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THE REVENUE ADMINISTRATION ACT, 2017

ARRANGEMENT OF SECTIONS

Section.

PART I- PRELIMINARY-DEFINITIONS AND INTERPRETATIONS

1. Definitions.
2. Relationship between revenue laws.
3. Relationship with Customs Act, 2011.
4. International Agreements.
5. Interpretation principle; purposive approach.
6. Tax avoidance arrangements.
7. Court decisions.

PART II-RULINGS AND PRACTICE NOTES

8. Commissioner-General's practice notes.
9. Issue of practice notes.
10. Revocation of practice notes.
11. Private and class rulings.
12. Refusing application for private or class ruling.
13. Issue of private and class rulings.
14. Revocation of private and class rulings.

ii

PART III-ADMINISTRATION OF REVENUE LAWS

15. National Revenue Authority.
16. Identification of Tax Officers.
17. Assistance of experts.
18. Police assistance.
19. No remuneration for complying or assisting with revenue laws.
20. Official Secrecy.

PART IV-TAX, TAXPAYERS, REPRESENTATION AND TAX ADVICE

21. Application for Taxpayer Identification Number.
22. Issue of Taxpayer Identification Number
23. Use of Taxpayer Identification Number.
24. Cancellation, replacement and amendment of Taxpayer Identification Number.
25. Tax Clearance Certificate.
26. Right to information.
27. Right to representation.
28. Excise licences.
29. Tax consultants.
30. Approval and regulation of tax consultants.

PART V-OFFICIAL COMMUNICATIONS AND DOCUMENTATION

31. Official language.
32. Forms and notices.
33. Authorised and defective documents.
34. Paper documents filed with Commissioner-General.
35. Paper documents served by Commissioner-General.
36. Electronic document system.

PART VI—RETENTION AND PROVISION OF INFORMATION

- 37. Maintaining documents.
- 38. Testing apparatus.
- 39. Tax returns.
- 40. Assistance in preparing tax return.
- 41. Extension of time to file tax return.
- 42. Failure to file tax return on time.
- 43. Correction of tax returns and other information.
- 44. Access to information and assets.
- 45. Possessor's rights and obligations.
- 46. Notice to obtain information.
- 47. Audit.

PART VII—ASSESSMENT

- 48. Assessment and self-assessment.
- 49. Default Assessment.
- 50. Adjusted assessment.
- 51. Instalment payment assessment.
- 52. Notice of assessment.

PART VIII—DISPUTE RESOLUTION

- 53. Tax decisions.
- 54. Objection to tax decision.
- 55. Objection decisions.
- 56. Appeal against objection decision.
- 57. Revenue Review Tribunal.
- 58. Appeal to High Court.

PART IX—PAYMENT OF TAX

- 59. Time for paying tax.
- 60. Extension of time for paying tax.
- 61. Manner of paying tax.
- 62. Order of paying tax.
- 63. Taxpayer Tax Account.

PART X—RECOVERY OF UNPAID TAX

- 64. Suit for unpaid tax.
- 65. Security for withholding tax.
- 66. Charge over assets.
- 67. Sale of charged assets.
- 68. Restraint of person.
- 69. Restraint of business assets.
- 70. Forfeiture of goods.
- 71. Managers of entities.
- 72. Receivers.
- 73. Third party debtors and guarantors.
- 74. Compliance with notice or security.
- 75. Agents of non-residents.

PART XI—REMISSION AND REFUND OF TAX

- 76. Remission of interest and penalties.
- 77. Application for tax refund.
- 78. Decision on application.
- 79. Payment of tax refund.
- 80. Operation of the Goods and Services Tax Act.
- 81. Extinguishment of irrecoverable tax.

PART XII—INTEREST AND PENALTIES

- 82. Interest for under-estimating tax payable.
- 83. Interest for failing to pay tax.
- 84. Penalty for failing to maintain documents.
- 85. Penalty for failing to file tax return.
- 86. Penalty for failing to pay tax.
- 87. Failure to display compliance certificate.
- 88. Penalty for making false or misleading statements.
- 89. Penalty for aiding and abetting.
- 90. Goods and Services Tax penalties.
- 91. Excise penalties.
- 92. Assessment of interest and penalties.

PART XIII—OFFENCES

- 93. Offence of failing to comply with revenue law.
- 94. Offence of failing to pay tax.
- 95. Offence of failing to display compliance certificate.
- 96. Offence of making false or misleading statements.
- 97. Offence of impeding tax administration.
- 98. Offences by authorised persons.
- 99. Managers of entities.
- 100. Offence of aiding or abetting.
- 101. Goods and Services Tax offences.
- 102. Compounding offences.

PART XIV—TAX RECOVERY PROCEEDINGS

- 103. Multiple proceedings.
- 104. Power of search, seizure and arrest.
- 105. Venue.
- 106. Admissibility of documents.
- 107. Proof of evidence.
- 108. Tax decisions.
- 109. Security.
- 110. Publication of offenders.
- 111. Protection.
- 112. Discharge of contractual obligations.

PART XV—TRANSITION

- 113. Amendments.
- 114. Transition.
- 115. Regulations.
- 116. Amendments by Minister.

FIRST SCHEDULE

Transactions for which Taxpayer Identification Number is required.

SECOND SCHEDULE

Tax Returns and Assessments.

THIRD SCHEDULE

Amendments to the Revenue Laws.

FOURTH SCHEDULE

Forms for which a cost-recovery fee may be charged.

No.



2017

Sierra Leone

A BILL ENTITLED

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;

"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-

- (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.

"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;

- (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.

(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.

(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

- (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.

(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.

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.

(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.

(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-

- (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.

(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.

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) 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-

Paper documents filed with Commissioner-General.

- (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 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) 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;

- (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. ^{Testing apparatus.}

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.

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- Assistance in preparing tax return.

(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. 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.

(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 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

- (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.

(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.

(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.

- (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 Tax decisions 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.

(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

- (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.

(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.

Objection decisions.

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.

(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;

(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.

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.