

INCOME TAX ACT, 2015 (ACT 896)

As Amended by

INCOME TAX (AMENDMENT) ACT, 2015 (ACT 902)1

INCOME TAX (AMENDMENT) ACT, 2016 (ACT 907)2

REVENUE ADMINISTRATION ACT, 2016 (ACT 915)3

INCOME TAX (AMENDMENT) (NO. 2) ACT, 2016 (ACT 924)4

INCOME TAX (AMENDMENT) ACT, 2017 (ACT 941)5

INCOME TAX (AMENDMENT) (NO. 2) ACT, 2017 (ACT 956)6

**STANDARD FOR AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT
INFORMATION ACT, 2018 (ACT 967)7**

INCOME TAX (AMENDMENT) ACT, 2018 (ACT 973)8

ARRANGEMENT OF SECTIONS

Section

PART I

IMPOSITION OF INCOME TAX

1. Imposition of income tax

PART II

INCOME TAX BASE

Division I: Chargeable income

2. Chargeable income

Division II: Assessable income

3. Assessable income

4. Income from employment

5. Income from business

6. Income from investment

Division III: Exempt amounts

7. Exempt amounts

Division IV: Deductions

8. General principles

9. Residual deduction rule
10. Interest
11. Trading stock
12. Repairs and improvements
13. Research and development expenses
14. Capital allowances
15. Losses on realisation of assets and liabilities
16. Limit on deduction of financial costs
17. Losses from business or investment

PART III

RULES GOVERNING AMOUNTS USED IN CALCULATING THE INCOME TAX BASE

Division I: Tax accounting and timing

18. Year of assessment and basis period
19. Method of accounting
20. Cash basis accounting
21. Accrual basis accounting
22. Claim of right
23. Reversal of amounts including bad debt
24. Long-term contracts
25. Foreign currency and financial instruments

Division II: Quantification, allocation and characterisation of amounts

26. Quantification according to market value
27. Indirect payments
28. Jointly owned investment
29. Compensation and recovery payments
30. Annuities, instalment sales and finance leases
31. Arm's length standard and arrangements between associates
32. Income splitting

33. Thin capitalisation

34. General anti-avoidance rule

PART IV

ASSETS AND LIABILITIES

Division I: Central concepts

35. Calculation of gains and losses

36. Cost of an asset

37. Consideration received

38. Realisation

39. Application of this Division to liabilities

40. Reverse, quantification and compensation of amounts

Division II: Special rules

41. Cost of trading stock and other fungible assets

42. Realisation with retention of asset

43. Transfer of asset to spouse or former spouse

44. Transfer of asset on death

45. Transfer of asset for no consideration

46. Realisation of asset with replacement

47. Realisation of an asset due to a merger, amalgamation or re-organisation

48. Transfer by way of security, finance lease or instalment sale

49. Realisation by separation

50. Apportionment of costs and consideration received

PART V

RULES GOVERNING TYPES OF PERSONS

Division 1: Individuals

51. Personal reliefs

Division II: Partnerships

52. Principles of Taxation

53. Partnership income or loss

54. Taxation of partners

55. Cost of and consideration received for partnership interest

Division III: Trusts

56. Taxation of trusts

57. Taxation of a beneficiary of a trust

Division IV: Companies

58. Taxation of companies

59. Taxation of shareholders

60. Branch profit tax

Division V: General provisions applicable to entities

61. Asset dealings between entities and members

62. Change in ownership

PART VI

SPECIAL INDUSTRIES

Division I: Petroleum operations

63. Principles of taxation

64. Separate petroleum operations

65. Exploration and development operations

66. Income from petroleum operations

67. Deductions for petroleum operations

68. Losses from petroleum operations

69. Disposal of petroleum rights

70. Decommissioning funds

71. Withholding tax for petroleum operations

72. Furnishing of quarterly return of income

73. Furnishing of annual return of income

74. Request for further information by Commissioner-General

75. Payment of tax by quarterly instalment for petroleum operations

76. Interpretation

Division II: Minerals and mining operations

77. Principles of taxation

78. Separate mineral operations

79. Reconnaissance and prospecting operations

80. Income from mineral operations

81. Deductions for mineral operations

82. Losses from mineral operations

83. Disposal of mineral rights

84. Approved rehabilitation funds

85. Withholding tax

86. Interpretation

Division III: Financial institutions

87. Banking business

88. Provision for a debt claim

89. General insurance business

90. Life insurance business

91. Proceeds from insurance

92. Interpretation

Division IV: Retirement savings

93. Application of Act 766

94. Taxation of retirement funds

95. Retirement payments from retirement funds

96. Interpretation

Division V Public, mutual and non-profit causes

97. Approval of charitable organisation

98. Clubs and trade associations

99. Building and friendly societies

100. Contributions and donations to a worthwhile cause

PART VII

INTERNATIONAL

Division I: Residence and source

101. Resident person

102. Change of residence

103. Source of income and quarantining of foreign losses

104. Source of amounts directly included and deducted

105. Payments sourced from the country

106. Interpretation

Division II: Permanent establishment

107. Principles of taxation

108. Activities, assets and liabilities of a permanent establishment

109. Income or loss of a permanent establishment

110. Interpretation

Division III: Foreign source of income of a resident

111. Principles of taxation

112. Foreign tax credit

PART VIII

TAX PAYMENT PROCEDURE

Division I: General obligations

113. Methods and time for payment

Division II Tax payable by withholding

114. Withholding by employers

115. Withholding from investment returns

116. Withholding from supply of goods, service fees and contract payments

117. Statement and payment of tax withheld or treated as withheld

118. Withholding certificate

119. Final withholding payments

120. Credit for non-final withholding tax

Division III: Tax payable by instalment

121. Payment of tax by quarterly instalment

122. Statement of estimated tax payable

123. Statement of estimated tax payable not required

Division IV: Tax payable on assessment

124. Return of income

125. Return of income not required

126. Assessment

127. Regulations

PART IX

INTERPRETATION

128. Persons in a controlled relationship

129. Company

130. Domestic and excluded expenditure

131. Financial instruments

132. Derivative amount

133. Interpretation

PART X

TEMPORARY AND TRANSITIONAL PROVISIONS

Division I: Temporary provisions

134. Temporary concession

135. Agreements affecting tax

Division II: Repeals, savings, transitional provisions and commencement

136. Repeals and savings

137. Consequential amendments

138. Transitional provisions

139. Provisions for tax administration

FIRST SCHEDULE

Tax Rates

SECOND SCHEDULE

Modified Taxation

THIRD SCHEDULE

Capital Allowances

FOURTH SCHEDULE

Quantification of benefits

FIFTH SCHEDULE

Personal reliefs

SIXTH SCHEDULE

Temporary concessions

SEVENTH SCHEDULE

Tax Administration

THE EIGHT HUNDRED AND NINETY-SIXTH

ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA

ENTITLED

INCOME TAX ACT, 2015

AN ACT to provide for the imposition of income tax and for related purposes.

DATE OF ASSENT: 1st September, 2015.

PASSED by Parliament and assented to by the President:

PART I—IMPOSITION OF INCOME TAX

Section 1—Imposition of income tax

(1) Income tax is payable for each year of assessment by

(a) a person who has chargeable income for the year; and

- (b) a person who receives a final withholding payment during the year.
- (2) The amount of income tax payable by a person for a year of assessment is the total of the amounts payable under subsection (1).
- (3) Subject to subsection (5), the income tax payable by a person under subsection (1)(a) is calculated by
 - (a) applying the relevant rates of income tax set out in the First Schedule to the chargeable income of that person; and
 - (b) deducting a foreign tax credit allowed to the person for the year.
- (4) The income tax payable by a person under subsection (1)(b) is calculated by applying the relevant rate set out in the First Schedule to each final withholding payment.
- (5) Income tax payable by an individual with respect to assessable income from a business may be subject to the modified taxation rules set out in the Second Schedule.

PART II—INCOME TAX BASE

Division I: Chargeable income

Section 2—Chargeable income

- (1) The chargeable income of a person for a year of assessment is the total of the assessable income of that person for the year from each employment, business or investment less the total amount of deduction allowed that person under this Act.
- (2) A person who determines the chargeable income of that person or of another person shall, determine chargeable income from each source separately.

Division II: Assessable income

Section 3—Assessable income

- (1) The assessable income of a person for each year of assessment is the income of that person from any employment, business or investment.
- (2) The assessable income of a person for a year of assessment from any employment, business or investment is
 - (a) in the case of a resident person, the income of that person from each employment, business or investment for the year, whether or not the source from which the income is derived has ceased; and
 - (b) in the case of a non-resident person,
 - (i) the income of that person from the employment, business or investment for the year, to the extent to which that income has a source in this country; and

(ii) where the person has a Ghanaian permanent establishment, income for the year that is connected with the permanent establishment, irrespective of the source of the income.

(3) The income of a person from an employment, business or investment has a source in this country if the income accrues in or is derived from this country.

(4) A person who is determining the assessable income of that person or of another person shall, determine the assessable income for each class of income separately.

Section 4—Income from employment

(1) The income of an individual from an employment for a year of assessment is the gains and profits of that individual from the employment for the year or a part of the year.

(2) A person who is ascertaining the profits and gains of an individual from an employment for a year of assessment or for a part of that year shall

(a) include in the calculation, an amount specified in respect of

(i) salary, wages, leave pay, fees, commissions, and gratuities;

(ii) overtime pay and bonuses as provided by Regulations;

(iii) personal allowances, including cost of living allowance, subsistence, rent, entertainment or travel allowance;

(iv) a discharge or reimbursement of an expense incurred by an individual or an associate of the individual;

(v) a payment made for the individual's agreement to conditions of the employment;

(vi) subject to section 94, a retirement contribution made to a retirement fund on behalf of an employee and a retirement payment received in respect of an employment;

(vii) other payments, including gifts, received in respect of the employment;

(viii) other amounts required to be included under Part III; and

(ix) any other allowance or benefit paid in cash or given in kind if they are derived by the individual during the year from the employment; and

(b) exclude from the calculation, an amount specified in respect of

(i) an exemption under section 7;

(ii) a final withholding payment;

(iii) a discharge or reimbursement of an expense incurred by an individual on behalf of the employer of that individual that serves the proper business purposes of the employer;

(iv) a discharge or reimbursement of the dental, medical or health insurance expenses of an individual where the benefit is available to each full-time employee on equal terms;

(v) a payment providing passage of the individual to or from the country in respect of the first employment of that individual by the employer or termination of the employment where the individual

(A) is recruited or engaged outside the country;

(B) is in the country solely for the purpose of serving the employer; and

(C) is not a resident of the country;

(vi) a provision of accommodation by an employer carrying on a timber, mining, building, construction, farming business or petroleum operations to that person at a place or site where the field operation of the business is carried on or as prescribed by Regulations;

(vii) a payment made to employees on a non-discriminatory basis and which by reason of the size, type and frequency of the payments, are unreasonable or administratively impracticable for the employer to account for or to allocate to an individual; and

(viii) redundancy pay.

(3) For the purposes of this section, an amount, allowance or benefit is a gain or profit from employment, if the amount, allowance or benefit is provided

(a) by the employer, an associate of the employer or a third party under an arrangement with the employer or the associate of the employer;

(b) to an employee or an associate of the employee; and

(c) in respect of past, present or prospective employment.

Section 5—Income from business

(1) The income of a person from a business for a year of assessment is the gains and profits of that person from that business for the year or a part of the year.

(2) A person who is ascertaining the profits and gains of that person or of another person from a business for a year of assessment shall

(a) include in the calculation, an amount specified in respect of

(i) service fees;

(ii) consideration received in respect of trading stock;

(iii) a gain from the realisation of capital assets and liabilities of the business as calculated under Part IV;

(iv) an amount required by the Third Schedule to be included on the realisation of the depreciable assets of the person which are used in the business;

(v) an amount derived as consideration for accepting a restriction on the capacity of the person to conduct the business;

- (vi) a gift received by the person in respect of the business;
 - (vii) an amount derived that is effectively connected with the business and that would otherwise be included in calculating the income of the person from an investment; and
 - (viii) any other amount required to be included under sections 54, 59, Part III or Part VI if they are derived by the person during the year from the business; and
- (b) exclude from the calculation,
- (i) an amount specified in respect of an exemption under section 7;
 - (ii) an amount specified in respect of a final withholding payment; and
 - (iii) an amount that is included in calculating the income of the person from an employment.

Section 6—Income from investment

(1) The income of a person from an investment for a year of assessment is the gains and profits of that person from conducting the investment for the year or a part of the year.

(2) A person who is ascertaining the profits and gains of that person or of another person from an investment for a year of assessment or for a part of the year shall

(a) include in the calculation, an amount specified in respect of

- (i) dividends, interest, annuity, natural resource payment, rent, and royalty;
- (ii) a gain from the realisation of an investment asset as calculated under Part IV;
- (iii) an amount derived as consideration for accepting a restriction on the capacity of the individual to conduct the investment;
- (iv) [As deleted by the Income Tax (Amendment) (No.2) Act, 2017 (Act 956), s. 1]
- (v) a gift received by a person other than a gift received in respect of business or employment; [As substituted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 1]
- (vi) any other amount required to be included under section 59, Part III or Part VI if the amount is derived by the person during the year from the investment; and

(b) exclude from the calculation,

- (i) an amount specified in respect of an exemption under section 7;
- (ii) a final withholding payment; and
- (iii) an amount that is included in calculating the income of the person from an employment or business.

Division III: Exempt amounts

Section 7—Exempt amounts

(1) The following are exempt from tax:

(a) the salary, allowances, facilities, pension and gratuity of the President in accordance with Article 68 (5) of the Constitution;

(b) the income of the Government of Ghana or a local authority, other than income from activities which are only indirectly connected with the Government or status of the local authority;

(c) the income of a public corporation, where

(i) that public corporation is not set up as a commercial venture; and

(ii) the income is from an activity that is directly connected with the status of that public corporation;

(d) pension;

(e) a capital sum paid to a person as compensation or a gratuity in relation to

(i) a personal injury suffered by that person; or

(ii) the death of another person;

(f) the income of a non-resident person from a business of operating ships or aircrafts, where the Commissioner-General is satisfied that an equivalent exemption is granted by the country of residence of that person to persons resident in this country;

(g) the income from cocoa of a cocoa farmer;

(h) the income of a person receiving instruction at an educational institution from a scholarship, exhibition, bursary or similar educational endowment;

(i) the income of an individual entitled to privileges to the extent provided for by

(i) the Diplomatic Immunities Act, 1962 (Act 148) or a similar enactment;

(ii) an Act giving effect to the Convention on the Privileges and Immunities of the United Nations and the Convention on the Privileges and Immunities of the Specialised Agencies of the United Nations;

(iii) an Act giving effect to a Convention, treaty or protocol conferring privileges and immunities on an officer of an African Union or Economic Community of West African States office or secretariat or an agency of the two institutions; or

(iv) Regulations made under an Act referred to in subparagraph (i), (ii) or (iii);

(j) the income of an individual to the extent provided for in an agreement between the Government of Ghana and a foreign government or a public international organization for the provision of technical services to Ghana where

(i) the individual is a non-resident person or an individual who is resident in the country solely by reason of performing that service; and

- (ii) the agreement has been ratified by Parliament in accordance with article 75 of the Constitution;
- (k) a cost of living allowance, other than training allowance paid in place of salary for services rendered abroad by members of the Ministry of Foreign Affairs, and officers attached to official Ghanaian diplomatic or consular missions abroad;
- (l) income from a temporary employment of an individual with the Government of Ghana, where
 - (i) that individual is not a citizen of the country;
 - (ii) the income is expressly exempt under the employment contract; and
 - (iii) the income is paid out of the Consolidated Fund;
- (m) the income of an individual from employment in the public service of the government of a foreign country, where
 - (i) the individual is either a non-resident, or is resident in the country solely by reason of performing that employment;
 - (ii) the individual does not exercise any other employment or carry on a business in the country;
 - (iii) the income is payable from the public funds of the foreign country; and
 - (iv) the income is subject to tax in the foreign country;
- (n) the income of a state-owned or state-sponsored educational institution; [As deleted by the Income Tax (Amendment) Act, 2016 (Act 907), s. 1 (a)]
- (o) the income of an institution or trust of a public character established by an enactment solely for the purpose of scientific research; and [As deleted and inserted by the Income Tax (Amendment) Act, 2016 (Act 907), s. 1 (b)]
- (p) interest paid to an individual
 - (i) by a resident financial institution; or
 - (ii) on bonds issued by the Government of Ghana; [As deleted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 2 (a)]
- (q) the interest or dividend paid or credited to a holder or member on an investment in an approved unit trust scheme or mutual fund is exempt. [As inserted by the Income Tax (Amendment) Act, 2016 (Act 907), s. 1 (c)]
- (r) interest paid to a non-resident person on bonds issued by the government of Ghana; [As inserted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 2 (b)]
- (s) gains from the realisation of bonds issued by the Government of Ghana by a non-resident person. [As inserted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 2 (b)]
- (t) gains from the realisation of securities traded on the Ghana Stock Exchange up to December 31st, 2021. [As inserted by the Income Tax (Amendment) (No. 2) Act, 2017 (Act 941), s. 1 (c)]

(u) the income of an approved unit trust scheme or mutual fund ; and [As inserted by the Income Tax (Amendment) (No. 2) Act, 2017 (Act 956), s. 2 (b)]

(v) the income of an approved Real Estate Investment Trust. [As inserted by the Income Tax (Amendment) (No. 2) Act, 2017 (Act 956), s. 2 (b)]

(2) The Minister may, by legislative instrument, make Regulations to exempt a person, class of persons or income from tax.

(3) Subject to article 174 (2) of the Constitution, the Minister may grant a waiver or variation of tax imposed by this Act in favour of a person.

(4) Subsection (3) shall apply only where the tax liability of the person has already been ascertained.

(5) Despite any law to the contrary, an exemption shall not be provided from tax imposed by this Act and an agreement shall not be entered into that affects or purports to affect the application of this Act, except as provided for by this Act.

Division IV: Deductions

Section 8—General principles

(1) Subject to the Sixth Schedule, the Commissioner-General shall not allow a deduction for the purpose of ascertaining the income of a person from employment.

(2) The Commissioner-General shall not allow a deduction in respect of domestic or excluded expenses incurred by a person.

(3) A specific deduction rule shall take precedence where more than one deduction rule applies.

Section 9—Residual deduction rule

(1) A person who is ascertaining the income of that person or of another person from an investment or business conducted for a year of assessment or for a part of that year shall deduct from the income, an expense to the extent that that expense is wholly, exclusively and necessarily incurred by the person in the production of the income from the investment or business during the year.

(2) A deduction shall not be allowed under subsection (1) for an expense that is of a capital nature.

(3) For purposes of this section, “expense that is of a capital nature” includes an expense that secures a benefit that lasts for more than twelve months.

Section 10—Interest

For the purpose of section 9, interest incurred by a person during a year of assessment under a debt obligation of the person is incurred in the production of income to the extent that

(a) where the debt obligation was incurred in borrowing money, the money is used during the year or was used to acquire an asset that is used during the year in the production of the income; and

(b) the debt obligation was incurred in the production of income in any other case.

Section 11—Trading stock

(1) A person who is ascertaining the income of that person or of another person from a business for a year of assessment shall deduct in respect of trading stock of the business, the allowance calculated under subsection (2).

(2) The allowance is calculated by

(a) adding the opening value of the trading stock of the business for the year of assessment to the expenses incurred by the person during the year and included in the cost of trading stock of the business; and

(b) deducting from the sum obtained in paragraph (a) the closing value of trading stock of the business for the year.

(3) The opening value of trading stock of a business for a year of assessment is the closing value of trading stock of the business at the end of the previous year of assessment.

(4) The closing value of trading stock of a business for a year of assessment is the lower of

(a) the cost of the trading stock of the business at the end of the year; or

(b) the market value of the trading stock of the business at the end of the year.

(5) Where the closing value of trading stock is determined in accordance with subsection (4) (b), the person ascertaining the income shall reset the trading stock to that value.

Section 12—Repairs and improvements

(1) A person who is calculating the income of a person shall deduct from that income, any expense that is incurred by that person for the repair or improvement of a depreciable asset of that person, where the repair or improvement meets the requirements of section 9(1) irrespective of whether the expense is of a capital nature.

(2) Despite subsection (1), a deduction granted for a year of assessment with respect to a depreciable asset in a particular pool of depreciable assets of a person

(a) shall not exceed five percent of the written down value of the pool at the end of the year; and

(b) is allowed in the order in which the expense was incurred.

(3) An excess expense for which a deduction is not allowed as a result of the limitation in subsection (2) shall be added to the depreciation basis of the pool to which it relates.

Section 13—Research and development expenses

(1) A research and development expense that meets the requirements of section 9(1) may be deducted irrespective of whether the expense is of a capital nature.

(2) For purposes of this section, “research and development expense”

(a) includes an expense incurred by a person in the process of developing the business of that person and improving business products or processes; and

(b) excludes an expense incurred that is otherwise included in the cost of an asset used in the process referred to in paragraph (a).

Section 14—Capital allowances

(1) For the purposes of ascertaining the income of a person from a business for a year of assessment, the capital allowances referred to in subsection (2) are to be deducted.

(2) A capital allowance is

(a) granted in respect of a depreciable asset owned and used by a person during a year of assessment in the production of the income of that person from a business; and

(b) calculated in accordance with provisions specified in the Third Schedule.

(3) A person to whom capital allowance with respect to a particular year of assessment is granted shall take the capital allowance in that year and shall not defer that capital allowance.

Section 15—Losses on realisation of assets and liabilities

(1) A person who is ascertaining the income of that person or of another person from an investment or business for a year of assessment shall, deduct

(a) a loss of the person from the realisation of assets; and

(b) liabilities referred to in subsection (2) during the year and calculated under Part IV.

(2) The losses required to be deducted under subsection (1) are losses from the realisation of

(a) a capital asset of a business to the extent to which the asset is used in the production of income from the business;

(b) a liability of a business to the extent to which

(i) in the case of a liability that is a debt obligation incurred in borrowing money, the money is used or an asset purchased with the money is used in the production of income from the business; and

(ii) the liability is wholly, exclusively and necessarily incurred in the production of income from the business in the case of any other liability; and

(c) a capital asset of an investment to the extent to which the asset is used wholly, exclusively and necessarily in the production of income from the investment.

Section 16—Limit on deduction of financial costs

(1) The amount of financial cost other than interest deducted in calculating the income of a person from an investment or a business conducted for a year of assessment shall not exceed the sum of

- (a) a financial gain derived by the person that is to be included in calculating the income of the person from the investment or business for the year of assessment; and
- (b) fifty percent of the chargeable income of the person for the year from the business or investment calculated without
 - (i) including a financial gain derived by the person; or
 - (ii) deducting a financial costs incurred by the person. [As substituted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 3]
- (2) A financial cost for which a deduction is denied as a result of subsection (1) may be carried forward in the order in which it is incurred and treated as incurred during any of the following five years of assessment, but only to the extent of an unused limitation in subsection (1) for the year.
- (3) A financial cost which is carried forward shall be used in the order in which the financial cost is incurred.
- (4) The Minister may, by legislative instrument, make Regulations to prescribe the circumstances under which a loss on a financial instrument may be set off against a gain on a financial instrument.

Section 17—Losses from business or investment

- (1) A person who is ascertaining the income of that person or of another person from a business for a year of assessment shall deduct
 - (a) an unrelieved loss of the person in a specified priority sector for any of the previous five years of assessment from the business; or
 - (b) an unrelieved loss of the person in all other sectors for any of the previous three years of assessment from the business.
- (2) Despite subsection (1), where a person makes a loss and if the loss were a profit
 - (a) the profit would be taxed at a reduced rate the loss shall be deducted only in calculating income taxed at the same reduced rate, a lower reduced rate or exempt amounts; or
 - (b) the profit would be exempt, the loss shall be deducted only in calculating exempt amounts.
- (3) Subsections (1) and (2) apply to the calculation of income from an investment and an unrelieved loss from an investment subject to subsection (4).
- (4) An unrelieved loss from a business may be deducted in calculating income from an investment, but an unrelieved loss from an investment shall be deducted only in calculating income from an investment.
- (5) For purposes of this section, unless the context otherwise requires, “loss” of a person for a year of assessment from a business or investment is calculated as the excess of amounts deducted in calculating the income of that person from the investment or business over amounts included in calculating that income; and

“unrelieved loss” means the amount of a loss that has not been deducted in calculating the income of the person under this section or section 23(5).

PART III—RULES GOVERNING AMOUNTS USED IN CALCULATING THE INCOME TAX BASE

Division I: Tax accounting and timing

Section 18—Year of assessment and basis period

- (1) The year of assessment for a person is the calendar year.
- (2) The basis period of a person is,
 - (a) in the case of an individual or a partnership, the calendar year; and
 - (b) in the case of a company or a trust, the accounting year of the company or the trust.
- (3) The Commissioner-General may, on application by a trust or company, approve a change of the accounting year of the trust or company on the terms and conditions that the Commissioner-General may approve.
- (4) The Commissioner-General may revoke an approval granted under subsection (3) if the trust or company fails to comply with a condition attached to the approval.
- (5) A change in the accounting year of a trust or company alters the time at which the trust or company is required to pay tax by instalments and on assessment under Part VIII.

Section 19—Method of accounting

- (1) Subject to this Act, the timing of inclusions and deductions in calculating the income of a person during a basis period shall be made in accordance with generally accepted accounting principles.
- (2) For the purpose of ascertaining the income of an individual for income tax purposes from an employment or investment, an individual shall account on a cash basis.
- (3) A company shall account for income tax purposes on an accrual basis.
- (4) A person, other than a company, shall account for income tax purposes on either a cash or accrual basis, whichever most clearly reflects the income of that person.
- (5) Subject to subsections (2), (3) and (4), where the Commissioner-General is satisfied that a particular method of accounting reflects the income of a person, the Commissioner-General may, by written notice,
 - (a) require that person to use a particular method of accounting; or
 - (b) approve an application by a person to change the method of accounting of that person.

(6) Where the method of accounting of a person changes, an adjustment shall be made in the basis period following the change to ensure that an item is not omitted or taken into account more than once.

Section 20—Cash basis accounting

For the purpose of cash basis accounting, a person

(a) derives an amount when a payment is received by, or made available to or in favour of that person; and

(b) incurs an expense or other amount when the expense or other amount is paid by that person.

Section 21—Accrual basis accounting

(1) For the purpose of accrual basis accounting, a person

(a) derives an amount when the amount is receivable by the person; and

(b) incurs an expense or other amount when the expense or other amount is payable by the person.

(2) For the purpose of subsection (1)(a), an amount is receivable by a person when the person becomes entitled to receive it, even if the time for discharge of the entitlement is postponed or the entitlement is payable by instalments .

(3) For the purpose of subsection (1)(b), an amount is treated as payable by the person when the events that determine liability have occurred and the amount of the liability can be determined with reasonable accuracy, but not before economic performance occurs with respect to that amount.

(4) For the purpose of subsection (3), economic performance occurs

(a) with respect to the acquisition of services or assets, at the time the service or asset is provided;

(b) with respect to the use of an asset, at the time the asset is used; and

(c) in any other case, at the time the person makes payment in full satisfaction of the liability.

(5) Where in calculating income on an accrual basis an inaccuracy occurs, appropriate adjustments shall be made at the time the payment is received or made in order to remedy the inaccuracy.

(6) For the purpose of subsection (5), an inaccuracy occurs where

(a) a person accounts for a payment of a particular quantity to which the person is entitled or that the person is obliged to make; and

(b) that entitlement or obligation is satisfied by a payment received or made by the person, of a different quantity.

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

Section 22—Claim of right

- (1) A person is treated as deriving an amount if that person claims to be entitled to receive the amount, even though the person may not be legally entitled to receive that amount.
- (2) A person is treated as incurring an amount if that person claims to be entitled to pay the amount, even though the person may not be legally obliged to pay that amount.
- (3) The time at which the person is treated as deriving or incurring an amount referred to in subsection (1) or (2) shall be determined in accordance with sections 20 and 21.

Section 23—Reversal of amounts including bad debt

- (1) Where a person deducts an expense in calculating the income of that person and that person later recovers the expense, the person shall, at the time of recovery, include the amount recovered in calculating the income of that person.
- (2) Where a person includes an amount in calculating the income of that person and that person later refunds the amount because of a legal obligation to refund, the person may, at the time of refund, deduct the amount refunded in calculating the income of that person.
- (3) Where, in calculating income on an accrual basis, a person deducts an expense that that person is obliged to make and that person later disclaims an obligation to incur the expense, the person shall, at the time of the disclaimer, include the amount disclaimed in calculating the income of that person.
- (4) Subsection (5) applies where, in calculating income on an accrual basis, a person includes an amount to which the person is entitled and the person later
 - (a) disclaims an entitlement to receive the amount; or
 - (b) in the case where the amount constitutes a debt claim of the person, the person writes off the debt claim as bad debt.
- (5) Subject to subsections (6) and (7) , the person may, at the time of the disclaimer or write off, deduct the amount disclaimed or written off in calculating the income of the person.
- (6) Where a person has incurred a liability and the person includes the amount in calculating the income of the person and the liability ceases to exist in part or wholly because of the disclaimer on the part of the person to whom the liability is owed, the person who incurred the liability shall bring to account at the time of the disclaimer an amount equivalent to the disclaimer in calculating the income of that person.
- (7) Subject to section 87, a person shall not disclaim an entitlement to receive an amount or write off a debt claim as bad debt unless the Commissioner-General is satisfied that
 - (a) the person has taken reasonable steps in pursuing payment; and
 - (b) the entitlement or debt claim cannot be satisfied.

Section 24—Long-term contracts

(1) This section applies to a person who

- (a) conducts a business;
- (b) accounts for income tax purposes on an accrual basis with respect to that business; and
- (c) is a party to a long-term contract.

(2) For the purpose of calculating the income of a person with respect to a long-term contract, an amount which is required to be included or deducted shall be taken into account on the basis of the percentage of the contract completed during each basis period.

(3) The percentage of completion shall be determined by comparing the total expenses allocated to the contract and incurred before the end of a basis period with the estimated total contract expenses as determined at the time of commencement of the contract.

(4) Subsection (6) applies where a long-term contract is completed and the person has an unrelieved loss attributable to that contract for the basis period in which the contract ended or an earlier basis period.

(5) An unrelieved loss of a business for a basis period is attributable to a long-term contract to the extent that there is a loss from the contract for the period.

(6) The Commissioner-General may allow an unrelieved loss to be carried back and treated as an unrelieved loss of an earlier basis period for the purposes of section 17.

(7) For the purpose of subsection (6), the amount carried back shall be limited to the profit from the contract for the basis period to which the loss is carried back.

(8) A profit or a loss from a long-term contract for a basis period is determined by comparing the amounts included in income under the contract with deductions under the contract for that period.

(9) For purposes of this section,

“long-term contract” means a contract

- (a) for manufacture, installation, construction or, in relation to each, the performance of related services; and
- (b) which is not completed within twelve months of the date on which work under the contract commences; and

“unrelieved loss” with respect to a business, has the meaning given in section 17.

Section 25—Foreign currency and financial instruments

(1) This section applies where, under the rules in Divisions II or IV of Part II, a person is required to include an amount or may deduct an amount in relation to a financial instrument in calculating income from a business or investment.

(2) The determination of

- (a) the time at which an amount is to be included or deducted,
- (b) the person to whom the amount shall be allocated,
- (c) the quantum of the amount, and
- (d) the character of the amount

shall be in accordance with generally accepted accounting principles.

(3) Without limiting subsection (2), the generally accepted accounting principles apply even if the application of the principles requires the inclusion or deduction of an amount on a fair value accounting basis irrespective of

- (a) the other provisions of this Division;
- (b) whether or not the amounts have been derived, incurred or realised; and
- (c) whether or not the amount is of a capital or revenue nature.

Division II: Quantification, allocation and characterisation of amounts

Section 26—Quantification according to market value

(1) A payment or an amount to be included in income or deducted from income is quantified in the amount

- (a) specified in the Fourth Schedule;
- (b) prescribed by Regulations; or
- (c) in any other case, according to the market value.

(2) The amount of a payment is quantified without reduction for any tax withheld from the payment under Division II of Part VIII.

(3) The market value is determined

- (a) with due regard for the arm's length standard referred to in section 31; or
- (b) in the case of an asset, without regard to any restriction on transfer of the asset or the fact that the asset is not otherwise convertible into a payment of money or money's worth.

Section 27—Indirect payments

(1) Subsection (2) applies where a person

- (a) indirectly benefits from a payment; or
- (b) directs that another person is to be the payee of a payment and the payer intends the payment to benefit the person who gave the directive.

(2) Where subsection (1) applies, the Commissioner-General may, by practice note or by notice in writing served on the person,

- (a) treat that person as the payee of the payment;
- (b) treat that person as the payer of the payment; or
- (c) treat the person as the payee of the payment and as making an equal payment to the person who would be considered the payee of the payment if this subsection were ignored.

(3) In this section, an intention of the payer of a payment includes

- (a) an intention of an associate of the payer; or
- (b) a third person under an arrangement
 - (i) with the payer; or
 - (ii) with an associate of the payer.

Section 28—Jointly owned investment

(1) In calculating the income of a person from an investment which is jointly owned with another person, the amounts to be included in the income and deducted from the income shall be apportioned among the joint owners in proportion to their interests in the investment.

(2) Where the interests of joint owners cannot be ascertained, the interests of the joint owners shall be treated as equal.

Section 29—Compensation and recovery payments

(1) Subsection (2) applies where a person or an associate of a person derives an amount as compensation for the recovery of

- (a) income or an amount to be included in calculating income, which the person expects or is expected to derive; or
- (b) a loss or an amount to be deducted in calculating income, which the person has incurred or which the person expects or is expected to incur.

(2) Subject to section 23, the compensation amount is included in calculating income of the person and takes its character from the amount compensated for.

Section 30—Annuities, instalment sales and finance leases

(1) In calculating the income of a person, any payment made by that person under a finance lease or in acquiring an asset under an instalment 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.

(2) In calculating the income of a person, any payment made to that person under an annuity shall be treated as interest and a repayment of capital under a loan made by that person to the payer of the annuity.

(3) The interest and repayment of capital under subsections (1) and (2) are calculated as if the loan were a blended loan with interest compounded on a six-month basis or any other period prescribed by Regulations.

(4) For purposes of this section,

“blended loan” means a loan

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

(b) in respect of which interest is calculated on capital outstanding at the time of each payment; and

(c) in respect of which the rate of interest is uniform over the term of the loan;

“finance lease” means

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

(b) a lease agreement in which the lease term exceeds seventy-five percent of the useful life of the asset;

(c) a lease agreement in which the estimated market value of the asset after expiry of the lease term is less than twenty percent of the market value of that lease agreement at the start of the lease;

(d) in the case of a lease that commences before the last twenty-five percent of the useful life of the asset, the present value of the minimum lease payments equals or exceeds ninety percent of the market value of the asset at the start of the lease term; or

(e) a lease agreement in which 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;

“instalment sale” excludes a sale that provides for commercial periodic interest payable on sales proceeds outstanding; and

“lease term” includes an additional period for which a lessee has an option to renew a lease.

(5) A lessor who leases an asset under an operating lease

(a) shall, in calculating the income of the lessor, include the whole amount of rent paid under the lease; and

(b) may be granted capital allowance with respect to the asset in accordance with the Third Schedule. [As Inserted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 4]

Section 31—Arm’s length standard and arrangements between associates

(1) Where an arrangement exists between persons who are in a controlled relationship, the persons shall calculate their income, and tax payable, according to the arm's length standard.

(2) The arm's length standard requires persons who are in a controlled relationship, to quantify, characterise, apportion and allocate amounts to be included in or deducted from income to reflect an arrangement that would have been made between independent persons.

(3) The Minister may, by legislative instrument, make Regulations on matters relating to transfer pricing and the application of the arm's length standard.

(4) Where in the opinion of the Commissioner-General, a person has failed to comply with subsection (1), the Commissioner-General may make adjustments consistent with subsection (2).

(5) The Commissioner-General may, in carrying out an adjustment in subsection (4),

(a) re-characterise an arrangement made between persons who are in a controlled relationship, including re-characterising debt financing as equity financing;

(b) re-characterise the source and type of any income, loss, amount or payment; and

(c) apportion and allocate expenditure, including the activities specified in section 107 (2) based on turnover.

Section 32—Income splitting

(1) Where a person attempts to split income with another person, the Commissioner-General may, by notice in writing to that person, prevent a reduction in tax payable.

(2) The Commissioner-General may, in the notice referred to in subsection (1),

(a) adjust the amount to be included in or deducted from income for the purpose of calculating the income of each person; or

(b) re-characterise the source and type of any income, loss, amount or payment.

(3) A reference to a person attempting to split income includes a reference to an arrangement between associated persons,

(a) for the transfer of an asset, directly or indirectly, including the transfer of an amount derived;

(b) where the transferor retains legal or implicit right to benefit from the asset currently or in the future; and

(c) where one of the reasons for the transfer is to lower the tax payable by an associated person.

Section 33—Thin capitalisation

(1) Where a resident entity which is not a financial institution and in which fifty percent or more of the underlying ownership or control is held by an exempt person either alone or together with an associate has a debt-to-equity ratio in excess of three-to-one at any time during a basis period, a deduction is disallowed for any interest paid or foreign currency exchange loss incurred by that

entity during that period on that part of the debt which exceeds the three-to-one ratio, being a portion of the interest or loss otherwise deductible but for this subsection.

(2) For purposes of this section,

“exempt person” means

(a) a non-resident person;

(b) a resident person for whom interest is paid by a resident entity to an exempt person or for whom a foreign exchange gain realised with respect to a debt claim against the resident entity

(i) constitutes exempt income; or

(ii) is not included in ascertaining the exempt assessable income of that person; and

(c) “resident entity” means a resident partnership, resident company, resident trust or permanent establishment of a non-resident person in the country.

Section 34—General anti-avoidance rule

(1) For purposes of determining a tax liability under this Act, the Commissioner-General may re-characterise or disregard an arrangement that is entered into or carried out as part of a tax avoidance scheme

(a) which is fictitious or does not have a substantial economic effect; or

(b) whose form does not reflect its substance.

(2) For purposes of this section,

“arrangement” includes an action, agreement, course of conduct, promise, transaction, understanding or undertaking, which is

(a) express or implied;

(b) enforceable by legal proceedings or not; and

(c) unilateral or involves two or more persons; and

“tax avoidance” includes an arrangement, the main purpose of which is to avoid or reduce tax liability.

PART IV—ASSETS AND LIABILITIES

Division I: Central concepts

Section 35—Calculation of gains and losses

(1) A gain made by a person from the realisation of an asset or liability is the amount by which

(a) the sum of the consideration received for the asset exceeds the cost of the asset at the time of realisation; or

(b) the sum of the consideration offered for the liability is less than the amount outstanding at the time of realisation.

(2) A loss of a person from the realisation of an asset or liability is the amount by which

(a) the cost of the asset exceeds the sum of the consideration received for the asset at the time of realisation; or

(b) the sum of the consideration offered for the liability is more than the amount outstanding at the time of realisation.

Section 36—Cost of an asset

(1) Subject to this Act, the cost of an asset of a person is the sum of

(a) expenditure incurred by the person in the acquisition of the asset and includes where relevant, expenditure of construction, manufacture or production of the asset;

(b) expenditure incurred by the person in altering, improving, maintaining or repairing the asset;

(c) incidental expenditure incurred by the person in acquiring and realising the asset; and

(d) income amounts referred to in subsection (2).

(2) An income amount is

(a) an amount

(i) required by Division II of Part II to be directly included in calculating the income of a person; or

(ii) that is an exempt amount or final withholding payment of that person; or

(b) the amount referred to in paragraph (a), which is derived from the sale of an asset or any other expenditure of the type mentioned in subsection (1)(b) or (c) as incurred by the purchase in respect of that asset.

(3) The cost of an asset does not include

(a) consumption expenditure incurred by the owner of the asset;

(b) excluded expenditure and expenditure that is directly deducted from the income of the owner of the asset; or

(c) expenditure included in the cost of another asset.

(4) In this section, incidental expenditure incurred by a person in acquiring or realising an asset includes

(a) advertising expenditure, transfer taxes, duties and other expenditure incurred as a result of a transfer of the asset;

(b) expenditure incurred in establishing, preserving or defending ownership of the asset; and

(c) remuneration for the services of an accountant, agent, auctioneer, broker, consultant, legal advisor, surveyor or valuer in relation to an expenditure referred to in paragraph (a) or (b).

Section 37—Consideration received

(1) Subject to this Act, consideration received for an asset of a person at a particular time means

(a) an amount derived by that person for owning that asset, which includes an amount

(i) derived from altering the value of that asset; and

(ii) in the nature of a covenant to repair that asset or otherwise; and

(b) an amount derived by that person or an entitlement for that person to derive an amount in the future in respect of realising that asset.

(2) The consideration received by a person for an asset does not include

(a) an exempt amount;

(b) a final withholding payment; or

(c) an amount to be directly included in calculating the income of that person under Division II of Part II.

(3) Subsection (2)(b) does not apply to trading stock.

Section 38—Realisation

(1) Subject to this Act, a person who owns an asset realises the asset,

(a) if that person parts with the ownership of that asset, including when that asset is sold, exchanged, transferred, distributed, redeemed, destroyed, lost, expired or surrendered;

(b) in the case of an asset of a person who ceases to exist, including by reason of death, immediately before that person ceased to exist;

(c) in the case of an asset other than trading stock or a depreciable asset, if the sum of consideration received by that person from the sale of the asset exceeds the cost of that asset;

(d) in the case of an asset that is a debt claim owned by a person other than a financial institution, if that person

(i) reasonably believes that the debt claim will not be satisfied;

(ii) has taken reasonable steps in pursuing the debt claim; and

(iii) has written off the debt claim as a bad debt;

(e) if that person uses trading stock, a depreciable asset, a capital asset of a business or an investment asset in a way that changes the original characterisation of that asset; or

(f) in the circumstances specified in sections 62 and 102.

(2) Subsection (1) does not apply to the realisation of an asset accruing to or derived by a company arising out of a merger, amalgamation or re-organisation of the company where there is continuity of underlying ownership of the asset of at least fifty percent.

Section 39—Application of this Division to liabilities

(1) The cost of and consideration received for a liability of a person are determined consistently with sections 37 and 38 as if a reference to an asset is a reference to a liability, and includes the following:

(a) in terms of the cost, the expenditure incurred in realizing the liability ; and

(b) in terms of consideration received, the amounts derived in incurring the liability.

(2) Subject to this Act, a person who owes a liability realises that liability

(a) when that person ceases to owe that liability and includes where that liability is transferred, satisfied, cancelled, released or expired;

(b) immediately before that person ceases to exist, including by reason of death, in the case of the liability of a person who ceases to exist; and

(c) in the circumstances specified in sections 62(1) and 102.

(3) Subject to Regulations made under this Act, the provisions of Division II apply, with the necessary modifications, to a liability or an asset.

Section 40—Reverse, quantification and compensation of amounts

(1) Subject to section 23, where a person includes expenditure in a liability or in the cost of an asset and later recovers that expenditure, that person shall include the amount recovered in the consideration received for the asset or liability.

(2) Subject to section 23, where an amount that is included in the consideration received by a person for an asset or is refunded due to a legal obligation to do so, that person may include the amount refunded in the cost of the asset.

(3) Subsection (4) applies where a person or an associate of a person derives a compensation amount for

(a) the recovery of actual or expected costs, or expected consideration for an asset or a liability; or

(b) a loss in value of an asset or increase in a liability.

(4) Subject to any other adjustment made under this Act, the compensation amount includes the consideration received for the asset or liability.

Division II: Special rules

Section 41—Cost of trading stock and other fungible assets

(1) For purposes of determining the cost of trading stock of a business of a person

(a) an amount incurred in respect of the repair, improvement or depreciation of a depreciable asset is not to be included; and

(b) subject to paragraph (a), a person making a determination of the cost of trading stock shall use the absorption-cost method for an amount that is eligible for inclusion in the cost of the trading stock.

(2) The owner of trading stock or any other type of asset prescribed by Regulations to be fungible and not readily identifiable, may determine the cost of that asset by using the first-in-first-out method or the average cost method.

(3) The method opted for under subsection (2) may be changed by the owner with the written permission of the Commissioner-General.

(4) For purposes of this section, unless the context otherwise requires,

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

“average-cost method” means the generally accepted accounting principle under which costs are allocated to fungible assets of a particular type owned by a person based on a weighted average cost of all assets of that type owned by the person;

“direct asset cost” means an expenditure incurred by a person in acquiring an asset that constitutes trading stock or has become an integral part of trading stock produced;

“direct labour costs” means expenditure incurred by a person on labour that directly relates to the production of trading stock;

“factory overhead cost” means an expenditure other than direct labour and direct asset cost incurred by a person in the production of trading stock; and

“first-in-first-out method” means the generally accepted accounting principle under which costs are allocated to a fungible asset of a particular type owned by a person based on the assumption that assets of that type owned by that person are realised in the order of their acquisition.

Section 42—Realisation with retention of asset

Where a person realises an asset in any of the manners described in section 38(d) to (f)

(a) that person is treated as having parted with the ownership of the asset, and has derived an amount that is equal to the market value of the asset at the time of the realisation; and

(b) that person is treated as re-acquiring that asset and in the re-acquisition incurred expenditure of the amount referred to in paragraph (a).

Section 43—Transfer of asset to spouse or former spouse

Where on the death or as part of a divorce settlement or bona fide separation agreement, an individual transfers an asset to a spouse or former spouse,

(a) that individual is treated as having derived an amount in respect of the realisation equal to the net cost of the asset immediately before the realisation; and

(b) the spouse or former spouse is treated as incurring expenditure of the amount specified in paragraph (a) in acquiring the asset.

Section 44—Transfer of asset on death

Subject to section 43, where an individual realises an asset on death, by way of transfer of ownership of the asset to another person

(a) that individual is treated as deriving an amount in respect of the realisation equal to the market value of the asset at the time of realisation; and

(b) the person who acquires the asset is treated as incurring an expenditure of the amount specified in paragraph (a) in acquiring the asset.

Section 45—Transfer of asset for no consideration

(1) Subject to sections 43 and 44, where a person realises an asset

(a) by way of transfer of ownership of the asset to a person who is in a controlled relationship with that person,

(b) by way of transfer to any other person,

(c) by way of gift other than under a will,

(d) upon intestacy, or

(e) by way of transfer to the spouse, child or parent of that person,

that person is treated as having derived an amount in respect of that realisation equal to the greater of the market value of the asset or the net cost of the asset immediately before the realisation.

(2) A person who acquires ownership of an asset realised in accordance with subsection (1) is treated as incurring expenditure of the amount equal to the market value or the net cost of the asset immediately before the acquisition.

(3) Where a person realises by way of transfer of ownership of the asset to an associate of the person, an asset which is a trading stock, a depreciable asset or a capital asset of a business, and the requirements of subsection (4) are met,

(a) the person, in respect of the realisation, is treated as having derived an amount equal to the net cost of the asset immediately before the realisation; and

(b) the associate of that person is treated as incurring expenditure of an amount equal to the net cost of the asset immediately before the realisation.

(4) The requirements referred to in subsection (3) are,

(a) either the person or the associate is an entity;

(b) that the asset is a trading stock, depreciable asset or capital asset of a business of the associate immediately after transfer by that person;

(c) that at the time of the transfer

(i) the person and the associate are residents; and

(ii) the associate, or in the case of an associate partnership, none of its partners is exempt from income tax; and

(d) that there is at least fifty percent continuity of the underlying ownership in the asset.

Section 46—Realisation of asset with replacement asset

(1) This section applies where a person

(a) realises an asset in a manner specified in section 38(a); and

(b) acquires an asset of the same type to replace the asset to be realised and the acquisition was done within six months before the date of realisation of the asset; or

(c) acquires an asset of the same type to replace the asset realized within one year after the realisation of the asset.

(2) Where this section applies, the person is,

(a) in respect of the realisation treated as deriving an amount equal to

(i) the net cost of the asset immediately before the realisation; and

(ii) the amount, if any, by which the amount derived in respect of the realisation exceeds the expenditure incurred in acquiring the replacement asset; and

(b) treated as incurring expenditure in acquiring the replacement asset, an amount equal to

(i) the amount referred to in paragraph (a)(i); and

(ii) the amount, if any, by which expenditure incurred in acquiring the replacement asset exceeds the amount derived in respect of the realisation.

Section 47—Realisation of asset by way of merger, amalgamation or re-organisation

The gains on realisation of an asset accruing to or derived by a company arising out of a merger, amalgamation or re-organisation of a company is exempt from tax where there is continuity of at least fifty per cent of the underlying ownership in the asset.

Section 48—Transfer by way of security, finance lease or instalment sale

(1) Where a person grants a legal or equitable mortgage or a similar form of security over an asset to secure a debt owed by that person to another person,

(a) the mortgagor shall not be treated as realising the asset or any part of it, but as still owning the asset and as having incurred a liability which is a secured debt; and

(b) the mortgagee shall not be treated as having acquired the asset or any part of it, but as owning the secured debt.

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

(3) Subject to section 45, where a person transfers an asset under an instalment sale or under a finance lease as specified in subsection (2),

(a) that person is treated as deriving 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 is treated as incurring expenditure of an amount equal to the amount referred to in paragraph (a) in acquiring the asset.

(4) Where the lessee under a finance lease returns the asset to the lessor before ownership passes to the lessee, other than by reason of subsection (2), the Commissioner-General shall treat the lessee as transferring ownership of the asset to the lessor.

(5) For purposes of this section, “finance lease” and “instalment sale” have the meaning assigned in section 30.

Section 49—Realisation by separation

(1) Subject to section 48, where a right or an obligation with respect to an asset owned by a person is created in another person, including the lease of an asset or part of the asset, if the right or obligation

(a) is permanent, that person is treated as realising part of the asset, but is not treated as acquiring any new asset or liability; or

(b) is temporary or contingent, that person is not treated as realising part of the asset or liability, but as acquiring a new asset or incurring a new liability, as the case requires.

(2) A right or an obligation is considered permanent where the right or obligation is to last for more than fifty years.

Section 50—Apportionment of costs and consideration received

(1) Where a person acquires more than one asset at the same time by way of transfer or as part of the same arrangement, the expenditure incurred in acquiring each asset is apportioned between the assets according to the market value of each of the assets at the time of acquisition.

(2) Where a person realises more than one asset at the same time by way of transfer or as part of the same arrangement, the amounts derived in realising each asset is apportioned between the assets according to the market value of each of the assets at the time of realisation.

(3) Where a person who owns an asset realises part of the asset, the net cost of the asset immediately before the realisation is apportioned between the part of the asset realised and the part retained according to the market value of the asset on the date of realisation.

PART V—RULES GOVERNING TYPES OF PERSONS

Division I: Individuals

Section 51—Personal reliefs

In arriving at the chargeable income of a resident individual for a year of assessment under section 2, deduct the personal reliefs specified in the Fifth Schedule.

Division II: Partnerships

Section 52—Principles of Taxation

(1) A partnership is not liable to pay income tax with respect to the chargeable income of the partnership and is not entitled to any tax credit with respect to that income, but the partnership is liable to pay income tax with respect to final withholding payments.

(2) The income of a partnership or a loss of a partnership is to be allocated to the partners in accordance with this Division.

(3) An amount derived and expenditure incurred by a partner for and on behalf of the partnership in common is treated as an amount derived or expenditure incurred by the partnership and not the individual partners.

(4) An asset owned or a liability owed by a partner for and on behalf of the partnership in common is treated as an asset or a liability of the partnership and not the individual partners, and is treated

(a) in the case of an asset acquired, when the asset begins to be owned in that way;

(b) in the case of a liability incurred, when the liability begins to be owed in that way; and

(c) as realised, when the asset ceases to be owned or the liability ceases to be owed in that way.

(5) Subject to this Act, the activities of a partnership are treated as conducted in the course of a single partnership business.

(6) Subject to this Act, an arrangement between a partnership and its partners is recognised and taken into account in determining the share of an individual partner under section 54(5).

(7) Subsection (6) does not apply to the following:

(a) a loan made by a partner to the partnership and any interest paid on the loan; and

(b) a service provided by a partner to the partnership, including the employment of that partner and any service fee or income from employment payable in relation to the service provided.

(8) Subject to section 59, where there is a change of partners in a partnership and at least two existing partners continue, the partnership is treated as the same entity before and after the change.

Section 53—Partnership income or loss

(1) The income of a partnership for a year of assessment is the income of the partnership from the business of the partnership for that year.

(2) A loss incurred by a partnership for a year of assessment is the loss incurred by the partnership from the business of the partnership for that year.

Section 54—Taxation of partners

(1) For purposes of calculating the income of a partner from a partnership for a year of assessment, the person who is doing the calculation shall include the share of a partner of any partnership income or deduct the share of that partner in any loss incurred by the partnership for the relevant partnership year.

(2) The relevant partnership year for the purpose of subsection (1) is the year of assessment of the partnership ending on the last day of assessment of the partner or during the year of assessment of the partner.

(3) A person who calculates the income of a partner shall treat a gain on the disposal of an interest of that partner in the partnership as income from a business and shall include that income in the calculation of the income of that partner.

(4) Subject to the adjustments in section 55, again specified in subsection (3) is calculated under Part IV.

(5) Income of a partnership or a loss incurred by a partnership and allocated to partners under subsection (1)

(a) retains its character as to type and source;

(b) is treated as an amount derived or expenditure incurred, respectively, by a partner at the end of the year of assessment of the partnership; and

(c) is allocated to the partners in proportion to the share of each partner, unless the Commissioner-General, by notice in writing and for good cause, orders otherwise.

(6) Tax paid under this Act and foreign income tax paid or treated as paid by a partnership in relation to the income of the partnership is

(b) treated as paid by the partners.

(7) An allocation in subsection (6) (a) occurs at the time partnership income is treated as derived by the partners under paragraph (b) of subsection (5).

(8) For purposes of this section and subject to section 52(6), the share of a partner is equal to the percentage interest of that partner in any income of the partnership as set out in the partnership arrangement.

Section 55—Cost of and consideration received for partnership interest

(1) The following are included in calculating the cost of a membership interest of a partner in a partnership:

(a) the amount included in calculating the income of that partner under section 52(1), at the time of the inclusion of the amount; and

(b) the share of exempt amounts and final withholding payments of the partner derived by the partnership, at the time the amount or payment is derived.

(2) The following are included in calculating the consideration received for a membership interest of a partner in a partnership:

(a) the amount deducted in calculating the income of the partner under section 52(1), at the time of deduction of the amount;

(b) a distribution made by the partnership to the partner, at the time of distribution; and

(c) the share of domestic or excluded expenditure of the partner incurred by the partnership at the time the expenditure is incurred.

Division III: Trusts

Section 56—Taxation of trusts

(1) A trust is liable to tax separately from the beneficiaries of the trust.

(2) Where a group of persons are trustees for more than one trust, the income of each trust shall be calculated separately regardless of the fact that the trusts have the same trustees.

(3) A person who calculates the tax liability of a trust shall treat the trust as an entity.

(4) Subsection (3) does not apply to a trust of an incapacitated individual.

(5) A person who calculates the tax liability of a trust referred to in subsection (4) shall treat the trust as though it were an individual.

(6) A person shall treat an amount derived and expenditure incurred by a trust or a trustee, as an amount derived or an expenditure incurred by the trust.

(7) Subsection (6) applies

(a) whether or not the amount is derived or incurred on behalf of another person; and

(b) whether or not any other person is entitled to that amount or income constituted by that amount.

(8) A person shall treat an asset owned or liability owed by a trust or a trustee as an asset or a liability of the trust.

(9) Subsections (6) and (8) do not apply if the trustee acts as an agent.

(10) Subject to this Act, a person shall give effect to an arrangement between a trust and its trustees or beneficiaries.

Section 57—Taxation of a beneficiary of a trust

(1) A distribution

(a) of a resident trust is exempt from taxation if the distribution is in the hands of the beneficiary of the trust; and

(b) of a non-resident trust is included in calculating the income of the beneficiary of the trust.

(2) A gain on the disposal of the interest of a beneficiary in a trust is included in calculating the income of the beneficiary.

Division IV: Companies

Section 58—Taxation of companies

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

(2) An amount derived and an expenditure incurred jointly or severally by the managers or shareholders for the purpose of a company is deemed to be derived or incurred by that company even when that company lacks the legal capacity to derive that amount or incur that expenditure.

(3) An asset owned and a liability owed jointly or severally by the managers or shareholders for the purpose of a company is deemed to be owned or owed by that company even when that company lacks the legal capacity to own that asset or owe that liability.

(4) Subject to this Act, all activities of a company are treated as conducted in the course of a single business of that company.

(5) Subject to this Act, a person shall give effect to an arrangement between a company and a manager or shareholder of that company.

Section 59—Taxation of shareholders

(1) Subject to subsection (3), a resident company which pays a dividend to a shareholder shall withhold tax on the amount of the dividend.

(2) For the purpose of ascertaining the income of a shareholder, the person who does the calculation shall include in the calculation

(a) a dividend paid by a non-resident company to the shareholder; and

(b) a gain made on the disposal of the shares, where a shareholder disposes of shares in a company.

(3) A dividend paid to a resident company by another resident company is exempt from tax where the company that received the dividend controls indirectly or directly, at least twenty-five percent of the voting power of the company which paid the dividend.

(4) Subsection (3) does not apply to

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

- (b) a dividend that is the result of recharacterisation under sections 31(5) and 32(2).
- (5) A dividend is deemed to be paid to each shareholder of a company in proportion to the respective interest of the shareholder, if
- (a) the dividend consists of profits which are capitalised; or
 - (b) the dividend falls under subsection (8).
- (6) The Commissioner-General shall, in the case of capitalization of profits, direct the company to pay appropriate tax in accordance with this Act.
- (7) The Commissioner-General shall, in issuing directives under subsection (6), consider the matters contained in subsection (9) with the necessary modifications to make that subsection applicable to subsection (6).
- (8) Where the Commissioner-General is satisfied that a company controlled by not more than five persons and their associates does not distribute to its shareholders as dividends, a reasonable part of the income of the company from all sources for a basis period within a reasonable time after the end of the basis period, the Commissioner-General may, by notice in writing treat as dividend, that part of the income of that company which the Commissioner-General determines to be dividend paid to its shareholders during that period or any other period.
- (9) The Commissioner-General shall, in determining whether a company has distributed a reasonable part of its income from all sources for a basis period, consider
- (a) the current requirement of the business of the company after accounting for any adjustment which the Commissioner-General may make under section 31 and paragraph 53 of the Seventh Schedule; and
 - (b) any other requirement necessary for the maintenance and development of the business.

Section 60—Branch profit tax

- (1) A non-resident person who carries on business in Ghana through a permanent establishment and who earns repatriated profits shall pay tax on the repatriated profits earned for a basis period ending within the year of assessment.
- (2) A non-resident person who has earned repatriated profits under subsection (1) shall pay a final tax on the gross amount of the earned repatriated profits to the Commissioner-General in accordance with the prescribed rate within thirty days after the end of the basis period.
- (3) For purposes of subsections (1) and (2), a person shall treat the portion of the net profit of the resident person which corresponds to the interest of the non-resident shareholders as repatriated profits and as dividends distributed in accordance with the respective shares of the non-resident person in the company.

Division V: General provisions applicable to entities

Section 61—Asset dealing between entities and members

Subject to section 45(2), where an asset is realised by way of transfer of ownership of that asset between an entity and one of its members

- (a) the transferor is considered to have received, in respect of the asset realised, an amount equal to the market value of the asset immediately before the realisation; and
- (b) the transferee is considered to have incurred an expenditure equal to the amount referred to in paragraph (a).

Section 62—Change in ownership

(1) Where the underlying ownership of an entity changes by more than fifty percent at any time within a period of three years, the assets and liabilities of that entity immediately before the change is deemed to be realised.

(2) An entity that changes ownership in the manner referred to in subsection (1), shall not

- (a) deduct financial costs carried forward under section 16(3) that were incurred by the entity before the change;
- (b) deduct a loss under section 17(1) that was incurred by the entity before the change;
- (c) claim a deduction under section 23 (2), (4) or (5) after the change, in a case where the entity has included an amount in calculating income under those provisions before the change; or
- (d) carry back a loss under section 24(6) that was incurred after the change to a year of assessment before the change.

(3) Where a change in ownership of the type referred to in subsection (1) occurs during a year of assessment of an entity, the period before the change and the period after the change shall be treated as separate years of assessment.

PART VI—SPECIAL INDUSTRIES

Division I: Petroleum operations

Section 63—Principles of taxation

- (1) There is imposed a tax on the income of a person from petroleum operations, referred to in this Act as the petroleum income tax.
- (2) The petroleum income tax payable under subsection (1) shall be calculated for each year of assessment, by applying the rate of tax specified in the First Schedule to the chargeable income of that person from petroleum operations.
- (3) Where a person has chargeable income other than income derived from petroleum operations that income shall be charged in accordance with section 1.
- (4) For the purpose of ascertaining the assessable income of a person from petroleum operations, the person who is calculating the assessable income

- (a) shall treat each separate petroleum operation as an independent business; and
- (b) shall calculate the tax liability of each independent business for each year of assessment.

(5) Section 31 applies

(a) to an arrangement between a separate petroleum operation and any other activity of the person conducting the petroleum operation as if the arrangement was conducted between persons who are in a controlled relationship; and

(b) to an arrangement which is subject to subsection (7)

(6) For the purpose of subsection (5), the transfer of an asset to or from a separate petroleum operation shall, for purposes of this Act, be treated as an acquisition or disposal of the asset.

(7) Where two or more persons hold a petroleum right under an arrangement other than a partnership, a person who calculates the assessable income from the petroleum operations shall

- (a) calculate the assessable income of each person from the petroleum operations separately; and
- (b) calculate the assessable income of each person as if the persons were in a controlled relationship.

(8) A person who is liable to pay petroleum income tax, including interest, fines and penalties imposed under this Act or the Petroleum Revenue Management Act, 2011 (Act 815) shall pay the tax

(a) in the currency provided for in the applicable petroleum agreement; and

(b) in the absence of any express agreement, in Cedis.

Section 64—Separate petroleum operations

(1) Subject to subsection (2), a petroleum operation pertaining to a petroleum right shall constitute a separate petroleum operation.

(2) The following rules shall apply where a development plan for a petroleum agreement area is approved:

(a) a petroleum operation conducted

(i) with respect to the petroleum right before the date of approval of the development plan; and

(ii) with respect to the development and production area after the date of approval of the development plan

shall be treated as conducted with respect to the same separate petroleum operation; and

(b) from the date of approval of the development plan, a petroleum operation conducted with respect to the petroleum right that is not in respect of the development and production area shall, be considered as a new separate petroleum operation.

Section 65—Exploration and development operations

(1) This section applies to exploration and development operations conducted by a person as part of a separate petroleum operation before the commencement of production.

(2) A person who incurs a revenue expenditure or a capital expenditure in the course of exploration and development operations shall place the expenditure in a single pool and

(a) a deduction or capital allowance shall not be granted by the Commissioner-General with respect to the expenditure; and

(b) the expenditure shall not form part of the cost of an asset.

(3) A person shall not include an expenditure in the pool referred to in subsection (2) if that expenditure

(a) is a domestic or an excluded expenditure; or

(b) fails to meet the requirements of section 67(2)(b)(i) or (ii).

(4) Except for an amount that will be included to reduce the pool referred to in subsection (2), a person, shall not include in the pool referred to in that subsection

(a) an amount which is included in calculating the income of the person from the separate petroleum operation; or

(b) a consideration received in respect of a depreciable asset or capital asset of the operation .

(5) A person shall carry forward the balance in the pool referred to in subsection (2) from year to year until production commences.

(6) Where at the end of a year of assessment the balance in the pool is negative by reason of a reduction in subsection (4)

(a) the negative amount shall be included in calculating the income of that person from the separate petroleum operation for the year; and

(b) the balance shall not be carried forward to the next year of assessment.

(7) Where a person commences production with respect to a separate petroleum operation, the balance in the pool of exploration and development expenditure at that time shall be capitalised by that person and the Commissioner-General shall grant capital allowances in respect of that expenditure.

Section 66—Income from petroleum operations

(1) Subject to section 65, the income of a person from petroleum operations for a year of assessment includes:

(a) the market value of petroleum obtained from the petroleum agreement area that is disposed of during the year or that is treated as disposed of during the year;

- (b) a compensation derived, whether under a policy of insurance or otherwise, in respect of loss or destruction of petroleum from the petroleum agreement area;
- (c) an amount derived in respect of the sale of information pertaining to the operations or petroleum reserves;
- (d) a gain from the assignment or other disposal of an interest in the petroleum right with respect to which the operation is conducted;
- (e) an amount required to be included under section 70 in respect of a surplus in a decommissioning fund;
- (f) an amount received after production commenced as reimbursement of cost and premium to a sole risk party under the sole risk terms of a joint operating agreement; and
- (g) any other amount derived by the person during the year from or incidental to the operation that are included in calculating income under other provisions of this Act.

(2) For the purpose of subsection (1)(a), the market value of petroleum

- (a) is determined in accordance with the method prescribed in the petroleum agreement; and
- (b) shall not be less than the value receivable in a transaction that satisfies the requirements of section 31 without any discount, commission or deduction.

Section 67—Deductions for petroleum operations

(1) Subject to sections 8, 65 and this section, a person who calculates the income of another person from a separate petroleum operation for a year of assessment shall deduct the following from the assessable income:

- (a) annual rental charges and royalties paid by the person under the Petroleum (Exploration and Production) Act, 1984 (PNDCL 84) with respect to the petroleum operation;
- (b) capital allowances granted with respect to the petroleum operation and calculated in accordance with Part II of the Third Schedule;
- (c) contributions to and other expenses incurred in respect of a decommissioning fund for the petroleum operation in accordance with the rules established for that fund;
- (d) expenses incurred by that person in the course of closure of the petroleum operation, where funds in the relevant decommissioning fund are not yet available or are inadequate; and
- (e) any other amount incurred directly by that person in the course of the petroleum operation, which amount may be deducted under other provisions of this Act .

(2) In calculating income from a separate petroleum operation, the Commissioner-General shall not allow a deduction

- (a) for research and development expenditure;

(b) for an amount, unless the amount

(i) is wholly, exclusively and necessarily incurred in the acquisition or improvement of a valuable asset used in the operation; or

(ii) is wholly, exclusively and necessarily incurred in acquiring services or facilities for the operation;

and is income of the recipient which has a source in Ghana;

(c) if the amount contravenes section 31;

(d) for a bonus payment made in respect of the grant of the petroleum right; or

(e) for expenditure incurred as a consequence of a breach of a petroleum agreement.

(3) For the purpose of the application of section 14,

(a) “written down value” of a pool of depreciable assets means the written down value of all assets in that pool as determined under Part II of the Third Schedule; and

(b) excess expense referred to in section 12(3) shall be added to the pool of depreciable assets of the year in which the expense is incurred.

(4) In ascertaining the income of a person from a separate petroleum operation for a year of assessment, relevant financial costs incurred during the year may be deducted only to the extent that relevant financial gains are included in calculating that income.

(5) Without limiting section 16, a person may set off a loss in respect of a financial instrument against a gain in respect of a financial instrument only.

(6) A financial cost for which a deduction is not available under subsection (4) may be carried forward by the person and treated as incurred during any of the subsequent five years of assessment.

(7) Where a person carries forward a financial cost under subsection (6), that cost shall be deducted by that person from the income of that person in the order in which the cost was incurred.

(8) Where there is a change in ownership of an entity in the manner referred to in section 62, a carry forward of financial cost under subsection (6) is subject to section 62.

(9) Subject to section 65 and for the purpose of granting a capital allowance, the cost of a depreciable asset with respect to a separate petroleum operation includes

(a) the cost of the petroleum right;

(b) the balance in the pool of exploration and development expenditure at the time production commences;

(c) expenditure incurred in developing petroleum operations and infrastructure, including expenditure which

(i) is capitalised in accordance with generally accepted accounting principles; and

(ii) does not otherwise qualify to be included in the cost of an asset; and

(d) bonus payments made in respect of the grant of the petroleum right.

(10) The Minister may, by legislative instrument, make Regulations to prescribe other deductions that may be allowed in calculating the income of a person from petroleum operations.

Section 68—Losses from petroleum operations

Section 17 applies to unrelieved losses of a person from a separate petroleum operation subject to the following:

(a) an unrelieved loss shall be deducted by the person in the order in which the loss is incurred; and

(b) an unrelieved loss from a separate petroleum operation may be deducted by the person only in calculating future income from that separate petroleum operation and not income from any other activity.

Section 69—Disposal of petroleum rights

(1) Where a person holds a direct or indirect interest in an entity that holds a petroleum right, the person is treated as holding the interest as a capital asset employed in the business of that entity.

(2) Where the underlying ownership of an entity that holds a petroleum right changes by five percent or more, the entity is considered to have

(a) disposed of a proportionate interest in its petroleum right and immediately re-acquired that interest by incurring an expenditure that is equal to the amount received for the right disposed off; and

(b) received for the disposal, consideration equal to

(i) the amount received or receivable as consideration that has arisen out of the change in ownership, or

(ii) the market value of the proportion of the right treated as disposed off,

whichever is higher.

(3) Where the ownership of an entity changes in the manner referred to in subsection (2), the entity shall notify the Commissioner-General within thirty days from the date of the change.

(4) An entity that fails to comply with subsection (3) commits an offence and is liable on summary conviction to a fine of not more than two hundred penalty units for each failure.

(5) This section does not affect

(a) the tax treatment of actual disposals of petroleum rights; and

(b) the application of section 62 to an entity that holds a petroleum right.

Section 70—Decommissioning fund

(1) An amount accumulated in or withdrawn from a decommissioning fund for decommissioning purposes is exempt from tax.

(2) Where there is a surplus in the relevant decommissioning fund,

(a) after a person completes decommissioning of a separate petroleum operation conducted by that person, or

(b) at the time the person breaches an approved decommissioning plan,

that surplus shall be included in calculating the income of that person from the separate petroleum operation for that year of assessment.

Section 71—Withholding tax for petroleum operations

(1) Section 59 (3) does not apply to a dividend paid by a company that

(a) conducts petroleum operations or that has conducted petroleum operations; or

(b) is a partner in a partnership that conducts petroleum operations or that has conducted petroleum operations.

(2) A dividend paid in circumstances where subsection (1) applies is subject to withholding tax in accordance with the relevant provisions of this Act.

(3) Without prejudice to the provisions of a petroleum agreement, the gains or profit of an expatriate employee who is employed by a contractor or subcontractor who conducts petroleum operations exclusively, is liable to tax and withholding tax under this Act.

(4) Where under the terms of a contract, an amount is due to a subcontractor in respect of work or services for or in connection with a petroleum agreement, the person liable under that contract to make payment to the subcontractor shall withhold tax at the rates specified in the First Schedule and pay the amount of tax withheld to the Commissioner-General.

(5) A tax withheld under subsection (4) is, in the case of a nonresident person, a final tax.

Section 72—Furnishing of quarterly return of income

A person who is engaged in a petroleum operation shall, not later than thirty days after the end of a quarterly period, furnish the Commissioner-General with,

(a) a return containing an estimate of the chargeable income of the person resulting from the operations during the quarterly period; and

(b) an estimate of the tax due on the chargeable income of the person and a remittance in settlement of the estimated tax.

Section 73—Furnishing of annual return of income

(1) A person who is engaged in a petroleum operation shall, not later than four months after the end of the year of assessment, furnish the Commissioner-General with a return for each separate petroleum operation for a year of assessment.

(2) The annual return shall include

(a) a statement containing the full names, addresses, nationality, salaries, wages, fees and allowances of the persons employed in the country;

(b) a statement of the amount of production during the year of assessment and the share of that person in the production;

(c) a statement of the price paid for the sale or export without sale of the person's share of the petroleum produced;

(d) information relating to matters referred to in this section that is provided under the petroleum agreement; and

(e) any other statement or information required to be provided under this Act.

(3) For the purpose of subsection (2)(c), where there is a dispute regarding the price applicable in respect of that person's share of the petroleum produced in the year of assessment, the chargeable income of that person shall be calculated on the basis of the price proposed by that person.

(4) Where a final determination of the price is made in accordance with the terms of a petroleum agreement, the person shall submit a fresh return indicating

(a) the determined price;

(b) any adjustment required to be made on account of the determined price; and

(c) tax due where applicable.

(5) The returns shall be submitted within thirty days of the final determination of the price.

Section 74—Request for further information by Commissioner-General

The Commissioner-General may, where the Commissioner-General thinks necessary, give notice in writing to a person who is engaged in petroleum operations requiring that person to furnish within the time specified in the notice

(a) further information as to the matters in connection with the quarterly returns and annual returns; or

(b) any matter which the Commissioner-General considers necessary for determining the assessment of the person.

Section 75—Payment of tax by quarterly instalment for petroleum operations

Tax for a quarterly period is due and payable thirty days after the end of the quarter to which the tax relates.

Section 76—Interpretation

In this Division, unless the context otherwise require,

“approved development plan” means a development plan approved under section 10 of the Petroleum (Exploration and Production) Act, 1984 (PNDCL 84);

“approved decommissioning plan” means a plan approved by the Minister responsible for petroleum for decommissioning the facilities used in petroleum operations upon cessation of those operations;

“basis period” means the calendar year from 1st January to 31st December;

“decommissioning fund” means a fund established by a contractor of a petroleum agreement in accordance with an approved decommissioning plan;

“development” includes the building and installation of facilities for the production of petroleum and the drilling of development wells;

“development and production area” means the area subject to an approved development plan;

“expatriate employee” means a person who is not a citizen of the country and who is employed for or in connection with the conduct of petroleum operations by a contractor or subcontractor under an express or implied contract of employment which provides for the passage to and from the country and in respect of whom approval has been obtained from the Ghana Immigration Service;

“exploration” means the search for petroleum by geological, geophysical and any other means, and drilling of exploration wells, including appraisal wells, and activities connected with them;

“petroleum” has the meaning assigned in the Petroleum Revenue Management Act, 2011 (Act 815);

“petroleum agreement” has the meaning assigned in the Petroleum (Exploration and Production) Act, 1984 (PNDCL 84);

“petroleum agreement area” means the area subject to a petroleum agreement;

“petroleum agreement contractor” means a contractor as defined in the Petroleum (Exploration and Production) Act, 1984 (PNDCL 84);

“petroleum operations” has the meaning assigned in the Petroleum Revenue Management Act, 2011 (Act 815);

“petroleum right” means the right to conduct petroleum operations under a petroleum agreement;

“production” means the extraction and disposal of petroleum, including development operations and all other works and services connected with the extraction and disposal;

“production activity” means an activity that constitutes production within the meaning of the Petroleum (Exploration and Production) Act, 1984 (PNDCL 84);

“quarterly period” means the period from 1st January to 31st March, 1st April to 30th June, 1st July to 30th September, or 1st October to 31st December; and

“subcontractor” includes a person who enters into a contract with a contractor for the supply of works or services including rental of plants and equipment in the country for or in connection with the petroleum agreement to which the contractor is a party and where specified in a petroleum agreement, a non-resident person who provides work or supplies that service under the terms of a contract.

Division II: Minerals and Mining operations

Section 77—Principles of taxation

(1) There is imposed a tax on the income of a person derived from mineral operations, referred to in this Act as the "mineral income tax". [As substituted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 5]

(2) The mineral income tax payable under subsection (1) shall be calculated for each year of assessment, by applying the rate of tax specified in the First Schedule to the chargeable income of that person from mineral operations.

(3) Where a person has chargeable income other than income derived from mineral operations, that income shall be charged in accordance with section 1.

(4) For the purpose of ascertaining the assessable income from mineral operations of a person

(a) each separate mineral operation is treated as an independent business; and

(b) the tax liability for the business shall be calculated independently for each year of assessment.

(5) Section 31 applies

(a) to an arrangement between a separate mineral operation and any other activity of the person conducting the mineral operation as though the arrangement was conducted between persons who are in a controlled relationship; and

(b) to an arrangement which is subject to subsection (7).

(6) For the purpose of subsection (5), the transfer of an asset to or from a separate mineral operation is treated as an acquisition or disposal of the asset.

(7) Where two or more persons hold a mineral right under an arrangement other than a partnership, the assessable income from mineral operations of each person shall

(a) be calculated separately; and

(b) be calculated as if they were persons in a controlled relationship.

Section 78—Separate mineral operations

(1) Subject to this section, the following shall constitute a separate mineral operation:

- (a) a mineral operation pertaining to each mine; and
 - (b) a mineral operation with a shared processing facility.
- (2) Where a person holds a reconnaissance licence and is subsequently granted a prospecting licence,
- (a) a mineral operation conducted with respect to the reconnaissance licence before the grant of the prospecting licence
 - (i) conducted with respect to the prospecting licence; and
 - (ii) conducted with respect to the same separate mineral operation; and
 - (b) subsection (3) applies.
- (3) Where a person holds a prospecting licence and is subsequently granted a mining lease and the area which is the subject of that mining lease falls wholly within the prospecting area,
- (a) a mineral operation conducted with respect to the prospecting licence before the grant of the mining lease is
 - (i) conducted with respect to the mining lease; and
 - (ii) conducted with respect to the same separate mineral operation; and
 - (b) [As deleted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 6 (a)]
- (4) [As deleted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 6 (b)]

Section 79—Reconnaissance and prospecting operations

- (1) This section applies to reconnaissance and prospecting operations conducted by a person as part of a separate mineral operation before the commencement of production of a commercial find.
- (2) A person who incurs a revenue expenditure or a capital expenditure in the course of reconnaissance or prospecting operations shall place the expenditure in a single pool and
- (a) a deduction or capital allowance shall not be granted by the Commissioner-General with respect to the expenditure; and
 - (b) the expenditure shall not form part of the cost of an asset.
- (3) An expenditure shall not be included in the pool referred to in subsection (2) if the expenditure
- (a) is a domestic or an excluded expenditure; or
 - (b) fails to meet the requirements of section 81(2)(b)(i) or (ii).
- (4) Except for an amount that will be included to reduce the pool referred to in subsection (2), a person shall not include in the pool referred to in that subsection

(a) an amount which is included in calculating the income of the person from the separate mineral operation; or

(b) a consideration received in respect of a depreciable asset or capital asset of the operation.

(5) A person who places the balance of an expenditure in the pool referred to in subsection (2) shall carry that balance forward from year to year until the commencement of production.

(6) Where at the end of a year of assessment the balance in the pool is negative by reason of a reduction in subsection (4)

(a) the person shall include the negative amount in calculating the income of that person from the separate mineral operation for the year; and

(b) a balance shall not be carried forward to the next year of assessment.

(7) Where a person commences production of a commercial find with respect to a separate mineral operation, the balance in the pool of reconnaissance and prospecting expenditure at the time of production shall be capitalised and capital allowances shall be granted by the Commissioner-General in respect of those expenditures.

Section 80—Income from mineral operations

Subject to section 79, the following shall be included for the purpose of ascertaining the income of a person from a mineral operation for a year of assessment;

(a) an amount derived or treated in section 31 as derived from the disposal of minerals obtained from the lease or licensed area during the year;

(b) a compensation derived, whether under a policy of insurance or otherwise, in respect of loss or destruction of minerals from the lease or licensed area;

(c) an amount derived in respect of the sale of information pertaining to the mineral operations or mineral reserves;

(d) a gain from the assignment or other disposal of an interest in the mineral right with respect to which the operation is conducted;

(e) an amount required to be included under section 84 in respect of a surplus in an approved rehabilitation fund; and

(f) any other amount derived by the person during the year from or incidental to the operation that is included in calculating income under other provisions of this Act.

Section 81—Deductions for mineral operations

(1) Subject to sections 8, 79 and this section, for the purpose of ascertaining the income of a person from a separate mineral operation for a year of assessment, the following shall be deducted:

(a) ground rents and royalties paid by the person under the Minerals and Mining Act, 2006 (Act 703) with respect to the mineral operation;

(b) capital allowances granted with respect to the mineral operation and calculated in accordance with Part III of the Third Schedule;

(c) contributions to and other expenses incurred in respect of an approved rehabilitation fund for the mineral operation;

(d) expenses incurred by the person in the course of reclamation, rehabilitation and closure of the mineral operation, where funds in the relevant approved rehabilitation fund are not yet available or are inadequate; and

(e) any other expenses incurred by that person during the year for the purpose of the mineral operation that may be deducted under other provisions of this Act.

(2) In calculating income from a separate mineral operation, the Commissioner-General shall not allow a deduction

(a) for research and development expenditure;

(b) for an amount unless the amount

(i) is wholly, exclusively and necessarily incurred in the acquisition or improvement of a valuable asset used in the mineral operation; or

(ii) is wholly, exclusively and necessarily incurred in acquiring services or facilities for the mineral operation; and is income of the recipient which has a source in Ghana;

(c) where the amount does not comply with section 31;

(d) for a bonus payment made in respect of the grant of the mineral right; or

(e) for expenditure incurred as a consequence of a breach of an applicable mineral agreement.

(3) For the purpose of the application of section 14 to mineral operations

(a) “written down value” of a pool of depreciable assets means the written down value of assets in that pool as determined under Part III of the Third Schedule; and

(b) excess expense referred to in section 12(3) shall be added to the pool of depreciable assets of the year in which the expense is incurred.

(4) In ascertaining the income of a person from a separate mineral operation for a year of assessment, a relevant financial cost incurred during the year may be deducted only to the extent that a relevant financial gain has been included in calculating the income of that person.

(5) Without limiting section 16, a person may set off a loss in respect of a financial instrument against a gain in respect of a financial instrument only.

(6) A financial cost for which a deduction is not available under subsection (4) may be carried forward and treated as incurred during any of the subsequent five years of assessment.

(7) Where a person carries forward a financial cost under subsection (6), that cost shall be deducted by that person from the income of that person in the order in which the cost was incurred.

(8) Where there is a change in the ownership of an entity in the manner referred to in section 62, a carry forward of financial cost shall be subject to section 62.

(9) Subject to section 79 and for the purpose of granting capital allowance, the cost of a depreciable asset with respect to a separate mineral operation includes

(a) the cost of the mineral right;

(b) the balance in the pool of reconnaissance and prospecting expenditure at the time of commencement of production of a commercial find;

(c) expenditure incurred in respect of the mineral operation on waste removal, overburden stripping, shaft sinking and other activities, that

(i) is capitalised in accordance with generally accepted accounting principles; and

(ii) does not otherwise qualify to be included in the cost of an asset; and

(d) bonus payments made in respect of the grant of the mineral right.

(10) The Minister may, by legislative instrument, make Regulations to provide for

(a) other deductions that may be allowed in ascertaining the income of a person derived from a mineral operation; and

(b) the application of subsection (4) to small scale mining.

Section 82—Losses from mineral operations

Subject to the following, section 17 applies to unrelieved losses of a person from a separate mineral operation:

(a) the person shall deduct unrelieved losses in the order in which the losses are incurred; and

(b) losses from the separate mineral operation may be deducted only in calculating future income from that operation and not income from any other activity.

Section 83—Disposal of mineral rights

(1) Where a person holds a direct or indirect interest in an entity that holds a mineral right, the person is treated as holding the interest as a capital asset employed in the business of that entity.

(2) Where the underlying ownership of an entity that holds a mineral right changes by five percent or more, the entity is considered to have

(a) disposed of a proportionate interest in its mineral right and immediately reacquired that interest by incurring an expenditure that is equal to the amount received for the right disposed off; and

(b) received for the disposal,

(i) consideration equal to the amount received or receivable as consideration arising out of the change in ownership; or

(ii) the market value of the proportion of the right treated as disposed off, whichever is higher.

(3) Where the ownership of an entity changes in the manner referred to in subsection (2), the entity shall notify the Commissioner-General within thirty days from the date of the change.

(4) An entity that fails to comply with subsection (3) commits an offence and is liable on summary conviction to a fine of not more than two hundred penalty units for each failure.

(5) This section does not affect

(a) the tax treatment of actual disposals of mineral rights; and

(b) the application of section 62 to an entity that holds a mineral right.

Section 84—Approved rehabilitation funds

(1) An amount accumulated in or withdrawn from an approved rehabilitation fund by a person who holds a mineral right for the purpose of rehabilitation of the area which is the subject of the mining lease, is exempt from tax.

(2) Where there is a surplus in the approved rehabilitation fund

(a) after a person completes rehabilitation of a separate mineral operation conducted by that person, or

(b) at the time the person breaches an approved rehabilitation plan

the surplus shall be included in calculating the income of the person from the separate mineral operation for that year of assessment.

Section 85—Withholding tax

(1) Despite section 59(3), dividend paid to a resident company by

(a) a resident company that conducts or that has conducted a mineral operation, or

(b) a resident company that is a partner in a partnership that conducts or that has conducted a mineral operation is subject to withholding tax in accordance with this Act.

(2) Subject to subsection (3), a resident person shall withhold tax at the rate provided for in paragraph 8 of the First Schedule when the person pays for unprocessed precious minerals located in the country or won from the country.

(3) This section does not apply to

(a) a payment made by an individual, unless the payment is made in the course of conducting a business;

(b) a payment made by the holder of a small scale mining licence to a labourer with respect to winnings from the area covered by the licence; or

(c) a payment received by a holder of a large scale mining lease.

(4) Division II of Part VIII applies to tax required to be withheld under this section.

(5) For purposes of this section, unless the context otherwise requires,

“large scale mining lease” means a mining lease that is not the subject of a small scale mining licence;

“small scale mining” has the meaning given in the Minerals and Mining Act, 2006 (Act 703);

“small scale mining licence” means a small scale mining licence granted under section 82 of the Minerals and Mining Act, 2006 (Act 703); and

“unprocessed precious mineral” means unprocessed gold and rough diamonds within the meaning given in the Minerals and Mining Act, 2006 (Act 703) and other minerals as may be prescribed by Regulations.

Section 86—Interpretation

In this Division, unless the context otherwise requires,

“approved rehabilitation fund”, in respect of mineral operations, means a fund established as required under any applicable mineral agreement or approved rehabilitation plan;

“approved rehabilitation plan”, in respect of mineral operations, means a plan for reclamation, rehabilitation and closure of the operations approved by the Minister responsible for Mines;

“mineral” means a substance in solid or liquid form that occurs naturally in the earth or on the earth, or on the seabed or under the seabed, formed by or subject to geological process including industrial minerals, but does not include petroleum as defined in the Petroleum Revenue Management Act, 2011 (Act 815) or water;

“mineral agreement” means an agreement concluded with the Government of Ghana in respect of a mineral right and includes the terms and conditions on which a mineral right is granted;

“mineral operations” means reconnaissance, prospecting or mining for minerals or mining of minerals;

“mineral right” means a reconnaissance licence, a prospecting licence, a mining lease, a restricted reconnaissance licence, a restricted prospecting licence or a restricted mining lease;

“mining area” means the area designated from time to time by the holder of a mining lease with the approval of the Minerals Commission;

“mining lease” means a mining lease granted under section 39 or 44 of the Minerals and Mining Act, 2006 (Act 703);

“mining lease area” means the area covered by a mining lease;

“mining operations” means the mining of minerals under a mining lease or restricted mining lease;

“prospect” means to intentionally search for minerals and includes reconnaissance and operations to determine the extent and economic value of a mineral deposit;

“prospecting area” means the land subject to a prospecting licence;

“prospecting licence” means a prospecting licence granted under section 34 of the Minerals and Mining Act, 2006 (Act 703);

“reconnaissance” means the search for minerals by geophysical, geochemical and photo-geological surveys or other remote sensing techniques and surface geology in connection with it including collection of necessary environmental data but does not include drilling or excavation; and

“reconnaissance licence” means a reconnaissance licence granted under section 31 of the Minerals and Mining Act, 2006 (Act 703).

Division III: Financial institutions

Section 87—Banking business

(1) For purposes of this Act, any other business activity of a person who engages in a banking business is a separate business activity from the banking business engaged in by that person and the person shall keep the books of account of each business activity separate.

(2) Where the income of a person who engages in both a banking business and another business activity is to be ascertained, the person doing the computation shall compute the income or loss from the banking business for a year of assessment separate from the income or loss from the other business activity for that year.

(3) The Minister may, by legislative instrument, make Regulations to require financial institutions to obtain from a specified person details of the place of residence of that person for tax purposes.

Section 88—Provision for a debt claim

(1) Where a person conducting a banking business makes a specific provision for a debt claim which the Commissioner-General is satisfied is a bad debt,

(a) in the case of a debt claim that has been previously included in calculating income from the business, the provision is deductible; and

(b) in the case of a debt claim that constitutes the advance of a principal sum, the provision is deductible and the cost of the debt claim is reduced by an equal amount.

(2) Where a person makes a provision referred to in subsection (1) and the person later reverses that provision,

(a) in a case referred to in subsection (1)(a), the amount reversed is included in computing income; and

(b) in a case referred to in subsection (1)(b), the amount in respect of the provision reversed is included in computing income and the cost of the debt claim is increased.

(3) Section 23 does not apply to a debt claim to which subsection (1) applies.

(4) For purposes of this section, “banking business” means the banking business of a financial institution licensed under the Banking Act, 2004 (Act 673) or the Non-Bank financial Institution Act, 2008 (Act 774).

Section 89—General insurance business

(1) For purposes of this Act, any other business activity of a person who conducts a general insurance business is a separate business from the general insurance business and the income or loss of that person from each of the businesses for a year of assessment is to be computed separately.

(2) Where the income derived by a person from general insurance business for a year of assessment is to be ascertained, the person doing the calculation shall include

(a) premiums derived by the person in conducting the business during the year as an insurer, or a re-insurer; and

(b) proceeds derived by the person under a contract of re- insurance in respect of proceeds referred to in subsection (4)(a) during the year.

(c) the amount of any reserve for unexpired risk deducted in the previous basis period. [As Inserted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 7]

(3) Subject to section 8, a person shall, in calculating income from general insurance business derived by a person for a year of assessment, deduct

(a) proceeds incurred in conducting the business by the person as an insurer or as a re-insurer, during the year;

(b) premiums incurred by the person under a contract of re-insurance in respect of proceeds referred to in paragraph (a) during the year; and

(c) the amount of any reserve for unexpired risk in respect of that business as at the end of the basis period.

(4) For purposes of section 23(3), proceeds incurred by a person as a general insurer are payable and may be deductible under subsection (3)(a) where

(a) the events that determine liability have occurred; and

(b) the proceeds can be deducted in accordance with generally accepted accounting principles.

Section 90—Life insurance business

(1) For purposes of this Act, any other business activity of a person who conducts a life insurance business is a separate business from the life insurance business and the income or loss of that person from each of the businesses for a year of assessment is to be calculated separately.

(2) Where the income derived by a person from a life insurance business for a year of assessment is to be ascertained, the person doing the calculation shall

(a) exclude from the income the following items and the items excluded shall not be regarded as consideration received for an asset or liability:

(i) premiums derived by the person as an insurer or a re-insurer; and

(ii) proceeds derived by the person under a contract of re-insurance in respect of proceeds referred to in paragraph (b)(i); and

(b) not deduct from the income the following items which are not to be included in the cost of an asset or liability:

(i) proceeds incurred by the person as an insurer or a re-insurer; and

(ii) premiums incurred by the person under a contract of re-insurance in respect of proceeds referred to in subparagraph (i).

Section 91—Proceeds from insurance

(1) Subject to subsection (2) and sections 89 and 90, for the purposes of calculating the income of a person, the proceeds derived by that person from insurance is determined in accordance with section 29.

(2) Subject to section 90, a gain of an insured person from life insurance is

(a) exempt from tax when the proceeds are paid to the insured person, where the proceeds are paid by a resident insurer; and

(b) included in calculating the income of the insured person, where the proceeds are paid by a non-resident insurer.

(3) For purposes of this section, “gains of an insured person from a life insurance” means the extent to which proceeds from the life insurance paid by an insurer exceed premiums paid to that insurer with respect to the insurance.

Section 92—Interpretation

In this Division, unless the context otherwise requires,

“general insurance” means an insurance that is not life insurance; and

“life insurance” means insurance of any of the following classes:

(a) insurance where the specified event is the death of an individual who is the insured or an associate of the insured;

(b) insurance where

(i) the specified event is a personal injury sustained by the insured or an associate of the insured, or the incapacitation of an individual who is the insured or an associate of the insured; and

(ii) the insurance agreement is expressed to be in effect for at least five years and is not terminable by the insurer before the expiry of five years except in circumstances prescribed by Regulations;

(c) insurance under which an amount or series of amounts is to become payable to the insured in the future; and

(d) re-insurance of insurance referred to in paragraph (a) to (c).

Division IV: Retirement savings

Section 93—Application of Act 766

The provisions of this Division are subject to the National Pensions Act, 2008 (Act 766).

Section 94—Taxation of retirement funds

(1) Subject to section 93 the standard rules for calculation of income and taxation apply to the income of a retirement fund.

(2) Retirement contributions received by a retirement fund are

(a) exempt from tax; and

(b) not to be treated as consideration received for an asset or liability of the fund.

(3) Retirement payments are not

(a) deductible by a retirement fund; and

(b) to be included in the cost of an asset or a liability of the fund.

Section 95—Retirement payments from retirement funds

(1) Where the income derived by a person from an interest in a retirement fund for a year of assessment is to be ascertained, the person doing the calculation shall,

(a) exclude from the income, a retirement payment made by a resident fund in respect of that interest and the payments excluded shall not be regarded as consideration received for that interest; and

(b) include in the income, a gain from an interest in a nonresident retirement fund.

(2) For purposes of this section, “gain from an interest in a nonretirement fund” means the extent to which the retirement payments made by the fund to a beneficiary in respect of an interest in the fund exceed the retirement contributions paid to the fund by the contributor or on behalf of the contributor in respect of the interest.

Section 96—Interpretation

In this Division, unless the context otherwise requires,

“approved retirement fund” means

(a) the Social Security and National Insurance Trust established under the National Pensions Act, 2008 (Act 766); and

(b) an occupational pension scheme, provident fund or personal pension scheme registered under that Act;

“retirement contribution” means a payment made to a retirement fund for the provision or future provision of retirement payments;

“retirement fund” means an entity established and maintained solely for the purposes of accepting and investing retirement contributions in order to provide retirement payments to an individual who is a beneficiary of the entity or a nominated beneficiary of that individual; and

“retirement payment” means a payment, in the nature of a lump sum, pension or commuted pension, made by a person to

(a) an individual in the event of the retirement of that individual; or

(b) a nominated beneficiary of an individual in the event of the death of that individual.

Division V: Public, mutual and non-profit causes

Section 97—Approval of charitable organisation

(1) The Commissioner-General may approve an entity as a charitable organisation for the purposes of this Act.

(2) The Commissioner-General shall, before approving an entity under subsection (1), ensure that

(a) the entity is established to operate as

(i) charitable institution which is of a public nature;

(ii) a religious institution which is of a public nature; or [As Inserted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 8 (a)]

(iii) a body of persons formed for the purpose of promoting social activities or sporting activities; and [As deleted and Inserted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 8 (b)]

(iv) [As deleted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 8 (c)]

(b) the entity has a written constitution that prohibits that entity from

(i) engaging in a party political activity, supporting a political party or using its platform to engage in party politics;

(ii) any function other than those specified in paragraph (a); and

(iii) conferring a private benefit, other than in pursuit of a function of the entity specified in paragraph (a).

(3) The Commissioner-General may for good cause or for the contravention of a requirement specified in subsection (2), revoke an approval granted under subsection (1).

(4) The income accruing to or derived by a charitable organization is exempt from tax.

(5) Subsection (4) does not apply to the business income of the charitable organisation.

(6) The Minister may, by legislative instrument, make Regulations for the effective implementation of this section.

Section 98—Clubs and trade associations

(1) For purposes of this Act, a club, a trade association and any similar institution is a company and any activity engaged in by each of these institutions is considered as conducted in the course of a single business.

(2) Where the income of a club, trade association or similar institution from its business for a year of assessment is to be ascertained, the person doing the calculation shall include in the income, any entrance fees, subscriptions and other amounts derived by that person from members of the club, trade association or similar institution during that year.

(3) The income accruing to or derived by the club, trade association or similar institution is exempt from tax.

(4) Subsection (3) does not apply to the business income of the club, trade association or similar institution.

(5) For purposes of this section,

“member” means

(a) in the case of a club or similar institution, a person who

(i) while a member, is entitled to an interest in the assets of the club or institution in the event of its liquidation; or

(ii) is entitled to vote at a general meeting of the club or institution; and

(b) in the case of a trade association or similar institution, a person who is entitled to vote at a general meeting of the association or institution;

“members’ club” means a club or similar institution in respect of which the assets of the club or similar institution are owned in common by members of that club or institution or held in trust for members of that club or institution, despite section 56(3); and

“trade association” includes

(a) an association of persons

- (i) who are separately engaged in a particular type of business; and
- (ii) formed with the main object of safeguarding or promoting the business interests of the persons; and
- (b) a trade union registered under the Labour Act, 2003 (Act 651).

Section 99—Building societies and friendly societies

- (1) For purposes of this Act, a building society or a friendly society is a company.
- (2) The income of a statutory building society or a registered building society, or a statutory friendly society or a registered friendly society is exempt from tax in a year of assessment if
 - (a) only individuals are eligible to be members of that society and make contributions to that society;
 - (b) the organisation does not engage in party political activities, or support any political party or use its platform to engage in party politics; and
 - (c) the Commissioner-General has given a ruling that the society complies with paragraphs (a) and (b).
- (3) The Commissioner-General may
 - (a) revoke a ruling or refuse to give a ruling as required under subsection (2)(c) where a society breaches a requirement in subsection (2)(a) or (b); or
 - (b) amend a ruling or give a ruling on terms and conditions as the Commissioner-General considers appropriate.

Section 100—Contributions and donations to a worthwhile cause

- (1) Where the income for a year of assessment in respect of a person who has made a donation or contributed to a worthwhile cause is to be ascertained under section 2, the person may claim a deduction that is equal to the contribution and donation made by that person during that year for a worthwhile cause approved by Government under subsection (2).
- (2) The following causes are worthwhile causes approved by Government:
 - (a) a charitable organization which meet the requirements of section 97;
 - (b) a scheme of scholarship for an academic, technical, professional or other course of study;
 - (c) development of any rural area or urban area;
 - (d) sports development or sports promotion; and
 - (e) any other worthwhile cause approved by the Commissioner-General.

PART VII—INTERNATIONAL

Division I: Residence and source

Section 101—Resident person

- (1) An individual is resident in the country for a year of assessment if that individual is
- (a) a citizen, other than a citizen who has a permanent home outside of the country and lives in that home for the whole of that year;
 - (b) present in the country during that year for an aggregate period of one hundred and eighty-three days or more in any twelve month period that commences or ends during that year;
 - (c) an employee or an official of the Government of Ghana posted abroad during that year; or
 - (d) a citizen who is temporarily absent from the country for a period of not more than three hundred and sixty-five continuous days, where that citizen has a permanent home in Ghana.
- (2) For purposes of this Act, a partnership is resident in the country for a year of assessment if any of the partners resided in the country at any time during that year.
- (3) A trust is resident in the country for a year of assessment if
- (a) that trust is established in the country;
 - (b) a trustee of the trust is resident in the country at any time during that year; or
 - (c) a person resident in the country directs or may direct senior managerial decisions of the trust at any time during the year, whether the directive is given
 - (i) alone or jointly with other persons; or
 - (ii) directly or through one or more interposed entities.
- (4) A company is resident in the country for a year of assessment if
- (a) that company is incorporated under the Companies Act, 1963 (Act 179); or
 - (b) the management and control of the affairs of that company are exercised in the country at any time during that year.

Section 102—Change of residence

- (1) A person who is resident in the country during a year of assessment is deemed to be resident for the whole of that year.
- (2) Despite subsection (1), an individual who is resident in the country by reason of section 101(1)(b), is resident from the start of the one hundred and eighty-three day period.
- (3) Subject to subsection (6), where a non-resident person becomes resident in the country, the net cost of any asset held by that person immediately before becoming resident, is equal to the market value of that asset at the time the person became resident.

(4) Subject to subsection (6), where a person resident in the country ceases to be resident, an asset owned by that person immediately before that person became non-resident is considered as realised by that person on the date the person became non-resident.

(5) A person who realises an asset under subsection (4) is considered as having derived in respect of that asset, an amount that is equal to the market value of that asset at the time of the realisation.

(6) Subsections (3) and (4) do not apply to an asset that is a domestic asset of the person immediately before that person became resident or immediately after that person ceased to be resident, respectively.

Section 103—Source of income and quarantining of foreign losses

(1) Where the income of a person employed is derived from a source outside of the country and a source that is in the country, the income of that person derived from the source in the country shall, be calculated separately from the income of that person derived from the source outside of the country.

(2) A person shall calculate income earned that has a source in the country and derived by a person from any business or investment separately from income earned from any business or investment that has a source outside of the country.

(3) A person shall calculate a loss that has a source in the country and incurred by a person from any business or investment separately from a loss that has a source outside of the country incurred by that person from any business or investment.

(4) Income earned by a person from an employment, business or investment has a source in the country to the extent by which the amounts directly included in calculating that income exceed the amounts directly deducted in calculating that income.

(5) A loss incurred by a person from an employment, business or investment has a source in the country to the extent by which the amounts directly deducted in computing that income exceed the amounts directly included in computing that income.

(6) Despite subsection (1), where the income of a person employed is derived primarily from a source outside of the country, that income shall be computed as the worldwide income of that person from that employment and any income of that person derived from a source in the country shall, be deducted from the worldwide income.

(7) Despite subsections (2) and (3), the income from any business or investment of a person that is derived primarily from a source outside of the country or any loss incurred by that person from that business or investment shall, be calculated as the worldwide income or loss of that person from that business or investment and

(a) any income of that person from that business or investment, derived from a source in the country shall, be deducted from that worldwide income; and

(b) any loss incurred by that person from that business or investment, derived from a source in the country shall, be added to that worldwide income.

(8) For purposes of section 17, a person may,

(a) in calculating the loss of a person from an investment, in the case of a loss derived from a source outside of the country; and

(b) in calculating the loss of a person from a business, in the case of a loss derived from a source outside of the country deduct an unrelieved loss.

Section 104—Source of amounts directly included and directly deducted

(1) An amount that is directly included in the calculation of income has a source in the country if it is

(a) consideration received, a gain or an amount referred to in section 5(2)(a) (ii), (iii) or (iv) or section 6(2)(a) (ii) to the extent that a domestic asset or domestic liability is involved; or

(b) a payment that has a source in the country.

(2) An amount that is directly deducted in the calculation of income has a source in the country if

(a) it is

(i) an allowance referred to in section 11(1) or 14, or an expenditure referred to in section 13(1), to the extent that the allowance or expenditure relates to domestic assets;

(b) it is a loss from the realisation of

(i) a capital asset of a business;

(ii) a liability of a business;

(iii) an investment asset, where the asset involved is a domestic asset; or

(iv) an investment liability, where the liability involved is a domestic liability; and

(c) subject to paragraphs (a) and (b), it is a payment that has a source in the country.

Section 105—Payments sourced from the country

The following payments have a source in the country:

(a) dividends paid by a resident company;

(b) interest paid

(i) where the debt obligation giving rise to the interest is secured by real property located in the country;

(ii) by a resident person; or

(iii) by a Ghanaian permanent establishment;

(c) payments

- (i) made in respect of a natural resource situated within the country or its territorial waters and taken from land or the sea; or
- (ii) computed by reference to a natural resource situated within the country or its territorial waters taken from land or the sea;
- (d) rent paid for the use of an asset situate in the country or the right to use an asset situate in the country or forbearance from using an asset situate in the country;
- (e) royalties paid for the use of an asset in the country, right to use an asset in the country or forbearance from using an asset in the country;
- (f) premiums for general insurance paid to a person in respect of the insurance of a risk in the country and proceeds from general insurance paid by a person to an insured person in respect of the insurance of a risk in the country;
- (g) payments received by a person who conducts a relevant transport business as payment for
 - (i) carrying passengers, cargo, mail or other movable tangible assets that are embarked in the country, other than as a result of transshipment; or
 - (ii) renting containers and related equipment which are supplementary or incidental to the business referred to in subparagraph (1);
- (h) payments received by a person who conducts a business of transmitting or receiving messages by cable, radio, optical fibre or satellite or electronic communication in respect of the transmission, reception or emission of messages by an apparatus located in the country, whether or not the messages originate, terminate or are used in the country;
- (i) payments for or attributable to employment, service rendered or a forbearance from exercising employment or rendering a service
 - (i) in the country, regardless of the place of payment, or
 - (ii) where the payer is the Government of Ghana, regardless of the place of employment, rendering of service or a forbearance of that service, including service fees of a type not mentioned in paragraph (g) or (h);
- (j) a return by way of proceeds of life insurance and retirement payments not falling within paragraph (z), paid by a resident person or a permanent establishment in the country, and any premium or retirement contribution paid to a resident person or a permanent establishment in the country to secure the return;
- (k) gifts and other gratuitous payments in respect of business or investment conducted with domestic assets and received by a person;
- (l) gifts or other gratuitous payments in respect of employment or otherwise, and received by a person;
- (m) payments made in respect of

- (i) the acquisition of a domestic asset, incurring a domestic liability or the realisation of that asset or liability; or
- (ii) activity conducted or a forbearance from conducting an activity in the country; and
- (n) any other payments brought into or received in the country by a resident person.

Section 106—Interpretation

In this Division, unless the context otherwise requires,

“domestic asset” means

- (a) an asset owned by a resident person other than foreign land or buildings, or an asset held by a foreign permanent establishment of that person or held by a permanent establishment operating in the country;
- (b) an interest in land or a building situated in the country;
- (c) shares in a resident company where
 - (i) the owner of the shares together with other persons with whom the owner has a controlled relationship,
 - (A) controls twenty-five percent or more of the voting power in the company; or
 - (B) within the previous five years controlled either directly or indirectly, twenty-five percent or more of the voting power in the company; or
 - (ii) the property of the company consists, directly or indirectly through one or more interposed entities, principally of immovable property or interests in land or buildings situated in the country;

“domestic liability” means

- (a) liability owed by a resident person other than a liability attributable to a permanent establishment that is outside of the country and which belongs to that person; or
- (b) a liability attributable to a permanent establishment in the country; and

“relevant transport business” means a business of land, sea or air transport operator or charterer carrying passengers, cargo, mail or other moveable tangible assets.

Division II: Permanent establishment

Section 107—Principles of taxation

- (1) A permanent establishment is an entity separate from its owner and
 - (a) is subject to tax under section 1 in the same manner as a resident company, if the permanent establishment is a Ghanaian permanent establishment; and
 - (b) in accordance with section 111(2), is exempt from tax if that permanent establishment is situated outside of the country.

(2) In accordance with subsection (1),

(a) the income of a permanent establishment and any tax liability is computed as if

(i) that permanent establishment and its owner were separate but are persons in a controlled relationship; and

(ii) that permanent establishment is a person resident in the country in which it is situated;

(b) Part VIII applies directly to a Ghanaian permanent establishment, separate from its owner; and

(c) arrangements between a permanent establishment and its owner are recognised.

(3) A Ghanaian permanent establishment shall, in compliance with Part VIII,

(a) withhold tax from a payment made by that permanent establishment in the same way as a resident company making a payment will do in a similar circumstance;

(b) pay withholding tax on a payment received by that permanent establishment in the same way as a resident company receiving that payment will do in a similar circumstance; and

(c) pay tax by instalments after assessment, in the same circumstances as a resident company.

(4) The arrangements specified in section 109(3) as between a Ghanaian permanent establishment and its non-resident owner are recognised under this Act.

(5) Subject to Part III, where this subsection applies, the following entries are recognised if shown in the same manner in the accounts of the owner and the permanent establishment:

(a) a debt owed by the owner to the permanent establishment or a debt owed by the permanent establishment to the owner, and

(b) interest derived or incurred with respect to a debt obligation referred to in paragraph (a)

but a debt owed by the owner to a third party is not attributed to the permanent establishment

Section 108—Activities, assets and liabilities of a permanent establishment

(1) An activity of a permanent establishment is treated as conducted in the course of a single business.

(2) An activity of a permanent establishment is that activity conducted by the owner through the permanent establishment.

(3) Without limiting the effect of subsections (1) and (2), the following activities are treated as conducted by a Ghanaian permanent establishment:

(a) when the owner employs an individual who is resident in the country;

(b) when the owner makes a sale of trading stock of the same or a similar kind as those sold through the permanent establishment; and

(c) other business activity of the owner which is of the same or a similar kind as that effected through the permanent establishment, conducted with a person resident in the country.

(4) The asset or liability of a permanent establishment is

(a) an asset held by or to the extent employed in an activity of the permanent establishment;

(b) an intangible asset created by or through the permanent establishment;

(c) in the case of a Ghanaian permanent establishment, an intangible asset, to the extent that they may be exploited in the country;

(d) subject to section 107(5), a debt obligation incurred in borrowing money, to the extent that the money is employed in an activity of the permanent establishment or used to acquire an asset referred to in paragraph (a); and

(e) other liabilities arising directly out of an activity of the permanent establishment.

Section 109—Income or loss of a permanent establishment

(1) A person calculating the income of a permanent establishment from its business, shall attribute to the income of the permanent establishment

(a) an amount derived by that permanent establishment in respect of an asset held by that permanent establishment, a liability owed by that permanent establishment or any other activity of that permanent establishment;

(b) a payment received by that permanent establishment in respect of an asset held by that permanent establishment, a liability owed by that permanent establishment or any other activity of that permanent establishment; and

(c) expenditure incurred and payments made for the purposes of

(i) assets held by that permanent establishment;

(ii) liabilities owed by that permanent establishment; or

(iii) any other activity of that permanent establishment, to the extent that the expenditure is properly recorded in the accounts of the permanent establishment.

(2) A permanent establishment

(a) acquires an asset when the ownership rights of the asset is transferred by the previous owner, to that permanent establishment; or

(b) incurs a liability when the liability is a liability of the permanent establishment.

(3) In addition to the circumstances specified in sections 38 and 39, a permanent establishment is considered as having realised an asset held by that permanent establishment or a liability owed by that permanent establishment when the asset or liability ceases to be an asset or liability of that permanent establishment.

Section 110—Interpretation

In this Part, unless the context otherwise requires,

“foreign permanent establishment” means a fixed place of business of a resident person situated in a foreign country where the business is conducted continuously for at least six months, but excludes any place at which only activities of a preparatory or auxiliary nature are conducted;

“Ghanaian permanent establishment” includes

(a) a place in the country where a non-resident person carries on business or that is at the disposal of the person for that purpose;

(b) a place in the country where a person has, is using or is installing substantial equipment or substantial machinery; and

(c) a place in the country where a person is engaged in a construction, assembly or installation project for ninety days or more, including a place where a person is conducting supervisory activities in relation to that project;

(d) the provision of services in the country;

(e) a place in the country where an agent performs any function on behalf of the business of a non-resident person

(i) including, in the case of an insurance business, the collection of premiums or the insurance of risks situated in the country; but

(ii) excluding a case involving a general agent of independent status with its own legal personality acting in the ordinary course of business; and

“owner” means a person who owns a permanent establishment.

Division III: Foreign source of income of a resident

Section 111—Principles of taxation

(1) The income of a resident person derived from a foreign source is taxable.

(2) Despite subsection (1), the income of a resident individual from employment exercised in a foreign country

(a) with a non-resident employer; or

(b) with a resident employer; where the individual is present in the foreign country for one hundred and eighty-three continuous days or more during the year of assessment is exempt from tax.

(3) The Minister may, by legislative instrument, make Regulations to prescribe

(a) the criteria for exempting from tax, the income of a foreign permanent establishment and the foreign income of a resident person;

(b) circumstances in which the income of a foreign permanent establishment is not exempt, but is taxable in the hands of the resident owner with a foreign tax credit; and

(c) circumstances in which the income of a foreign trust or company that is controlled by residents is attributed and taxed to the members of the trust or company.

Section 112—Foreign tax credit

(1) A resident person other than a partnership may claim a foreign tax credit for a year of assessment for any income tax paid by that person to a foreign country and to the extent to which that income tax is paid with respect to the assessable foreign income of that person for the year.

(2) A foreign tax credit claimed under subsection (1)

(a) is to be calculated separately for each year of assessment and separately for assessable foreign income from each employment, business or investment; and

(b) with respect to each calculation, may not exceed the average rate of Ghanaian income tax of the person for the year applied to the assessable foreign income of that person.

(3) A person may elect to relinquish a foreign tax credit available for a year of assessment and claim a deduction for the amount of the income tax paid to the foreign country, but otherwise a deduction is not available for income tax paid to a foreign country.

(4) For purposes of this section,

“average rate of Ghanaian income tax” of a resident person for a year of assessment means the percentage that tax payable by the person under section 1(1)(a) calculated under section 1(3) without subtraction for any foreign tax credit, is of the chargeable income of the person for the year; and

“assessable foreign income” means foreign source income included in the assessable income of a resident person for a year of assessment from the employment, business or investment of the resident person as the case requires.

PART VIII—TAX PAYMENT PROCEDURE

Division I: General obligations

Section 113—Methods and time for payment

(1) Tax imposed under section 1 is payable

(a) by withholding under Division II;

(b) by instalment under Division III; or

(c) on assessment under Division IV.

(2) Tax is payable

(a) in the case of tax payable by withholding, at the time provided for in section 117;

(b) in the case of tax payable by instalment, on the date by which the instalment is to be paid under section 121;

(c) in the case of tax payable on assessment, on the date by which the return of income is filed under section 124; and

(d) in any other case not stated in subsection (1), on the date stated in a notice for payment.

Division II: Tax payable by withholding

Section 114—Withholding by employer

(1) An employer shall withhold tax from the payment of an amount to be included in ascertaining the income of an employee from the employment.

(2) The Minister may, by legislative instrument, make Regulations to prescribe the circumstances in which a resident employer shall withhold tax from a payment that is to be included in calculating the chargeable income of an employee.

(3) The obligation of an employer to withhold tax under subsection (1) is not reduced or extinguished because

(a) the employer has a right or is under an obligation to deduct and withhold any other amount from the payment; or

(b) any other law provides that the income of an employee from employment shall not be reduced or subject to attachment.

Section 115—Withholding from investment returns

(1) Subject to subsection (2), a resident person shall withhold tax at the rate specified in paragraph 8 of the First Schedule where that person

(a) pays any dividend, lottery winning, interest, natural resource payment, rent or royalty to another person; and

(b) the payment has a source in the country.

(2) This section does not apply to

(a) payments subject to withholding under section 114;

(b) payments made by an individual, unless made in conducting a business;

(c) interest paid to a resident financial institution; or

(d) a payment that is an exempt amount.

Section 116—Withholding from supply of goods, service fees and contract payments

(1) Subject to subsection (3), a resident person shall withhold tax at the rate provided for in paragraph 8 of the First Schedule where that person

- (a) pays a service fee with a source in the country to a resident individual
 - (i) as fees or allowances, to a resident director, manager, trustee or board member of a company or trust,
 - (ii) for examining, invigilating, supervising an examination, or part time teaching or lecturing;
 - (iii) as an endorsement fee;
 - (iv) as a commission to a resident lotto receiver or agent
 - (v) as a commission to a sales agent;
 - (vi) as a commission to a resident insurance sales or canvassing agent;
 - (vii) for any other supply of services; or
 - (viii) for any other matter prescribed by Regulations; or
 - (b) pays a service fee or an insurance premium with a source in the country to a non-resident person.
- (2) A resident person, other than an individual, shall withhold tax on the gross amount of the payment at the rate specified in the First Schedule when the person makes a payment to another resident person who does not fall within subsection (1) or section 114 for
- (a) the supply or use of goods,
 - (b) the supply of any works, or
 - (c) the supply of services,
- in respect of a contract between the payee and the resident person.
- (3) Subsection (2) applies to a contract between the payee and a resident person, where the amount of the contract exceeds two thousand currency points.
- (4) For the purpose of determining whether a contract qualifies under subsection (3), two or more contracts in respect of the same goods, works or services shall, be treated as a single contract.
- (5) Subsection (2) does not apply
- (a) to a premium paid to a resident insurance company;
 - (b) to payments under a contract for the sale of goods which constitute trading stock of both the vendor and the purchaser;
 - (c) where the Commissioner-General,
 - (i) for a good cause shown, exempts in writing a person from deducting tax under that subsection in respect of an institution or a specific contract entered into by an institution upon an application made by the institution; or

(ii) is satisfied that a person has a satisfactory tax record and exempts in writing that person from the application of that subsection or exempts specific contracts entered into by that person from that application.

(6) A person who is granted an exemption under paragraph (b) of subsection (5) shall, at the end of every calendar quarter, submit a list of particulars of all payments which would have fallen within subsection(2) but for the exemption.

(7) Subject to subsection (8), the Minister may by legislative instrument, make Regulations to prescribe

(a) that a resident person shall withhold tax when the person makes a payment to a non-resident person of a type referred to in section 105 (g) or (h) in respect of land, sea or air transport or telecommunications services; and

(b) the rate at which the tax referred to in paragraph (a) shall be withheld.

(8) This section does not apply to

(a) a payment subject to withholding under section 114; or

(b) a payment that is an exempt amount. [As substituted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 9]

(9) A resident person shall withhold tax at the rate specified in the First Schedule when the person makes a payment to a non-resident person for the rendering of management and technical services.

(10) A resident person shall withhold tax at the rate specified in the First Schedule from a payment made under a contract with a non resident person for

(a) the supply of goods or works, or

(b) the supply of any services

where the contract gives rise to income from the country.

(11) Where subsection (10) applies, the resident person shall within thirty days of the date of entering into the contract, give notice to the Commissioner-General in writing of

(a) the nature of the contract;

(b) the likely duration of the contract;

(c) the name and postal address of the non-resident person to whom payments under the contract are to be made; and

(d) the total sum estimated to be payable under the contract to the non-resident person.

(12) Subsection (10) does not apply to other payments which are subject to final withholding tax applicable to non-residents under this Act.

Section 117—Statement and payment of tax withheld or treated as withheld

(1) A withholding agent shall pay to the Commissioner-General within fifteen days after the end of each calendar month a tax that has been withheld in accordance with this Division during the month.

(2) A withholding agent shall file with the Commissioner-General within fifteen days after the end of each calendar month a statement in the form prescribed, specifying

(a) payments made by the agent during the period that are subject to withholding under this Division;

(b) the name, address and tax identification number of the withholdee;

(c) tax withheld from each payment; and

(d) any other information that the Commissioner-General may prescribe.

(3) A withholding agent who fails to withhold tax in accordance with this Division shall pay the tax that should have been withheld in the same manner and at the same time as tax that is withheld.

(4) A withholding agent who withholds tax under this Division and pays the tax to the Commissioner-General is treated as having paid the amount withheld to the withholdee for the purposes of any claim by the withholdee for payment of the amount withheld.

(5) A withholding agent who fails to withhold tax under this Division but pays the tax that should have been withheld to the Commissioner-General in accordance with subsection (1) is entitled to recover an equal amount from the withholdee.

(6) Subject to this Act and except where an agreement is ratified by Parliament a provision in an agreement which prohibits the deduction or withholding of a tax required to be deducted or withheld under this Act or any other enactment administered by the Commissioner-General is void.

Section 118—Withholding certificate

(1) A withholding agent shall prepare and serve on a withholdee a withholding certificate, in the prescribed form,

(a) separately for each period referred to in subsections (3) and (4); and

(b) at the time specified in subsections (3) and (4).

(2) A withholding certificate shall specify

(a) the amount of payments made to the withholdee during the period; and

(b) the tax withheld by the withholding agent from the payments under this Division.

(3) Subject to subsection (4), a withholding certificate shall cover a calendar month and shall be served on the withholdee within thirty days after the end of the month.

(4) Where a tax is withheld under section 114, a withholding certificate

(a) shall cover the part of the calendar year during which the employee is employed; and

(b) shall be served on the employee by the 30th of January after the end of the year or, where the employee has ceased employment with the withholding agent during the year, not more than thirty days from the date on which the employment ceased.

Section 119—Final withholding payment

(1) For the purposes of this Act, the following are final withholding payments:

(a) dividends paid by a resident company;

(b) rent paid to a resident individual under a lease of land or a building, with or without associated fittings and fixtures, situate in the country, other than rent received by an individual in conducting a business, sale or letting;

(c) rent other than rent received in conducting a business of sale or letting, paid to a person other than an individual under a lease of land or a building situate in Ghana, with or without associated fittings and fixtures;

(d) payments made to non-resident persons that are subject to withholding under this Division or would be subject to withholding if sections 115(2)(b) and 116(8)(b) were ignored, other than payments derived through a Ghanaian permanent establishment.

(e) payments made to a person under section 116(1)(a)(ii) and (iii); and

(f) lottery winnings. [As Deleted and Inserted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 10]

(2) The following satisfy the tax liability of a withholder under section 1(1)(b):

(a) tax withheld from a final withholding payment under this Division; and

(b) tax paid with respect to a final withholding payment in accordance with section 117(3).

(3) Where a final payment is not subject to withholding, by reason of the fact that the payer is a non-resident, the tax liability of the recipient under section 1(1)(b) with respect to the payment is payable by way of instalment and assessment.

(4) For the purposes of applying Divisions III and IV, the liability is treated as a liability under section 1(1)(a).

Section 120—Credit for non-final withholding tax

(1) A withholder of a payment which is not a final withholding payment is treated as having paid the tax

(a) withheld from the payment under this Division; or

(b) with respect to a payment in accordance with section 117(3).

(2) A withholder is entitled to a tax credit in an amount equal to the tax treated as paid under subsection (1) for the year of assessment in which the payment is derived.

Division III: Tax payable by instalment

Section 121—Payment of tax by quarterly instalment

(1) An instalment payer shall pay tax by quarterly instalments if the person derives or expects to derive assessable income during a year of assessment

(a) from a business or investment, or

(b) from an employment where the employer is not required to withhold tax under section 114.

(2) An instalment payer shall pay tax in instalments

(a) where the basis period of that instalment payer is a twelve month period beginning at the start of a calendar month, on or before the last day of the third, sixth, ninth and twelfth months of the basis period; or

(b) in any other case, at the end of each three-month period commencing at the beginning of each year of assessment and a final instalment on the last day of each year of assessment, unless it coincides with the end of one of the three month periods.

(3) Subject to subsections (4) and (5), the amount of each instalment of tax payable by an instalment payer for a year of assessment is calculated according to the following formula:

[A-B]

C

Where —

A is the current estimated tax payable under this section or section 122 by the instalment payer for the year of assessment;

B is the sum of

(a) tax paid during the year of assessment, but prior to the due date for payment of the instalment, by the person by previous instalment under this section;

(b) tax withheld under Division II during the year, but prior to the due date for payment of the instalment, from payments received by the person that are included in calculating the income for the year of that person; and

(c) tax paid in accordance with section 117 (1) that is paid to the Commissioner-General by a withholding agent or the person as withholder during the year but prior to the due date for payment of the instalment; and

C is the number of instalments remaining for the year of assessment including the current instalment.

(4) The Minister may, by legislative instrument, make Regulations to prescribe for a particular class of persons to pay tax by instalments otherwise than or in substitution for instalments payable under this section.

(5) The Regulations under subsection (4) may prescribe

(a) that a particular or particular class of organised association or recognised occupational group collect from members of the organised association or recognised occupational group, tax payable by those members by instalment under this section;

(b) the terms and conditions under which the tax is to be collected; and

(c) the terms and conditions under which the association or recognised occupational group is to account to the Commissioner-General for the tax.

(6) An instalment payer is entitled to a tax credit for a year of assessment in an amount equal to the tax paid by way of instalment for the year.

(7) For the purposes of this section, “instalment payer” means a person who pays tax in quarterly instalments.

Section 122—Statement of estimated tax payable

(1) A person who is an instalment payer for a year of assessment under section 121 shall file with the Commissioner-General by the date for payment of the first tax instalment an estimate of tax payable for the year.

(2) An estimate under subsection (1) shall, subject to any instructions by the Commissioner-General to the contrary,

(a) be in the form prescribed indicating an estimate of

(i) the assessable income of the person for the year of assessment from each employment, business and investment and the source of that income; and

(ii) the chargeable income of the person for the year and the tax to become payable with respect to that income under section 1 (1)(a); and

(b) attach any other information that the Commissioner-General may require.

(3) Subject to subsection (6) and section 123(3), the tax referred to in subsection (2)(a)(ii) is the estimated tax payable by the person for the year of assessment.

(4) In estimating tax payable for a year of assessment under subsection (2)(a)(ii), a person may take into account

(a) a foreign tax credit to be claimed under section 112; and

(b) foreign income tax, only if the person has paid the tax or the person reasonably estimates that the tax will be paid during the year.

(5) The estimate of an instalment payer under subsection (1) remains in force for the whole of the basis period unless the person files a revised estimate with the Commissioner-General together with a statement of reasons for the revision.

(6) A revised estimate filed by a person under subsection (5) is the estimated tax payable by that person for the year of assessment, but only for the purposes of calculating instalments payable under section 121 after the date the revised estimate is filed with the Commissioner-General.

Section 123—Statement of estimated tax payable not required

(1) The Commissioner-General may, by notice in writing, specify that an instalment payer or class of instalment payers is not required to submit an estimate under section 122.

(2) Where an instalment payer is not required to submit an estimate by reason of subsection (1), the Commissioner-General shall

(a) make an estimate of the estimated tax payable by that person for the year of assessment, which may be based on the tax payable for the previous year of assessment with an upward adjustment; and

(b) serve on the instalment payer a written notice stating the estimate of the Commissioner-General and the manner in which the estimate is calculated.

(3) For the purposes of section 121, where the Commissioner-General serves a notice under subsection (2), the estimated tax payable by the person for the year of assessment is the amount estimated by the Commissioner-General.

Division IV: Tax payable on assessment

Section 124—Return of income

(1) Subject to section 125, a person shall file with the Commissioner-General not later than four months after the end of each basis period a return of income for the year. [As substituted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 11]

(2) A return of income of a person for a year of assessment shall, subject to any instructions by the Commissioner-General to the contrary

(a) be in the prescribed form and specify

(i) the assessable income of the person for the year from each employment, business and investment and the source of that income;

(ii) the chargeable income of the person for the year and the tax payable with respect to that income under section 1(1)(a);

(iii) tax paid by the person for the year by withholding, instalment or assessment for which a tax credit is available under section 120 or 121; and

(iv) the remainder of the tax to be paid for the year calculated as the sum of the tax referred to in subparagraph (ii) less the tax already paid under sub paragraph (iii);

(b) have attached

(i) any withholding certificates supplied to the person under section 118 with respect to payments derived by the person during the year; and

(ii) any other information that the Commissioner-General may require.

Section 125—Return of income not required

(1) Subject to subsection (2), a return of income for a year of assessment is not required under section 124 from

(a) a resident individual who does not have tax payable for the year under section 1(1)(a); or [As substituted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 12]

(b) a non-resident person who has no tax payable for the year under section 1(1)(a).

(2) Despite subsection (1), the Commissioner-General may serve a notice in writing on a person specified in subsection (1) requiring that person to file a return of income.

(3) Despite subsection (1), a person may elect to file a return of income even though the person is not required to do so.

Section 126—Assessment

A return of income filed under section 124 shall result in a self-assessment.

Section 127—Regulations

(1) The Minister may, by legislative instrument, make Regulations

(a) for matters authorised to be made or prescribed under this Act;

(b) amending a Schedule to this Act or any monetary amount set out in this Act;

(c)[As repealed by the Standard for Automatic Exchange of Financial Account Information Act, 2018 (Act 967), s. 20]; and

(d) for the better carrying into effect of the provisions of this Act.

(2) [As repealed by the Standard for Automatic Exchange of Financial Account Information Act, 2018 (Act 967), s. 20]

(3) [As repealed by the Standard for Automatic Exchange of Financial Account Information Act, 2018 (Act 967), s. 20]

PART IX—INTERPRETATION

Section 128—Persons in a controlled relationship

(1) For the purposes of this Act, two or more persons are in a controlled relationship where the relationship between the persons is

(a) that of an individual and a relative of the individual;

(b) that of partners in the same partnership;

(c) that of an entity and a person referred to in subsection (2);

(d) that of a settlor, trustee and beneficiary; or

(e) in a case not covered by paragraph (a) to (d), such that a person, not being an employee, acts in accordance with the directions, requests, suggestions, or wishes of another person whether or not the persons are in a business relationship and whether or not those directions, requests, suggestions, or wishes are communicated to that other person.

(2) A person and an entity are in a controlled relationship where

(a) the person controls the entity or may benefit from fifty percent or more of the voting power or rights to income or capital of the entity,

(i) either alone or together with persons who, under another application of this section, are associated with the person; and

(ii) whether directly or through one or more interposed entities; or

(b) the person, under another application of this section, is an associate of a person referred to in paragraph (a).

(3) Two persons are not associated persons under subsection (1)(a) or (b) where the Commissioner-General is satisfied that, having regard to the prevailing circumstances, it is not reasonable to expect that either person will act in accordance with the intentions of the other.

(4) For purposes of this section, “relative” in relation to an individual, means the individual's child, spouse, parent, grandparent, grandchild, sibling, aunt, uncle, nephew, niece or first cousin, including by way of marriage or adoption.

Section 129—Company

Despite the definition of a company in section 133, each of the following is treated as a company for the purposes of this Act,

(a) a partnership in which at least twenty of the partners have limited liability for the debts of the partnership; and

(b) a trust with at least twenty beneficiaries whose entitlements to participate in the income or capital of the trust are divided into units such that the entitlements are determined by the number of units owned.

Section 130—Domestic and excluded expenditure

(1) Where an individual incurs expenditure in respect of that individual, the expenditure is domestic expenditure to the extent that it is incurred

(a) in maintaining the individual, including the provision of shelter, meals, refreshment, entertainment or other leisure activities;

(b) by the individual in commuting from home;

(c) in acquiring clothing for the individual, other than clothing that is not suitable for wearing outside of work; or

(d) in educating the individual, other than education that is directly relevant to a business conducted by the individual and that does not lead to a degree or diploma.

(2) Where another person incurs expenditure in making a payment to or providing any other benefit for an individual, the expenditure is domestic expenditure except to the extent that

(a) the payment or benefit is included in the calculation of the income of the individual;

(b) the individual provides consideration of an equal market value for the payment or benefit; or

(c) the amount of the expenditure is so small as to make it unreasonable or administratively impracticable to account for.

(3) Expenditures referred to in subsections (1) and (2) include interest incurred on the amount borrowed that is used in a manner referred to in subsections (1) and (2).

(4) For the purposes of this Act, unless the context otherwise requires

“excluded expenditure” means

(a) tax payable under this Act;

(b) bribes and expenditure incurred in corrupt practices;

(c) interest, penalties and fines paid or payable to a government or a political subdivision of a government of any country for breach of any legislation;

(d) expenditure to the extent incurred by a person in deriving exempt amounts or final withholding payments;

(e) retirement contributions, unless they are included in calculating the income of an employee under section 4(2)(a)(vi); [As deleted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 13 (a)]

(f) dividends of a company; and [As substituted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 13 (b)]

(g) depreciation of a fixed asset. [As inserted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 13 (c)]

Section 131—Financial instruments

(1) In this Act, unless the context otherwise requires,

“financial instrument”

(a) means

(i) a debt claim or debt obligation;

(ii) a derivative instrument;

(iii) a foreign currency instrument; and

(iv) any other instrument prescribed by Regulations or, in the absence of Regulations, treated as a financial instrument by generally accepted accounting principles; and

(b) except to the extent specified in Regulations, excludes a membership interest in an entity.

(2) For the purposes of this Act, unless the context otherwise requires.

(a) “debt claim” means a right to receive a payment under a debt obligation;

(b) “debt obligation” means an obligation to make a payment to another person that is denominated in money and is in the nature of accounts payable and the obligations arising under deposits, debentures, stocks, shares, treasury bills, promissory notes, bills of exchange and bonds;

(c) “derivative instrument” has the meaning prescribed by Regulations and, in the absence of Regulations, takes its meaning from generally accepted accounting principles; and

(d) “foreign currency instrument” has the meaning prescribed by Regulations and, in the absence of Regulations, takes its meaning from generally accepted accounting principles.

(3) For the purposes of this Act, a person

(a) derives a financial gain when the person derives interest from a financial instrument; and

(b) incurs a financial cost when the person incurs losses with respect to a financial instrument.

(4) For the purposes of this Act, a person

(a) derives a relevant financial gain when the person derives a financial gain from a derivative or foreign currency instrument; and

(b) incurs a relevant financial cost when the person incurs a financial cost with respect to a derivative or foreign currency instrument.

Section 132—Derivative amount

(1) The provisions of this Act shall not be construed as subjecting an amount to a particular treatment just because it is paid, in whole or in part, out of an amount that is subject to a particular treatment.

(2) For purposes of this section, “subjecting an amount to a particular treatment” includes exempting the amount or providing a concession with respect to the amount.

Section 133—Interpretation

(1) In this Act, unless the context otherwise requires-

“annuity” includes a series of payments of a recurring nature made pursuant to a contractual obligation, other than payments of rent or royalties;

“arrangement” means

(a) an action, agreement, course of conduct, dealing, promise, transaction, understanding or undertaking, whether express or implied, whether or not enforceable by legal proceedings and whether unilateral or involving more than one person; or

(b) a part of an item described in paragraph (a);

“asset” includes property of any kind whether tangible or intangible, currency, goodwill, know-how, a right to income or future income, a benefit that lasts longer than twelve months, a part of or any right or interest in, to or over an asset;

“associate” means a person who is in a controlled relationship with another person and has the meaning assigned in section 128;

“business”

(a) includes

(i) a trade, profession, vocation or isolated arrangement with a business character; and

(ii) a past, present or prospective business; but

(b) excludes an employment;

“capital asset”

(a) includes an asset to the extent to which it is employed in a business or investment; but

(b) excludes trading stock or a depreciable asset;

“close company” means a company owned by not more than five persons;

“Commissioner-General” means the Commissioner-General appointed under section 13 of the Ghana Revenue Authority Act, 2009 (Act 791);

“company” means a company incorporated under the laws of Ghana or elsewhere and includes

(a) a friendly society, building society or similar society;

(b) a pension fund, provident fund, retirement fund, superannuation fund or similar fund; and

(c) a government, a political subdivision of a government, or a public international organization but does not include a partnership or a trust;

“consideration received” for an asset has the meaning assigned in section 37;

“cost” in relation to an asset has the meaning assigned in section 36;

“currency point” means one Cedi;

“debt claim” has the meaning assigned in section 131;

“debt obligation” has the meaning assigned in section 131;

“depreciable asset”

(a) means an asset to the extent to which it is employed in the production of income from a business and which is likely to lose value because of wear and tear, obsolescence or the effluxion of time; and

(b) does not include goodwill, an interest in land, a membership interest in an entity and trading stock;

“derived”, with respect to income or an amount, includes accrued;

“dividend” means

(a) a payment derived by a member from a company, whether received as a division of profits, in the course of a liquidation or reconstruction, in a reduction of capital or redeemable preference shares or otherwise;

(b) an amount treated as dividends in a situation where the Commissioner-General makes a deemed distribution of dividends in the case of a close company;

and includes a capitalisation of profits

(c) whether by way of a bonus share issue, increase in the amount paid-up on shares or otherwise; and

(d) whether an amount is distributed or not;

but does not include a payment to the extent to which it is

(e) matched by a payment made by the member to the company;

(f) debited to a capital, share premium or similar account; or

(g) otherwise constitutes a final withholding payment or is included in computing the income of the member;

“domestic expenditure” has the meaning assigned in section 130

“employee” means an individual engaged in employment;

“employer” means the person who engages or remunerates an employee in employment;

“employment” means

(a) a position of an individual in the employ of another person;

- (b) a position of an individual as manager of an entity other than as partner of a partnership;
- (c) a position of an individual entitling the individual to a fixed or ascertainable remuneration in respect of services performed; and
- (d) a public office held by an individual;

“entity” means a company, partnership or trust, but does not include an individual;

“excluded expenditure” has the meaning assigned in section 130;

“exempt amount” means an amount exempt by reason of section 7, 57, 59 or 111 or the Sixth Schedule;

“expense” means a payment made that reduces the assets of the person making the payment;

“final withholding payment” has the meaning assigned in section 119;

“financial institution” means

- (a) a bank regulated under the Banking Act , 2004 (Act 673);
- (b) a non-banking financial institution regulated under the Non-Banking Financial Institutions Act, 2008 (Act 774); or
- (c) any other category of person prescribed by Regulations;

“financial cost” has the meaning assigned in section 131;

“financial gain” has the meaning assigned in section 131;

“financial instrument” has the meaning assigned in section 131;

“gain” in relation to the realisation of an asset or liability has the meaning assigned in section 35;

“generally accepted accounting principles” means the generally accepted accounting principles that the Institute of Chartered Accountants (Ghana) may adopt;

“interest” includes

- (a) a payment, in the nature of a discount or premium, made under a debt obligation that is not a return of capital;
- (b) a swap or other payment functionally equivalent to interest;
- (c) a commitment, guarantee or service fee paid in respect of a debt obligation or swap agreement; and
- (d) a distribution by a building society;

"investment" includes

- (a) the owning of one or more assets of a similar nature or that are used in an integrated fashion; or

(b) a present, past or prospective investment; but does not include business or employment;

“investment asset”

(a) includes a capital asset held as part of an investment being shares or securities in a company, a beneficial interest in a trust or an interest in land or buildings, but

(b) excludes the primary private residence of an individual, provided the residence has been owned by the individual continuously for the three years before disposal and lived in on a daily basis for at least two of those three years;

“lease” means an arrangement providing a person with a temporary right in respect of an asset of another person, other than money, and is in the nature of a licence, profit-a-prendre, option, rental agreement, royalty agreement or tenancy;

“manager”, in relation to an entity

(a) means a councillor, director, manager, member, officer or other person who participates or may participate, whether alone or jointly with other persons, in making senior management decisions on behalf of the entity; and

(b) includes

(i) a partner of a partnership and a trustee of a trust;

(ii) a person treated as a manager of an entity by another tax law;

(iii) a person in accordance with whose directions and instructions the entity or a person described in the rest of this definition is required or accustomed to act; and

(iv) a non-resident person with respect to a Ghanaian permanent establishment owned by the person under section 106;

“market value” of a payment, asset or liability is determined in accordance with section 26;

“member” in relation to an entity means a person who owns a membership interest in the entity;

“membership interest” in an entity means a right, whether of a legal or equitable nature, and is in the nature of a contingent right to participate in income or capital of the entity, the interest of a partner in a partnership, the interest of a beneficiary in a trust and shares in a company;

“Minister” means the Minister responsible for Finance;

“natural resource” means minerals, petroleum, water or any other non-living or living resource that may be taken from land or the sea;

“natural resource payment” means a payment in the nature of a premium or like amount, for the right to take natural resources from land or the sea or calculated in whole or part by reference to the quantity or value of natural resources taken from the land or the sea;

“net cost” for an asset or liability at a particular time is

(a) in the case of a depreciable asset, the share of the written down value of the pool to which it belongs at that time apportioned according to the market value of all the assets in the pool; and

(b) in the case of any other asset or a liability, the amount by which cumulative costs for the asset or liability exceed cumulative consideration received for the asset or liability to the time;

“partnership” means an association of two or more individuals or corporations carrying on business jointly for the purpose of making profit, irrespective of whether the association is recorded in writing;

“payment” includes an amount paid or payable in cash or kind, and the conferring of value or a benefit in any form by one person on another person and is in the nature of

(a) the transfer by one person of an asset or money to another person or the transfer by another person of a liability to the one person;

(b) the creation by one person of an asset that on creation is owned by another person or the decrease by one person of a liability owed by another person;

(c) the supply of services by one person to another; and

(d) the making available of an asset or money owned by one person for use by another person or the granting of use of an asset or money to another person;

“permanent establishment” means a Ghanaian permanent establishment or foreign permanent establishment within the meanings assigned in section 107;

“person” means an individual or entity;

“redundancy pay” has the meaning assigned in section 65 of the Labour Act, 2003 (Act 651);

“relative” has the meaning assigned in section 128;

“relevant financial cost” has the meaning assigned in section 131;

“relevant financial gain” has the meaning assigned in section 131;

“rent” includes

(a) a payment, including a payment of a premium or like amount, for the use of or right to use property including equipment of any kind; and

(b) a payment for the rendering of, or the undertaking to render, assistance ancillary to a use or a right referred to in paragraph (a);

but excludes a natural resource payment or a royalty;

"residence" or "resident" with respect to a person is determined in accordance with section 101;

"retirement contribution" has the meaning assigned in section 96;

"retirement fund" has the meaning assigned in section 96;

"retirement payment" has the meaning assigned in section 96;

"royalty" includes a payment of a premium or like amount, derived as consideration for

(a) the use of or right to use a copyright of literary, artistic or scientific work, including cinematograph films, software or video or audio recordings, whether the work is in electronic format or otherwise;

(b) the use of or right to use a patent, trade mark, design or model, plan, or secret formula or process;

(c) the use of or right to use any industrial, commercial, or scientific equipment;

(d) the use of or right to use information concerning industrial, commercial, or scientific experience;

(e) the rendering of or the undertaking to render assistance ancillary to a matter referred to in paragraph (a), (b), (c) or (d); or

(f) a total or partial forbearance with respect to a matter referred to in paragraph (a), (b), (c), (d) or (e);

"service fee" means a payment to the extent to which, based on market values, it is reasonably attributable to services rendered by a business of a person, but excludes interest, rent or a royalty;

"shareholder" means a person who is a member of a company;

"small scale mining" has the meaning assigned in the Minerals and Mining Act, 2006 (Act 703);

"state owned or state sponsored educational institution" means an educational institution

(a) established by the Government of Ghana or any political division of the Government, whether district, municipal or metropolitan authority, and usually regulated in matters of detail by the government or that division and maintained at public expense by taxation and open, usually without charge or with minimal charge, to the children of all the residents of that division or other divisions; or

(b) belonging to the public and established, conducted or managed under public authority by the central government or a political division of the central government;

"trading stock" means assets owned by a person that are sold or intended to be sold in the ordinary course of a business of the person, work in progress on the assets, inventories of materials to be incorporated into the assets and consumable stores;

"trust" means an arrangement under which a trustee holds assets;

"trustee" means an individual or body corporate holding assets in a fiduciary capacity for the benefit of identifiable persons or for some object permitted by law and whether or not

(a) the assets are held alone or jointly with other individuals or bodies corporate; or

(b) the individual or body corporate is appointed or constituted trustee by personal acts, by will, by order or declaration of a court or by other operation of the law; and

(c) includes

(i) an executor, administrator, tutor or curator;

(ii) a liquidator, receiver, trustee in bankruptcy or judicial manager;

(iii) a person having the administration or control of assets subject to a usufruct, fideicommissum or other limited interest;

(iv) a person who manages the assets of an incapacitated individual; and

(v) a person who manages assets under a private foundation or other similar arrangement;

“underlying ownership”

(a) in relation to an entity, means membership interests owned in the entity, directly or indirectly through one or more interposed entities, by individuals or by entities in which no person has a membership interest; or

(b) in relation to an asset owned by an entity, is determined as though the asset is owned by the persons having underlying ownership of the entity in proportion to that ownership of the entity;

“withholdee” means a person receiving or entitled to receive a payment from which tax is required to be withheld under Division II of Part VIII;

“withholding agent” means a person required to withhold tax from a payment under Division II of Part VIII; and

“year of assessment” has the meaning assigned in section 18.

PART X—TEMPORARY AND TRANSITIONAL PROVISIONS

Division I: Temporary provisions

Section 134—Temporary concession

(1) The provisions of the Sixth Schedule provide for concessions of a temporary nature.

(2) Unless expressly stated to the contrary, the provisions of the Sixth Schedule apply strictly and only in accordance with their clear wording.

(3) A person is not entitled to a concession in the Sixth Schedule if an associated person has benefited or is benefiting from that concession.

(4) This section does not apply as between two associated individuals who are residents.

(5) For the purposes of this Act, where a provision of the Sixth Schedule applies to grant a concession to a person with respect to a particular type of business

- (a) the business is construed narrowly and only the person's activities devoted wholly, exclusively and necessarily to that business are treated as part of the business;
 - (b) the income gained by a person or loss incurred by a person from the business for a year of assessment is calculated separately from any other activity of the person; and
 - (c) an unexpired period granted under the concession shall be treated as having been transferred to a new owner of the business in case of transfer of ownership of the business and that concession shall not commence with the new ownership.
- (6) Unless expressly stated to the contrary the income of a person entitled to a concession in the Sixth Schedule is subject to tax at the rate provided for in the First Schedule

Section 135—Agreements affecting tax

(1) Subsections (2) and (3) apply where the Government of Ghana has concluded, whether before or after the commencement of this Act, a binding agreement with a person that purports to modify the manner in which tax is imposed, including by reason of a fiscal stability clause.

(2) Where this subsection applies, the provisions of the old tax law that are modified or protected by the agreement continue to apply until the earlier of

- (a) the end of the agreement or relevant clauses in the agreement;
- (b) the first alteration of the agreement after the commencement of this Act; and
- (c) the relinquishment by the person of the person's right to modified tax treatment.

(3) Where this subsection applies, the Commissioner-General may, in calculating the tax liability of the person during the application period referred to in subsection (2),

- (a) continue to apply other provisions of the old tax law,
 - (i) that the Commissioner-General considers are associated with or that have an application that is consequential upon the provisions mentioned in subsection (2); and
 - (ii) instead of applying the corresponding provisions under the new tax law; and
- (b) not apply any provisions in the new tax law that have no corresponding provision in the old tax law.

(4) For purposes of this section, [As renumbered by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 14]

“fiscal stability clause” refers to a clause in an agreement that provides that certain provisions of a tax law at the time of the agreement will continue to apply or not be altered to the detriment of a contracting party;

“new tax law” means a tax law after it has been modified or excluded by an agreement referred to in subsection (1), but without considering any such modification or exclusion; and

“old tax law” means a tax law as applicable immediately before it is modified or protected by an agreement referred to in subsection (1).”

Division II: Repeals, savings, transitional provisions and commencement

Section 136—Repeals and savings

(1) The following enactments are repealed:

(a) subject to section 138, the Internal Revenue Act, 2000 (Act 592); and

(b) any other laws to the extent that they are inconsistent with the provisions of this Act.

(2) Despite the repeal of the enactments in subsection (1), the Regulations, notices, orders, directions, appointments or any other act lawfully made or done under the repealed enactments and in force immediately before the commencement of this Act shall, be considered to have been made or done under this Act with necessary modifications and shall continue to have effect until reviewed, cancelled or terminated

(3) Any right or privilege acquired by a person under the repealed legislation ceases to exist on the date this Act comes into effect under section 139, unless it is expressly provided in this Part or in the Regulations that the right or privilege is to remain in existence.

Section 137—Consequential amendments

[As repealed by the Standard for Automatic Exchange of Financial Account Information Act, 2018 (Act 967), s. 20]

Section 138—Transitional provisions

(1) The repealed legislation continues to apply for years of assessment commencing prior to the date on which this Act comes into effect

(2) A reference in this Act to

(a) a previous year of assessment includes, where the context requires, a reference to a year of assessment under the repealed legislation; or

(b) this Act or to a provision of this Act includes, where the context requires, a reference to the repealed legislation or to a corresponding provision of the repealed legislation, respectively.

(3) The Minister may, by legislative instrument, make Regulations to prescribe transitional measures for the implementation of this Act.

Section 139—Provisions for tax administration

Until the date the Revenue Administration law administered by the Ghana Revenue Authority comes into force, the Seventh Schedule shall, in addition to the Ghana Revenue Authority Act 2009 (Act 791) be used to administer this Act.

SCHEDULE

FIRST SCHEDULE

Tax Rates

(Sections 1, 63, 71, 77, 85, 115 and 116)

1. Rates of income tax for individuals

(1) Subject to subparagraph (3) and the Second Schedule, the chargeable income of a resident individual for a year of assessment is taxed at the following rates:

	CHARGEABLE INCOME	RATE OF TAX (%)
1.	FIRST GH ¢3,132	NIL
2.	NEXT GH ¢840	5 percent
3.	NEXT GH ¢ 1,200	10 percent
4.	NEXT GH ¢33,720,	17.5 percent
5.	NEXT GH ¢81,108	25 percent
6.	Exceeding GH ¢120,000	35 percent

[As substituted by the Income Tax (Amendment) (No. 2) Act, 2017 (Act 973), s. 1 (a)]

(b) (2) Subject to subparagraph (3), the chargeable income of a non-resident individual for a year of assessment is taxed at the rate of twenty five percent. [As substituted by the Income Tax (Amendment) (No. 2) Act, 2017 (Act 973), s. 1 (b)]

(2) Subject to subparagraph (3), the chargeable income of a non-resident individual for a year of assessment is taxed at the rate of twenty percent.

(3) Where the chargeable income of an individual includes a gain from the realisation of an investment asset not charged elsewhere, the individual may elect that

(a) the gain from the realisation of the investment asset, less any loss from the realisation of that asset is taxed at the rate of fifteen percent; and

(b) the remainder of the chargeable income of the individual be taxed at the rates referred to in subparagraph (1) or (2) as the case requires.

(4) Where an individual receives a gift other than a gift received in respect of business or employment, the individual may elect to pay tax at the rate of fifteen percent.

(5) The remainder of the chargeable income of the individual is taxed at the rate referred to in subparagraph (1) or (2) as the case requires."; and [As inserted the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 15 (a)]

2. Rate of income tax for trusts

The chargeable income of a trust for a year of assessment is taxed at the rate of twenty-five percent.

3. Rates of income tax for companies

(1) The chargeable income of a company other than a company principally engaged in the hotel industry and income from goods and services provided to the domestic market by a Free Zone Enterprise after its concessionary period for a year of assessment is taxed at the rate of twenty-five percent.

(2) The chargeable income of a company principally engaged in the hotel industry for a year of assessment is taxed at the rate of twenty-two percent.

(3) The chargeable income of a company from the export of non-traditional goods for a year of assessment is taxed at the rate of eight percent.

(4) The chargeable income derived by a financial institution from a loan granted to a farming enterprise for use by that enterprise in the production of income is taxed at the rate of twenty percent.

(5) The chargeable income derived by a financial institution from a loan granted to a leasing company for the use by that company for the funding or acquisition of assets for lease is taxed at the rate of twenty percent.

(6) The chargeable income of a company for a year of assessment from a manufacturing business not included in subparagraphs (1) and (3), other than a manufacturing business located in Accra or Tema, is taxed at the rates indicated below:

Location	Rate of Income Tax
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(a) Manufacturing business located in the regional capitals of the country	
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(b) Manufacturing business located elsewhere in the country	75 percent of the rate of income tax applicable to other income under sub-paragraph (1)
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50 percent of the rate of income tax applicable to other income under sub-paragraph (1)".

[As substituted by the Income Tax (Amendment) Act, 2015 (Act 902), s. 1 (b)]

(6A) The income tax rate applicable to the chargeable income of a business referred to in subparagraphs (1), (2), and (3) of paragraph 1 of the Sixth Schedule for the next five year period

after the temporary concession period is: [As substituted by the Income Tax (Amendment) (No. 2) Act, 2017 (Act 956), s 3 (b)]

(7) In this paragraph, “non-traditional goods” include

- (a) horticultural products;
- (b) processed and raw agricultural products grown in Ghana, other than cocoa beans;
- (c) wood products, other than lumber and logs;
- (d) handicrafts; and
- (e) locally manufactured goods.

4. Rates of income tax for Free Zone Enterprises

The chargeable income of a Free Zone Enterprise after the concessionary period from the export of goods and services outside of the national customs territory for a year of assessment is taxed at the rate of fifteen percent.

5. Rate of Petroleum Income Tax

The chargeable income of a person from petroleum operations for a year of assessment is taxed at the rate of thirty-five percent.

6. Rate of Mineral Income Tax

The chargeable income of a person from mineral operations for a year of assessment is taxed at the rate of thirty-five percent.

7. Rate of tax on persons entitled to concessions under the Sixth Schedule

The income of a person entitled to a concession in the Sixth Schedule is subject to tax at the rate of one percent of chargeable income.

8. Rates of withholding tax

(1) The rates of tax to be withheld from payments under Division II of Part VIII are:

- (a) a payment to which section 114 applies
 - (i) in the case of a resident withholdee, at the rates specified in paragraph 1 (1) of this Schedule or as amended by Regulations; and
 - (ii) in the case of a non-resident withholdee, twenty percent;
- (b) a payment to which section 115 applies
 - (i) in the case of dividends, eight percent;
 - (ii) in the case of interest paid to individuals, one percent;
 - (iii) in the case of any other interest , eight percent;

- (iv) in the case of rent paid to an individual for residential property, eight percent;
- (v) in the case of rent paid to an individual for non-residential property, fifteen percent;
- (vi) in the case of rent paid to a person other than an individual for residential property, eight percent;
- (vii) in the case of rent paid to a person other than an individual for non-residential property, fifteen percent;
- (viii) [As deleted by the Income Tax (Amendment) (No.2) Act, 2017 (Act 956), s. 3 (c)]
- (ix) in the case of natural resource payments and royalties, fifteen percent; and
- (c) a payment to which section 116 applies
 - (i) in the case of service fees referred to in section 116(1)(a)(i), twenty percent;
 - (ii) in the case of service fees referred to in section 116(1)(a)(ii) - (vi), ten percent;
 - (iiA) in the case of service fees referred to in section 116 (1) (a) (vii), fifteen percent; [As inserted by the Income Tax (Amendment) Act, 2015 (Act 902), s. 1 (c)]
 - (iii) in the case of service fees referred to in section 116(1)(b) , twenty percent;
 - (iv) in the case of insurance premiums referred to in section 116(1)(b), five percent;
 - (v) in the case of goods referred to in section 116(2)(a), three percent;
 - (vi) in the case of works and service fees referred to in section 116 (2)(b) five percent;
 - (vii) in the case of service fees referred to in section 116 (2)(c), 7.5 percent; [As substituted by the Income Tax (Amendment) Act, 2016 (Act 907), s. 2 (b)]
 - (viiA) in the case of service fees referred to in subparagraph (vii) of paragraph (a) of subsection (1) of section 116, seven and a half percent; [As inserted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 15 (c)]
 - (viii) in the case of management and technical service fees referred to in section 116(9), twenty percent; and
 - (ix) in the case of goods and works referred to in section 116(10), twenty percent.
- (2) The rate of tax to be withheld from the payment to which subsection (4) of section 71 applies is,
 - (a) in the case of a non-resident person, fifteen percent; and
 - (b) in the case of a resident person, seven and a half percent. [As substituted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 15 (d)]
- (3) The rate of tax to be withheld from a payment under section 85(2) is three percent of the amount. [As substituted by the Income Tax (Amendment) Act, 2016 (Act 907), s. 2 (c)]

(4) The rate of tax to be withheld from a payment under section 105(g) and (h) is fifteen percent of the amount.

9. Change of rate

Where a rate referred to in paragraph 1 to 7 changes during a year of assessment

(a) a tentative tax shall be computed by applying the rate in force before and after the effective date of the change to the chargeable income of the person for the entire year; and

(b) the income tax payable by the person for the year is the sum of the portion of the tentative tax that the number of months in each part of the year during which the attributable rate is in force bears to the number of months in the year of assessment.

SECOND SCHEDULE

Modified Taxation

(Section 1(5))

1. Principles of modified taxation

This Schedule modifies the taxation of eligible resident individuals by

(a) imposing a presumptive tax on individuals that only have income from the businesses specified in paragraphs 3 and 4; and

(b) applying a modified cash basis in calculating income from the businesses specified in paragraph 5.

2. Presumptive taxation

(1) Presumptive taxation applies where

(a) the chargeable income of a resident individual for a year of assessment consists exclusively of income from a business;

(b) the income is exclusively from sources within Ghana; and

(c) the individual

(i) is not registered for value added tax purposes and has an annual turnover of not more than twenty thousand Cedis from the business, computed as an average of the turnover for three consecutive years ending in the year of assessment; or

(ii) has an annual turnover of more than twenty thousand Cedis from the business and is not required to register for value added tax purposes.

(2) For purposes of subparagraph (1)(c), where the average turnover of an individual is not available for the period specified, the Commissioner-General may determine how the turnover is to be calculated.

3. Exclusions from presumptive tax

(1) The following individuals are excluded from presumptive taxation under paragraphs 4 and 5, even if they meet the requirements of paragraph 2:

- (a) an individual who has a professional qualification;
- (b) an individual who is engaged in a business prescribed by regulations that has a high profit to turnover ratio;
- (c) an individual who has more than one business
- (d) an individual who has a business with more than one business outlet
- (e) an individual in a partnership; and
- (f) an individual who elects to disapply paragraphs 4 and 5 for a year of assessment.

(2) Where an individual elects to disapply paragraphs 4 and 5, paragraphs 4 and 5 shall not apply to that individual for that year of assessment and the following five years of assessment, but that individual may qualify for modified cash basis taxation under paragraph 6.

4. Presumptive tax based on instalments

Where presumptive taxation applies to an individual as referred to in paragraph 2(1)(c)(i), the tax payable by that individual for a year of assessment under section 1(1)(a) is the total of instalments payable by that individual for a year of assessment under section 121.

5. Presumptive tax based on turnover

Where presumptive taxation applies to an individual as referred to in paragraph 2 (1) (c) (ii), the tax payable by that individual for a year of assessment under section 1 (1) (a) is three percent of the turnover of the business, where the turnover is more than twenty thousand cedis but does not exceed two hundred thousand cedis. [As substituted by the Income Tax (Amendment) Act, 2015 (Act 902), s. 2 (a)]

6. Modified cash basis

(1) The modified cash basis under subparagraph (2) applies where

- (a) the assessable income of a resident individual for a year of assessment from all businesses conducted by that individual consists exclusively of income from sources in the country; and
- (b) the turnover of that individual does not exceed two hundred thousand cedis, calculated using the modified cash basis.[As substituted by the Income Tax (Amendment) Act, 2016 (Act 902), s. 2 (b)]

(2) Where the modified cash basis applies as referred to in subparagraph (1) the income of an individual from a business for a year of assessment shall be calculated

(a) according to the standard rules for calculating income from a business; and

(b) using the modified cash basis of accounting.

(3) For the purpose of subparagraph (2)(b), sections 17, 21(4), 25, 26 and 31 do not apply to the calculation of the income of an individual from a business for a year of assessment.

(4) In this Schedule, “turnover of a business for a year” means the amount derived from the business during the year that is required to be included in calculating income from the business under section 5(2)(a), (i)(ii) and (vii) only.

THIRD SCHEDULE

Capital Allowances

(Sections 5, 14, 67 and 81)

Part I: General

1. Classification and pooling of depreciable assets

(1) Depreciable assets are classified as follows:

CLASS DEPRECIABLE ASSETS

1 Computers and data handling equipment together with peripheral devices.

2 (i) Automobiles, buses and minibuses, goods, vehicles; construction and earth-moving equipment, heavy general purpose or specialized trucks, trailers and trailer-mounted containers; plant and machinery used in manufacturing

(ii) Assets resulting from expenses referred to in subparagraph (5) in respect of long term crop planting costs [As substituted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), s. 16 (a)]

3

4 Railroad cars, locomotives and equipment; vessels, barges, tugs and similar water transportation equipment; aircraft; specialized public utility plant, equipment and machinery; office furniture, fixtures and equipment; and depreciable asset not included in another class.

Buildings, structures and similar works of a permanent nature

5 Intangible assets

(2) A Class 1, 2 or 3 depreciable asset owned and employed by a person during a year of assessment in the production of income from a particular business shall, at the time the asset is first owned and employed by that person, be placed in a pool with all other assets of the same Class owned and employed by that person in the business.

(3) A Class 4 or 5 depreciable asset owned and employed by a person during a year of assessment in the production of income from a particular business shall, at the time the asset is first owned and employed by the person, be placed in a pool of its own separately from other assets of that Class or any other Class.

(4) Where a depreciable asset owned by a person is partly used in the production of income from a business, only that part of the asset which is used in the production of the income shall be placed in the pool of depreciable assets.

(5) Subparagraph (6) applies to expenses incurred by a person wholly, exclusively and necessarily in the production of the income of that person from a business

(a) in respect of planting vegetation from which timber, rubber, oil palm or other crops are derived; and

(b) where the business is a timber concern or a large scale rubber, oil palm or other long term crop plantation.

(6) Unless otherwise provided, an expense referred to in subparagraph (5) shall be treated as if the expense was incurred in securing the acquisition of a depreciable asset that is used by the person in the production of income.

2. Depreciation Allowance

(1) Subject to this paragraph and with respect to each basis period of a person ending in the year of assessment, the Commissioner-General shall grant an allowance to that person for a year of assessment for each pool of depreciable assets.

(2) The allowance referred to under subparagraph (1) shall be equal to the depreciation for the period of each pool of depreciable assets and computed in accordance with subparagraphs (3) and (6).

(3) Depreciation for a year of assessment for each pool of depreciable assets is computed

(a) in the case of Class 1, 2 and 3 pools, in accordance with the reducing balance method; and

(b) in the case of Class 4 and 5 pools, in accordance with the straight line method.

(4) Depreciation is calculated using the following formula:

$A \times B \times C$

365

where

A is the depreciation basis of the pool of depreciable assets at the end of the basis period;

B is the depreciation rate applicable to the pool of depreciable assets; and

C is the number of days in the basis period of the person.

(5) The depreciation rates applicable to each pool of depreciable assets referred to in subparagraph (3) are

NO.	CLASS	RATE
1.	1	40 percent
2.	2	30 percent
3.	3	20 percent
4.	4	10 percent
5.	5	1 divided by the useful life of the asset in the pool

(6) Where at the end of a year of assessment, the depreciation basis of a pool of depreciable assets, reduced by depreciation calculated under subparagraph (3), produces an amount that is less than five hundred Cedis, additional depreciation of that pool is computed as equal to that amount.

(7) The allowance granted to a person under subparagraph (1) for a year of assessment with respect to a Class 4 or 5 pool of depreciable assets shall not exceed the depreciation basis of the pool at the end of the basis period, reduced by all other allowances granted to the person in any previous basis period in respect of that pool.

3. Depreciation basis of a pool of depreciable assets

(1) The depreciation basis of a pool of depreciable assets at the end of a basis period in respect of a Class 1, 2 or 3 asset is

(a) the total of

(i) the depreciation basis of the pool at the end of the previous basis period, if any, after deducting depreciation for that pool calculated under paragraph 2 for that previous period; and (ii) amounts

added to the depreciation basis of that pool during the basis period in respect of additions to the cost of assets in or added to that pool; and

(b) reduced, but not below zero, by consideration received for the assets in that pool or that have been in the pool during the basis period.

(2) The depreciation basis of a pool of depreciable assets at the end of a basis period in respect of a Class 4 or 5 asset is

(a) the total of

(i) the depreciation basis of that pool at the end of the previous basis period; and

(ii) amounts added to the depreciation basis of that pool during the basis period in respect of additions to the cost of assets in or added to the pool; and

(b) reduced, but not below zero, by the consideration received for the assets in that pool during the basis period.

(3) Where by reason of subparagraph (4) of paragraph 1, only part of an asset is placed in a pool of depreciable assets, the Commissioner-General shall apportion the cost of that asset and the consideration received for that asset according to the market value of the part of the asset which has been included in the pool and the part which is not placed in the pool. [As substituted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), 16 (b)]

(4) For the purpose of this Schedule, the cost of a road vehicle other than a commercial vehicle, is not recognised to the extent that the cost exceeds seventy-five thousand Cedis.

(5) For the purpose of this paragraph, “commercial vehicle” means

(a) a road vehicle designed to carry a load of more than half a tonne or more than thirteen passengers; or

(b) a vehicle used in a transportation or a vehicle rental business.

4. Realisation of depreciable assets

(1) For the purpose of computing the income of a person for a year of assessment from a business in which a depreciable asset of a particular Class was employed, the Commissioner-General shall include the excess of the following two amounts:

(a) the consideration received by the person during the year for any asset that was in a particular pool of depreciable assets of the person during the year; reduced by

(b) subparagraph (i) or (ii), as appropriate

(i) in the case of a Class 1, 2 or 3 pool of depreciable assets, the depreciation basis of each pool at the end of the year, but disregarding the consideration received referred to in paragraph (a); or

(ii) in the case of a Class 4 or 5 pool, the written down value of the pool at the end of the year calculated under subparagraph (3), but disregarding the consideration received referred to in paragraph (a).

(2) Where the assets in a pool of depreciable assets of a person are all realised by the person before the end of a year of assessment, the person shall dissolve the pool of depreciable assets and

(a) include in the income of that person for the year, an amount that is calculated using the formula $A - B$; or

(b) be granted an allowance for the year, calculated using the formula $B - A$;

where

A - is the consideration received by the person during the year of assessment for the asset; and

B - is the sum of

(i) the written down value of that pool of depreciable assets at the end of the previous year of assessment; and

(ii) amounts added to the depreciation basis of that pool of depreciable assets during the year of assessment.

(3) For the purpose of this paragraph, “written down value” of a pool of depreciable assets at the end of a year of assessment means

(a) in the case of a Class 1, 2 or 3 pool of depreciable assets, the depreciation basis of that pool at the end of the year, if any, after deducting depreciation for that pool for the year as calculated under paragraph 2; or

(b) in the case of a Class 4 or 5 pool of depreciable assets, the depreciation basis of that pool at the end of the year reduced by all allowances granted to the person under paragraph 2 in respect of that pool for that year and any previous year.

(4) For the purpose of this paragraph, a person realises a depreciable asset referred to in paragraph 1(5) only if that person sells to another person who is not an associate of the business in respect of which the expense was incurred.[As inserted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924), 16 (c)]

Part II: Petroleum Operations

5. Modification of Part I

(1) A person who incurs a capital allowance expenditure in respect of a separate petroleum operation during a year of assessment shall place that expenditure in a separate pool of depreciable assets.

(2) The Commissioner-General shall grant to that person a capital allowance with respect to each year at the rate of twenty percent using the straight line method.

(3) Where an asset for which capital allowance expenditure has been incurred under this paragraph is disposed of or treated as disposed of during a year of assessment, the Commissioner-General shall, in computing assessable income from the separate petroleum operation for the year, include consideration received for the disposal.

(4) Where in a year of assessment an asset is partly used in a separate petroleum operation and partly used in another separate petroleum operation the Commissioner-General shall apportion the capital allowance of that asset in that year between the two separate petroleum operations in proportion to the use of the asset in each separate petroleum operation.

(5) Where in a year of assessment a person assigns a petroleum right of that person, the written down value of any capital allowance expenditure of that person at the beginning of that year is transferred to the assignee.

(6) Where in a year of assessment a person assigns part of the petroleum right of that person, the Commissioner-General shall apportion the written down value of the capital allowance expenditure of the person between that person and the assignee in proportion to the percentage of the interest retained and the percentage of the interest assigned.

(7) Where, for the purpose of calculating the income of a person, a deduction is made in respect of capital allowance expenditure, a further deduction shall not be made in respect of the same capital allowance expenditure under any other provision of this Act.

(8) In this paragraph, unless the context otherwise requires,

“capital allowance expenditure” means expenditure for which capital allowances are available under this Schedule, including by reason of Division I of Part VI but subject to section 67; and

“written down value” of an asset means the cost of the asset less all capital allowances granted with respect to expenditure included in that cost.

Part III: Minerals and Mining

6. Modification of Part I

(1) A person who incurs a capital allowance expenditure in respect of a separate mineral operation during a year of assessment shall place that expenditure in a separate pool of depreciable assets.

(2) The Commissioner-General shall grant to that person a capital allowance with respect to each year at the rate of twenty percent using the straight line method.

(3) Where an asset for which capital allowance has been granted under this paragraph is disposed of or treated as disposed of during a year of assessment, the Commissioner-General shall,

(a) if the consideration received for the disposal exceeds the written down value of the asset, include the excess in computing the assessable income of that person from the separate mineral operation for the year;

(b) if the written down value of the asset exceeds the consideration received for the disposal, grant an additional capital allowance for the year in an amount equal to the excess; and

(c) reduce the pool of depreciable assets referred to in subparagraph (1) by the written down value of the asset.

(4) Where in a year of assessment an asset is partly used in a separate mineral operation and partly used in another separate mineral operation, the Commissioner-General shall apportion the capital allowance of that asset in that year between the two separate mineral operations in proportion to the use of the asset in each separate mineral operation.

(5) Where in a year of assessment a person assigns a mineral right of that person, the written down value of any capital allowance expenditure of that person at the beginning of that year is transferred to the assignee.

(6) Where in a year of assessment a person assigns part of the mineral right of that person, the Commissioner-General shall apportion the written down value of the capital allowance expenditure of the person between that person and the assignee in proportion to the percentage of the interest retained and the percentage of the interest assigned.

(7) Where, for the purpose of calculating the income of a person, a deduction is made in respect of capital allowance expenditure, a further deduction shall not be made in respect of the same capital allowance expenditure under any other provision of this Act.

(8) In this paragraph

“capital allowance expenditure” means expenditure for which capital allowances are available under this Schedule, including by reason of Division II of Part VI but subject to section 75; and

“written down value” of an asset means the cost of the asset less any capital allowances granted with respect to expenditure included in that cost.

FOURTH SCHEDULE

Quantification of benefits

(Section 26)

1. Motor vehicle benefits

A benefit consisting of the availability for use or use of a motor vehicle provided by an employer to an employee or an entity to a member or manager during a year of assessment is quantified according to the following rates:

NO	BENEFIT	RATE
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1.

Driver and vehicle with fuel

12.5 percent of the total cash emoluments of the person up to a maximum of GH¢600.00 per month

2. Vehicle with fuel 10 percent of the total cash emoluments of the person up to a maximum of GH¢500.00 per month

3. Vehicle only 5 percent of the total cash emoluments of the person up to a maximum of GH¢250.00 per month

4. Fuel only 5 percent of the total cash emoluments of the person up to a maximum of GH¢250.00 per month

2. Accommodation benefits

A benefit consisting of the provision of premises by an employer for residential occupation of an employee during a year of assessment is quantified as follows:

NO	BENEFIT	RATE
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1.

Accommodation with furnishing

10 percent of the total cash emoluments of the person

2. Accommodation only 7.5 percent of the total cash emoluments of the person

3. Furnishing only 2.5 percent of the total cash emoluments of the person

4. Shared accommodation 2.5 percent of the total cash emoluments of the person

3. Loan benefits

(1) A benefit consisting of a loan provided for a year of assessment in return for services, whether by way of employment or otherwise, or by an entity to a member or manager of the entity is quantified as

(a) where

(i) the loan is from an employer to an employee,

(ii) the term of the loan does not exceed twelve months, and

(iii) the aggregate amount of the loan and any similar loan outstanding at any time during the previous twelve months does not exceed three months basic salary,

the quantity of the payment is nil; and

(b) in any other case, a quarter of the amount by which

(i) if interest were payable under the loan at the statutory rate for the year of assessment, the interest that would have been paid by the payee during the year of assessment in which the payment is made, exceeds

(ii) the interest paid by the payee during the year of assessment under the loan, if any.

(2) In this paragraph, “statutory rate”, means the Bank of Ghana rediscount rate.

FIFTH SCHEDULE

Personal reliefs

(Section 51)

1. The personal reliefs referred to in section 51 are as follows:

(a) in the case of an individual who has a dependant spouse or at least two dependant children, that individual is entitled to a personal relief of two hundred currency points;

(b) in the case of an individual who has a disability, that individual is entitled to a personal relief of twenty-five percent of the assessable income of that individual from a business or employment;

(c) in the case of an individual who is sixty years of age and above, that individual is entitled to a personal relief of two hundred currency points;

(d) in the case of an individual who is sponsoring the education of the child or ward of that individual in a recognized registered educational institution in the country, that individual is entitled to a personal relief of two hundred currency points per child or ward up to a maximum of three children or wards;

(e) in the case of an individual who has a dependant relative, other than a child or spouse, who is sixty years of age or more, that individual is entitled to a personal relief of one hundred currency points but that individual may only claim relief in respect of two dependant relatives; and

(f) in the case of an individual who has undergone training to update the professional, technical or vocational skills or knowledge of the individual, that individual is entitled to a personal relief which is equivalent to the cost of the training of not more than four hundred currency points.

2. Where two or more persons qualify in respect of the same child, ward or relative under paragraph 1 (d) or (e), the Commissioner-General shall grant only one relief.

3. For the purpose of this Schedule, “dependant child, spouse or relative” in respect of an individual, means a child, spouse or relative of the individual for whom that individual provides the necessities of life.

SIXTH SCHEDULE

Temporary concessions

(Section 134)

1. Agriculture

(1) Where an individual conducts a farming business wholly within the country, that individual is subject to tax at the rate provided for in the First Schedule

(a) in the case of farming tree crops, income of that person from the business for a period of ten years of assessment commencing from the year during which the first harvest of crops occurs; [As substituted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924, s. 17 (a))]

(b) in the case of farming livestock other than cattle, fish or cash crops, income from the business for a period of five years of assessment commencing from the year in which the business commences; and [As substituted by the Income Tax (Amendment) (No. 2) Act, 2016 (Act 924, s. 17 (b))]

(c) in the case of cattle, income from the business for the period of ten years of assessment commencing from the year during which the business commences.

(2) The income of a person from an agro processing business conducted wholly in the country is subject to tax at the rate provided for in the First Schedule for a period of five years of assessment commencing from the year in which commercial production commences.

(3) The income of a person from a cocoa by-product business conducted wholly in the country is subject to tax at the rate provided for in the First Schedule for a period of five years of assessment commencing from the year in which commercial production commences.

(4) In this paragraph, unless context otherwise requires,

“cash crops” include cassava, maize, pineapple, rice, and yam;

“cocoa by-product business” means a business that uses on a commercial basis cocoa by-products using as its main raw material substandard cocoa beans, cocoa husks and other cocoa waste;

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

“agro processing business” means the business of processing crops, fish or livestock produced, caught or raised in the country from their raw state into an edible canned or packaged product; and

“tree crops” include coconut, coffee, oil palm, rubber, and sheanut.

2. Rural banking

(1) The income of a person from a rural banking business is subject to tax at the rate provided for in the First Schedule for a period of ten years of assessment commencing from the year in which the business is established.

(2) In this paragraph, “rural banking business” means a business designated as a rural banking business under the Banking Act, 2004 (Act 673).

3. Waste processing

(1) The income of a company from a waste processing business is subject to tax at the rate provided for in the First Schedule for a period of seven years of assessment.

(2) The period specified in subparagraph (1) commences from the year in which the business is commenced.

(3) In this paragraph, “waste processing business” means a business where the principal activity is the processing of waste, including recycling of plastic and polythene material for agricultural or commercial purposes.

4. Residential premises

(1) The income of a certified company from a low cost housing business is subject to tax at the rate provided for in the First Schedule for a period of five years of assessment.

(2) The period specified in subparagraph (1) commences from the year in which operations commenced.

(3) Despite sections 8 and 9 of this Act, in calculating the income of the individual from conducting an employment, business or investment for a year of assessment, deduct mortgage interest incurred during the year.

(4) An individual may deduct mortgage interest in respect of only one residential premises during the lifetime of that individual.

(5) In this paragraph, unless the context otherwise requires, “certified company” means a company issued with a certificate from the Minister responsible for Works and Housing stating that it is engaged in a low cost housing business;

“low cost housing business” means the business of construction for sale or letting of low cost affordable residential premises; and

“mortgage interest” means interest incurred by an individual in respect of a borrowing employed in constructing or acquiring the individual's only place of residence.

6. Young entrepreneurs [sic]

(1) The income of a young entrepreneur from the business of manufacturing, information and communications technology, agro processing, energy production, waste processing, tourism and creative arts, horticulture and medicinal plants shall be exempt from tax for a period of five years. [As substituted by the Income Tax (Amendment) (No. 2) Act, 2017 (Act 956), s. 4]

(2) The period specified in subparagraph (1) commences from the period in which the operations of the approved unit trust scheme or mutual fund commenced and includes the year in which the basis period of the trust or scheme ends.

(3) [As deleted by the Income Tax (Amendment) Act, 2016 (Act 907), s. 3]

(4) For the purpose of this paragraph, “approved unit trust scheme or mutual fund” means a scheme or fund approved under the Securities Industry Act, 1993 (PNDCL 333).

7. Venture capital financing company

(1) The income of a qualifying venture capital financing company is subject to tax at the rate provided for in the First Schedule for a period of ten years of assessment.

(2) The period specified in subparagraph (1) commences from the year in which the company first qualifies.

(3) A loss incurred by a qualifying venture capital financing company may be carried forward for five years of assessment following the end of the period specified in subparagraph (1).

(4) Subparagraph (3) applies to a loss incurred by a venture capital financing company on the disposal of an investment in a venture capital subsidiary company under the Venture Capital Trust Fund Act, 2004 (Act 680) during the period referred to in subparagraph (1).

(5) A loss incurred by a qualifying venture capital financing company may be carried forward for five years of assessment after the year of disposal.

(6) Subparagraph (5) applies to a loss incurred by a venture capital financing company from the disposal of shares in a venture investment under section 17 of the Venture Capital Trust Fund Act, 2004 (Act 680) during a year of assessment.

(7) The interest and dividends paid or credited to a person on a qualifying investment in the company are subject to tax at the rate charged to that company under the first schedule for the period specified in subparagraph (1).

(8) For the purpose of this paragraph,

“qualifying investment” means an investment by way of funding a qualifying venture capital financing company in accordance with the Venture Capital Trust Fund Act, 2004 (Act 680); and

“qualifying venture capital financing company” means a company that satisfies the eligibility criteria for funding under the Venture Capital Trust Fund Act, 2004 (Act 680).

8. Employment of graduate

(1) In calculating the income of a company from conducting a business for a year of assessment, the company is entitled to an additional deduction as provided in subparagraph (2) for salary and wages paid during the year to a fresh graduate from a recognised Ghanaian tertiary institution.

(2) The additional deduction specified in subparagraph (1) is as follows:

NO.	PERCENTAGE OF FRESH GRADUATES IN WORKFORCE	ADDITIONAL DEDUCTION
1.	Up to 1 percent	10 percent of salaries and wages

2. Above 1 percent but not more than 5 percent 30 percent of salaries and wages
3. Above 5 percent 50 percent of salaries and wages

(3) For the purpose of this paragraph “fresh graduate” means a person who has graduated from a tertiary institution for the first time, whether or not that person was previously employed.

9. Free Zone company

(1) A Free Zone developer or an enterprise granted a licence under the Free Zones Act, 1995 (Act 504) is exempt from the payment of income tax on profits for the first ten years.

(2) The period specified in subparagraph (1) commences from the date of commencement of operation.

10. Importers and manufacturers of excisable products

An importer or manufacturer of excisable goods shall be granted accelerated depreciation over a period of two years on affixing machinery and equipment imported for the implementation of the Excise Tax Stamp Policy as follows:

NO.	YEAR	PERCENTAGE
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- | | | |
|----|-------------|----------------------|
| 1. | First year | 50% of initial value |
| 2. | Second year | 50% of initial value |

[As inserted by the Income Tax (Amendment) (No. 2) Act, 2017 (Act 956), s. 4 (4) (b)]

11. Private universitites

Privately-owned universities shall be exempt from tax when they plough back a hundred percent of their profit-after-tax into the business. [As inserted by the Income Tax (Amendment) (No. 2) Act, 2017 (Act 956), s. 4 (b)]

SEVENTH SCHEDULE

Tax Administration

(Section 139)

Responsibility for the administration of this Act

[As Repealed by the Revenue Administration Act, 2016 (Act 915), 3rd schedule para. 9]

Date of Gazette Notification: 1st September, 2015.