INTERNAL REVENUE ACT

Act No. 592 of 2000

Section 1-Imposition of Income Tax

Section 2-Final Taxes on Income Received by Residents

Section 3-Final Taxes on Income Received by Non-Residents

(1) Subject to this Act, a tax shall be charged and shall be paid by every non-resident person who, or non-resident partnership which, is paid any dividend, interest, royalty, natural resource payment, rent, endorsement fee or management and technical service fee accruing in or derived from Ghana, other than a payment exempt from tax under this Act.

(2) The tax payable under subsection (1) is calculated by applying the rate of tax prescribed in Part V of the First Schedule to the gross amount of the dividend, interest, royalty, natural resource payment, rent, endorsement fee or management and technical service fee received by that person or partnership.[As amended by the Internal Revenue (Amendment) Act, 2002 (Act 622), s.2.]

(3) Subsection (3) of section 2 applies to this section.

(4) This section does not apply to any dividend, interest, royalty, natural resource payment, rent, endorsement fee or management and technical service fee attributable to a permanent establishment in Ghana of a non-resident person or non-resident partnership. [As amended by the Internal Revenue (Amendment) Act, 2002 (Act 622), s.2.]

(5) Income to which subsection (4) applies shall be included in ascertaining assessable income of the non-resident person or non-resident partners in accordance with section 6.

Section 4-General Provisions Relating to Taxes Imposed Under Sections 2 and 3

Tax imposed under subsection (1) of section 2 and subsection (1) of section 3 is a final tax on the income on which the tax is imposed and

(a) that income shall not be included in ascertaining the assessable income of the person who receives it;

(b) no deduction shall be allowed to the extent to which the deduction relates to the production of that income; and

(c) the tax payable by a person or partnership under those subsections shall not be reduced by any tax credits allowed under this Act and the liability of a person or partnership under those subsections is satisfied if the tax payable has been withheld by a withholding agent under Subdivision B of Division III of Part X.

Section 5-Chargeable Income

Section 6-Assessable Income

Section 11-Industry Concessions

(1) Subject to subsection (7), the income of a person from a farming business in Ghana is exempt from tax

(a) in the case of farming tree crops, for the period of ten years of assessment commencing from and including the year in which the basis period of that person ends, being the period in which the first harvest of those crops by the business occurs;

(b) in the case of farming livestock (other than cattle), fish, or cash crops, for the period of five years of assessment commencing from and including the year in which the basis period of that person ends, being the period in which the business commences; or

(c) in the case of farming cattle, for the period of ten years of assessment commencing from and including the year in which the basis period of that person ends, being the period in which the business commences.

(2) The income of a company from an agro processing business in Ghana is exempt from tax for the period of three years of assessment commencing from and including the year in which the basis period of the company ends, being the period in which commercial production commences. [As amended by Internal Revenue (Amendment) Act, 2004 (Act 669), s.1(a)]

"(2a) The income of a company from an agro processing business established in Ghana in or after the financial year commencing 1st January 2004 is exempt from tax for a period of five years of assessment commencing from and including the year in which the basis period of the company ends being the period in which commercial production commences.

(2b) The income of a company which produces on commercial basis cocoa by-products derived from substandard cocoa beans, cocoa husks and other cocoa waste as its main raw materials is exempt from tax for a period of five years of assessment commencing from and including the year in which the basis period of the company ends being the period in which commercial production commences.

(2c) The income of a company whose principal activity is the processing of waste including recycling of plastic and polythene material for agricultural or commercial purposes is exempt from tax for a period of seven years of assessment commencing from and including the year in which the basis period of the company ends being the period in which commercial production commences." [As inserted by Internal Revenue (Amendment) Act, 2004 (Act 669), s.1(b)].

(3) Where a company conducts both farming and agro processing business, the company may elect to be treated as if the business were a farming business or an agro processing business and claim the exemption for which it is eligible under subsection (1) or (2). [As amended by Internal Revenue (Amendment) Act, 2004 (Act 669), s.1(c)]

(4) The income of a rural bank from a business of banking is exempt from tax for the

period of ten years of assessment commencing from and including the year in which the basis period of the bank ends, being the period in which operations commence.

(5) The income of a company from a business of construction for letting of residential premises is exempt from tax for the period of five years of assessment commencing from and including the year in which the basis period of that company ends, being the period in which operations commenced. [As substituted by the Internal Revenue (Amendment) Act, 2002 (Act 622), s.4]

(6) The income of a company from a business of construction for sale of residential premises is exempt from tax for the period of five years of assessment commencing from and including the year in which the basis period of that company ends, being the period in which operations commenced. [As substituted by the Internal Revenue (Amendment) Act, 2002 (Act 622), s.4]

(7) The income from cocoa of a cocoa farmer is exempt from tax.

(8) The income of the Ghana Stock Exchange is exempt from tax for the period of fifteen years of assessment commencing from and including the year in which the basis period of the Ghana Stock Exchange ends, being the period in which operations commenced.

(9) For the purposes of this section, a business of a person of the type referred to in subsection (1), (2), (4), or (6) which is carried on by that person at a particular time is treated as the same business as one of a similar type carried on by that person or an associate of that person at a later time.

Section 11-Industry Concessions

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(a) in the case of farming tree crops, for the period of ten years of assessment commencing from and including the year in which the basis period of that person ends, being the period in which the first harvest of those crops by the business occurs;

(b) in the case of farming livestock (other than cattle), fish, or cash crops, for the period of five years of assessment commencing from and including the year in which the basis period of that person ends, being the period in which the business commences; or

(c) in the case of farming cattle, for the period of ten years of assessment commencing from and including the year in which the basis period of that person ends, being the period in which the business commences.

(2) The income of a company from an agro processing business in Ghana is exempt from tax for the period of three years of assessment commencing from and including the year in which the basis period of the company ends, being the period in which commercial production commences. [As amended by Internal Revenue (Amendment) Act, 2004 (Act 669), s.1(a)]

"(2a) The income of a company from an agro processing business established in Ghana in or after the financial year commencing 1st January 2004 is exempt from tax for a period of five years of assessment commencing from and including the year in which the basis period of the company ends being the period in which commercial production commences.

(2b) The income of a company which produces on commercial basis cocoa by-products derived from substandard cocoa beans, cocoa husks and other cocoa waste as its main raw materials is exempt from tax for a period of five years of assessment commencing from and including the year in which the basis period of the company ends being the period in which commercial production commences.

(2c) The income of a company whose principal activity is the processing of waste including recycling of plastic and polythene material for agricultural or commercial purposes is exempt from tax for a period of seven years of assessment commencing from and including the year in which the basis period of the company ends being the period in which commercial production commences." [As inserted by Internal Revenue (Amendment) Act, 2004 (Act 669), s.1(b)].

(3) Where a company conducts both farming and agro processing business, the company may elect to be treated as if the business were a farming business or an agro processing business and claim the exemption for which it is eligible under subsection (1) or (2). [As amended by Internal Revenue (Amendment) Act, 2004 (Act 669), s.1(c)]

(4) The income of a rural bank from a business of banking is exempt from tax for the period of ten years of assessment commencing from and including the year in which the basis period of the bank ends, being the period in which operations commence.

(5) The income of a company from a business of construction for letting of residential premises is exempt from tax for the period of five years of assessment commencing from and including the year in which the basis period of that company ends, being the period in which operations commenced. [As substituted by the Internal Revenue (Amendment) Act, 2002 (Act 622), s.4]

(6) The income of a company from a business of construction for sale of residential premises is exempt from tax for the period of five years of assessment commencing from and including the year in which the basis period of that company ends, being the period in which operations commenced. [As substituted by the Internal Revenue (Amendment) Act, 2002 (Act 622), s.4]

(7) The income from cocoa of a cocoa farmer is exempt from tax.

(8) The income of the Ghana Stock Exchange is exempt from tax for the period of fifteen years of assessment commencing from and including the year in which the basis period of the Ghana Stock Exchange ends, being the period in which operations commenced.

(9) For the purposes of this section, a business of a person of the type referred to in subsection (1), (2), (4), or (6) which is carried on by that person at a particular time is treated as the same business as one of a similar type carried on by that person or an associate of that person at a later time.

(10) In this section,

"cash crops" includes cassava, maize, pineapple, rice, and yam;

"farming business" means the business of producing crops, fish, or livestock;

"agro processing business" means the business of converting crops, fish, or livestock produced in Ghana into edible canned or other packaged product other than in their raw state; [As amended by Internal Revenue (Amendment) Act, 2004 (Act 669), s.1(c)]

"tree crops" includes coconut, coffee, oil palm, rubber, and shea nut.

Section 12-Derivative Amounts

Nothing in section 10 or 11 shall be construed as exempting in the hands of the recipient, any amounts, including dividends, interest, or employment income, paid wholly or partly out of income exempt from tax.

Section 13-Deductions Allowed

Subject to this Act, for the purposes of ascertaining the income of a person for a basis period from any business or investment there shall be deducted—

(a) all outgoings and expenses wholly, exclusively and necessarily incurred during that period by that person in the production of the income;

(b) any other deductions as may be prescribed by Regulations made under section 114. [As amended by the Internal Revenue (Amendment) Act, 2002 (Act 622), s.5 (a)(b)]

Section 14-Interest

Subject to this Act, for the purposes of ascertaining the income of a person for a basis period from any business or investment, there shall be deducted any interest incurred during the period in respect of a borrowing employed by that person in the production of the income.

Section 15-Rent

For the purposes of ascertaining the income of a person for a basis period from any business or investment, there shall be deducted any rent incurred during the period in respect of a land or building occupied by that person to the extent that the land or building is occupied by that person for the purposes of producing the income.

Section 16-Repairs

For the purposes of ascertaining the income of a person for a basis period from any business or investment, there shall be deducted any outgoing or expense incurred during the period in respect of,

(a) the repair of any premises, plant, machinery, or fixtures, or

(b) the renewal, repair, or alteration of any implement, utensil, or article, to the extent that the premises, plant, machinery, fixtures, implement, utensil, or article is employed by that person in the production of the income.

Section 17-Deductions in Relation to the Rental of Premises
Section 18-Bad Debts
Section 19-Research and Development Expenditure
Section 20-Capital Allowances

For the purposes of ascertaining the income of a person for a basis period from any business, there shall be deducted the capital allowances for the business calculated in accordance with the Third Schedule.

Section 21-Foreign Currency Exchange Losses
Section 22-Carry Over of Losses.

(1) Subject to this Act, for the purposes of ascertaining the income of a person for a basis period from a farming, manufacturing or mining business,

(a) there shall be deducted, for a period of five years, a loss of the previous five basis periods incurred by that person in carrying on that business; and

(b) where that person has incurred more than one such loss, the losses shall be deducted in the order in which they were incurred. [As Substituted by the Internal Revenue (Amendment) Act, 2002 (Act 622), s.6(a).]

(2) A loss may only be deducted where the loss has not been deducted in ascertaining the income of that person for a previous basis period.

(3) The loss incurred by a person for a basis period in carrying on a business shall be calculated as the excess of amounts deductible under this Act in ascertaining a profit or gain from the business over the amounts required to be included in ascertaining the profit or gain.

(4) The aggregate deduction from the assessable income in respect of the loss shall not in any circumstances exceed the amount of the loss. [As inserted by the Internal Revenue (Amendment) Act, 2002 (Act 622), s.6(b)]

(5) No deduction under this section for any year of assessment shall exceed the amount, if any, of the assessable income (included in the total assessable income for that year of assessment) from the source of income in respect of which the loss, which is the subject of the deduction, was incurred. [As inserted by the Internal Revenue (Amendment) Act, 2002 (Act 622), s.6(b)]

(6) For the purposes of this section, "manufacturing business" means a business that manufactures mainly for export. [As inserted by the Internal Revenue (Amendment) Act, 2002 (Act 622), s.6(b)]

Section 23-Deductions Not Allowed
Section 24-Year of Assessment and Basis Period

(1) The year of assessment for a person shall be the calendar year from 1st January to 31st December.

(2) The basis period of a person is,

(a) in the case of an individual or a partnership, the calendar year from 1st January to 31st December; and

(b) in the case of a company or a body of persons, the accounting year of the company or body.

(3) A company or body of persons shall not change its accounting date unless it obtains prior approval in writing from the Commissioner and complies with any condition that may be attached to the approval.

(4) The Commissioner may by notice in writing, revoke an approval granted a company or body of persons under subsection (3) if the company or body fails to comply with any of the conditions attached to the approval.

Section 25-Method of Accounting
Section 26-Cash-Basis Accounting
Section 27-Accrual-Basis Accounting
Section 28-Prepayments

Where a person is allowed a deduction for an outgoing or expense incurred on a service or other benefit which extends beyond twelve months, the deduction is allowed proportionately over the basis periods to which the service or other benefit relates.

Section 29-Claim of Right
Section 30-Long-Term Contracts

(1) In the case of a person accounting for tax purposes on an accrual basis, the timing of inclusions in and deductions from income relating to a long-term contract of a business of that person shall be accounted for on the basis of the percentage of the contract completed during any basis period.

(2) The percentage of completion is determined by comparing the total costs allocated to the contract and incurred before the end of the basis period with the estimated total contract costs including any variations or fluctuation.

(3) Where during the basis period in which a long-term contract of a business is completed the person carrying on the business

(a) incurs a loss, or

(b) has an unrelieved loss available for carry forward under subsection (1) of section 22,

which is attributable to the long-term contract, the Commissioner may allow the loss to be

(c) carried back to preceding basis periods, and

(d) applied against an amount of income of a basis period not exceeding the amount by which inclusions in the income of the business relating to the long-term contract for that period exceed deductions therefrom.

(4) A loss incurred by a person in carrying on a business during a basis period is attributable to a long-term contract of the business to the extent that deductions allowed in ascertaining the income from the business relating to the long-term contract for that period exceed inclusions in ascertaining that income.

(5) In this section, "long-term contract" of a business of a person means a contract for manufacture, installation, or construction, or, in relation to each, the performance of related services, which is not completed within the basis period in which work under the contract commenced, other than a contract estimated to be completed within twelve months of the date on which work under the contract commenced.

Section 31-Trading Stock

(1) For the purposes of ascertaining the income of a person for a basis period from a business, there shall be deducted the cost of trading stock of the business disposed of by that person during that period.

(2) The cost of trading stock disposed of during a basis period is determined by adding to the opening value of trading stock for that period the cost of trading stock acquired during that period, and subtracting the closing value of trading stock for that period.

(3) The opening value of trading stock for a basis period is

(a) the closing value of trading stock at the end of the previous basis period, or

(b) where that person commenced to carry on the business during the basis period, the value of trading stock acquired prior to the commencement of the business.

(4) The closing value of trading stock is the lower of cost or market value of trading stock on hand at the end of the basis period.

(5) A person who is accounting for tax purposes on a cash basis may calculate the cost of trading stock on the prime-cost method or absorption-cost method; and a person who is accounting for tax purposes on an accrual basis shall calculate the cost of trading stock on the absorption-cost method.

(6) Where particular items of trading stock are not readily identifiable, a person may account for that trading stock on the first-in-first-out method or the average-cost method but, once chosen, a stock valuation method may be changed only with the written permission of the Commissioner.

(7) In this section,

"absorption-cost method" means the generally accepted accounting principle under which the cost of trading stock is the sum of direct material costs, direct labour costs, and factory overhead costs;

"average-cost method" means the generally accepted accounting principle under which trading stock valuation is based on a weighted average cost of units on hand;

"direct labour costs" means labour costs directly related to the production of trading stock;

"direct material costs" means the cost of materials that become an integral part of the trading stock produced;

"factory overhead costs" means the total costs of manufacturing except direct labour and direct material costs;

"first-in-first-out method" means the generally accepted accounting principle under which trading stock valuation is based on the assumption that trading stock is disposed of in the order of its receipt;

“prime-cost method" means the generally accepted accounting principle under which the cost of trading stock is the sum of direct material costs, direct labour costs, and variable factory overhead costs;

"variable factory overhead costs" means the factory overhead costs which vary directly with changes in volume.

Section 32-Debt Obligations with Discount or Premium

(1) Subject to subsection (2), for the purposes of ascertaining the income of a person for a basis period from any business or investment, interest in the form of any discount, premium, or deferred interest shall be taken into account as it accrues.

(2) Where the interest referred to in subsection (1) is subject to withholding tax under section 82 on payment, the interest shall be taken into account when paid.

Section 33-Jointly Owned Investment

For the purposes of ascertaining the income of a person from an investment which is jointly owned with another person, inclusions and deductions with respect to the investment shall be apportioned among the joint owners in proportion to their respective interests in the investment.

Section 34-Leases

Section 35-Valuation

(1) For the purposes of this Chapter, the value of a benefit in kind is the market value of the benefit on the date the benefit is taken into account for tax purposes.

(2) The market value of a benefit is determined without regard to any restriction on transfer or to the fact that it is not otherwise convertible to cash.

Section 36-Indirect Payments and Benefits

There shall be included, in ascertaining the income of a person,

(a) a payment that directly or indirectly benefits that person, and

(b) a payment dealt with as that person directs,

which would have been so included if the payment had been made directly to that person.

Section 37-Recouped Expenditure

(1) Where a previously deducted outgoing, expense, or bad debt is recovered by a person, the amount recovered is included in ascertaining the income of that person in the basis period in which it is recovered and takes the character of the income to which the deduction is related.

(2) For the purposes of subsection (1), a deduction is considered recovered upon the occurrence of an event which is inconsistent with the basis for the deduction.

Section 38-Individual as Tax Unit

The chargeable income of each individual is determined separately.

Section 39-Personal Reliefs

Section 40-Principles of Taxation for Partnerships

(1) Except as provided in this Act, a partnership is not liable to pay tax on the income of the partnership.

(2) The income of a partnership is taxed to the partners in the partnership in accordance with this Division.

Section 41-Ascertaining Partnership Income

(1) Partnership income for a basis period of a resident or non-resident partnership is the assessable income of the partnership for the year of assessment in which the basis period ends calculated according to sections 5 and 6, without regard to sections 39, 57, or 60, as if the partnership were a resident person.

(2) Losses of a partnership for a basis period are not allocated to the partners of the partnership, but are carried over and taken into account in ascertaining the partnership income of the partnership in subsequent basis periods of the partnership in accordance with section 22.

(3) Subject to section 54, where there is a change in the constitution of a partnership, the reconstituted partnership may claim a deduction for losses of the former partnership under section 22 as though the reconstituted partnership and the former partnership were the same partnership.

(4) In ascertaining partnership income,

(a) account shall only be taken of amounts which are accrued, derived, or incurred on behalf of the partners in common; and

(b) property held on behalf of the partners in common is treated as if the partnership and not the partners owned it.

(5) Amounts included and deducted in ascertaining partnership income under subsection (4) are treated as if they were accrued, derived, or incurred by the partnership and not the partners.

Section 42-Taxation of Partners
Section 43-Partnership Obligations
Section 44-Principles of Taxation for Companies

(1) A company is liable to tax separately from its shareholders.

(2) Subject to subsection (3), a dividend paid to a resident company by another resident company is exempt from tax where the company receiving the dividend controls, directly or indirectly, twenty-five per cent or more of the voting power in the company paying the dividend.

(3) Subsection (2) does not apply to

(a) a dividend paid to a company by virtue of its ownership of redeemable shares in the company paying the dividend; or

(b) a dividend of the type referred to in paragraph (e) of subsection (3) of section 55.

Section 45-Undistributed Profits of Companies
Section 46-Principles of Taxation for Bodies of Persons
Section 47-Calculation of the Attributable Income of a Body of Persons

(1) The attributable income of a resident or non-resident body of persons for a basis period is the chargeable income of that body for the year of assessment in which the basis period ends calculated according to sections 5 and 6, without regard to section 39, 57, or 60, as if the body were a resident person and determined without regard to subsection (1) of section 48.

(2) Losses of a body of persons for a basis period are not allocated to the beneficiaries of that body, but are carried over and taken into account in ascertaining the income and attributable income of that body in subsequent basis periods of that body in accordance with section 22.

Section 48-Deduction for Amounts Attributed to Beneficiary

(1) Subject to this Act, where an ascertained resident beneficiary of a body of persons

(a) acquires a vested right to an amount included in ascertaining the attributable income of that body during the basis period of that body in which the amount is included in ascertaining the income of the body, and

(b) has the same basis period as that body,

the amount shall be deducted in ascertaining the income of that body for the basis period.

(2) Subsection (1) applies irrespective of whether the beneficiary acquires the vested right as a result of the exercise by a manager of a discretion vested in the manager or the happening of some other contingent event.

Section 49-Taxation of Beneficiaries of Bodies of Persons
Section 50-Incapacitated Persons

For the purposes of determining whether an amount vests in a beneficiary of a body of persons under subsection (1) of section 48 or whether a beneficiary of that body is entitled to an amount under subsection (1) of section 49, a lack of legal capacity of the beneficiary shall be ignored.