

SIGNED this 15th day of August, 1972.

SIAKA STEVENS,
President.

LS

No. 16



Sierra Leone

1972

The Pay-Roll Tax Act, 1972

Enacted by the President and Members of Parliament in this present Parliament assembled, as follows:—

[15th August, 1972.]

Short title.

Date of commencement.

PART I—PRELIMINARY

1. In this Act unless the context otherwise requires—

“Commissioner” shall have the same meaning assigned to it under the Income Tax Act.

Definition.

Cap. 273

"employee" means any individual engaged to do work or render services for which he is paid a salary whether he is engaged as a servant or as an independent contractor; and does not include a domestic servant i.e. a servant engaged in household duties;

"employer" means any person who pays or is liable to pay any salaries and any manager or proprietor of any trade, business, profession or vocation or any person performing the functions of such manager or proprietor;

"Minister" means the Minister for the time being assigned with responsibility for matters relating to Finance;

"person" means an individual, or any body of persons whether corporate or incorporate;

"salaries" includes any wages, commission, bonuses or allowances paid or payable (at whatever rate and whether paid or payable in cash or in kind) to any employee as such and in particular—

- (a) any payment made under any prescribed classes of contracts to the extent to which that payment is attributable to labour;
- (b) any payment made by a Company by way of remuneration to a director of that Company;
- (c) any payment made by way of Commission to an Insurance Agent;
- (d) the provision by the employer of meals or sustenance or the use of premises or quarters as consideration or part consideration for the employee's services.

PART II—LIABILITY TO PAY-ROLL TAX

“Imposition] 2. (1) Subject to the provisions of this Act, there shall
of Pay-Roll be charged and levied upon, and paid by, every employer,
Tax a pay-roll tax in respect of every employee who is not a
citizen of Sierra Leone for each calendar year irrespective
of the length of time within the calendar year during
which such employee is employed, as follows —

No 5 of 1992

(i) Nationals of ECOWAS
countries Le20,000.00

The 1992/93 Budget
Statement
26th June 1992

(ii) Other foreign nationals: a new
range of rates is introduced
varying from Le 100,000 to Le
1,000,000 depending on the
turnover of the employer.

3. Pay - roll tax will not be payable
in respect of employee
shareholders of limited companies
with 40% or more of the capital.

When Pay-
Roll Tax is
due.

3. (1) The pay-roll tax imposed by section 2 shall be due
on the 1st day of January each year and shall be paid not later
than the 31st day of January in the year in respect of which it is
payable.

(2) Where an employee in respect of whom pay-roll tax
is payable comes into the employment of his employer after the
1st day of January such tax shall be paid within fourteen days
from the day on which such employee came into such
employment.

4. Every payment in respect of pay-roll tax under this Act shall be made to the Accountant-General or the Sub-Treasury or any other authorised agent of Government as may be from time to time published in the *Gazette* on behalf of the Commissioner and to the credit of the Consolidated Revenue Fund of Sierra Leone.

How Pay-Roll Tax is to be paid.

5. The Commissioner may for good cause shown by any employer liable to pay pay-roll tax extend the time prescribed for payment of such tax under section 3:

Commissioner may extend time for payment of Pay-Roll Tax.

Provided always that—

- (a) a sum equal to fifty per centum of the pay-roll tax due from any employer under this Act is paid within the time prescribed under section 3; and
- (b) the balance of such tax is paid not later than ninety days after the time prescribed under section 3; and
- (c) the whole of the pay-roll tax due from any employer as aforesaid is paid not later than the 31st day of December in the year in respect of which it is payable.

6. (1) Notwithstanding the provisions of section 5 a sum equal to ten per centum of the amount of the pay-roll tax payable by the employer shall be added to any amount of the tax remaining due and payable after the 31st day of January in the relevant year irrespective of any further notice issued by the Commissioner to the employer and the provisions of this Act relating to the collection and recovery of the pay-roll tax shall apply to the collection and recovery of such sum.

Penalty for non payment

(2) For the purpose of subsection (1) it shall be sufficient for the Commissioner as soon as possible each year to give notice in the *Gazette* or otherwise requiring every employer liable to pay pay-roll tax under this Act to do so within the time prescribed hereunder and to produce to his satisfaction evidence of compliance not later than the fifteenth day of the month next following or on such other date as the Commissioner may direct.

7. (a) The pay-roll tax shall be paid and borne by the employer and the employer shall not be entitled to pass on the tax to any employee.

Employer to Pay Tax.

16 of 1974
"Principal Immigration Officer to furnish returns."

Act No. 14 of 1965.

(2) The Principal Immigration Officer shall, on the 1st day of January in each calendar year or on such other date as he is required to do so, furnish the Commissioner of Income Tax with a return of persons residing in Sierra Leone whether in employment or otherwise who are not citizens of Sierra Leone to whom the provisions of the Non-Citizens (Registration, Immigration and Expulsion) Act, 1965 apply containing such particulars or information in his possession as the Commissioner may deem necessary to carry into effect the provisions of this Act."

8. (1) The provisions of this Act shall not apply to the following employers—

Exemption for Tax.

- (a) The President;
- (b) Religious or Charitable Institutions of a public character in respect of Clergymen and Missionaries;
- (c) Diplomatic and Consular Missions or representatives in Sierra Leone.

(2) The Minister may from time to time by Order published in the *Gazette* exempt any person or class of persons from any or all of the provisions of this Act.

No adjustment of Tax.

9. Where an employee in respect of whom pay-roll tax is paid or payable remains in or comes into employment for only a part of the year for which such tax is paid or payable, the tax shall notwithstanding the period of employment remain the same.

PART III—ADMINISTRATION

Employer to submit Notice of Employment.

10. (1) Every employer of non-citizens shall within thirty days from the commencement of this Act submit to the Commissioner a notice in the form prescribed in the Schedule hereto.

(2) In addition to the notice herein required to be submitted by every employer the Commissioner may by notice in writing call upon any employer or employee to furnish him within the time specified in the notice such return or such further or fuller return as the Commissioner may require.

Commissioner may require information.

11. The Commissioner may by notice in writing require any employer or employee—

(a) to furnish him with such information as he may require; or

(b) to attend before him or before any Officer authorised by him in that behalf for the purpose of inquiring into or ascertaining his or any other person's liability under any of the provisions of this Act and may require him to produce all books, documents and other papers whatsoever in his custody or under his control relating thereto.

Employer Leaving Sierra Leone.

12. (1) When the Commissioner has reason to believe that an employer may leave Sierra Leone before any pay-roll tax becomes due and payable by him the tax shall be due and payable on such date as the Commissioner fixes and notifies in writing to the employer.

(2) Subject to this section every employer who is liable to pay tax under this Act and who intends to leave Sierra Leone shall apply to the Commissioner in writing or in person for a certificate that—

(a) tax is not payable by that employer; or

(b) all tax which is due by that employer has been paid or that arrangements satisfactory to the Commissioner have been made for the payment of that tax and of any further tax which may become due or payable by that employer;

and the Commissioner upon being satisfied as to the facts may issue a certificate accordingly.

(3) The Immigration Authorities or any immigration officer may require any employer liable to pay-roll tax under this Act to produce a certificate issued under subsection (2) before permitting him to leave Sierra Leone and may refuse to allow any such employer who fails to produce such certificate upon his request to leave Sierra Leone.

13. (1) Pay-roll tax payable under this Act shall be deemed Recovery of when it becomes due and payable to be a debt due to the Govern- Tax. ment of Sierra Leone and recoverable by the Commissioner in the manner provided herein.

(2) The Commissioner may in his official capacity sue for and recover any pay-roll tax due but unpaid in any court of competent jurisdiction and the provisions of section 72 of the Income Tax Act shall apply with such modifications as may be Cap. 273. necessary.

14. (1) The Commissioner may, by notice in writing (a copy of which shall be forwarded to the employer at his last place of address known to the Commissioner) require—
Commissioner may collect Tax from person other than employer.

(a) any person by whom any money is due or accruing or may become due to an employer;

(b) any person who holds or may subsequently hold money for or on account of an employer;

(c) any person who holds or may subsequently hold money on account of some other person for payment to an employer;

(d) any person having authority from some other person to pay money to an employer;

to pay to him forthwith upon the money becoming due or being held or within such further time as the Commissioner may specify the money or so much thereof as is sufficient to pay the tax due by the employer or the fines and costs (if any) imposed by a court on the employer in respect of any proceedings brought under this Act.

(2) Where the money claimed by the Commissioner under subsection (1) is less than the amount of tax due by the employer the person shall pay to the Commissioner in reduction of the amount of tax due the amount payable by that person to the employer.

(3) Any person making any payment in pursuance of this section shall be deemed to have been acting under the authority of the employer and of all other persons concerned and is hereby indemnified in respect of such payment.

(4) If the tax due by the employer or the fine or costs (if any) imposed by a court on him are paid before any payment is made under a notice given in pursuance of this section the Commissioner shall forthwith give notice of the payment to the

person and where payment is made both by a person in pursuance of this section and by the employer as well the Commissioner shall without delay return the payment made by such person under this section.

Evidence.

15. The production of any document or a copy of a document under the hand of the Commissioner purporting to be a notice or copy of a notice specifying any liability of an employer under this Act shall be *prima facie* evidence of the due exercise of any act required by this Act to be done or performed by the Commissioner for the purpose of ascertaining the liability so ascertained.

Objections.

16. Any employer who is dissatisfied with any decision made or any act done by the Commissioner by which his liability to pay tax is affected may within thirty days from the date on which he has knowledge of such decision or act, appeal to the High Court against such decision or act as the case may be and the decision of the High Court shall be final and shall not be questioned in any other Court.

Pending Appeal not to delay payment of Tax.

17. (1) The fact that an appeal is pending against any decision or act of the Commissioner shall not in the meantime interfere with or affect the liability which is the subject of the appeal and the tax may be recovered as if no appeal were pending.

(2) If the liability of an employer is altered on appeal any amount paid in excess of the tax payable shall be refunded to the employer and any amount short paid forthwith to the Commissioner.

PENAL PROVISIONS

Offences.

18. (1) Any person who—

(a) fails or neglects to submit any particulars or to comply with any requirement of the Commissioner as and when required under this Act or any Regulation made thereunder;

(b) without just cause shown by him refuses or neglects duly to attend and give evidence when required by the Commissioner or any officer duly authorised by him or to answer truly and fully any question put to him or to produce any book or papers required of him by the Commissioner or any such officer;

(c) contravenes any provision of this Act for the contravention of which no penalty is provided,

shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred leones or imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Avoiding Taxation.

19. Any person who by any wilful act, default or neglect or by any fraud avoids or attempts to avoid tax payable under this Act shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand leones or imprisonment for a term not exceeding five years or to both such fine and imprisonment.

20. Any person who obstructs or hinders any officer acting *Obstructing Officers.* in the discharge of his duty under this Act or any Regulations thereunder shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one hundred leones or imprisonment for a term not exceeding six months or to both such fine and imprisonment.

21. The Minister may make Regulations prescribing all Regulations. matters which by this Act are required or permitted to be prescribed or which are necessary for the carrying out of all or any of the provisions of this Act.

THE SCHEDULE

(Sec. 10 (1))

Name of Employer.....
Address of Employer.....
Business of Employer.....
No. of Persons Employed.....
No. of Non-Citizens Employed.....
List of names and occupation of non-citizens employed and date of employment of such non-citizens.
1.
2.
3.

.....
Signature of Employer.

Passed in Parliament this 23rd day of March, in the year of our Lord one thousand nine hundred and seventy-two.

J. W. E. DAVIES,
Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correctly printed copy of the said Bill.

J. W. E. DAVIES,
Clerk of Parliament.

PUBLIC NOTICE No. 60 OF 1973

Published 24th August, 1973

THE PAY-ROLL TAX ACT, 1972
(No. 16 of 1972)

THE PAY-ROLL TAX (EXEMPTION OF CERTAIN CLASSES OF
EMPLOYERS) ORDER, 1973

Short title.

In exercise of the powers conferred upon him by subsection (2) of section 8 of the Pay-Roll Tax Act, 1972 the Minister hereby makes the following Order:—

1. This Order shall be deemed to have come into force on Commence-
15th day of August, 1972, and shall apply to every employee ment and ap-
who is not a citizen of Sierra Leone in respect of whom the plication.
employer is liable to pay pay-roll tax but for this Order, provided
however the employer proves to the satisfaction of the Commis-
sioner of Income Tax that the employee in respect of whom
pay-roll tax is otherwise payable was resident in Sierra Leone
and employed by him on or before the date of coming into force
of the Act.

2. An employer shall be exempted from the provisions of Exemption.
section 2 of the Act, in respect of whom he is liable to pay the
pay-roll tax if he proves to the satisfaction of the Commissioner
of Income Tax that—

- (a) the employee's salary as defined in the Act for the relevant calendar year does not exceed One Thousand Leones and provided such employee is not a Company Director, an insurance or commission agent, a manufacturer's representative or a person holding an office or appointment of a similar character; or
- (b) the employee is exempted from all or any of the provisions of sections 7 and 27 as the case may be of the Income Tax Act; or
- (c) the employee is a person whose services have been Cap 273.
secured directly or indirectly under a Technical Assistance Programme or Scheme entered into between the Government of Sierra Leone and any other Government of a Foreign State or under any other Scheme of a similar character approved by the Government; or

Act No. 26
of 1960.
Cap 273.

- (d) the employee being ordinarily resident outside Sierra Leone is resident in Sierra Leone for some temporary purposes only and not with any intent to establish his residence therein and furthermore he is resident in Sierra Leone solely for the purpose of exercising his employment by teaching at a University, College, School or other educational institution of a public character or where otherwise employed in the exercise of such employment the duties of the employee are wholly or mainly educational or cultural irrespective of whether the emoluments of such employee are liable to income tax in Sierra Leone; or
- (e) the employment exercised by the employee is provided by an ecclesiastical, charitable or educational institution of a public character in so far as such employment is not connected with a trade, business, profession or vocation carried on by the institution.

3. Where an employer is entitled to relief from income tax applicable to a company under the provisions of the Development Act, 1960 or the Income Tax Act as the case may be the employer shall in such circumstances be exempted from the provisions of section 2 of the Act in respect of the period of the tax holiday or in respect of any of the six years of assessment as the case may be in respect of which relief from tax under subparagraph (b) of paragraph 2 may be granted provided however that the employer shall be liable to pay pay-roll tax as from the 1st January in the calendar year within the year of assessment in which the period of the tax relief is granted or in which he ceases to be entitled to relief from income tax under section 29 of the Income Tax Act.

MADE this 10th day of July, 1973.

Issued under my hand,

C. A. KAMARA-TAYLOR,
Minister of Finance.

EXPLANATORY NOTE

(This Note is not part of the Order but is intended to indicate its general purport).

It seems desirable to exempt an employer from the payment of pay-roll tax in respect of certain categories of employees in respect of whom he is otherwise liable to pay the tax. Such employees will include those in low income group, maritime and stevedore workers. It is also considered desirable that those employed in the Teaching profession or whose duties are wholly or mainly educational or cultural should be excluded as well as those employees recruited under a Technical Assistance Scheme approved by the Government.