



ACT

**AN ACT ENTITLED
THE GOODS AND SERVICES TAX ACT, 2009**

**Updated to reflect all tax legislation through to and including the
Finance Act, 2016**

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GOODS AND SERVICES TAX ACT 2009

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Short title. THE GOODS AND SERVICES TAX ACT, 2009

Being an Act to provide for the imposition of a broad-based tax on the consumption of goods and services in Sierra Leone and to provide for other related matters.

Date of Commencement. [1st September, 2009]

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

PART 1- PRELIMINARY

Commencement. 1. (1) Subject to subsection (2), this Act shall have come into operation on the 1st day of September, 2009.

(2) Sections 46, 47, 48, 51, 55, 58, 60, 62, 72, 73, 74, 75, 77, 78, 80, 81, 84, 88, 93 and 95 shall be deemed to have come into operation on the 15th day of June, 2009.

Interpretation. 2. (1) in this Act, unless the context requires otherwise—

“acquisition” in relation to a supply, means-

(a) goods or services supplied to a recipient by a supplier; or

(b) the receipt of goods or services, by a person at the instigation of a supplier or under an agreement between a supplier and a recipient; and

(c) if another person is treated as making a supply to the person, a corresponding receipt of that supply;

“aircraft’s stores” means stores for the use of the passengers or crew of an aircraft or for the service of an aircraft;

“approved form” means a form approved under this Act;

“capital asset” means an asset, whether tangible or intangible, acquired by a person for use in the person’s taxable activity but does not include-

- (a) consumables or raw materials; or
- (b) an asset acquired for the principal purpose of resale in the ordinary course of carrying on the person’s taxable activity, whether or not the asset is to be sold in the form or state in which it was acquired;

Act No. 11 of
2002.

“Commissioner-General” means the Commissioner-General appointed under section 19 of the National Revenue Authority Act, 2002.

“company” means an incorporated or unincorporated association or body of persons created or recognised under an enactment in force in Sierra Leone or elsewhere, but does not include a partnership or trust;

“court” means the High court;

“discount” means a deduction from the usual selling price in accordance with an internal policy of the taxable person set out by the taxable person and applicable to all customers that meet the internal pricing criteria;

“exempt,” in relation to a supply or import, means-

- (a) a supply or import that is specified as exempt in the Second Schedule;
- (b) a supply of a right or option to receive a supply that will be exempt under the Second Schedule;

“exempt use” means the use of goods or services to make an exempt supply including where-

(a) goods or services initially acquired for the purpose of making supplies other than exempt supplies or purposes including supplies that are used wholly in making exempt supplies; or

(b) goods or services that are initially used wholly or partly for making non-exempt supplies but that at a later point (the time of the exempt use) are used wholly in making exempt supplies, and for this purpose, a wholly exempt use includes a use predominantly to make exempt supplies, where the supplies used in making taxable supplies will constitute less than 5% of the total use of the goods or services;

“export,” in relation to a supply of goods, means goods delivered to or made available at, an address outside Sierra Leone, and for this purpose evidence of–

(a) the consignment or delivery of goods to an address outside Sierra Leone; or

(b) the delivery of the goods to the owner, charterer or operator of a ship or aircraft engaged in international transport for the purpose of carrying the goods outside Sierra Leone,

is considered sufficient evidence that the goods have been exported, in the absence of proof to the contrary;

“face value”, in relation to a voucher, means a monetary amount stated on the voucher (whether visibly, electronically or otherwise, including where the amount is intrinsically connected to the voucher by means of a unique identification number or some other means of linking the voucher with the amount), which represents the value of supplies of goods or services for which the voucher is redeemable;

“face value voucher” means a voucher which entitles the holder to receive a supply of goods or services up to the face value of the voucher;

“finance lease” means-

- (a) a hire purchase agreement; or
- (b) a lease, other than a lease of land, that is treated as a finance lease under international financial reporting standards;

“gambling event” means-

- (a) the conduct of a lottery or raffle or similar undertaking; or
- (b) a race, game, sporting event or any other event which has or is intended to have an outcome;

“gambling supply” means-

- (a) the supply of a ticket for a consideration (however described) in a lottery, raffle or similar undertaking; or
- (b) the acceptance of a bet for a consideration, however described, relating to the outcome of a gambling event;

“goods” means real property or tangible personal property, but does not include money;

“government entity” means-

- (a) the Government of Sierra Leone or a Ministry, Department or Agency of Government; or
- (b) a body financed wholly or partly out of public funds.

“Goods and Services Tax (GST)” means a tax imposed under this Act, and includes any amount, including interest or penalty payable under this Act, to the extent that it is treated as GST for the purposes of this Act;

“GST- exclusive fair market value” means the fair market value of a supply of goods or services before calculating GST, or where the value of the supply includes GST, reduced by an amount equal to the tax fraction as defined in section 21 of that value if it was calculated on the basis that the selling price would include GST;

“GST invoice” means a document that a registered supplier is required to issue under section 31;

“GST properly chargeable,” in the context of a GST adjustment event under Section 22, means the GST that would have been chargeable if the GST adjustment event had taken place before the value of the supply was calculated, and, if the supply is a reverse-charged supply under section 24;

“GST return” means a return, including an amended return, that a taxable person is required to lodge under this Act, or any enactment relating to the administration of this Act;

“holiday or hotel accommodation” means-

- (a) a supply of accommodation in a building, part of a building or a group of buildings (including all structures within the curtilage thereof) that constitute a hotel, motel, inn, boarding house, guest house, hostel or similar establishment in which lodging is regularly or normally provided to four or more persons at a daily, weekly, monthly or other periodic charge; or
- (b) a supply of accommodation not covered by paragraph (a), if the accommodation is held out for use for short term occupation by natural persons other than as their main residence for continuous periods of less than 45 days;

Cap 271 “import” has the same meaning assigned to it in the Customs Act;

Cap 271 “importer” has the same meaning assigned to it in the

Customs Act;

“input tax,” –

- (a) in relation to an acquisition by a person, means the GST imposed on the supply to the person of the goods or services acquired; and
- (b) in relation to an import of goods by a person, means the GST imposed on that import; and includes any amount that is treated as input tax under this Act;

“input tax credit” means a credit for input tax allowed under this Act;

“international assistance agreement” means an agreement duly ratified by Parliament between the Government of Sierra Leone and a foreign government or public international organisation for the provision of financial, technical, humanitarian or administrative assistance to the Government;

“international transport” means the supply of

(a) services, other than ancillary transport services, of transporting passengers or goods by land, road, rail, water or air–

- (i) from a place outside Sierra Leone to another place outside Sierra Leone, if the transport or part of the transport takes place in the territory of Sierra Leone;
- (ii) from a place outside Sierra Leone to a place inside Sierra Leone; or
- (iii) from a place in Sierra Leone to a place outside Sierra Leone;

- (b) services of transporting passengers from a place in Sierra Leone to another place in Sierra Leone to the extent that transport is by aircraft or ship and constitutes “international carriage” as defined in Article 3 of the Convention on International Civil Aviation;
- (c) services, including ancillary transport services, of transporting goods from a place inside Sierra Leone to another place inside Sierra Leone to the extent that those services are supplied as part of the supply of services to which paragraph (a) applies and by the same supplier; or
- (d) services of insuring, arranging for the insurance of or arranging for, the transport of passengers or goods to which paragraph (a), (b), or (c) applies;

“invoice” means a document notifying an obligation to make a payment;

“Minister” means the Minister responsible for finance;

“money” means-

- (a) any coin or paper currency (whether of Sierra Leone or of another country);
- (b) a negotiable instrument used or circulated, or intended for use or circulation, as currency (whether of Sierra Leone or of another country);
- (c) a bill of exchange, promissory note, bank draft, postal order, money order or similar instrument; or
- (d) whatever is supplied as payment by way of—
 - (i) credit card or debit card; or

- (ii) crediting or debiting an account when used as payment for the supply of goods or services,

but does not include a collector's piece or an item of numismatic interest;

“National Revenue Authority” means the National Revenue Authority established by section 3 of the National Revenue Authority Act, 2002;

“non-resident” means-

- (a) a person who is not resident in Sierra Leone; and
- (b) does not carry out any taxable activity in Sierra Leone;

“officer” of an unincorporated body means-

- (a) in the case of a partnership, a partner of the partnership;
- (b) in the case of a trust, a trustee of the trust; and
- (c) in the case of any other unincorporated body—
 - (i) a person who holds office as chairman, president, treasurer, secretary, or similar office of the body; or
 - (ii) if there is no such officer, a member of a committee that has management of the affairs of the body; or
 - (iii) if no person can be identified under subparagraph (i) or (ii), a member of the body;

“output tax,” in relation to a person and to a tax period, means the GST chargeable in respect of a taxable supply made or treated as having been made by the person during the tax period, and includes any amount that is treated as output tax in that period under this Act;

“phone card” means a card or similar item in whatever form it is issued, including electronically, which entitles the holder to receive telecommunications services up to its face value, and includes for the purposes of this Act, a pre-paid Subscriber Identity Module (“SIM”) card and a rechargeable card;

“progressive or periodic supply” means -

- (a) a supply of goods or services made progressively or periodically under an agreement or enactment that provides for progressive or periodic payments; or
- (b) a supply of goods by way of a lease, hire or licence, including a finance lease;

“promoter of public entertainment” means a person who arranges the staging of entertainment to which the general public is invited, but does not include-

- (a) an educational institution referred to in item 6 of the Second Schedule or the board of management or a parent teacher association of such an institution;
- (b) a person who provides entertainment on a daily or weekly basis; or
- (c) a religious body; or
- (d) a non-profit body as approved by Parliament;

“real property” includes an estate, interest, easement or right, whether equitable or legal, in, to or out of land, including anything attached to land or things permanently fastened to anything attached to land;

“recipient” means the person to whom a supply is made;

“registered,” in relation to a person, means that the person is registered for GST under this Act

“registration threshold” means the thresholds referred to in subsection (2) of section 15;

“repealed taxes” means the taxes imposed under-

- (a) the Entertainment Tax Act 1971;
- (b) the Restaurant Food Act, 1989;
- (c) the Development of Tourism Act 1990;
- (d) the External Telecommunications Tax Act, 1995; and
- (e) the Sales Tax Act, 1995;

“representative” means, in the case of-

- (a) an individual under a legal disability, a guardian or manager who receives or is entitled to receive income on behalf of, or for the benefit of the individual;
- (b) a company other than a company in liquidation, the chief executive officer of the company;
- (c) an unincorporated association or body, a member of the committee of management of the association or body;
- (d) a local council, a person responsible for accounting for the receipt or payment of moneys or funds on behalf of the council;
- (e) a partnership, a partner in the partnership;
- (f) a trust, including an estate of a deceased person, a trustee of the trust or an executor or administrator of the estate;
- (g) a foreign government or a political subdivision of a foreign government, an individual responsible for accounting for the receipt or payment of moneys or funds in Sierra Leone on behalf of that government

Act No. 17 of 1971
Act No. 6 of 1989

Act No. 11 of 1990
Act No. 2 of 1995
Act No. 5 of 1995

or political subdivision of that government;

- (h) any other body of persons, a person who is responsible for accounting for the receipt or payment of moneys or funds on behalf of the body;
- (i) a non-resident person, a person controlling the person's affairs in Sierra Leone, including a manager of a business of such person in Sierra Leone;
- (j) any other person, a receiver or agent of the person; and
- (k) a person that the Commissioner-General has, by notice in writing, declared to be a representative of a person for the purposes of this Act;

“resident” means-

- (a) a government entity or a local council;
- (b) an individual resident in Sierra Leone for the year in question for the purposes of the Income Tax Act, 2000;
- (c) a person, other than an individual, which is formed or created under an enactment or is managed and controlled in Sierra Leone (whether or not that person is resident in Sierra Leone for the year in question for the purposes of the Income Tax Act, 2000); or
- (d) any other person to the extent that the person carries on a taxable activity in Sierra Leone;

Act No. 8 of 2000

“residential premises” means land or a building that is occupied or capable of being occupied as a residence, but does not include hotel or holiday accommodation;

“reviewable decision” means a decision that may be objected to or appealed against under Part XVII;

“sales receipt” means a document that a registered supplier is required to issue under section 31;

“services,” in the context of a supply, has the meaning given in section 6;

“ship’s stores” means stores for the use of the passengers or crew of a ship or for the service of a ship;

CAP 271. “stores,” has the same meaning assigned to it in the Customs Act;

“supplier,” in relation to a supply, means the person or persons who make the supply;

“tax period” means a month or such other prescribed period for which a taxable person shall declare its GST liability in a form and manner prescribed by this Act;

“taxable acquisition” means the acquisition of a taxable supply;

“taxable import” means an import of goods other than an exempt import;

“taxable person” means-

- (a) a person who is registered;
- (b) subject to the limitations set out in subsection (8) of section 16, a person who is required to apply for registration under this Act;

“taxable supply” means a supply made in Sierra Leone by a taxable person in the course or furtherance of a taxable

activity, but does not include an exempt supply;

“tax officer” means the Commissioner-General or any other person authorised by or acting on behalf of the Commissioner-General;

“Taxpayer Identification Number” or “TIN” means the number issued by the Commissioner-General to a person for the purposes of the person’s registration under this Act;

“telecommunications supplier” means a supplier of telecommunications services;

“telecommunications services” means the transmission, emission or reception of signals, writing, images, sounds or information of any kind by wire, radio, internet, optical or other electromagnetic systems and includes-

- (a) the related transfer or assignment of the right to use capacity for such transmission, emission or reception; and
- (b) the provision of access to global or local information networks, but does not include the supply of the underlying writing, images, sounds or information;

“travel agent” means a travel agent, tour operator, hotel operator or person acting in a similar capacity, who supplies transport, accommodation, meals, tour services, entertainment of any kind or any similar goods or services commonly provided to tourists or visitors to a particular country (whether alone or as part of a holiday or tour package);

“trust” means the person or persons acting from time to time in the capacity of trustees of a trust estate;

“trust estate,” means property held by a person or persons acting as trustees;

“voucher” means a voucher, stamp, token, coupon or similar article, including an article issued electronically, that can be redeemed by the holder for supplies of goods or services, and includes a phone card but does not include a postage stamp;

“zero-rated,” in relation to a supply or import, in the First Schedule, means-

- (a) a supply or import that is specified as zero-rated under this Act; or
- (b) a supply of a right or option to receive a supply that will be zero-rated.

Consideration.

3. (1) Consideration, in relation to a supply or acquisition, means the total of the following amounts:-

- (a) the amount in money paid or payable by any person, whether directly or indirectly, in respect of, in response to or for the inducement of the supply; and
- (b) the fair market value of anything paid or payable in kind, whether directly or indirectly, by any person in respect of, in response to, or for the inducement of the supply,

reduced by any discounts or rebates allowed and accounted for at the time of the supply.

(2) Amounts included in consideration under subsection (1) are amounts paid to reimburse the supplier for duties, levies, fees, charges and taxes including GST, paid or payable by the supplier on or by reason of, the supply.

(3) For the avoidance of doubt, consideration includes anything given by a person as a gift or donation.

Fair market value.

4. (1) The fair market value of a supply of goods or services, including anything provided as in-kind consideration for a supply,

is-

- (a) the consideration the supply would fetch in an open market transaction freely made between unrelated persons; or
- (b) if it is not possible to determine an amount under paragraph (a), the consideration a similar supply would fetch in an open market transaction freely made between unrelated persons,
;

determined on the basis of the market conditions, including the registration status of the supplier prevailing at the time and place of the actual supply.

(2) For the purposes of paragraph (b) of subsection (1), one supply is similar to another if it is the same as or closely resembles the other supply in character, quality, quantity, functionality, materials and reputation.

(3) If the fair market value of a supply cannot be determined under subsection (1), it may be determined using any method approved in writing by the Commissioner-General for calculating an objective approximation of the consideration the supply would fetch in an open market transaction freely made between unrelated persons.

(4) If the fair market value is to be determined for particular goods or services, or for a particular asset, that value shall be determined by reference to the value that a supply of those goods or services or that asset, would fetch in a transaction freely made under appropriate market conditions.

Related persons.

5. (1) Persons are “related persons” if–

- (a) they are officers or directors of one another’s business;
- (b) in the case of a partnership, they are a partner and that partnership, and the partner, either alone or together with

persons who are related to the partner, owns 25 per cent or more of the rights to the income or capital of the partnership;

(c) they are shareholders and a body in which the shareholders, either alone or together with persons who are related to the shareholders—

(i) control 25 per cent or more of the voting power in the company;
or

(ii) own 25 per cent or more of the rights to distribution of income or to the capital by the company;

(d) in the case of two companies , a person directly or indirectly, either alone or together with persons who are related to the person referred to in paragraph (c), owns, controls or holds 25 per cent or more of the voting power or the rights to the distribution of income or capital in both of the companies;

(e) one of them directly or indirectly controls the other;

(f) both of them are directly or indirectly controlled by a third person;

(g) together they directly or indirectly control a third person;

(h) they are members of the same family; or

(i) in the case of a trust they are the trustees and a person who is or may be a beneficiary of that trust or, in the case of an individual, whose relative is or may be a beneficiary of the trust.

(2) Persons who are associated in business with one

another in that one is the sole agent, sole distributor, or sole concessionaire, however described, of the other are related persons only if they fall within subsection (1).

(3) For the purposes of this section-

- (a) one person controls another if the former is legally or operationally in a position to exercise restraint or direction over the latter;
- (b) “members of the same family” in relation to a natural person means-
 - (i) the spouse and child of the person;
 - (ii) an ancestor, lineal descendant of the person’s grandparents, stepfather, stepmother or stepchild and an adopted child is treated as a natural child of the adopter.

Supply of goods and services

6. (1) A supply of goods means-

- (a) a sale, exchange or other transfer of the right to dispose of goods as owner;
- (b) a lease, hire or other right granted in relation to goods, including a supply of goods under a finance lease; or
- (c) anything that is deemed to be a supply of goods under this Act.

(2) Anything that is not a supply of goods or money is a supply of services, including-

- (a) the grant, assignment, termination or surrender of a right;
- (b) making available a facility, opportunity or advantage;

- (c) refraining from or tolerating an activity, a situation or the doing of an act;
- (d) the issue of a licence, permit, certificate, concession, authorisation, or similar document; or
- (e) anything that is deemed to be a supply of services by this Act.

(3) A progressive or periodic supply is treated as a series of separate supplies as follows:-

- (a) if the supply is made progressively or periodically under an agreement or enactment that provides for progressive or periodic payments—
 - (i) each progressive or periodic part of the supply is a separate supply; or
 - (ii) if the progressive or periodic parts of the supply are not readily identifiable, each separate supply corresponds to the proportion of the supply to which each separate part of the consideration relates;
- (b) if the supply involves a lease or hire of goods—
 - (i) if payment is made progressively or periodically, each separate supply corresponds to the proportion of the supply to which each separate part of the consideration relates; or
 - (ii) in any other case, each separate supply corresponds to each tax period, to the extent that the period of the

lease or hire occurs during that tax period.

- (4) If a taxable person—
- (a) applies goods or services wholly to a private or exempt use; or
 - (b) having used goods wholly or partly in its taxable activity applies them in the manner described in paragraph (a) from a particular time onwards; and
 - (c) the taxable person is or has been allowed an input tax credit in respect of all or part of the input tax incurred in the acquisition or importation of the goods or services;

the application is treated as a supply of the goods or services.

(5) A supply of a particular kind (“the incidental supply”) that is ancillary or incidental to a supply of another kind (“the principal supply”), is part of the principal supply.

(6) A supply that is ancillary or incidental to an import of goods is part of the import of goods.

(7) Subject to subsections (5) and (6), regulations may provide that a supply of goods and services is a supply of goods or a supply of services or that a supply of more than one kind is a supply of one of those kinds.

(8) Where the managing agent of a time-sharing scheme makes a supply of accommodation under that scheme, the supply is treated as a supply made by the managing agent as principal and not as agent for any other person.

(9) Regulations may provide that something that would otherwise be a supply is not a supply for the purposes of this Act.

Taxable activity.

7. (1) Subject to subsection (2), taxable activity means an activity carried on continuously or regularly by a person,

whether or not for profit, if the activity involves or is intended to involve the supply of goods or services to another person and includes a business, trade, manufacture, commerce or adventure in the nature of trade, but does not include-

- (a) the activities of an employee providing services in that capacity to an employer;
- (b) activities performed as a director of a company except where, in carrying on any business, the person accepts an office and supplies services as the holder of that office, in which case those services shall be regarded as being supplied in the course or furtherance of the business;
- (c) an activity carried on by a person other than an individual which, if carried on by an individual, would fall within paragraph (b);
- (d) an activity carried on by a government entity or a local council, except to the extent that the activity–
 - (i) involves the supply of goods or services for a fee, including the supply of a licence, permit, permission or other right, a lease of property, a supply of goods or services; or
 - (ii) is one in which the entity carries on activities commonly conducted by other persons for profit.

(2) A taxable activity includes anything done or undertaken during the commencement or termination of a taxable activity.

Taxable supply

8. (1) Except otherwise provided in this Act, a “taxable supply” is a supply of goods or services made by a taxable person for consideration in the course of or as a part of his business activities and includes-

- (a) the processing of data or supply of information or similar service;
- (b) the supply of staff;
- (c) the acceptance of a wager or stake in any form of betting or gaming including lotteries and gaming machines;
- (d) making of gifts or loans of goods;
- (e) leasing or getting of goods on hire;
- (f) the appropriation of goods for personal use or consumption by the taxable person or by any other person; and
- (g) the sale, transfer, assignment or licensing of patents, copyrights, trade-marks, computer software and other proprietary information.

(2) A supply is made as part of a person’s business activities if the supply is made by him as part or incidental to any economic activity he conducts.

(3) Where a person produces goods by processing or treating another person’s goods, the supply of the goods shall be regarded as a supply of goods.

(4) The supply of any form of power, heat, refrigeration or ventilation shall be regarded as a supply of goods.

(5) A supply is made for consideration, if the supplier directly or indirectly receives payment wholly or partly in money or in kind from the person supplied or any other person.

- Exempt supply. 9. The supply of the goods and services set out in the Second Schedule is exempt supply and is not subject to GST.
- Zero-rated supply 10. Output tax shall be at zero rate on the supply of the goods and services set out in the First Schedule.
- Exempt import. 11. An import of goods is an exempt import if the goods are exempt under the Second Schedule and classified as such in conformity with the Harmonized Commodity Description and Coding System also known as 'the Harmonised System'
- Exemption from GST. 12. The individuals, organisations and businesses set out in the Third Schedule are relieved from payment of GST.
- Supplies outside scope of GST. 13. The supply specified in the Fourth Schedule is outside the scope of GST and as such the transferor and transferee shall notify the Commissioner General in writing of the details of the transfer.

PART II - IMPOSITION OF GST

- Imposition of GST 14. (1) GST is imposed on-
- (a) a taxable supply; and
 - (b) a taxable import.
- (2) The amount of GST chargeable on a taxable supply or import is computed by applying the rate in subsection (3) to the GST-exclusive value of the taxable supply or import.
- (3) The rate of GST applicable to a taxable supply or import is-
- (a) if the supply or import is zero-rated under the First Schedule, zero per cent;
 - (b) in any other case, 15 per cent.

(4) The GST chargeable—

- (a) on a taxable supply is the liability of the supplier and shall be accounted for to the Commissioner-General in the form and manner prescribed under this Act according to the formula in section 27, unless otherwise specified in this Act; and
- (b) on a taxable import shall be paid by the importer at the time of import to the National Revenue Authority.

(5) For the purposes of subsection (4), if a non-resident principal makes a taxable supply or a taxable import through a resident agent, the GST payable under that subsection is payable by the resident agent and not by the non-resident principal.

(6) Subsection (5) does not apply if the non-resident principal is treated to any extent as a resident because of paragraph (d) of the definition of resident and the principal is registered for GST under this Act at the time of the supply.

(7) No person, class of persons, transaction, class of transactions, import or class of imports is exempt from GST, except as provided by this Act.

PART III - REGISTRATION

Application
for registration.

15. (1) A person is required to apply for registration under this Act on the last day of any month, if—

- (a) the person exceeded the registration threshold in the period of 12 or lesser months ending on that day;
- (b) the person exceeded one-third of the registration threshold in the period of 4 months ending on that day; or

- (c) there are reasonable grounds to expect that the person will exceed the registration threshold in the twelve-month period commencing on the following day.

(2) Subject to subsection (3), the registration threshold is a GST-exclusive turnover of taxable supplies in any twelve month period, exceeding Le 350,000,000² and may be amended by statutory instrument.

(3) In determining whether a person has exceeded the registration threshold under subsection (2)–

- (a) the value of supplies made by the person is treated as if it did not include–

- (i) the value of a supply that is not taxable or that would not be a taxable supply if the person were registered;
- (ii) the value of a supply by way of sale of one or more capital assets of the person;
- (iii) the value of a supply made solely as a consequence of the person selling the person's taxable activity or part of that taxable activity; or
- (iv) the value of supplies made solely as a consequence of the person permanently ceasing to carry on its taxable activity;

- (b) the value of supplies made by the person includes the value of supplies the person

² The amount “Le 350,000,000.00” was substituted for the amount “Le 200,000,000.00” by s. 40 of the Finance Act 2013

would be treated as making under section 24 if the person were registered; and
(c) the Commissioner-General may require the person to include the value of supplies made by a related person if he is satisfied that it is appropriate to do so due to the nature of the activities carried out by the related person, the way in which the taxable activities of the taxable person and the related person are carried on, the connections between those persons or between the activities carried on by them or any other factors that the Commissioner General considers to be relevant .

(4) A person is required to apply for registration, irrespective of whether the person exceeds the registration threshold—

(a) if the person is a government entity or a local council that carries on a taxable activity, at the earlier of the day 2 months before the day referred to in subsection (1) of section 1 or 7 days before the date on which the person commences carrying on a taxable activity; or

(b) if the person is a promoter of public entertainment or a licensee or proprietor of a place of public entertainment, the earlier of 7 days before the day on which the person commences carrying on a taxable activity or a day not later than 2 days before the entertainment will be provided.

(5) A person who is not required to apply for registration may apply for registration if the person is carrying on a taxable activity and makes or intends to make supplies that would be taxable if the person were registered.

(6) An application for registration shall be made to the Commissioner-General in the prescribed form and, in the case of a person who is required to apply for registration, shall be lodged with the Commissioner-General within 30 days of the date on which the person is required to apply for registration

(7) For the purposes of paragraph (b) of the definition of a taxable person, a person is not a taxable person under that paragraph—

- (a) unless the prescribed period for applying for registration has elapsed without the person having submitted an application for registration; or
- (b) if the person submitted an application for registration within the prescribed period but that application has not yet been dealt with by the Commissioner-General,

and for the purposes of this subsection, defects in the form or content of an application for registration not affecting the substance do not make the person a taxable person.

Registration
of persons.

16. (1) If a person applies for registration and the Commissioner-General is satisfied that the person is required to apply for registration, the Commissioner-General—

- (a) shall register the person; and
- (b) within 21 days of the date of the receipt of the application for registration, shall notify the person of the registration by notice in writing; and
- (c) the date of effect of the registration shall be the date on which the person was required to be registered

(2) A group of taxable persons may with the approval of the Commissioner-General, be treated for the purposes of GST as

one taxable person provided each member of the group undertakes to be jointly and severally liable for any contravention this Act

(3) If a promoter of public entertainment or a licensee or proprietor of a place of public entertainment is required to apply for registration under paragraph (b) of subsection (4) of Section 15, the Commissioner-General shall register that person not later than the earlier of-

- (a) the day on which the person commences to carry on a taxable activity; or
- (b) one day before the entertainment is to be provided.

(4) If the Commissioner-General is satisfied that a person is required to apply for registration and the person has not applied for registration within the time limit prescribed in section 15, the Commissioner-General shall register that person with effect from the correct effective date of registration.

(5) If a person applies for registration and the Commissioner General is not satisfied that the person is required to apply for registration, he shall register the person if he is satisfied that-

- (a) the person is making or will make, supplies that would be taxable if the person were registered;
- (b) the person has a fixed place or places at which the person's taxable activity is carried on;
- (c) there are reasonable grounds to believe that the person will keep proper records and lodge regular and reliable GST returns; and
- (d) if the person has commenced carrying on a taxable activity, the person has-
 - (i) kept proper records in

relation to its taxable activity; and

- (ii) complied with its obligations under other taxation laws, including laws relating to customs.

(6) If for the protection of revenue, the Commissioner-General registers a person who is not required to apply for registration—

- (a) he shall notify the person of the registration by notice in writing issued not later than 21 days after the day on which the person applied to be registered;
- (b) the date of effect of the registration shall be the date requested by the person in the application or such later date as the Commissioner-General reasonably determines, based on the information available to him, to be the date on which the person will commence carrying on a taxable activity, but the date should not be less than 7 days after the date on which the notice is given.

(7) The Commissioner-General shall issue a registered person with a GST registration certificate which shall be in the prescribed form and it shall include the date on which the registration takes effect and the person's TIN.

(8) A person who fails to apply for registration when required to do so shall be deemed as having registered with effect from the date of effect of the registration prescribed in section 15 and the Commissioner General shall notify the person in writing within 30 days of the facts being established.

(9) A registered person shall display the original copy of its GST registration certificate in a prominent position at the principal place at which the person carries on its taxable activity, and shall

display a certified copy of the certificate obtained from the Commissioner-General in every other place in which it carries on its taxable activity.

(10) A registered person shall notify the Commissioner-General in writing of a change in the name (including business name or other trading name), address, place of business, control or nature of the taxable activity carried on by the person, within 14 days of the change occurring.

(11) If the Commissioner-General decides not to register a person who applies for registration, he shall, within 28 days of receiving the application, notify the person in writing of the reasons for his decision and outlining the person's rights to object and appeal against the decision under Part XVII.

Cancellation
of registration

17. (1) A registered person who ceases to make taxable supplies for a six-month period and who does not intend to make taxable supplies within a further consecutive twelve month period, shall, in the prescribed form, apply to the Commissioner-General for cancellation of its registration within 7 days after the end of the six-month period.

(2) A registered person who makes taxable supplies but does not exceed the registration threshold for a twelve-month period may apply to have its registration cancelled, except where the person is required to be registered irrespective of the registration threshold.

(3) The Commissioner-General shall, by notice in writing, cancel the registration of a person who has applied for cancellation if he is satisfied that the person is required or permitted to apply for cancellation of registration.

(4) The Commissioner-General shall, by notice in writing, cancel the registration of a person who has not applied for cancellation if he is satisfied that the person has ceased to make taxable supplies for any twelve-month period.

(5)³ (*Repealed*)

(6) A person whose registration is cancelled under this section is treated as having made a taxable supply of goods or services on hand at the time the registration is cancelled, but only if the person was allowed an input tax credit in respect of the acquisition or importation of those goods or services or in respect of the acquisition of goods or services which have been subsumed into those goods or services.

(7) The taxable supply referred to in subsection (6) is treated as having been made—

- (a) on the day before the cancellation of the person's registration; and
- (b) for a value equal to—
 - (i) if the goods or services have been used in the person's taxable activity, the lesser of the fair market value of the goods at that date or the consideration paid or payable for the acquisition of the goods or services by the person; or
 - (ii) if the goods or services have not been used in the person's taxable activity, the consideration paid or payable for the acquisition of the goods or services by the person or if the deemed supply relates to goods imported by the person, references in this

³ Subsection (5) repealed by s. 10(a) of the Finance Act 2011. Previously read: "(5) The cancellation of a person's registration takes effect from the date set out in the notice of cancellation, which shall not be less than 2 years after the date on which the registration commenced or such earlier date as the Commissioner-General considers appropriate"

paragraph to the consideration paid or payable by the person for the acquisition of the goods shall be taken to refer to the value of the import for the purposes of this Act.

(8) If a person's registration is cancelled under this section, the person shall—

- (a) immediately cease to hold out in any way that the person is a registered person;
- (b) immediately cease to use any documents, including GST invoices, receipts, credit notes and debit notes, that identify the person as a registered person;
- (c) immediately return the person's GST registration certificate, and any certified copies thereof, to the Commissioner-General; and
- (d) within 30 days after the date of cancellation of the person's registration, lodge a final GST return and pay any GST due, including GST, if any, due under subsection (6).

(9) An application for cancellation of registration shall be in the prescribed form.

National register of persons registered for GST.

18. (1) The Commissioner-General shall maintain a national register of persons registered for GST, which shall include an accurate and up-to-date record of all registered persons and shall state—

- (a) the name and address of the registered person;
- (b) the trading name or names, if any, under which the registered person carries on its taxable activities;

(c) the TIN of that person;

(d) the date on which the registration commenced; and

(e) whether or not the person was required to be registered.

(2) If the Commissioner-General cancels the registration of a person—

(a) he shall ensure that the person's entry remains in the register for at least 6 months after the date of cancellation and that the register shows that the registration has been cancelled and the date from which it was cancelled; and

(b) after 6 months, the Commissioner-General may remove the person's entry from the register, but he shall retain full and accurate historical records of persons removed from the register.

PART IV - RULES RELATING TO SUPPLIES

Time of supply of goods.

19. (1) A supply of goods or services is made on the earlier of the time when—

(a) an invoice for the supply is issued by the supplier;

(b) any of the consideration for the supply is received;

(c) for a supply of goods, the goods are delivered or made available for collection; or

(d) for a supply of services, the services are performed.

(2) The supply of goods under a hire purchase agreement or finance lease occurs on the date the goods are made available under the agreement or lease.

(3) An application of goods or services to a private or exempt use that is treated as a supply of goods or services under subsection (4) of section 6 is treated as being made on the date the goods or services were first applied to such use.

(4) Where a progressive or periodic supply is treated, under subsection (3) of section 6, as a series of separate supplies made successively, each successive supply is treated as being made on the earliest of—

- (a) the date on which an invoice for the progressive or periodic payment corresponding to the supply is issued by the supplier, but only if a separate invoice is issued for each supply;
- (b) the date on which the progressive or periodic payment corresponding to the supply is due;
- (c) the date on which any of the progressive or periodic payments corresponding to the supply is received;
- (d) the first day of the period, if any, to which the progressive or periodic payment relates; or
- (e) the first day on which the recipient is able to commence use or enjoyment of the successive part of the supply which corresponds to the supply.

(5) Where a person becomes registered or ceases to be registered, for the purpose of working out whether a supply made by the person is a taxable supply or whether an acquisition made by the person gives rise to an entitlement to input tax credits, a supply or acquisition is made when—

- (a) for a supply of goods, the goods are delivered or made available for collection or where title has transferred or

(b) for a supply of services, the services are performed.

(6) Where, because of subsection (5), a supply or acquisition is treated as being made by a person while the person was registered, but the time referred to in subsection (1) occurred before the person became registered, for the purpose of determining in which tax period the person should account for the GST or input tax credit under section 29, the supply or acquisition is treated as being made in the first tax period in which the person is registered.

(7) Where, because of subsection (5), a supply or acquisition is treated as being made by a person while the person was registered, but the time referred to in subsection (1) occurred after the person ceased to be registered, for the purpose of determining in which tax period the person should account for the GST or input tax credit under section 29, the supply or acquisition is treated as being made in the last tax period in which the person is registered.

(8) Regulations may specify or vary the time at which a particular kind of supply is treated as being made.

Place of supply.

20. (1) Except otherwise provided in this Act, a supply of goods or services is regarded as taking place in Sierra Leone if—

- (a) the supplier is a resident; or
- (b) the supplier is a non-resident and—
 - (i) in the case of a supply of goods, the goods supplied are located in Sierra Leone at the time of the supply;
 - (ii) in the case of a supply of services, the services are physically performed in Sierra Leone by any person who is in Sierra Leone at the time the services are performed.

(2) Where goods that have been imported are supplied to a person before the goods are entered for use within Sierra Leone, the supply is deemed to have taken place outside Sierra Leone.

(3) For the avoidance of doubt, in the case of a progressive or periodic supply that is deemed to be a series of separate supplies because of subsection (3) of section 6, the place where each supply takes place is determined separately.

(4) A supply of telecommunications services is regarded as taking place in Sierra Leone if the supplier is a non-resident and a person physically in Sierra Leone initiates the supply whether or not the person initiates the supply on behalf of another person.

(5) For the purposes of this Act, the person who initiates a supply of telecommunications services is—

(a) the person who is identified by the supplier or recipient of the services as being—

(i) the person who controls the commencement of the supply;

(ii) the person who pays or receives payment for the services; or

(iii) the person who contracts for the supply; and

(b) if more than one person fulfils the requirements of paragraph (a), the person who appears highest on the list in that paragraph.

(6) If a telecommunications services supplier cannot apply subsection (4) because it is impractical for the supplier to determine the physical location of a person the supplier shall treat the supply of telecommunications services as taking place in Sierra Leone if the person's address for receiving invoices from the supplier is in Sierra Leone, where "address" means the physical, residential or business address of the person to whom invoices are sent, but does not include a post office box number.

(7) Subject to subsection (6), the telecommunications supplier shall apply subsection (6) to all supplies of

telecommunications services made for that type of service or class of customer.

(8) A supply of services by a Sierra Leone licensing authority occurs in Sierra Leone regardless of where the licence, permit, certificate, concession, authorisation or other document is issued.

(9) Regulations made under this Act may specify or vary the place of supply for a particular kind of supply.

Value of supply.

21. (1) "Tax fraction", in relation to a taxable supply, means the fraction calculated in accordance with the following formula:-

$$R/(100+R)$$

where R is the rate of GST applicable to the supply as determined under subsection (3) of section 14.

(2) The value of a taxable supply is—

- (a) where the supply is for monetary consideration, the amount of the consideration with the addition of all duties and taxes but excluding GST; and
- (b) where the supply is not for monetary consideration or is only partly for monetary consideration, the fair market value excluding GST.

(3) Subject to this section—

- (a) the value of a taxable supply is the consideration for the supply reduced by an amount equal to that sum multiplied by the tax fraction; and
- (b) the value of a supply that is not a taxable supply is the consideration for the supply.

(4) If a person applies goods or services to a private or exempt use and the application is treated as a supply under subsection (4) of section 6, or a taxable person supplies

goods or services to an employee for personal use, the value of the supply is—

- (a) if the application or supply is of goods imported by the person, the lesser of—
 - (i) the value of the import for the purposes of this Act; or
 - (ii) if any part of the input tax was allowed as a credit to the taxable person, the value of the import reduced by an amount reflecting the extent to which no input tax credit was allowed; or
- (b) in any other case, the lesser of—
 - (i) the consideration paid or payable by the person for the acquisition of the goods or services, reduced by an amount equal to the input tax incurred on that acquisition; or
 - (ii) if only part of the input tax is allowed as a credit to the taxable person, the amount referred to in subparagraph (i), reduced by an amount reflecting the extent to which no input tax credit is allowed.

(5) Where subsection (2) applies, before the goods or services are applied or supplied as provided in that subsection, the taxable person has used them in its taxable activity for a purpose other than making exempt supplies, the value of the supply is the lesser of—

- (a) the amount determined under subsection (2); or
- (b) the GST-exclusive fair market value of the

goods or services at the time they are first applied to the private or exempt use or supplied to the employee, reduced, in a case to which sub-paragraph (ii) of paragraph (a) or sub-paragraph (ii) of paragraph (b) of subsection (4) applies, by an appropriate amount reflecting the extent to which no input tax credit was allowed.

(6) The value of a supply of goods under a finance lease does not include an amount payable in relation to a supply of credit under a lease agreement, if the credit for the goods is provided for a separate charge and the charge is disclosed to the recipient of the goods.

(7) If a taxable person makes a supply for no consideration or for consideration that is less than the fair market value of the supply, the value of the supply is the GST-exclusive fair market value of the supply.

(8) The value of a supply that a recipient is treated as having made because of section 24 is-

- (a) if the supplier and recipient are related persons, the appropriate proportion of the GST-exclusive fair market value of the actual supply; or
- (b) in any other case, the appropriate proportion of the consideration for the actual supply, where “actual supply” means a supply made to a recipient and “appropriate proportion” reflects the extent to which the recipient is treated as making the supply under section 24.

(9) Regulations may specify or vary the way in which the value of a particular kind of supply is determined.

Post-supply adjustments for GST adjustment events.

22. (1) A GST adjustment event occurs if–
- (a) a taxable supply is cancelled;
 - (b) the consideration for a taxable supply is altered;
 - (c) goods or services (or part thereof) that were supplied as taxable supplies are returned to the supplier; or
 - (d) the nature of a supply, whether or not it was a taxable supply, is fundamentally varied or altered.

(2) If a GST adjustment event occurs and the GST properly chargeable in respect of the supply exceeds the GST actually accounted for by the supplier, the amount of the excess is treated as output tax payable by the supplier in the tax period in which the GST adjustment event occurred.

(3) If subsection (2) applies and the supplier has issued a GST debit note to the recipient of the supply in accordance with subsection (2) of section 32, the recipient of the supply may treat the additional GST specified in the GST debit note as input tax in the tax period in which the GST debit note is received.

(4) If a GST adjustment event occurs and the GST actually accounted for by the supplier exceeds the GST properly chargeable in respect of the supply, the supplier may treat the amount of the excess as input tax in the tax period in which the GST adjustment event occurred, but only if the supplier has issued a GST credit note to the recipient of the supply in accordance with subsection (1) of section 32.

(5) If subsection (4) applies and the recipient is a taxable person, the recipient shall include in its output tax for the tax period in which the credit note is received, the following amount:-

- (a) if the recipient was entitled to a credit for all of the input tax in relation to the acquisition, the amount of additional GST specified in the GST credit note;

- (b) if the recipient was entitled to a credit for only a proportion of the input tax in relation to the acquisition, the same proportion of the amount of additional GST specified in the GST credit note; or
- (c) if the recipient was not entitled to a credit for the input tax in relation to the acquisition, nil.

(6) If the recipient of a supply to which subsection (4) applies is unregistered, no GST credit note may be issued and no input tax credit is allowed under that subsection until the supplier has repaid the excess GST to the recipient of the supply, whether in cash or as a credit against any amount owing to the supplier by the recipient.

Post supply
adjustment
for bad debts.

23. (1) If all or part of the consideration for a supply has not been paid by the recipient of the supply section 22 shall apply to the recipient of the supply and in each case the section is taken to apply as if a GST adjustment event referred to in paragraph (b) of subsection (1) of section 22 had occurred in relation to the supply.

(2). If the amount referred to in subsection (1) has been overdue for more than 12 months from the date on which it was due to be paid, section 22 shall apply to the recipient, that if the supplier has, in writing, granted additional time to pay, the period of 12 months is taken to commence from the date of expiry of the additional time.

(3) If, after section 22 applies in relation to a supply under subsection (1) the recipient later makes one or more payments for the supply, that section shall apply again to the recipient to the extent of each additional payment.

(4) For the avoidance of doubt, no GST adjustment event arises under this section or section 22 for a supplier in relation to an overdue payment or a bad debt relating to a supply made by that supplier.

(5) The documentation requirements of subsection (6) of section 29 do not apply to a recipient who is required to pay an amount of GST or allowed an input tax credit because of the application of this section.

(6) Regulations made under this Act shall provide for the treatment of GST with regard to bad debts

Reverse charge
on imported
services.

24. (1) If–

- (a) a non-resident person makes a supply of services to a⁴ person in Sierra Leone, otherwise than through a resident agent;
- (b) the supply is not a taxable supply but would have been a taxable supply if it had been made by a resident who was registered for GST; and
- (c) the supply is not or would not be zero-rated under the First Schedule

the supply is treated as a taxable supply made by the recipient of the supply at the same time and for the same consideration as the actual supply, but only to the extent that the recipient will use the supply–

- (d) to make exempt supplies;
- (e) for private or domestic use or a use that would be private or domestic if the recipient were an individual;
- (f) to provide entertainment to-
 - (i) an associate or employee; or

⁴ The word “taxable” was deleted by s. 10(b) of the Finance Act 2011

(ii) any other person

other than in the course of a taxable activity of providing entertainment.

(2) If a GST adjustment event occurs in relation to a supply, part or all of which is treated as a supply made by the recipient under subsection (1), and the event would cause the GST properly chargeable in respect of the supply to exceed the GST actually accounted for by the recipient, the amount of the excess is treated as output tax payable by the recipient for a taxable supply made in the tax period in which the GST adjustment event occurs.

(3) If a GST adjustment event occurs in relation to a supply, part or all of which is treated as a supply made by the recipient because of subsection (1), and the event would cause the GST actually accounted for by the recipient to exceed the GST properly chargeable in respect of the supply, the Commissioner-General may, on application in writing by the recipient, allow the recipient an input tax credit for the amount of the excess in the current tax period if, on the evidence provided, he is satisfied that the adjustment event occurred.

(4) If a taxable person carries on activities both inside and outside Sierra Leone, the person is treated as if it were two separate persons corresponding respectively to the taxable activities the person carries on inside and outside Sierra Leone and—

- (a) the person outside Sierra Leone is deemed to have made a supply to the person inside Sierra Leone consisting of any benefit in the nature of services that is received by the person in Sierra Leone through or as a result of the activities carried on by the person outside Sierra Leone; and
- (b) the time of the supply calculated under paragraph (d) of subsection (1) of section 19 on the assumption that a supply has been made;

- (c) the value of the supply is calculated under paragraph (a) of subsection (8) of section 21 on the assumption that the supply was made by a non-resident outside Sierra Leone to a related person inside Sierra Leone;
- (d) subsections (2) and (3) shall apply to a supply that is treated as being made by a taxable person under this subsection.

PART V - RULES RELATING TO IMPORTS

Time of import. 25. An import of goods occurs—

- Cap 271
- (a) if the goods are entered under the Customs Act on the date on which they are so entered; or
 - (b) in any other case, on the date the goods are brought into Sierra Leone.

Value of import. 26. (1) The value of an import of goods is the sum of—

- Cap 271
- (a) the value of the goods for the purposes of customs duty under the Customs Act, whether or not duty is payable on the import;
 - (b) to the extent not included under paragraph (a)-
 - (i) the value of insurance and freight incurred in bringing the goods to Sierra Leone; and
 - (ii) the cost of services that have been treated as part of the import of the goods

because of subsection (6)
of section 6; and

- (c) the amounts, if any, of customs duty, customs service charge or other tax or fiscal charge (other than GST) payable on the importation of the goods.

(2) Where goods are re-imported after being exported for the purpose of undergoing repair, renovation, or improvement, the value of the import of the goods is the amount of the increase in their value that is attributable to the application of the repair, renovation, or improvement process, so long as the form or character of the goods has not been changed by the repair, renovation or improvement.

(3) Regulations under this Act may specify or vary the way in which the value of a particular kind of import is determined.

PART VI - CALCULATION AND PAYMENT OF GST NET AMOUNT

Net amount
to be remitted
in tax period.

27. The amount of GST that a taxable person shall remit to the National Revenue Authority for a tax period is a net amount calculated according to the following formula:— **A-B** where—

A is the total output tax accountable by the person in relation to the period; and

B is the total input tax credits allowed to the person under sections 22, 23, 29, 30 and 41 in respect of that tax period.

PART VII - INPUT TAX CREDITS

Goods or
services for
which no input
tax credits are
allowed.

28. (1) In this section—

“entertainment” means the provision of food, beverages, tobacco, amusement, recreation or hospitality of any kind, including

gambling;

“motor vehicle” means a motorised on-road or off-road vehicle designed or adapted for the transport of 12 or fewer seated passengers.

“mobile phone handset” means a portable telephone using a cellular radio system which enables radio transmission of packets of data through voice, text and the internet.

(2) Notwithstanding any other provision in this Act, no entitlement to an input tax credit arises for a person in relation to a taxable acquisition or import by the person to the extent that—

- (a) the acquisition or import is not made in the course or furtherance (including commencement or termination) of the person’s taxable activity;
- (b) the acquisition or import or hiring or lease is of a motor vehicle, or of spare parts or repair and maintenance services for such vehicles, unless the person’s taxable activity involves dealing in or hiring out or leasing of such vehicles and the vehicle and the spare parts were acquired for that purpose;
- (c) the acquisition or import is used to provide entertainment, to the extent of that use, unless the person’s taxable activity involves providing entertainment and the entertainment was provided in the ordinary course of that taxable activity and was not supplied to a related person or employee;
- (d) the acquisition is of a membership or right of entry for any person in a club, association or society of a sporting, social or recreational nature;
- (e) the acquisition or import is of a private or domestic nature;
- (f) the acquisition or import or hiring is of a

mobile phone handset, or spare parts or repair and services thereof, unless the person's taxable activity involves dealing in or hiring out such handsets and services and the handset and the spare parts were acquired for that purpose; or

- (g) the acquisition or expense relates to occupation of holiday or hotel accommodation by a director, employee or guest of the taxable person.

Input tax credits.

29. (1) Except as provided otherwise in this Act-

- (a) if all of the supplies made by a taxable person during a tax period are taxable supplies, the person is allowed input tax credits for all of the input tax paid or payable on taxable acquisitions or imports made by the person during that tax period;
- (b) If none of the supplies made by a taxable person during a tax period are taxable supplies, the person is not allowed input tax credits for the input tax payable on taxable acquisitions or imports made by the person during that period, unless with the written approval of the Commissioner-General the taxable person is deemed to be engaged in a seasonal or other business activity that by its nature results in supplies being made in a period later than acquisitions;
- (c) Except as provided otherwise, if a taxable person makes both taxable supplies and non taxable supplies during a tax period, the input tax credits allowed to the person for that tax period shall be determined as

follows:-

- (i) if an acquisition or import by the person relates wholly to the making of taxable supplies, an input tax credit is allowed for the full amount of input tax payable in respect of the acquisition or import;
- (ii) if an acquisition or import by the person relates wholly to the making of supplies that are not taxable supplies, no input tax credit is allowed for the input tax payable in respect of that acquisition or import;
- (iii) for acquisitions or imports by the person that relate, whether directly or indirectly, partly to making taxable supplies and partly to making other supplies, the sum of the input tax credits allowed for such supplies or imports during the tax period is calculated according to the following formula:-

$$A \times \frac{B}{C}$$

Where-

A is the total amount of input tax paid or payable in respect of imports or acquisitions made by the person during the period, less the input tax accounted for under subparagraphs (i) and (ii);

B is the value of all taxable supplies made by the taxable person during the period; and

C is the value of all supplies made by

the taxable person during the period, other than supplies made through a taxable activity carried on by the person outside Sierra Leone.

(2) Notwithstanding paragraph (b) of subsection (1)–

- (a) if the fraction $\frac{B}{C}$ in subparagraph (iii) of paragraph (c) of subsection (1) is more than 0.95, except as provided otherwise, the taxable person is allowed input tax credits for all of the input tax payable on taxable acquisitions or imports made by the person during that tax period;
- (b) if the fraction $\frac{B}{C}$ in subparagraph (iii) of paragraph (c) of subsection (1) is less than 0.05, the taxable person is not allowed input tax credits for taxable acquisitions or imports made by the person during that tax period;
- (c) if Regulations prescribe a different method for a specified group or groups of taxable persons, to calculate the amount of input tax allowed for a tax period in which the person makes both taxable and exempt supplies, the person shall use that method to calculate the input tax credits it is allowed for that period.

(3) If subsection (3) of section 24 allows a taxable person to treat an amount as input tax in a tax period because a GST adjustment event occurred during that period in relation to an acquisition made by the person, the amount of the input tax credit the person is allowed as input tax credit is determined by reference to the extent that the person was entitled to an input tax credit for the original acquisition.

(4) If subsection (4) of section 24 allows a taxable person to treat an amount as input tax in a tax period because a GST adjustment event occurred during that period in relation to a supply made by that person, the person is entitled to an input tax credit for that amount.

(5) If, at the time the person submits a GST return for a tax period, the person does not, in relation to an acquisition or importation made in that tax period, hold the documentation referred to in subsection (6)–

- (a) the person is not allowed the input tax credit it would otherwise have been allowed for that acquisition or importation in that tax period; but
- (b) the person is allowed the input tax credit in the first subsequent tax period in which the person holds the documentation,

and if the person does not hold the documentation before the end of the tax period ending 6 months after the date on which the return was due, no input tax credit is allowed for the acquisition or importation.

(6) The documentation required for the purposes of subsection (5) is–

- (a) in the case of a taxable acquisition, the GST invoice issued by the supplier for the supply;
- (b) in the case of a taxable import, a cleared bill of entry or other document prescribed under the Customs Act for the import; or
- (c) in the case of an input tax credit allowed under subsection (3) of section 22 because of a GST adjustment event for an acquisition, the GST debit note issued by the supplier in respect of that event; and
- (d) in the case of an input tax credit allowed under subsection (3) of section 22 because of a GST adjustment event for a supply, a copy of the GST credit note issued to the recipient of the supply in respect of that event.

(7) Subsection (5) does not alter the way in which the amount of an input tax credit for an acquisition or importation made in a tax period is calculated under this section.

(8) Whether or not an acquisition or importation made in a tax period relates to making a particular kind of supply should be determined on the basis of the taxable person's intention at the time of the acquisition or importation; but the taxable person shall take account of the actual use or a change in intention that occurs before the date on which the GST return for that tax period is required to be lodged.

(9) Where a person is registered after the coming into operation of this Act and makes an application in writing to the Commissioner-General within 6 months of becoming registered, the Commissioner-General may allow the person an input tax credit for taxable acquisitions or taxable imports made in the 3 months preceding the date of the registration if—

- (a) the person has the goods acquired or imported on hand at the date of the registration and has provided sufficient documentary evidence of this to the Commissioner-General;
- (b) the person provides in the opinion of the Commissioner-General, sufficient documentary evidence, including sales receipts and import documentation, to show the amount of GST that was included in the price of the acquisitions or that was paid by the person on importation;
- (c) the Commissioner-General is satisfied that the GST referred to in paragraph (b) has been accounted for by the supplier as required under this Act or paid to the National Revenue Authority at the time of import by the registrant;
- (d) the person has provided such other evidence as is necessary in the opinion of the Commissioner General, to establish the extent to which the goods acquired have been used in the registrant's taxable activity prior to the date of the registration; and
- (e) the person would have been entitled to an

input tax credit if the acquisition or importation had been made when the person was registered.

(10) Where an input tax credit is allowed under subsection 9-

- (a) the amount of the input tax credit is reduced in proportion to the extent to which the thing acquired or imported was used by the registrant prior to the date of effect of the registration and to the extent that the person would not have been entitled to an input tax credit if the acquisition or importation had been made while the person was registered;
- (b) the person is not required to hold a GST invoice in relation to an acquisition for which a credit has been allowed.

(11) Where a person makes an application under subsection (9)-

- (a) the Commissioner-General shall notify the applicant of his decision within 60 days of receiving the application, and shall state the amount (if any) of the input tax credit to which the person is entitled; and
- (b) the input tax credit (if any) will be allowed in the earlier of the tax period in which the person receives the notice or the tax period ending 6 months after the date of effect of the registration.

Acquisition or importation by agents.

30. For the purposes of section 29 if a non-resident principal makes an acquisition or import through a resident agent, any input tax credit allowed under that section is allowed to the resident agent and resident and not to the non-resident principal.

PART VIII - GST DOCUMENTATION

GST invoices
and sales receipts.

31. (1) A GST registered supplier who makes taxable supplies is required, at the time of the supply, to issue the recipient with an original GST invoice, for the supply.

(2) A GST invoice and a sales receipt shall contain the prescribed information.

(3)⁵ The GST invoice issued by a GST registered person shall be printed under the authority and direction of the Minister responsible for finance, whether printed by the National Revenue Authority or an authorized agent.

(4)⁶ 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.

GST credit and
debit notes.

32. (1) If-

- (a) a registered supplier has made a taxable supply to a registered recipient;
- (b) a GST adjustment event has occurred in relation to the supply;
- (c) at the time of the supply, the supplier issued an original GST invoice to the recipient; and
- (d) the amount shown on that invoice as the GST charged exceeds the GST properly chargeable in

⁵ Subsection (3) repealed and replaced by s. 11 of the Finance Act 2015. Previously read “(3) During the first 12 months of the GST becoming chargeable under this Act, the GST invoice issued by the registered person shall be the one printed by the National Revenue Authority for the use of the registered person unless the registered person is authorised by the Commissioner-General in writing to print its own GST invoice containing the prescribed information”

⁶ Subsection (4) inserted by s. 41 of the Finance Act 2013

respect of the supply, the supplier shall provide the recipient with an original GST credit note.

(2) If—

- (a) a registered supplier has made a taxable supply to a registered recipient;
- (b) a GST adjustment event has occurred in relation to the supply;
- (c) at the time of the supply, the supplier issued an original GST invoice to the recipient; and
- (d) the GST properly chargeable in respect of the supply exceeds the amount shown on that invoice as the GST charged,

the supplier shall provide the recipient with an original GST debit note.

(3) A GST credit or debit note shall contain the prescribed information.

Documentation
issued by or
to agents.

33. (1) If a taxable supply is made by or to an agent on behalf of a principal and both the agent and the principal are registered under this Act, any documentation required to be issued by or to the principal, including a GST credit or debit note, may be issued by or to the agent showing the name, address, and TIN of the agent.

(2) If a taxable supply is made by or to an agent on behalf of a principal and the principal is registered under this Act but the agent is not registered, any documentation required to be issued by or to the principal, including a GST credit or debit note, may be issued by or to the agent but shall be issued using the name, address and TIN of the principal.

(3) If a taxable supply is made by or to an agent on behalf of a non-resident principal who is not registered under this Act, any documentation required to be issued by or to the principal,

including a GST credit or debit note, shall be issued by or to the agent, using the name, address, and TIN of the agent.

(4) If a taxable supply is made by or to an agent on behalf of a principal, any documentation required to be issued shall be issued only once and shall not be issued by or to both the agent and the principal.

(5) A document issued by or to an agent in accordance with this Act is treated as issued by or to the principal for the purposes of this Act.

Request for GST documentation.

34. (1) A registered recipient who has not received a GST credit note or GST debit note that the supplier was required to issue, may make a written request to the supplier to issue the document.

(2) A GST registered supplier shall comply with a request under subsection (1) within 30 days of receiving the request.

(3) A request under subsection (1) cannot be made—

(a) for a GST invoice, more than 60 days after the date on which the supply occurred; or

(b) for a GST credit or debit note, more than 60 days after the GST adjustment event to which the credit or debit note relates.

Prohibitions.

35. (1) Only one original GST invoice may be issued for a taxable supply, but the person who issued the original shall upon request provide a copy clearly marked as such to a taxable recipient.

(2) Only one original GST credit or debit note shall be issued for a particular GST adjustment event in relation to a supply, but the person who issued the original shall upon request provide a copy clearly marked as such to a taxable recipient who

claims to have lost the original.

(3) It is an offence to issue a GST invoice, GST credit note or GST debit note in circumstances other than those specified in this Part.

Retention
of records.

36. The following documents shall be retained by a registered person for the purposes of Part XVIII:-

- (a) a copy of all GST invoices, GST credit notes, and GST debit notes issued by the person, maintained in chronological order;
- (b) all GST invoices, GST credit notes and GST debit notes received by the person, whether originals or copies;
- (c) all customs documentation relating to imports and exports of goods by the person; and
- (d) in relation to all imported services to which section 24 applies, sufficient written evidence as the Commissioner-General requires to identify the supplier and the recipient, and to show the nature and quantity of services supplied, the time of supply, the place of supply, the consideration for the supply, and the extent to which the supply has been used by the recipient for particular purposes;
- (e) any other prescribed records.

PART IX - GST RETURNS AND PAYMENTS

GST returns.

37. (1) A taxable person shall lodge a GST return for each tax period not later than the end of the month following the tax period.

(2) A GST return shall—

- (a) be lodged with the National Revenue

Authority;

- (b) be in the prescribed form, and
- (c) contain the information specified in that form.

(3) The Commissioner-General may, by notice in writing, require a person to file, whether on that person's own behalf or as agent or trustee of another person, such fuller or additional returns for a tax period as he requires, and such notice may be given even if the taxable person has not lodged a GST return for the period.

(4)⁷ Registered GST traders may file their GST returns and make payment of GST liabilities through an automated system administered by the National Revenue Authority.

Due date for
payment of GST.

38. (1) The GST payable by a taxable person to the National Revenue Authority under section 27 is due and payable by the due date for lodgement of the GST return for the tax period.

(2) The liability to pay an amount of GST arises by operation of this section and does not depend on the Commissioner-General making an assessment of the GST due.

(3) The grant of an extension of time or the grant of permission to pay GST due by instalments does not prevent a liability for interest arising under section 56 from the original date the GST was due for payment.

(4) If a taxable person is permitted by notice in writing by the Commissioner General, to pay GST by instalments and the taxpayer defaults on the payment of an instalment, the balance of the GST outstanding at the time of the default becomes immediately payable.

(5) For the protection of the revenue, if the Commissioner-General has reasonable grounds to believe that a taxable person intends to leave Sierra Leone before the due date for payment of an amount of GST, that GST may be treated to be due on any earlier date specified by the Commissioner-General by notice in

⁷ Subsection (4) inserted by s. 12 of the Finance Act 2015

writing to the taxable person.

GST payable
on imports.

39 (1) The Commissioner General —

- (a) shall collect the GST due under this Act on an import of goods at the time of import and shall at that time obtain the name and TIN, if any, of the importer, the import declaration, and the invoice values in respect of the import; and
- (b) may make arrangements for such functions to be performed his half in respect of imports through the postal services.

Cap 271. (2) An importer of goods is required, on entry of the goods into Sierra Leone, to furnish the National Revenue Authority with an import declaration according to the relevant provisions of the Customs Act and pay any GST due on the import.

Cap 271. (3) An import declaration required under subsection (2) shall—

- (a) be made in the form prescribed by the Customs Act; and
- (b) provide such information as is necessary to calculate the GST payable in respect of the import under the Customs Act.

Cap 271. (4) Except where the contrary intention appears, the provisions in the Customs Act relating to the import, transit, coastwise carriage and clearance of goods and the payment and recovery of duty, apply in relation to GST payable on a taxable import under this Act, so far as those provisions are relevant, and with such exceptions, modifications, and adaptations as are necessary for the purpose of collecting GST on taxable imports.

(5) The Commissioner-General may exercise any power

conferred on him by the Customs Act as if the reference to duty in that Act included a reference to GST charged under this Act on an import of goods.

Cap 271. (6) GST on the importation of goods shall be charged and payable as if it were a duty of customs on the goods under the relevant provisions of the Customs Act and the other relevant provisions relating to customs duty shall also apply to disputes and offences concerning GST on importation.

Due date for payment of GST on import.

40. (1) The GST payable by an importer to the National Revenue Authority in respect of a taxable import is due and payable at the time of the import.

(2) The liability to pay an amount of GST arises by operation of this section and does not depend on the making of an assessment of the GST due.

PART X - REFUNDS

Refunds.

41. (1) If the calculation under section 27 results in a negative amount of GST payable because the total input tax credits allowed in the tax period exceed the total output tax payable for the tax period—

(a) the excess is carried forward and allowed as an input tax credit in the following tax period and any remaining amount not credited in that period is carried forward to the next tax period, and this process continues until either—

(i) no amount remains; or

(ii) the amount or part of it, has been carried forward until taxable activity ceases, or deregistration is granted by the Commissioner-General;

and

- (b) any amount standing on credit at the time that the taxable activity ceases or deregistration is granted by the Commissioner-General, on application in the form and manner prescribed in Regulations to this Act shall be refunded to the person within 2 months after the date of the application.
- (c)⁸ notwithstanding subsection (1) of section 41, a GST refund or input GST credit shall be utilized to offset current and future GST claims within a three year period and unutilized GST credit shall be deemed ineligible and written off after the third year.

(2) If, in a particular tax period, a taxable person is allowed input tax credits because of more than one excess carried forward under subsection (1) from an earlier tax period, the excess credit from the earliest tax period is allowed first.

(3) Notwithstanding subsection (1), the Commissioner General shall refund an excess within 2 months after lodgement of the GST return for the tax period if, considering the person's turnover or predicted turnover from supplies made or to be made during the period of 12 months consisting of the current month, the previous 5 months, and the following 6 months—

- (a) 50 per cent or more of the person's turnover is from supplies that are zero-rated exports under the First Schedule; or
- (b) 50 per cent or more of the person's expenditure on inputs is from acquisitions or imports that relate to making supplies that are zero-rated exports under the First Schedule.

⁸ Paragraph (c) inserted by s. 13 of the Finance Act 2015

(4) A taxable person who has erroneously over declared or overpaid GST for a tax period may apply in writing to the Commissioner General for an input tax credit to the amount over declared or overpaid and, if the Commissioner-General is satisfied that the amount has been erroneously overpaid, he shall allow the person an input tax credit for that amount or for such other amount the Commissioner-General is satisfied was erroneously paid, in the tax period in which the Commissioner-General notifies the person in writing of his decision and such a decision shall be made within one month of the application and of sufficient information being supplied to the Commissioner-General to enable him to make a decision.

(5) An application under subsection (4) shall be made within 3 years from the end of the tax period to which the overpayment relates and the Commissioner-General shall make a decision in relation to the application within 30 days of the date of the application, unless on or before that time the Commissioner-General commences an audit of the taxable person in relation to that tax period.

(6) If there is an excess referred to in this section or a refund is payable to a person under this section, the Commissioner-General may apply the excess or refundable amount first towards the reduction of any arrears, interest or penalty payable by the person under this Act or against payment of any other taxes, levies or duties, including any interest or penalty, collected by the National Revenue Authority including any unpaid amounts under the repealed taxes.

(7) Notwithstanding anything in this section, if the amount of an excess to be refunded is less than Le 300,000 it shall continue to be carried forward into succeeding tax periods until it is reduced to nil or accumulates to an amount above Le 300,000.

(8) The Commissioner-General may authorise, subject to appropriate conditions and restrictions under this Act, the granting of a refund of part or all of the GST incurred in relation to a taxable acquisition or a taxable import made by-

(a) a non-profit body entitled to a refund of

GST paid under an agreement with the Government of Sierra Leone duly ratified by Parliament;

(b) a public international organisation, foreign government, or any other person to the extent that the organisation, government, or person is entitled to exemption from GST under an international assistance agreement duly ratified by Parliament;

Act No. 35 of 1961.

(c) a person to the extent provided under the Diplomatic Immunities and Privileges Act, 1961, an international convention having the force of law in Sierra Leone, or the principles of international law; or

(d) a diplomatic or consular mission of a foreign country established in Sierra Leone, relating to transactions concluded for the official purposes of such mission.

(9) A claim for a refund under subsection (8) shall be made in the prescribed form.

(10) Where the Commissioner-General does not pay a refund within the time required under this section, interest is payable by the Commissioner-General on the amount outstanding at the bank lending rate as determined by the Bank of Sierra Leone.

PART XI - ASSESSMENTS

Assessments.

42. (1) The Commissioner-General may make an assessment of the GST due to or payable by a taxable person if—

(a) the Commissioner-General is not satisfied as to the accuracy of a GST return lodged by the person;

- (b) the person fails to lodge a GST return as required under this Act; or
- (c) the person has been paid a refund or allowed an input tax credit under section 41.

(2) If a person, other than a taxable person, makes a supply of goods or services and represents that GST is charged on the supply, the Commissioner-General may make an assessment of GST payable by the person in relation to that supply as if the person were a taxable person and the supply were a taxable supply.

(3) If a taxable person makes a supply of goods or services and the supply is not a taxable supply or is a taxable supply charged with GST at the rate of zero percent, and in either case, the taxable person represents that a positive rate of tax is charged on the supply, the Commissioner-General may make an assessment of GST on that person as if the supply were a taxable supply.

(4) An amount assessed under subsection (2) or (3) is treated, for the purposes of this Act, as GST payable under this Act unless, in the case of an amount assessed under subsection (3), the taxable person reasonably believed that GST should have been applied at the positive rate and has subsequently refunded to the recipient of the supply the GST charged on the supply or has otherwise satisfied the Commissioner-General that the recipient was not disadvantaged and that the taxable person was not advantaged by the incorrect charging of GST.

(5) For the purposes of making an assessment under this section, the Commissioner-General may estimate the amount of GST payable by a person to the best of his judgement based on the information available to him and such an assessment shall be made within 2 months of sufficient information being available to the Commissioner General and no more than 6 months after the conclusion of an audit of the taxable person

(6) The Commissioner-General shall serve notice of an assessment on the person assessed, stating—

- (a) the date of the assessment, the reason for the assessment, the amount of GST

payable or refundable as a result of the assessment, and the basis on which that amount was determined;

- (b) the date on which any GST payable is due and payable, which shall not be more than 10 days after the date on which the notice is served; and
- (c) the time, place and manner of appealing the assessment.

(7) The Commissioner-General may, within the timeframe for an assessment under this section, amend the assessment by making such alterations or additions to the assessment as he considers necessary, and shall serve a notice of the amended assessment on the person assessed.

(8) An amended assessment is treated in all respects as an assessment under this Act.

(9) The Commissioner-General may not make an assessment, including an amended assessment—

- (a) in the case of an assessment under paragraph (a) of subsection (1), more than 3 years after the end of the tax period to which the assessment relates; or
- (b) in the case of an assessment under paragraph (c)⁹ of subsection (1), more than 3 years after the date on which the refund was paid or, if an input tax credit was allowed, more than 6 years after the end of the tax period in which the tax credit was allowed,

unless, in either case, the Commissioner General has reasonable grounds to believe that the taxable person committed fraud or wilful default in furnishing the return for the tax period or in applying for the refund.

⁹ Reference to paragraph (c) was substituted for reference to paragraph (b) by s.10(c) of the Finance Act 2011

(10) The Commissioner-General may make an assessment at any time if the assessment is made under paragraph (b) of subsection (1), subsection (2) or (3).

Act No.8
of 2000.

(11) Nothing in subsection (9) prevents the amendment of an assessment to give effect to a decision of the Board of Appellate Commissioners established by section 138 of the Income Tax Act, 2000 or a court

(12) Nothing in this section prevents any interest or penalty payable—

(a) in respect of GST assessed under paragraphs (b) and (c) of subsection (1) from being computed from the original due date for payment of the GST as determined under section 38;

(b) in respect of GST assessed under paragraph (c) of subsection (1) in relation to an application for a refund, from being computed from the date on which the refund was paid; or

(c) in respect of GST assessed under subsection (2) or (3), from being computed from the date on which payment of the GST would have been due under section 38 if the supply had been a taxable supply.

Assessment
of recipient.

43. (1) If a supplier has incorrectly treated a taxable supply as an exempt or zero-rated supply because of misrepresentation or fraud by the recipient of the supply and the supplier has established beyond reasonable doubt that it carried out due diligence to assure itself of the authenticity of the recipient's claim and to detect and prevent the fraud or misrepresentation, the Commissioner-General may assess the recipient of the supply for payment of the GST due in respect of the supply, including any interest or penalty payable as a result of the late payment of the GST, and the assessment is treated as an assessment of GST payable by the recipient for the purposes of this Act, whether or not the recipient is a taxable person.

(2) An assessment under subsection (1) shall be made to the best judgement of the Commissioner-General based on the information available to him and such an assessment shall be made within 2 months of sufficient information being available to the Commissioner General and no more than 6 months after the conclusion of an audit of the taxable person.

(3) The Commissioner-General shall serve notice of the assessment on the recipient which shall not be more than 30 days after the date on which the notice is served and specifying—

- (a) the date of the assessment, the reason for the assessment;
- (b) the amount of GST payable or refundable as a result of the assessment;
- (c) the date on which that GST is due and payable; and
- (d) the time, place and manner in which an appeal against the assessment may be made.

(4) Subsection (1) does not preclude the Commissioner General from recovering from the supplier the GST, interest or penalty due in respect of the supply and—

- (a) the Commissioner-General may recover part of the GST payable on the supply from the supplier and part from the recipient; but
- (b) the Commissioner-General shall not recover more than the total amount of GST, interest, and penalty payable in relation to the supply.

(5) If a supplier who incorrectly treated a taxable supply as an exempt or zero-rated supply because of misrepresentation or fraud by the recipient of the supply has paid to the Commissioner-General any amount of the GST, interest or penalty in respect of the supply, the supplier may seek to recover that amount from the recipient of the supply under civil law.

Negation of
tax benefit
from scheme

44. (1)

In this section-

(a) “scheme” includes a course of action and an agreement, arrangement, promise, plan, proposal or undertaking, whether express or implied and whether or not legally enforceable; and

(b) “tax benefit” includes—

(i) a reduction in the liability of a person to pay GST;

(ii) an increase in the entitlement of a person to an input tax credit, including an increase in an excess carried forward;

(iii) an entitlement to a refund;

(iv) a postponement of liability for the payment of GST;

(v) an acceleration of entitlement to a deduction for input tax;

(vi) any other benefit arising because of a delay in payment of tax or an acceleration of entitlement to a deduction for input tax;

(vii) anything that causes what is in substance and effect a taxable supply or import not to be a taxable supply or import; or

- (viii) anything that gives rise to an input tax credit entitlement for an acquisition or import that is in substance and effect an acquisition used or to be used for a purpose other than that of making taxable supplies.

(2) Notwithstanding anything in this Act, if the Commissioner-General is satisfied that a scheme has been entered into or carried out and —

- (a) a person has obtained a tax benefit in connection with the scheme in a manner that constitutes a misuse or abuse of this Act; and
- (b) having regard to the substance of the scheme, it would be concluded that the person or one of the persons who entered into or carried out the scheme did so for the sole or dominant purpose of enabling the person to obtain a tax benefit,

the Commissioner-General may determine the liability of the person who has obtained the tax benefit as if the scheme had not been entered into or carried out.

(3) For the purposes of determining a person's liability under subsection (2), and ensuring the prevention or reduction of the tax benefit, the Commissioner-General may do any of the following: —

- (a) treat a particular event that actually happened as not having happened;
- (b) treat a particular event that did not actually happen as having happened and, if appropriate, treat the event as-
 - (i) having happened at a particular time; and
 - (ii) having involved a particular action by a particular person;

(c) treat a particular event that actually happened as-

- (i) having happened at a time different from the time it actually happened; or
- (ii) having involved a particular action by a particular person (whether or not the event actually involved any action by that person).

(4) If the Commissioner-General makes a determination under subsection (2), he shall notify the person of his determination either by serving a notice of the determination on the person or by issuing an assessment to the person in relation to one or more tax periods.

(5) An assessment under subsection (4) shall be made to the best of his judgement based on the information available to him and such an assessment shall be made within 2 months of sufficient information being available to the Commissioner General and no more than 6 months after the conclusion of an audit of the taxable person.

(6) The Commissioner-General shall serve notice of the assessment on the recipient which shall not be more than 30 days after the date on which the notice is served and specifying—

- (a) the date of the assessment, the reason for the assessment;
- (b) the amount of GST payable or refundable as a result of the assessment;
- (c) the date on which that GST is due and payable; and
- (d) the time, place and manner of in which an appeal against the assessment may be made.

General provisions relating to assessments

45. (1) The original or a certified copy of a notice of assessment is receivable in proceedings as conclusive evidence that the assessment has been duly made and, except in proceedings in relation to the assessment under Part XVII, that the amount and all particulars of the assessment are correct.

(2) No assessment made, issued or executed under this Act may be—

(a) quashed or deemed to be void or voidable for want of form; or

(b) affected by reason of mistake, defect or omission in it,

if it is, in substance and effect, in conformity with this Act and the person assessed or intended to be assessed is designated in it according to common understanding.

PART XII - POWERS AND DUTIES OF THE COMMISSIONER-GENERAL

Powers and duties of Commissioner-General

46. (1) The Commissioner-General has the responsibility for the general administration of this Act and for carrying out its provisions.

(2) For the purposes of subsection (1), the Commissioner-General may subject to this Act, issue directives for the administration of the GST.

Secrecy.

47. (1) Except otherwise provided in this section, the Commissioner-General or a tax officer in carrying out this Act shall not—

(a) disclose to a person any matter relating to another person that may come to the Commissioner General's or a tax officer's knowledge in the exercise of his powers

or the performance of his duties under this Act; or

- (b) permit a person to have access to records or other information relating to a person or the taxable activities of a person in the possession or custody of the Commissioner-General, except in the exercise of the Commissioner-General's powers or the performance of the Commissioner – General's duties under this Act or by order of a court.

(2) Nothing in this section prevents the Commissioner-General from —

- (a) disclosing information to a person in the service of a revenue or statistical department of the Government so long as the disclosure is necessary for the performance of that person's official duties and the information disclosed does not identify a specific person; or
- (b) disclosing documents or information—
 - (i) if the disclosure is necessary for the purposes of this Act or another enactment;
 - (ii) if a person is authorised by an enactment to receive such information; or
 - (iii) if the information is disclosed to the competent authority of the government of another country with which Sierra Leone has entered into an agreement for the avoidance of double taxation or for the exchange of information, or mutual assistance to the extent permitted under that

agreement or under an enactment.

(3) A person receiving documents and information disclosed in accordance with subsection (2) shall keep them secret, except to the minimum extent necessary to achieve the purpose for which the disclosure was made.

(4) The Commissioner-General may use documents or information obtained in the performance of his duties under this Act for the purposes of any other enactment administered by the Commissioner-General.

(5) If a person consents in writing, information concerning that person may be disclosed to another person.

(6) The Commissioner-General may disclose information concerning the affairs of a person to a person claiming to be the taxpayer or the taxpayer's authorised representative but only after obtaining reasonable assurance of the authenticity of the claim.

Powers to
require
security.

48. (1) For the protection of the revenue or to secure payment of GST that is or may become due, the Commissioner-General may, by notice in writing, require a person to provide security in such amount and manner as the Commissioner-General thinks fit, by the date specified in the notice.

(2) A person who is required to give security under subsection (1) shall give the security in the amount and manner and on the date specified in the notice.

(3) If security has been given in cash and the Commissioner-General is satisfied that the security is no longer required, the Commissioner-General shall apply the amount of the security in the following order:—

- (a) first in the reduction of any interest or penalty payable by the person under this Act;
- (b) then against any GST due and payable by the person;
- (c) then against payment of any other taxes,

levies or duties collected by the National Revenue Authority, including any unpaid amounts under the repealed taxes,

and any amount remaining shall be refunded to the person who gave the security within 60 days of the Commissioner General being so satisfied.

(4) A decision under subsection (1) may be challenged only under Part XVII of this Act.

Power to seize goods.

49. (1) The Commissioner-General may enter a place and seize goods in respect of which the Commissioner-General has reasonable grounds to believe that GST that is or will become payable in respect of the supply or import of the goods has not been or will not be paid.

(2) Goods seized under subsection (1) shall be stored in a place approved by the Commissioner-General for that purpose.

(3) As soon as practicable and no more than 10 days after a seizure of goods under subsection (1), the Commissioner-General shall serve notice of the seizure on-

- (a) either the owner of the goods, the person who had custody or control of the goods immediately before seizure; or
- (b) if, after making reasonable enquiries, he cannot obtain sufficient information to identify a person referred to in paragraph (a), a person claiming the goods who provides sufficient information to enable the notice to be served, and if no person claims the goods, the Commissioner-General is not required to serve the notice;

(4) A notice under subsection (3) shall be in writing and shall-

- (a) identify the goods seized;

- (b) state that the goods have been seized under this section and the reason for the seizure; and
- (c) set out the terms of subsections (5), (6), and (7).

(5) The Commissioner-General may authorise the delivery of goods seized under subsection (1) to the person on whom a notice under subsection (3) has been served, if that person has, to the satisfaction of the Commissioner-General-

- (a) given or made an arrangement to give, security for payment of the GST under section 48 that is due or may become payable in respect of the supply or import of the goods; or
- (b) agreed to pay the GST that is due or may become payable in respect of the supply or import of the goods.

(6) If subsection (5) does not apply, the Commissioner-General may detain the goods seized under subsection (1) —

- (a) in the case of perishable goods, for such period as the Commissioner-General considers reasonable having regard to the condition of the goods; or
- (b) in any other case, for 60 days after the seizure of the goods,

and thereafter the Commissioner-General may sell the goods by public auction or in such other manner as determined by the Commissioner-General in the interest of the revenue.

(7) The proceeds of a disposal of goods under subsection (6) shall be applied as follows:—

- (a) first toward the cost of seizing, keeping and selling the goods;
- (b) then towards payment of—
 - (i) the GST due in respect of the supply or import of the

goods seized, including any interest or penalties on it;

- (ii) any GST and any other taxes or levies, including any interest or penalties on them, owed under any law under the administration of the Commissioner General; and

- (c) the balance, if any, shall be paid to the owner of the goods.

(8) Nothing in this section precludes the Commissioner General from proceeding under Part XVI with respect to any balance owed, if the proceeds of the disposal are not sufficient to meet the costs referred to in paragraphs (a) and (b) of subsection (7).

Seizure of assets for non-payment of tax.

49A.¹⁰ (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.

¹⁰ Section 49A inserted by s. 10(d) of the Finance Act 2011

(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.

Power to seal off premises.

50. (1) The Commissioner-General or an officer authorised in writing by the Commissioner-General may seal lock up or in any physical manner prevent any person from entering or gaining access to the premises of any person or taxable person who, there are reasonable grounds to believe has not paid the correct GST due or has made a false claim for refund of GST.

(2) An officer in the performance of his duties under this Act may seek the assistance of the police.

Delegation powers.

51.(1) The Commissioner-General may delegate in writing a duty, power or function conferred on him under this Act other than-

- (a) the power of delegation conferred by this subsection; and
- (b) the power to sanction prosecutions conferred by section 71.

(2) A delegation under this section does not prevent the exercise of such power, duty or function by the Commissioner-General himself.

(3) The Commissioner-General may, at any time, revoke in writing a delegation under this section.

PART XIII - BRANCHES, DIVISIONS, CURRENCY, ETC

Branches and divisions.

52. (1) Subject to subsection (4) of section 24 or as allowed by the Commissioner-General under this section, a taxable activity conducted by a taxable person in branches or divisions is a single taxable activity for the purposes of this Act.

(2) A person who conducts a taxable activity through one or more branches or divisions, each of which—

- (a) can be separately identified by reason of the nature or location of its business activity; and
- (b) maintains a separate system of accounting,

may apply in writing to the Commissioner-General for the branch or division to be separately registered.

(3) If an application is made under subsection (2), the Commissioner-General may separately register a branch or

division, and while that registration is in effect, except for purposes of subsection (2) of section 15-

- (a) the activities carried on through the branch or division are regarded as being carried on by a separate registered person and not by the person who made the application; and
- (b) this Act applies as if the branch or division were a separate person.

(4) Notwithstanding subsection (3), the obligations and liabilities of a branch or division that is separately registered fall on the person who applied for the branch or division to be separately registered.

(5) The Commissioner-General may, on the application of the person referred to in subsection (4) or of his own volition, cancel the separate registration of a branch or division.

Currency.

53. (1) An amount taken into account under this Act shall be expressed in the Leone.

(2) If an amount is expressed or paid in a currency other than the Leone—

Cap 271.

- (a) if the amount relates to an import of goods, it shall be converted into the Leone at the exchange rate applicable under the Customs Act for the purposes of computing the customs duty payable on the import; and
- (b) if no such provisions apply, and in any other case, the amount shall be converted to the Leone at the Bank of Sierra Leone mid-exchange rate applying between the foreign currency and the Leone on the date the amount is taken into account.

GST-inclusive or exclusive pricing.

54. (1) A price charged by a taxable person in respect of a taxable supply includes an amount representing the GST chargeable on that supply, whether or not the person included an amount for GST when determining the price or stated that the price included an amount for GST or otherwise took GST into account in setting the price.

(2) A price advertised or quoted by a taxable person in respect of a taxable supply shall include the GST payable on the supply and the advertisement or quotation shall also separately show the amount of the GST payable.

(3) A taxable person advertising or quoting a price may include a statement of the GST-exclusive price in the advertisement or quotation only if the GST-inclusive price is shown with equal or greater prominence.

(4) The Commissioner-General may, in relation to a taxable person or a class of taxable persons, approve another method of displaying prices for taxable supplies.

PART XIV - REGISTRATION AT COMMENCEMENT OF GST

Registration at commencement of GST.

55. (1) A person is required to apply to the Commissioner-General for registration under this Act not later than 2 months before the commencement date referred to in subsection (1) of section 1 if, considering the total value of supplies made or to be made by the person in the course or furtherance of the person's taxable activity, the person would have been required to apply for registration under section 15 on or before that date if this Act had come into operation 12 months before that date.

(2) A person who is not required to be registered under subsection (1) is required to apply for registration under this Act on any subsequent day before the date referred to in subsection (2) of section 1, if on that day paragraph (c) of subsection (1) of section 15 would have applied to that person if this Act had come in operation 12 months before that day.

(3) Notwithstanding section 16, if a person is required to apply for registration under subsection (1) or (2) the date of effect of the registration is the date of the coming into operation of this Act.

(4) If, prior to the date on which this section commenced—

- (a) a person purported to lodge an application for registration under this Act;
- (b) the Commissioner-General purported to register a person under this Act;
- (c) the Commissioner-General purported to issue a person with a TIN; or
- (d) the Commissioner-General purported to issue a GST registration certificate under this Act,

the application, registration, TIN or certificate, as applicable, is treated for all purposes as if it were made on the date of the commencement of this section.

(5) If the Commissioner-General is satisfied that a person was or is required to apply for registration under subsection (1) or (2) and the person has not applied for registration as required, the Commissioner-General may register that person with effect from the date on which the person would have been registered had it applied at the correct time under Part III, and notify that person within 30 days of the facts being established to the satisfaction of the Commissioner-General.

(6) In respect to a registration effected under subsection (5), the Commissioner-General may assess the GST payable by or refundable to the person with effect from the date of registration in the form and manner prescribed in section 42.

PART XV - INTEREST, PENALTIES AND OFFENCES

Interest on
late payments.

56. (1) A person who fails to pay GST payable to the National Revenue Authority under this Act by the due date for payment is liable for interest on the amount unpaid at the Bank of Sierra Leone lending rate calculated from the date the payment was due to the date the payment was or is made.

(2) Interest payable by a person under subsection (1) may be recovered by the Commissioner-General as if it were tax payable by the person.

(3) If a person has paid interest under subsection (1) and an amount to which the interest relates is later found not to have been payable, the interest paid on that amount shall be refunded to the person within 60 days.

(4) Interest payable under this section is in addition to penalty imposed under section 58.

General provisions
on payment
of penalties

57. (1) No penalty is payable under this Part by a person who has been compounded under section 87.

(2) If a penalty under this Part has been paid and the Commissioner-General institutes proceedings under this Part in respect of the same Act, the Commissioner-General shall refund the amount of the penalty paid, and the penalty is not payable unless and until the proceedings are terminated

(3) The Commissioner-General may make an assessment of a penalty charged under this Part as if the penalty were GST-payable and may specify the date on which the penalty is payable, which shall not be less than 10 days from the date on which the notice of assessment was issued.

(4) A notice of an assessment of a penalty imposed under this Part shall be served on the person subject to the penalty and shall state the amount of the penalty payable, the provision under which it is payable, and the due date for payment, and on service of the notice—

(a) the notice and the assessment are treated as if they were a notice and

assessment of GST payable under this Act;

- (b) the amount of the penalty specified in the notice is treated as GST payable under this Act; and
- (c) the due date for payment is the date specified in the notice.

(5) A person's liability to pay a penalty under this Part arises on the making of an assessment by the Commissioner-General under subsection (4).

(6) The time limit for assessing a penalty under this Part is-

- (a) if the amount of the penalty may be calculated by reference to the GST payable for a tax period, whether or not it has been calculated in that way, the same time limit as applies for assessing the GST to which the penalty relates; or
- (b) in any other case-

- (i) if the penalty is payable because the Commissioner-General has become aware of the act, within 3 years after the doing of the act;

- (ii) if the penalty is payable because of the failure to do an act, within 3 years after the Commissioner-General has become aware of such failure;

- (iii) if the penalty is payable because of the non-disclosure or incorrect disclosure by a person of information relating to that person's liability to GST for a tax period, within 3 years after the person's correct liability to GST has become final for that tax period.

(7) Where under this Part a penalty is payable for each day, month, or other period during which a particular state of affairs exists or continues, the penalty is payable in full for part of the day, month or other period in which the state of affairs commences, continues or ends.

(8) The Commissioner-General may, on application in writing by a person liable to pay a penalty under this Part, remit the penalty in whole or part if he is satisfied that there is good cause to do so. The application shall include the amount of penalty sought to be remitted and the reasons for the request.

(9) The Commissioner General shall with regard to any penalty remitted under subsection (8), notify the person who is the beneficiary of the remission, in writing of the reasons for and the amount of the remission. Where a person has applied in writing such remission shall be granted, or granted in part or denied by notice in writing within 60 days of receipt of the request for remission.

Failure to pay
GST by
due date

58. A person who fails to pay GST on or before the due date for payment is liable to a penalty equal to one-half of the Bank of Sierra Leone lending rate for each month in which the GST remains outstanding, until the payment is made.

Failure to apply
for registration
by due date.

59. A person who, being required to apply for registration under subsections (1), (4) and (5) of section 15 or section 56, does not do so, is liable to a penalty to be imposed by the Commissioner-General by notice in writing, that should other than in exceptional circumstances be not less than 10% and not more than 100% of the amount of GST payable by the person from the day on which the person was required to apply for registration until the person applies for registration or is registered by the Commissioner-General, whichever is earlier.

Failure to display registration certificate.

60.¹¹ (1) A person who fails to display GST Registration Certificate or a certified copy thereof issued by the Commissioner-General, whichever is applicable, as required by subsection (9) of section 16 is liable to a penalty of Le 5,000,000.00.

(2) A person who fails to display GST Registration Certificate seven days after a written notice is issued to such person by the Commissioner General, shall be liable to pay an additional Le 1,000,000.00 for each day he fails to display the Certificate.

(3) Where such failure is continued seven days after a written notice is issued under subsection (2), the person shall be liable on conviction to a fine of not less than Le 10,000,000.00 but not exceeding Le 20,000,000.00 or to imprisonment for a term of not less than six months but not exceeding 2 years or to both such fine and imprisonment.

Failure to notify changes affecting registration, etc.

61.¹² (1) A person who fails to notify the Commissioner-General of a change of name under subsection (10) of section 16 or cancellation of registration under subsection (1) of section 17 commits an offence and is liable to a fine of Le 5,000,000.00.

(2) Where such failure is connected with any tax evasion or fraud, that person shall on conviction be liable to a

¹¹ Section 60 repealed and replaced by s. 14 of the Finance Act 2015. Previously read “60. (1) A person who fails to display the person’s GST registration certificate or a certified copy thereof issued by the Commissioner-General, whichever is applicable, as required by subsection (9) of section 16 is liable to a penalty to be imposed by the Commissioner-General by notice in writing, of Le 100,000 for each day on which the failure occurs which shall not exceed 5 days, after written notice from the Commissioner-General of the failure. (2) Where such a failure is continued, the person may be liable on conviction to a fine not exceeding Le 5,000,000. or imprisonment for a term not exceeding 2 years or to both the fine and imprisonment”

¹² Section 61 repealed and replaced by s. 15 of the Finance Act 2015. Previously read “61. (1) A person who fails to comply with subsection (10) of section 16 or subsection (1) of section 17 commits an offence and is liable on conviction to a fine not exceeding Le 5,000,000 or to a term of imprisonment not exceeding one year or to both the fine and imprisonment (2) Where such a failure is connected with any tax evasion or fraud, that person shall on conviction be liable to a fine not exceeding Le 10, 000,000 or if greater up to 100% of the tax sought to be evaded, or to a term of imprisonment not exceeding 2 years or to both the fine and imprisonment”

fine not exceeding Le 20,000,000.00 or 100% of the tax evaded, whichever is greater or to imprisonment for a term of not less than 1 year but not exceeding 2 years or both such fine and imprisonment.

GST invoice
credit note, etc.

62. (1)¹³ A person who fails to pay the tax on or before the due date is liable to a penalty not exceeding Le 5,000,000.00 or an additional 15% of GST due, whichever is greater.

(2) Where the failure to pay tax under subsection (1), is connected with any tax evasion or fraud, including-

(a) the issue of GST invoice, GST credit note, GST debit note or sales receipt that is false in a material particular; or

(b) the submission of GST invoice, GST credit note, GST debit note under Part VIII or sales receipt under subsection (3) of section 31,

commits an offence and is liable on conviction to a fine of not less than Le 25,000,000.00 but not exceeding Le 50,000,000.00 or to imprisonment for a term of not less than 1 year but not exceeding 2 years or to both such fine and imprisonment.

(2) A supplier is not liable under subsection (1) only because information relating to the recipient of the supply, which was relevant to the issue of or required to be included in, the GST

¹³ Subsection (1) repealed and replaced by new subsections (1) and (2) by s. 16 of the Finance Act 2015. The amendment does not take account of the existing s.62(2). S.62(1) previously read “(1) A person is liable to a penalty not exceeding the greater of Le 200,000 or 15% of the GST that it failed to pay to be imposed by the Commissioner-General by notice in writing, or, where the failure is connected with any tax evasion or fraud, shall be liable on conviction to a fine not exceeding Le 5,000,000 if the person-

(a) issues a GST invoice, GST credit note, GST debit note or sales receipt that is false in a material particular; or

(b) provides or fails to provide, a GST invoice, GST credit note, GST debit note or sales receipt otherwise than as provided in Part VIII.

Subsection (1) was also previously amended by s. 42 of the Finance Act 2013 which deleted the words “or to imprisonment for a term not exceeding one year, or to both the fine and imprisonment” after the amount “Le 5,000,000”

invoice, debit or credit note or sales receipt (including information about the registration status or TIN of the person) was incorrect, If the person, having exercised reasonable care, believes on reasonable grounds that the information relating to the recipient was accurate.

(3)¹⁴ A GST registered person who issues a GST invoice that is not printed in accordance with subsection (3) of section 31, unless the registered person is authorised by the Commissioner-General in writing to print its own GST invoice containing the prescribed information, is liable to a penalty of Le 5,000,000 for each GST invoice issued.

Failure to file
return by
due date.

63. A person who fails to file a GST return by the due date is liable to a penalty equal to the greater of-

(a) Le 1,000,000; or

(b) 5 per cent of the GST payable for the period to which the return relates,

for each month in which the return remains outstanding, until the return is filed or an assessment is issued in respect of the period to which the return relates.

¹⁴ Subsection (3) inserted, immediately after subsection (2), by s.17 Finance Act 2016. However, the FA 2016 fails to take account of the earlier amendments in FA 2015 resulting in two subsections numbered (2). This subsection should have been inserted as (4).

Failure to comply with notice for recovery of GST.

64. A person who fails to comply with a notice issued under this Act in relation to an amount of GST payable under this Act is liable to a penalty not exceeding 25 per cent of the amount sought to be recovered from the person.

Failure to keep reliable records.

65. A person who fails to maintain proper records as required by section 36 or 95 is liable to a penalty equal to the greater of—

- (a) Le 2,000,000; or
- (b) 50% of the GST assessed by the Commissioner-General according to the best information available to him for that period.

Failure to provide facilities.

66. A person who fails to provide a tax officer with reasonable facilities and assistance as required by subsection (4) of section 97 is liable to a penalty equal to the greater of—

- (a) Le 2,000,000; or
- (b) 10% of GST assessed by the Commissioner-General according to the information available to him.

Failure to comply with notice to give information.

67. A person who fails to comply with a notice issued under subsection (1) of section 96 within the specified time is liable to a penalty not less than Le 500,000 and not exceeding Le 5,000,000.

Non-compliance with GST-inclusive price quotation requirement

68. A person who contravenes the requirements of section 54 in relation to the advertising or quotation of prices for taxable supplies is liable for—

- (a) an initial penalty of Le 500,000; and
- (b) a further penalty of Le 100,000 for each day the breach continues after the person has received a written warning from the

Commissioner-General to correct the breach.

Penalty for making false or misleading statements.

69. (1) A person who makes a statement to the Commissioner-General that is false or misleading in a material particular is liable to a penalty, if an amount of GST payable by the person under this Act exceeds the amount of GST that would be payable if the person were assessed on the basis that the statement were true.

(2) The amount of the penalty for which the person is liable under subsection (1) is the greater of Le 500,000 and—

- (a) if an amount of GST payable by the person would have been less if it were determined on the basis of the information provided in the statement, the amount by which that amount would have been so reduced; or
- (b) in a case where the amount of a refund of GST that the person applied for would be increased if it were determined on the basis of the information provided in the statement, the amount by which that amount would have been so increased.

(3) No penalty is imposed under this section if in the opinion of the Commissioner-General the person who made the statement did not know and could not reasonably be expected to know that the statement was false or misleading in a material particular.

(4) A reference in this section to a statement made to a tax officer includes a reference to a statement made orally, in writing or in any other form to that officer acting in the performance of the officer's duties under this Act, and includes a statement made—

- (a) in an application, certificate, declaration, notification, return, objection, or other document made, prepared, given, filed, lodged, or furnished under this Act;
- (b) in any information required to be furnished under this Act;

(c) in a document furnished to a tax officer otherwise than pursuant to this Act;

(d) in an answer to a question asked of a person by a tax officer; or

(e) to another person with the knowledge or reasonable expectation that the statement would be conveyed to a tax officer.

(5) A reference in this section to a statement that is misleading in a material particular includes a reference to a statement that is misleading because of the omission of any matter or thing from the statement.

Penalty for unauthorised collection of GST.

70. A person, whether a taxable person or not who unlawfully charges and collects GST commits an offence and is liable on conviction to a fine not exceeding ten times the amount of tax or revenue involved in the commission of the offence or to a term of imprisonment not exceeding 5 years or to both the fine and imprisonment.

Sanction for prosecution.

71. (1) Subject to the powers of the Director of Public Prosecutions under the Constitution of Sierra Leone, 1991 no criminal proceedings in respect of an offence under this Act may be commenced except with the sanction of the Commissioner-General.

Act No. 6 of 1991

Time limit for proceedings to be taken.

72. Proceedings under this Part may be commenced—

(a) if the offence alleged has involved the doing of an act, within 3 years after the Commission-General has become aware of the doing of the act;

- (b) if the offence alleged has involved the failure to do an act, within 3 years after the Commissioner-General has become aware of such failure; or
- (c) if the offence alleged has involved the non-disclosure or incorrect disclosure by a person of information relating to that person's liability to GST for a tax period, within 6 years after the person's correct liability to GST has become final for that tax period.

Failure to apply for registration.

73. (1) A person who is required to apply for registration under subsection (1), (4) or (5) of section 15 or section 55 and does not do so commits an offence and is liable on conviction to a fine not exceeding Le 5,000,000 or to a term of imprisonment not exceeding one year or to both the fine and imprisonment.

Offences on cancellation of registration.

74. A person who fails to comply with paragraphs (a), (b) or (c) of subsection (8) of section 17 commits an offence and is liable on conviction to a fine not exceeding Le 5,000,000 or to a term of imprisonment not exceeding one year or to both the fine and imprisonment.

Tax evasion.

75. (1) A person who is knowingly concerned in or taking steps with a view to, the fraudulent evasion of GST by him or any other person, commits an offence and is liable on conviction to a fine not exceeding the greater of Le 5,000,000 or 100 per cent of the GST evaded or sought to be evaded or to imprisonment for a term not exceeding one year or to both the fine and imprisonment.

(2) The amount of any assessment issued as a result of audit of the accounts of taxable person by the Commissioner-General shall include interest, and where the Commissioner General can demonstrate by notice in writing that he has reasonable grounds to suspect that any or all of the GST underpaid or over claimed is as a result of a deliberate act of evasion, penalties calculated in accordance with section 58 from the date on which the liability arose to the date of issuance of the assessment shall apply.

(3) An assessment made under subsection (2) is recoverable by the Commissioner-General as a tax payable by the person.

Impeding tax administration.

76. (1) A person who impedes or attempts to impede the Commissioner-General in the administration of this Act commits an offence and is liable on conviction to a fine not exceeding Le 5,000,000 or to imprisonment for a term not exceeding 6 months or to both the fine and imprisonment.

(2) A person impedes the administration of this Act if the person-

- (a) fails to comply with a lawful request by a tax officer to examine documents, records or data within the control of the person;
- (b) fails to comply with a request by the Commissioner-General to have the person appear before a tax officer authorised by the Commissioner-General;
- (c) interferes with the lawful right of a tax officer to enter onto a business premises or a dwelling unit; or
- (d) otherwise impedes the determination, assessment or collection of GST.

Failure to preserve secrecy.

77. A person who contravenes section 47 commits an offence and is liable on conviction to a fine not exceeding Le 2,000,000 or to imprisonment for a term not exceeding 6 months or to both the fine and imprisonment.

Improper claim of refund.

78. A person who claims a refund under section 41 that is false in a material particular commits an offence and is liable on conviction to a fine —

- (a) not exceeding 300 per cent of the amount of the refund improperly claimed; or
- (b) to imprisonment for a term not exceeding 5 years,

or to both the fine and imprisonment.

Offences by
tax officer.

79. The Commissioner-General or any delegated officer or employee of the National Revenue Authority who, in the administration of this Act —

- (a) directly or indirectly asks for or takes, a payment or reward, whether pecuniary or otherwise or a promise or security for such payment or reward, not being a payment or reward which the officer was lawfully entitled to receive; or
- (b) enters into or acquiesces in an agreement to do, abstain from doing, permit, conceal or connive at an act or thing that is contrary to this Act or to the proper execution of the officer's duty or that has the effect that the tax revenue is or may be defrauded,

commits an offence and is liable on conviction to—

- (a) a fine equal to the greater of—

(i) Le 2,000,000; or

(ii) 200 per cent of the amount involved in such offence; or

(b) to imprisonment for a term not exceeding 5 years or to both the fine and imprisonment.

and the Court may in addition to imposing a fine, order the convicted person to pay to the National Revenue Authority the amount of GST that has not been paid as a result of the officer's wrongdoing and which cannot be recovered from the person liable for the GST.

Failure to pay security.

80. A person who is required to pay security but does not pay it within the time specified for payment commits an offence and is liable on conviction to a fine not exceeding Le 10,000,000 or to a term of imprisonment not exceeding 2 years or to both the fine and imprisonment.

Offences under Regulations.

81. Regulations may prescribe specific offences for breach of the Regulations, and for the penalties for such breaches, but such penalties shall on conviction not exceed a fine of Le 10,000,000 and imprisonment for a term of 2 years.

Offences by companies.

82. (1) If an offence under this Act has been committed by a company, every person who at the time of the commission of the offence —

(a) is a director or other authorised officer of the company; or

(b) is acting or purporting to act in such capacity,

is deemed to have committed the offence.

(2) Subsection (1) does not apply if —

(a) the offence was committed without the person's consent or knowledge; and

- (b) the person exercised all such diligence to prevent the commission of the offence as ought to have been exercised having regard to the nature of the person's functions and all the circumstances.

Aiding and abetting

83. A person who aids, abets, assists, counsels, incites or induces the commission of an offence under this Act commits that offence and is liable to the same penalties as the person committing the offence.

Falsification and alteration of documents.

84. A person who-

- (a) forges, falsifies or knowingly uses a forged or falsified certificate or other document required by or under this Act or by or under the directions of the Commissioner-General or any instrument used in the transaction of any business or matter relating to GST;
- (b) alters any document or instrument relating to GST after it has been officially issued or forges the seal, signature, initials or other mark of or used by any tax officer for the verification of any document or instrument or for the security of the tax or relating to GST or any other tax payable under this Act; or
- (c) on any document or instrument required for the purposes of this Act forges or imitates the seal, signature, initials or other mark of or made use of by any other person whatsoever, whether with or without the consent of that person,

commits an offence and is liable on conviction to a fine not exceeding Le 5,000,000 or if greater, up to 100% of the revenue resulting from the forgery or to a term of imprisonment not

exceeding 5 years or to both the fine and imprisonment; and any goods involved in the commission of the offence shall be forfeited to the State.

Breaking sealed premises.

85. A person who breaks the seal on any sealed premises without the authorisation of the Commissioner-General commits an offence and is liable on conviction to a fine not exceeding Le 5,000,000 or to a term of imprisonment not exceeding 2 years or to both the fine and imprisonment.

Impeding tax administration.

86. A person who wilfully impedes or attempts to impede the Commissioner-General in the administration of this Act commits an offence and is liable on conviction to a fine not exceeding Le 5,000,000 or to imprisonment for a term not exceeding 2 years or to both the fine and imprisonment.

Compounding of offences.

87. (1) If a person has been charged with an offence or offences under this Part, other than an offence under section 78 or 80, the Commissioner-General may, at any time before to the commencement of the hearing by a Court of the proceedings relating thereto, compound the offence, in lieu of criminal proceedings and order the person to pay as penalty such sum of money as specified by the Commissioner-General, not exceeding the maximum amount of the fine prescribed for the offence, provided the person admits the offence in writing.

(2) The Commissioner-General may compound an offence under this section only if the person concerned requests the Commissioner-General in writing to do so.

(3) If the Commissioner-General compounds an offence, the order referred to in subsection (1) shall —

(a) be in writing and have attached to it the written request described in subsection (2);

(b) specify —

(i) the offence alleged to have been committed;

(i) the sum of money to be paid; and

(ii) the due date for the payment;

(c) be served on the person who allegedly committed the offence or offences; and

(d) be final and not subject to appeal.

(4) If the Commissioner-General compounds an offence, the offender is not liable for prosecution or penalty in respect of that offence or offences as long as the sum to be paid has been paid in full and within the agreed time period.

(5) The Commissioner-General's power under this section is subject to the powers of the Director of Public Prosecutions under the Constitution of Sierra Leone, 1991 and the Commissioner-General shall give the Director of Public Prosecutions a copy of the order described in subsection (3) at the time it is served on the taxpayer.

(6) The amount ordered to be paid under subsection (1) is recoverable as if it were GST due and payable under this Act.

Act No.
6 of
1991.

PART XVI - COLLECTION AND RECOVERY OF GST

Recovery
of GST.

88. (1) GST that is due and payable is a debt owed to the Government of Sierra Leone and is payable to the National Revenue Authority.

(2) For the purpose of enforcing payment of any liability under this Act, the Commissioner-General may publish in the *Gazette* or otherwise, details of each defaulter and the defaulter's debt.

(3) GST that has not been paid when it is due and payable may be sued for and recovered in a court by the Commissioner-General.

(4) In any suit under this section, production of a certificate signed by the Commissioner-General giving the name and address of the defendant and the amount of tax, interest and penalty due, shall be *prima facie* evidence of the amount of tax, interest and penalty owed by the defendant.

(5) If the Commissioner-General is unable after making every reasonable effort, to recover an amount of GST, interest or penalty due and payable by a person under this Act, the Minister may, on approval by Cabinet, order the extinguishment of the liability as a debt due to Sierra Leone, but the Commissioner-General may extinguish a debt of an amount not exceeding Le 50,000,000 without the approval of Cabinet subject to such conditions as may be prescribed.

(6) If the Commissioner-General determines that a person whose debt was extinguished under subsection (5) has assets that may be attached to recover all or part of the unpaid amounts, the liability for the debt may be reinstated by an order under subsection (5).

(7) The Commissioner-General may elect to recover GST due on imports under the Customs Act including procedures for recovery of customs duty.

Allocation of payments.

89. If, in addition to an amount of GST which is due and payable by a person under this Act, an amount of interest or penalty is payable, a payment made by the person in respect of the GST, interest or penalty which is less than the total amount due shall be applied in the following order:—

- (a) first, to reduce the amount of interest due and payable;
- (b) then, to the extent that the payment exceeds the amount of interest, to reduce

the amount of penalty due and payable;
and

- (c) then, to the extent that the payment exceeds the sum of the penalty and interest, to reduce the amount of GST due and payable.

Garnishment

90. (1) Where any tax, penalty or interest is due and payable by a person, the Commissioner-General may order by notice in writing-

- (a) any individual or business from whom any money is due or is accruing or may become due to the taxable person; or
- (b) any individual or business that holds or may subsequently hold money for or on account of the taxable person including banks and other financial institutions,

to pay to the National Revenue Authority the money or so much of it as is sufficient to discharge the tax, interest or penalty due and payable.

(2) In any notice under this section, the Commissioner-General shall provide the reasons for the order, the amounts and periods for which the tax is due and a date for payment, which shall not be less than 10 days from the date of the order.

Recovery of GST
from persons
leaving Sierra
Leone.

91. (1) If for the protection of the revenue the Commissioner-General informs the Director of Immigration in writing-

- (a) that a person has an outstanding liability to GST and that the person has failed to pay the tax by the due date; or
- (b) that in the opinion of the Commissioner-General a person will have a liability to GST and that the person will not pay the GST due by the due date; and

- (c) that he has reasonable grounds to believe that the person concerned is seeking to avoid the payment of the GST,

the Director of Immigration shall prevent the person from leaving Sierra Leone for a period of 72 hours from the issuance of the notice, unless the person—

- (i) makes payment of the GST at issue in full;
- (ii) arranges for the payment of the GST at issue which is satisfactory to the Commissioner-General; or
- (iii) provides security for the GST at issue which is satisfactory to the Commissioner-General.

(2) Upon application by the Commissioner-General, the court may extend the period of 72 hours referred to in subsection (1).

PART XVII - OBJECTIONS AND APPEAL

Reviewable
decisions

92. The following decisions made under this Act are reviewable decisions:—

- (a) a decision under section 16 to register or not to register a person under this Act, including a decision in relation to the date of commencement of registration;
- (b) a decision under section 17 to cancel or not to cancel a person's registration under this Act, including a decision in relation to the date of cessation of registration;
- (b) a decision under section 29 to allow or not

allow an input tax credit to a registered person, including a decision as to the amount of any input tax credit allowed;

- (c) a decision under section 31 to authorise or disallow a taxable person to print and issue its own-generated GST invoice;
- (d) a decision under subsection (3) of section 37 to require a person to lodge fuller or additional returns;
- (e) a decision under section 41 not to pay a refund or allow an input tax credit;
- (f) ¹⁵ the issue of an assessment under section 42(1)(a) and (c);
- (h) a decision under section 44 to make a determination in relation to a taxpayer's liability for an amount;
- (i) a decision under section 48 to require a person to give security;
- (j) a decision under section 57 to approve or reject a request for remission of penalties;
- (k) a decision under subsection (9) of section 57 not to remit a penalty or a decision to remit the penalty only in part;
- (l) a decision under section 100 to appoint a person as a representative of a taxable person;
- (m) a decision on liability or tax treatment of a supply.

(2) Regulations may amend subsection (1).

¹⁵ Paragraph (f) repealed and replaced by s. 10(e) of Finance Act 2011. Previously read “(f) the issue of an assessment under Part XI”

Objections to reviewable decisions.

93. (1) A person may, by notice in writing to the Commissioner-General, lodge a notice of objection to a reviewable decision requesting the Commissioner-General to reconsider his decision.

(2) A notice of objection under subsection (1) shall be given to the Commissioner-General within 30 days after the date of service of the notice of assessment or the date on which the decision was made, whichever is applicable or within such further time as the Commissioner-General for good cause allows.

(3) An objection relating to assessment under subsection (1) is valid only if the objector pays 50 percent of the amount assessed, or on application in writing by the objector, such lesser amount, including nil, as the Commissioner-General deems to be appropriate taking account of the circumstances.

(4) The Commissioner-General shall consider a valid objection made under subsection (1) and may disallow or allow it, either wholly or in part, and shall inform the objector of his decision by notice in writing within 90 days after receipt of the objection, and of any effect that decision has on the amount of GST payable by the objector.

(5) If, within 90 days of the date on which a request was made to the Commissioner-General under subsection (2), the Commissioner-General has not served notice of his decision to the objector, whether because no decision has been made or because a decision has been made but has not been notified to the objector, the Commissioner-General is deemed to have disallowed the objection and for this purpose a notice of the disallowance is deemed to have been served on the person 7 days after the expiration of the 90-day period.

(6) If, within the timeframe allowed by subsection (2), a person lodges an objection against an assessment or other decision of the Commissioner-General which has the effect that an amount is payable by the person to the National Revenue Authority, except for assessments based on mathematical errors, the person's obligation to pay 50 percent of the amount assessed is suspended until notice of the Commissioner-General's decision on the objection is served on the person.

(7) Nothing in this section alters the way in which interest accrues on an amount payable or changes the date from which interest would otherwise begin to accrue.

Appeal to Board of Appellate Commissioners or Court.

Act No. 8 of 2000.

94. (1) A person may appeal a reviewable decision to the Board of Appellate Commissioners (hereafter referred to as "the Board") established under section 138 of the Income Tax Act, 2000 and, for the purpose of hearing and deciding the appeal, section 143 of that Act shall apply, to the extent relevant to the hearing and determination of appeals under this Act.

(2) A party to a proceeding before the Board who is dissatisfied with decision of the Board may, within 60 days of the decision appeal to the High Court.

Act No. 8 of 2000.

(3) The provisions of the Income Tax Act relating to appeals apply to appeals pursuant to subsections (1) and (2) in the same manner as they apply to appeals under the Income Tax Act, 2000.

PART XVIII - RECORD KEEPING AND INFORMATION COLLECTION

Maintenance of accounts and records

95. (1) Every taxable person shall maintain in Sierra Leone such accounts, documents, and other records, including records referred to in section 36 as required under this Act or under any other enactment dealing with the administration of this Act and such accounts, documents, and records shall be maintained by the taxpayer for 6 years after the end of the tax period to which they relate.

(2) In respect of the records to be kept under subsection (1), a taxable person shall not destroy any book, document, account or record which is less than 6 years old, without the written permission of the Commissioner-General.

(3) Any permission granted under subsection (2) shall specify the book, document, account or records to which the permission relates and the grounds on which the permission was granted.

(4) Upon an application being made under subsection (2) the Commissioner-General may, within 60 days after the receipt of the application examine the books, documents, accounts and records to which the application relates as a necessary requirement for approval.

(5) Accounts, documents and other records referred to in subsection (1) may be recorded in any form, whether or not legible to the naked eye, according to the prescribed conditions.

Power to require provision of information

96. (1) The Commissioner-General or any tax officer authorised by the Commissioner-General may, for the purposes of administering this Act, by notice in writing, require a person to —

- (a) furnish, within the time specified in the notice, which shall not normally be less than 7 days after the date of the notice, information that may be required by the notice; or
- (b) attend, at the time and place designated in the notice, which shall not normally be less than 7 days after the date of the notice, to be examined on oath by the Commissioner-General or a tax officer authorised in writing by the Commissioner-General, concerning the tax affairs of that person or another person, and for that purpose the Commissioner-General or the authorised tax officer may require the person examined to produce a book, record, or computer-stored information under the control of the person.

(2) A notice issued under this section shall be served on the person to whom it is directed or left at his last known or usual place of business or abode and a certificate of service signed by the person serving the notice is evidence of the facts stated in the certificate.

(3) For purposes of this section, the Commissioner-General -

- (a) is entitled to have at all times and without notice, full and free access to any premises, place, book, record, computer or electronic storage devices;
- (b) may make an extract or copy from any book, record or computer-stored information to which access is obtained under paragraph (a);
- (c) may seize any book or record that, in the opinion of the Commissioner-General or

tax officer authorised by him, affords evidence which may be material in determining the liability of any person to tax or a penalty under this Act;

- (d) may retain any book or record seized under paragraph (c) for as long as it may be required for determining a person's liability or for any proceeding under this Act; and
- (g) may, where a hard copy or information stored on a computer is not provided, seize and retain the computer for as long as is necessary to copy the information required.

(4) Where powers are exercised under subsection (3) the Commissioner General shall provide at the time of the seizure of books records or evidence or as soon as is reasonably practicable after the seizure a receipt to the person from whom the seizure was made or their representative a receipt providing details of the items seized.

(5) Powers provided under subsection (3) may be exercised only during ordinary business hours, unless the Commissioner-General determines that the collection of tax is in jeopardy and that their exercise outside ordinary business hours is necessary to protect the collection of the tax.

(6) The owner, manager or any other person on the premises or place entered or proposed to be entered under this section shall provide all reasonable facilities and assistance for the effective exercise of a power under this section.

(7) A person whose books, records or computer have been removed and retained under subsection (3) may examine them and make copies or extracts from them during ordinary business hours under such supervision as the Commissioner-General may determine.

(8) This section has effect notwithstanding —

- (a) any enactment relating to privacy, privilege or the public interest with

respect to the giving of information or the production of books, records, or computer-stored information; or

- (b) any contractual duty of confidentiality.

Power to enter and search.

97. (1) If the Commissioner-General has reasonable grounds to suspect a breach of this Act has or will occur and for the purposes of investigating the suspected breach the Commissioner-General or a tax officer authorised in writing by the Commissioner-General—

- (a) shall, at all times and without notice, have full and free access to any premises, place, property, book, record, computer or electronic storage devices;
- (b) may make an extract or copy of a book, record or computer-stored information to which access is obtained under paragraph (a);
- (c) may seize a book, record or other document that, in the opinion of the Commissioner-General or authorised tax officer, affords evidence that may be material in determining the GST liability of a taxpayer;
- (d) may retain a book, record or other document seized under paragraph (c) for as long as it may be required for determining a taxpayer's GST liability or for a proceeding under this Act; and
- (e) may, if a hard copy or electronic copy of information stored on a computer or electronic storage device is not provided, seize and retain the computer or the device for as long as is necessary to copy the information required.

(2) A tax officer is not entitled to enter or remain on premises or a place if on request by the owner or lawful occupier the officer is unable to produce the Commissioner-General's

written authorisation permitting the officer to exercise the powers under subsection (1).

(3) The Commissioner-General may request police officers or other persons authorised by him to be present for the purposes of exercising powers under this section.

(4) The owner or lawful occupier of the premises or place to which an exercise of power under subsection (1) relates shall provide all reasonable facilities and assistance to the Commissioner-General or authorised tax officer.

(5) A person whose books, records or electronic storage devices have been seized under subsection (1) may examine them and make copies, at his expense, during office hours.

(6) The Commissioner-General or authorised officer shall provide a receipt in duplicate, the original to be retained by the person, for all records, books or computers removed and retained under this section and he shall return them to the person from whom they were removed or retained, or the person's representative or the owner within 14 days of the conclusion of the audit, investigation or related proceedings.

(7) This section has effect notwithstanding —

- (a) any enactment relating to privacy, privilege or the public interest with respect to access to premises or places or the production of property, books, records or computer-stored information; or
- (b) any contractual duty of confidentiality.

Translation of records

98. If a book, record, or computer-stored information referred to in this Act is not in English, the Commissioner-General may, by notice in writing, require the taxable person keeping the book, record, or computer-stored information to provide, at the person's expense, a translation into English.

PART XIX - TAXPAYER IDENTIFICATION NUMBER (TIN)

Taxpayer
Identification
Number (TIN).

99. (1) The Commissioner-General shall issue to every registered person a unique Taxpayer Identification Number (TIN), which number may be the same as or related to the number, if any, used to identify the person for the purposes of income tax, customs duty, sales tax or non-tax revenue or any other transactions with the National Revenue Authority.

(2) Every taxable person shall include its TIN in a return, notice or other document prescribed by or used for the purposes of this Act.

(3) A person whose registration is cancelled under this Act and who is later re-registered shall, be required to use its previous TIN unless the Commissioner-General by notice in writing directs otherwise.

PART XX - APPOINTMENT OF REPRESENTATIVES

Power to appoint representatives.

100. (1) The Commissioner-General may, by notice in writing, appoint an individual to be a representative of a person for the purposes of this Act.

Liabilities and obligations of representatives.

101.(1) Every representative of a person is responsible for performing duties or obligations imposed by this Act on that person, including the payment of amounts due and payable under this Act.

(2) Subject to subsection (4), an amount that, by virtue of subsection (1), is payable by a representative of a person is recoverable from the representative only to the extent of assets, if any, of the person that are in the possession or under the control of the representative.

(3) Every representative is personally liable for the payment of amounts due by the representative in that capacity if, while the amounts remain unpaid, the representative—

- (a) alienates, charges or disposes of money received or accrued in respect of which the amount is payable; or
- (b) disposes of or parts with money or funds belonging to the person that are in the

possession of the representative or which come to the representative after the amount is payable, if such amount could legally have been paid from or out of, the money or funds.

(4) Nothing in this section relieves a person from performing duties or obligations imposed on the person by this Act that the representative of the person has failed to perform.

(5) If there are two or more representatives of a person, the duties or obligations referred to in this section apply jointly and severally to the representatives but may be discharged by any of them.

Duties of receivers.

102. (1) In this section, “receiver” means a person who, with respect to an asset in Sierra Leone is —

- (a) a liquidator of a company;
- (b) a receiver appointed out of court or by a court;
- (c) a trustee for a bankrupt person;
- (d) a mortgagee in possession;
- (e) an executor of the estate of a deceased person; or
- (f) any other person conducting business on behalf of a person who is legally incapacitated.

(2) A receiver shall notify the Commissioner-General in writing within 14 days after the earlier of being appointed to the position or taking possession of an asset of a person liable to GST in Sierra Leone.

(3) The Commissioner-General may in writing, notify a receiver of the amount which appears to the Commissioner-General to be sufficient to provide for GST which is or will become payable by the person whose assets are in the possession of the receiver.

(4) A receiver —

- (a) shall set aside, out of the proceeds of sale of an asset, the amount notified by the Commissioner-General under subsection (3) or such lesser amount as is subsequently agreed on by the Commissioner-General;
- (b) is liable to the extent of the amount set aside for the GST payable by the person who owned the asset.

(5) A receiver is personally liable to the extent of an amount required to be set aside under subsection (4) for the GST referred to in subsection (3) if, and to the extent that, the receiver fails to comply with the requirements of this section.

Directors of companies.

103. (1) If a company fails to pay an amount required to be paid by this Act, the persons who were directors of the company at the time the company was required to pay the amount are jointly and severally liable, together with the company, to pay that amount and any interest on the amount and penalties relating to it.

(2) A director of a company is not liable for a failure under subsection (1) if the director exercised that degree of care, diligence and skill to prevent the failure which a reasonably prudent person would have exercised in comparable circumstances.

(3) A director of a company may not be assessed for an amount under this section more than 3 years after the end of the tax period in which the import, supply or GST adjustment event to which the amount relates occurred or in the case where an assessment had been made, not more than 3 years after the date of the assessment.

(4) A director who satisfies a claim under this section is entitled to a contribution from the other directors who were liable for the claim.

Officers of unincorporated bodies.

104. (1) A liability or obligation imposed by or under this Act on an unincorporated body is imposed on the body and on any person who is an officer of the body at the time the liability or obligation is imposed, and the body and each such officer are jointly and severally liable for that liability or obligation.

(2) For the purposes of this Act, the existence of an unincorporated body and any taxable activity carried on by the unincorporated body are deemed not to be affected by any change in its members or officers.

(3) A document which is required to be served on an unincorporated body under this Act may be served on an officer of the body.

(4) An offence under this Act committed by an unincorporated body is deemed to have been committed by the officers of the unincorporated body.

Continuity of partnerships or unincorporated associations.

105. If —

- (a) a partnership or other unincorporated association or body is dissolved or otherwise ceases to exist because of the retirement or withdrawal of one or more, but not all, of its partners or members or because of the admission of a new partner or member;
- (b) apart from this Act a new partnership, association or body, consisting of the remaining members or of the existing or remaining members and one or more new members, thereby comes into existence; and
- (c) the new partnership, association or body continues to carry on the taxable activity that was carried on by the dissolved partnership, association or body,

the dissolved partnership, association or body and the new

partnership, association or body are, for the purposes of this Act, deemed to be one and the same, unless the Commissioner-General, having regard to the circumstances of the case, otherwise directs.

Death or insolvency of taxable person or mortgagee in possession.

106. (1) If, after the death of a taxable person or the sequestration of a taxable person's estate, a taxable activity previously carried on by the taxable person is carried on by or on behalf of the executor or trustee of the person's estate or anything is done in connection with the termination of the taxable activity, the estate of the taxable person, as represented by the executor or trustee, is deemed for the purposes of this Act to be the taxable person in respect of the taxable activity.

(2) If a mortgagee is in possession of land or other property previously mortgaged by a mortgagor who is a taxable person, and the mortgagee carries on a taxable activity in relation to the land or other property, the mortgagee is deemed, from the date the mortgagee took possession of that land or property until such time as the mortgagee ceases to be in possession of the land or property, to be the taxable person carrying on the taxable activity.

Trustee treated as separate person.

107. For the purposes of this Act, if a person is a trustee in more than one capacity, the person is treated as a separate person in relation to each of those capacities.

PART XXI - FORMS AND NOTICES

Forms, notices and authentication of documents.

108. (1) The Commissioner-General shall make any forms, notices, returns or other documents to be prescribed or published under this Act available to the public at the offices of the National Revenue Authority, and may also make the documents available by any other means and at any other locations he thinks appropriate, including-

- (a) posting electronic versions of the documents on an official website of the Government of Sierra Leone or the National Revenue Authority; or

(b) by making hard copies available for collection from National Revenue Authority offices.

(3) A notice or other document issued, served or given by the Commissioner-General under this Act is sufficiently authenticated if the name or title of the Commissioner-General or a tax officer authorised for that purpose, is printed, stamped or written on the document.

Service of Notices.

109. (1) Subject to this Act, a notice or other document required to be served on a person for the purposes of this Act is treated as properly served on the person if it is—

- (a) personally served on the person or his representative;
- (b) left at the person's usual or last known place of abode or business in Sierra Leone; or
- (c) sent by registered post to his last known address.

(2) The validity of service of a notice under this Act may not be challenged after the notice has been wholly or partly complied with.

Validity of documents.

110. No document purporting to be made, issued or executed under this Act may be—

- (a) quashed or deemed to be void or voidable for want of form; or
- (b) affected by reason of mistake, defect, or omission in it,

if it is, in substance and effect, in conformity with this Act and the person affected by the document is designated in it according to common understanding.

PART XXII - MISCELLANEOUS

Purposive interpretation of Act.

111. (1) In interpreting a provision of this Act, a construction that would promote the purpose or object underlying the provision of the Act (whether that purpose or object is expressly stated in the Act or not) should be preferred to a construction that would not promote that purpose or object.

(2) Subject to subsection (5), in interpreting a provision of this Act, if any material that does not form part of the Act is capable of assisting in ascertaining the meaning of the provision, consideration may be given to that material-

- (a) to confirm that the meaning of the provision is the ordinary meaning conveyed by the text of the provision, taking into account its context in the Act and the purpose or object underlying the Act; or
- (b) to determine the meaning of the provision when-
 - (i) the provision is ambiguous or obscure; or
 - (ii) the ordinary meaning conveyed by the text and taking into account its context in the Act and the purpose or object underlying the Act leads to a result that is manifestly absurd or is unreasonable.

(3) Without limiting the generality of subsection (2), the material that may be considered in interpreting a provision of this Act includes-

- (a) all matters not forming part of the Act that are set out in the document containing the text of the Act;
- (b) any treaty or other international agreement or international assistance agreement that is referred to in the Act;
- (c) any explanatory memorandum relating to

the Bill containing the provision or any other relevant document, that was laid before or furnished to the members of, Parliament by a Minister before the Bill was enacted;

- (d) the speech made to Parliament by a Minister on the occasion of the moving by that Minister of a motion that the Bill containing the provision be read a second time in that House;
- (e) any document (whether or not a document to which a preceding paragraph applies) that is declared by the Act to be a relevant document for the purposes of this section; and
- (f) any relevant material in any official record of proceedings of debates in the Parliament.

(5) In determining whether consideration should be given to any material in accordance with subsection (3) or in considering the weight to be given to such material, regard should be had, in addition to any other relevant matters, to-

- (a) the desirability of persons being able to rely on the ordinary meaning conveyed by the text of the provision taking into account its context in the Act and the purpose or object underlying the Act; and
- (b) the need to avoid prolonging legal or other proceedings without compensating advantage.

Regulations.

112. (1) The Minister may by statutory instrument make regulations—

- (a) for any matter that this Act requires or allows to be prescribed; and
- (b) for any matter that is necessary or convenient to be prescribed in order to

better carry out or give effect to the purposes of this Act.

(2) Without limiting the generality of subsection (1), such regulations may provide for—

- (a) a special scheme for the collection of output tax in respect of taxable supplies made by retailers;
- (b) any matter that is contemplated by or necessary for giving full effect to this Act and for the due administration of this Act.

Repeals savings
and modifications

113. (1) The following enactments are repealed:-

- Act No.17 of 1971 (a) the Entertainment Tax Act,1971;
- Act No.6 of 1989 (b) the Restaurant Food Tax Act,1989;
- Act No.11.of 1990 (c) paragraph (a) of subsection (1) of section 53 of the Development of Tourism Act, 1990;
- Act No.2 of 1995 (d) the External Telecommunications Tax Act, 1995;
- Act No.5 of 1995 (e) the Sales Tax Act, 1995.

(2) Notwithstanding subsection (1), any rules or orders made under the repealed enactments and in existence immediately before the coming into operation of this Act, shall continue in operation until their expiration or express revocation.

Cap 271,
Act No.16 of 1978

(3) The Customs Act and the Customs Tariff Act, 1978 shall be read with such modifications as may be necessary to give effect to this Act.

Payment of
tax into
Consolidated Fund

114. (1) The tax, interest and penalties collected under this Act shall be paid into the Consolidated Fund.

(2)¹⁶ 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.

(3) The Commissioner-General shall carry out quarterly reconciliations and an annual reconciliation of the GST refund account.

(4) The Commissioner-General shall, by the end of the first quarter of every financial year, transfer into the Consolidated Fund three-quarters of the balance, if any, standing in the GST refund account on the last day of the preceding financial year.

(5) If the Commissioner-General anticipates that a greater or lesser percentage of GST collection is needed for GST refunds, he may request the Minister to amend by statutory instrument the percentage of revenue to be retained in the refund account.

Amendment
of Act No. 11
of 2002

115. The Schedule to the National Revenue Authority Act, 2002 is amended by the insertion of the following at the appropriate place:—

“The Goods and Services Tax Act, 2009”.

FIRST SCHEDULE

Zero-rated supplies

A taxable supply of goods and services¹⁷ is zero-rated for the purposes of this Act if it is listed in one of the following items:-

¹⁶ Subsection (2) repealed and replaced by s. 10(f) of the Finance Act 2011. Previously read “(2) Notwithstanding subsection (1), 5% of the total GST revenue collection 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”

¹⁷ The words “and services” inserted by s.18 Finance Act 2016

1. Export of goods including¹⁸ rutile and its by-products, iron ore, bauxite, gold, diamonds and other minerals.
2. Goods shipped as stores on vessels and aircraft leaving Sierra Leone.

¹⁸ Paragraph 1 of the First Schedule amended by repealing the word “excluding” and substituting the word “including” by s. 43 of the Finance Act 2013

SECOND SCHEDULE

Exempt supplies

A supply listed in one of the following items is an exempt supply for the purposes of this Act —

1. **Supply:** Animals, fish and birds imported for breeding and rearing purposes; seeds, bulb rooting imported for propagation.

Description: Live asses, mules and hinnies, live marine mammals, live fish and aquatic invertebrates (excluding ornamental fish and pets), edible fruits, seeds, bulbs, roots, nuts and vegetables.

2. **Supply:** Rice in its raw state.

Description: Rice is considered to be in its raw state even if it has undergone stripping or polishing.

3. ¹⁹ Supply of port services in respect of import of rice is exempt being an exempt supply under paragraph 3 of the Second Schedule.

3. **Supply:** Agricultural inputs.

Description: Chemicals used solely as agricultural inputs, including all forms of fertilizers, acaricides, fungicides, rematicides, growth regulators, pesticides, veterinary drugs and vaccine and animal feed unfit for human consumption.

4. **Supply:** Water.

¹⁹ Paragraph 3 inserted, after “polishing” by s.19 Finance Act 2016. Note that the FA 2016 does not seek to amend the numbering of the subsequent supplies in the list.

Description: Supply of water excluding bottled or other packaged and distilled water

5. **Supply:** Printed matter (books and newspapers).

Description: Books and newspapers fully printed or produced by any duplicating process, including newspapers and academic publications, but excluding imported newspapers, plans and drawings, scientific and technical works, periodicals, magazines, trade catalogues, almanacs, price lists, greeting cards, calendars and stationery.

6. **Supply:** Education services

Descriptions: These include tuition or instruction for students provided by an institution duly registered or licensed by the appropriate institution being-

- (a) a pre-primary, primary or secondary school;
- (b) a technical college, community college or university;
- (c) an educational institution established for the promotion of adult education, vocational training, improved literacy or technical education;
- (d) an institution established for the education or training of physically or mentally handicapped persons;
- (e) and published by the Minister responsible for education in the *Gazette*.

7. **Supply:** Medical services and pharmaceuticals.

Description: Medical services; mosquito nets; and a list of drugs approved and published in the *Gazette* by the Ministry of Health for treatment of malaria, HIV-AIDS, leprosy, tuberculosis, snake bites,

rabies and laser fever; and condoms ²⁰as classified in the Harmonised Commodity Description and Coding System.

8. **Supply:** Transportation of passengers

Description: Transportation of persons by bikes, buses and similar vehicles, ferry, train and air excluding internal air travel, boat and hovercraft services.

9. **Supply:** Crude oil and hydrocarbon products.

Description: Petrol, diesel, liquefied petroleum gas, kerosene and residual fuel oil, bitumen but excluding lubricating oils.

10. **Supply:** Financial services.

Description: Provision of insurance; dealing in money (including foreign exchange) provision of credit; operation of any bank but excluding fees and similar charges for non intermediation services including transfers, professional advice such as accountancy, investment and legal; and safe-keeping services.

11. **Supply:** Goods for the disabled.

Description: Articles designed exclusively for use by the disabled.

12. **Supply:** Land, buildings and public works.

Description:

(a) Land and Buildings; the granting of assignment or surrender of an interest in land or buildings: the rights to occupy land or buildings;

²⁰ Paragraph 7 of the Second Schedule amended by adding the words “as classified in the Harmonised Commodity Description and Coding System” by s. 10(g)(ii) of the Finance Act 2011

- (b) Civil engineering public works.

13. **Supply:** Machinery

Description: Machinery, apparatus and appliances designed for use exclusively in-

- (a) agriculture, veterinary, fishing and horticulture,
- (b) manufacturing, and
- (c) mining

and classified as exempt under the Harmonised Systems Commodity Classification Code.

14.²¹ *(Repealed)*

15. **Supply:** Funeral services and coffins.

Description: The preservation, burial and cremation of a human corpse and coffins.

(16)²² **Supply:** Tourism (new hotels)

Description: imported materials required for the construction and setting up of a hotel with at least 100 rooms for the period 1st January, 2016 to 31st December, 2018.

(17)²³ **Supply:** Issuance of identification documents

Description: Passport, Voters ID Card, National ID Card, etc.

²¹ Paragraph 14 of the Second Schedule repealed by s. 44 of the Finance Act 2013. Previously read “14. **Supply:** Export of all minerals. **Description:** Export of all minerals including rutile and its by-products, iron ore, bauxite, gold and diamonds”

²² Item (16) inserted after item 15 by s.20 Finance Act 2016. However, FA 2016 does not take account of consequential numbering changes arising from s.19 (new item 3), or the existing item 16.

²³ Item (17) inserted after item 15 and new item (16) by s.20 Finance Act 2016. However, FA 2016 does not take account of consequential numbering changes arising from s.19 (new item 3), or the existing item 16.

16.²⁴ Baby foods, exercise books and raw fish

²⁴ The Second Schedule amended by s. 10(g)(i) of the Finance Act 2011 by adding the items baby food, exercise books and raw fish

THIRD SCHEDULE

Institutional reliefs

1. President of the Republic of Sierra Leone.
2. Commonwealth, Foreign embassies and Missions (Reciprocal only).
3. Other international agencies subject to agreement with the Government of Sierra Leone, duly ratified by Parliament and specifically providing for relief from payment of local taxes on goods and services.
4. An import of goods (including foodstuffs) for use in rehabilitation or relief following natural disaster, as approved by the Minister of Finance.
- 5.²⁵ A charge of Le 50,000.00 shall be imposed on each GST Relief Purchase Order (GRPO) booklet issued for the purpose of administering institutional reliefs.
- 6.²⁶ All UN Agencies or International Organisations protected by the Vienna or Geneva Conventions.

FOURTH SCHEDULE

Transactions outside the scope of GST

1. Transfer of a going concern.

Passed in Parliament this *4th* day of *June*, in the year of our Lord two thousand and Nine.

VICTOR A. KAMARA,
Clerk of Parliament.

Note also that section 45 of the Finance Act 2013 provides the following:

²⁵ New paragraph 5 added to the Third Schedule by s. 17 of the Finance Act 2015

²⁶ Item added to the existing list of items by s.21 Finance Act 2016

“45. (1) Goods and services tax shall be imposed on the following in accordance with the Goods and Services Tax Act 2009-

(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.”