

OROMIA REGIONAL GOVERNMENT INCOME TAX REGULATIONS

NO 37/2004

These regulations are issued by the council of oromia regional government administration pursuant to, article 117 of the income tax proclamation no 74/2003 of the oromia regional government.

PART 1

General

1. Short title

These regulations may be cited as the “oromia regional government income tax regulations no. 37/2004

2. Definitions

1. Unless the content requires otherwise in this regulation:

(a) “tax authority” shall mean the oromia regional government finance and economic development bureau and sections established in any of its branch offices of zones, woredas and towns of the region for tax assessment, collection, follow up and administration.

2) A word or term in these regulations which is not defined shall have the same meaning that it has in the proclamation.

3. Application limit

As stated under article 3 of the proclamation these regulations shall be applicable on any oromia regional government tax payers other than the income tax due by the private peasant farmers.

Part 2

Tax payable under schedule “A”

4. Incomes exempt from tax

The following categories of payments in cash or benefits in kind shall be excluded from computation of income taxable under schedule “A”

(a) amounts paid by employers to cover the actual cost of medical treatment of employees;

- (b) Allowances in lieu of means of transportation granted to employees under contract of employment;
- (c) Hardship allowance;
- (d) Amounts paid to employees in reimbursement of traveling expenses incurred on duty and per-diem
- (e) Dwellings house allowance and other benefits provided or paid in cash or in kind to appointees, heads and employees in accordance with the decision of the regional government
- (f) Dwellings constructed and provided or house allowance paid by private organizations/companies to their managers or employees;
- (g) Amounts of traveling expense paid to Employees recruited from elsewhere than the place of employment on joining and completion of employment or in case of foreigners traveling expenses from or to their country provided that such payments are made pursuant to specific provisions of the contract;

H/ Allowances paid to members and secretaries of boards of public enterprises and public bodies as well as to members and secretaries of study groups set up by the Federal or Regional Government.

I/ Responsibility or professional allowance paid to doctors nurses or other professionals employed in health institutions directors and in accordance with the decision of the regional government to others.

J/ Income of persons employed for domestic duties

2/ The Tax Authority is empowered to determine the amount of payments specified under Article 4(1) (b),(f),(g) and (i).

5. Adding Tax on Income

If the tax on income from employment, instead of being deducted from the salary or wage of the employee is paid by the employer in whole or in part the amount so paid shall be added to the taxable income and shall be considered as part thereof.

PART 3

Tax payable Under Schedule “B”

6. Taxable Income

Pursuant to part III of the proclamation, taxable income from sources chargeable under schedule “B” calculated as follows:

1 Gross income shall include

- a) All payments in cash and all benefits in kind received by the lessor from the lessee;

- b) All payments made by the lessee on behalf of the lessor according to the contract of lease;
- c) The value of any renovation or improvement made under the contract of lease to the land or building, where the cost of such renovation or improvements was borne by the lessee in addition to rent payable to the lessor'

2) In calculating taxable income only those items mentioned under Article 16 /1/ /c/ of the proclamation shall be deductible from gross income.

7. Advance payments

Unless the tax payer maintains books of account, if the amount of rent paid to the lessor or sub lessor covers a period longer than (1) year, the total amount of income from such rent shall be attributable to the fiscal year in which the payment was made but the tax on such income payable for said fiscal year shall be computed by prorating the taxable income over the number of years covered by the amount paid.

PART 4

Tax payable Under Schedule “C”

8. Business Lease

Income from the lease of business including goods equipments and buildings which are part of the normal operation of a business shall be taxable under schedule “c”

9. Deductible Expenses

1) Pursuant to Article 20 of the proclamation, the following expenses shall be deductible from gross income in calculating taxable income:

- a) The direct cost of producing the income such as the direct cost of manufacturing, purchasing importations selling and such similar costs;
- b) General and administrative expenses connected with the business activity;
- c) Premiums payable on insurance directly connected with the activity;
- d) Expenses incurred in connection with the promotion of the business inside and outside the country subject to the limits set by the directive issued by the Oromia Regional Government Bureau of Finance and Economic Development
- e) Commissions paid for services rendered to the business provided that

I) Said services were in fact rendered

II) The amount paid as commission for said services corresponds to the normal rates and paid by other businesses or persons or bodies similarly situated for similar services rendered in similar circumstance.

2. In the case of a business located and operating in Oromia Region as the branch, subsidiary or associated company of a business located and operating abroad no payment of any kind made to the holding or associated company of the business in

Oromia Region shall be accepted as deduction from gross income in calculating the taxable income unless:

- a) The payment in question was made for services actually rendered and
- b) Said service was necessary for the business and could not be performed by other persons or bodies or by the business itself at a lower cost

3) If the income tax Authority has reason to consider that the total amount of salaries and other personal emoluments payable to the manager or managers of a private limited company or share company exaggerated, it may reduce said amount for taxation purposes to the limit which in view of operations of the company appears justifiable either by disallowing the payments made to more than one manager or in any other way which may be just and appropriate.

4) Sums paid as salary wages or their emoluments to the children of the proprietor or member of the partnership shall only be allowed as deduction if such employees have the qualification required by the post.

10. Non-Deductible Expenses

1) In addition to the items listed under Article 21 of the proclamation, expenditures of the following nature shall not be allowed as deduction

- a) Sum paid as salary wages or other personal emoluments to the proprietor or partner of the enterprise;
- b) Expenditure for maintenance or other private purpose for persons mentioned in sub Article (1) (a)
- c) Losses not connected with or nor arising out of the activity of the enterprise

2) For purposes of Article 21 (1) (j) of the proclamation “Representation Allowance” shall mean hospitality expenses incurred in receiving guests coming from outside of the enterprise in connection with the promotion and enhancement of the business.

3) For purposes of Article 21 (1) (n) of the proclamation “entertainment” means the provision of beverages tobacco accommodation amusement, recreation or hospitality of any kind to any person whether directly or indirectly.

11. Deductible Interest

The rate of interest specified under Article 21 (1) (e) of the proclamation shall be allowed as deductible if it is paid

1. To lending institutions recognized by the National Bank of Ethiopia
2. To foreign banks permitted to lend to enterprises in Ethiopia;
3. Notwithstanding the provisions of sub- Article (2) above interest paid to foreign banks may only be deductible upon fulfilling the following;

- a) The leading bank shall prior to the granting of any loan to any such person file a declaration in writing with the Tax Authority where in it in forms said Authority concerning all loans granted to any person liable to pay income tax in Ethiopia;

- b) The borrower shall withhold 10% from the gross interest payable to the lender and transfer same to the Tax Authority within two months of the end of the fiscal year;

12. Conditions for Deducting Gifts and Donations

- 1) For purpose of Article 21 (2) of the proclamation gifts and donations shall be allowed as deductions on the following conditions
 - a) If the recipient of the donation is registered as welfare organization and where is certified by the registering authority that the organizations has record of outstanding achievement and its utilization of resources and accounting system operates with transparency and accountability;
 - b) If the contribution is made in response to emergency call issued by the Government to defend the sovereignty and integrity of the country to prevent man made or natural catastrophe, epidemic or for any other similar cause
 - c) Donation made to non commercial education or health facilities
- 2) The grant and donation made for purposes listed above may only be allowed as deduction where the amount of the deduction where the amount of the donation or grant does not exceed 10% of taxable income of the taxpayer.

13. Loss Carry Forward

For purposes of Article 28 of the proclamation loss may be carried forward where the books of account showing the loss are acceptable to the Tax Authority.

14. Depreciation Allowance

1) Subject to the provisions of Article 23 of the proclamation deductions shall be granted only to taxpayers who keep satisfactory records showing:

- a) The date and cost of acquisition of the asset
- b) The total amount deducted for depreciation since the date of acquisitions

2) Any taxpayer claiming deduction for depreciation shall furnish the tax Authority with satisfactory evidence that the data mentioned in sub-Article (1) shown in the records are true and correct.

3) Except as otherwise provided by law, gain obtained as result of revaluation of assets shall not be basis for depreciation.

4) Depreciation shall not be allowed for assets in respect of which all capitalized costs have been fully recovered if the transfer of such assets is made between related persons

15. Participation Deduction

1) For purpose of Article 27 of the proclamation reinvestment of profit of a share company residing in Oromia or registered partnership

May only be allowed as deduction in an amount not exceeding 5% of the taxable income of each accounting year.

2) If the taxpayer transfers the share or capital contribution in respect of which deduction was allowed, the amount deducted shall be part of the taxable income of the accounting year in which the transfer was affected and shall be taxed as such.

3) Purchase of shares capital contribution made between related person shall not be allowed as deduction under Article 27 of the proclamation

Part 5
Other Incomes

The method of calculating gain obtained from the Transfer of Capital Assets for purpose of Article 37

- (a) When calculating the gain realized from the alienation of capital assets, the basis of calculation of the tax shall be the historical cost of the building or the par – value of the share, as appropriate.
- b) The gain obtained from the alienation of capital assets is the gain realized over the historical cost of the building or the par value of the share, as appropriate
- c) When calculating the capital gain specified under sub – Article (2) inflation adjustment at a rate determined by the appropriate authority. In respect for the land and the building shall be allowed as deduction.
- d) When calculating the capital gain realized from the alienation of buildings, the cost registered with the cost Registered with the appropriate government body at the time of issuance of permit for the construction of the building shall be taken to be the cost of constructing the building.
- e) Tax payable on gain realized from the alienation of buildings shall be applicable only to buildings in municipal areas.

17) Exemption

For purpose of Article 37(2) of the proclamation capital gained through the transfer of building used for dwelling shall be exempt from tax only, if such building is fully used dwelling for two years prior to the date of alienation.

18) Income from Rental of property

For purposes of Article 35 of the proclamation income from rental of property shall mean gross income derived by a person not engaged in regular trade from casual rent of movable and immovable property.

Part 6

Declaration of Income and Assessment of Tax

19) Categories of taxpayers

Category “A”, Category “B” and Category “C” tax payers are classified as follows:

1) Category “A” which shall include the following persons and bodies:

- a) any company incorporated under the a foreign country;
- b) Any other business having an annual turnover of Birr 500,000 (Five hundred) or more;
- 2) Category “B” unless already classified in category “A” any business having an annual turnover of birr 100,000 (one hundred) thousand birr);
- 3) Category “C” unless already classified in categories “A” and “B” whose annual turnover is estimated by the tax Authority as being up to birr 100,000 (one hundred thousand and Birr);
- 4) The Bureau of finance and e economic development may by directive increase or decrease the annual turnover specified above.

20) Maintenance of Accounts

Category “A” taxpayers shall maintain the following records and account s;

- 1) Category “A” taxpayers shall at the end of the year submit to the tax Authority a balance sheet and a profit and loss following;
 - a) Gross profit and the manner in which it computed;
 - b) General and administrative expense
 - c) Depreciation; and
 - d) Provisions and reserves,
- 2) Category “B” taxpayers shall at the end of the years submit to the tax Authority profit and loss statement
- 3) All entries in the records and accounts referred to in sub – Article1 and 2 hereof shall be supported by appropriate vouchers.

21) Voucher

- 1) Taxpayers who have the obligation to maintain books of account shall have to register with the tax Authority the type and quantity of vouchers they use before having such vouchers printed
- 2) Any printing press before printing vouchers of taxpayers shall ensure that the type and quantity of such voucher is registers with the tax Authority

22) Standard Assessment for category “C” taxpayers

- 1) For purpose of Article 68 of the proclamation category “C” tax payers shall pay tax in accordance with schedule in “1” and “2” attached with these regulations
- 2) Where a taxpayers derives in – come from more than one business activities and such income has not been aggregated the taxable income of each activity income indicted in schedule “2” and “3” of these regulations and shall apply the tax rate under which the sum falls.
- 3) If category “C” taxpayer maintains book of accounts acceptable to the Tax Authority, Shall pay the tax on account.
- 4) Where the Tax Authority finds that the taxpayer obtained gross revenue in excess of Birr 100,000 as a result of engaging in new business activity it shall assess the tax on the basis of such findings.
- 5) The council of the Oromia regional Government may modify the standard Assessment rate specified in the schedules attached with these regulation

23) Declaration of Income

- 1) Category “C” taxpayer shall within the period prescribed under Article 68(2) of the proclamation declare to the Tax Authority:
 - a) his annual turnover;
 - b) the amount derived from a sources other than his regular operations;
 - c) the type of business carried one is changed;
- 2) The tax Authority may on the basis of declaration submitted by category “A” “B” and “C” tax payers and on the basis of other information and surrounding circumstances determine whether the taxpayer shall continue in the same category be Changed for the following tax year.
- 3) If a non resident of Oromia Region person operates his business activity through an agent or agents the non resident persons and the agent or agents shall be jointly responsible for submitting the declaration of in come and payment

24) Place of Declaration of income

- 1) Declaration of income shall be made to the Bureau, Zone or Woreda Tax Authority as appropriate.
- 2) If an Oromia Region resident tax payer is engaged in come more than one business activities he shall declare his income to the Tax Authority at the place the head office of the business is situated.
- 3) Anon-resident of Oromia Region tax payer shall declare his income to the Tax Authority at the place where he derived most of his income.
- 4) Notwithstanding the provisions of the preceding sub-Article, unless it is specifically otherwise provided by law, a tax payer of the Oromia Region who operates business with licensees issued by other regions shall declare his income on business with license issued from Oromia Regions and pay the tax thereon

To the tax pay Authority of the Oromia Region which issued the business license.

- withholding Scheme

Organizations having legal personality, private non private or organization and Governmental Organization shall, pursuant to Article 53(2) of the proclamation, withhold income tax of 2% from payments they make to tax payers providing the following goods and services.

- 1) Supply of goods involving more than Birr 10,000 in any one transaction or one supply contact;
- 2) Rendering of the following service involving more than Birr 500 in one transaction or one service contact;

- a) Consultancy services,
- b) design written materials, lectures and dissemination of information,
- c) Lawyer, accountants, accountants auditors and other services of similar nature,
- d) Sales person's acts and sports professionals, and brokers including insurance brokers and other commission agents;
- e) Advertisements and entertainment programs for television and radio broadcasts;
- f) Contraction services
- g) Advertisement services
- h) Patents for scientific and intellectual works;
- i) Rent for lease of machineries building and other goods including and other goods including computers
- j) maintenance services
- k) tailoring
- l) printing
- m) insurance

3. The council of the Oromia Regional Government may be directive increase or decrease the list of goods and services or the threshold

4) Splitting procurements which otherwise should be made in a single transaction, with the intention of hindering the withholding of tax shall be a criminal offence punishable under the proclamation

26. Obligations of Withholding Agents

1. Any person who by law is required to withhold tax from payments to be made for the supply of goods or rendering of services listed under Article 25 above shall have the following obligations
 - a) Issue serially numbered official receipt to persons and organizations from whom tax is withheld.
 - b) Fill in a form to be supplied by the Tax Authority the name the tax payer identification number (if supplied) of a person or organization to whom payment is made and the total amount of money paid and tax withheld
 - c) Person and organization withholding the tax shall transfer to the Tax Authority the amount withheld within the month together with the form indicated under sub Article (1) above
2. The Tax Authority shall prepare and distribute the form mentioned under (b) above

PART 2

Miscellaneous

27. Information

Information shall be supplied only to the extent authorized by Article 39 of the proclamation, where a person seeking the information, where a person seeking the information submits a written request to the head of the Tax Authority and the head of the Tax Authority authorizes in writing the supply of such information.

28. Providing Time of Installment payment

Payment

For the purposes of article 68 of the proclamation if a taxpayer unable to pay the tax with in the period limited by law requested to make installment payments with evidence of the problem that goes beyond his capacity the time for installment payment will be provided in a way it will not affect the envisaged revenue of the region in accordance with the directives of the Bureau of Finance and Economic Development.

29. Directives

The Oromia Bureau of Finance and Economic Development may issue directives for the proper implementation of these regulations.

30. Inapplicable Laws

All laws which are inconsistent with these regulations shall not apply on matters covered under these regulations

31. Effective Date

These regulation shall be applicable on tax to be collected starting 2002 fiscal year (excluding backlog before 2001)

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**Done at Finfine, this 18th day of
March 18,2004**

Juneyidi Sado

**Oromia Regional Government
Administration President**