

Passed in Parliament this *14th day of November*, in the year of our Lord two thousand and thirteen.

IBRAHIM S. SESAY,
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 correct printed copy of the said Bill.

IBRAHIM S. SESAY,
Clerk of Parliament.

ACT

Supplement to the Sierra Leone Gazette Vol. CXLIV, No. 75
dated 12th December, 2013

SIGNED this *28th day of November, 2013.*

DR. ERNEST BAI KOROMA,
President.



No. 3



Sierra Leone

2013

THE FINANCE ACT, 2013

Short title.

Being an Act to provide for the imposition and alteration of taxes for the year 2013 and for other related matters.

[

] Date of commencement.

ENACTED by the President and Members of Parliament in this present Parliament assembled.

The Pay-Roll Tax Act, 1972

Amendment
of section 7
of Act No.16
of 1972.

1. The Pay-Roll Tax Act, 1972 is amended by the repeal and replacement of section 7 by the following new section-

“ Tax clearance certificate 7. (1) The pay-roll tax shall be paid and borne by the employer and the employer shall not be entitled to pass on the tax to any employee.

(2) Subject to subsection (1), the Commissioner-General shall issue to the employer, a tax clearance certificate in respect of each non-citizen employee, confirming that all taxes payable by or on behalf of that non-citizen employee have been paid.

(3) A permit shall not be granted under section 34D to a person for whom an application is made under 34C of the General Law (Business Start-Up)(Amendment) Act, 2007 unless a tax clearance certificate relating to the non-citizen has been obtained from the National Revenue Authority.”

The Income Tax Act 2000

Amendment
of section 2
of Act No.8
of 2000.

2. Section 2 of the Income Tax Act, 2000 is amended as follows-

(a) by the repeal and replacement of the definition of “branch” wherever it occurs by the following new definition-

“permanent establishment of a non-resident person in Sierra Leone “ means a place in Sierra Leone where the person carries on business or that is at the disposal of the person for that purpose and includes-

- (a) a place in Sierra Leone where-
 - (i) a person has, is using or is installing substantial equipment or machinery;
 - (ii) a person is engaged in a construction, assembly or installation project for 90 days or more, including a place where the person is conducting supervisory activities in relation to such a project;
 - (iii) an agent performs any function on behalf of a business of the person including, in the case of an insurance business, the collection of premiums or the insurance of risks situated in Sierra Leone , but excluding a case involving a general agent of independent status acting in the ordinary course of business as such;
- (b) the provision of services in Sierra Leone , but only if activities of that nature continue (for the same or a connected project) for a period of 183 days or more in any 12 months period.

(b) by the repeal and replacement of the definition of “natural resource payment” by the following new definition-

“natural resource payment” means-

- (a) a rent, toll, royalty or other like payment payable under a lease or agreement which relates wholly or in part to the mining and working of minerals or a living or non-living resource of the land or sea; or
- (b) a payment calculated in whole or in part by reference to the quantity or value of minerals or living or non-living resource taken from the land or sea.

Amendment of section 4 of Act No. 8 of 2000.

3. Section 4 of the Income Tax Act, 2000 is amended by the repeal and replacement of subsections (2) and (3) respectively, by the following new subsections–

“(2) Where the turnover of a business not being a company specified under Part III of the First Schedule excluding income from property is less than Le 350,000,000 but not less than Le10,000,000 the income tax payable shall at the option of such a business, be a percentage of the turnover as specified in part V of the First Schedule and –

- (a) no deduction shall be allowed under this Act for expenses incurred to derive business income;
- (b) no claims for withholding tax shall be allowed;
- (c) the tax shall be a final tax on the business of the taxpayer but if a business does not opt to pay taxes under this subsection it shall be subject to a tax under section 69.

(3) Subject to section 150, a taxpayer under Small Medium Enterprise (SME) regime who fails to file an income tax return on the due date commits an offence and shall be liable upon conviction to a fine the greater of Le 1,000,000.00 or 10% of the Tax due for the period to which the tax returns relate or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.”

Amendment of section 12 of Act No. 8 of 2000.

4. Section 12 of the Income Tax Act, 2000 is amended by the repeal and replacement of subsection (2) by the following new subsection–

“(2) For the purposes of this Act, a permanent establishment of a non-resident person in Sierra Leone shall be treated as a resident person separate from but associated with its non-resident owner”

5. Section 13 of the Income Tax Act, 2000 is amended by repealing subsections (2) and (3). Amendment of section 13 of Act No. 8 of 2000.

6. Section 16 of the Income Tax Act, 2000 is amended by the repeal and replacement of paragraph (b) by the following new paragraph– Amendment of section 16 of Act No. 8 of 2000.

“(b) all other assessable income from any source in Sierra Leone whether or not the income is received in Sierra Leone;”

7. Section 21 of the Income Tax Act,2000 is hereby repealed. Repeal of section 21 of Act No. 8 of 2000

8. Section 30A of the Income Tax Act, 2000 is hereby repealed. Repeal of section 30A of Act No.8 of 2000.

9. Section 31 of the Income Tax Act, 2000 is amended by repealing paragraph (m). Amendment of section 31 of Act No.8 of 2000.

10. Section 35 of the Income Tax Act, 2000 is repealed and replaced by the following new section– Repeal and replacement of section 35 of No. 8 of 2000.

“Financial cost. **35** (1) In ascertaining a person’s chargeable income for a year of assessment, the amount of financial cost deducted shall not exceed the amount referred to in subsection (3).”

(2) The amount of financial cost referred to in subsection (1) is the sum of –

- (a) financial gains derived by the person, that are to be included in ascertaining the person's chargeable income for the year of assessment plus;
- (b) fifty percent of the person's chargeable income calculated without including financial gains derived or deducting financial costs incurred by the person.

(3) Financial cost for which a deduction is denied as a result of subsection (1) may be carried forward and treated as incurred during the next year of assessment except where there is a change in control as specified in section 88.

(4) The Commissioner-General may by Statutory Instrument prescribe the circumstances under which financial costs may be set against financial gain.

(5) For the purpose of this section–

- (a) “financial cost” means standard interest and any other amount payable under a financial instrument;
- (b) “financial gain” means standard interest and any other amount receivable under a financial instrument;
and

(c) “financial instrument” has the same meaning prescribed by Statutory Instruments made under the Act and in the absence of such Statutory Instrument, takes its meaning from generally accepted accounting principles and includes foreign currency positions.”

11. The Income Tax Act, 2000 is amended by the insertion of the following new section immediately after section 56–

Amendment
of Act No. 8
of 2000.

“Installment sales and finance lease. 56 A(1) Payments made by a person under a finance lease or in acquiring an asset under an installment sale shall be treated as interest and a repayment of capital under a loan made by the lessor or seller to the lessee or buyer, as the case may be .

- (2) The interest and repayment of capital under subsection (1) shall be calculated as if the loan were a blended loan with interest compounded six monthly.
- (3) Where an asset is leased under a finance lease, the lessor shall be treated as transferring ownership of the assets to the lessee.
- (4) Where the lessee under a finance lease returns the assets to the lessor before ownership passes to the lessee other than by reason of this subsection, the lessee shall be treated as transferring ownership of the asset back to the lessor.

(5) Where a person transfers an asset under an installment sale or under a finance lease under subsection (3) or (4)–

(a) the person shall be treated as receiving an amount in respect of the transfer equal to the market value of the asset immediately before the transfer; and

(b) the person who acquires the asset shall be treated as paying an equal amount in acquiring the asset.

(6) The Commissioner-General may by Statutory Instrument prescribe that other forms of financing that involve interest substitutes shall be treated in a manner consistent with this section.

(7) For the purpose of this section–

(a) “blended loan” means a loan–

(i) under which payments by the borrower represent in part a payment of interest and in part a repayment of capital;

(ii) where the interest part is calculated on capital outstanding at the time of each payment; and

(iii) where the rate of interest is uniform over the term of the loan;

(b) “finance lease” means a lease where–

(i) the lease agreement provides for the transfer of ownership following the end of the lease term or the lessee has an option to acquire the asset after expiry of the lease term for a fixed or presupposed price;

(ii) the lease term exceeds 75% of the useful life of the asset;

(iii) the estimated market value of the asset after expiry of the lease term is less than 20% of its market value at the start of the lease;

(iv) in the case of a lease that commences before the last 25% of the useful life of the asset, the present value of the minimum lease payment equals or exceeds 90% of the market value of the asset at the start of the lease term; or

(v) the asset is custom-made for the lessee and after expiry of the lease term the asset will not be of practical use to any person other than the lessee;

(c) “installment sale” excludes a sale that provides for commercial periodic interest payable on sales proceeds outstanding ;and

- (d) ‘lease term’ includes an additional period for which the lessee has an option to renew a lease.”

Repeal and replacement of section 57 to 61 of Act No. 8 of 2000.

12. Sections 57 to 61 of the Income Tax Act, 2000 are repealed and replaced by the following new sections-

“CAPITAL GAINS TAX REGIME

“Imposition of capital gains tax.

- 57 (1). Capital gains tax shall be payable by a chargeable person at the rate of 30% of the capital gain accruing to or derived by that chargeable person from the disposal of a chargeable asset owned by a chargeable person.
- (2) For the purpose of sections 57 to 61-
- (i) “capital gain” means the excess of the consideration received or receivable by a chargeable person (whether in cash, kind or by any other means) from the realization or disposal of a chargeable asset over the cost base at the time of the realization or disposal;
- (ii) “capital gains tax” means the tax arising from a capital gain;
- (iii) “chargeable asset” includes land and sea, property attached and integrated equipment, fixtures, improvements including leases, anything growing on the land and all interest in the property including sea which may be right to future ownership, right to occupy as tenant, life estate, the right to explore, develop, extract or produce oil, and

other minerals, the right to shares, stocks and other investment opportunities in an entity, business or company, intellectual property rights, reversion of property, if it is not used for its current purpose, an easement across another person’s property and any other privileges relating to the property, business and business asset including goodwill wherever situated;

- (iv) “chargeable disposal” means the sale, realization or change of hands of a chargeable asset other than those specifically exempt from capital gain; and
- (v) “chargeable person” means a person, individual, corporation and related organizations including permanent establishment, associates, affiliates and joint ventures which have made chargeable disposal of a chargeable asset during a year of assessment.

- 58 (1) Subject to subsection (2), a person who owns a chargeable asset shall be treated as realizing or disposing of the asset where-
- (a) the person parts with ownership of the asset including when the asset is-
- (i) sold, exchanged, surrendered, or distributed by the owner of the asset, or
- (ii) redeemed, destroyed or lost;
- Disposal or realization of chargeable asset.

- (b) the person begins to use the asset in such a way that it ceases to be a chargeable asset; or
- (c) the person is a resident who becomes non-resident but only with respect to chargeable asset.

(2) Where an asset is disposed of by way of gift, the disposer shall be treated as having received consideration equal to the market value of the asset at the time of the disposal.

“Cost base of a chargeable asset. 59 (1) The cost base of a chargeable asset owned by a chargeable person at a particular time shall be the sum of the cost-

- (a) including incidental costs and the cost of construction or production incurred by the person in acquiring ownership of the asset;
- (b) incurred by that person on alteration and improvement of the asset between the date of its acquisition and the date of its realization, and
- (c) incurred by that person in realizing the asset.

(2) For the purposes of subsection (1), where, as a result of a person acquiring ownership of a chargeable asset, that person is treated under the rules of chargeable income as deriving an amount of income as contained in this Act, that person shall be treated as having incurred in acquiring ownership of the asset an additional cost equal to the amount of the income.

(3) A person who acquires ownership of a chargeable asset in a non-arm's length transaction shall be treated as having incurred in acquiring that ownership, a cost equal to the market value of the asset at the date of acquisition approved by the Commissioner-General.

(4) Where a person who owns an asset, which is not a chargeable asset, begins to use the asset in such a way that it becomes a chargeable asset, that person shall be treated as having incurred in acquiring ownership of the asset a cost equal to the market value of the asset at the date that person begins to so use the asset.

(5) Where a non resident person who owns one or more assets, which are not chargeable assets, becomes a resident and, as a result the asset becomes chargeable assets, that person shall be treated as having incurred in acquiring ownership of each asset, a cost equal to the market value of the asset at the time of becoming resident.

(6) Where a capital gain is exempt as a result of paragraph (b), (c), or (d) of subsection (1) of section 61, the person acquiring ownership of the asset shall be treated as having incurred in acquiring that ownership, a cost equal to the cost base of the asset of the former owner at the time of realization.

(7) Where a capital gain, or part thereof, is exempt as a result of paragraph (e) or (f) of subsection (1) of section 61, the person acquiring ownership of the replacement asset shall be treated as having incurred in acquiring that ownership a cost equal to the cost base of the asset realized at the time of the realization.

(8) Where a part of a chargeable asset owned by a person is realized, the cost base of the asset shall be apportioned between the part of the asset retained and the part realized in accordance with their respective market values at the time of realization but the costs incurred in realizing shall not be so apportioned.

60. (1) The consideration received or receivable by a person from the realization of a chargeable asset owned by that person shall be equal to the sum of all amounts and consideration in kind received or receivable by that person or an associate or a permanent establishment in respect of the realization.

“Consideration received in respect of chargeable disposal.”

(2) Where a person who owns a chargeable asset realizes it by way of transfer to an associate or permanent establishment in a non-arm's length transaction, that person shall be treated as having received consideration of an amount equal to the market value of the asset at the time of the realization.

(3) Where a resident person became a non-resident and as a result, is treated as realizing a chargeable asset in accordance with paragraph (c) of subsection (1) of section 58, that person shall be treated as receiving as consideration from the realization the market value of the asset at that time.

(4) Where a chargeable asset and one or more other assets are realized in a single transaction and the consideration received for each asset is not specified, the total consideration received from the realization shall be apportioned among the assets in proportion to their market values at the time of the transaction.

“Exemption from capital gain

61. (1) The following capital gain shall be exempt from the realization of a chargeable asset—

- (a) capital gain of a person that is up to and under the minimum chargeable income of Le1, 800,000 per annum or per transaction;
- (b) capital gain accruing to or derived by a company out of a merger, amalgamation or re-organization of the company where there is continuity of underlying ownership in the asset of at least one quarter.
- (c) capital gain resulting from a transfer of ownership of the asset by a person to that person's spouse, children, parent, brother or sister;
- (d) capital gain resulting from a transfer of ownership of the asset between former spouses as part of a divorce settlement or a genuine separation agreement;

- (e) capital gain where the amount received on realization is, within one year of realization, used to acquire a chargeable asset of the same nature (referred to as “replacement asset”); and
- (f) where part only of the amount received or realized is used in the manner referred to in paragraph (e), any part of the capital gain represented by the amount used to acquire the replacement asset is less than the cost base of the asset realized at the time of realization.”

13. The Income Tax Act, 2000 is amended by the insertion of the following new section immediately after section 61—

Amendment of Act. No 8 of 2000.

“Filing of returns and payment of capital gains tax.

- 61A** (1) Subject to subsection(3), a person who accrues or derives a capital gain from the realisation of a chargeable asset, shall within thirty days after the realization, submit to the Commissioner-General a return in writing together with payment of the capital gains tax containing the following information—
- (a) the description and location of the chargeable asset;
 - (b) the cost base of the asset immediately prior to the realization and how that cost base is calculated with supporting evidence approved by the Commissioner-General;
 - (c) the consideration received by that person from the realization with supporting documentation approved by the Commissioner-General;

- (d) the amount of any capital gain and tax payable with respect to that capital gain and the related tax;
- (e) the full name and address of the new owner of the asset; and
- (f) any other information as required by the Commissioner-General in order to ascertain the accuracy and completeness of the transaction.

(2) A person who brings into or received in Sierra Leone a capital gain shall within thirty days, submit to the Commissioner-General a return in writing containing the following information—

- (a) the amount of the capital gain brought into or received in Sierra Leone and tax payable with respect to that amount; and
- (b) any other information as required by the Commissioner-General.

(3) Where a person is required to file a capital gains tax return under whatever circumstances, that person shall remit to the Commissioner-General the amount of tax calculated as payable and the payment of tax shall be due at the time of disposal.”

Amendment of Act No. 8 of 2000.

14. The Income Tax Act, 2000 is amended by the insertion of the following new section immediately after section 61—

“Assessment collection and application of income tax procedure

61B(1) Subject to subsection (3), the Commissioner-General shall, based on a person’s return filed under section 61A and on any other information available, make an assessment of the amount of any capital gain

of that person and the tax payable on that amount within thirty days from the date the return is filed.

(2) The Commissioner-General shall apply sections 95 and 96 in order to ascertain the actual base cost or consideration received in arriving at the chargeable gain of the person.

(3) Where section 104 applies to a person and that person files a return under section 61A, the Commissioner-General shall be deemed to have made an assessment of any capital gain of that person and the tax payable on that assessment, being those respective amounts shown in the return.

(4) The procedures for objection, enforcement and recovery of a capital gain tax including interest and penalty shall apply in accordance with this Act.”

15. Section 69 of the Income Tax Act, 2000 is amended by the insertion of the following new subsection immediately after subsection (4)—

Amendment of section 69 of Act No. 8 of 2000.

“(5) This section shall not apply to a taxpayer whose turnover is less than three hundred and fifty million Leones and has elected to be assessed under the turnover method specified in subsection (2) of section 4.”

16. Subsection (1) of section 89 of the Income Tax Act, 2000 is amended by—

Amendment of section 89 of Act No. 8 of 2000.

- (a) the repeal and replacement of paragraph (b) by the following new paragraph—

“(b) derived in respect of employment exercised or services rendered in Sierra Leone whether or not the income is received in Sierra Leone;

- (b) the insertion of the following new paragraph immediately after paragraph (j)–

“(k) a premium for a general insurance paid in respect of the insurance of any risk in Sierra Leone.”

Amendment of section 90 of Act No. 8 of 2000.

17. Section 90 of the Income Tax Act, 2000 is amended by the insertion of the following new paragraph immediately after paragraph (c) of subsection (6)–

“(d) Foreign permanent establishment “ means a fixed place of business of a resident person situated in a foreign country where the business is conducted continuously for at least 183 days, but excludes any place at which only activities of a preparatory or auxiliary nature are conducted.”

Repeal and replacement of section 95 of Act No. 8 of 2000.

18. Section 95 of the Income Tax Act, 2000 is repealed and replaced by the following new section–

95(1) Where an arrangement exists between associated persons, the persons shall calculate their income and tax payable according to the arms length standard.

(2) The arms length standard requires associated persons to qualify, characterize, apportion and allocate amounts to be included or deducted in calculating income to reflect arrangements that would have been made between independent persons.

(3) The Commissioner-General may by Statutory Instrument prescribe conditions on the application of and exceptions to this section and international guidelines that must be followed in applying the arm’s length standard.

(4) Where, in the opinion of the Commissioner-General, a person has failed to comply with subsection (1), the Commissioner-General may make adjustments consistent with subsection (1) and in doing so the Commissioner-General may–

- (a) re-characterise an arrangement made between associated persons, including re-characterising debt financing as equity financing ;
- (b) re-characterise the source and type of any income, loss, amount or payment; and
- (c) apportion and allocate expenditure based on turnover.

(5) This section shall apply to an arrangement between a permanent establishment in Sierra Leone and its non-resident owner.

(6) For the purpose of this section , “arrangement” means a transaction including a course of conduct, dealing or understanding, whether expressed or implied, whether or not enforceable by legal proceedings and whether unilateral or involving more than one person.”

19. Section 97 of the Income Tax Act, 2000 is amended by–

- (a) the repeal and replacement of subsection (1) by the following new subsection–
 - (1) Subject to section 98, a taxpayer or nominated officer of a partnership or trust shall file a return of income for each year of assessment and make arrangements to pay any balance of tax thereon not later than one hundred and twenty days after the end of the year.
- (b) the repeal and replacement of subsection (3) by the following new subsection –

Amendment of section 97 of Act No. 8 of 2000.

- (3) The return of income tax shall be accompanied by—
- (a) in the case of a person carrying on business in Sierra Leone with annual turnover of not less than three hundred and fifty million Leones, a set of accounts certified by a firm of chartered accountants recognized by the Institute of Chartered Accountants of Sierra Leone and accepted by the Commissioner-General;
- (b) in the case of a non-governmental organization (NGO) or an exempt organization under section 9, annual accounts and withholding tax compliance returns;
- (c) in the case of a person carrying on business in Sierra Leone with annual turnover of less than three hundred and fifty million Leones but not less than two hundred million Leones, copies of the annual accounts; and
- (d) in every other case the annual accounts and supporting documents as may be prescribed by the Commissioner-General.

Repeal and replacement of section 117 of Act No. 8 of 2000.

20. Section 117 of the Income Tax Act, 2000 is repealed and replaced by the following new section—

“Service fee and contract payments. 117 (1) Where a person makes a payment referred to in subsection (2), the person shall withhold tax—

- (a) in the case of a payment to a resident of Sierra Leone, at the rate prescribed in Part IV of the First Schedule;

- (b) in the case of a payment to a non-resident, at the rate prescribed in Part II of the Second Schedule.

(2) The payments referred to in subsection (1) are —

- (a) service fees with a source in Sierra Leone irrespective of whether the recipients are resident or non-resident;
- (b) insurance premium with a source in Sierra Leone paid to a non-resident person;
- (c) other payments made under a contract including management fees and other remittances.

(3) The tax otherwise payable by a contractor on income from which tax has been withheld under this section shall be reduced by the tax withheld under this section.

(4) For the purpose of this section “service fee” means a payment to the extent to which, based on market values, it is reasonably attributable to services rendered by a business.

(5) Subsection (4) shall not apply to payments made by a person to a contractor during a month in which the person pays a total of Le 500,000 or less to the contractor.

(6) Subject to subsection (1) of section 130, all withholding agents shall submit monthly withholding tax returns including Pay As You Earn (PAYE) returns in the prescribed form showing details of the gross amount of payments and the related withholding taxes.

(6) A person who fails to file a Pay As You Earn (PAYE) and other withholding tax returns on the due date without the written approval of the Commissioner-General or an authorized official commits an offence and shall be liable to a fine not exceeding Le 1,000,000.00 or ten percent of the tax payable or whichever is the higher or upon conviction to imprisonment for a term not exceeding one year or to both such fine and imprisonment.”

Amendment of section 120 of Act No. 8 of 2000.

- 21.** Section 120 of the Income Tax Act, 2000 is amended by—
- (a) the deletion of the words “and in the Sixth Schedule” in subsection (1)
 - (b) the insertion of the following new paragraph immediately after paragraph (d) of subsection (3)–
 - “(e) where rent is paid directly to an agent of the landlord, the tenant shall withhold the tax regardless of the residence status of the landlord.”

Repeal and replacement of section 122 of Act No. 8 of 2000.

- 22.** Section 122 of the Income Tax Act, 2000 is repealed and replaced by the following new section—
- “ Natural resource payment.
122. (1) A person who makes any Sierra Leone source natural resource payment to a person not resident in Sierra Leone shall withhold tax at the rate specified in Part IV of the First Schedule and Part II of the Second Schedule.
- (2) Where the payment is made to a person resident in Sierra Leone, tax shall be withheld at the rate specified in Part IV of the First Schedule.”

Repeal and of section 123 of Act No.8 of 2000.

- 23.** Section 123 of the Income Tax Act, 2000 is hereby repealed.

- 24.** Section 123A of the Income Tax Act, 2000 is hereby repealed. Repeal of section 123A of Act No.8 of 2000.

- 25.** Section 130 of the Income Tax Act, 2000 is amended by the insertion of the following new subsections immediately after subsection 2—

Repeal and replacement of section 130 of Act No. 8 of 2000

- “(3) Where a withholding agent—
- (a) fails to file the statement required by section 128;
 - (b) fails to withhold tax as required by this Act;
 - (c) fails to pay to the Commissioner-General any tax that has been withheld; or
 - (d) has filed the statement required by section 128 and the Commissioner-General is of the opinion that the information provided in the statement does not correctly disclose the amount of the tax that should have been withheld, the Commissioner-General may, according to his best judgment, determine the amount of the tax payable and may make an assessment accordingly.

(4) A withholding agent may file with the Commissioner-General an objection to any assessment made by the Commissioner-General under subsection (3) and Part XVII relating to objections and appeals shall, with the necessary modifications, apply to the determination of the objection filed.”

- 26.** Section 134 of the Income Tax Act, 2000 is amended by the insertion of the following new subsection immediately after subsection (5)–

Amendment of section 134 of Act No. 8 of 2000.

“(6) The Commissioner-General or any person authorised by him may, in the performance of any duties require and receive from any person as he may think necessary, all information that is pertinent to the establishment of a tax liability and may conduct investigations for the purpose of gathering evidence of a possible criminal offence.”

Amendment
of section
135 of Act
No. 8 2000.

27. Section 135 of the Income Tax Act, 2000 is amended by—

- (a) the insertion of the following new paragraph immediately after paragraph (b) of subsection (1)-

“(c)the collection of information for the purposes of criminal prosecution.”

- (b) the repeal and replacement of subsection (2) by the following new subsection-

“(2) In respect of an authorized purpose, the Commissioner-General may by notice in writing require a person, whether a tax payer or not, to furnish information required by the notice within one month or such other extended time not exceeding three months as the Commissioner-General may determine.”

Amendment
of section
150 of Act
No. 8 of
2000.

28. Section 150 of the Income Tax Act, 2000 is amended by—

- (a) the repeal and replacement of subsection (1) by the following new subsection—

“(1) A taxpayer who, without reasonable excuse fails to file a return of income within the time required shall be liable to a penalty of—

(a) Le5,000,000;

(b) ten percent of the tax payable;
and

(b) by inserting the following new subsection immediately after subsection (2)-

“(3) This section shall not apply to tax payers who have opted for the small and micro enterprises regime as stipulated under section 4.”

29. Section 168 of the Income Tax Act, 2000 is amended by insertion of the following new subsection immediately after subsection (2)- Amendment
of section
168 of Act
No. 8 2000.

“(3) A ruling issued under subsection (1) may—

- (a) in addition to income tax, deal with any other type of tax or revenue collectible by the National Revenue Authority.
- (b) apply to multiple transactions, whether concluded in the same year or proposed to be concluded over a number of years; and
- (c) take the form of an agreement with the taxpayer as to the appropriate pricing of the arrangement according to the arm’s length standard under section 95.”

30. Part I of the First Schedule to the Income Tax Act, 2000 is amended by repealing “25%” and substituting “20%”. Amendment
of Part I of
First Schedule
to Act No. 8
of 2000.

31. Part IV of the First Schedule to the Income Tax Act, 2000 is repealed and replaced by the following— Repeal and
replacement
of Part IV of
the First
Schedule to
Act No. 8 of
2000.

“Rates of tax to be withheld from payments made to residents

Type of payment	Rate
Payments to contractors (section 117)	5%
Dividends (section 118)	10%
Interests (section 119)	15%
Rents	10%
Royalties (section 120)	25%
Pensions and annuities (section 121(2) (a))	15%
Natural resource payments (122)	25%
Real property(section 123)	10%
Winnings of Le 500,000 and above from any lottery	10%”

Repeal and replacement of Part V of the First Schedule.

32. Part V of the First Schedule to the Income Tax Act, 2000 is repealed and replaced by the following—

“Small and micro tax payer regime

Turnover	income tax payable in Leones
1. under 10,000,000	Nil
2. 10,000,001-20,000,000	100,000 plus 2% of the amount above 10,000,000
3. 20,000,001-100,000,000	300,000 plus 4% of the amount above 20,000,000
4. 100,000,001-200,000,000	3,500,000 plus 5% of the amount above 100,000,000
5. 200,000,000-350,000,000	8,500,000 plus 6% of the amount above 200,000,000”

Repeal and replacement of Part II of the Second Schedule.

33. Part II of the Second Schedule to the Income Tax Act, 2000 is amended by the repeal and replacement of Part II by the following—

“Rates of tax to be withheld from payments made to non-residents:

Employment income (section 116)	25%
Payments to contractors (section 117)	10%
Dividends (section 118)	10%
Interest (section 119)	15%
Rents and royalties (section 120)	25%
Pensions and annuities (section 121)	25%
Natural resource payments (section 122)	25%
Payments to or applications for the benefit of non-resident-beneficiaries (section 123)	25%”

34. The Sixth Schedule to the Income Tax Act, 2000 is hereby repealed.

Repeal and replacement of part II of the Second Schedule

35. Paragraph 12 of the Ninth Schedule to the Income Tax Act, 2000 is amended by repealing “Le 10,000,000 and substituting “Le50,000,000”.

Repeal of Sixth Schedule to Act No.8 of 2000

36. The Ninth Schedule to the Income Tax Act, 2000 is amended—

Amendment of Ninth Schedule to Act No 8 of 2000.

(a) by the insertion of the following new paragraph immediately after paragraph (2)-

“3. Interest Proportion

The proportion of interest cost deductible in ascertaining chargeable income under subsection (2) of section 35 shall be eighty percent;”

(b) by the repeal and replacement of paragraph 6 by the following new paragraph:—

“6. Investment allowance

“The amount of investment allowance to be deducted from business income under section 40 is 5% of the cost of the relevant asset.”

Finance Acts 2006, 2007 and 2011

Amendment of Act No. 7 of 2006.

37. The Finance Act, 2006, is amended by the repeal and replacement of subsection (1) of section 3 thereof by the following:–

- 3(1) Subject to section 110 of the Constitution of Sierra Leone, 1991 the responsibility for duty waiver administration is hereby conferred on the Minister responsibility for finance:

Provided that the Minister shall not grant duty waiver in excess of 3% of GDP.

Amendment of section 6 of Act No. of 2007.

38. Subsection (2) of section 6 of the Finance Act, 2007 is amended by repealing “Le 500,000” and substituting “Le 750,000.”

Amendment of Act No.12 of 2011.

39. The Finance Act, 2011 is amended as follows–

- (a) by the repeal and replacement of section 11 by the following new section–

Importation of plants machinery or equipment.

11 (1) Subject to subsection (2) new and existing businesses importing plants, machinery or or equipment excluding vehicles shall be entitled to duty free import for a period of three years from the date of first registration.

- (2) Subsection(1) shall apply–

(a) in the case of a new business if it invests at least US\$10,000,000.00; and

(b) in the case of an existing business if it invests at least UD\$5,000,000.00 in expanding the business.

- (b) by inserting immediately after subsection (1) the following new definition–

“(2) for the purposes of subsection (1), raw materials means–

(i) basic materials which are needed for the manufacture of goods, but which are still in a raw, natural, unrefined or unmanufactured state; and

(ii) for a manufacturer, any material or goods which are required for his manufacturing process, whether they has actually been previously manufactured or are processed or are still in a raw or natural state.”

- (c) by inserting “new” after the word “any” in sections 24 and 25;

- (d) by repealing section 26.

The Goods and Services Tax Act 2009

Amendment of section 15 of Act No. 6 of 2009.

40. Subsection (2) of section 15 of the Goods and Services Tax Act, 2009 is amended by repealing “Le 200,000,000.00” and substituting “Le350,000,000.00”.

Amendment of section 31 of Act No. 6 of 2009.

41. Section 31 of the Goods and Services Tax Act, 2009 is amended by the insertion of the following new subsection immediately after subsection (3)–

“(4) Every registered GST trader shall in the ordinary course of business, maintain an electronic cash register as may be determined by the Commissioner-General for the purpose of recording all transactions.”

Amendment of section 62 of Act No. 6 of 2009.

42. Subsection (1) of section 62 of the Goods and Services Tax Act, 2009 is amended by deleting the words “or to imprisonment for a term not exceeding one year, or to both the fine and imprisonment.”

Amendment of First Schedule of Act No.6 of 2009.

43. Paragraph (1) of the First Schedule to the Goods and Services Tax Act, 2009 is amended by repealing “excluding” and substituting “including”.

Amendment of Second Schedule of Act No 6 of 2009.

44. The Second Schedule to the Goods and Services Tax Act, 2009 is amended by the repeal of paragraph 14.

45. (1) Goods and services tax shall be imposed on the following in accordance with the Goods and Services Tax Act 2009- ^{Imposition of Goods and services tax.}

- (a) for mining companies, all non-production related items;
- (b) for construction companies all non-construction related items; and
- (c) for agricultural companies all non-agricultural related items.

(2) The classification of items that are non-production related, non-construction related and non agricultural related shall be determined by the Commissioner -General.

The Excise Duty Act, 1982

The First Schedule to the Excise Duty Act, 1982 is amended –

(a) in tariff items 22.02, 24.02, 33.06, 39.07 as follows-

Tariff Item	Description	Rate of Duty
No. 22.02	A. Aerated waters Lemonade flavored spa waters and flavor d aerated waters and other non-alcoholic beverages, including fruit and vegetable juices falling within Heading No. 20.071 B. Soft drinks and bottled or canned	10% on sales/Cost Insurance and Freight (CIF)
24.02	All tobacco products	20% on Cost Insurance and Freight (CIF)
33.06	Cosmetics and Cosmetic aids: beauty or make- up preparations and pre- parations for care of the skin, excluding soap, toothpaste, toilet tissue and disinfectant	10% on Cost Insurance and Freight (CIF)
39.07	Polythene and Plastic Materials	5% on Cost Insurance and Freight (CIF)
(b) By the addition immediately after item 96.02 by the following new item–		
97.01	Products and equipment designed for gambling	20% on Cost Insurance and Freight (CIF)

The National Revenue Authority Act 2002

46. Section 27 of National Revenue Authority Act 2002 is repealed and replaced by the following new section–

Repeal and
replacement
of section 27
of Act No.11
of 2002.

“27(1) Subject to subsection (3) all revenues collected by or due and payable to the Authority under this Act shall be paid into the Consolidated Revenue Fund within twenty four hours;

(2) The Authority may delegate the responsibility of collecting revenues to Commercial Banks duly registered under the Banking Act of Sierra Leone .”

General

47. A petroleum refinery investing a minimum of \$20,000,000 and employing at least fifty Sierra Leonean citizens shall be eligible for the following relief–

Refinery.

(a) a corporate tax relief not exceeding five years;
and

(b) equipment and machinery for establishing the refinery shall be imported free of duty for a period of five years.

Manu-
facturing.

48. A new business investing a minimum of US\$2,000,000 and employing at least twenty Sierra Leonean citizens shall be eligible for the following relief—

- (a) a corporate tax relief not exceeding five years; and
- (b) equipment and machinery for establishing a new business shall be imported duty free for a period of five years.

Agricultural
inputs.

49. (1) Entities engaged in agricultural production shall be entitled to duty-free import of agricultural inputs for a period of five (5) years from the date of first registration.

(2) For the purpose of this section “agricultural inputs” means-

- (a) fertilizers;
- (b) pesticides;
- (c) insecticides;
- (d) seeds and seedlings;
- (e) hybrid tree seeds;
- (f) seed animal for feeding purpose;
- (g) day-old-chicks; and
- (h) animal sement.

50. (1) The income derived from investment in poultry business shall be exempt from income tax for a period of three (3) years—

Income from
poultry
business tax
exempt.

- (a) in the case of a Sierra Leonean citizen if the investment is at least US\$50,000 ; and
- (b) in the case of a non-citizen, if the investment is at least US \$500,000

(2) Import of feeds ,vaccine and veterinary drugs for poultry and livestock shall attract duty free import for a period of five years from the date of commencement of business.

51. (1) All agreements containing fiscal incentives prepared by Ministries , Department and Agencies shall be approved by the Minister responsible for Finance and ratified by Parliament.

Agreement.

(2) An agreement that does not comply with subsection (1) shall be declared null and void.

52. The Minister of Finance may by statutory instrument, make Regulations. regulations to give effect to the investment incentives in the Finance Acts.