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## ACT

*Supplement to the Sierra Leone Extraordinary Gazette Vol. CXLVIII, No. 70*  
*dated 16th October, 2017*

## THE REVENUE ADMINISTRATION ACT, 2017

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SIGNED this 12th day of October, 2017.

DR. ERNEST BAI KOROMA,  
*President.*



No. 10



**Sierra Leone**

2017

**THE REVENUE ADMINISTRATION ACT, 2017.**

Short title.

**Being an Act to make provision for a common set of rules for the administration of revenue laws, to avoid repetition and promote consistency, by reconciling and unifying the administration of different revenue laws in the administration and collection of taxes and duties by the National Revenue Authority and for other related matters.**

[ ] Date of commencement.

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

**PART I—PRELIMINARY**

Interpretation. **1.** In this Act, unless the context otherwise requires -

"arrangement" means an action, agreement, arrangement, course of conduct, dealing, promise, transaction, understanding or undertaking, whether express or implied, whether or not enforceable by legal proceedings and whether unilateral or involving more than one person and includes a part of an arrangement;

"assessment" means a determination of the amount of a tax liability made under a revenue law, whether by the Commissioner-General or by way of self-assessment, and includes the matters identified in the Second Schedule;

"Authority" means the National Revenue Authority established under the National Revenue Authority Act, 2002 (Act No. 11 of 2002);

"Commissioner-General" means the Commissioner-General appointed under the National Revenue Authority Act, 2002;

"Customs Act" means the Customs Act, 2011 (Act No. 9 of 2011), the Customs Tariff Act, 1978 (Act No. 16 of 1978) and any regulations made under those Acts;

"currency point" means amounts expressed in terms of currency points as may, by statutory instrument, be prescribed by the Minister, at least annually to reflect changes in the index of consumer prices as an initial value or as an adjustment of that value for the purpose of promoting the fairness of the tax system and protecting against the effects of inflation;

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- (a) relief of international double taxation and the prevention of fiscal evasion;
- (b) reciprocal assistance for the administration or enforcement of revenue laws; or
- (c) exchange of information, including in support of the matters in paragraphs (a) and (b);

"manager", in relation to an entity -

- (a) means any councillor, director, manager, member, officer or other person who participates or may participate, whether alone or jointly with other persons, in making senior management decisions on behalf of the entity; and
- (b) includes -
  - (i) a partner of a partnership and a trustee of a trust;
  - (ii) a person treated as a manager of an entity by any other revenue law; and
  - (iii) a person in accordance with whose directions and instructions the entity or a person described in subparagraph (a) is required or accustomed to act;

"member", in relation to an entity, means any person having a right, including a contingent right, whether of a legal or equitable nature, to participate in any income or capital of the entity, including the interest of a partner in a partnership, the interest of a beneficiary in a trust and shares in a corporation, and includes the obligation to share a loss or debt;

"Minister" means the Minister responsible for finance;

"National Revenue Authority Act" means the National Revenue Authority Act, 2002 (Act No. 11 of 2002);

"objection decision" means a decision made by the Commissioner-General, after consideration of an objection, varying the tax decision in whole or part, or disallowing the objection;

"other revenue law" means a revenue law other than this law;

"Pay-roll Tax Act" means the Pay-roll Tax Act, 1972 (Act No. 16 of 1972);

"person" means an individual or an entity;

"possessor" of an asset includes-

- (a) in relation to premises or a place, the owner, manager or any other person on the premises or place; and
- (b) in relation to any other asset, including a document, a person from whom the asset is seized or taken;

"primary tax" means tax under a revenue law that is not secondary tax and includes the liability of a collector or agent (including a withholding agent under the Income Tax Act) to remit or pay tax collected or withheld or an amount that should have been collected or withheld;

"publicly available", in relation to a note, ruling or other notice issued by the Commissioner-General, means making the note, ruling or notice available to the public at offices of the Authority and at such other locations or by such other medium as the Commissioner-General may determine;

"restrain" includes detaining, locking up, marking, sealing, seizing, stopping, taking away or otherwise securing;

"revenue law" means -

- (a) a law listed in the First Schedule of the National Revenue Authority Act (including this law);
- (b) any other law providing for administration in whole or in part by the Authority;
- (c) any international agreement concluded under section 4;

"secondary tax" means a liability to pay tax that is imposed by reason of or in consequence of a liability to pay some other tax under the same or another revenue law whether the other tax is payable by the same person or another person, including -

- (a) interest and penalties imposed by assessment under section 92;
- (b) an amount required to be paid to the Commissioner-General in collection from a tax debtor or taxpayer under subsection (4) of section 4 or a taxpayer under subsection (9) of section 66; and
- (c) an amount required to be paid to the Commissioner-General in respect of a tax liability of a third party under subsection (1) of section 71, subsection (3) or (4) of 72, subsection (2) or (5) of section 73 or subsection (2) or (5) of section 75; but does not include an obligation to pay withholding tax.

"document" means a statement in writing, includes an account, assessment, book, certificate, claim, note, notice, order, record, return or ruling and may take an electronic form;

"entity" means a corporation, partnership, trust or, to the extent recognised as a person by another revenue law, any other entity but excludes an individual;

"Excise Act" means the Excise Act, 1982 (Act No. 6 of 1982);

"file", in relation to a document, includes lodging or furnishing a document, including by electronic means;

"Foreign Travel (Ticket) Tax Act" means the Foreign Travel (Ticket) Tax Act, 1975 (Act No. 14 of 1975);

"Gazette" means the Gazette published by order of the Government of Sierra Leone;

"generally accepted accounting principles" means those adopted by the Institute of Chartered Accountants of Sierra Leone from time to time;

"Goods and Services Tax (GST)" have the meaning given in the Goods and Services Tax Act;

"Goods and Services Tax Act" means the Goods and Services Tax Act, 2009 (Act No. 6 of 2009);

"Income Tax Act" means the Income Tax Act, 2000 (Act No. 8 of 2000);

"international agreement" means a treaty or other agreement between the Government of Sierra Leone and a foreign government, or a regional or international organisation whose members consist of foreign governments, that has passed into law in Sierra Leone providing for-

- (b) increasing a claim of the person for a refund of tax; or
- (c) preventing or obstructing collection of tax from the person;

"tax decision" means any assessment or other decision or omission on a matter left to the discretion, judgement, direction, opinion, approval, consent, satisfaction or determination of the Commissioner-General under a revenue law that directly affects a person;

"tax officer" means the Commissioner-General and any officer appointed under the National Revenue Authority Act;

"tax return" means a tax return specified in the Second Schedule;

"taxpayer" means any person liable to pay tax;

"Taxpayer Identification Number" means a taxpayer identification number issued under section 21;

"Taxpayer Identification Number certificate" means a Taxpayer Identification Number certificate issued under section 22; and

"vehicle" includes -

- (a) an aircraft or vessel; and
- (b) all equipment, tackle and fittings in or on a vehicle.

Relationship between revenue laws.

**2.** (1) This Act is to be read as one with each of the other revenue laws.

(2) To the extent necessary to give effect to the purposes of this Act, any undefined term in this Act has a meaning consistent with that used in other revenue laws.

(3) Subject to express limitations in this Act, the powers of the Commissioner-General specified in this Act may be exercised with respect to any revenue law and are in addition to specific power granted under other revenue laws.

(4) While acting under a provision of this Act, a tax officer may -

- (a) act for the purposes of more than one revenue law at the same time; and
- (b) commence acting under a more specific provision of another revenue law.

(5) Except as otherwise provided in a revenue law, while acting under a provision of another revenue law, a tax officer may act only for the purposes of that law.

(6) The Commissioner-General may, for the purposes of any revenue law, use information gathered by a tax officer in the proper execution of duties under a particular revenue law.

**3.** (1) Where the Customs Act applies to the imposition of Goods and Services Tax on imported goods, only Parts I, II, III, IV, V and VIII of this Act apply. Relationship with Customs Act, 2011.

(2) Subject to subsection (3), where administrative provisions of the Customs Act are also applied by a revenue law, the Commissioner-General may decide to apply relevant provisions of this Act in place of the Customs Act.

(3) Subject to subsections (4) to (7), the Commissioner-General may not exercise the power in subsection (2) in breach of the Customs Act.

(4) Sections 5 to 7, Parts II and III, section 37 and Part VIII apply to the Customs Act as though a reference to "revenue law" includes a reference to the Customs Act.

(5) For the purposes of an amount payable under the Customs Act -

- (a) tax includes any duty, penalty or interest that is due and payable under the Customs Act that remains unpaid by the date specified in the Customs Act; and
- (b) section 60 (Extension of time for paying tax), Part X (Recovery of Unpaid Tax) and Part XIV (Tax Recovery Proceedings) apply to that amount;

(6) For the purposes of Part VIII -

- (a) a redetermination under section 29 of the Customs Act is a tax decision; and
- (b) a decision of the Commissioner-General under subsection (1) of section 83 of the Customs Act, is a tax decision.

(7) For the purposes of Part XIV (Tax Recovery Proceedings), tax includes duty, interest or penalty paid or payable under the Customs Act.

International Agreements.

**4.** (1) To the extent that the terms of an international agreement to which Sierra Leone is a party are inconsistent with the provisions of any revenue law, the terms of the agreement prevail over the provisions of the revenue law and this Act.

(2) Subsection (1) does not apply to the following provisions -

- (a) section 6; and
- (b) sections 89 to 93 of the Income Tax Act.

"self-assessment" means an assessment under a revenue law that is occasioned by the obligation of a person to file a tax return rather than by the Commissioner-General making an assessment, and includes the assessments specified in the Second Schedule;

"statutory rate", in relation to a calendar year, means the rate prescribed by the Minister on 15th December of the preceding year, and published in the Gazette, being the greater of -

- (a) the Bank of Sierra Leone lending rate at 15th December, plus three percentage points; and
- (b) the average of the commercial prime lending rate of at least three banks licensed by the Bank of Sierra Leone to conduct business in Sierra Leone, plus three percentage points;

"tax" means "revenue" as defined in the National Revenue Authority Act and is divided into primary tax and secondary tax;

"tax affairs", in relation to a person, includes all manner in which any provision of any revenue law may apply to the person or the person's activities, assets or personal circumstances;

"tax avoidance arrangement" means an arrangement that has as a main purpose the provision of a tax benefit for any person or an arrangement where the main benefit that might be expected to accrue from the arrangement is a tax benefit for any person;

"tax benefit", in relation to a person, means -

- (a) avoiding, reducing or postponing a tax liability of the person;



(3) An arrangement is a "tax avoidance arrangement" only if it involves a misuse or abuse of a revenue law provision or provisions having regard to the purpose of the provision and the wider purposes of the law in which the provision is located.

Court decisions.

7. (1) If, as a result of the judgement or other decision of a court of competent jurisdiction in Sierra Leone, the administrative practice of the Commissioner-General in respect of a provision of this Act or any revenue law, as undertaken before that judgement or decision, is inconsistent with that judgement or decision, the Commissioner-General shall amend his administrative practice to ensure consistency with that judgement or decision.

(2) The Commissioner-General shall amend the administrative practice by no later than the time at which the court's judgement or decision becomes final and the time for any appeal has expired.

(3) For the purposes of this section, "court" includes-

- (a) the Revenue Review Tribunal established under this Act; and
- (b) any other court in Sierra Leone established by an Act of Parliament, but does not include Local Courts.

(4) The Commissioner-General shall take all reasonable practicable steps to ensure that changes to administration of the revenue laws resulting from the application of this section are publicised.

## PART II - RULINGS AND PRACTICE NOTES

Commissioner-General's practice notes.

8. (1) To achieve consistency in the administration of revenue laws and to provide guidance to persons affected by them, including tax officers, the Commissioner-General may issue practice notes in writing setting out the Commissioner-General's interpretation of -

- (a) a revenue law currently in force; and

(b) an amendment to a revenue law not yet in force.

(2) The Commissioner-General's practice notes may pertain to a single revenue law or multiple revenue laws and the Commissioner-General may issue multiple practice notes with respect to the same revenue law.

(3) A practice note binds the Commissioner-General from its time of issue until it is revoked.

(4) A practice note shall not bind other persons affected by a revenue law.

(5) Within 30 days following the issuance of a practice note by the Commissioner-General, the Minister shall approve in writing the interpretation set out. Any practice note not approved by the Minister within 30 days is null and void.

9. (1) The Commissioner-General issues a practice note by publishing a notice of the practice note in the Gazette. Issue of practice notes.

(2) A practice note shall state that it is a practice note and must have a number and subject heading by which it can be identified.

(3) A practice note applies from the date specified in the note; however if no date is specified, it applies from the date of publication in the Gazette.

(4) The Commissioner-General shall make practice notes publicly available.

10. (1) The Commissioner-General may revoke a practice note, in whole or part, by publishing notice of the revocation in the Gazette. Revocation of practice notes.

(2) In accordance with section 7, the Commissioner-General must revoke a practice note to the extent it is inconsistent with a court decision.

(3) The subsequent passage of legislation or issue of a practice note that is inconsistent with an existing practice note revokes the existing practice note to the extent of the inconsistency.

- (4) The revocation of a practice note, in whole or part, has effect -
- (a) if subsection (1) or (2) applies, from the date specified in the notice of revocation and, if no date is specified, from the date notice of the revocation is published in the Gazette; or
  - (b) if subsection (3) applies, from the date the inconsistent legislation or practice note applies.
- (5) The revoked part of a practice note -
- (a) continues to apply to arrangements commenced before the revocation; and
  - (b) does not apply to arrangements commenced after the revocation.

Private and class rulings.

**11.** (1) Subject to section 12, the Commissioner-General may, on application in writing by a person, issue a private ruling or a class ruling setting out the Commissioner-General's position regarding the application of a revenue law with respect to an arrangement proposed or entered into -

- (a) in the case of a private ruling, by the person; or
- (b) in the case of a class ruling, by persons in a specified class.

(2) A private or class ruling may apply to multiple arrangements and multiple revenue laws.

(3) Subject to subsection (4), a private or class ruling binds the Commissioner-General with respect to the arrangement as to the application of a revenue law mentioned in the ruling to -

- (a) in the case of a private ruling, the applicant; and

(3) This subsection applies where the Commissioner-General receives a request pursuant to an international agreement from the competent authority of another country for the collection in Sierra Leone of an amount payable by a person (the "tax debt or") under the revenue laws of the other country.

(4) Where subsection (3) applies, the Commissioner-General may require, by service of a notice in writing, the tax debtor to pay the amount to the Commissioner-General by the date specified in the notice and for transmission to the competent authority.

**5.** (1) Any court or tribunal requested to consider a matter considering this Act or any revenue law must have regard to context and purpose of the provision and the wider purposes of the law in which the provision is located. Interpretation principle; purposive approach.

(2) A court or tribunal, in interpreting a revenue law, shall prefer a construction that promotes the purpose or object of the revenue law.

(3) In resolving any ambiguity when interpreting a revenue law provision, a court or tribunal shall have regard to any official extrinsic material pertaining to the preparation of the provision.

**6.** (1) Notwithstanding anything in any revenue law, the Commissioner-General may, where he is of the opinion that a person may otherwise secure a tax benefit under a tax avoidance arrangement, serve a notice on that person. Tax avoidance arrangements.

(2) A notice served by the Commissioner-General under subsection (1), shall be in writing and shall specify-

- (a) the tax benefit avoided, reduced or postponed,
- (b) the tax avoidance arrangement; and
- (c) the Commissioner-General's adjustment of the tax liability, as he thinks appropriate, to counteract the tax benefit.

(7) No person may challenge a private or class ruling but a person may challenge a tax decision made with respect to an arrangement the subject of a ruling.

(8) A class of persons includes -

- (a) members of an entity; and
- (b) various persons that, in the opinion of the Commissioner-General, may be identified as commonly situated with respect to the application of particular provisions of a revenue law.

Refusing application for private or class ruling.

**12.** (1) The Commissioner-General may refuse an application for a private or class ruling if -

- (a) in the case of a private ruling -
  - (i) the arrangement has already been the subject of a tax decision; or
  - (ii) the Commissioner-General has commenced an investigation of the applicant's tax affairs that covers the arrangement or, before the application, has notified the applicant in writing of an intention to do so;
- (b) the Commissioner-General is of the opinion that an existing practice note adequately covers the arrangement;
- (c) the application is frivolous or vexatious;
- (d) the arrangement has not been carried out and there are reasonable grounds to believe that it will not be carried out; or

(e) the applicant has not provided the Commissioner-General with sufficient information to make a ruling.

(2) The Commissioner-General shall serve the applicant with a written notice of the refusal to make a private or class ruling.

**13.** (1) The Commissioner-General issues -

- (a) a private ruling by serving a written notice of the ruling on the applicant; and
- (b) a class ruling by both serving a written notice of the ruling on the applicant and making the ruling publicly available.

Issue of private and class rulings.

(2) The Commissioner-General may base a private or class ruling on assumptions about a future event or other matters considered appropriate.

(3) A private or class ruling shall-

- (a) set out the matters ruled on, identifying the revenue laws, periods and arrangements to which the ruling applies as well as any assumptions that affect the ruling;
- (b) in the case of a private ruling, identify the applicant and his Taxpayer Identification Number; and
- (c) in the case of a class ruling, refrain from revealing the identity of -
  - (i) the applicant, unless the applicant has consented in writing; or
  - (ii) in any case, the applicant's Taxpayer Identification Number, the class members or any other person identified or referred to in the ruling but an applicant may instruct in writing that their identity is revealed.

(4) A private or class ruling shall be approved by the Minister within 30 days following its issuance by the Commissioner-General.

Revocation of private and class rulings.

**14.** (1) For reasonable cause, the Commissioner-General may revoke a ruling, in whole or part, by written notice -

- (a) in the case of a private ruling, served on the applicant; and
- (b) in the case of a class ruling, both served on the applicant and made publicly available.

(2) In accordance with section 7, the Commissioner-General must revoke a private or class ruling to the extent it is inconsistent with a court decision.

(3) The subsequent passage of legislation or issue of a practice note that is inconsistent with a private or class ruling revokes the ruling to the extent of the inconsistency.

(4) The revocation of a private or class ruling, in whole or part, has effect -

- (a) if subsection (1) or (2) applies, from the date specified in the notice of revocation; or
- (b) if subsection (3) applies, from the date the inconsistent legislation or practice note applies.

(5) The revoked part of a private or class ruling -

- (a) continues to apply to arrangements commenced before the revocation; and
- (b) does not apply to arrangements commenced after the revocation.

(b) in the case of a class ruling, any person in the specified class.

(4) The following are limitations on the binding effect of a private or class ruling -

- (a) a ruling is binding only if prior to its issue the applicant makes-
  - (i) full and true disclosure to the Commissioner-General of all aspects of the arrangement to which the ruling applies; and
  - (ii) the arrangement proceeds in all material respects as described in the person's application for the ruling;
- (b) a ruling is binding only if it is headed "private ruling" or "class ruling", as the case requires; and
- (c) a ruling is binding only from its time of issue until revocation and only for the period specified in the ruling.

(5) Otherwise, a private or class ruling has no binding effect.

(6) In particular, a private or class ruling does not bind -

- (a) the applicant or any other person; or
- (b) the Commissioner-General with respect to any person other than, in the case of a private ruling, the applicant or, in the case of a class ruling, persons in the specified class.

(3) Any person dealing with a tax officer may require the tax officer to identify himself and, if dealing with the tax officer in person, show his identity card.

Assistance of experts.

**17.** (1) The Commissioner-General may engage experts, on such terms and conditions as the Commissioner-General thinks fit, to assist the Authority and its tax officers in the proper performance of their functions mentioned in section 15.

(2) A tax officer authorised for the function in question must supervise assistance provided by an expert.

(3) Every person has the right to refuse to deal directly with an expert but a person may not obstruct an expert that is assisting a tax officer. For the purpose of this paragraph, "person" does not refer to a tax officer.

(4) A person has the right to complain to the Commissioner-General that the engagement of a particular expert involves a conflict of interest.

(5) The Commissioner-General shall decide on any complaint made under subsection (4) and the decision of the Commissioner-General whether to continue with the engagement is final.

Police assistance.

**18.** (1) The Commissioner-General may request the officers of the Sierra Leone Police, including other public body that provides security, to assist or protect the Authority and its tax officers in the proper performance of their functions under this Act.

(2) Within the limits of its authority and resources, a public body that receives a request under subsection (1) shall do its best to provide assistance.

(3) A tax officer authorised for the function in question shall supervise assistance provided by a public officer.

No remuneration for complying or assisting with revenue laws.

**19.** (1) Unless expressly provided for in a revenue law, no person is entitled to any remuneration or reimbursement of expenses from the Authority for complying with the provisions of a revenue law.

(2) Subsection (1) does not apply to the remuneration of an expert or other public officer that is assisting the Authority in the performance of its functions.

(3) The remuneration of a person referred to in subsection (2) is determined in accordance with the National Revenue Authority Act.

(4) The Minister may by statutory instrument provide for rewards payable to persons, including tax officers, assisting in the recovery of tax or, with respect to an offence committed under a revenue law, the conviction of the offender or the compounding of the offence.

**20.** (1) This section applies to-

Official Secrecy.

- (a) every person who, in whatever capacity, is employed or engaged by the Authority or, at the request of the Authority, provides assistance to the Authority; and
- (b) every person who formerly fell within paragraph (a).

(2) Every person to whom this section applies shall regard and deal with as secret and confidential all information and documents that, by reason of the employment, engagement or assistance, come into the person's possession in connection with a revenue law.

(3) A person may disclose information and documents referred to in subsection (2) to another person where -

- (a) the other person is currently employed or engaged by or assisting the Authority as referred to in paragraph (a) of subsection (1);
- (b) the disclosure is for the purposes of the revenue law or any other revenue law; and

(c) the Commissioner-General has specifically or generally authorised the disclosure.

(4) A person may disclose information and documents referred to in subsection (2) to a court or tribunal only as is necessary for the purposes of the revenue law or any other revenue law.

(5) A person shall disclose information and documents referred to in subsection (2) -

- (a) to the -
  - (i) Minister;
  - (ii) Secretary to the President; and
  - (iii) Chief of Staff to the President; for the purpose only of the proper exercise or discharge their statutory powers and duties;
- (b) to any person in the service of the Government of Sierra Leone in a revenue or statistical department where such disclosure is necessary for the performance of the person's official duties;
- (c) to the Auditor-General or any person authorised by the Auditor-General where such disclosure is necessary for the performance of official duties; or
- (d) to the competent authority of the government of another country with which Sierra Leone has entered into an international agreement, to the extent permitted under that agreement.

(6) Any person, court, tribunal or authority receiving information and documents under subsection (3), (4) or (5) is required to keep them secret under the provisions of this section, except to the minimum extent necessary to achieve the purposes for which the disclosure is permitted.

### PART III - ADMINISTRATION OF REVENUE LAWS

**15.** (1) The Authority is responsible, through the Commissioner-General and its tax officers, for administering and giving effect to the revenue laws in accordance with the provisions of the National Revenue Authority Act.

(2) The Commissioner-General may delegate functions in relation to revenue laws to tax officers pursuant to paragraph (b) of subsection (4) of section 19 of the National Revenue Authority Act.

(3) The Commissioner-General may not delegate those functions to any other person, even if the person is an expert or public officer assisting under section 17 or 18, respectively, of the National Revenue Authority Act.

(4) A tax officer shall not exercise a particular power under a revenue law unless the officer is of a specific rank or specifically authorised for the purposes of the power including -

- (a) the power to compound offences under section 102;
- (b) the power to remit penalties and interest under section 76 or refund tax under section 77; and
- (c) the power to license a customs clearing agent under section 85 of the Customs Act.

(5) A tax officer authorised in respect of GST on imports and exports may exercise all the powers of the officer in charge provided in the customs law.

**16.** (1) The Authority must issue an identity card to every tax officer.

Identification  
of Tax  
Officers.

(2) An identity card issued under subsection (1), must incorporate the Authority logo, have a picture of the tax officer, the full name of the tax officer, and state the tax officer's rank.

- (a) in the prescribed form;
- (b) accompanied by the prescribed documentary evidence of the applicant's identity; and
- (c) filed in the prescribed manner.

(6) A person who has applied for but not been issued with a Taxpayer Identification Number shall notify the Commissioner-General in writing immediately of any changes in the details referred to in the application.

(7) If the Commissioner-General refuses an application for a Taxpayer Identification Number, the Commissioner-General shall serve the applicant with written notice of refusal within 14 days of making the decision.

Issue of  
Taxpayer  
Identification  
Number.

**22.** (1) For the purposes of identification and cross-checking, the Commissioner-General in the case of an applicant under section 21, shall issue a person with a number to be known as a taxpayer identification number.

(2) A Taxpayer Identification Number is issued when the Commissioner-General serves the person with a Taxpayer Identification Number certificate.

(3) A Taxpayer Identification Number is personal to the person to whom it has been issued and may not be transferred or used by any other person.

(4) A person shall have only one Taxpayer Identification Number at any time and it shall be used for the purposes of all revenue laws.

(5) The Commissioner-General shall not issue a Taxpayer Identification Number to a person unless the Commissioner-General is satisfied -

- (a) as to the person's true identity; and
- (b) that the person does not have an existing Taxpayer Identification Number.

**23.** (1) A person shall show the person's Identification Number, if the person has one, in any claim, notice, return, statement or other document used for the purposes of a revenue law.

Use of  
Taxpayer  
Identification  
Number.

(2) Subject to any written direction by the Commissioner-General to the contrary, every institution specified in the First Schedule requires a Taxpayer Identification Number from any person applying for the matters or engaged in the transactions listed in the First Schedule.

(3) A person making an application referred to in subsection (2) shall produce for the institution the person's Taxpayer Identification Number certificate or a copy of that certificate authorised by the Commissioner-General.

(4) Where the Commissioner-General makes a request by notice in writing, the institutions referred to in the First Schedule shall furnish a written statement specifying -

- (a) the value of the transactions conducted with the institution and referred to in the second column of the First Schedule during the time period specified in the Commissioner-General's notice; and
- (b) the names, addresses and Taxpayer Identification Numbers of the persons with which those transactions were conducted.

(5) A person shall not represent to any other person, including a tax officer, that the person is the holder of or has been issued with a particular Taxpayer Identification Number when that is not the case.

(6) The Minister may, by statutory instrument, amend the First Schedule.

**24.** (1) The Commissioner-General may, where he thinks it is appropriate, by notice in writing, cancel a Taxpayer Identification Number issued to a person.

Cancellation,  
replacement  
and amend-  
ment of  
Taxpayer  
Identification  
Number.

(2) The Commissioner-General shall cancel a Taxpayer Identification Number if -

- (a) the person described in the Taxpayer Identification Number certificate is fictitious;
- (b) the person described in the Taxpayer Identification Number certificate does not accurately reflect the true identity of the person to whom the certificate was issued; or
- (c) the person to whom the Taxpayer Identification Number certificate was issued has another current Taxpayer Identification Number.

(3) The Commissioner-General may replace a Taxpayer Identification Number that has been cancelled by issuing a new Taxpayer Identification Number in accordance with section 22.

(4) The holder of a Taxpayer Identification Number shall notify the Commissioner-General in writing within 15 days of any changes in the details referred to in the Taxpayer Identification Number certificate.

(5) The Commissioner-General may, where the Commissioner-General thinks it is appropriate and without cancelling a Taxpayer Identification Number, issue a person with an amended Taxpayer Identification Number certificate.

**25.** (1) A person may apply to the Commissioner-General for the issue of a Tax Clearance Certificate, certifying that the applicant has complied with all obligations to file returns, provide information and pay tax under the revenue laws.

(2) Regulations shall prescribe the -

- (a) the form of the application;

Tax  
Clearance  
Certificate.

(7) This section does not apply to information that may be published under section 110.

(8) This section does not prevent disclosure of information relating to a specific taxpayer to the taxpayer concerned or, with the taxpayer's written consent, to another person.

(9) This section does not prevent disclosure of revenue payment information relating to a specific taxpayer by its inclusion on the Government of Sierra Leone's Online Repository for the Ministry of Mines and Mineral Resources.

(10) The Commissioner-General may enter into a written agreement with any official or agency for the purpose of efficiently and effectively providing information to and by the Commissioner-General, in accordance with the entitlements to disclose, and the obligations to maintain confidentiality of such information set out in this section.

#### PART IV - TAX, TAXPAYERS, REPRESENTATION AND TAX ADVICE

**21.** (1) Any person who derives income in Sierra Leone that is potentially liable to primary tax shall apply for a Taxpayer Identification Number within 15 days of the commencement of the activity or action that gives rise to the potential liability.

Application  
for Taxpayer  
Identification  
Number.

(2) Subsection (1) does not affect the requirement to register under section 15, or the requirement to deregister under section 17, of the Goods and Services Tax Act.

(3) The Commissioner-General may require any other person to apply for a Taxpayer Identification Number within such period as the Commissioner-General determines.

(4) However, a person who is the current holder of a Taxpayer Identification Number shall not apply for a further Taxpayer Identification Number.

(5) An application for a Taxpayer Identification Number shall be-



Excise  
licences.

**28.** (1) The Commissioner-General shall maintain a register of licences issued under the Excise Act listing all licences applied for, licences granted, applications refused and licences transferred.

(2) The Commissioner-General shall publish in the Gazette not less than annually an extract of all the licences maintained under subsection (1).

Tax  
consultants.

**29.** (1) Only a registered tax consultant may demand or receive any fee for or in relation to-

- (a) representation of a taxpayer in their tax affairs;
- (b) the provision of advice primarily regarding the interpretation and effect of a revenue law; or
- (c) the preparation of any tax return, objection or any other document under any revenue law.

(2) Only a registered tax consultant may -

- (a) represent that they are a tax consultant; or
- (b) indicate that, for a fee, they will offer assistance with respect to the matters referred to in subsection (1).

(3) Subsection (1) and paragraph (b) of subsection (2) do not apply to a barrister or solicitor performing legal work in relation to a revenue law.

Approval  
and regula-  
tion of tax  
consultants.

**30.** (1) The Minister may, by statutory instrument, make Regulations that shall provide for the -

- (a) registration and deregistration of tax consultants, including criteria relating to qualifications, experience and professional development, and periods of registration;

- (b) classes of tax consultant, including a class of tax consultant to advise and assist taxpayers under simplified filing and payment requirements;
- (c) fees payable for registration and other matters;
- (d) the conduct of tax consultants' activities, and the supervision of that conduct; and
- (e) oversight and public reporting of the registration, supervision and registration processes.

(2) Subsection (4) applies where a tax consultant, barrister or solicitor promotes or participates, whether directly or through another person, in an arrangement that may result, for any person, in a benefit in relation to tax.

(3) No tax officer shall be employed as a tax consultant.

(4) Regulations may require a tax consultant, barrister or solicitor referred to in subsection (2) to report the arrangement to the Commissioner-General in such manner as is prescribed.

#### PART V - OFFICIAL COMMUNICATIONS AND DOCUMENTATION

**31.** (1) English is the official language of the revenue laws and the Commissioner-General may refuse to recognise any communication or document that is not in the official language. Official language.

(2) Where any communication or document not in an official language is relevant in applying a revenue law to a taxpayer, the Commissioner-General may require the taxpayer to provide a translation of the communication or document into an official language.

(3) The Commissioner-General's requirement shall be in writing and served on the taxpayer.

(4) A taxpayer shall use a translator approved by the Commissioner-General and meet the expense of the translation.

(5) If a taxpayer fails to comply with subsection (2), the Commissioner-General may have the communication or document translated at the cost of the taxpayer.

Forms and notices.

**32.** (1) For the efficient administration of revenue laws, the Commissioner-General may prescribe the form (including electronic and machine-readable form) of returns and any other document required under a revenue law.

(2) The form prescribed under subsection (1) shall be used when filing returns or other documents with the Commissioner-General or when the form is otherwise required for the purposes of a revenue law.

(3) The Commissioner-General shall make prescribed forms available to the public at offices of the Authority and at such other locations or by such other medium or process as the Commissioner-General may determine.

(4) The Commissioner-General may charge and recover the specified fee for the provision of the documents set out in the Fourth Schedule.

(5) The Minister may, by statutory instrument, amend the Fourth Schedule by adding, deleting or editing the list of documents and the corresponding fee.

(6) A fee specified in regulations made under subsection (5) shall be determined on the basis of cost-recovery only.

Authorised and defective documents.

**33.** (1) A document issued by the Commissioner-General under a revenue law is sufficiently authenticated if the name or title of the Commissioner-General, or authorised officer of the Authority, is-

- (a) in the case of a paper document, signed, printed, stamped or written on the document;
- or

(b) the form of the Tax Clearance Certificate;

(c) the period of validity of the Tax Clearance Certificate; and

(d) the fee payable for the issue of the Tax Clearance Certificate.

(3) The Commissioner-General may refuse an application made under subsection (1) if, at the date the Commissioner-General considers the application, the applicant has not complied with all obligations to file returns, provide information and pay tax under the revenue laws.

(4) No person, authorised under a written law to issue a licence, may exercise that authority unless the applicant for the licence provides with the application for the licence a valid Tax Clearance Certificate.

(5) For subsection (4) "licence" includes permit, registration certificate or similar document.

**26.** (1) Every taxpayer is entitled to receive information from the Authority regarding the taxpayer's outstanding tax liabilities, if any. Right to information.

(2) A failure on the part of the Authority to comply with subsection (1) does not affect the taxpayer's obligation to pay a tax liability.

**27.** (1) Every taxpayer has the right to be represented in the taxpayer's dealings with the Commissioner-General, and every entity shall be so represented. Right to representation.

(2) The Commissioner-General may prescribe a form to be used by taxpayers when appointing a representative.

(3) The Commissioner-General is not obliged to communicate with a taxpayer through the taxpayer's representative unless the Commissioner-General has received a duly executed form appointing the representative.

Paper documents served by Commissioner-General.

**35.** (1) A paper document is sufficiently served on a person by the Commissioner-General under a revenue law if it is -

- (a) handed to the person or, in the case of an entity, a manager of the entity; or
- (b) left at or sent by post to the usual or last known place of abode, business, office, post office box or other address of the person including -
  - (i) where the document is sent by registered post and the person has been informed that the document awaits the person at the post office; or
  - (ii) the address referred to in the person's Taxpayer Identification Number certificate or Goods and Services Tax registration certificate.

(2) A document is considered served at the following time -

- (a) in the case of service by handing to a person or leaving at a place, at the time of handing or leaving;
- (b) in the case of service by registered post, at the time the document is delivered or the person is informed that the document awaits the person;
- (c) in the case of other service by post to an address within Sierra Leone, ten days after posting; and
- (d) in the case of other service by post to an address outside Sierra Leone, the time at which the document would normally be delivered in the ordinary course of post.

**36.** (1) The Commissioner-General may establish and operate a system for - Electronic document system.

- (a) electronic filing of documents with the Commissioner-General, and
- (b) electronic service of documents by the Commissioner-General.

(2) For this purpose, the Commissioner-General may by statutory instrument prescribe rules concerning -

- (a) registration of persons who wish to participate in the system, including issue and cancellation of authentication codes;
- (b) types of documents that may be transmitted through the system, including format and manner of transmission and the issue and cancellation of document registration numbers;
- (c) resolution of difficulties, including correction of errors, amendment of documents and procedure on breakdown or interruption of the system;
- (d) secrecy to be maintained, whether by persons using the system on their own behalf or using the system on behalf of other persons; and
- (e) any other matter for the better administration of the system.

(3) An electronic document is considered filed by a person and received by the Commissioner-General under a revenue law when a document registration number is created using the person's authentication code:

Provided that the person proves to the satisfaction of the Commissioner-General that he did not send the document and the document was not sent with his authority.

(4) An electronic document is considered served on a person by the Commissioner-General under a revenue law when a document registration number is created and the document can be accessed using the person's authentication code.

(5) The Commissioner-General may authorise a printed document as a copy of an electronic document filed under subsection (3) or served under subsection (4).

(6) A court or tribunal shall accept a copy authorised under subsection (5) as conclusive evidence of the nature and contents of an electronic document, unless the contrary is proven.

#### PART VI - RETENTION AND PROVISION OF INFORMATION

Maintaining documents.

**37.** (1) For the purposes of this Act, every person shall maintain documents whether in paper or electronic form-

- (a) necessary to explain information to be provided in all documents to be filed with the Commissioner-General under any revenue law;
- (b) necessary to enable an accurate determination of tax payable under any revenue law; and
- (c) as the Commissioner-General may by statutory instrument prescribe.

(2) Any person who, for the purposes of the Goods and Services Tax Act, is required to register, shall -

- (a) keep records and accounts for the person's business in accordance with generally accepted accounting principles; and

- (b) in the case of an electronic document, imbedded in the document by way of electronic signature.

(2) A declaration required by a person under a revenue law is sufficiently authenticated if it is signed on oath or in the presence of a tax officer authorised for that purpose.

(3) A document issued under a revenue law is not invalid or defective if -

- (a) it is in substance and effect in conformity with the revenue law; and
- (b) the person to whom the document is addressed or to whom it applies is designated in the document according to common understanding.

(4) Where a document issued by the Commissioner-General under a revenue law contains a defect that does not involve a dispute as to the interpretation of the revenue law or facts involving a particular person, the Commissioner-General may, for the purposes of rectifying the defect, amend the document.

**34.** (1) A paper document is filed with the Commissioner-General under a revenue law by-

- (a) personally delivering the document to an office of the Authority;
- (b) sending it by registered post to an office of the Authority; or
- (c) sending it by courier to an office of the Authority.

(2) A document referred to in subsection (1) is treated as received by the Commissioner-General when the Authority acknowledges it by stamping.

Paper documents filed with Commissioner-General.

- (c) where a person seeks a refund of tax, all documents relevant to calculation of the refund shall be retained until the refund is made;
- (d) where a person has received notice of an investigation by the Commissioner-General, all documents relevant to the investigation shall be retained until the Commissioner-General notifies the person in writing that the investigation is finalised; or
- (e) if under the customs law an entry in an account is corrected as a result of a custom control, a period of nine years from the relevant date.
- (6) The Commissioner-General may, by service of a notice in writing -
- (a) to the extent specified in the notice, relieve a person of the obligation to maintain documents or the time for which they are to be retained;
- (b) require a person to retain documents described with reasonable certainty in the notice for such period as specified in the notice; and
- (c) require a person to submit, including at regular intervals, an audit certificate, signed by a certified public accountant in public practice, in relation to documents required to be maintained by the person for the purposes of a revenue law.
- (7) The Commissioner-General may inspect any documents that are to be subject of a notice under paragraph (a) of subsection (6).

- (8) Notwithstanding the other provisions of this section and whether or not the documents pertain to the person's own tax affairs, paragraph (b) of subsection (6) applies.
- (9) In this section, "relevant date" means -
- (a) in the case of income tax, the end of the year of income or years of income for which the documents are relevant;
- (b) in the case of Goods and Services Tax, the end of the prescribed accounting period or periods for which the documents are relevant;
- (c) in the case of customs -
- (i) subject to subparagraphs (ii) and (iii), the end of the year in which the customs declaration is accepted for release of goods for free circulation or export;
- (ii) the end of the year in which customs supervision ends for goods released for free circulation duty-free or at a reduced rate of import duty;
- (iii) the end of the year in which the customs procedure ends for goods are placed under a customs procedure other than a procedure specified in subparagraphs (i) and (ii);
- (d) in the case of other taxes, the last date on which the taxpayer is obliged to lodge a document with the Commissioner-General for which the documents are relevant.
- 38.** Every manufacturer and bonded warehouse keeper shall keep at the factory or warehouse the apparatus and instruments prescribed in the regulations to enable the Commissioner-General to measure, weigh or test any excisable goods or material. <sup>Testing apparatus.</sup>

Tax returns.

**39.** (1) A tax return filed by an individual shall be signed by the individual and declared to be complete and accurate.

(2) A tax return filed by an individual who is legally incapacitated shall be signed by the person's legal representative, or other person appointed to act on the person's behalf and declared to be complete and accurate.

(3) A tax return filed by an entity shall be signed by a manager of the entity and declared to be complete and accurate.

(4) If before the date for filing a tax return the circumstances specified in subsection (6) exist, the Commissioner-General may require a person to file a tax return.

(5) The Commissioner-General's requirement shall be in writing and served on the person specifying the period, part of a period or other events to be covered by the tax return and the date by which the return shall be filed.

(6) The circumstances are -

- (a) the person becomes bankrupt, is wound-up or goes into liquidation;
- (b) the Commissioner-General believes on reasonable grounds that the person -
  - (i) is about to leave Sierra Leone indefinitely;
  - (ii) is otherwise about to cease activity in Sierra Leone; or
  - (iii) has committed an offence under a revenue law; or
- (c) the Commissioner-General otherwise considers it appropriate, including but not limited to where the person fails to maintain adequate documentation as required by section 37.

(b) install, maintain and service an electronic cash register, in accordance with the regulations, for the purpose of recording all transactions made by that registered person;

(3) Any person who, for the purposes of the Customs Act is -

(a) directly or indirectly involved in the accomplishment of customs formalities or in customs control;

(b) a customs clearing agent; or

(c) an operator of a transit warehouse, container depot, customs bonded warehouse or duty-free shop, shall keep documents and records in accordance with the regulations for the purpose of ensuring that all of the obligations under the Customs Act are discharged.

(4) Any person who is a manufacturer or warehouse keeper for the purposes of the Excise Act shall keep records, accounts and forms relating to the manufacture, receipt, storage and delivery of excisable goods.

(5) Subject to this section, the documents referred to in subsections (1) to (4) shall be retained for a period of at least six years from the relevant date or for the period as follows, whichever is longer-

(a) where a person makes an objection or appeal, all documents relevant to the matter in dispute shall be retained until the matter is finally decided and the decision executed;

(b) where a person makes an application to the Commissioner-General, all documents relevant to the application shall be retained until the application is finally decided;

(4) The Commissioner-General may grant multiple extensions but the extensions shall not in total exceed 90 days from the date the return was originally to be filed.

(5) The granting of an extension of time under this section does not alter the date for payment of tax as specified in the revenue law under which the return is filed.

Failure to file tax return on time.

**42.** (1) Subject to section 41, if a person fails to file tax return by the due date required by a revenue law, the Commissioner-General may, pursuant to section 47, direct another person to prepare and file details, including details that may have been required by the return.

(2) Any purported filing of a tax return after the due date or in a manner other than that specified in the relevant revenue law is ineffective.

(3) The Commissioner-General shall make an assessment of the tax liability of the person as required by the revenue law, including by way of adjusted assessment, and for this purpose may use any information in the Commissioner-General's possession including any information obtained as referred to in subsection (1) or (2).

Correction of tax returns and other information.

**43.** (1) Where the Commissioner-General is not satisfied with a tax return filed under a revenue law, the Commissioner-General shall use appropriate powers, including those in sections 44 to 46, to gather such further information as is necessary to make an assessment.

(2) A person may not amend or correct a tax return once it is filed without the permission of the Commissioner-General.

(3) A person shall file further information with the Commissioner-General when the person discovers that any information filed with the Commissioner-General in a tax return or otherwise is incorrect or misleading in any material particular.

(4) The Commissioner-General may, but is not obliged to take into account any information received under subsection (3) in making an assessment or adjusted assessment.

**44.** (1) For the purposes of a revenue law, the Commissioner-General shall be granted, without prior notice, full and free access to any premises, and place, document or other asset -

Access to information and assets.

(a) in the case of a dwelling house or where a document or asset is located in a dwelling house -

(i) between 9am and 6pm; and

(ii) at other times as permitted by an order of a magistrate under section 104; and

(b) in any other case, at all times.

(2) The Commissioner-General's power in subsection (1) may only be delegated to and exercised by a tax officer who is specifically authorised in writing by the Commissioner-General for this purpose.

(3) The Commissioner-General, or authorised tax officer, under subsection (1) may -

(a) make an extract or copy, including an electronic copy, of any document to which access is obtained under subsection (1);

(b) seize any document that, in the opinion of the Commissioner-General or authorised tax officer, affords evidence -

(i) that may be material in determining the tax liability of any person under a revenue law; or

(ii) that an offence has been committed under a revenue law;

- (c) where a document is not available or a copy is not provided on request by a person having access to the document, seize an asset to which access is obtained under subsection (1) the Commissioner-General or authorised tax officer reasonably suspects contains or stores the document in any form;
- (d) take samples of goods;
- (e) park, move or store at any premises or place any vehicle or other equipment in use by the Commissioner-General or authorised tax officer;
- (f) request reasonable accommodation and facilities in or next to the premises or place, or equipment to assist the tax officer; and
- (g) for the purposes of the Excise Act, stop any vehicle.
- (4) Any documents, assets or samples seized under subsection (3) shall be signed for by the Commissioner-General or authorised tax officer and may be-
- (a) in the case of any document seized under paragraph (b) of subsection (3), retained for as long as is required to determine the person's tax liability or for any proceedings under a revenue law;
- (b) in the case of any asset seized under paragraph (c) of subsection (3), retained for as long as is necessary to obtain access to the document, which document may be retained in accordance with paragraph (a); and

- 40.** (1) A tax consultant who, for remuneration, prepares or assists in the preparation of a tax return or an attachment to a tax return of another person, shall sign the return certifying that-
- (a) the tax consultant has examined the relevant documents of the other person maintained under section 37, and
- (b) to the best of the tax consultant's knowledge, the return or attachment presents a true and fair view of the circumstances to which it relates.
- (2) Subsection (1) does not apply to an employee of the person obliged to file the tax return.
- (3) Where a tax consultant refuses to sign a tax return as required by subsection (1), the preparer shall furnish the other person with a statement in writing of the reasons for such refusal, and shall sign the return noting that the signature is subject to such a statement.
- 41.** (1) A person who is required to file a tax return under a revenue law may apply to the Commissioner-General for an extension of the time by which the return shall be filed. Assistance in preparing tax return. Extension of time to file tax return.
- (2) The application shall be in writing and made by the due date for filing the return.
- (3) Where a person makes an application under subsection (1), the Commissioner-General-
- (a) may, on such terms and conditions as the Commissioner-General thinks appropriate (including as to payment of security) and where reasonable cause is shown, extend the date by which the return is to be filed; and
- (b) shall serve the person with written notice of the Commissioner-General's decision on the application.



(7) A possessor of any premises, place, document or asset to which an exercise of powers under section 44 relates may not refuse access to the premises, place, document or asset by reason of a contractual requirement to another person to maintain confidentiality.

Notice to obtain information.

**46.** (1) The Commissioner-General may, by service of a notice in writing, require a person, whether or not liable for tax -

- (a) to produce, including by way of creation of a document, within the time specified in the notice, any information that is described with reasonable certainty in the notice;
- (b) to attend at the time and place designated in the notice for the purposes of being examined on oath by the Commissioner-General or by an officer authorised in writing by the Commissioner-General concerning the tax affairs of the person or any other person; or
- (c) to produce at an examination of the person under paragraph (b) and for the purposes of that examination any document in the control of the person that is described with reasonable certainty in the notice.

(2) Any person to be examined on oath under paragraph (b) of subsection (1) is entitled to legal or other representation throughout the examination.

(3) Any notice under subsection (1) shall be served by delivery of the notice by hand to the person to whom it is directed or leaving the notice at the person's last and usual place of business or abode.

(4) The power in subsection (1) may be exercised in conjunction with the power in section 44.

(5) A person may not refuse to comply with a notice under subsection (1) by reason of a contractual requirement to another person to maintain confidentiality.

**47.** (1) The Commissioner-General may use all available Audit powers, including those in sections 44 and 46, for the purposes of auditing a person's tax affairs.

(2) The Commissioner-General may select a person for an audit having regard to -

- (a) the person's history of compliance or non-compliance with any revenue law;
- (b) the amount of tax payable by the person;
- (c) the class of business or other activity conducted by the person; or
- (d) any other matter that the Commissioner-General considers relevant for ensuring the collection of tax due.

(3) Being audited for any particular period does not preclude the taxpayer from being audited again in the next and following periods if there are reasonable grounds, particularly having regard to the matters referred to in subsection (2).

(4) An audit may be conducted for the purposes of more than one revenue law (see section 2).

#### PART VII - ASSESSMENT

**48.** (1) Assessment of tax is made by way of -

- (a) where self-assessment applies to primary tax, a person being obliged to file a tax return; and
- (b) the Commissioner-General making an assessment, in any other case, including by way of adjusting a self-assessment.

Assessment and self-assessment.

(2) No person, other than the Commissioner-General, may make an assessment under this Part for the purposes of a revenue law, unless provided for in this Act or other revenue law.

Default  
Assessment.

**49.** (1) The Commissioner-General may make a default assessment of tax payable or to become payable by a person under a revenue law -

- (a) whether or not the person is required to file a tax return, in the circumstances specified in subsection (5) of section 39; and
- (b) in any case, where a person fails to file a tax return on time.

(2) The Commissioner-General shall use best judgement and information reasonably available in making a default assessment.

(3) A default assessment may be for such period or periods or with respect to such events or subject matter as the Commissioner-General may specify in the notice of assessment.

(4) Unless the Commissioner-General specifies otherwise in the notice of assessment, a default assessment does not relieve a person of the obligation to file a tax return or otherwise report a taxable event as required by a revenue law.

(5) The filing of a tax return, including where it results in a self-assessment, does not affect a default assessment.

(6) If a default assessment covers the same period or events as are covered by a self-assessment of the same person with respect to the same tax, any tax paid with respect to the default assessment is credited against tax payable with respect to the self-assessment.

(7) A default assessment is treated as made under the revenue law which charges the person or subject matter assessed.

Adjusted  
assessment.

**50.** (1) The Commissioner-General may adjust an assessment in such manner as ensures the taxpayer is liable for the correct amount of tax in the circumstances to which the assessment relates.

(c) in the case of samples, retained and disposed of in the manner directed by the Commissioner-General.

(5) An authorised tax officer exercising power under this section may be assisted and accompanied by any employee of the Authority, expert appointed under section 17 or public officer assisting under section 18.

(6) The person assisting or accompanying the authorised tax officer shall be authorised for the purpose and supervised by the authorised tax officer.

**45.** (1) A possessor of any premises, place, document or asset to which an authorised tax officer seeks or has obtained access under section 44 may require the officer to produce the authorisation referred to in that section. Possessor's rights and obligations.

(2) Where a tax officer fails to comply with a request under subsection (1), the person may refuse the officer access or require the officer to leave the premises or place or return the documents or assets to which the tax officer has obtained access on that occasion.

(3) A possessor of any premises, place, document or asset to which an exercise of powers under section 44 relates shall provide all reasonable facilities and assistance for the effective exercise of the powers.

(4) Failure of a possessor to comply with subsection (3) is evidence of risk to the collection of tax for purposes of an application under section 104.

(5) The owner of documents or assets retained under paragraph (a) or (b) of subsection (4) of section 44 may examine them and make copies or extracts of documents from them, at the person's expense, during regular office hours under such supervision as the Commissioner-General may determine.

(6) Where in exercising powers under section 44 a document, asset or sample is lost, damaged or otherwise disposed of, the Commissioner-General shall pay the owner the value of the damage to repair to original condition.

- (a) the Commissioner-General is dissatisfied with the taxpayer's estimate of chargeable business income and turnover made for the purposes of that section; or
- (b) the taxpayer fails to make an estimate as required by that section.

(2) An instalment payment assessment is deemed to be an estimate of chargeable business income and turnover for the purpose of calculating the amount of instalments of tax under section 113 of the Income Tax Act.

Notice of assessment.

**52.** (1) Subject to subsection (3), where the Commissioner-General makes an assessment under a revenue law, the Commissioner-General shall serve a written notice of the assessment on the taxpayer.

(2) In addition to anything prescribed by the revenue law in question, a notice of assessment shall state -

- (a) the name of the taxpayer and the taxpayer's Taxpayer Identification Number, if any;
- (b) the Commissioner-General's assessment of the tax payable by the taxpayer for the period, event or matter to which the assessment relates and the amount remaining to be paid, if less, after any relevant credits, reductions or pre-payments;
- (c) the manner in which the assessment is calculated;
- (d) the reasons why the Commissioner-General has made the assessment;
- (e) the date by which the tax shall be paid; and
- (f) the time, place and manner of objecting to the assessment.

(3) The Commissioner-General shall issue to a taxpayer who has opted under subsection (2) of section 4 of the Income Tax Act to be taxed under the Small and Micro Taxpayer Regime a compliance certificate if -

- (a) the taxpayer has filed a return of income in accordance with subsection (4) of section 97 of that Act; and
- (b) paid tax due and payable in respect of that return under this Act.

(4) A taxpayer issued with a compliance certificate under subsection (3) shall immediately display, or affix, the certificate in a public and conspicuous place in his business premises.

#### PART VIII - DISPUTE RESOLUTION

**53.** (1) A tax decision is any assessment or other decision or omission on a matter left to the discretion, judgement, direction, opinion, approval, consent, satisfaction or determination of the Commissioner-General under a revenue law that directly affects a person. Tax decisions

(2) A tax decision does not include -

- (a) a practice note, class ruling or private ruling or a decision or omission to issue, refuse or revoke a practice note, class ruling or private ruling;
- (b) a decision or omission that affects a person only as a tax officer or employee or agent of the Authority;
- (c) a decision or omission of the Commissioner-General, including an objection decision; or
- (d) the compounding of an offence under any revenue law.

(3) A tax decision is made -

- (a) in the case of self-assessment, on the due date for filing the tax return in question;
  - (b) in the case of other assessments, when the notice of assessment is served on the taxpayer; and
  - (c) in the case of any other tax decision -
    - (i) where the revenue law specifies a time by which the Commissioner-General is to make the decision, when that time expires;
    - (ii) where the revenue law does not specify such a time, 60 days after the affected person files a request for the Commissioner-General to make the decision; or
    - (iii) if earlier than subparagraph (i) or (ii), when the Commissioner-General serves the affected person with written notice of the decision.
- (4) Conclusive evidence that a tax decision has been made and is correct are as follows-
- (a) in the case of self-assessment, the tax return that causes the assessment or a document under the hand of the Commissioner-General purporting to be a copy of the tax return;
  - (b) in the case of other assessments, the notice of assessment or a document under the hand of the Commissioner-General purporting to be a copy of the notice; and

(2) The Commissioner-General shall use best judgement and information reasonably available in making an adjusted assessment.

(3) There is no time limit on the Commissioner-General when adjusting an assessment in the case of fraud, wilful neglect or serious omission by or on behalf of the taxpayer.

(4) The Commissioner-General's power to adjust an assessment expires six years from -

- (a) in the case of a self-assessment, the due date for filing the tax return that gives rise to the assessment;
- (b) in the case of any other original assessment, the date on which the Commissioner-General serves notice of assessment on the taxpayer; and
- (c) in the case of an adjusted assessment, the date referred to in paragraph (a) or (b) of the original assessment that is adjusted.

(5) The Commissioner-General may not adjust an assessment that has been adjusted or reduced pursuant to a decision of the Tribunal or an order of a court of competent jurisdiction, unless the decision or order is vacated.

(6) An assessment ceases to have effect to the extent to which it is adjusted.

(7) An adjusted assessment is treated as made under the revenue law which charges the person or subject matter assessed.

(8) In this section, "original assessment" means an assessment that is not an adjusted assessment.

**51.** (1) The Commissioner-General may make an assessment of a taxpayer's estimated chargeable business income and turnover for the purposes of an instalment payment assessment in accordance with section 113 of the Income Tax Act, if -

Instalment  
payment  
assessment.

(7) Subject to subsections (8) and (10), an objection to a tax decision has no effect on the right of the Commissioner-General to act on the decision.

(8) Where a taxpayer files an objection and makes payment under subsection (4), liability to pay the remaining assessed tax is suspended pending resolution of the objection, including any subsequent appeal.

(9) On application by the Commissioner-General, the High Court may cancel the application of subsection (8) in a particular case.

(10) The Commissioner-General may vary or suspend a tax decision pending resolution of the objection, including any subsequent appeal, or take such other action with respect to the decision as the Commissioner-General thinks appropriate.

(11) In exercising discretion under subsection (9) or (10), the court or Commissioner-General, respectively, shall balance the need to maintain the integrity of the objection procedure with the need to protect Government revenue and the integrity of the tax system as a whole.

(12) In this section, "tax not in dispute" with respect to an assessment means -

- (a) the amount that would be assessed if the assessment were reduced in accordance with the objection; and
- (b) the whole of any tax assessed on imports.

**55.** (1) After consideration of an objection, the Commissioner-General may make an objection decision varying the tax decision in whole or part or disallowing the objection.

(2) After making an objection decision, the Commissioner-General, as soon as is practicable, shall serve the person objecting with notice of the decision, which shall set out the Commissioner-General's reasons for making the decision.

Objection decisions.

(3) If the Commissioner-General does not serve the person with notice of an objection decision within 60 days after the objection is filed, the person may, by notice in writing to the Commissioner-General, elect to treat the Commissioner-General as having made a decision to disallow the objection.

(4) An objection decision is made -

- (a) on the date the person is served with notice of the decision; or
- (b) if a person makes an election under subsection (3), on the date the person's election is filed with the Commissioner-General.

(5) The notice of an objection decision is conclusive evidence that the decision has been made and is correct.

(6) A person affected by an objection decision may appeal against the decision under section 56, but otherwise the decision is final and conclusive and may not be disputed on any grounds in any proceedings before a court, tribunal, board or other forum.

**56.** (1) A person who is aggrieved by an objection decision or other decision or omission of the Commissioner-General under section 55 may appeal to the Revenue Review Tribunal established under section 57. Appeal against objection decision.

(2) An appeal under this section shall be made within 30 working days of the objection decision.

(3) A copy of the appeal shall be served on the Commissioner-General as soon as practically possible after the appeal has been made to the Tribunal.

(4) Subject to subsection (5), an appeal to the Tribunal may only be argued on the grounds specified in the appeal.

(5) A person may apply, on cause shown, to the Tribunal to add, delete, or amend the grounds of appeal.

(6) The Tribunal, on hearing an appeal, may allow an appeal, in whole or in part, or may refuse the appeal.

(7) The Tribunal shall -

- (a) specify the matters of fact it finds accepted or proved;
- (b) specify the matters of law applying to the appeal;
- (c) give reasons for its decision to allow or refuse an appeal; and
- (d) specify such steps as may be necessary for the Commissioner-General to take to give effect to its decision.

(8) An appeal under this section is otherwise to be made, heard and determined in accordance with rules made by the Tribunal.

Revenue  
Review  
Tribunal.

**57.** (1) There is hereby established a Revenue Review Tribunal for the purpose of hearing and determining appeals made under section 56.

(2) The Chairman and other members of the Tribunal shall be appointed by the President, on the recommendation of the Minister, for a term of five years subject to the approval of Parliament and shall be eligible for reappointment for one additional term only.

(3) A person is not eligible for appointment under subsection (2) -

- (a) as Chairman, unless he is a legal practitioner who has on the date of appointment been in active legal practice for not less than ten years;
- (b) as a member, unless he has a qualification recognised in Sierra Leone and proven experience in the fields of law, taxation or accounting and at least ten years' relevant experience in that field;

- (c) in the case of any other tax decision, written notice of the decision under the hand of the Commissioner-General or a document under the hand of the Commissioner-General purporting to be a memorandum of the decision.

(5) Any person affected by a tax decision may object to the decision under section 54, but otherwise the decision is final and conclusive and may not be disputed on any grounds in any proceedings before a court, tribunal, board or other forum.

**54.** (1) A person who is dissatisfied with a tax decision that directly affects the person may file an objection to the decision with the Commissioner-General within 42 days after the decision is made. Objection to tax decision.

(2) Within 42 days after a tax decision is made, a person may make written application to the Commissioner-General for an extension of time to lodge an objection and, if satisfied there is reasonable cause, the Commissioner-General may grant the application and shall serve notice of the decision on the applicant.

(3) An objection to a tax decision shall be in writing and state precisely the grounds upon which it is made.

(4) An objection to an assessment is ineffective until the taxpayer pays the greater of -

- (a) 30 percent of the tax assessed, or
- (b) that part of the tax not in dispute, irrespective of when the tax is otherwise payable.

(5) The Minister shall prescribe, in regulations, the circumstances in which the Commissioner-General may reduce or waive the amount required to be paid under subsection (4).

(6) If the Commissioner-General is satisfied that there exist prescribed circumstances warranting reduction or waiver, the Commissioner-General may waive the amount to be paid under subsection (4) or direct a lesser amount to be paid.

Appeal to  
High Court.

**58.** (1) A person dissatisfied with the decision of the Tribunal under section 56 may appeal to the High Court against that decision within 60 days of the date of the Tribunal's decision.

(2) An appeal under subsection (1) -

- (a) may only be made on a point of law; and
- (b) shall be made in accordance with the provisions applying to the High Court sitting in its appellate jurisdiction.

(3) A decision of the Tribunal that is not appealed under this section is final and conclusive and may not be disputed on any grounds in any proceedings before a court, tribunal, board or other forum.

#### PART IX - PAYMENT OF TAX

Time for  
paying tax.

**59.** (1) Tax is payable -

- (a) at the time specified in the revenue law under which the tax is charged;
- (b) in the case of tax payable -
  - (i) on a default assessment under section 49, on the date specified in the notice of assessment served under section 52; or
  - (ii) on an adjusted assessment under section 50, within 30 days from the date on which the person assessed is served with a notice of assessment under section 52;
- (c) in the case of interest and penalties under Part XII (Interest and Penalties), on the date specified in the notice of assessment served under section 52;

- (d) with respect to amounts required to be paid to the Commissioner-General under subsection (3) of section 4, subsection (9) of section 66, subsection (2) of section 73, subsection (2) or (5) of section 75, on the date set out in the relevant notice;
- (e) with respect to a liability under section 71, at the same time as the tax is payable by the entity;
- (f) with respect to amounts required to be paid to the Commissioner-General under subsection (3) or subsection (4) of section 72, seven days after the sale from which the amount is set aside or the failure to set aside, respectively; or
- (g) with respect to amounts required to be paid to the Commissioner-General under subsection (5) of section 73, on the date provided for in the security.

(2) Subject to subsection (8) of section 54, tax remains payable despite any dispute or review proceedings, irrespective of whether the proceedings are administrative, judicial, quasi-judicial or appellate in nature.

**60.** (1) A taxpayer may apply, in writing, to the Commissioner-General for an extension of time to pay tax under a revenue law.

Extension of  
time for  
paying tax.

(2) On receiving an application, the Commissioner-General may, where good cause is shown, extend the date on which tax or part of tax is payable, up to a maximum of one year from the due date of payment, on such terms and conditions as the Commissioner-General thinks fit including as to security.

(3) The Commissioner-General shall serve the applicant with written notice of the Commissioner-General's decision on the application.

(4) Where an extension is granted by permitting the taxpayer to pay by instalments and the taxpayer defaults in paying any of the instalments, the whole balance of the tax outstanding.

Manner of paying tax.

**61.** (1) A taxpayer shall pay tax -

- (a) where he received notice from the Commissioner-General or using a method prescribed by the notice;
- (b) in any other case—
  - (i) at any bank approved for this purpose by the Commissioner-General;
  - (ii) at a tax office designated by the Commissioner General for the purpose of receiving payments; or
  - (iii) using any other method prescribed by the Commissioner-General.

(2) For the purposes of this section, the Commissioner-General may prescribe places and methods, including electronic methods, for payment of tax.

(3) Where a taxpayer pays tax at a bank in accordance with subparagraph (i) of paragraph (b) of subsection (1) -

- (a) the payment shall be made to an account maintained by the bank for the purpose of revenue collection -
  - (i) in cash;
  - (ii) by cheque made out to the Commissioner-General, crossed and endorsed with the words "Account Payee Only"; or
  - (iii) by direct account transfer; and
- (b) the taxpayer shall notify the tax office where the person is registered as to the payment.

(4) A panel of the Tribunal shall consist of at least three members

- (c) where the Chairman, having regard to the significance or complexity of the appeal, considers that the panel be constituted with a higher number of members - five, or other greater odd number, of members, determined by the Chairman.

(5) The Chief Justice may, after consulting with the Minister and the Commissioner General, make regulations for the effective management of the Tribunal and the effective discharge of its functions under this section, including -

- (a) the appointment of a Registrar to the Tribunal and the duties and powers of the Registrar;
- (b) the composition of panels of the Tribunal, including the number of members;
- (c) the times and places of hearings of appeals by the Tribunal;
- (d) powers of the Tribunal to require the attendance of witnesses and the production of documents;
- (e) fees payable to the Tribunal by parties to proceedings; and
- (f) fees and expenses payable to members of the Tribunal in respect of -
  - (i) days when the Tribunal hears an appeal; and
  - (ii) other work undertaken by the Tribunal.

(6) The Chairman of the Tribunal may, after consulting with the Chief Justice, and subject to regulations made under subsection (6), make procedural rules, consistent with this Act, for the effective and efficient conduct of appeals made to the Tribunal.



Taxpayer  
Tax Account. **63.** (1) The Commissioner-General may establish and operate an electronic system of Taxpayer Tax Account.

(2) The system may be established and operated separately or as part of—

- (a) any electronic document system established under section 36;
- (b) any method of payment of tax prescribed under subsection (2) of section 36;

(3) For this purpose, the Commissioner-General may prescribe rules, published in the Gazette, concerning -

- (a) the debiting of tax when it becomes payable;
- (b) the crediting of tax paid;
- (c) the allocation of tax paid against tax payable; and
- (d) other matters of the type described in section subsection (2) of 36.

#### PART X - RECOVERY OF UNPAID TAX

Suit for  
unpaid tax. **64.** (1) Tax is a debt due to the Government of Sierra Leone on the date it becomes payable.

(2) The Commissioner-General may sue for and recover unpaid tax in any court of competent jurisdiction.

Security for  
withholding  
tax.

**65.** (1) Withholding tax is—

- (a) a first charge on the payment from which the is withheld; and
- (b) withheld prior to any other deduction that the withholding agent may be required to make by virtue of an order of any court or any other law.

(2) Withholding tax, including any assets acquired by the withholding agent into which the tax may be traced -

- (a) is held in trust for the Government of Sierra Leone;
- (b) is not subject to attachment in respect of a debt or liability of the agent; and
- (c) does not form part of the estate in liquidation or bankruptcy of the agent.

(3) The Commissioner-General acting for the Government has a first claim over the tax or assets before any distribution in liquidation or bankruptcy of a withholding agent is made.

(4) In this section—

"withholding agent" means the person obliged to withhold withholding tax from a payment; and

"withholding tax" means income tax that a withholding agent is required to withhold from a payment under Part XV of the Income Tax Act.

**66.** (1) Where a taxpayer fails to pay tax on time, the Commissioner-General may create a charge in favour of the Government of Sierra Leone over assets owned by the taxpayer, irrespective of who possesses the assets. <sup>Charge over assets.</sup>

(2) The Commissioner-General creates the charge by serving the taxpayer with a notice in writing specifying the taxpayer's name and Taxpayer Identification Number (if any), the assets charged, the extent of the charge, the tax to which the charge relates and details regarding the Commissioner-General's power of sale under section 67.

(3) The assets of a taxpayer are charged to the extent of the unpaid tax, interest accruing with respect to that tax under section 83 and any costs of charge and sale.

(4) A charge shall not have effect until -

- (a) where an interest in land or buildings is charged, the Commissioner-General files an application to register the charge under subsection (6); and
  - (b) in any other case, the notice creating the charge is served on the taxpayer.
- (5) A charge is released when the taxpayer pays to the Commissioner-General in full the amounts referred to in subsection (3).
- (6) Where the Commissioner-General creates a charge over an interest in land or buildings, the Registrar-General shall, without fee, register the charge on the title of the interest in land or buildings.
- (7) Where a charge over an interest in land or buildings is released, the Registrar-General shall, within 30 days and without fee, remove the entry of the charge from the title of the interest in land or buildings.
- (8) The activities of the Commissioner-General under this section, irrespective of whether they result in the transfer of title to an asset, are exempt from stamp duty and any other transaction taxes.
- (9) The Commissioner-General may, at any time, serve on a taxpayer a notice in writing -
- (a) specifying any costs of charge and sale with respect to assets of the taxpayer incurred by the Commissioner-General prior to the date of service; and
  - (b) requiring the taxpayer to pay those costs to the Commissioner-General by the date specified in the notice.
- (10) In this section—

- (4) Where a taxpayer pays tax at a tax office in accordance with paragraph (b) (ii) of subsection (1) the payment shall be -
- (a) by electronic transfer of funds through a point of sale machine;
  - (b) by cheque made out to the Commissioner-General, crossed and endorsed with the words "Account Payee Only"; or
  - (c) using a method prescribed by the Commissioner-General.
- (5) Payment of tax is not made if a cheque is tendered and the cheque, on receipt by the bank or on presentation to the bank on which it is drawn, is dishonoured for any reason.
- 62.** (1) Where a taxpayer has more than one amount of tax payable, whether under one or more revenue laws, and the taxpayer makes payment that is less than the total amount outstanding, the payment made by the taxpayer shall be progressively applied -
- (a) first, to interest;
  - (b) second, to penalty;
  - (c) third, to withholding tax;
  - (d) fourth, to goods and services tax; and
  - (e) fifth, any other tax.
- (2) Where a payment may be applied in subsection (1) to two or more outstanding amounts under the same paragraph, the payment shall be progressively applied to the most recent outstanding amount and then the less recent amounts, in order of the date of their creation.
- (3) Where this section applies, the Commissioner-General may, in the Commissioner-General's absolute discretion, determine which amount of tax is considered paid.

- (a) the Commissioner-General may exercise the power either directly or indirectly through an authorised agent at any time after the notice is served;
  - (b) where the assets are currently in the possession of a person other than the taxpayer, the Commissioner-General shall serve that person with a copy of the notice prior to taking possession;
  - (c) for purposes of taking possession, the Commissioner-General may enter at any time any premises or place described in the notice and request the assistance of the police;
  - (d) the Commissioner-General shall, at the time of taking possession, provide the taxpayer with an inventory of assets seized; and
  - (e) in the case of movable assets, the Commissioner-General may store the assets, at the cost of the taxpayer, at any place that the Commissioner-General considers appropriate.
- (4) After serving a taxpayer with a subsection (1) notice, the Commissioner-General may, after public notice, sell the charged assets at public auction but not before -
- (a) in the case of an interest in land or buildings, 90 days after taking possession;
  - (b) in the case of perishable or movable assets, 1 day after taking possession;
  - (c) in the case of other tangible assets, 30 days after taking possession; and
  - (d) in any other case, 30 days after service of the notice under subsection (1).

(5) The sale proceeds shall be used to pay the costs of charge and sale of the assets sold, then to pay the outstanding tax and interest accrued with respect to that tax under section 83, then to pay any other unpaid tax and any remainder shall be paid to the taxpayer.

(6) After applying sale proceeds in accordance with subsection (5), the Commissioner-General shall serve the taxpayer with a written notice detailing the manner in which the sale proceeds were applied.

(7) If the sale proceeds are insufficient to pay in full the costs of charge and sale, the tax due and interest accrued with respect to that tax, the Commissioner-General may proceed to collect the insufficiency with fresh action as suit for unpaid tax under section 64 or as recovery from third parties under sections 71, 72 or 73.

(8) This section shall not restrict the exercise of any rights that the Commissioner-General otherwise has due to a security created under section 65 or 66.

(9) The activities of the Commissioner-General under this section, irrespective of whether they result in the transfer of title to an asset, are exempt from stamp duty and any other transaction taxes.

(10) In this section -

"charged assets" owned by a taxpayer means assets held by a withholding agent on trust under section 65 or assets charged under section 66; and

"costs of charge and sale" has the meaning in section 66.

**68.** (1) Where -

- (a) a person fails to pay tax by the due date for payment;
- (b) the Commissioner-General reasonably considers that the person may leave Sierra Leone without paying the tax; and

Restraint of person

- (c) the Commissioner-General reasonably considers that the tax will remain unpaid and the person may not return to Sierra Leone,

the Commissioner-General may, by notice in writing to the Chief Immigration Officer, ordering prevention of the person from leaving Sierra Leone.

(2) On receiving the notice, the Chief Immigration Officer shall prevent the person, if the person attempts to leave Sierra Leone, from leaving Sierra Leone for a period of 7 days from the time the notice is served on the Chief Immigration Officer.

(3) The Commissioner-General shall withdraw a notice where the person pays the tax or arranges for payment in a manner satisfactory to the Commissioner-General.

(4) On application by the Commissioner-General, the High Court may extend the period referred to in subsection (2) for a renewable period of up to 30 days.

Restraint  
of business  
assets.

**69.** (1) Where the Commissioner-General believes on reasonable grounds that a person carrying on a business has not paid tax by the due date for payment, the Commissioner-General may -

- (a) restrain and search any premises, place, vehicle or other asset on or in which the Commissioner-General believes on reasonable grounds the asset forms part of the person's business; and
- (b) restrain the goods of the business carried on by that person;
- (c) lock up the business premises of that person; and
- (d) use reasonable force for the purposes of paragraphs (a) to (c).

"costs of charge and sale" with respect to assets means any expenditure incurred or to be incurred by the Commissioner-General or an authorised agent -

- (a) under this section with respect to creating or releasing a charge over the assets; or
- (b) under section 67 with respect to taking possession of, holding and selling the charged assets, including, for unpaid tax under the Customs Act, -
  - (i) warehouse rent and charges; and
  - (ii) harbour dues, wharf age dues or freight due.

**67.** (1) The Commissioner-General shall serve a taxpayer with written notice of the Commissioner-General's intention to sell charged assets owned by the taxpayer. Sale of charged assets.

(2) The notice may be incorporated in or accompany a notice referred to in subsection (2) of section 66 and shall specify -

- (a) the taxpayer's name and Taxpayer Identification Number;
- (b) the charged assets, the Commissioner-General's intention to sell those assets and the proposed method and timing of sale; and
- (c) in the case of tangible assets that the Commissioner-General intends to take possession of, the manner in which and place at which the possession will occur.

(3) The Commissioner-General may take possession of tangible assets referred to in subsection (1) notice and the following rules apply-

Forfeiture of goods.

**70.** (1) This section applies where any goods are liable to forfeiture under the Excise Act.

(2) In the circumstances specified in subsection (1), the Commissioner-General may—

- (a) restrain and search any premises (including a warehouse), place, vehicle or other asset on or in which the Commissioner-General believes on reasonable grounds the goods liable to forfeiture may be located; and
- (b) restrain the goods liable to forfeiture; and
- (c) use reasonable force for the purposes of paragraphs (a) and (b).

(3) The Commissioner-General may exercise the powers referred to in subsection (2) in conjunction with any other powers of the Commissioner-General, including those granted by sections 44 and 46.

(4) Upon restraining goods under subsection (2), the Commissioner-General shall -

- (a) serve a written notice on the possessor of the goods and, where there is more than one possessor, service on a single possessor is sufficient; or
- (b) where no possessor is available, leave the notice at the premises or place where the restraining takes place.

(5) The notice shall -

- (a) identify and list the premises and goods restrained;
- (b) state the goods have been restrained under this section and the reason for the restraint; and

- (c) set out the terms for release, including any as to security required, and terms for unlocking the premises.

(6) The Commissioner-General may restrain goods under this section for 30 days.

(7) If within the period referred to in subsection (6), no person proves to the satisfaction of the Commissioner-General that the person is the owner of goods liable to forfeiture referred to in paragraph (a) of subsection (2), the Commissioner-General may treat the goods as charged assets and sell them in accordance with section 67.

**71.** (1) Where an entity fails to pay tax on time, every person who is a manager of the entity at that time or was a manager within the previous 6 months is jointly and severally liable with the entity and every other such person for payment of the tax. <sup>Managers of entities.</sup>

(2) Subsection (1) does not apply where the manager has exercised the degree of care, diligence, and skill that a reasonably prudent person in the position of the manager would have exercised in preventing the failure to pay tax.

(3) Where a person pays tax under subsection (1) -

- (a) the person may recover the payment from the entity;
- (b) for the purposes of paragraph (a), the person may retain out of any assets (including money) of the entity in or coming into the possession of the person an amount not exceeding the payment; and
- (c) no claim may be made against the person by the entity or any other person with respect to the retention.

(4) In this section, "manager" of an entity includes a person purporting to act as a manager of the entity.

Receivers.

**72.** (1) A receiver shall notify the Commissioner-General in writing within 14 days of being appointed to the position of receiver or taking possession of an asset situated in Sierra Leone, whichever occurs first.

(2) The Commissioner-General may serve a receiver with a notice in writing specifying an amount that appears to the Commissioner-General to be sufficient to provide for any tax due or that will become due by the taxpayer whose assets come into the receiver's possession.

(3) After receiving a notice under subsection (2), a receiver—

- (a) shall sell sufficient of the assets that come into the receiver's possession under the receivership to set aside, after payment of any debts having priority over the tax referred to in the notice, the amount notified by the Commissioner-General under that subsection; and
- (b) is liable to pay to the Commissioner-General on account of the taxpayer's tax liability the amount set aside.

(4) To the extent that a receiver fails to set aside an amount as required by subsection (3), the receiver is personally liable to pay to the Commissioner-General on account of the taxpayer's tax liability the amount that should have been set aside but may recover any amount paid from the taxpayer.

(5) In this section—

"receiver" means any person who, with respect to an asset situated in Sierra Leone, is—

- (a) a liquidator of an entity;
- (b) a receiver appointed out of court or by a court in respect of an asset or entity;
- (c) a trustee for a bankrupt person;

(2) The Commissioner-General may exercise the powers referred to in subsection (1) in conjunction with any other powers of the Commissioner-General, including those granted by sections 44 and 46.

(3) Upon restraining any goods or assets under subsection (1), the Commissioner-General shall -

- (a) serve a written notice on the possessor of the goods or asset and, where there is more than one possessor, service on a single possessor is sufficient; or
- (b) where no possessor is available, leave the notice at the premises or place where the restraining takes place.

(4) The notice shall -

- (a) identify and list the premises and goods or assets restrained;
- (b) state the goods or assets have been restrained under this section and the reason for the restraint; and
- (c) set out the terms for release, including any as to security required, and terms for unlocking the premises.

(5) The Commissioner-General may restrain goods or assets for such period as is necessary to raise a default or amended assessment and exercise the powers in sections 44 and 46 or 30 days, whichever is less.

(6) If within the period referred to in subsection (5), no person proves to the satisfaction of the Commissioner-General that the person is the owner of assets referred to in paragraph (a) of subsection (1), the Commissioner-General may treat the assets as charged assets and sell them in accordance with section 66.

- (c) money held or that may subsequently be held on account of a third person for payment to the taxpayer; and
- (d) money held by a person who has authority from a third person to pay the money to the taxpayer.

(8) In this section—

"guarantor" means a person who grants the Commissioner-General security for tax payable or to become payable by another taxpayer; and

"money" includes a debt obligation denominated or payable in money.

Compliance with notice or security.

**74.** (1) A third party debtor or guarantor who pays the Commissioner-General pursuant to a section 73 notice or security, as the case requires—

- (a) is treated as having acted with the authority of the taxpayer and of all other persons concerned; and
- (b) is indemnified in respect of the payment against all proceedings, civil or criminal, and all processes, judicial or extra judicial.

(2) Subsection (1) applies irrespective of any provisions to the contrary in any written law, contract or agreement.

(3) A section 73 notice served on a third party debtor or a security granted by a guarantor ceases to have effect once the tax referred to in it is paid or otherwise satisfied.

(4) Where a third party debtor served with a section 73 notice is unable to comply with the notice by reason of lack of money owing to or held for the taxpayer, the person shall notify the Commissioner-General (a "third party debtor notice").

(5) A third party debtor notice shall be in writing, set out the reasons for the inability and be filed with the Commissioner-General as soon as practicable after the third party debtor becomes aware of the inability and in any event before the payment date specified in the section 73 notice.

(6) On receipt of a third party debtor notice the Commissioner-General may, by notice in writing served on the third party debtor, accept the notification and cancel or amend the section 73 notice or reject the third party debtor notice.

(7) The filing of a third party debtor notice has no effect on subsection (5) of section 73 and the enforcement of payment under a section 73 notice unless and until the Commissioner-General cancels or amends the section 73 notice.

**75.** (1) The Commissioner-General may exercise the power in sub-section (2) where a non-resident taxpayer fails to pay tax on time or the Commissioner-General believes on reasonable grounds that a non-resident taxpayer will not pay tax on time. Agents of - non-residents.

(2) The Commissioner-General may, by service of a notice in writing, require an agent who is in possession of an asset owned by the taxpayer to pay tax on behalf of the taxpayer.

(3) An agent is required to pay tax up to the market value of the asset but not exceeding the amount of the taxpayer's unpaid tax.

(4) For the purposes of this section -

- (a) a taxpayer who charters an aircraft or ship under a charter exceeding three years is treated as owning the aircraft or ship during that period; and
- (b) the captain of any aircraft or ship is treated as being in possession of the aircraft or ship.

(5) The Commissioner-General may, by service of a notice in writing, require a resident partnership or a resident partner to pay tax due or that may become due by a non-resident partner.

(6) The resident partnership and any resident partner are jointly and severally liable to pay the tax up to the amount of the non-resident partner's share in the net assets of the partnership.

(7) Where a person (including a resident partnership) makes a payment to the Commissioner-General pursuant to a notice under subsection (2) or (5)–

- (a) the person may recover the payment from the taxpayer or non-resident partner;
- (b) for the purposes of paragraph (a), the person may retain out of any assets (including money) of the taxpayer or non-resident partner in or coming into the possession of the person an amount not exceeding the payment; and
- (c) the taxpayer, non-resident partner or any other person may not make a claim against the person with respect to the retention.

#### PART XI – REMISSION AND REFUND OF TAX

Remission of interest and penalties.

**76.** (1) Where a person liable for interest or penalties under a revenue law shows, in writing, good cause, the Commissioner-General may–

- (a) refrain in whole or in part from assessing the interest or penalties; or
- (b) whether before or after payment of the interest or penalty, remit or waive in whole or in part any interest or penalty assessed.

(d) a mortgagee in possession;

(e) an executor, administrator or heir of a deceased individual's estate; or

(f) conducting the affairs of an incapacitated individual; and

"taxpayer" includes a deceased individual.

**73.** (1) Where a taxpayer fails to pay tax on time, the Commissioner-General may serve a notice in writing on a third party debtor who owes money to the taxpayer requiring him to pay the money to the Commissioner-General. Third party debtors and guarantors.

(2) On receiving a notice under subsection (1), the third party debtor shall pay the money, on account of and to the extent of the tax due by the taxpayer, to the Commissioner-General by the date specified in the notice, being not less than 2 working days

(3) A notice applies to money owed, or becoming owing, for a period of 30 days from the date of receipt of the notice.

(4) The date specified in the notice shall not be before the date the third party debtor is served with the notice.

(5) As soon as practicable after service of the notice on the third party debtor, the Commissioner-General shall serve the taxpayer with a copy of the notice.

(6) Amounts payable to the Commissioner-General by a third party debtor under subsection (2) or by a guarantor under a security are treated as tax and, once due, may be recovered as tax.

(7) The following are treated as money owed to a taxpayer–

- (a) money currently owing or that may subsequently become owing to the taxpayer;
- (b) money held or that may subsequently be held for or on account of the taxpayer;



- (a) the event that gave rise to payment of the excess tax;
- (b) the date on which a tax return is filed by the person with respect to the payment; or
- (c) the date of payment.

Decision on application.

**78.** (1) The Commissioner-General shall consider and make a refund decision on an application under section 77 within 45 days of receipt of the application.

(2) The Commissioner-General may make such decision, including as to conditions, as the Commissioner-General thinks appropriate including, but without limiting the Commissioner-General's discretion—

- (a) where the Commissioner-General thinks that the applicant has not paid excess tax, rejecting the application;
- (b) where the Commissioner-General is not satisfied that the applicant has paid excess tax –
  - (i) requesting such further information as may be reasonable in order to make a final decision on the application;
  - (ii) in the case of an application for an amount payable under the customs law, requiring an inspection of the goods in respect of which that application is made; or
  - (iii) offering a refund subject to the applicant providing such security as the Commissioner-General thinks fit; or

- (c) where the Commissioner-General is satisfied that the applicant has paid excess tax, to make a refund to the extent to which the Commissioner-General is satisfied.

(3) The Commissioner-General shall serve the applicant with written notice of the refund decision within the time mentioned in subsection (1).

(4) Where the Commissioner-General makes a decision under paragraph (b) of subsection (2), the Commissioner-General shall reconsider the application after the applicant provides the information or if the applicant rejects the offer.

(5) The Commissioner-General shall make a decision on the reconsideration and serve the applicant with notice of that decision within—

- (a) 45 days of receiving the original application; plus
- (b) the time between serving the Commissioner-General's request or offer and the applicant providing the information or rejecting the offer, as the case requires.

**79.** (1) Where the Commissioner-General is satisfied that a person has paid excess tax, whether on application for a refund or otherwise, the Commissioner-General shall—

- (a) apply the excess in reduction of any tax due but unpaid by the person under any revenue law;
- (b) in the case of a refund of excess tax under the Goods and Services Tax Act, apply the excess as an input tax credit in accordance with subsection (1) of section 41 of that Act;

Payment of tax refund.

(c) refund the remainder within 30 days of making the decision.

(2) Where the Commissioner-General accepts a person's refund application in part only, the Commissioner-General shall refund the amount accepted, irrespective of whether the person objects to the Commissioner-General's decision.

(3) Where the Commissioner-General refunds an amount of tax to a person, whether because of a court order or otherwise, the Commissioner-General is liable to pay the person interest.

(4) The interest is calculated at the statutory rate less three percentage points, and is for the period commencing three months after the relevant date referred to in section 78 and ending on the day the refund is made.

(5) Interest paid by a person under a revenue law with respect to tax not paid on time shall, to the extent that the tax is found not to have been payable, be refunded to the person, with any interest under subsection (4).

(6) The Commissioner-General shall maintain a separate bank account and ensure that there are sufficient funds in it for the purposes of this section.

(7) Interest under this section shall be calculated on a simple interest basis.

Operation of  
Goods and  
Services  
Tax Act.

**80.** Except to the extent provided, sections 77 to 79 do not limit the operation of sections 27 and 41 of the Goods and Services Tax Act.

Extinguish-  
ment of  
irrecoverable  
debt.

**81.** (1) The Minister may extinguish tax that is a debt due to the Government of Sierra Leone under section 64 if all the conditions in subsection (2) are satisfied and shall notify Parliament of any tax extinction referred to in paragraph (a) and any such extinction shall be published in the *Gazette*.

(2) The Minister shall make regulations prescribing the circumstances in which a person may apply to the Commissioner-General to exercise the power under subsection (1), and the criteria that the Commissioner-General shall take into account in determining whether good cause exists.

**77.** (1) Within 3 years of the relevant date, a person may apply to the Commissioner-General for a refund of tax paid in excess of the person's tax liability. Application for tax tax liability.

(2) The application shall be in writing explaining how the excess is calculated and evidence relevant to that calculation attached including, in a case where the excess arises with respect to Goods and Services Tax, a certificate of genuineness.

(3) A person is limited to making applications with the following frequency—

(a) in the case of a taxable person certified under subsection (4), monthly; and

(b) in any other case, 6 monthly.

(4) The Commissioner-General may certify a person under this subsection if—

(a) the person is a taxable person under the Goods and Services Tax Act; and

(b) in a six-month period, the person's total input tax credits exceed total tax charged and paid on supplies made by the person.

(5) In this section—

"certificate of genuineness" is a certificate issued by an auditor who has been registered as a tax consultant pursuant to Regulations issued by the Minister under section 30; and

"relevant date" means the later of —

- (a) amend the person's tax account accordingly; and
- (b) take all reasonable steps to collect the tax debt under this Act.

(5) The Minister may prescribe rules for the administration of this section.

#### PART XII—INTEREST AND PENALTIES

Interest for under-estimating tax payable.

**82.** (1) This section applies where an instalment payer's estimate or revised estimate of income tax payable for a year of income under section 113 of the Income Tax Act is less than 90 percent of the correct amount.

(2) The instalment payer is liable for interest for each day from the date the first instalment for the year of income is payable until the due date by which the person shall file a return of income for the year of income under section 97 of the Income Tax Act.

(3) The amount of interest that an instalment payer shall pay for each day under subsection (2) is calculated as the statutory rate, applied to the amount outstanding, being the excess of—

- (a) 90 percent of the total amount that would have been paid by way of instalments during the year of income to the start of the period had the person's estimate or revised estimate equalled the correct amount; over
- (b) the amount of income tax paid by instalments during the year of income to the start of the period.

(4) For the purposes of calculating interest payable under subsection (3)—

- (a) any extension granted under section 41 or subsection (2) of section 60, or suspension under subsection (8) of section 54, is ignored;

- (b) the calculation of interest for each day shall be on the amount outstanding after receipt of any payments made by the taxpayer in accordance with section 61, or otherwise recovered by the Commissioner-General in respect of the amount outstanding, and allocated in accordance with section 62;
- (c) interest shall be calculated on a simple interest basis; and
- (d) "amount outstanding" does not include any penalty imposed under this Act;
- (e) "correct amount" means the income tax payable by the instalment payer on chargeable income for the year of income, determined under the Income Tax Act.

**83.** (1) A person who fails to pay tax on or before the date on which the tax is payable is liable for interest for the period for which any of the tax is outstanding calculated as the statutory rate, applied to the amount outstanding each day that any tax is outstanding. Interest for failing to pay tax.

(2) For the purposes of calculating interest payable under subsection (1)—

- (a) any extension granted under section 41 or subsection (2) of section 60, or suspension under subsection (8) of section 54, is ignored;
- (b) the calculation of interest for each day shall be on the amount outstanding after receipt of any payments made by the taxpayer in accordance with section 61, or otherwise recovered by the Commissioner-General in respect of the amount outstanding, and allocated in accordance with section 62;

- (c) interest shall be calculated on a simple interest basis; and
- (d) "amount outstanding" does not include any penalty imposed under this Act.

(3) A withholding agent may not recover from a payee interest payable by the agent in respect of a failure to comply with section 147 of the Income Tax Act.

Penalty for failing to maintain documents.

**84.** (1) A person who fails to maintain proper documents as required by a revenue law is liable for a penalty for each period during which the failure continues.

(2) The penalty is --

- (a) where the failure is intentional or reckless, the greater of--
  - (i) 50 percent of the tax attributable to that period; and
  - (ii) Le2,000,000; or
- (b) in any other case, the lesser of the amount referred to in paragraph a
  - (a) and, in the case of an individual, one currency point or, in the case of an entity, 10 currency points.

(3) The Commissioner-General shall determine tax attributable to a period on a just and reasonable basis including by apportioning tax assessed with respect to a larger period or by reference to taxable events happening within the period.

Penalty for failing to file tax return.

**85.** (1) A person who fails to file a tax return as required by a revenue law is liable for a penalty for each period during which the failure continues.

- (2) The conditions referred to in subsection (1) are--
  - (a) a period of not less than 5 years has elapsed since the tax became due and payable;
  - (b) the Commissioner-General has made every reasonable effort to recover the tax under the provisions of this Act;
  - (c) the Commissioner-General is satisfied, in light of that effort, that the tax cannot be collected; and
  - (d) the Commissioner-General certifies in writing to the Minister that the conditions in paragraphs (a) to (c) are satisfied.

(2) If tax is extinguished under this section, the Commissioner-General shall accordingly amend the tax account of the taxpayer whose tax debt is extinguished.

(3) If, after the extinguishment of tax under this section, the Commissioner-General has reasonable cause to believe that the person whose tax debt was extinguished has acquired assets or has income in Sierra Leone that -

- (a) were not known to the Commissioner-General before the tax debt was extinguished; and
- (b) are capable of being the subject of recovery of unpaid tax under the provisions of this Act, Commissioner-General may apply in writing to the Minister for the tax debt to be reinstated.

(4) If the Minister approves an application made under subsection (5) and notifies the Commissioner-General in writing of the approval, the Commissioner-General shall-

- (a) makes a statement to a tax officer that is false or misleading in a material particular; or
  - (b) omits from a statement made to a tax officer any matter or thing without which the statement is misleading.
- (2) The penalty is –
- (a) where the statement or omission is made without reasonable excuse, 50 percent of the tax shortfall; or
  - (b) where the statement or omission is made knowingly or recklessly, 100 percent of the tax shortfall.
- (3) However, the penalty is -
- (a) increased by 10 percent for the second or subsequent application of this section to the person; and
  - (b) reduced by 10 percent if the person voluntarily discloses the statement prior to its discovery by a tax officer or the next tax audit of the person, whichever is earlier.
- (4) A statement is made to a tax officer when it is made orally, in writing or in any other form to a tax officer acting in the performance of duties under a revenue law and includes a statement made–
- (a) in any document or information required to be filed under a revenue law;
  - (b) in a document furnished to a tax officer otherwise than under a revenue law;

- (c) in answer to a question asked of a person by a tax officer; or
  - (d) to another person with the knowledge or reasonable expectation that the statement will be passed on to a tax officer.
- (5) A person who breaches subsection (3) of section 21, subsection (5) of 23 or subsection (2) of 29 or fails to report an arrangement as may be prescribed under subsection (3) of section 22 is treated as making a false or misleading statement to a tax officer.
- (6) In this section, "tax shortfall" means the underpayment of tax that, in the Commissioner-General's view, may have resulted if the inaccuracy of the statement had gone undetected.
- 89.** (1) A person, including a tax consultant, who knowingly or recklessly aids, abets, counsels or induces another person to commit an offence under this Act is liable for a penalty.
- (2) The penalty is 150 percent of the tax shortfall.
- (3) In this section, "tax shortfall" means the underpayment of tax that, in the Commissioner-General's view, may have resulted if the offence had been committed and had gone undetected.

**90.** (1) A person is liable for a penalty if the person–

- (a) fails to apply for registration as required by section 15 of the Goods and Services Tax Act;
- (b) fails to notify the Commissioner-General of ceasing to be liable for Goods and Services Tax as required by section 17 of the Goods and Services Tax Act;
- (c) fails to notify the Commissioner-General of a change in circumstances as required by section 16 or 17 of the Goods and Services Tax Act;

Penalty for aiding and abetting.

Goods and Services Tax penalties.

- (d) fails to display the original copy of the GST registration certificate as required by subsection (9) of section 16 of the Goods and Services Tax Act;
  - (e) fails to display a certified copy of the Goods and Services Tax registration certificate as required by subsection (9) of section 16 of the Goods and Services Tax Act;
  - (f) fails to apply to the Commissioner-General for cancellation of registration as required by subsection (1) of section 17 of the Goods and Services Tax Act;
  - (g) fails to issue a tax invoice or receipt as required by Goods and Services Tax Regulations; or
  - (h) holds himself out as a taxable person under the Goods and Services Tax Act, when the person is not.
- (2) The penalty is—
- (a) where the failure or holding out is made knowingly or recklessly, 100 currency points; or
  - (b) in any other case, 25 currency points.
- (3) A person is liable to a penalty if the person issues a GST invoice that is not printed in accordance with subsection (3) of section 31 of the Goods and Services Tax Act.
- (4) The penalty for subsection (3) is 5 currency points for each invoice issued.

- (2) The penalty is the higher of—
    - (a) 5 percent of the amount of tax assessable with respect to the tax return less tax paid by the start of the period towards that amount; or
    - (b) in the case of an individual, 5 currency points or, in the case of an entity, 10 currency points.
  - (3) The penalty applies separately for a failure to file a tax return that is an estimate or instalment amount and a failure to file a tax return incorporating the final amount.
- 86.** (1) A person who fails to pay tax by the due date is liable for a penalty. Penalty for failing to pay tax.
- (2) The penalty is the higher of—
    - (a) 2.5 percent of the amount of the tax payable that is unpaid at the due date; or
    - (b) in the case of an individual, 5 currency points or, in the case of a entity, 10 currency points.
  - (3) The penalty is imposed on the due date for payment and separately each month that the tax (or a part of the tax) remains unpaid.
- 87.** (1) Subject to subsection (2), a taxpayer who, without reasonable excuse, fails to display or affix a compliance certificate as required by subsection (4) of section 52 is liable to pay a penalty of one currency point for each day the taxpayer fails to display or affix the compliance certificate. Penalty for failing to display compliance certificate.
- (2) The maximum penalty that is payable under subsection (1) is 7 currency points.
- 88.** (1) A person is liable for a penalty if the person— Penalty for making false or misleading statements.

- (iii) contravenes subsection (3) of section 37 of the Excise Act;
- (e) buys or receives, or has under his possession or control, any excisable goods that have been removed from a factory or bonded warehouse other than in accordance with the Excise Act;
- (f) has in his custody or possession excisable goods for removal, not being lawful custody or possession for the purposes of the Excise Act;
- (g) is concerned in an act or omission giving rise to forfeiture of goods under the Excise Act;
- (h) counterfeits or falsifies or uses a counterfeit or falsified delivery document or certificate under the Excise Act;
- (i) deposits, keeps, conceals, harbours, removes or disposes of any excisable goods for the purpose of underpaying excise duty on those goods; or
- (j) is a manufacturer or warehouse keeper and fails to deliver, as required by subsection (1) of section 50 of the Excise Act, written description and plans before -
  - (i) commencing manufacture; or
  - (ii) within 1 month of the date of any request made in writing by the Excise Authority;

- (k) is a manufacturer and fails to comply with a notice issued under subsection (3) of section 50 of the Excise Act; or
  - (l) is a manufacturer and -
    - (i) makes any alteration in the structure of a factory approved under the Excise Act; or
    - (ii) without the prior written approval of the Excise Authority, under the Excise Act, uses any new, or alters any existing, machine, apparatus, utensils or vessel.
- (2) The penalty for subsection (1) is—
- (a) where the act, omission or failure giving rise to the penalty is done or made knowingly or recklessly, the greater of –
    - (i) twice the value of the goods involved; and
    - (ii) 100 currency points; or
  - (b) in any other case, the greater of –
    - (i) the value of the goods involved; and
    - (ii) 50 currency points.
- (3) A person is liable for a penalty under this section if the person—
- (a) as occupier of a bonded warehouse approved under section 27 of the Excise Act, makes without the prior written consent of the Excise Authority any alteration or addition to the approved bonded warehouse;
  - (b) contravenes or fails to comply with any condition imposed by, or direction given by, the Excise Authority under section 27 of the Excise Act;

- (c) fails to display a notice in accordance with subsection (1) of section 35 of the Excise Act;
- (d) without authority, displays a sign or notice purporting to show that that person is authorised to manufacture or store excisable goods at a factory or bonded warehouse;
- (e) takes out from a factory or bonded warehouse any excisable goods, that are required to be accompanied by a delivery document, without such a delivery document;
- (f) takes out from a factory or bonded warehouse any excisable goods without the knowledge of the manufacturer or bonded warehouse keeper;
- (g) receives any excisable goods required to be accompanied by a delivery document without such delivery document;
- (h) does not produce a delivery document for any excisable goods received by him within 14 days, or such longer time allowed by the Excise Authority, of the date of demand by the Excise Authority for the delivery document;
- (i) produces or causes or allows to be produced a delivery document that does not accurately describe the excisable goods;
- (j) manufactures any excisable goods without a licence under the Excise Act;
- (k) fails to display an excise licence in a conspicuous place as required by subsection (4) of section 42 of the Excise Act;
- (l) fails to keep apparatus or instruments as required by section 38 or the regulations; or
- (m) fails to provide reasonable accommodation, facilities or equipment requested under paragraph (f) of subsection (3) of section 44.

**91.** (1) A person is liable for a penalty under this section if the person—

- (a) in respect of goods forfeited under subsection (1) of section 11 of the Excise Act—
  - (i) obtains delivery of those goods;
  - (ii) disposes of, or is involved in the disposal of those goods;
  - (iii) uses those goods contrary to a special condition imposed under subsection (1) of section 11 of the Excise Act; or
  - (iv) uses those goods for a purpose other than the purposes specified by the Commissioner-General; or
- (b) is required to pay excise duty in accordance with subsection (1) of section 17 of the Excise Act;
- (c) is found to have kept an excess quantity of excisable goods, in accordance with subsection (2) of section 17 of the Excise Act;
- (d) is a manufacturer or warehouse keeper and -
  - (i) delivers any excisable goods contrary to section 37 of the Excise Act or accompanied by an inaccurate delivery document or without filling in the particulars on the counterfoil;
  - (ii) does not produce any delivery document with the goods to the person at the place named in the document, in accordance with subsection (1) of section 37 of the Excise Act; or



- (e) the date by which the interest or penalties shall be paid; and
- (f) the time, place and manner of objecting to the assessment.

(6) An assessment made under this section is an original assessment for the purposes of section 50.

### PART XIII – OFFENCES

Offence of failing to comply with revenue law.

**93.** (1) Except as otherwise provided in this Act, any person who fails to comply with a provision of a revenue law commits an offence and shall be liable on summary conviction—

- (a) where the failure results or, if undetected, may have resulted in an underpayment of tax in an amount not exceeding 50 currency points or to a fine of not less than 10 and not more than 50 currency points or imprisonment for a term of not more than 6 months or both; and
- (b) in any other case, to a fine of not less than 2 and not more than 10 currency points.

Offence of failing to pay tax.

**94.** (1) Any person who without reasonable excuse fails to pay any tax on or before the date on which the tax is payable commits an offence.

(2) The person is liable on summary conviction—

- (a) where the failure is to pay tax in excess of 50 currency points, to a fine of not less than 25 and not more than 100 currency points or imprisonment for a term of not less than 3 months and not more than 1 year or both; and

- (b) in any other case, to a fine of not less than 5 and not more than 25 currency points, imprisonment for a term of not less than 1 month and not more than 3 months or both.

**95.** A taxpayer who fails to display or affix a compliance certificate within 7 days of its issue under subsection (3) of section 52 commits an offence and is liable, on conviction, to a fine of not more than 25 currency points.

Offence of failing to display compliance certificate.

**96.** (1) A person commits an offence if the person –

- (a) makes a statement to a tax officer that is false or misleading in a material particular; or
- (b) omits from a statement made to a tax officer any matter or thing without which the statement is misleading in a material particular.

Offence of making false or misleading statements.

(2) The person is liable on conviction—

- (a) where the statement or omission is made without reasonable excuse—
  - (i) and, if the inaccuracy of the statement were undetected, may have resulted in an underpayment of tax in an amount exceeding 50 currency points, to a fine of not less than 25 and not more than 100 currency points, imprisonment for a term of not less than 3 months and not more than 1 year or both; and
  - (ii) in any other case, to a fine of not less than 5 and not more than 25 currency points, imprisonment for a term of not less than 1 month and not more than 3 months or both; or

- (b) where the statement or omission is made knowingly or recklessly -
- (i) and, if the inaccuracy of the statement were undetected, may have resulted in an underpayment of tax in an amount exceeding 50 currency points, to a fine of not less than 50 and not more than 200 currency points, imprisonment for a term of not less than 1 year and not more than 2 years or both; and
  - (ii) in any other case, to a fine of not less than 10 and not more than 50 currency points, imprisonment for a term of not less than 6 months and not more than 1 year or both.

(3) Subsections (4) and (5) of section 88 apply for the purposes of determining what statement is made to a tax officer and when such a statement is false or misleading.

Offence of  
impeding tax  
administration.

**97.** (1) A person commits an offence if, without reasonable excuse, the person impedes or attempts to impede the administration of a revenue law.

- (2) The person is liable on conviction—
- (a) where the offence involves fraud or undue force, to a fine of twice the amount sought to be evaded or recovered or 200 currency points, whichever is greater, imprisonment for a term of not less than 2 years and not more than 4 years or both; and
  - (b) in any other case, to a fine of not less than 10 and not more than 200 currency points, imprisonment for a term of not more than 2 years or both.

- (4) The penalty for subsection (3) is—
- (a) where the act, omission or failure giving rise to the penalty is done or made knowingly or recklessly, 50 currency points; or
  - (b) in any other case, 25 currency points.

**92.** (1) The Commissioner-General shall assess the interest and penalties for which a person is liable under this Part. Assessment of interest and penalties.

(2) Liability for interest and penalties under this Part with respect to a particular failure or statement is calculated separately for each section of this Part.

(3) The imposition of interest and penalties under this Part is in addition to any other tax imposed by a revenue law and does not relieve any person from liability to criminal proceedings.

(4) However, where a particular failure or statement incurs interest or a penalty both under this Act and another revenue law, the Commissioner-General shall assess the person under one law only, at the Commissioner-General's choice.

(5) Where an assessment is made under this section, the Commissioner-General shall serve a written notice of assessment on the person, which may be incorporated with another notice of assessment under a revenue law, stating—

- (a) the name of the person and the person's Taxpayer Identification Number, if any;
- (b) the Commissioner-General's assessment of the interest or penalties;
- (c) the manner in which the assessment is calculated;
- (d) the reasons why the Commissioner-General has made the assessment;

- (j) committing any offence under a revenue law where the person has already been convicted of an offence under a revenue law or had an offence compounded under section 102.

Offences by authorised persons.

**98.** (1) A person authorised by the Authority and acting in the performance of duties under a revenue law commits an offence if the person—

- (a) directly or indirectly asks for or takes in connection with the person's duties, any payment or reward whatsoever, whether pecuniary or otherwise or promise or security for any such payment or reward, not being a payment or reward that the person is lawfully entitled to receive; or
- (b) agrees to, permits, conceals, connives at or acquiesces in any act or thing whereby the Government is or may be defrauded with respect to any matter under a revenue law, including the payment of tax.

(2) A person who is not authorised by the Authority commits an offence if the person collects or attempts to collect an amount of tax payable under a revenue law or an amount that the person describes as such tax or otherwise makes representations with the intent that another person will believe the person is a tax officer.

(3) A person committing an offence under subsection (1) or (2) is liable on conviction to a fine of not less than 50 currency points, imprisonment for a term of not less than 3 months and not more than 5 years or both.

(4) Any person who contravenes section 20 commits an offence and is liable on summary conviction to a fine not exceeding 100 currency points, imprisonment for a term not exceeding 1 year or both.

**99.** (1) When an entity commits an offence under a revenue law, every person who is a manager of the entity at that time is treated as also committing the same offence. Managers of entities.

(2) Subsection (1) does not apply where the manager has exercised the degree of care, diligence, and skill that a reasonably prudent person in the position of the manager would have exercised in preventing the commission of the offence.

**100.** (1) Any person who knowingly or recklessly aids, abets, counsels or induces another person to commit an offence under a revenue law (the "original offence") commits an offence. Offence of aiding or abetting.

(2) The person is liable on conviction—

- (a) where the original offence involves a statement of the kind mentioned in subsection (1) of section 96 that, if the inaccuracy of the statement were undetected, may have resulted in an underpayment of tax in an amount exceeding 50 currency points, to a fine of not less than 50 and not more than 200 currency points, imprisonment for a term of not less than 1 year and not more than 2 years or both;
- (b) where the original offence involves inducing an authorised person to commit an offence under section 98, to a fine of not less than 50 currency points, imprisonment for a term of not less than 3 months and not more than 5 years or both; or
- (c) in any other case, to a fine of not less than 10 and not more than 50 currency points, imprisonment for a term of not less than 6 months and not more than 1 year or both.

**101.** (1) A person commits an offence if the person -

GST offences.

- (a) fails to apply for registration as required by section 15 of the Goods and Services Tax Act;
  - (b) fails to notify the Commissioner-General of ceasing to be liable for Goods and Services Tax as required by section 17 of the Goods and Services Tax Act;
  - (c) fails to notify the Commissioner-General of a change in circumstances as required by section 16 or 17 of the Goods and Services Tax Act;
  - (d) fails to display the original copy of the GST registration certificate as required by subsection (9) of section 16 of the Goods and Services Tax Act;
  - (e) fails to display a certified copy of the GST registration certificate as required by subsection (9) of section 16 of the Goods and Services Tax Act;
  - (f) fails to apply to the Commissioner-General for cancellation of registration as required by subsection (1) of section 17 of the Goods and Services Tax Act;
  - (g) fails to issue a tax invoice or receipt as required by Goods and Services Tax Regulations; or
  - (h) holds himself out as a taxable person under the Goods and Services Tax Act, when the person is not.
- (2) A person is liable on conviction—

- (3) In this section, "impeding administration of a revenue law" includes, but is not limited to—
- (a) where a tax officer is acting in the performance of duties under a revenue law, assaulting, obstructing or attempting to assault or obstruct the officer or interfering with any asset used by the officer;
  - (b) contravening section 29;
  - (c) failing to comply with a notice under section 46 or answer truthfully when being interrogated under section 104;
  - (d) evading or recovering tax;
  - (e) fraudulently dealing with an asset charged under section 66 so as to prevent seizure;
  - (f) recovering an asset seized or restrained under section 44, 67, 69 or 104;
  - (g) interfering with any lock, seal, mark, fastening or other security used to restrain an asset under section 69 or 104;
  - (h) with the intent of evading any obligation under a revenue law, knowingly dealing in any way with a document or asset that is or contains or produces information (including by way of measurement) that is false or misleading in a material particular;
  - (i) disguising, warning or hiding a person with the intent that a liability, obligation or arrest of any person under a revenue law is evaded; and

- (3) The Commissioner-General's order -
- (a) shall be in writing and specify-
    - (i) the offence committed;
    - (ii) the sum of money to be paid (not exceeding the maximum fine for the admitted offence);
    - (iii) any asset forfeited; and
    - (iv) the date for payment of the money and delivery of the asset;
  - (b) shall have attached to it the written notice under paragraph (2)(c);
  - (c) shall be served on the person who committed the offence; and
  - (d) may be enforced in the same manner as an order of the High Court for the payment of the amount and delivery of any asset stated in the order.
- (4) Where the Commissioner-General compounds an offence under this section, the person concerned is not liable for a penalty or prosecution with respect to that offence.
- (5) Section 103 applies for the purposes of this section.

#### PART XIV—TAX RECOVERY PROCEEDINGS

Multiple proceedings.

**103.** (1) A proceeding to recover tax under a provision of a revenue law does not restrict simultaneous or separate proceedings to recover the same tax under a different provision of that law or a provision of a different revenue law.

(2) Proceeding to prosecute a person for an offence under one provision of a revenue law does not restrict the simultaneous or separate prosecution of the same person for another offence under a different provision of that law or a provision of a different revenue law.

(3) Subject to any provision in a revenue law to the contrary, a person may be convicted or fined under more than one offence provision with respect to the same course of conduct or omission but not the same part of the course of conduct or omission.

(4) Where two or more offence provisions apply to the same part of a course of conduct or omission of a person, the adjudicator may choose under which provision the person is convicted or fined.

**104.** (1) A tax officer specifically authorised for the purpose may apply to a magistrate swearing grounds on which the officer has reason to believe that a person—

Power of search, seizure and arrest.

- (a) has with intent committed an offence under a revenue law;
- (b) will abscond before the person is charged or stands trial for an offence under a revenue law; or
- (c) will destroy, tamper with, or otherwise dispose of evidence of an offence under a revenue law.

(2) If satisfied that the situation represents a serious risk to the collection of tax or the administration of justice, the magistrate may make an order authorising the tax officer, with the accompaniment of the police, to –

- (a) enter any premises, place or vehicle and restrain assets that may reasonably provide evidence that an offence has been committed under a revenue law;

- (b) restrain and search any premises, place, vehicle or other asset on or in which the tax officer believes on reasonable grounds there is such evidence;
- (c) interrogate and search or cause to be interrogated and searched a person who the tax officer believes on reasonable grounds has committed an offence under a revenue law or to be in possession of assets mentioned in paragraph (a);
- (d) arrest a person who the tax officer believes on reasonable grounds has committed an offence under a revenue law; and
- (e) use reasonable force for the purposes of the preceding paragraphs including by way of breaking into any premises, place or asset that may reasonably contain evidence referred to in paragraph (a).

(3) Upon restraining an asset under subsection (2), the tax officer shall—

- (a) serve a written notice on the possessor of the asset and, where there is more than one possessor, service on a single possessor is sufficient; or
- (b) where no possessor is available, leave the notice at the premises or place where the restraining takes place.

(4) The notice shall —

- (a) identify and list the assets restrained;
- (b) state the assets have been restrained under this section and the reason for the restraint; and

- (a) where the failure or holding out is made knowingly or recklessly, to a fine of not less than 50 and not more than 200 currency points, imprisonment for a term of not less than 1 year and not more than 2 years or both; or
- (b) in any other case, to a fine of not less than 5 and not more than 25 currency points, imprisonment for a term of not less than 1 month and not more than 3 months or both.

**102.** (1) Where a person commits an offence under a revenue law, the Commissioner-General may, subject to this section, compound the offence and order the person to pay a sum of money specified by the Commissioner-General and deliver up any asset liable for forfeiture in respect of the offence"). Compounding offences.

(2) The Commissioner-General may not compound an offence

- (a) in respect of conduct of a kind referred to in section 98;
- (b) after court proceedings commence with respect to the offence unless the consent of the Director of Public Prosecutions is obtained first; or
- (c) unless the person gives written notice to the Commissioner-General—
  - (i) admitting that they committed the offence;
  - (ii) requesting that the offence be compounded; and
  - (iii) accepting the proposed terms of the compounded offence.

- (a) any document or copy of or extract from any document relating to the tax affairs of any person that has been seized or obtained by a tax officer acting in the performance of duties under a revenue law; and
- (b) any statement of a person relating to the tax affairs of the person that is made to a tax officer acting in the performance of duties under a revenue law.

(2) Admissibility is not affected by whether any person was induced to provide the document, copy or extract or make the statement by reason that the person was led to believe -

- (a) that the Commissioner-General might, on any terms, settle the institution or prosecution of proceedings; or
- (b) that the decision of the Commissioner-General as to whether to settle the institution or prosecution of proceedings would be influenced by the fact that the person confessed to being guilty of an offence and provided full facilities for investigation.

(3) This section applies notwithstanding any law to the contrary but does not limit the admissibility of any document, copy, extract or statement under any other law.

**107.** (1) The Commissioner-General may sign a certificate stating the name and address of a person and the amount and type of tax payable by the person.

(2) The certificate is prima facie evidence of the amount and type of tax payable by the person in proceedings in recovery of tax or with respect to an offence under any revenue law.

Proof of evidence.

(3) Evidence of the Commissioner-General may be given directly or on the Commissioner-General's behalf by an authorised tax officer.

(4) The Commissioner-General may sign a certificate stating the name and address of a person and the type, amount and value of goods for the purposes of determining any penalty under section 91.

(5) Subject to this section, the onus of proof in civil proceedings or criminal proceedings concerning a revenue law is the same onus applying to civil proceedings or criminal proceedings in Sierra Leone.

(6) For Part VIII, the onus of proof is on the taxpayer to prove the objection decision (and any appeal from that decision) is incorrect.

(7) For the purposes of the Excise Act, goods which have been put on a vehicle ready for delivery are deemed to have been delivered and taken out of a factory or bonded warehouse unless it is proved to the contrary.

**108.** A tax decision is not stayed or otherwise affected by the institution of proceedings for recovery of tax or with respect to an offence under any revenue law or by reason that the Commissioner-General compounds an offence. Tax decisions.

**109.** The fact that a person has provided security for compliance with any provision of a revenue law is no defence in proceedings in recovery of tax or with respect to an offence under that revenue law or any other revenue law. Security.

**110.** (1) The Commissioner-General may publish in the Gazette, any other newspaper circulating in Sierra Leone or on the Authority's website, a list of persons who- Publication of offenders.

- (a) have failed to pay tax on time;
- (b) have been convicted of an offence under a revenue law, but only if the time for appeal has expired; or

(c) had such an offence compounded under section 102.

(2) The list may specify—

- (a) the name and address of a person;
- (b) the offending conduct;
- (c) the period during which the conduct occurred;
- (d) the amount of tax involved; and
- (e) particulars of any fine or sentence imposed.

Protection.

**111.** (1) No action for compensation for loss or prosecution may be brought against the Commissioner-General, an employee of the Authority or other person requested or required to administer the revenue laws in respect of the discharge of any duty or the exercise of any power under a revenue law.

(2) Subsection (1) does not affect any right of objection or appeal conferred by the revenue laws.

(3) Subsection (1) does not apply if the loss arose from a discharge of the duty or an exercise of the power that was not done in good faith or was recklessly negligent.

Discharge of contractual obligations.

**112.** If—

- (a) the Commissioner-General refuses to allow delivery of goods in accordance with subsection (1) of section 8 of the Excise Act;
- (b) the person subject to that refusal is not able to perform any contractual obligation resulting from that refusal;

(c) set out the terms for release, including any as to security required, and terms for disposal of any assets seized.

(5) A tax officer arresting an individual shall take the individual immediately to the nearest police station.

(6) A person may be searched under paragraph (c) of subsection (2) only by a person of the same sex.

(7) A tax officer may exercise any powers granted by a magistrate under this section in conjunction with any other powers of the tax officer, including those granted by sections 44 and 46.

**105.** (1) Proceedings in recovery of tax or with respect to an offence under any revenue law, shall be commenced, heard and disposed of at a court of competent jurisdiction nearest to—

- (a) the usual place of abode of the person from whom recovery is sought or who is charged with the offence, as the case requires;
- (b) the office of the Commissioner-General having primary responsibility for the person's tax affairs;
- (c) if the person is held in custody pending prosecution for an offence, where the person is held; or
- (d) in the case of an offence, where the offence took place.

(2) The Commissioner-General has the choice between possible venues.

**106.** (1) The following documents are admissible in proceedings in recovery of tax or with respect to an offence under any revenue law—

Admissibility of documents.



(7) A reference in this Act to "this Act" or "this law" or to a provision of "this Act" or "this law" includes, where the context requires, a reference to the prior law or to a corresponding provision of the prior law, respectively.

(8) In this section, "prior law" has the meaning in section 113.

Regulations. **115.** (1) The Minister may, after consultation with the Commissioner-General, make regulations for any revenue law—

- (a) for matters authorised to be made or prescribed under a revenue law by regulation;
- (b) for the better carrying into effect of the principles, purposes and provisions of a revenue law; and
- (c) requiring persons or a class of persons to provide such information as may be prescribed, whether on an isolated or periodic basis.

(2) Regulations made under subsection (1) may pertain to a single revenue law or multiple revenue laws and multiple regulations may be made with respect to the same revenue law.

(3) Regulations made under subsection (1) are not effective until they are published in the Gazette.

(4) Failure to comply with regulations made under subsection (1) constitutes a failure to comply with this Act and Parts VIII to XIII of this Act apply to any such failure.

Amendments by Minister. **116.** (1) After consulting the Commissioner-General, the Minister may by order published in the Gazette amend, vary, add to or replace the provisions of any schedule of a revenue law and any regulations made under or for a revenue law.

(2) Any amendment, variation, addition or replacement made under subsection (1) is not effective until published in the Gazette.

(3) The Minister may not make an order under subsection (1) to increase or decrease the amount of tax payable under a revenue law.

*FIRST SCHEDULE* (Section 23(2))

**TRANSACTIONS FOR WHICH TAXPAYER**

**IDENTIFICATION NUMBER IS REQUIRED**

*Institution*

**Purpose or description of transaction**

*Commissioner-General of the National Revenue Authority*

New registrations under the Goods and Services Tax Act  
Importation of goods; customs clearing and forwarding

*Sierra Leone Road Safety Authority*

Registration of ownership or transfer of vehicles under the Sierra Leone Road Safety Authority Act, 1996

*Office of the Administrator and Registrar-General*

Registration of title upon the grant or transfer of ownership of land in Sierra Leone under the Registration of Instruments Act Cap. 256.

Application for business registration under the Registration of Business Act, 2007  
Application to incorporate any company under the Companies Act, 2009

*City and Local Councils*

Application for a licence to carry on any trading activity in the city or local council area  
Assessment of property rates by a city or local council

*National Social Security and Insurance Trust*

Any payment of a contribution to the National Social Security and Insurance Trust under the National Social Security and Insurance Trust Act, 2001

*Agencies collecting non-tax revenue*

Application for a licence or permit to any agency established under a law specified in the Second Schedule to the National Revenue Authority Act, 2002

Payment of any fee, charge or levy to any agency established under a law specified in the Second Schedule to the National Revenue Authority Act, 2002

*Banks*

Application to open any account with a bank licensed under the Banking Act, 2011

*Utilities*

Application for connection of supply by a utility providing electricity, water or gas

*Government of Sierra Leone*

Application or tender to National Public Procurement Authority (established under the National Public Procurement Authority Act, 2004) to provide goods or services to the Government of Sierra Leone

Payment by the Government of Sierra Leone to any contractor providing goods or services to the Government of Sierra Leone.

SECONDSCHEDULE (Sections 1, 39 and 48)

**TAX RETURNS AND ASSESSMENTS**

**Tax Returns**

1. The following are tax returns for the purposes of this Act –
  - (a) in relation to income tax –

no claim may be made or enforced against that person for breach of that contractual obligation, to the extent that the breach was wholly caused by the refusal.

PART XV –TRANSITION

**113.** (1) Provisions of the laws set out in the Third Schedule Amendments. (the "prior law") are repealed, enacted or amended as provided in that Schedule to conform to the introduction of this Act.

(2) Regulations, rules, practice notes, rulings, orders and notices made under the prior law and in force at the commencement of this law continue in force as if they were made under this Act until such time as they are amended or revoked by regulations, rules, practice notes, rulings, orders or notices made under this Act.

**114.** (1) Subject to this section, the prior law continues to apply Transition. for periods and events occurring before the date on which this Act comes into effect.

(2) All appointments made under the prior law and subsisting at the date this Act comes into effect are deemed to be appointments made under this Act.

(3) Any international agreement made by the Government of Sierra Leone that is effective under the prior law at the time this Act comes into effect continues to have effect under this Act.

(4) All blank forms and other documents used in relation to the prior law may continue to be used under this Act and all references in those forms and documents to provisions of and expressions appropriate to the prior law are taken to refer to the corresponding provisions and expressions of this Act.

(5) Any appeal, prosecution or other proceedings commenced before the commencement date continues and is disposed of as if this Act had not come into force.

(6) Any tax liability that arose before the commencement date may be recovered by fresh proceedings under this Act, but without prejudice to any action already taken for the recovery of the tax.

- (i) an account filed or delivered, or required to be filed or delivered, under subsection 47(5) of the Excise Act;
- (ii) for the purposes of subsection 37(6), a certificate of audit required to be filed under section 49 of the Excise Act; and
- (iii) any document under the Excise Act prescribed as a tax return for the purposes of this Act.

### Assessments

2. (1) For the purposes of this Act, “assessment” includes –
- (a) in relation to income tax, an assessment made under section 61B of the Income Tax Act;
  - (b) in relation to goods and services tax, an assessment made under section 41(1)(c), 42 or 43(1) of the Goods and Services Tax Act;
  - (c) in relation to the taxes referred to in paragraphs 1(b) to (d), an assessment made under paragraph 3 of this Schedule in respect of the obligation to file a tax return;
  - (d) in relation to the Excise Act, an event or circumstance when excise duty becomes due and payable;
  - (e) in relation to this Act, an assessment made under sections 49 (default assessment), 50 (adjusted assessment), 51 (instalment payment assessment) or 92 (interest and penalty assessment) of this Act; and
  - (f) any other assessment made under a power to assess conferred on the Commissioner-General under a revenue law.

(2) The Commissioner-General may exercise all powers under this Act with respect to any assessment (including a self-assessment), including powers under Part VII of this Act.

### Self-Assessments

3. (1) Where a person files a tax return in accordance with an obligation to file a tax return specified in –
- (a) paragraph 1(a)(i) (return of capital gains) and paragraph 1(a)(ii) (return of income);
  - (b) paragraph 1(b) (GST return);
  - (c) paragraph 1(c) (return of Pay-roll Tax);
  - (d) paragraph 1(d) (return of Foreign Travel (Ticket) Tax); and
  - (e) paragraph 1(e) (return of excise duty);

an assessment (“self-assessment”) is treated as made on the due date for filing the tax return.

(2) The assessment is of an amount equal to the net amount of tax due, if any, as shown in the tax return,

### THIRD SCHEDULE

(Section 113)

### Amendments to the Revenue Laws

#### Part I – Income Tax Act 2000

The Income Tax Act is amended as follows –

- (a) in Part I (Preliminary) in section 2, the definition “assessment” is deleted and substituted with –  
  
““assessment” has meaning given in the Revenue Administration Act 2017;”

- (b) in Part II (Imposition of Income Tax), subsection 4(3) is repealed;
- (c) in Part IV (Income Tax Base), subsection 61B(4) is repealed;
- (d) in Part XII (Returns) –
  - (i) in section 97, subsections (5) and (9) to (12) are repealed;
  - (ii) section 97A is repealed; and
  - (iii) section 100 is repealed;
- (e) Part XIII (Assessments) is repealed;
- (f) in Part XIV (Collection and Refund of Tax) –
  - (i) sections 105 to 112 are repealed;
  - (ii) subsection 113(10) is repealed;
  - (iii) section 115 is repealed;
- (g) in Part XV (Withholding of Tax at Source) –
  - (i) subsection 117(7) (offence for failure to file returns) is repealed;
  - (ii) subsections 128(4) and (5) are repealed;
  - (iii) in subsection 129(2) “this Act” is deleted and “the Revenue Administration Act” is substituted;
  - (iv) subsections 130(3) and (4) are repealed;

- (i) a return of capital gains filed, or required to be filed, under section 61A of the Income Tax Act;
  - (ii) a return of income filed, or required to be filed, under section 97 of the Income Tax Act;
  - (iii) a return of information made, or required to be made, under section 99 of the Income Tax Act;
  - (iv) a statement of estimated tax payable filed, or required to be filed, under section 113 of the Income Tax Act;
  - (v) a monthly statement of tax withheld or treated as withheld under subsection 117(6) of the Income Tax Act;
  - (vi) a statement of tax withheld, or treated as withheld, and filed or required to be filed, under subsection 128(2) of the Income Tax Act; and
  - (vii) a statement of tax paid under subsection 130(1) of the Income Tax Act;
- (b) in relation to goods and services tax, a return filed, or required to be filed, under section 37 of the Goods and Services Tax Act;
  - (c) in relation to Pay-roll Tax –
    - (i) a return filed, or required to be filed, for the purpose of making or evidencing a payment under section 4 of the Pay-roll Tax Act; and
    - (ii) a return under section 10 of the Pay-roll Tax Act;
  - (d) in relation to Foreign Travel (Ticket) Tax, a return filed, or required to be filed, under section 9(1) of the Foreign Travel (Ticket) Tax Act; and
  - (e) in relation to excise duty –

- (e) in section 41 –
- (i) in subsection (1)(b) the words “under this Act” are substituted with the words “under the Revenue Administration Act 2017”;
  - (ii) in subsection (3) the words “, in accordance with the Revenue Administration Act 2017,” are inserted after “Commissioner-General shall”;
  - (iii) in subsection (4) the words “, for the purposes of this Act,” are deleted;
  - (iv) subsections (5) to (7) are repealed;
  - (v) in subsection (8) the words “and in accordance with the Revenue Administration Act 2017” are inserted after “under this Act,”; and
  - (vi) subsections (9) to (11) are repealed;
  - (vii) in subsection (12) the words “under the Revenue Administration Act 2017” are inserted after “payable”;
- (f) in section 42 –
- (i) in subsection (1) delete paragraphs (a) and (b);
  - (ii) subsections (4) to (12) are repealed and inserted –
    - (4) The powers to make an assessment under this section do not limit or exclude the powers of the Commissioner-General under Part VII of the Revenue Administration Act 2017.
    - (5) If the Commissioner-General makes an assessment under this section, for the purposes of Part XII (Interest and Penalties) of the Revenue Administration Act 2017 –

- (a) for an assessment made under subsection (1)(c), the due date is the original date for payment of the GST;
  - (b) for an assessment made under subsection (1)(c) in respect of an application for a refund of GST, the due date is the date on which the refund was paid;
  - (c) for an assessment under subsection (2) or (3), the due date is the date on which the GST would have been due under section 38 if the supply had been a taxable supply.
- (g) in section 43 –
- (i) subsection (2) is deleted and inserted is –
    - “ (2) An assessment under subsection (1) is deemed to be an adjusted assessment under section 50 of the Revenue Administration Act 2017.”; and
    - (ii) subsection (3) first occurring after subsection (2) is repealed;
  - (h) section 45 is repealed;
  - (i) Part XII (Powers and Duties of Commissioner General) is repealed;
  - (j) Part XV (Interest, Penalties and Offences) is repealed;
  - (k) Part XVI (Collection and Recovery of GST) is repealed;
  - (l) in Part XVII (Objections and Appeals) –
    - (i) in section 92 for the section title substitute “Tax Decisions”;
    - (ii) in section 92 “reviewable decisions” is deleted and inserted is “tax decisions for the purposes of section 53 of the Revenue Administration Act 2017”;

- (iii) sections 93 and 94 are repealed;
- (m) Part XVIII (Record-Keeping and Information Collection) is repealed;
- (n) Part XIX (Taxpayer Identification Number) is repealed;
- (o) Part XX (Appointment of Representatives) is repealed;
- (p) Part XXI (Forms and Notices) is repealed;
- (q) in Part XXII (Miscellaneous) –
  - (i) section 111 is repealed;
  - (ii) subsection 112(1) is repealed; and
  - (iii) in subsection 112(2) “Without limiting the generality of subsection (1), such regulations” is deleted and inserted “Regulations”; and
- (r) in the Third Schedule, paragraph 5 is repealed.

### **Part III – Foreign Travel (Ticket) Tax Act 1975**

The Foreign Travel (Ticket) Tax Act is amended as follows –

- (a) section 6 (Appeals) is repealed;
- (b) section 7 (Tax to be paid after appeal determined) is repealed;
- (c) in section 9 (Manner of accounting for tax collected and penalty for non-payment) is amended by –
  - (i) substituting the following for subsection (1) –

- (h) Part XVI (Records and Investigation Powers) is repealed;
- (i) Part XVII (Objections and Appeals) is repealed;
- (j) Part XVIII (Interest and Penalties) is repealed;
- (k) Part XIX (Administration) is repealed;
- (l) the Eighth Schedule is repealed;
- (m) in the Ninth Schedule, paragraphs 10 to 14 are repealed; and
- (n) the Tenth Schedule is repealed.

### **Part II – Goods And Services Tax Act 2009**

The Goods and Services Tax Act is amended as follows –

- (a) in section 2 –
  - (i) in the definition “approved form”, the words “under this Act” are deleted and substituted are “under the Revenue Administration Act 2017”;
  - (ii) the definition “reviewable decision” is deleted;
  - (iii) in the definition of “Taxpayer Identification Number” the words “under this Act” are substituted with the words “under the Revenue Administration Act 2017”;
- (b) in section 36, the words “Part XVIII” are substituted with the words “Part VI of the Revenue Administration Act 2017”;
- (c) in section 37, subsections (2) to (4) are repealed;
- (d) in section 38, subsections (3) to (5) are repealed;

**PART V – EXCISE ACT 1982**

The Excise Act is amended as follows –

- (a) in section 2 –
  - (i) in the definition “Excise Authority” the words “Comptroller of Customs and Excise” are deleted and inserted are “Commissioner-General”;
  - (ii) in the definition “Excise Laws” insert after “means this” the words “Revenue Administration Act 2017,”; and
  - (iii) in the definition “officer” the words “department of Customs and Excise” are deleted and inserted are “National Revenue Authority”;
- (b) subsection 8(2) is repealed;
- (c) in section 9 –
  - (i) in subsection (1) by deleting the words from “Court,” to “decides” and inserting “Revenue Review Tribunal”; and
  - (ii) in subsection (2) by deleting the words from “Court,” to “decides” and inserting “Revenue Review Tribunal”;
- (d) subsections 11(2) and 11(3) are repealed;
- (e) section 12 is repealed;
- (f) in section 13 delete “on demand” and insert “on request made under the Revenue Administration Act 2017.”;
- (g) in section 14 delete “The Minister may –” and insert “The Minister may, if a written application for waiver is made in accordance with the regulations –”;

- (h) sections 15 and 16 are repealed;
- (i) in section 17 –
  - (i) in subsection (1) the words “and in addition” to “the greater” are deleted; and
  - (ii) in subsection (2) the words “and the manufacturer” to “Authority” are deleted;
- (j) section 20 is repealed;
- (k) in section 21 delete “the Minister” and insert “the Excise Authority”;
- (l) sections 22 to 26 are repealed;
- (m) subsections 27(3) and (5) are repealed;
- (n) subsections 35(2) and (3) are repealed;
- (o) subsection 36 is repealed;
- (p) subsection 37(4) is repealed;
- (q) sections 38 and 39 are repealed;
- (r) subsection 40(5) is repealed;
- (s) section 41 is repealed;
- (t) subsection 42(4) is repealed and substituted as follows –
 

“(4) A person who holds an excise licence shall conspicuously display the excise licence at the premises for which the licence is issued.”;
- (u) section 43 is repealed;

- (v) subsection 47(1) to (4) are repealed;
- (w) section 48 is repealed;
- (x) subsection 49(3) is repealed;
- (y) subsections 50(2), (4) and (5) are repealed;
- (z) in section 51 delete “Minister” and insert “regulations”;
- (aa) sections 52 to 54 are repealed;
- (bb) section 56 is repealed and substituted as follows –

“ **56.** (1) A licensed manufacturer shall keep a register in the form and manner, and containing the particulars, prescribed in the regulations.

(2) A register under subsection (1) shall be kept in the storage area of the licensed premises and shall be available for inspection by the Excise Authority.”;

- (cc) in section 58 delete “Excise Authority” and insert “regulations”;
- (dd) sections 59 to 96 are repealed; and
- (ee) the Second Schedule is repealed.

#### **Part VI – Customs Act, 2011**

The Customs Act is amended as follows –

- (a) in section 1 by –
  - (i) deleting the two definitions of “Commissioner-General” and inserting the following definition –

““Commissioner-General” means the Commissioner-General appointed under section 19 of the National Revenue Authority Act 2002 (Act No. 11 of 2002);” and

“ (1) Subject to this Act, every person who is required by Part II to collect tax shall in respect of that month account for that tax to the Commissioner-General not later than the fifteenth day of the following month, in accordance with the procedure prescribed in the Regulations made under the Revenue Administration Act 2017.”;

- (ii) repealing subsection (2);
- (d) section 10 (Suit for recovery of tax) is repealed;
- (e) section 13 (Functions of the Commissioner of Income Tax) is repealed;
- (f) section 14 (Offences and penalties) is repealed;
- (g) section 15 (Power to order suspension or the cancellation of licence) is repealed; and
- (h) section 16 (Power to make rules and regulations) is repealed.

#### **Part IV – Pay-Roll Tax Act 1972**

The Pay-roll Tax Act is amended as follows –

- (a) section 4 is substituted as follows –

“ **4.** Subject to this Act, every person who is charged to tax under section 2, and liable to make payment in accordance with section 3, shall in respect of that tax file a return with the Commissioner-General not later than 31<sup>st</sup> January of the year in which the tax is payable, in accordance with the procedure prescribed in the Regulations made under the Revenue Administration Act 2017.”;

- (b) sections 5 and 6 are repealed; and
- (c) sections 11 to 21 are repealed.



(h) in section 77 (*False Statement and Other Customs Offences*) by –

- (i) repealing paragraph (h) in subsection (1);
- (ii) renumbering section 77 as subsection 77(1); and
- (iii) inserting after subsection (1) the following subsection –

“(2) Any person who contravenes a provision of subsection (1) commits an offence and shall be liable on conviction to a fine of not less than Le 100,000,000 and not more than Le 200,000,000, or to a term of imprisonment of not more than two years, or to both such fine and imprisonment.”;

(i) section 78 is repealed and substituted with –

“78. (1) Goods seized under this Act, which are otherwise not prohibited from being imported to or exported from Sierra Leone, may be released by the Commissioner-General if the terms of release under this section are fulfilled.

(2) For smuggled goods, “terms of release” for subsection (1) means the payment of an amount equal to –

- (a) the aggregate value of the smuggled goods at the time of their introduction to Sierra Leone; and
- (b) the aggregate value of import duties and taxes payable on those goods.

(3) For mis-described goods or under-valued goods, “terms of release” for subsection (1) means –

- (a) if the contravention is the importer’s, exporter’s or agent’s first contravention – the payment of an amount equal to 200% of the import duties and taxes payable on those goods, calculated using the rates applicable at the time of the lodgement of the goods declaration;

(b) if the contravention is the importer’s, exporter’s or agent’s second contravention – the payment of an amount equal to 300% of the import duties and taxes payable on those goods, calculated using the rates applicable at the time of the lodgement of the goods declaration; or

(d) in any other case – the payment of an amount equal to 400% of the import duties and taxes payable on those goods, calculated using the rates applicable at the time of the lodgement of the goods declaration.

(4) If any goods to which this section applies include a conveyance, the value of the conveyance is the value of the conveyance at the date of its seizure.

(5) The Commissioner-General may, in accordance with the regulations, include in terms of release under this section the provision of a security (for an amount equal to the outstanding amount payable under the terms of release) in lieu of the payment of that amount.”;

(j) in section 80(1) paragraphs (a) to (c) are deleted and substituted with –

- “(a) bulk is broken;
- (b) any alteration is made in the stowage of any goods carried so as to facilitate the unloading of any part thereof before due report has been made; or
- (c) anything is thrown overboard or container is opened,

and, if the matter in paragraph (a) to (c) is not explained to the satisfaction of the Commissioner-General, the master of the ship, the pilot of the aircraft or the person in charge of the vehicle commits an offence and is liable, on conviction, to a fine of not less than Leones 200,000,000 and not more than Leones 500,000,000, or to a term of imprisonment of not less than one year and not more than three years, or to both.”;

(k) subsection 80(2) is deleted and substituted with –

“ (2) If, after receiving written advice from the Commissioner-General, an importer incorrectly –

- (a) reports imported or exported goods to customs under section 8;
- (b) determines the classification of imported goods under section 13;
- (c) determines the value of imported goods under section 14 to 17;  
or
- (d) determines the origin of imported goods under sections 19 to 23,  
and

lodges a goods declaration with incorrect determinations, the importer is liable to a penalty.

(2A) The penalty for subsection (2) is –

- (a) if the contravention is the importer’s first contravention – the payment of an amount equal to 200% of the import duties and taxes payable on those goods,;
  - (b) if the contravention is the importer’s second contravention – the payment of an amount equal to 300% of the import duties and taxes payable on those goods; or
  - (c) in any other case – the payment of an amount equal to 400% of the import duties and taxes payable on those goods.”;
- (l) subsection 80(5) is deleted and substituted with –

“ (5) A person who –

- (a) fails to report imported or exported goods in accordance with section 8;
- (b) unloads goods before making a report required under section 8;

(ii) inserting the following definition –

“”Revenue Administration Act” means the Revenue Administration Act 2017 (Act No. [...] of 2017);”;

- (b) section 4 is repealed;
  - (c) in section 6 –
    - (i) in subsection (8) by deleting “right of appeal provided for in section 30” and inserting “right of objection and appeal under this section and section 30, in accordance with the Revenue Administration Act”;
    - (ii) by deleting subsections (17) and (18) and inserting –
      - “ (17) For the purposes of section 53 of the Revenue Administration Act–
      - (a) a customs ruling made or issued under this section;
      - (b) a refusal of the Commissioner-General to make or issue a ruling under this section; and
      - (c) an amendment by the Commissioner-General of a customs ruling made or issued under this section,
- is a tax decision, and the rights of objection and appeal under Part VIII of the Revenue Administration Act apply.
- (d) subsections 26(4A), (4B), (5) and (6) are repealed;
  - (e) sections 30 to 34 are repealed;
  - (f) subsections 35(4) to (6) are repealed;
  - (g) sections 52 and 53 are repealed;

(p) section 83 is repealed and the following inserted –

“83. (1) A penalty imposed by the Commissioner-General under this Act is deemed to be a tax decision for the purposes of section 53 of the Revenue Administration Act and the person on whom the penalty is imposed may, if dissatisfied, exercise the right of objection under section 54 of the Revenue Administration Act.

(2) A person may only appeal against an objection decision of the Commissioner-General, in respect of an objection made pursuant to subsection (1), in accordance with section 56 of the Revenue Administration Act, on the following grounds –

- (a) that no reasonable cause for the seizure, or the continued detention, of the goods exists under the Act, and that the seized or detained goods have not been returned or otherwise made available to the appellant; and
- (b) the Commissioner-General has not paid to the appellant compensation representing depreciation in the value of the goods resulting from their seizure and detention, and for any related storage and transport costs.

(3) If a person contravenes a provision of this Act and commits an offence against this Act, the person may request the Commissioner-General to compound the offence, in accordance with section 102 of the Revenue Administration Act.”; and

(q) subsection 85(5) is repealed.

#### **PART VII – NATIONAL REVENUE AUTHORITY ACT 2002**

The National Revenue Authority Act is amended as follows–

(a) in section 33 by inserting after subsection (2) a new subsection –

“ (2A) The annual report shall include the total and details of any amount of irrecoverable tax extinguished under section 81 of the Revenue Administration Act 2017.”;

(b) in the First Schedule (Laws relating to Revenue), by inserting a new item in the numbered list after “Income Tax Act, 2000 (Act No.8 of 2000)” – Revenue Administration Act 2017 (Act No. [...] of 2017)”.

#### **FOURTH SCHEDULE**

(Section 32)

##### **FORMS FOR WHICH A COST-RECOVERY FEE MAY BE CHARGED**

1. The fees in column 2 of the table may be charged and recovered for the provision of the corresponding form or document in column 1 –

Document/Form	Fee
Written statement for the purpose of application for a business registration certificate:	
(a) company	(a) Le 50,000
(b) any other case	(b) Le 40,000
Tax Clearance certificate (under section 25):	
(a) company	(a) Le 50,000
(b) any other case	(b) Le 40,000
GST Relief Purchase Order booklets for the purpose of administering institutional reliefs under the Goods and Services Tax Act 2009	Le 50,000

Passed in Parliament this *11th day of October*, in the year of our Lord two thousand and Seventeen.

IBRAHIM S. SESAY,  
*Clerk of Parliament.*

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correct printed copy of the said Bill.

IBRAHIM S. SESAY,  
*Clerk of Parliament.*

- (c) removes, without authority under this Act, goods from a conveyance, transit warehouse, container depot, customs, bonded warehouse or duty-free shop; or
- (d) fails to lodge a goods declaration within the time required under this Act of the regulations,

is liable to pay a penalty of not more than Leones 200,000,000.

(5A)The regulations shall prescribe the facts and circumstances which the Commissioner-General shall take into account when determining a penalty under subsection (5).”;

(m) subsection 80(8) is deleted and substituted with –

“ (8) A person who contravenes a provision of this Act or the regulations, and where no penalty is specified, is liable to a pay a penalty of not more than Leones 200,000,000.

(8A) The regulations shall prescribe the facts and circumstances that the Commissioner-General shall take into account when determining a penalty under subsection (8).

(8B) A person who commits an offence under this Act or the regulations, and where no punishment is specified, is liable, on conviction, to a fine of not more than Leones 200,000,000 or imprisonment for not more than 2 years, or both.”;

(n) after section 81 a new section 81A is inserted –

“ *Authorisation of officers*

**81A.** The powers in this Part may be exercised by a customs officer only if that officer has been authorised by the Commissioner-General by general or specific written delegation to act.”;

(o) section 82 is repealed;