Passed in Parliament this *14th day of November*, in the year of our Lord two thousand and thirteen.

IBRAHIM S. SESAY,
Clerk of Parliament.

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

IBRAHIM S. SESAY,
Clerk of Parliament.

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GAZETTE NO. 75 OF 12TH DECEMBER, 2013

ACT

Supplement to the Sierra Leone Gazette Vol. CXLIV, No. 75 dated 12th December, 2013

SIGNED this *28th day of November, 2013.*

DR. ERNEST BAI KOROMA,
President.

LS

No. 3 **2013**

UNITY FREEDOM JUSTICE

Sierra Leone

THE FINANCE ACT, 2013

Short title.

Being an Act to provide for the imposition and alteration of taxes for the year 2013 and for other related matters.

[ ] Date of commencement.

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

The Pay-Roll Tax Act, 1972

Amendment of section 7 of Act No.16 of 1972.

1. The Pay-Roll Tax Act, 1972 is amended by the repeal and replacement of section 7 by the following new section-

" Tax clearance certificate

7. (1) The pay-roll tax shall be paid and borne by the employer and the employer shall not be entitled to pass on the tax to any employee.

(2) Subject to subsection (1), the Commissioner-General shall issue to the employer, a tax clearance certificate in respect of each non- citizen employee, confirming that all taxes payable by or on behalf of that non-citizen employee have been paid.

(3) A permit shall not be granted under section 34D to a person for whom an application is made under 34C of the General Law (Business Start –Up)(Amendment) Act, 2007 unless a tax clearance certificate relating to the non-citizen has been obtained from the National Revenue Authority."

The Income Tax Act 2000

Amendment of section 2 of Act No.8 of 2000.

2. Section 2 of the Income Tax Act, 2000 is amended as follows–

(a) by the repeal and replacement of the definition of "branch" wherever it occurs by the following new definition-

"permanent establishment of a non-resident person in Sierra Leone " means a place in Sierra Leone where the person carries on business or that is at the disposal of the person for that purpose and includes–

(a) a place in Sierra Leone where–

(i) a person has, is using or is installing substantial equipment or machinery;

(ii) a person is engaged in a construction, assembly or installation project for 90 days or more, including a place where the person is conducting supervisory activities in relation to such a project;

(iii) an agent performs any function on behalf of a business of the person including, in the case of an insurance business, the collection of premiums or the insurance of risks situated in Sierra Leone , but excluding a case involving a general agent of independent status acting in the ordinary course of business as such;

(b) the provision of services in Sierra Leone , but only if activities of that nature continue (for the same or a connected project) for a period of 183 days or more in any 12 months period.

(b) by the repeal and replacement of the definition of "natural resource payment" by the following new definition-

"natural resource payment" means–

(a) a rent, toll, royalty or other like payment payable under a lease or agreement which relates wholly or in part to the mining and working of minerals or a living or non-living resource of the land or sea; or

(b) a payment calculated in whole or in part by reference to the quantity or value of minerals or living or non-living resource taken from the land or sea.

Amendment of section 4 of Act No. 8 of 2000.

3. Section 4 of the Income Tax Act, 2000 is amended by the repeal and replacement of subsections (2) and (3) respectively, by the following new subsections–

"(2) Where the turnover of a business not being a company specified under Part III of the First Schedule excluding income from property is less than Le 350,000,000 but not less than Le10,000,000 the income tax payable shall at the option of such a business, be a percentage of the turnover as specified in part V of the First Schedule and –

(a) no deduction shall be allowed under this Act for expenses incurred to derive business income;

(b) no claims for withholding tax shall be allowed;

(c) the tax shall be a final tax on the business of the taxpayer but if a business does not opt to pay taxes under this subsection it shall be subject to a tax under section 69.

(3) Subject to section 150, a taxpayer under Small Medium Enterprise (SME) regime who fails to file an income tax return on the due date commits an offence and shall be liable upon conviction to a fine the greater of Le 1,000,000.00 or 10% of the Tax due for the period to which the tax returns relate or to imprisonment for a term not exceeding one year or to both such fine and imprisonment."

Amendment of section 12 of Act No. 8 of 2000.

4. Section 12 of the Income Tax Act, 2000 is amended by the repeal and replacement of subsection (2) by the following new subsection-

"(2) For the purposes of this Act, a permanent establishment of a non-resident person in Sierra Leone shall be treated as a resident person separate from but associated with its non-resident owner"

Amendment of section 13 of Act No. 8 of 2000.

5. Section 13 of the Income Tax Act, 2000 is amended by repealing subsections (2) and (3).

Amendment of section 16 of Act No. 8 of 2000.

6. Section 16 of the Income Tax Act, 2000 is amended by the repeal and replacement of paragraph (b) by the following new paragraph–

" (b) all other assessable income from any source in Sierra Leone whether or not the income is received in Sierra Leone;"

Repeal of section 21 of Act No. 8 of 2000

7. Section 21 of the Income Tax Act,2000 is hereby repealed.

Repeal of section 30A of Act No.8 of 2000.

8. Section 30A of the Income Tax Act, 2000 is hereby repealed.

Amendment of section 31 of Act No.8 of 2000.

9. Section 31 of the Income Tax Act, 2000 is amended by repealing paragraph (m).

Repeal and replacement of section 35 of No. 8 of 2000.

10. Section 35 of the Income Tax Act, 2000 is repealed and replaced by the following new section–

"Financial cost.

35 (1) In ascertaining a person's chargeable income for a year of assessment, the amount of financial cost deducted shall not exceed the amount referred to in subsection (3).

(2) The amount of financial cost referred to in subsection (1) is the sum of –

(a) financial gains derived by the person, that are to be included in ascertaining the person's chargeable income for the year of assessment plus;

(b) fifty percent of the person's chargeable income calculated without including financial gains derived or deducting financial costs incurred by the person.

(3) Financial cost for which a deduction is denied as a result of subsection (1) may be carried forward and treated as incurred during the next year of assessment except where there is a change in control as specified in section 88.

(4) The Commissioner-General may by Statutory Instrument prescribe the circumstances under which financial costs may be set against financial gain.

(5) For the purpose of this section–

(a) "financial cost" means standard interest and any other amount payable under a financial instrument;

(b) "financial gain" means standard interest and any other amount receivable under a financial instrument;
and

(c) "financial instrument" has the same meaning prescribed by Statutory Instruments made under the Act and in the absence of such Statutory Instrument, takes its meaning from generally accepted accounting principles and includes foreign currency positions."

Amendment of Act No. 8 of 2000.

11. The Income Tax Act, 2000 is amended by the insertion of the following new section immediately after section 56–

"Installment sales and finance lease.

56A(1) Payments made by a person under a finance lease or in acquiring an asset under an installment sale shall be treated as interest and a repayment of capital under a loan made by the lessor or seller to the lessee or buyer, as the case may be .

(2) The interest and repayment of capital under subsection (1) shall be calculated as if the loan were a blended loan with interest compounded six monthly.

(3) Where an asset is leased under a finance lease, the lessor shall be treated as transferring ownership of the assets to the lessee.

(4) Where the lessee under a finance lease returns the assets to the lessor before ownership passes to the lessee other than by reason of this subsection, the lessee shall be treated as transferring ownership of the asset back to the lessor.

(5) Where a person transfers an asset under an installment sale or under a finance lease under subsection (3) or (4)–

(a) the person shall be treated as receiving an amount in respect of the transfer equal to the market value of the asset immediately before the transfer; and

(b) the person who acquires the asset shall be treated as paying an equal amount in acquiring the asset.

(6) The Commissioner-General may by Statutory Instrument prescribe that other forms of financing that involve interest substitutes shall be treated in a manner consistent with this section.

(7) For the purpose of this section–

(a) "blended loan" means a loan–

(i) under which payments by the borrower represent in part a payment of interest and in part a repayment of capital;

(ii) where the interest part is calculated on capital outstanding at the time of each payment; and

(iii) where the rate of interest is uniform over the term of the loan;

(b) "finance lease" means a lease where–

(i) the lease agreement provides for the transfer of ownership following the end of the lease term or the lessee has an option to acquire the asset after expiry of the lease term for a fixed or presupposed price;

(ii) the lease term exceeds 75% of the useful life of the asset;

(iii) the estimated market value of the asset after expiry of the lease term is less than 20% of its market value at the start of the lease;

(iv) in the case of a lease that commences before the last 25% of the useful life of the asset, the present value of the minimum lease payment equals or exceeds 90% of the market value of the asset at the start of the lease term; or

(v) the asset is custom-made for the lessee and after expiry of the lease term the asset will not be of practical use to any person other than the lessee;

(c) "installment sale" excludes a sale that provides for commercial periodic interest payable on sales proceeds outstanding ;and