



Proclamation No.92/2005
Oromia Regional Government Administration Mining Income tax Proclamation

WHEREAS it is found necessary to have income tax proclamation for income from mining operations.

Now THEREFORE in accordance with Article 49(3) (a) of the state Constitution of Oromia Region, it is here by proclaimed as follows

Section I

1. **Short title**

This Proclamation may be cited as "Oromia Regional Government Administration Mining Income tax Proclamation N0.92/2005"

2. **Definitions**

Unless the context requires otherwise in this proclamation

1. "Bureau" means the Bureau of Finance and Economic Development of Oromia.
2. "Person" Means any Natural or Juridical person or any Organization.
3. "construction mineral" means different types of stone (Ambo stone, marble, Granite, Gypsum and Basalt etc), sand, Gravel and clay soil.
4. "Accounting year" means
 - 1) For private persons and partnerships the budget year of Ethiopia.
 - 2) For companies the accounting year of the company.
5. "Affiliate" means any person who directly or indirectly controls or is controlled by or under direct or indirect control of another person, with "control" meaning the power to direct or administer the management and policies of such persons or the ownership of 50 percent or more of the voting rights in such persons



6. "Capital expenditure" means expenditure, other than pre-production costs, incurred for operations the useful life or the benefits of which extend beyond the accounting years in which the expenditure is incurred.
7. "Commencement of production" means the commencement of regular production for commercial purposes from the license area of the licensee.
8. "Income" means all revenue credited or received from mining operations within Ethiopia, irrespective of where it is credited or received
9. "pre-production cost" means all expenditure incurred for mining operations before the date of commencement of production .
10. "Revenue expenditure" means an expenditure incurred for mining operations other than capital expenditure and pre- production costs.
11. "Artisan mining" means Production of minerals by A person who is citizen using motor power immovable material and by his hand using his own force.
12. All other definitions have meanings given under Oromial Regional Government Administration Mining Development proclamation No. 91/2005.

Section II

Mining Tax Assesment

3. Tax

1. Profit tax collected from large-scale mining, other than any petroleum and Gas operations shall pay 35% of taxable income as profit tax.
2. Artisan mining except construction mineral shall be exempted from income tax.
3. For each accounting year income taxes shall be calculated.



4. Income tax and other tax collection

1. The Bureau assesses and collects mining profit and other tax based on Books of Accounts of the licensee, Annual sales data sent by Oromia Mineral Resource Development Agency and any other tangible sales data presented by other body.
2. Oromia Mineral Resource Development Agency organizes and shall send the sales data of private and company license holder for each accounting year to Oromia Finance and Economic Development Bureau from Hamle 1 to Hamle 30 after the closing of the budget year.
3. The Bureau assesses and collects land use rent, royalty and license fee as per the rate sent by the Agency.

5. Determination of Taxable Income

Taxable income shall be computed

- a) If the holder of the license maintains Books of Account taxable income shall be computed by subtracting all allowable revenue expenditure, depreciation, reinvestment deduction and permitted losses, from gross income for the accounting year in question
- b) If the holder of the license doesn't maintain Books of Account taxable income shall be 25% of the gross income as per the sales data brought from Oromia Mineral Resource Development Agency. In order to harmonize the tax administration system the Bureau can amend the profit tax rate if necessary.

6. Determination of Gross Income

1. Gross income shall include all revenue actually received from mining operations, provided that such revenue resulted from a transaction with a person who was not an affiliate.
2. If any revenue was received from an affiliate, the licensing Authority may adjust such amount to reflect the proper revenue that would have been received based on market prices for similar arms length



transaction or shall use such other provisions as may be determined by agreement.

7. Determination of Costs

1. All capital expenditure, pre-production costs and revenue expenditure shall be entered in the books of account to the licensee for the actual amount of such expenditure, provided that they arose as a result of a transaction with a person who was not an affiliate. If any expenditure was paid to an affiliate, the licensing Authority may adjust such amount to reflect the proper expenditure that would have been paid based on market prices for similar arms-length transactions or shall use such other provision as may be determined by agreement
2. If the licensee has received a contribution to capital in the form of physical assets, services or expenditure, such contributions shall be valued, respectively, at the market value of the assets or services on the date contributed.
3. The value of such assets and services and the amount of such expenditure contributed shall be treated by the licensee as capital expenditure of pre-production costs, as the case may be, and shall be depreciated in accordance with article 9 of this proclamation.

8. Revenue Expenditure.

Revenue Expenditure shall be comprised of all costs and expenses Incurred after the date of commencement of production which are not Capital expenditure, and shall include the following.

1. Cost of Geological and Geophysical surveys and studies and related services;
2. Cost of production, including extraction, storage, treatment, transport and sale of minerals;
3. Cost of restoration of land within a license area and an area covered by a lease, including the cost of filling, closing or blocking generally rendering safe all installations used in mining operations.



4. General administrative expenses and management and professional commissions and service, lease licensing and other fees incurred with in and outside Ethiopia for mining operations, provided that the amounts expended were for services actually rendered or property actually provided and correspond to amounts normally paid by other persons in similar transactions,
5. Interest payments on loans used exclusively to finance mining operations, excluding those to prospect and explore, provided that the interest rate used in excess of the rate used between the National Bank of Ethiopia and the commercial banks increased not more than 2% (two) percentage points.
6. except taxes payable pursuant to this proclamation license fees, rentals, and other taxes paid.
7. Capital invested for reinvestment with a person who was not an affiliate.
8. Interest payable on loan or Advance payment if it is below 4 times the average capital of corporate or non-corporate bodies.

9. Depreciation

All Capital expenditure and pre-production costs may be depreciated, depreciation of such expenditure and costs for any accounting year shall be calculated on a straight-line basis over a useful life of four consecutive year.

10. Reinvestment Deduction

1. The licensee shall be entitled to deduct for each accounting year an amount equal to five percent of gross income. This amount is to be reinvested in other mining operations, or in other investments within Ethiopia approved by the licensing Authority.
2. If any part of such amount is not reinvested by the licensee by the end of the second accounting year following that in which it was deducted, it shall be included in the gross income of that second accounting year.

**11. Permitted losses.**

1. Any financial loss, resulting from the mining operations of a licensee in an accounting year may be carried forward and deducted from gross income in the ten accounting years, which follow the year in which the loss is incurred. Such loss May be carried forward and deduated only for two perods.
2. The amount of any loss or damage to physical assets or other liability, except fines and penalties, which is not covered by insurance may be deducted from gross income in the accounting year in which such loss or damage occurred or became known or such liability was paid.

12. Transfer of Interest.

1. If any licensee transfers or assigns wholly or partially any interest in a license, the consideration he receives for such transfer or assignment shall be taxable income to the extent that such consideration exceeds the amount of his unrecovered expenditure in that part of the interest transferred. Regardless of whether recovery expenditure, depreciation, reinvestment deduction or permitted losses as the case may be.
2. If a person acquires wholly or partially any interest in a license the consideration he pays with such acquisition shall represent his cost and shall, to the extent that it represents the transferror or assignor licensee's unrecovered expenditure, be treated as capital expenditure to be depreciated in accordance with article 9 of this proclamation.

13. Dividend Tax

1. Tax is payable on dividends declared and distributed from taxable income after deduction of income tax.
2. The tax on dividends' is imposed at the rate of 10% /Ten percent/. The licensee shall retain the tax and pay within 60 days after the distribution of such dividends.

14. Taxes on services leases and licenses

1. The licensee who contracts for services, the lease of movables or the licensing of intellectual property from a person who is not a resident



of Ethiopia or who is temporarily present in Ethiopia shall pay the taxes on behalf of such person such taxes shall be paid quarterly, within 20 days after the end of the period to which the payment relates.

2. Expenditure paid under sub-article 1 of this article shall be at the rate of 10% /ten percent/ on the amount paid, less all charges for mobilization and demobilization.
3. For the purpose of this article, a person is temporarily present in Ethiopia if he performs work in the country for more than 183 day in any accounting year.

A body shall be resident in Ethiopia, if it.

- (a) Has its principal office in Ethiopia;
- (b) has its place of effective management in Ethiopia;

Section III

15. TIN Requirement

Every taxpayer who participates in any scale of mining operation shall have a taxpayer identification number (TIN).

16. Record keeping Requirement.

Concerning records and Accounts maintained by the license holder, Oromia Regional Government Administration Income tax proclamation No 74/95 article 48 is applicable in this proclamation.

17. Obligation of Withholdings

The license holder shall hold 10% from the gross interest payable to foreign banks and transfer same to the tax Authority within two months of the end of the fiscal year. Oromia Regional Government Administration Income tax proclamation No.74/2003 articles 51-53 are applicable in this proclamation

18. Tax Payable when due

For the purpose of tax collection Oromia Regional Government Administration Income tax proclamation No-74/2003 articles 74-76 for



Presumptive tax, Income tax proclamation No-74/2003 articles 66 and 68 are applicable in this proclamation.

19. Limitations

For the purpose of limitation Oromia Regional Government Administration Income tax proclamation No.74/2003 article 71 is applicable in this proclamation.

20. Business License

The holder of business license of mining work shall not get service Of license renewal unless he fully pay profit tax, TOT, VAT, land use Rent and royalty.

21. Inapplicable Laws.

All laws, which are inconsistent with this proclamation, shall not apply on matters covered under this proclamation.

22. Duty to Co-operate.

Bodies, Government offices authorities, kebele Administrations and Association shall have the duty to Co-operate with the tax Authority in the enforcement of the proclamation.

23. Penalty

1. penalty imposed for late payment of taxes should be **BIRR.2,000.00**/Two thousand/ as per article 54(2) of Oromia Regional Government Administration Mining Development proclamation No. 91/2005.
2. For the purpose of penalty Oromia Regional Government Administration Income tax proclamation No.74/2003 articles 86-87 and 89-103 are applicable in this proclamation.

24. Appeal procedure

For the purpose of Appeal Oromia Regional Government Administration Income tax proclamation No.74/2003 articles 104-116 are applicable in this proclamation.



25. Power to issue Regulation and Directives.

1. The Oromia Regional state council may issue Regulation for the proper implementation of this proclamation.
2. Finance and Economic Development Bureau of Oromia may issue directives for the proper implementation of this proclamation

26. Effective Date

This proclamation shall enter into force as of the March 3/2005
Adama ,March 3/2005

Juneydi Sado
Oromia Regional Government
Administration president.