



DTBB/006/2016

**Domestic Taxes Business
Brief 6 (2016): Pay As You
Earn Tax (PAYE) for Foreign
Employees – Revised for
Finance Act 2016**

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Purpose

The purpose of this brief is to explain to interested parties the treatment of income of foreign workers with respect to Sierra Leone Income Tax and in particular Pay As You Earn Tax (PAYE).

This Business Brief is an updated version of *DTDBB001/2016 – Pay As You Earn (PAYE) for Foreign Employees* published on 1st February 2016 as a result of the enactment of the Finance Act 2016 which made changes to the rates of tax for PAYE.

Who should read this?

- Organisations that employ foreign staff including Non-Governmental Organisations (NGOs)
- Donor Organisations, International Organisations and Donor Funded Projects
- Embassies and Consulates
- United Nations and its Agencies
- Companies operating in and outside Sierra Leone that are registered in Sierra Leone
- Permanent Establishments including branches of foreign companies

Background

It has been observed over the years that quite a number of foreign workers do not pay tax on their employment income in Sierra Leone. The reason put forward by most organizations is that foreign employees are not paid here in Sierra Leone and that tax is being collected back in their countries of origin. This has led to a huge loss in revenue over time. The authority now deems it fit to clarify this issue and give a ruling in order to enhance understanding and increase compliance.

Current Position

United Nations and its agencies:

Foreign workers of the above are exempt from paying tax in respect of their UN/Agency employment income according to the UN Charter.

Embassies and Consulates:

Diplomatic staff are exempt from tax in respect of their official employment income under the Vienna Convention.

Employees of Donors and Donor-Funded Programs:

Representatives of donor organisations and employees of donor-funded programs MAY be exempt from tax on that income where such exemption is provided in a donor assistance agreement signed by the governments of Sierra Leone and of the donor country. Persons claiming such exemption may be required to provide NRA with a copy of the donor assistance agreement.

Other Foreign employees (including NGO workers):

All other foreign employees with the exception of those above are expected to pay tax based on the residential status (for tax purposes) of the employee.

The basis for paying tax in Sierra Leone depends on the tax residency status of the employee and whether the income was derived from work undertaken in Sierra Leone. The definitions of these terms are as stipulated in **Sections 10 to 13 and 89** of the **Income Tax Act 2000 as amended**, reproduced here for ease of reference.

Resident individual

10. (1) Subject to subsections (2) and (3) and to Section 11, an individual shall be treated as resident in Sierra Leone for the entire year of assessment if that individual—

(a) has a normal place of abode in Sierra Leone and is present in Sierra Leone at any time during the year of assessment;

(b) is present in Sierra Leone on more than one hundred and eighty two days in a twelve month period that commences or ends during the year of assessment; or

(c) is an official of the Government of Sierra Leone posted overseas during the year of assessment.

(2) An individual who was not a resident in the preceding year of assessment shall not be treated as a resident for the period preceding the day the individual was first present in Sierra Leone during the year of assessment.

(3) An individual who is not a resident in the following year of assessment shall not be treated as a resident for the period following the last day on which the individual was present in Sierra Leone during the year of assessment if during that period the individual had a closer connection to a foreign country than to Sierra Leone.

(4) For the purposes of this section an individual shall not be treated as present in Sierra Leone on any day when—

(a) the individual crosses the border to Sierra Leone to perform services as an employee in Sierra Leone;

(b) the individual is in transit between two points outside Sierra Leone;

(c) the individual is present in Sierra Leone for the purpose of medical treatment or full-time study; or

(d) the individual is present in Sierra Leone by reason of diplomatic status or being dependant of a person with diplomatic status.

Temporarily resident individual

11. An individual treated as resident under section 10 shall be treated as temporarily resident in Sierra Leone for the entire year of assessment if that individual –

- (a) is not a citizen of or domiciled in Sierra Leone;
- (b) does not intend, during the year of assessment, to reside in Sierra Leone for a total period of more than four years; and
- (c) as of the end of the year, has not been resident in Sierra Leone for more than four years.

Resident company

12. (1) A company is a resident company if it—

- (a) is incorporated or formed under the laws of Sierra Leone;
- (b) has its effective management and control in Sierra Leone; or
- (c) undertakes the majority of its operations in Sierra Leone.

(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.

Non-resident person

13. (1) A non-resident person is a person who is not resident during the year of assessment or, where subsection (2) or (3) of section 10 applies, during part of the year of assessment.

Source of income

89. (1) Income is from a source in Sierra Leone if it is—

- a) derived from an activity which occurs in Sierra Leone;
- b) derived in respect of employment exercised or services rendered in Sierra Leone whether or not the income is received in Sierra Leone.

The key points to note from these sections are as follows:

Permanent Residents

Chargeable Income = All of Taxpayer's assessable income from all sources – deductions under the Income Tax Act 2000 as amended.

Temporary Residents

Chargeable Income = All taxpayer's assessable income outside Sierra Leone remitted to Sierra Leone + All taxpayer's assessable income within Sierra Leone - deductions under the Income Tax Act 2000 as amended.

Non Residents

Chargeable Income = All payments from which tax is required to be withheld (This includes Employment income for foreign employees) + All assessable income sourcing from Sierra Leone whether or not the money was remitted to Sierra Leone.

Rates of Tax Applicable

Permanent and Temporary Residents:

The Tax Rates are detailed under Part 1 of the First Schedule of the Income Tax Act 2000 as amended.

FIRST SCHEDULE

PART I

Rates of tax applicable to individuals resident in Sierra Leone for the year of assessment commencing 1st January, 2016 and each succeeding year of assessment.

Chargeable income	Taxable rate
Below Le 6,000,001.00 per annum	Nil
Le 6,000,001.00 to Le 12,000,000 per annum	15%
Le 12,000,001.00 to Le 18,000,000 per annum	20%
Le 18,000,001.00 to Le 24,000,000 per annum	30%
Over 24,000,001.00	35%

For employment income, there is a threshold on non- taxable allowance of Le 6,000,000.00 (six million) Leones per annum or Le 500,000.00 (five hundred thousand) Leones per month.

Non-Residents (Section 116 and Part 2 of the Second Schedule of ITA 2000 as amended)

SECOND SCHEDULE

PART II

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

Employment income (section 116) 25%

NOTE: *these rates are subject to change based on the Finance Act passed by Parliament.*

Where can I get further information?

For further information please contact the Domestic Taxes Helpline on Telephone Numbers: [078/025/030/044 - 970844](tel:078025030044).

The Domestic Taxes Helpline is available Monday to Friday, 8am to 5pm.

We can also be contacted through dtd@nra.gov.sl.

Information on Domestic Taxes and other taxes can be found on the NRA website www.nra.gov.sl.