

BILL

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No.



Sierra Leone

2023

A BILL ENTITLED

Tax and Duty Exemptions Bill, 2023

Short title.

**Being an Act to provide for the regulation and administration
of tax and duty exemptions and to provide for other related matters**

[

] Date of commencement.

ENACTED by the President and Members of Parliament in
this present Assembly of Parliament

PART I-PRELIMINARY PROVISIONS

Interpretation. 1 Unless otherwise provided this Act shall be deemed to have come into operation on the 1st day of April 2023

2. In this Act unless the context otherwise requires-

"diplomat" means any person or individual appointed by a national government or an intergovernmental organization, such as the Economic Community of West African States, United Nations, European Union for the purpose of carrying out diplomatic activities in Sierra Leone, which the Ministry of Foreign Affairs and International Cooperation attests enjoying Diplomatic Immunities and Privileges under the Vienna Conventions on Diplomatic Relations and on Consular Relations or other similar treaties and agreements, or under principles of recognized law;

"diplomatic mission" means a group of people from another State and includes embassies and consulates or of an intergovernmental organization representing and safeguarding the political, economic, and social interests of such State or organization through the conduct of official engagements and negotiations;

"charitable organisation" means a philanthropist, or not-for-profit organisation whose overall purposes are charitable in nature and carrying non-commercial activities directed to only provide public benefits, an identifiable group in need and not to the self-interests of specific individuals;

"clearance on permit" means the approval granted by the ministry responsible for finance to allow an importer of items specified in this Act to collect the goods before the start of the Customs clearance procedures;

"Commissioner General" means the person appointed under Section 19 of the National Revenue Act 2022 (Act No. 21 of 2022).

"concessional facility" means a loan, or any development support operation provided on concessional terms to Sierra Leone, under the direction and/or participation of the Ministry responsible for finance;

"*customs duties*" means import tariffs generally collectible on imported goods by the National Revenue Authority based on the application of an appropriate rate on the Cost, Insurance and Freight (CIF) value of the goods;

"development partners" include European Union, International Monetary Fund, World Bank, other bilateral partners or institutions, other multilateral institutions, and aid co-ordinating groups;

"development partner project" means a programme or project supported directly or indirectly by a development partner, public international or regional organization through loans, grants and direct aid for the purposes of a technical cooperation programme or project;

"domestic taxes" means direct and indirect taxes collected on income generated and goods and services consumed within the geographical confines of Sierra Leone, which income tax, corporation tax, domestic GST, withholding tax on interest, dividend, and domestic excise.

"donation or grant" means any transfer of gift made in cash, goods or services between another country and Sierra Leone, an organization in another country and Sierra Leone,

or an organization in another country and an organization in Sierra Leone, for which no repayment is required;

exemption means a deviation over a tax period from a tax, duty, levy, fee or charge provided for under a general tax law, and for which the taxpayer has a reduced or lesser tax liability than he would have had without such deviation from a tax general law.

"fee, levy or charge" includes rates of any kind or any moneys charged or levied on persons, goods, services pursuant to any enactment;

"general tax law" means a law in force of fiscal impost of the Sierra Leone, which forms the primary basis for applying such fiscal impost in the country;

"harmonised Commodity Description and Coding System" means the nomenclature comprising the headings, sub-headings and their related numerical codes, the section, chapter and sub-heading notes and the general rules for the interpretation of the Harmonised System contained in the text of the International Convention on the Harmonised Commodity Description and Coding System approved by the Customs Co-operation Council on 14th June, 1983 and the relevant Schedules attached to it;

identifiable group" includes a community, a religious body, a health facility, a training centre, an educational institution, a registered association or a relevant government entity;

"import" means to bring or cause goods to be brought into the country;

"import taxes" include excise duty, import GST, ECOWAS Levy, African Union Levy and other charges collectible on imported or exported goods;

"international organization" means a regional or an intergovernmental organization in which Sierra Leone has a membership and participates pursuant to any treaty, bilateral or multilateral agreements or under the authority of the Constitution of Sierra Leone, 1991 or any Act of Parliament or any other legal instruments authorizing or giving an approval for such participation;

"International technical cooperation" means an engagement of a foreign government with Sierra Leone in an economic cooperation for the transfer of sector specific skills, technical knowhow and technology required for accelerating the pace of economic and social development of the country;

"investment" means the direct investment of foreign or domestic capital into a business enterprise in Sierra Leone;

"investor" means any natural person or legal entity, including companies, business associations, partnerships, sole proprietorships and other organisations constituted or otherwise duly organised under the laws of Sierra Leone to operate a business enterprise;

"incentives" in relation to investment, means the legal fiscal provisions specifically designed to encourage investment and includes the conferment of any advantage in respect of particular investments;

"levy" includes any specified fiscal imposition payable pursuant to an enactment;

"manufacture" means to make, produce or cause to be made or produced, goods;

"Minister" means the minister responsible for finance;

"persons with disability" means an individual with a physical, mental, or sensory impairment, including a visual, hearing, or speech functional disability which gives rise to physical, cultural or social barriers that substantially limits one or more of the major life activities of that individual;

"port, user, service fees or charges" are fees or charges paid at the port by users of the port;

"privileged persons" means the President, diplomats, diplomatic missions, persons with disability, or any other person or entity recognised under this Act;

"religious organisation" means organization which is recognised as having a sole purpose is for advancing religion in a manner not considered for profitmaking but engaging in activities to purposefully advance religious beliefs and interests

"security service" means a service connected with national security as the National Security Council may determine;

"Ministry, Department or Agency" means a Sierra Leone State entity and includes a central government, local government authority, a state enterprise or public corporation;

"vehicle" means a conveyance for the transport by land of goods or persons.

2 (1) This Act shall -

Application

- (a) apply to all categories of exemptions; and
- (b) be read together with any other enactments relating to the imposition of taxation, levies, fees and charges and other related public financial management matters.

(2) Where there is a conflict or inconsistency between this Act and any other enactment related to tax and duty exemptions, this Act shall prevail.

(3) Where there is a fiscal stability clause in an agreement ratified by Parliament before the commencement of this Act, it shall be recognised as an approved fiscal stability clause under this Act to the extent that it protects a right holder of the agreement from-

- (a) the imposition of new discriminatory taxes or Government charges that does not exist at the date the agreement is ratified;
- (b) the alteration of an existing tax or Government charge in the agreement, in a discriminatory manner; or
- (c) the alteration which materially affects the tax and other similar payment obligations of the right holder of the agreement to the Government

(4) For the purpose of subsection (3) an approved fiscal stability clause shall be a clause in an investment agreement signed with the Government of Sierra Leone that shall warrant the fiscal regime in the agreement to continue to apply or remain unaltered to the detriment to the investing party.

PART II -GENERAL PROVISIONS

Prohibition
of
exemptions

3 (1) A law passed in Parliament and a contract awarded after the commencement of this Act shall not contain any provision relating to the grant of exemption unless it complies with the provisions of this Act

(2) A law or contract that fails to comply with subsection (1) shall have no effect and shall be unenforceable under the laws of Sierra Leone

Responsibility
of MDA's

4 (1) A Ministry, Department or Agency shall not facilitate a draft law or enter into a contract that contains an exemption with a private person or contractor unless that exemption is lawfully granted pursuant to this Act.

(2) A Ministry, Department or Agency shall not facilitate any Draft law or enter into an agreement with a private person or contractor to grant an exemption except with the authorisation of the Minister

(3) A Ministry, Department or Agency that wishes to facilitate the passage of a law or enter into a contract containing an exemption shall submit a request for the exemption to the Minister.

(4) Where the Minister receives the request for exemption referred to under subsection (3) he shall prepare a cabinet paper containing all the necessary information relating to the exemption and shall submit the Cabinet Paper to Cabinet for its consideration and approval.

Responsibility
of the
Minister

5 (1) The Minister shall be responsible for the following

- (a) negotiating all exemptions on behalf of the State;

- (b) submitting any negotiated exemption to Cabinet for approval and Parliament for ratification pursuant to section 110 of the Constitution of Sierra Leone 1991 before the exemption takes effect;
- (c) seeking executive approval for an exemption during emergencies

(2) After receipt of a request for an exemption from a Government Ministry, Department or Agency, the Minister shall vet the request and ensure that the exemption is consistent with the economic management priorities and general policy of the Government on exemptions before submitting the request to Cabinet for approval or Parliament for ratification .

(3) The Minister shall use an exemption as a development and economic management tool and shall advise Cabinet accordingly.

(4) The Minister shall monitor the use of an exemption and ensure that Ministries, Departments and Agencies and other relevant stakeholders are informed on any policy, law or requirement established to effectively administer exemptions and ensure their compliance.

6 (1) Where an exemption is contained in any draft law or draft contract placed before Cabinet for approval and Parliament for ratification the draft law or draft contract shall be accompanied with the following information -

Approval and modification of an exemption request

- (a) a detailed assessment of the value of the anticipated exemptions assumed in the contract;
- (b) the list of items and taxes to which the exemptions are applicable;
- (c) a limit on the total value of the exemptions to be granted under that contract; and

(d) the implications of the exemption on development outcomes.

(2) A draft law or draft contract that contains an exemption shall only be considered by Cabinet or Parliament if subsections (2) of Section (7) and (2) of Section (8) have been complied with.

(3) An exemption negotiated by the Minister and placed before Cabinet for approval and Parliament for ratification may be varied by Cabinet or Parliament and the Minister shall notify the party concerned about the variation.

PART III-PRIVILEGED INSTITUTIONS AND PERSONS EXEMPTED

The
President

7 (1) All goods imported or procured for the personal use of the President, including Vice President of Sierra Leone, shall be exempt from customs duties, taxes, fees and charges including port charges.

(2) An exemption for the President under any law shall be deemed for the personal use of the President.

(3) For the purposes of the administration of exemptions, an exemption request from the Office of the President for which the purpose is not for the personal use of the President shall not be treated as a request for the personal use of the President.

(4) A person shall not make a request for exemption for the President which is not for the personal use of the President

(5) A person who contravenes subsection (4) commits an offence and is liable, on conviction, to a fine of not less than One Hundred Thousand New Leones and not more than Five Hundred Thousand New Leones or to a term of imprisonment of not less than six months and not more than five years or to both the fine and imprisonment.

8 (1) A Cabinet Minister, Member of Parliament including the Speaker and Deputy Speaker, the Chief Justices and Judges of the superior courts of judicature shall be exempted from customs duties and import taxes on the importation of one vehicle provided that-

Cabinet
Ministers,
Members of
Parliament,
Chief Justice
and Judges of
the Superior
Courts of
judicature

- (a) the vehicle has a maximum engine capacity of 4.5 litres
- (b) the vehicle is imported solely for the personal use of the intended beneficiary and not imported for resale or disposal to another person ;
- (c) the title of the vehicle is not transferred to any other person.

(2) A request for exemption under subsection (1) shall be made by a Member of Parliament once during each cycle of Parliament and every five (5) years for the other categories.

9 (1) Goods and vehicles imported by or for the official use of diplomatic missions shall be exempted from payment of customs duties and other import taxes on the following conditions -

Diplomats
Diplomatic
Missions

- (a) an exemption to a diplomat and diplomatic missions shall be on a reciprocal basis; and
- (b) goods and vehicles imported by or for the official use of diplomatic missions shall be exempted from the payment of customs duties and other import taxes.

(2) Exemptions of custom duties and other imports taxes on household goods and other personal effects of diplomats based in Sierra Leone shall be permitted for-

- (a) heads of diplomatic missions and their immediate families accompanying them; and
- (b) officers of diplomatic missions, including consular officers who are eligible and considered in the diplomatic list and their dependent families;

(3) Any exemption of customs duties and other import granted under this section shall be in accordance with the following-

- (a) the imported goods should be in reasonable quantities and not imported in quantities deemed for resale;
- (b) a staff of an international organisational, a foreign embassy, a development partner agency, a diplomatic mission or a consulate, shall import their household or personal effects within the first six months on the first arrival in Sierra Leone;

- (c) customs duty exemptions shall not be made to citizens of Sierra Leone, including dual nationals, or permanent residents, and those appointed as honorary consuls;
 - (d) goods and articles exempt from import duty which are intended for official purposes and consumption by the diplomatic missions, consular posts, third country institutions, shall not be sold, lent, pledged, leased or assigned without notifying the Ministry .;
 - (e) authorities shall have the right to inspect personal baggage of a diplomatic member in his presence or his authorized representative if there are serious grounds or reasons to presume that it contains-
 - i. goods or articles not imported for the official use of the mission;
 - ii. goods or articles not imported for the personal use of the diplomatic member or members of his dependant family forming part of his household;
 - iii. not imported or exported goods prohibited or controlled by law
- (4) A diplomat or diplomatic mission shall-

- (a) submit import requirements of the mission to the Ministry every six months;
 - (b) apply for an exemption based on the import requirements submitted under paragraph (a);
- (5) A diplomat shall not be exempted from paying the following -
- (a) indirect taxes of any kind that are normally incorporated as part of the price of goods and services;
 - (b) dues and taxes on transactions with private income having a source in Sierra Leone;
 - (c) dues and taxes on transactions, including the use of private movable and immovable property situated in Sierra Leone;
 - (d) fees and payments for specified services rendered, utilities, motorways, transportation and related matters; and
 - (e) other dues, fees and taxes specified to be paid under Article 34 of the Vienna Convention on Diplomatic Relations, 1961
- (5) For the purposes of this Act, the minister responsible for Foreign Affairs and International Cooperation shall annually submit to the Minister, a list of all diplomats and diplomatic missions that qualify for exemption.

(6) For the avoidance of doubt, exemption under this section shall not apply to persons contracting with a diplomatic institution or head of mission.

10 (1) Religious organisations for the sole purpose of advancing religion shall be exempted from the payment of import duties and import-related taxes on the following worship related imports-

- (a) altars, altar bread, altar or communion wine, communion wafers, decorations exclusively for churches, mosques and other recognized religious facilities, fonts, lecterns, pulpits, plate, clerical or clergy vestments, bells, religious rosaries, statuary objects, ;
- (b) musical instruments, including pews, pianoes, organs, keyboards, drums, guitars, and public address systems subject to such conditions as the Commissioner General may impose;
- (c) limited computers, photocopiers, printers subject to such quantity as the Minister may impose;
- (d) limited number of cars, vans and pickups specifically acquired for use on the condition that the religious entity is also engaged in charitable work subject to the quantity imposed by the Minister; and

- (e) other religious requisites notably used exclusively for public worship as recommended by the Minister responsible for Religious Affairs and approved by the Minister.

(2) For the purposes of paragraph (d) subsection (1), cars, vans pickups imported for religious purposes shall attract the applicable rates on goods and services tax and other consumption taxes.

Donor and
Charity
Organisations

11 (1) Subject to sub-section (2) imports of a charitable institution a philanthropist or any other non profit organisation including a donation from a donation partner for the purposes of carrying charitable work in education , health , social services and WATSAN s shall be imported free from import duty and import taxes

(2) An application for exemption under this section shall be processed by the entity concerned after satisfying the following conditions -

- (a) the application for exemption letter shall be signed by the official head of the beneficiary entity, supported by a recommendation from the relevant sector minister and approved by the Minister;
- (b) an application for exemption shall spell out in detail the specific items and the quantity of each item expected in the donation or procured as charitable items;

- (c) a charitable organisation shall not be engaged in any commercial activity connected to the imported items;
- (d) the nature of the imports, especially the type, volume and quantity of imports shall be in accordance with and be proportional to the actual needs of their permitted activities;
- (e) allowable exemption items, excluding vehicles shall only be limited to recognisable food items, materials and equipment for health, education and WATSAN purposes, except in declared cases of natural disasters and epidemics, where such list allowable items can be expanded subject to the recommendation of the sector minister and approval of the Minister;
- (f) the import or proceeds from which the import was procured should be received as donation or gift by the charitable organization;
- (g) imported items shall be registered in the name of the charitable organization and if donated, be supported by a verifiable letter from the donor confirming the donation;
- (h) goods imported for charitable use shall be distributed free of financial cost from the

affected people and with no evidence of discrimination because of belief, race or gender, in their distribution and where it is proven that charitable goods are distributed with some financial cost, the beneficiary organisation will face the full penalty of the applicable law;

- (i) imported goods shall be accompanied by a distribution list of the names and addresses of the affected people or beneficiary organisations, which shall be certified by the concerned competent Government authorities not below the rank of Deputy Secretary;
- (j) the applicant shall be registered as a charitable organization with the National Revenue Authority and fully compliant with other tax obligations, such as PAYE and withholding tax payments and a valid tax clearance certificate shall satisfy the registration requirement with the NRA; and
- (k) charitable organizations shall remain compliant in submitting in advance to the Ministry of Finance, a half-yearly import requirement of its charitable work and failure to comply with this requirement will result to a revoking of the privilege.

(3) A charitable institution shall import at 5% import duty and the applicable rates for Goods and Services Tax and other consumption taxes for the purposes of their charitable work subject to the following conditions-

- (a) very limited number of cars, vans and pickups specifically acquired for use fully on charitable work;
- (b) not more than two (2) goods carrying vehicles, such as vans and one (1) passenger carrying vehicle in every five years, unless there is a demonstrated need depending on the size, activities and operational needs of the organisations and the circumstance of each institution shall be assessed on its own merits and as recommended by the Ministry of Planning and Economic Development and approved by the Minister;
- (c) no used vehicle, unless, in rare cases, it is directly donated to the organisation which shall demonstrate strong need for it and shall be not more than 5 years old from the date of its first registration; and
- (d) imported and locally purchased official vehicles shall be used for a minimum period of four years, before permission for disposal and replacement exemption on another vehicle, is granted, unless otherwise new projects are being created to warrant addition of vehicle fleet for an NGO's operations.

Returning
Diplomats and
Returning
Sierra
Leoneans
within
Government
Employment

12 (1) A returning Sierra Leonean diplomat and a person with full employment within Government shall be eligible to import personal household items and one vehicle free from customs duties and import taxes provided the beneficiary-

- (a) is above **eighteen (18)** years old and carry a citizenship of Sierra Leone at the time of importing the personal and household items;
- (b) has informed and obtained acknowledgement in writing from the ministry responsible for Foreign Affairs and International Cooperation or employing entity about his/her intention to return and reside permanently in Sierra Leone;
- (c) within the last twelve (12) months prior to returning to Sierra Leone is an employee of an international or regional organization in which Sierra Leone participates pursuant to law (not applicable to a returning Sierra Leonean full employment with central Government);
- (d) has resided abroad for a continuous period of at least five (5) years immediately prior to his return to Sierra Leone;
- (e) acquired the vehicle abroad as the registered owner at least six (6) months prior to returning permanently to Sierra Leone;

- (f) requires the vehicle for his personal use and for resale or disposal to any other person;
- (g) imports the vehicle into Sierra Leone not later than six (6) months after obtaining the acknowledgement referred to in paragraph (a); and
- (h) shall not sell or transfer the vehicle within two (2) years of its importation

International Technical Cooperation, Technical Assistance and Development Partner Projects

13 (1) An import by a development partner, a public international or regional organisation may be granted an exemption in accordance with the agreement governing the particular programme or project for the purposes of a technical cooperation programme or project

Technical
Cooperation
projects

(2) An exemption referred to in subsection (1) shall take no effect, unless laid as a legislative instrument before Cabinet and Parliament for approval in accordance with Section 110 of the Constitution of Sierra Leone, 1991.

(3) For the purposes of Section 34(1) of the Public Financial Management Act 2016, the exemption referred to in subsection (1) shall be assessed, quantified, and expressly reported as part of the instrument laid before Cabinet and Parliament for approval and shall form an annex or schedule to an agreement signed by the Government for carrying such a programme or project.

(4) For the avoidance of doubt, foreign experts working on technical cooperation programme or projects may be granted exemption on income related to the delivery of such technical cooperation programme or project in the country.

(5) Notwithstanding any provision of this Act, the Minister shall explore the possibility of negotiating an exemption free agreement for an international technical cooperation or donor project, unless otherwise there is a strong need for such an exemption to be granted as part of government counterpart funding.

Programmes
and projects
funded by
grants

14 (1) Subject to subsection (2) an import of a programme or a project fully funded by a grant may be granted an exemption required in the agreement governing the programme or project

(2) Where a programme or a project fully funded by a grant is to be provided with an exemption, the Minister shall, in accordance with Section 110 of the Constitution of Sierra Leone, 1991, lay a legislative instrument before Cabinet and Parliament for approval, the exemption referred to in subsection (1) before it takes effect

(3) For the avoidance of doubt, and subject to any applicable agreement on avoidance of double taxation, a private contractor or an employee of a private contractor who executes a contract shall be subject to applicable domestic taxes.

(3) No exemption shall be allowed on any import of a programme or a project referred in subsection (1), unless imported under the name of the programme or project, and where the programme

or project is implemented wholly or in part by a government Ministry, Department or Agency, the customs clearance shall be carried by or under the authority of the Sierra Leone National Shipping Company Limited.

15 (1) Subject to subsection (2) an import for a project funded by a concessional facility may be granted an exemption from the payment of a negotiated concessional facility agreement. Concessional
facility
projects

(2) Where a project funded by a concessional facility is to be provided with an exemption, the Minister shall secure the approval of Cabinet and Parliament for the exemption referred to in subsection (1) before it takes effect in accordance with Section 110 of the Constitution of Sierra Leone, 1991.

(3) No waiver of domestic taxes shall be granted on a concessional facility project, unless if the waiver shall be required as a one of the primary conditions of the facility and negotiated as part of Government counterpart funding.

(4) For the avoidance of doubt, and subject to any applicable agreement on the avoidance of double taxation a private contractor or an employee of a private contractor that executes a contract under a ' project funded by a concessional facility shall be subject to the payments of all applicable taxes.

PART IV- MINISTRIES DEPARTMENTS AND AGENCIES

16 (1) Subject to subsection (4) a new contract entered into by a Ministry, Department or Agency with a private supplier or contractor for the supply of goods, services or projects to the Ministry, Department or Agency shall be inclusive of the basic cost of the Contract and all applicable tax payments due to the contract Provision for
MDA'S
Negotiated
Contract

(2) A private supplier or contractor who executes the supply of goods, services or projects for a Ministry, Department or Agency shall not be relieved of his tax obligations in respect of the execution of any supply of goods, services, or projects under a contract.

(3) Where a person in a Ministry, Department or Agency signs a contract with a private supplier or contractor relieving him from any tax obligation under the contract both commit an offence and liable on conviction to the following -

- (a) for the person in the Ministry, Department or Agency, to a fine of not less than Le250,000 and not more than Le500,000 or to a term of imprisonment of not less than two years or to both the fine and imprisonment ; and
- (b) for the private supplier or contractor to a fine of not less than Le 500,000 and not more than NLe1,000,000 or to a term of imprisonment of not less than two-and-half years or to both the fine and imprisonment.

(4) A Ministry, Department or Agency shall be liable to pay through budgetary provisions import duty, Goods and Services Tax (GST) and other taxes, levies and charges on their imports and contracts that are subject to these payments.

PART V- STATE SECURITY AND OTHER SPECIAL
GOVERNMENT TRANSACTIONS

17 (1) An exemption of customs duty and import taxes including port charges shall be granted on the procurement of goods, services or projects of the following security items or personnel-

Transactions
for Security
Goods and
Personnel

- (a) arms, ammunition, specialized security vehicles, public order and communication equipment imported by the Government or by a private person contracted or authorized by Government to do such for and on its behalf;
- (b) procured personal effects, excluding vehicles of a security personnel returning from peace-keeping operations abroad.

(2) For the purpose of this Act, the price of a contract awarded by a Ministry, Department or Agency for the procurement of security goods or services shall consist of only the basic cost of the contract which shall be the prevailing market rate exclusive of any applicable tax payments due on the contract.

(3) Any contract for the procurement of security goods, services or projects shall be subject to the provisions of this Act.

18 An exemption from customs duties, import taxes and port charges shall be granted on medals, medallions and other decorations imported directly by or for the Government for awards by the President and National Security Institutions.

Medals,
Medallions,
and other
decorations
for National
Awards

Election
related
Materials

19 An exemption from customs duties, import taxes and port charges shall be granted on any election related materials imported by or for the Government for the conduct of elections by the National Electoral Commission.

PART VI-PRIVATE INVESTMENT EXEMPTIONS

Sector
specific tax
incentives
for strategic
investment

20 (1) Where an investor in a specific sector, industry or investment programme applies for a tax concession to the minister of the specific sector, industry or investment program, after receipt of the tax concession application the minister of the specific sector, industry or investment programme shall make a recommendation the Minister to grant the concession after receiving approval from Cabinet or Parliament

(2) Where the tax concession referred in subsection (1) is on customs duties and import taxes, the list of the items to which the concession applies and the exact concessional rate for each item shall be expressly provided in a legislative instrument made under this Act.

(3) Where there is a desire for Government to take up carried interest in any business or investment programme that accesses tax concessions, the Minister shall constitute a team to negotiate a reciprocal equity in the investment for the tax concession granted under subsection (1).

(4) Where the Government wishes to relinquish an equity stake it has in an investment with a private investor by virtue of a tax concession granted, the investor shall have an unreserved right to buy back the equity stake at the prevailing market price.

(5) For the purposes of this section, the minister responsible for trade, industrialisation and investment shall-

(a) in consultation with other relevant Government Ministries, Departments, and Agencies, determine the priority investment areas and required investment level for Cabinet approval;

(b) within thirty days after the approval referred in paragraph (a), publish-

(i.) in the Gazette;

(ii.) in a newspaper of national circulation;
and

(iii.) on its and other relevant websites,

(6) A private investor who seeks tax concessions under this Act shall make an application to the relevant sector minister.

(7) A relevant sector minister shall, in consultation with the relevant Ministries, Departments or Agencies, determine whether an investment for application with tax concession falls within the priority areas and investment level specified under paragraph (a) of subsection (5), and shall convey the request of the investor to the Minister.

(8) The Minister shall, on receipt of the application specified under subsection (6)-

(a) enter negotiations with the investor ;

(b) assess through the negotiations:

(i.) detailed cost of the investment;

(ii.) exact scope and details of the tax concessions requested and to be granted; and

(iii.) whether Government can take an appropriate equity in the investment for the negotiated tax concessions.

(9) Subject to section (6), the Minister shall, on concluding the negotiation referred in paragraph (a) of subsection (8), notify his colleague minister in the relevant supervisory ministry about the negotiated tax concessions.

PART VII-USER CHARGES, FEES AND TRANSITIONAL LEVIES

Service or user
charges and
fees

21 (1) No exemption from a service, user charge or fee charged by government or government contracted service provider for the provision of a service shall be granted to a person who uses the service unless provided for under this Act.

(2) Notwithstanding any law, a person who uses a service for which a service, user charge or fee is chargeable shall be subject to the payment and any associated service, user charge or fee.

22 No person shall be exempted from paying any international regional or community levy, such as the African Union Levy or the Economic Community of West African States Levy, imposed by reason to finance the operations and programmes of any international, regional or community organisation, unless an exemption is sanctioned by the relevant organisation. Transnational
Levies

Other Special Privileges

23 (1) Any item, material, article, equipment and motor vehicle modified or designed for the exclusive use of persons with disability, imported by institutions or organisations involved in the caring, support and rehabilitation of persons with disability, recommended by the Minister responsible for Social Welfare and approved by the Minister shall be exempted from the payment of import duty, Goods and Services Tax, demurrage charges, port charges and any other levy or charge imposed on imports. Persons with
disability

(2) Any donation, bequest, subsidy, or financial assistance made to a Government Ministry, Department or Agency or other organization involved in the caring, support, and rehabilitation of persons with disability shall be exempted from import duties and taxes.

(3) For the purpose of computing taxable income of a registered taxpayer in Sierra Leone, a donation, bequest, subsidy, or financial assistance referred under to subsection 2 shall be allowed

as a deduction from the gross income for persons or organizations that made the donation, bequest, subsidy, or financial assistance.

(4) Subsection (3) shall not apply to persons in default of their tax obligations with the National Revenue Authority before the donation, bequest, subsidy, or financial assistance referred under to under subsection(2) was made.

Wildlife
conservation

24 (1) Import and procurement of goods and equipment recommended by the responsible minister and approved by the Minister shall be exempted from customs duties, taxes, fees and port charges and any other levy or charge imposed for the purposes of protecting, safeguarding, and upkeeping a wildlife conservation zone, such as the Tacuguma Chimpanzee Sanctuary,

(2) A donation, bequest, subsidy, or financial assistance made for the purposes of protecting, safeguarding and upkeeping a wildlife conservation zone shall be exempted from import duties and taxes.

(3) For the purpose of computing taxable income of a registered taxpayer in Sierra Leone, a donation, bequest, subsidy, or financial assistance referred to under subsection (2) shall be allowed as a deduction from the gross income for persons or organizations that made the donation, bequest, subsidy, or financial assistance.

Government
printing
materials
and
equipment

25 The importation of equipment and materials used exclusively by Government Printing Department or any entity contracted by the Government with the Ministry's concurrence, for the printing of Sierra Leone's passport, national identification cards,

business incorporation and registration certificate, vehicle licence other official documents on behalf of the Government shall attract zero percent import duty rate.

26 Where a cabinet approval required under this Act cannot be readily obtained during an emergency that arises an Executive approval may satisfy the requirement for such Cabinet approval.

Executive
Approval

PART VIII - MISCELLANEOUS PROVISIONS

27 Subject to the applicable customs law, a disembarking passenger or a similar traveler with any accompanied personal baggage shall be allowed an exemption on the following-

Disembarking
Passenger

- (a) not more than 200 sticks of cigarettes or 250g of other tobacco product;
- (b) not more than two (2) litres of wine, spirituous liquors of any kind or beer;
- (c) not more than a quarter (0.25) litre of toilet water and 50g of perfume;
- (d) not more than a suitcase of used personal effects; and
- (e) other personal effects not exceeding five hundred United States Dollars (US\$500) in aggregate terms.

Transfer of ownership of exempt item by holder of an exemption

28 (1) Where a holder of an exemption transfers ownership right of an item exempted under this Act to a person not entitled to the exemption under this Act, the transferee of the exempted item shall pay to the National Revenue Authority an exemption granted on taxes due and payment on the item at the time of the transfer.

(2) For the purpose of subsection (1), a holder of an exemption who disposes or transfers an ownership right of an item exempted under this Act held by him, shall be obliged to provide the Ministry and National Revenue Authority with full details of the disposal or impending change of ownership of the exemption.

(3) Subsection (1) shall not apply if the transfer of an exempt item under this Act-

- (a) takes place between persons holding an exemption under this Act, except for transfers relating to categories under Section 9, for which subsection (1) shall apply; and
- (b) is a donation to a Ministry, Department or Agency.

Revocation of an exemption

29 (1) The Minister may revoke an exemption on the grounds of committing an offence stipulated under section 27

(2) Where an exemption is revoked under subsection (1) a notice shall be served to the grantee of the exemption and the individual, enterprise or institution so served shall be liable to refund, with interest, fines, and charges applicable by law the full amount of the exemption already utilised under this Act to the National Revenue Authority, or the item shall be seized and auctioned.

(3) For the purpose of this section, a grantee of an exemption shall make and sign a declaration recognizing the legal obligation to fully comply with this Act and to refund, with interest, fines and charges or seizure and auction associated with an exempt item under this Act in the event of a violation of conditions for the grant of the exemptions.

30 (1) Subject to the applicable customs procedure a clearance permit shall be allowed for perishable goods, medicines and vaccines, weapons and ammunitions and other sensitive exempt items under this Act. Clearance on Permit

(2) A request for clearance on permit referred to under subsection (1) shall be made directly to the Ministry after initiating an exemption request under this Act.

(3) The request for clearance on permit shall include copies of all documents submitted as part of the request for waiver of customs duty and tax.

(4) The normal clearance formalities, including processing the exemption request through the clearance system operated by the National Revenue Authority to perfecting documentation, shall apply to clearance on permit process.

31 (1) A request for customs processing an exempted item under this Act shall be lodged online through completing the exemption declaration form in the customs clearance system operated by the National Revenue Authority. Procedures for customs clearance of an exemption item.

(2) Any requests referred to under subsection (1) shall be directed through the supervisory ministry which shall recommend the request to the Minister for approval.

(3) Upon receipt of the request electronically a supervisory ministry shall review and assess whether an application for customs clearance of an exemption satisfies all applicable requirements before recommendation to the Minister for approval.

(4) The Commissioner General shall electronically process the release of consignment on the approval by the Minister of an application for customs clearance of an exemption,

(5) A completion of the release processing notification shall be transmitted by the National Revenue Authority to an applicant of the request referred to under subsection (1) or his customs clearing agent.

Offences and
Penalties

32 (1) A person commits an offence if he-

- (a) grants or causes to grant an exemption in an enactment or a contract entered with an investor, a private person or contractor in contravention with this Act;
- (b) provides false information to influence a decision on the grant or administration of an exemption;
- (c) fails to report knowledge or information in respect of an exemption-related fraud

committed by a person against the State to the appropriate authority or law enforcement authority

(d) connives in committing any of the offences referred from paragraph (a) to (b)'

(e) fails to comply with a provision of this Act.

(2) A person who contravenes subsection (1) is liable to a fine of one hundred thousand Leones and on conviction, to a fine of not less than two hundred and fifty thousand Leones and not more than five hundred thousand Leones or to a term of imprisonment for not less than six months and not more than five years or to both the fine and imprisonment

(3) A person who fails to comply with an exemption provision provided for in this Act commits an offence and, is liable to a fine of two hundred and fifty thousand Leones and on conviction, to a fine of not less than five hundred thousand Leones and not more than one hundred million Leones or to a term of imprisonment for not less than six months and not more than five years or to both the fine and prison term.

(4) A person commits an offence and is liable to a fine of two hundred and fifty thousand New Leones and on conviction to a fine of one-and-half times the tax amount accruing from the grant of a utilised or utilising exemption, or to a term of imprisonment for not less than six years or to both the fine and prison term if he-

- (a) knowingly makes or signs a false documentation, false return, or false record of entry in administration of an exemption;
- (b) fails to use an exempt item under this Act for the intended purpose;

Consequential
Amendments
place

33 (1) The Finance Act 2006 is amended in section 3 by deleting the amount of Le1,000,000 and inserting Le 5000 New Leone in its

(2) The Person With Disability Act 2011 is amended by repealing sections 33 and 34 and inserting the following new section

'Persons
with
Disability

33 (1) Any item, material, article, equipment and motor vehicle modified or designed for the exclusive use of persons with disability, imported by institutions or organisations involved in the caring, support and rehabilitation of persons with disability, recommended by the Minister responsible for Social Welfare and approved by the Minister shall be exempted from the payment of import duty, Goods and Services Tax, demurrage charges, port charges and any other levy or charge imposed on imports.

- (2) Any donation, bequest, subsidy, or financial assistance made to a Government Ministry, Department or Agency or other organization involved in the caring, support, and rehabilitation of persons with disability shall be exempted from import duties and taxes.

(3) For the purpose of computing taxable income of a registered taxpayer in Sierra Leone, a donation, bequest, subsidy, or financial assistance referred under to subsection 2 shall be allowed as a deduction from the gross income for persons or organizations that made the donation, bequest, subsidy, or financial assistance.

(4) Subsection (3) shall not apply to persons in default of their tax obligations with the National Revenue Authority before the donation, bequest, subsidy, or financial assistance referred under to under subsection(2) were made.

(3) The Finance Act 2021 is amended by repealing section 48 and replacing it with the following new section -

'Persons
with
Disability

- 33 (1) Any item, material, article, equipment and motor vehicle modified or designed for the exclusive use of persons with disability, imported by institutions or organisations involved in the caring, support and rehabilitation of persons with disability, recommended by the Minister responsible for Social Welfare and approved by the Minister shall be exempted from the payment of import duty, Goods and Services Tax, demurrage charges, port charges and any other levy or charge imposed on imports.
- (2) Any donation, bequest, subsidy, or financial assistance made to a Government Ministry, Department or Agency or other organization involved in the caring, support, and rehabilitation of persons with disability shall be exempted from import duties and taxes.

- (3) For the purpose of computing taxable income of a registered taxpayer in Sierra Leone, a donation, bequest, subsidy, or financial assistance referred under to subsection 2 shall be allowed as a deduction from the gross income for persons or organizations that made the donation, bequest, subsidy, or financial assistance.
- (4) Subsection (3) shall not apply to persons in default of their tax obligations with the National Revenue Authority before the donation, bequest, subsidy, or financial assistance referred under to under subsection(2) were made.
- (4) A provision is any legislation other than the-
- (a) Goods and Services Tax Act 2009
 - (b) Customs Act 2011, and
 - (c) Section 48 of the Finance Act 2021 providing for a grant of an exemption is hereby repealed
- (5) Notwithstanding subsection (4)
- (a) an exemption related law passed before the and not inconsistent with this Act shall have the same effect of this Act and shall continue in force unless repealed;
 - (b) regulations , orders and rules relating to the administration of exemptions in force before the commencement of this Act and not inconsistent with this Act shall continue to apply

Regulations

34 The Minister may, by statutory instrument make regulations to give effect to this Act

MEMORANDUM OF OBJECTS AND REASONS

The purpose of this BILL is to provide for the regulation and administration of tax and duty exemption

MADE THIS DAY OF APRIL , 2023.

BOCKARIE KALOKOH
Acting Minister of Finance

APRIL, 2023
FREETOWN