

Proclamation No. 134 of 2008

A Proclamation to Amend the Income Tax Proclamation No. 74/2003 of Oromia National Regional State

WHEREAS, it is necessary to create transparent, efficient and suitable procedure of tax collection for the Tax Payers;

WHEREAS, it is founded that the income tax proclamation of the Regional Government doesn't much with the business process reengineering undertaken in the region to perform the assessment and collection of Tax;

NOW, THEREFORE, in accordance with the Revised Constitution of the Oromia National Regional State proclamation No. 46/1994 Article 49/3/a it is hereby proclaimed as follows:

1. Short Title

It is cited as "A proclamation to Amend the Income Tax Proclamation No. 74/2003 of Oromia National Regional State No. 134/2008."

2. Amendment

The Income Tax Proclamation No. 74/ 2003 of the Oromia National Regional State is hereby amended as follows:

- 1) Article 2 sub- Articles 13 and 14 of the proclamation are amended as follows.
 - "13) "Revenue Authority" shall mean revenues Bureau of Oromia and its branches at the level of zones, district and the bodies that are organized to levy, collect, control and administrate revenues in the towns.
 - 14) "Bureau" and "Head of Bureau" shall mean "Revenue Bureau of Oromia" and "Head of Revenue Bureau of Oromia respectively."
- 2) The following new Sub-Articles 17 and 18 are added next to Article 2 Sub-Article 16 of the Proclamation.
 - "17) "Compliant Treatment Group" shall mean the body that makes decision by investigating the complaint submitted to it against the assessment of income and other taxes.
 - 18) "Tax Appeal Board" shall mean an independent body which gives decision on the issues of fact or law by investigating the appeal submitted to it against assessment of income tax."
- 3) Article 16 Sub-Article 1(c) (ii) of the Proclamation is amended and replaced by the following:
 - 16 (1) (C) (ii). For the tax payers not maintaining book of account, half of the gross income received as rent for buildings furniture and equipment shall be deducted as an allowance for repairs, maintenance and depreciation of such buildings, furniture and equipment;
- 4) Article 23 Sub-Article 11 of the Proclamation is amended and replaced by the following new Sub-Article 11.
 - "11) In determination of the taxable income the actual amount of expenditure incurred to repair and renew the immovable of the organization is made to be deducted. If the expenditure is exceeding 20% of the depreciation base, it is totally added on the price for the remaining age in accordance with the regulation for depreciation."
- 5) Article 43 (a) of the proclamation is amended and replaced by the following.
 - "43 (a) Anyone who is duty bond to pay tax shall have a tax payer identification number. In no case may a taxpayer obtain more than one tax payer identification number.
 - 43 (b) Notwithstanding the provisions of Sub-Article (a) of this Article if a tax payer has more than one branches, the tax payer identification number for all branches shall be one and the revenue authority may give the branches a different mark."

6) Article 43 (b) and (c) of the proclamation are renumbered as Article 43 (c) and (d) respectively.

7) Article 51 Sub-Article 3 of the Proclamation is amended and replaced as follows.

“51(3) Any employer shall, personally or through the agent authorized by the authority or through E-filing pay the withheld tax to the revenue authority within thirty (30) days from the end of each month and each payment shall be accompanied by assessment notice of income tax and a statement with respect to each employee who derives taxable income for the month.

8) Article 53 Sub-Article 3 and Article 54 Sub-Article 3 of the Proclamation are amended.

“53(3) Within thirty (30) days from the last day of each month the withholding agent shall, personally or through the agent authorized by the revenue authority or through E-filing transfer to the authority the amount required to be withheld on payments made during the month. The withholding agent's aggregate monthly transfer shall be accompanied by a statement listing separately each specified persons to whom payments were made; name and identification number of the organization; the monthly total payment made to that person and the amount of income tax withheld results in authority or in its agent with respect to that person.

54(3) A payer shall, personally or through the agent of the authority or through E-filing pay the withheld tax to the revenue authority within fifteen (15) days from the end of each calendar month, and each payment shall be accompanied by a statement with respect to each tax payer who received payments during the month.”

9) Article 66 Sub-Article 3 and Article 67 Sub-Article 2 of the Proclamation are amended and replaced by the following.

“66(3). The Tax calculated in accordance with the tax declaration reduced by the tax withheld in accordance with Article 52 and 53 of the proclamation and the amounts provided by Article 76 (foreign tax credit) of this proclamation during the tax year, shall be transferred by the tax payer personally or through the agent of the authority or through E-filing simultaneously with the tax declaration.

67(2) The tax calculated in accordance with the declaration, after the amounts provided by article 76 (foreign tax credit) subject to declaration having been reduced, shall be transferred by the tax payer personally or through the agent of the authority or through E-filing to the revenue authority simultaneously with the declaration.

10) Article 104, 105 Sub-Article 2, 3, Article 106, 107, 112, 113, 114 of the proclamation are amended and replaced by the following.

“104. Complaint Treatment Group

Members of the Complaint treatment group shall be selected and appointed by the Head of the Revenue Authority. Details of implementation shall be enacted under the directives to be issued by the Bureau.

105(2). No Complaint may be treated by the complaint treatment group unless the Complainant has filed his/her Complaint within 30 days after the receipt of the Tax assessment notice.

105(3). The Complaint treatment group shall give its decision after investigating the Complaint submitted to it within the time limit prescribed in the work manual of the Bureau.

106. The Complaint Treatment Group may fully or partly waive administrative penalties in accordance with the directives to be issued by the Bureau.

107. Appeal against assessment of Income Tax

(1) Any tax payer who objects to an assessment may appeal to the Tax Appeal Board hereinafter referred to as the “Appeal Board” upon the fulfillment of the requirements under sub-Article 2 of this Article.

(2) No appeal may be accepted by the Appeal Board unless:
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- (a) a deposit of fifty (50%) of the disputed amount is made to the revenue Authority;
- (b) The appeal is lodged with the appeal Board with in thirty (30) days from the date of receipt of the assessment notice or fifteen (15) days from the date of the decision of the Complaint treatment group.

112. Appeal from the decision of the Appeal Board

- 1) Any party dissatisfied with the decision of the Appeal Board may appeal to the High court on the ground of any error of law with in fifteen (15) days from the date of receipt of the decision of the Appeal board.
- 2) The appellate court shall hear and determine any question of law arising on the appeal. A party dissatisfied by the decision of the court may appeal to a competent court of appeal with in fifteen (15) days from the date of receipt of the decision of the high court.
- 3) The competent court of Appeal shall give its decision only on the ground of error of law considered by the high court.
- 4) A tax payer's appeal may not be accepted by the competent court of appeal unless at the time the appeal is lodged, the tax payer has paid the tax liability determined by the appeal Board.

113. Establishment of the Tax Appeal Board

- 1) The Tax Appeal Board shall be established at the regional, zones, Towns and woredas in accordance with the directives to be issued by the Regional Administrative Council.
- 2) Notwithstanding the provisions of Sub-Article 1 of this Article, the Regional Administrative Council may establish a special board taking into account the proximity of towns or woredas.
- 3) The accountability of the Tax Appeal Board shall be to the body that will be specified under the directives to be issued by the Regional Administrative Council.

114. Appointment of the members of Tax Appeal Board

- 1) Members of Tax Appeal Board at every level shall be appointed from among persons who have not committed any tax related crime, known and loyal to the people. The Appeal Board shall consist of members represented from different bodies and an expert of law from Bureau of Justice.
- 2) Notwithstanding the provisions of Sub-Article 1 of this Article, the Regional Administrative Council may set out the criteria to be applied in the selection of members of the Appeal Board.
- 3) The Tax Appeal Board shall consist of members represented from administrative council, an expert of law from Justice Bureau, and representatives from councils of traders at different levels.
- 4) The chairperson of the tax appeal Board shall be selected by the President of the Oromia Regional Government among the members at the Regional level, at the towns by the mayor, by the chairperson of the Administrative council at the woreda level.
- 5) The Tax Appeal Board may one or more than one Trial bench. In such case each panel shall have five (5) members and shall elect one member to serve as a chair
- 6) The term of office of Tax Appeal Board member shall be two (2) years or the remaining period of that other member's term if he is substitute.

- 7) The chairperson and other members of the Board shall be entitled to receive permanent salary provided that they serve permanently and monthly allowance if not permanent. Details for the implementation of this provision shall be enacted by the directives to be issued by the Regional Administrative Council.

3. Effective Date

This proclamation shall come in to force as of the 1st day of January 2008.

1st day of January 2008

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Abadula Gameda

President of Oromia National Regional State