

- (b) a company registered in Sierra Leone with, at least, 51% of the shares being held by residents of Sierra Leone, whose office is in Sierra Leone or a co-operative registered in Sierra Leone";
- (iv) by the insertion immediately, after subparagraph (ii) of subsection (2) (b) of the following:—
- "(iii) for the purposes of subparagraphs (i) and (ii), forested land does not qualify"
- (b) in the Sixth Schedule -
- (i) in paragraph 1, delete all the words after the words "thirty percent";
- (ii) in paragraph 3 (b), add to the words "non-affiliates" the words "including recognized financial institutions";
- (iii) in paragraph 6, by the substitution for "one and one half", of "one half".

Passed in Parliament this *11th* day of *July* in the year of our Lord two thousand and eleven.

IBRAHIMS. 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.

IBRAHIMS. SESAY,
Clerk of Parliament.

ACT

Supplement to the Sierra Leone Gazette Vol. CXLII, No. 70
dated 10th November, 2011

SIGNED this *15th* day of *September* 2011.

DR. ERNEST BAI KOROMA,
President.



LS

No. 12

2011

Sierra Leone

THE FINANCE ACT, 2011.

Short title.

**Being an Act to provide for the imposition and alteration of
taxation for the year 2011 and for other related matters.**

[] Date of commencement.

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

Commence-
ment.

1. Unless otherwise provided, this Act shall be deemed to have come into operation on 1st January, 2011.

Amendment
of Act No. 8
of 2000.

2. The Income Tax Act, 2000 is amended—

(a) by the insertion of the following immediately after section 97 thereof:—

“Failure to file a return of income. 97A. Any person who fails to file a return of income without reasonable excuse, as determined by the Commissioner-General, shall be liable on conviction to a fine not exceeding Le5,000,000 or to imprisonment for a term not exceeding 2 years or to both”.

(b) by the repeal and replacement of section 100 by the following:—

“Extension of time to file returns. 100 (1) Upon application in writing by the tax-payer filed by the due date for a return, the Commissioner-General may extend the period in which a return of income is to be made by a maximum period of sixty days upon payment of a fee of Le5,000,000.

(2) A taxpayer who fails to file a return within the maximum period of sixty days prescribed in subsection (1), shall be liable to a surcharge consisting of the average treasury bill rate plus 3% both of the fee for every day that the failure continues.

(3) The granting of an extension of time under subsection (1) does not affect the due date for the payment of income tax under section 105”.

(c) In the First Schedule, by the substitution for the rates in Part I thereof of the following:—

“If chargeable income is:

The tax is:”

Not over Le 1,800,000

Nil

Over Le 1,800,000 but not over 3,600,000

15%

Over Le 3,600,000 but not over 9,000,000

25%

Over Le 9,000,000

30%”

(d) in paragraph 12 of the Ninth Schedule, by the substitution for the penalties prescribed therein of the following:—

(i) "section 154, tax evasion - Le 50,000,000

section 155, impeding tax administration - Le 50,000,000

section 156, failure to preserve secrecy - Le 50,000,000

section 157, contempt of Board - Le 40,000,000

section 158, making false statement - Le 50,000,000

section 160, failure to comply with notice or information requested - Le 40,000,000

section 161, aiding and abetting any offence mentioned herein - Le 40,000,000

section 162, offence by tax official - Le 50,000,000

- (ii) each of the fines prescribed in subparagraph (i) is subject to the following qualification:-
- "rising by the average treasury bond rate compounded annually".
- (e) in subsection (1) of section 159 thereof, by the substitution for the words "ten percent of the taxpayer's chargeable income from that source" of the following:-
- "the higher of ten percent of the annual turnover from that source and Le 50,000,000 or imprisonment for a term not exceeding one year or both".

Amendment
of Act No. 3
of 1969.

3. The Control of Betting and Lotteries Act, 1969 is amended in section 3A—

- (a) by renumbering the existing provision as subsection (1); and
- (b) inserting the following provisions:—
- "(2) The deadline for the withholding of any monies under subsection (1) shall be not later than fifteen days after the end of the month in which the draw is made or such monies are withheld.
- (3) Section 129 of the Income Tax Act, 2000 shall apply to the failure to withhold the tax imposed by subsection (1).
- (4) A withholding agent of any prize-winning money shall submit to the Commissioner-General the following particulars in respect of every person to whom any prize winning money is paid, namely:—

- (a) name and contact address of that person;
- (b) Taxpayer Identification Number (TIN);
- (c) total prize - money won;
- (d) total tax withheld;
- (e) tax winnings for the month."

4. Part II of the Schedule to the Customs Tariff Act 1978 is amended— Amendment
of Act No.
16 of 1978.

- (a) by the insertion immediately after paragraph (e) thereof, of the following items with 10% duty and numbered as paragraphs (e 1) to (e 9) respectively:-

"for specially prepared infant's food under HS Code 0402.10.21
for specially prepared infant's food under HS Code 0402.29.21
for specially prepared infant's food under HS Code 1901.10.00
for specially prepared infant's food under HS Code 1904.10.10
for specially prepared infant's feeding rusks under HS Code 1905.40.10
for specially prepared infant's food under HS Code 2005.10.10
for specially prepared infant's food under HS Code 2007.10.10
for specially prepared infant's food under HS Code 2014.20.10
for specially prepared infant's food under HS Code 2016.90.10"

- (b) in respect of paragraph (v) (paraffin wax), by the insertion at the end thereof of the following:—

" but the import duty of 20% shall be calculated, instead of using the CIF value, by using the following reference values, as appropriate:-

- (i) 46g (1 x 30 x 8) shall range from \$22.5 to \$22.8 per carton;
- (ii) 81.2g (1 x 15 x 10) shall range from \$25.0 to \$25.5 per carton".

Surcharge on right-hand driven vehicles.

5. There is hereby imposed on imported right hand - driven vehicles a surcharge of 40% of the C.I.F. value thereof.

Failure to submit electronic manifest

6. (1) The requirement for the submission of manifests by shipping agents shall be as follows:-

- (a) Submission shall be within 24 hours after the arrival of the respective vessel;
- (b) all manifests shall be in electronic form.

(2) Any shipping agent who contravenes subsection(1) shall be liable to a fine of not less than two hundred thousand leones and not more than two million five hundred thousand leones.

Abandonment of unfinished customs declaration.

7. Any person who in the process of clearing imported goods leaves any declaration form in the Automated System of Customs Data (ASYCUDA) beyond the normal period of seven days needed to complete the process or abandons such form in the system, commits an offence, and shall be liable on conviction to a fine of not less than two hundred thousand leones and not more than two million five hundred thousand leones.

Excise duty bond by oil companies.

8. An oil marketing company liable to excise duty levied on petroleum fuel shall, at the point of discharge thereof from the respective vessel, provide to the National Revenue Authority a bond equivalent to the value of the excise duty as a guarantee for the payment of the duty.

9. The fees for an auctioneer licence shall be ten million leones Auctioneer licence fees.

10. The Goods and Services Tax Act, 2009 is amended as follows:- Amendment of Act No. 6 of 2009.

- (a) in section 17, by the repeal of subsection (5) thereof;
- (b) in paragraph (a) of subsection (1) of section 24, by the deletion of the word "taxable";
- (c) in section 42 (9) (b), for the reference to section 42 (1) (b) substitute a reference to section 42 (1) (c);
- (d) immediately after section 49 thereof, insert the following:-

"Seizure of assets for non-payment of tax

49A (1) The Commissioner-General may recover unpaid GST, penalty or interest by the issue of a warrant to tax officers specified therein to enter a place and seize the goods and property of the taxpayer.

(2) The warrant shall be in the form prescribed in regulations under this Act specifying the taxpayer against whose property the proceedings are authorized, the location of the property and the tax debt to which the warrant relates.

(3) The Commissioner-General may require a police officer to be present while the seizure is being conducted.

(4) A warrant under subsections (1) and (2) may only be issued after 14 days from the date the Commissioner-General notifies the taxpayer in writing of the Commissioner-General's intention to proceed with the seizure.

(5) Subsection (4) does not apply, if the Commissioner-General has reasonable grounds to believe that the collection of tax is in jeopardy.

(6) For the purposes of executing a seizure under subsection (1), the Commissioner-General or any tax officer specified in the warrant may at any reasonable time enter any premises described in the warrant authorizing the seizure proceedings:

Provided that the Commissioner-General or any tax officer specified in the warrant shall not enter any dwelling house except with the consent of the owner or occupier or on the authority of an order of a court.

(7) Property which has been seized under this section shall be kept for ten days either at the premises where the seizure was conducted or at such other place as the Commissioner-General may consider appropriate at the cost of the taxpayer.

(8) If the taxpayer does not pay the tax due together with the cost of the seizure within ten days of the seizure being made, the property seized may be sold by public auction or in such manner as the Commissioner-General may direct, the proceeds of sale being applied first towards the cost of taking, keeping and selling the property seized and then towards the GST, penalty or interest due and payable, any remaining proceeds being restored to the owner of the property.

(9) Nothing in this section precludes the Commissioner-General from proceeding under any other provision of this Act for any balance owed if the proceeds of the seizure are not sufficient to meet the costs thereof and the GST, penalty or interest due, but at any time before execution of the warrant the Commissioner-General may stay or compound proceedings thereunder.

(10) The period of ten days in subsections (7) and (8) does not apply to delay the sale of property which is subject to spoilage";

(e) in section 92, paragraph (e) is repealed and replaced by the following:—

"(e) the issue of an assessment under section 42 (1) (a) and (c)";

(f) in section 114, subsection (2) is repealed and replaced by the following:—

"(2) Notwithstanding subsection (1), 10% of the total GST revenue collected shall be paid into a separate GST refund account out of which refund due under this Act, proven overpayment of tax, payment made by non-taxable persons and payments made on non-taxable supplies, can be refunded.";

(g) in the Second Schedule—

(i) by the inclusion of the following items in the appropriate categories thereof:—

(1) baby foods;

(2) exercise books;

(3) raw fish;

(ii) in item 7, by the insertion after the word "condoms" at the end thereof of the following:—

"as classified in the Harmonised Commodity Description and Coding System".

11. Any person importing plant, machinery or equipment for any business purpose, excluding resale, shall be entitled to import them duty-free for any period of five years chosen by that person. Duty-free importation

12. For the purposes of the Customs Tariff Act, 1978 (by which the import duty of raw materials is fixed at 3%) and, in any other law, the expression "raw materials" is used as applied in the Customs Tariff Act, 1978. Definition of "raw materials". Act No. 16 of 1978

Investment allowance. Act No. 8 of 2000

13. Paragraph 6 of the Ninth Schedule to the Income Tax Act, 2000 is amended -

- (a) by inserting immediately before the word "investment" the word "new";
- (b) by renumbering the paragraph as paragraph "(a)" and inserting immediately thereafter the following:-

"(b) For the purposes of paragraph (a), (1), "new investment" means injecting substantial new capital for the acquisition of any asset referred to in the Seventh Schedule".

Research and development expenses.

14. For the purposes of income tax, any expenses incurred on research and development by an investor, shall be eligible for deduction from profits of 100% of the cost incurred up to the extent of profits of the same year the expenditure is made but any unclaimed amount shall not be available for future deductions.

Training expenses.

15. For the purposes of income tax, any expenses on training of local staff in an approved training programme, shall be eligible for deduction from profits of 100% of the cost incurred up to the extent of profits of the same year the expenditure is made, but any unclaimed amount shall not be available for future deductions.

Social development expenses.

16. Any expenses on social services, such as building of schools and hospitals and any investment that is outside the scope of the original investment and which would be also available to the general public for use free of charge, shall be eligible for deduction from profits of 100% of the cost incurred up to the extent of profits for the purposes of the Income Tax Act, 2000.

Remittances. Act No. 2 of 2004. Cap.265

17. (1) Without prejudice to section 9 of the Investment Promotion Act 2004, on the cessation of any business, the owner of the business or of any foreign or expatriate capital relating to that business, shall have the right to remit the value of the business or of the foreign or expatriate capital involved, as the case may be, subject to any law relating to exchange control at the time the application to remit is made.

(2) An application to remit any accrued profits or dividends shall be subject to-

- (a) the payment of all relevant taxes, as provided by law during the twelve-month period immediately following the end of the financial year to which the application refers; and
- (b) any law relating to exchange control at the time of the application.

18. The owner of a business or an establishment may employ Foreign staff. limited competent expatriate staff having skills and expertise not available in Sierra Leone.

19. (1) All non-citizens in Sierra Leone for more than 182 Work permits. days in any calendar year, are required to be in possession of work permits obtainable on application to the Ministry responsible for labour.

(2) Subject to subsection (2) of section 17, a foreign employee shall be liable to income tax at the same rate applicable to Sierra Leonean citizens.

20. (1) Subject to subsection (2), any expenses which are Promotion of exports. aimed at promoting exports and the supply of goods overseas shall, for the purposes of income tax, be eligible for deduction from profits of 100% of the cost incurred up to the extent of profits of the same year the expenditure is made.

(2) The expenses referred to in subsection (1) shall be those in relation to the following activities:-

- (a) overseas advertising, publicity and public relations work;
- (b) supplying samples abroad, including delivery costs;
- (c) undertaking export market research;

- (d) preparing tenders for supply of goods overseas;
- (e) supplying of technical information abroad; preparing exhibits and participation costs in trade or industrial exhibitions, virtual trade or shows and trade portals and fares for overseas travel by company employees for business;
- (f) maintaining sales offices and warehouses overseas to promote exports;
- (g) hiring professionals to design packaging for exports, subject to the company using local professional services;
- (h) undertaking feasibility studies for overseas projects identified for the purpose of tenders;
- (i) preparing architectural and engineering models, perspective drawings and 3 - D animations for participating in competitions at international level;
- (j) participating in trade or industrial exhibitions in the country or overseas.

(3) The deductions referred to in subsection (1) in respect of the promotion of exports and the supply of goods overseas shall, with the necessary modifications, apply to the tourist industry, in respect of the costs incurred in the overseas promotion of Sierra Leone as a tourist destination.

Disabled persons.

21. (1) For the purposes of income tax, there shall be deducted from the taxable profits of any business or establishment, 200% of the actual cost of the remuneration payable to any physically or mentally disabled employees, up to the extent of the profits of the year in which the expenditure is made, but any unclaimed amount shall not be available for future deductions.

(2) A claim for the deduction under subsection (1) shall be accompanied by a certificate of disability issued by the prescribed authority in the prescribed form in respect of the employee with disability.

(3) For the purposes of subsection (1), "disability" shall have the meaning assigned thereto in the Persons with Disability Act, 2010.

22. (1) Subject to subsection (2), any expenses incurred on promoting an export quality standard Sierra Leonean owned product shall be eligible for deduction from profits of 100% of the cost incurred up to the extent of profits of the same year the expenditure is made. Brand promotion advertisement.

(2) The expenses referred to in subsection (1) shall be eligible only if made in promoting a brand name by making such a name internationally known, including expenditure on bill-board advertisements in international airports and highways.

23. (1) Income derived from any undertaking under the Public-Private Partnership Infrastructure Projects in excess of twenty million dollars shall enjoy a corporate tax relief for fifteen years. Infrastructure projects.

(2) During the period of construction, subject to the provision of an approved bill of quantities, the importation of plant, equipment and other inputs, excluding petroleum products, shall be duty-free.

24. Any business—

LPG and cookers.

- (a) assembling stoves or cookers, whether fuelled by kerosene or liquefied petroleum gas;
- (b) importing or producing liquefied petroleum gas and;
- (c) investing a minimum of US\$500,000 and employing a minimum of fifty persons for that purpose;

shall be entitled to import duty-free for any period of three years chosen by that business, all related equipment for the production and delivery to market of the stoves or cookers, including gas cylinders, briquette machines and cookers.

Pharmaceuticals **25.** (1) Any business—

- (a) manufacturing drugs, medical devices and other health-related items according to the guidelines of the World Health Organization; and
- (b) investing a minimum of US\$500,000.00; and
- (c) employing a minimum of fifty persons for that purpose;

shall be eligible for a corporate tax relief not exceeding ten years in addition to other incentives the business may be eligible for.

(2) Raw materials for drug manufacturing by the business referred to in subsection (1), shall be imported duty-free while intermediate goods for the same purpose shall attract duty at the rate of 3% for a period of ten years.

Solar systems. **26.** (1) The importation of photovoltaic system equipment and low energy or energy efficient appliances for resale or use by third parties shall be duty-free for a period of three years.

(2) For purposes of subsection (1), "photovoltaic" refers to the method of generating electrical power by converting solar radiation into direct current electricity, using semi conductors that exhibit the photovoltaic effect.

Amendment of Act No. 11 of 1990 **27.** The Development of Tourism Act, 1990 is amended -

- (a) in section 30, in subsection (1) thereof, by the repeal and replacement of the words—
 - (i) "50 rooms and 10 rooms", by the words "50 ensuite bedrooms and 10 ensuite bedrooms" respectively;

(ii) by the insertion of the following subsection:—

"(3) The incentives granted in subsection (1) shall not be available to a night club, casino or restaurant unless it is an integral part of an eligible hotel".

(b) in section 34 (1) -

- (i) by the repeal of the words "that is not easily available in Sierra Leone".
- (ii) by the repeal and replacement of the words "construction and rehabilitation" by the words "for a period of three consecutive years chosen by the investor based on an approved bill of quantities".

(c) in section 34 (2) -

- (i) by the repeal of the words "that are not easily available in Sierra Leone".

28. The Income Tax Act, 2000, is amended—

(a) in section 31—

(i) in subsection (1) thereof, by the insertion immediately after the word "ruminants" appearing in paragraphs (f) and (g) thereof, of the words "cashew, ginger, chilli, vegetable and tubers";

(ii) in subsection (2) (b) thereof, for the word "national" substitute the words "domestic investor";

(iii) by the insertion of the following subsection:—

"(3) For the purposes of subsection (2) (b), "domestic investor" means—

- (a) a natural person of Sierra Leonean citizenship who is resident in Sierra Leone; or

Amendment of Act No. 8 of 2000.