent of the total amount of such dividend; and

(b) to any non-resident shareholder, withholding tax at the rate of twenty-five percent of the total amount of such dividend."

(d) by the insertion immediately after section 30 of the following new section—

"Restriction of application.

30A. Subsection (1) of section 30 shall not apply where the Commissioner certifies in writing that the recipient of such dividend is exempt from tax."

(e) by the repeal and replacement of subsection (1) of section 31 with the following new subsection—

tax from interest and discounts.

46 any person who pays interest on any amount shall deduct from the interest paid or payable withholding tax at the rate of fifteen percent of the total amount of the interest."

(d) by the insertion immediately after subsection (6) of section 31 of the following new subsection—

"(7) In this section "interest" includes—

- (a) any amount paid or accrued under a debt obligation which is not a return of capital; and
- (b) any gain realised by way of a discount, premium, swap payment or similar payment on a loan."

(e) by the insertion immediately after section 31A of the following new sections—

"Withholding tax on natural resource payments.

31B (1) Any person who makes a payment in respect of a natural resource from Sierra Leone to a person not resident in Sierra Leone, shall deduct withholding tax at the rate of twenty-five percent of the total amount of the payment.

(2) A tax withheld under subsection (1) shall be due and payable not later than fifteen days after the end of the month in which the deduction is made.

(3) A payment made under subsection (1) includes a payment for

minerals or living or non-living resources of the land or payment calculated in whole or in part by reference to the quantity or value of minerals or living or non-living resources taken from the land.

Withholding tax on income from trusts.

31C Any person resident in Sierra Leone who—

- (a) distributes income of a trust to a beneficiary not resident in Sierra Leone; or
- (b) applies income of a trust to the benefit of such beneficiary,

shall withhold tax at the rate of twenty-five percent of the total amount of the income distributed or applied.

Withholding tax on income from contracting services.

31D(1) Subject to subsection (3) any person who contracts with a contractor for the provision of services to a business shall deduct from any payment made to the contractor withholding tax at the rate of five percent of the gross amount paid.

(2) For the purposes of subsection (1)—

- (a) any commission paid to any person in respect of services performed by that person; or
- (b) any charge or fee paid for the provision of management services other than employment contract,

(3) Subsection (1) shall not apply to—

(a) payments made by any person to a contractor during a month in which the person pays a total of 50,000 leones or less to the contractor, if the person notifies the Income Tax Department in the prescribed manner, of the identity of the contractor and the amount paid to him; or

(b) payments exempted from the requirements of this section by regulations.

Period for
payment of
taxes withheld.

31E(1) Any tax withheld under sections 30, 31, 31B, 31C and 31D shall be due and payable not later than fifteen days after the end of the month in which deduction is made.

(2) Any tax withheld under the sections referred to in subsection (1) shall be a final tax and—

(a) no further tax shall be levied on the taxpayer in respect of the income to which the withheld tax relates;

(b) that income shall not be aggregated with any other income of the taxpayer for the purpose of ascertaining

chargeable income; and

(c) no refund of tax shall be made in respect of the payment."

(h) by the repeal and replacement of section 68 with the following new section—

"Time within which payment is to be made.

68 (1) Subject to subsections (2) and (3), and to the provisions of any Rules made under section 5A and to sections 67 and 73, tax for any year of assessment levied in accordance with section 27 or 28 shall be payable at the place stated in the notice of assessment given under section 62 within twenty-one days after the service of such notice.

(2) A taxpayer other than a company may pay income tax in two equal installments, the first being paid within twenty-one days after the service of the notice of assessment and the second within ninety days after the service of such notice.

(3) A taxpayer other than a company may apply to the Commissioner for an extension of time beyond the ninety days period referred to in subsection (2).

(4) A taxpayer who is granted an extension pursuant to subsection (3) shall pay interest on the unpaid installment at the rate of five percent above the prevailing commercial lending rate of the Bank of Sierra Leone.

(5) Section 70 (1) (a) shall not

apply where the taxpayer pays in installments pursuant to subsections (2) and (4) of this section."

- (i) by the insertion immediately after section 68 of the following new section—

"Pre-payment of tax on imported goods.

68A(1) Subject to subsection (2) every resident taxpayer who imports goods into Sierra Leone for resale shall pay to the Commissioner an amount equal to the higher of—

- (a) two percent of the C.I.F. value of the goods imported; or
- (b) two percent of the customs value of the goods imported.

(2) Subsection (1) shall not apply to an incorporated taxpayer where—

(a) the taxpayer maintains proper books of accounts with respect to—

(i) all receipts obtained and expenses incurred in respect of the taxpayer's business; and

(ii) all sales and purchases of goods and services made in respect of that business;

(b) the books of accounts have been audited in each of the preceding three years by a

reputable firm of accountants;
and

(c) the taxpayer is not in arrears in respect of income tax payment for any year prior to the year of assessment.

(3) The Commissioner shall—

(a) on the payment of the amount required under subsection (1);
or

(b) on being satisfied that subsection (2) applies to the taxpayer,

issue to the taxpayer a certificate to be called the customs income tax clearance certificate, certifying that the tax has been paid.

(4) The Comptroller of Customs shall not release any consignment of goods unless the consignee produces a customs income tax clearance certificate.

(5) Any amount paid under subsection (1) shall be regarded as payment of income tax in respect of the taxpayer's tax liability for the year of assessment in which the payment is made."

(j) by the repeal and replacement of the First Schedule with the following new Schedule—

FIFTH SCHEDULE

1994

(SECTION 58A)

Rates of standard assessment on minimum tax for the year of assessment commencing 1st April, 1994 are as follows:—

ITEM	CLASS OR DESCRIPTION OF PERSON	MINIMUM TAX PAYABLE BY THE STANDARD ASSESSMENT IN THE WESTERN AREA (Le.)	MINIMUM TAX PAYABLE BY THE STANDARD ASSESSMENT IN THE PROVINCES (Le.)
1.	Goldsmiths	6,000.00	
2.	Goldsmiths in Makeni, Makali		6,000.00
3.	Blacksmiths, tinsmiths and persons in allied trades	4,000.00	2,000.00
4.	Money Lenders	10,000.00	5,000.00
5.	Auctioneers	6,000.00	5,000.00
6.	Wine & beer sellers	4,000.00	4,000.00
7.	Surveyors (self employed)	6,000.00	3,000.00
8.	Druggists & midwives	5,000.00	4,000.00
9.	Owners of Furniture & Upholstery Workshops	6,000.00	6,000.00
10.	Motor mechanics and fitters	10,000.00	7,000.00
11.	Tailors	10,000.00	5,000.00
12.	Seamstresses	6,000.00	3,000.00
13.	Hair Dressers	4,000.00	2,400.00
14.	Barbers	4,000.00	2,000.00
15.	Cattle Dealers	5,000.00	4,000.00
16.	Butchers	6,000.00	3,000.00
17.	Electricians (self employed)	5,000.00	2,500.00
18.	Radio Mechanics (self employed)	4,000.00	2,500.00
19.	Shoemakers and repairers	3,000.00	1,200.00
20.	Booksellers	5,000.00	2,400.00
21.	Hawkers in general	4,000.00	3,600.00
22.	Watch repairers	2,400.00	1,200.00

ITEM	CLASS OR DESCRIPTION OF PERSON	MINIMUM TAX PAYABLE BY THE STANDARD ASSESSMENT IN THE WESTERN AREA	MINIMUM TAX PAYABLE BY THE STANDARD ASSESSMENT IN THE PROVINCES
		(Le.)	(Le.)
23.	Second Hand Clothes dealers	6,000.00	6,000.00
24.	Second hand parts dealers	6,000.00	4,000.00
25.	Cafes/Cookery shops	4,800.00	2,400.00
26.	Petrol dealers	4,800.00	4,000.00
27.	Mill operators	3,600.00	3,600.00
28.	Taxi operators	3,600.00	3,600.00
29.	Lorry/Tipper Operators carrying up to 20 passengers plying for hire/reward	15,000.00	15,000.00
30.	Mini-Buses carrying 20 passengers (omnibuses or mini bus operators)	10,000.00	10,000.00
31.	Rice Dealers	7,200.00	7,200.00
32.	Fishing Boat Operators	6,000.00	6,000.00
33.	Petty traders with tables or baffa	4,200.00	4,200.00
34.	Trailers (single)	15,000.00	15,000.00
35.	Trailers (double)	25,000.00	25,000.00
36.	Individual diamond exporter	1.5%	1.5%
		(of export value)	(of export value)
37.	Exporter's agent (Diamond)	500,000.00	500,000.00
38.	Each citizen dealer	125,000.00	125,000.00
39.	Each non-citizen dealer	250,000.00	250,000.00
40.	Each alluvial diamond miner	20,000.00	20,000.00
		(per licence issued)	(per licence issued)
41.	Gold miners	10,000.00	10,000.00
		(per licence issued)	(per licence issued)
42.	Gold dealers	40,000.00	40,000.00
43.	Gold exporters	100,000.00	100,000.00
		(per licence issued)	(per licence issued)

Commence-
ment of provi-
sions.

2. (1) Sections 30(1), 30A, 31(1), 31(7), 31B, 31C, 31D, 31E and 31F shall be deemed to have come into force on the 1st day of April, 1994.
- (2) Section 68 shall come into force on the commencement of this Decree.
- (3) Section 68A shall be deemed to have come into force on the 1st day of July, 1993.

MADE and ISSUED this 20th day of October, 1994.

CAPTAIN VALENTINE E. M. STRASSER
Chairman,
National Provisional Ruling Council.