

2020 Finance Act – The highlights

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Introduction

The Finance Act is a very important Act in Sierra Leone as it is through this Act the Government gives effect to financial proposals at the beginning of every Financial year. All Government Financial policies are included in this Act - new policies as well as changes made to existing policies. All the provisions of the Finance Act associated with a particular Financial year are important, but of utmost significance are the rules for Income Tax Rates.

On a yearly basis, the Finance Act lays in detail, taxes that are applicable to taxpayers in the country. This it normally does by repealing and/or amending existing laws and/or enacting new laws. It is worthy to mention that every Finance Act is assented by the President of the Republic of Sierra Leone.

On the 8 November 2019, the Minister of Finance delivered a Budget and a Statement of Economic and Financial Policy outlining the imposition and alteration of taxes, to give effect to the financial proposals of the Government and to provide for other related matters for the financial year 2020. The policies enshrined in the budget and others have been enacted into law and makes for the 2020 Finance Act ("The Act" or "FA 2020"). The Finance Act 2020 is deemed to come into force on the 1st day of January, 2020.

The Act creates new laws as well as amends and/ or repeals certain provisions of the Customs Tariff Act, 1978, Excise Act, 1982, Income Tax Act, 2006, Finance Act, 2006, The Customs Act, 2011, The Goods and Services Tax Act, 2009, The Public Procurement Act, 2016, The Public Financial Management Act, 2016, Extractive Industries Act, 2018 and makes some general provision on other laws as stated below.

Key Provisions

AMENDMENT TO THE CUSTOMS TARIFF ACT, 1978

The Act amended the above-mentioned Act by replacing with a new definition, the term "raw materials", Raw materials is redefined as basic materials needed for the manufacture of goods not for resale and which are still in a raw, natural, unrefined or unmanufactured state.

Furthermore, the Act also added a new definition for 'input' and 'packaging products', and states that for manufacturing purposes, 'input' means "semi-finished and finished products with labelling including packing materials not for direct resale and for which customs develops procedures that ensures inward and outward movement of these products within the operators warehouse".
'Packaging products' is now defined as "finished product with labelling for use by packaging industries"

Additionally, the Act added "labelling" for the purposes of inputs for manufacturing and packaging products and makes it a requirement for all packaging industries to now label and conceal with the name of the importing local manufacturing company, all materials imported as inputs for manufacturing.

The Act amended the Schedule to the Customs Tariff Act 1978 by imposing a duty at the rate of 5% on raw materials and semi-finished and finished product, respectively and at 10% on packing product for packaging industries.

It is worthy to note that 'containers' referred to in relation to packaging materials excludes road, ship, rail or air containers.

AMENDMENT TO THE EXCISE ACT, 1982

The Act amends the above-mentioned Act by imposing a 20% excise duty on imported fruit juice and vegetable juice.

AMENDMENT TO THE INCOME TAX ACT, 2000 (ITA 2000)

The Act amended Section 2 of the ITA 2000 by deleting the definition of the following words and substituting with the following new definition:

- A "large taxpayer" is a taxpayer whose annual turnover is above Le. 6,000,000,000 or other additional requirement as may be prescribed by the Commissioner-General.
- A "medium taxpayer" is a taxpayer whose annual turnover is between Le. 350,000,000 and Le. 6,000,000,000.
- A "small taxpayer" is a taxpayer whose annual turnover is between Le. 10,000,000 and Le. 350,000,000
- A "micro taxpayer" is a taxpayer whose annual turnover is less than Le. 10,000,000.

Other Exempt Persons & Organisation

As a result of the size of the revenue of a "micro Taxpayer" The FA 2020 added micro taxpayer business or organization' to the list of other exempt persons and organization from corporate income tax.

Imposition of Capital Gains Tax

The Act now imposes an obligation on taxpayers that dispose chargeable assets, to withhold and pay to the National Revenue Authority (NRA) tax on gains realized from such assets.

It further states that in cases where the person disposing the chargeable assets is a non-resident, the buyer shall be liable to withhold and pay capital gains tax on the chargeable assets disposed to the National Revenue Authority within 30 days after the disposal. It further imposes interest payments on persons who fails to withhold capital gains tax as required above, in addition to the tax that is unpaid plus any other penalty as provided for under the ITA 2000.

There is now a new provision which defines "real property" as a chargeable asset that includes but is not only limited to agricultural land and what lies on or beneath the surface of the land and sea, petroleum products, ore, precious gems, metals and other minerals.

As is the case for other taxes, the Act makes provision for the NRA to issue out valid capital gains tax clearance certificates to resident parties as evidence of compliance with the rules governing the transaction.





Further to these conditions, individual taxpayer shall be entitled to a tax refund or rebate of excess tax paid within 120 days after the end of the fiscal year, upon filing a complete annual income tax return. Such individual taxpayers may opt to utilize established tax refund or rebates to offset the same income tax in the current year of assessment by submitting a written application to the Commissioner- General which is subject to approval.

Rental Income

The non-taxable rental threshold per each transaction or an aggregate of several transactions payable in a current year of Assessment has been increased from Le. 6,000,000 to Le. 7,200,000 by the Act and it further provides that this will apply to rental or lease payments that relates to current, past or future years. The tax-deductible allowance remains unchanged at 10% of the gross rental income in excess of the non-taxable threshold, however, repairs and maintenance carried out by the landlord should be captured in the rental agreement and evidence that it has been carried out must be presented.

Furthermore, Individual tenants should withhold tax on rent amounts that are payable to both resident and non-resident Landlords that are in excess of the Le. 7,200,000 non-taxable threshold.



Objection to Assessment

In an event where a taxpayer is dissatisfied with tax assessments and other revenues administered by the NRA, the Act stipulates that such a taxpayer can only raise an objection to that assessment after full payment of the undisputed amount or other revenues are paid. An objection of this nature should be done within 30 days from which the assessment was raised.

The Act further requires taxpayers to pay 30% of the disputed amount before the tax payer has the ability to formally object to the assessment. More power is given to the Commissioner-General who reserves the right to extend the objection period beyond 90 days to a time not exceeding 180 days from the date of filing of the objection by the taxpayer. However, the Act permits interests and penalty computations on the disputed amount to be suspended until a decision on the objection is arrived at by the Commissioner- General.

Interest on tax not paid when due.

In line with the Revenue Administration Act 2017, interest charged under the Income Tax Act shall now be compounded annually and no longer on a 6-month basis.

Interest on overpayment of tax

Where a taxpayer's objection results in a refund of tax or penalty, interest shall be paid to the taxpayer at a specified rate on the amount of refund 60 days after the annual filing date of a previous year of assessment.

Recovery of Penalty

The period for which a penalty imposed for failure to file correct returns, underestimation of tax and tax withheld shall now be compounded annually instead of on a 6-month basis.

Transfer pricing

In the bid to set the stage for Transfer Pricing (TP) Regulations in Sierra Leone, there is now a provision which empowers The Minister of Finance to make regulations for TP for resident and other related parties to be administered by the Commissioner- General, who was previously empowered to prescribe conditions and guidelines that are to be followed in applying the arm's length standard.

Filing a return - PAYE

The Act amends the section for filing of PAYE returns by introducing a new subsection which now requires PAYE taxpayers to file returns of Income Tax 120 days after the end of the previous tax year, pay any under paid taxes and claim refund or rebate of excess tax paid for the year of assessment.

Payment of Taxes and Additional Liabilities – Income Tax

The Act reduces the time/due date for the payment of Income Tax liabilities subsequent to assessment from twenty-one (21) to fourteen (14) days thus shortening the time taxpayer had to make payments to the NRA after tax assessments are done. In addition to this, priority is now given to interest payments and penalties over the payment of the principal amount of tax that is owed. This implies that for taxpayers that have failed to pay taxes and are given additional liabilities in the form of penalties and interests, such interests and penalties should be paid before the initial outstanding tax liability.

It further reduced the due date for filing an income tax return from 140 days to 120 days after the year of assessment even in cases where the taxpayer has requested for an extension of time to file a return.

Payment by Professional Service Providers

Incomes of Professional Services providers – which includes Accountants, Economists, Doctors, Engineers and other Consultants to name a few – whether resident or not, that is sourced in Sierra Leone is now subject to a withholding tax per transaction at the rate of 10% on turnover. All such service providers must, before registration with the appropriate authority, produce valid NRA Tax Clearance Certificates or provide proof that withholding tax per transaction has been remitted to the NRA. Failing which, will be considered an impediment to the tax administration and will result to a penalty.

Repayment of overpaid Tax and Tax offset with group companies tax liabilities

The Act now provides that where a taxpayer has made excess payments for Income Tax through withholding installments or otherwise, such excesses will be applied to the payment of any other tax liabilities that are collected under the Income Tax Act.

The Act states that a taxpayer would be allowed to offset excess income tax payment under this Act with similar income tax liability of a member of the same group, provided both companies are resident in Sierra Leone and one has at least 25% ownership interest in the other. However, the refund referred to above shall be applicable only on advance taxes that include but are not limited to the following: (a) 5% income tax paid on goods imported for personal use; (b) withholding tax from a source that is not a final tax; (c) other taxes administered under this Act approved by the Commissioner-General.

Forms and Notice

The Act permits a taxpayer to affix a personal digital signature recognized and verified by the Commissioner- General to be authentic and acceptable on forms, notices, returns, compliance letters and such documents so prescribed or published by the Commissioner -General. However, it penalizes persons that knowingly or recklessly sign an electronic record on documents mentioned above and holds them liable on conviction to a fine or a term of imprisonment not exceeding 12months.

The Commissioner-General is entrusted with the responsibility to prepare a Tax Register of all tax payers and assign a unique system generated Tax Identification Number (TIN) to each one of them.

The wording "taxpayer file number" is replaced with the words "Tax identification Number" wherever it appears in the Income Tax Act.

The First Schedule of the ITA 2000 – PAYE monthly Tax table

Effective January 2020, the applicable monthly rates of employment income tax for Resident Individuals shall be as shown below:

Chargeable Income	Tax Rate
Under Le. 600,000	Nil
Next Le. 600,000	15%
Next Le. 600,000	20%
Next Le. 600,000	25%
Above Le. 2,400,000	30%

*The tax-free threshold for annual allowances remains Le. 6,000,000 (Le. 500,000 per month).

Corporate Income Tax Rate

In a bid to strengthen tax compliance, bring small businesses into the SL tax net, enable big businesses to expand investment, increase productivity and thus boost the Sierra Leone economy, the tax rate applicable to companies and trust income has been reduced from 30% to 25%.

AMENDMENT TO THE NATIONAL COMMISSION FOR PRIVATISATION ACT 2002

Sierra Leone Commercial Bank and Rokel Commercial Bank have been removed from the list of Public Enterprises for Divestiture on the First schedule of the above-mentioned Act.



AMENDMENT TO THE FINANCE ACT 2006

In amending the Finance Act 2006, The Act makes it an offence for someone to give false information when applying for duty waiver concession or to use a duty-free concession for a purpose other than what it was given for. It further empowers the Minister of Finance to revoke grants of duty-free concessions on the grounds of false declaration in applications and associated documents. In a case where a grant of duty-free concession is revoked, a notice shall be served to the recipient of the grant and the institution so served shall be liable to refund, with interest, fines and charges the full amount of the concession to the NRA, else the item will be confiscated.

Recipients of the duty-free concessions shall sign a declaration agreeing to refund, with interest, fines and charges or seizure and auction of duty-free items in the event that they violate the conditions for the grant of duty-free concession.

AMENDMENT TO THE CUSTOMS ACT 2011

The Act redefined Regulations from "Regulations made by the Authority" to now mean "**Regulations made by the Minister**". Also, the Act substitutes the word "regulations" with the new words "rules, practice, procedures and manuals" in Sections 27(1), 44(1) and 47 of the Customs Act 2011. The Act further provides that;

- a) The customs system may interface or use common information, communication and technology (ICT) platforms with other stakeholders for purposes of information exchange or mutual co-operation.
- b) Imported goods may be transferred directly in bond under customs control from a customs officer, transit warehouse or container depot to another customs officer, warehouse or duty-free shop. Also, such goods may be re-exported from temporary storage.
- c) The value of the bond imposed for use of the warehouse is 20% of the custom value of the goods declared.
- d) Goods declaration can now be sent, given or transmitted electronically to the designated customs office in English language and in the form and manner prescribed by a statutory instrument.
- e) Declarant are required for the purposes of sending electronic declaration to insert an electronic signature.
- f) The Commissioner- General is empowered to issue licence for operation of transit warehouse, container depot, customs bonded warehouse, duty free shops and public auction sales of uncleared or abandoned goods that have exceeded the 90 days grace period.
- g) The Commissioner- General shall submit a quarterly report of all inward processing transaction on a product by product and company by company basis to the Minister responsible for Finance not later than thirty days following the end of the quarter to which it relates.

Transfer of Goods in Bond

The Act imposed a bond on customers for the use of the Bonded warehouse and the bond shall be 20% of the customs value of the goods declared.



AMENDMENT TO THE GOODS AND SERVICES TAX ACT 2009

The Finance Act 2020 amends the GST Act 2009 by inserting the following new subsections.

- The supplier shall be issued with a GST relief purchase order (GRPO), provided by the National Revenue Authority, to be used to administer exempt supplies.
- Rules, procedures and manuals for the issuance and administration of a GST relief purchase order (GRPO) shall be specified by the Commissioner-General from time to time.
- Person or organization exempted from GST are still required to pay GST on goods and services and request for refunds to be paid 90 days after submission of claims. They are required to also provide evidence of payment of GST on the particular goods and services upon filing of their request for refund.
- Refund of claims shall not be filed after the expiration of 6 months from the date of purchase of the goods and services.
- Every registered GST business shall in the ordinary course of business, maintain an electronic cash register as may be specified by Commissioner-General for the purpose of invoicing and recording all transactions.
- A GST registered supplier who makes taxable supplies shall be required, at the time of the supply, to issue the recipient with an original GST invoice, whether from printed booklet or an electronic cash register, for the supply.
- A GST invoice and a sales receipt shall contain information prescribed by the Commissioner-General.
- During the first 12 months of the GST becoming chargeable under this Act. The GST invoice used shall be the invoice printed by the National Revenue Authority under the authority and direction of the Minister of Finance, for the use of the registered person or the electronic cash register system generated sales receipt.
- A person who is issued or authorized to use an electronic cash register, shall not use GST invoice booklet printed and issued by the National Revenue Authority for issuance of sales receipt, but shall use an electronically generated invoice from the cash register.
- A GST registered supplier who makes taxable supplies and fails, at the time of the supply during the purchase, to issue the recipient with an original GST invoice for the supply, commits an offence and is liable to pay and administrative fine of Le. 10,000,000.00 or on conviction to a fine of Le. 20,000,000.00 or to imprisonment for a term of not less that twelve months or to both.
- A taxpayer shall, not later than the end of the month following the tax period, lodge a GST return together with a schedule detailing claims for both inputs and output GST for each tax period. The schedule refers to above shall contain the following: name of person from which the input tax is acquired from, TIN, Name and address of suppliers, description of good and services, value of GST on input, the aggregate of total input acquired from each supplier and any other information required by the Commissioner-General
- Registered GST trader shall input daily sales data in the electronics cash register and file their GST returns and make payment of GST liabilities through the integrated tax administration system (ITAS) administered by the National Revenue Authority.



Second Schedule of the GST Act 2009 – Exempt Supplies

The following amendments were done to the second schedule (**Exempt Supplies**) of the GST Act 2009:

- **Item 10** was repealed and replaced with new item – “**Supply: Financial Services**, except where consideration payable is by way of an expressed fee or commission on a transaction.”

It further clarifies that for the purpose of this Act, financial services mean operations of financial institutions licensed, regulated and supervised by Bank of Sierra Leone. The new provision does not change the current practice of GST application on financial services.

New items were added after item 21:

- **Item 22 – Limitation: Telecommunication services without consideration.** This covers any free or promotional call and free data use with value not in excess of 10% of the total billable including unbillable calls and data use in that period shall be charged at the existing market price of Le. 650 per minute.
- **Item 23 – Services in the Aviation Industry within Sierra Leone.** Services within the international airport Zone, including handling, profiling, airline catering, etc.
- **Item 24 – Buses imported exclusively for commercial public transportation.** One -time import of at least 10 buses with sitting capacity of not less than 18 seats imported for commercial use for transporting passengers.

Amendment of the Public Procurement Act 2016

The Act gives preference to locals in the particular district for award of contracts for goods, works and services. However, such individuals must have resided continuously in that locality for a period not less than 183 days in the year.

Notwithstanding the above, for contracts for procurement of sensitive security related goods, works and services for use by the President and the Vice President, the President may decide to grant such contracts to a sole source on a case by case basis.

First schedule to the Procurement Act 2016 was amended as follows:

That request for Quotation shall be used when the estimated value of the procurement is below:

- Le. 100.00 million in the case of contracts for the procurement of goods;
- Le. 200.00 million in the case of contracts for the procurement of works;
- Le. 100.00 million in the case of contracts for the procurement of services.

That National competitive Bidding (NCB) shall be used when the estimated value of the procurement is above:

- Le. 100.00 million in the case of contracts for the procurement of goods;
- Le. 200.00 million in the case of contracts for the procurement of works;
- Le. 100.00 million in the case of contracts for the procurement of services.

That International Competitive Bidding (I.C.B) shall be used when the estimated value of the procurement is above:

- Le. 5.00 billion in the case of contracts for the procurement of goods;
- Le. 8.00 billion in the case of contracts for the procurement of works;
- Le. 5.00 billion in the case of contracts for the procurement of service.



THE AMENDMENT TO THE PUBLIC FINANCIAL MANAGEMENT ACT 2016

The Act provides that no later than the 10th month in a financial year, the Minister with the approval of cabinet should prepare and lay before Parliament a Fiscal strategy and six weeks prior to the end of a financial year the Minister should lay before Parliament the State Budget.

EXTRACTIVE INDUSTRIES REVENUE ACT, 2018

A person who is liable to pay royalties shall file with the Commissioner-General a return of royalties and make payment at the time the royalties should be paid.

The Act defines the 'relevant licence holder' to mean the holder of mining licence and exploration licence, large scale mining and exploration, petroleum licence.

That the rate of *mineral resource rent tax* is calculated as follows:

40% less Income tax rate ÷ 100% less Income tax Rate

Petroleum tax rate is calculated by using the below formula:

58% less Income Tax rate ÷ 100% less Income Tax rate

GENERAL PROVISIONS

The Act establishes the National Tariff Committee which shall be responsible for advising the Government on tariff measures. The Committee shall be composed of a representative of the Minister of Finance, Trade, Agriculture, two representatives from the Private sector and any other relevant institution.

It makes provision for visas for passengers or persons of countries that are approved by the authorities to be available for issue when such persons or passengers arrive either at the international airport or at a border crossing point.

Lastly, the Act amends the schedules of fees, rates and charges which are related to the operations of the Ministry of Fisheries, Tourism and the National Civil Registration Authority.

CONCLUSION

Regular updates in tax legislation usually seek to clarify points of ambiguity and sometimes raise new ones. The aim of the Act is to stimulate the economy and improve domestic revenue mobilization to feed the national budget. We noted that section 10 of the Act creates an ambiguity as it seeks to amend section 97 of the Income Tax Act by adding new subsections after subsection 7 to read 8 and 9 whereas the Finance Act 2017 had already provided for subsections 8-12 under section 97.

It is the general consensus that The NRA's focus is geared towards revenue mobilization, however, with regards to the amendment to Objections to assessments, the concern is that, from experience, this change might encourage the NRA to wrongly assess taxpayer and impose the collection of the specified 30% amount; it is feared that this has the tendency to have hostile cash flow consequences for taxpayers.

The Act provides that persons or institutions exempted from GST will still have to file returns and pay the taxes before applying for a refund of the paid tax and the refund will be granted 90 days after submission of claims. This is worrying considering the reluctance by the NRA in the past to repay overpaid taxes and make refunds.

Key to the changes is the new PAYE tax threshold, the band has been increased to an annual chargeable income of Le. 7,200,000. 00 effective 1st January, 2020. However, the monthly tax-free threshold on allowances remains unchanged and is still at Le. 500,000.00 per month. Another important amendment is the new corporation tax rates which has been reduced from 30% to 25% of annual turnover for the year of assessment.

As the Finance Acts normally stem from the Minister's budget speech, it begs a question why there is a difference in what the Minister pronounced regarding the exemption of Financial Services from GST and what was actually passed into law; did the Minister intend to entirely exempt such services from GST?



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