

## INCOME TAX REGULATIONS, 2016

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IN exercise of the power conferred on the Minister responsible for Finance by section 127(1)(a), (b) and (d) of the Income Tax Act, 2015 (Act 896), these Regulations are made this 30th day of June, 2016.

*Calculation of chargeable income, personal reliefs and reductions***Calculation of chargeable income**

1. In furtherance of the Act, the chargeable income of a person for a year of assessment shall be calculated in accordance with the steps set out in the First Schedule.

**Personal reliefs and reductions**

2. Except where provided for under a double taxation arrangement, a non-resident person is not entitled to the grant of

- (a) personal reliefs under section 51 of the Act; or
- (b) mortgage interest relief under subparagraph (4) of paragraph 4 of the Sixth Schedule to the Act.

*Withholding of tax from income derived from employment***Employers required to withhold tax**

3. (1) In accordance with these Regulations, an employer shall withhold appropriate tax from qualifying cash payments made to an employee during a year of assessment to meet the employment tax liability of that employee for that year.

(2) An employer shall withhold tax in accordance with section 114 of the Act and these Regulations, if that employer is

- (a) resident in the country; or
- (b) a non-resident employer who has a Ghanaian permanent establishment.

(3) A non-resident public entertainer who renders a service in the country shall, for tax purposes, be treated as an employee of the promoter of the event in respect of which that public entertainer renders the service.

(4) A person who makes payment to a public entertainer for a service rendered by that public entertainer shall, for tax purposes, be treated as the employer of that public entertainer and the payment made by that employer to the public entertainer shall,

- (a) be treated as income derived by that public entertainer from employment; and

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(b) in accordance with section 114 of the Act, be subject to withholding tax at the rate specified in subparagraph (2) of paragraph 1 of the First Schedule of the Act.

(5) The employer shall, on the date of payment, deduct the withholding tax from qualifying cash payments made to the public entertainer.

(6) For purposes of this regulation, a "public entertainer" includes a stage artist, a motion picture artist, a radio artist, a musician, a sportsman or sportswoman including any athlete, footballer or boxer.

**Amount to be withheld by employers generally**

4. (1) Subject to regulation 5, where an employer makes a qualifying cash payment to an employee during a year of assessment, the employer shall withhold tax from that payment.

(2) The employer shall calculate the amount of tax to be withheld under subregulation (1) by applying the following formula:

$$\frac{A \times B}{C}$$

where

- A is the amount of the payment;
- B is the employment tax liability of the employee for the year estimated under subregulation (3) less tax withheld under this subregulation by the employer from prior qualifying cash payments made by the employer to the employee during the year of assessment; and
- C is the total of the payment referred to in A and qualifying cash payments still to be made by the employer to the employee during the year of assessment as estimated under subregulation (3).

(3) For purposes of a calculation under subregulation (2), the employer may at the time of making a qualifying cash payment to an employee,

- (a) make a reasonable estimate of
  - (i) tax liability of the employee from employment for the year of assessment during which the payment is made; and

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- (ii) the amount of qualifying cash payments yet to be made by the employer to the employee during the year of assessment; or
  - (b) consider whether or not an estimate made under paragraph (a) is still accurate and, if not, make a new estimate under that paragraph.
- (4) In making an estimate under paragraph (a) of subregulation (3), an employer shall not take into account
- (a) any tax reliefs of the employee, unless the employee has provided the employer with a tax reliefs card in accordance with subregulation (2) of regulation 10 prior to the estimate; and
  - (b) any contribution made under section 112 of the National Pension Act, 2008 (Act 766), except where the employee submits evidence of a contractual arrangement to the employer prior to the making of the estimate.
- (5) An employee may, in writing, apply to the Commissioner-General for an adjustment of the amount to be withheld under subregulation (1), where the qualifying employment income of that employee includes an amount that does not have a source in the country.
- (6) The Commissioner-General may, upon receipt of an application under subregulation (5), adjust the amount to be withheld under subregulation (1).

**Amount to be withheld by employers from overtime and bonus**

5. (1) Where an employer makes a payment for overtime work to a qualifying junior employee during a year of assessment, the employer shall
- (a) withhold tax from the total of that payment at the rate of five percent, if the amount paid does not exceed fifty percent of the basic salary of that employee for the month; or
  - (b) withhold tax from the excess of that payment at the rate of ten percent, if the amount paid exceeds fifty percent of the basic salary of the employee for that month.
- (2) Where an employer pays a bonus to an employee during a year of assessment, the employer shall,
- (a) if the total of the bonus payments made by that employer to the employee during the year of assessment does not exceed fifteen percent of the annual basic salary of that employee, withhold tax from the gross amount of the payment at the rate of five percent; or

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- (b) if the total bonus payments made by that employer to the employee during the year of assessment exceeds fifteen percent of the annual basic salary of that employee,
- (i) add the excess payments to the employment income of that employee for that year; and
  - (ii) withhold tax from the total amount obtained in accordance with the First Schedule of the Act.
- (3) Tax withheld under subregulation (1) or (2) is a final tax on the overtime or bonus payment and
- (a) the payment shall not be included in calculating income derived by the employee from that employment; and
  - (b) the tax paid by withholding satisfies the tax liability of the employee with respect to the payment and may not be reduced by any tax credits allowed to the employee under the Act.
- (4) Where an employer makes a payment for overtime to an employee who is not a qualifying junior employee, the payment shall be included in calculating the income of that employee from the employment and taxed in accordance with the First Schedule of the Act.
- (5) For purposes of this regulation, an employee is a "qualifying junior employee" for a year of assessment, if the employee is a junior staff member and the qualifying employment income of that employee from the employment for the year of assessment does not exceed eighteen thousand currency points.
- (6) A person shall, in calculating tax on bonus paid to an employee, calculate the tax on the basic salary of the employee for the year of assessment to which the bonus relates.

**Tax to be withheld from payment to casual workers**

6. (1) Where a person makes payment to a casual worker, that payment shall be treated as income earned by that casual worker, and the person shall withhold tax from the gross income paid to that casual worker at the rate of five percent.
- (2) Tax withheld under subregulation (1) shall be treated as a final tax.
- (3) For the purpose of this regulation, a "casual worker" has the meaning assigned in section 78 of the Labour Act, 2003 (Act 651).

*Income Tax Regulations, 2016***Payment to temporary workers**

7. Where a person makes payment to a temporary worker as defined under section 78 of the Labour Act, 2003 (Act 651), that payment shall be treated as income earned by that temporary worker, and the person shall withhold tax from that income in accordance with section 114 of the Act and the First Schedule to the Act.

**Qualifying cash payment**

8. (1) A qualifying cash payment is a payment

- (a) made by an employer
  - (i) to an employee, or
  - (ii) on behalf of an employee

that is required to be included in the qualifying employment income of that employee for a year of assessment; and

- (b) made in whatever currency including cash, cheque or other bill of exchange drawn on a financial institution or that otherwise involves a debit to an account held at a financial institution by the employer.

(2) Where in accordance with regulation 4, an employer withholds money from income earned by an employee from employment for a year of assessment, but withholds an amount that is less than what should have been withheld to meet the tax liability of the employee, the employer shall pay over to the Commissioner-General an amount equal to what should have been withheld despite the fact that that amount is more than the amount actually withheld.

(3) Where an employer pays over to the Commissioner-General, tax withheld to meet the tax liability of an employee, the difference between tax withheld and what should have been withheld shall

- (a) be paid
  - (i) within fifteen days after the end of the year of assessment; and
  - (ii) in the same manner as provided for by section 117 of the Act for tax withheld from qualifying cash payments to an employee;
- (b) be treated as paid by the employee for the purposes of calculating the tax liability of the employee for the year, but shall not be included in calculating the income of that employee;

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- (c) not be deducted in calculating the income of the employer; and
- (d) not be recoverable by the employer from the employee.

**Employee tax liability from employment**

9. The tax liability of an employee from income derived from employment for a year of assessment is calculated as follows:

- (a) by applying the appropriate rates in paragraph 1 of the First Schedule to the Act to the excess of the following:
  - (i) the income of an employee derived from employment for the year of assessment; less
  - (ii) tax reliefs granted by the Commissioner-General to the employee and retirement contributions for the year of assessment; and
- (b) in the case of a part-time employment other than those mentioned under subparagraph (ii) of paragraph (a) of subsection (1) of section 116 of the Act,
  - (i) at the rate of ten percent on account, where the employee is a resident individual; and
  - (ii) at the rate mentioned in paragraph 2 of the First Schedule to the Act, where the employee is a non-resident individual.

**Tax reliefs and Tax Reliefs Card**

10. (1) The Commissioner-General may, on an application by an employee, in a prescribed form and in accordance with procedures determined by the Commissioner-General, issue to the employee a Tax Reliefs Card certifying the personal reliefs to which the employee is entitled under section 51 of the Act, for one or more years of assessment.

(2) The tax reliefs of an employee for a year of assessment is equal to the amount certified on any Tax Reliefs Card issued to that employee by the Commissioner-General under subregulation (1) that covers the year of assessment but only where the employee has provided the card to the employer.

(3) Where the circumstances of an employee with regards to information provided on a Tax Reliefs Card issued under subregulation (1) have changed, that employee shall notify the Commissioner-General of the changes and the Commissioner-General shall accordingly update the records maintained by the Commissioner-General.



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(4) The Commissioner-General shall issue a new Tax Reliefs Card to an employee whose information has been updated pursuant to subregulation (3).

(5) The Commissioner-General shall grant the following reliefs to a person upfront:

- (a) marriage or responsibility relief;
- (b) child education relief;
- (c) old age relief;
- (d) aged dependent relative relief; and
- (e) disability relief.

**Change of employment**

11. (1) Where the employment of an employee ceases during a year of assessment, the employer shall record the following information on the relevant part of the Tax Reliefs Card of that employee:

- (a) the amount of income derived by the employee from employment for the year of assessment to the date the employment ceases;
- (b) the amount of tax withheld in accordance with section 114 of the Act and regulation 3, from payments made by the employer to the employee with respect to the employment during the year of assessment to the date the employment ceases; and
- (c) further information as the Commissioner-General may require.

(2) An employer required to record information on a Tax Reliefs Card under subregulation (1) shall record the information and return that card to the employee by the time the employment ceases.

- (3) Subregulation (4) applies where an employee
- (a) ceases employment during a year of assessment; and
  - (b) provides to a different employer during the year of assessment, the Tax Reliefs Card of that employee as adjusted under subregulation (1).

(4) A new employer shall, in calculating tax to be withheld under regulation 3 from qualifying cash payments to be made to the employee during the remainder of a year of assessment,

- (a) add the income derived by the employee from the new employment for the year of assessment to the income notified on the Tax Reliefs Card of that employee by the previous employer as income derived by that employee from employment; and

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- (b) add tax considered to be withheld from qualifying cash payments to the employee by the new employer during the year of assessment to the amount of tax notified on the Tax Reliefs Card of that employee by the previous employer as income withheld from income derived by that employee from the previous employment.

**Returns by employer**

12. (1) An employer shall submit to the Commissioner-General at the end of the year of assessment, an Employer's Annual Tax Deduction Schedule which shall specify tax withheld in respect of each employee.

- (2) The Schedule mentioned in subregulation (1) shall
- (a) be as determined by the Commissioner-General; and
  - (b) be filed not later than four months after the end of the year of assessment.

**Interpretation for purposes of regulation 3 to 12**

13. For purposes of regulation 3 to 12,

"part-time employment" with respect to an employee means any employment that is not the regular employment of that employee;

"qualifying cash payment" has the meaning assigned in regulation 8;

"qualifying employment income" from an employment for a year of assessment means the total of all amounts that are required to be included in ascertaining the income of the employee from employment for the year of assessment;

"tax relief" means the tax reliefs specified on a Tax Reliefs Card and issued by the Commissioner-General to an employee, to be submitted to an employer informing the employer of tax reliefs to which the employee is entitled;

"Tax Reliefs Card" means a card issued by the Commissioner-General to an employee, and on which the Commissioner-General certifies personal reliefs to which the employee is entitled under section 51 of the Act; and

"total cash emoluments" means the total of all income derived by the person during the year of assessment from employment and the total of any amount required to be included in income of that person under section 27 of the Act, but excluding payment that is subject to final withholding tax.

*Income Tax Regulations, 2016**Financial instruments***Limit on deduction of financial costs**

14. (1) An income referred to in subsection (1) of section 16 of the Act, is the chargeable income of a person from business or investment of that person.

(2) A financial cost referred to in section 16 of the Act is a financial cost incurred by a person in the course of a business or an investment of that person.

**Annuities**

15. The Commissioner-General shall recognize the interest portion of an annuity as income in the hands of the payee and as an expense made by the payer.

**Installment sales**

16. (1) The Commissioner-General shall recognise an instalment sale transaction as a sale of the asset.

- (2) The Commissioner-General shall, in respect of the seller,
- (a) recognise the interest receivable for each year of assessment as income to the seller; and
  - (b) treat the cost of the asset as cost of trading stock disposed of by the seller.
- (3) The Commissioner-General shall, in respect of the purchaser,
- (a) recognize the interest portion of an installment sale as an expense made by the purchaser; and
  - (b) treat the capital portion as an asset and capital allowance granted to the purchaser in accordance with the Third Schedule to the Act.

**Finance lease**

17. (1) Where an asset has been leased by a lessor to a lessee under a finance lease,

- (a) the lessee shall
  - (i) deduct the interest portion payable for each year of assessment as an expense from income;
  - (ii) treat the repayment of the capital as a repayment under a loan agreement and shall not deduct that repayment from income when ascertaining the income of the lessee;

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- (iii) be entitled to capital allowance in respect of the capital portion; and
  - (iv) in respect of a lease of a road vehicle other than a commercial vehicle, the capital portion shall not exceed the amount mentioned in subparagraph (4) of paragraph 3 of the Third Schedule to the Act; and
- (b) the lessor
- (i) shall, in ascertaining the income of the lessor for a year of assessment, include the whole amount of the interest and repayment of the capital for that year as income in respect of the leased asset; and
  - (ii) is not entitled to capital allowances in respect of the asset leased, but may reduce the amount of the repayment of capital included in calculating the income of the lessor by a capital amount determined in accordance with guidelines issued by the Commissioner-General.

**Accommodation provided by employer at a place or site**

18. (1) Where accommodation is provided by an employer to an employee, the Commissioner-General shall treat any amount deducted by the employer as rent expenditure or the amount paid by the employer for renting of that accommodation as part of the income of the employee and tax that amount in accordance with the Fourth Schedule to the Act.

(2) Subregulation (1) does not apply where an employer carries on a timber, mining, building, construction, farming business or petroleum operations and provides accommodation for an employee at a place or site where the field operation of the business is carried out.

(3) Despite subregulations (1) and (2), the Commissioner-General shall treat as additional income earned by an employee, any cash payment made by an employer to an employee in lieu of accommodation and tax the amount accordingly.

(4) For purposes of this regulation, an employee is provided accommodation at a place or site where the location of that accommodation is close in proximity to the physical location used for the business or operations, taking into consideration other factors that include the safety of the employee from health hazards associated with the business or operations.

*Income Tax Regulations, 2016***Treatment of losses from business and investment**

19. (1) In furtherance of paragraph (a) of subsection (1) of section 17 of the Act, the following are priority areas for the purpose of carrying forward unrelieved losses for five years:

- (a) Minerals and mining operations;
- (b) Petroleum operations;
- (c) Energy and power business;
- (d) Manufacturing business;
- (e) Farming business;
- (f) Agro processing business;
- (g) Tourism business; and
- (h) Information and communication technology business.

- (2) For purposes of subregulation (1),
- “energy and power business” means a business that is engaged in power generation;
  - “information and communication technology business” means a business that is engaged in software development; and
  - “tourism business” means an operator of a tourism enterprise registered and licensed by the Ghana Tourism Authority in accordance with section 25 to 27 of the Tourism Act, 2011 (Act 817).

**Thin Capitalisation**

20. The terms “debt” and “equity” used in section 33 of the Act shall be construed as follows:

- (a) “debt” means an obligation to pay an amount owed to an exempt person as mentioned in subsection (2) of section 33 of the Act; and
- (b) “equity” means the sum of Stated Capital and Income Surplus.

**Earned repatriated profit of a permanent establishment**

21. (1) In furtherance of section 60 of the Act, the earned repatriated profit of a permanent establishment of a non-resident person is equal to the net profit after tax of that permanent establishment.

(2) The Commissioner-General shall tax the gross amount of earned repatriated profits at the rate of eight percent.

*Income Tax Regulations, 2016**Tax installments***Tax installments payable by owner of commercial vehicles**

22. (1) This regulation applies to the owner of a commercial vehicle of the description specified in the second column of the Second Schedule.

(2) A person who owns a vehicle of a description specified in the second column of the Second Schedule shall, for each year of assessment, pay as tax, the amount fixed in relation to that type of vehicle in the fourth column of that Schedule.

(3) Payment of tax under subregulation (2) shall be by quarterly installment on or before the fifteenth day of January, April, July and October of each year of assessment.

(4) The Commissioner-General shall, upon payment of the tax at any office of the Ghana Revenue Authority issue a sticker in acknowledgment of the payment.

(5) Where a person referred to in subregulation (2) is a member of an association or occupational group recognised by the Commissioner-General, the Commissioner-General may permit that association or occupational group to pay tax on behalf of its members and be issued stickers for issue to each member upon payment of the appropriate tax by the member to the association or occupational group.

(6) The Commissioner-General may for purposes of subregulation (5) issue stickers to any of the organisations or associations referred to in that subregulation for resale to its members.

(7) Every driver of a commercial vehicle of the type specified in the second column of the Second Schedule shall display the sticker issued under subregulation (4) in respect of each quarter, on the windscreen of that vehicle.

(8) A sticker issued for a quarter of a year is valid only for the quarter to which it relates.

(9) Where a person referred to in subregulation (2) is not a member of an association or occupational group, that person shall pay tax quarterly in advance to the Commissioner-General in accordance with subregulation (2) and be issued a sticker in accordance with subregulation (4).

(10) Tax paid under this regulation by a person does not relieve that person from the obligation to file a return of income under section 124 of the Act but shall be credited against tax assessed to the person in accordance with the Act.

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(11) A person who pays tax under this regulation is not required to pay tax by quarterly installment under subsection (1) of section 121 of the Act.

(12) Where the Commissioner-General is of the opinion at any time that subsection (2) of section 121 of the Act applies to a person who belongs to the class of persons referred to in subregulation (2), this regulation shall not apply to that person.

(13) A person referred to in subregulation (2) who fails or refuses to pay tax in any quarter in respect of any year of assessment commits an offence and is liable on summary conviction to the penalty specified in paragraph 56 of the Seventh Schedule to the Act, in addition to any other means of enforcement specified under the Act.

(14) A person who drives or permits a person to drive a commercial vehicle of a type specified in the second column of the Second Schedule contrary to subregulation (7) commits an offence, and is liable on summary conviction to a fine of not less than fifty penalty units and not more than one hundred penalty units.

(15) For purposes of this regulation, each person shall obtain a Taxpayer Identification Number.

**Tax installments payable by specified self-employed persons**

23. (1) Subject to subregulations (8) and (9), this regulation shall apply to the class of self-employed persons mentioned in the Third Schedule.

(2) The class of self-employed persons specified in the Third Schedule shall pay tax on quarterly basis at the rate specified in the Schedule.

(3) The Commissioner-General shall issue a "tax stamp" to a person upon payment of tax under this regulation.

(4) The tax stamp shall indicate the name of the taxpayer, the amount paid, the period in respect of which the payment is made and other particulars as the Commissioner-General may determine.

(5) The tax payable in accordance with subregulation (2) shall be paid on or before 15th January, 15th April, 15th July and 15th October of each year of assessment.

(6) A person issued with a tax stamp under these Regulations shall display the stamp at a conspicuous place on the premises where the person undertakes business.

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- (7) A person who,
- (a) fails or refuses to pay the tax specified in the Third Schedule commits an offence, and is liable on summary conviction to the penalty specified in paragraph 56 of the Seventh Schedule to the Act, in addition to any other means of enforcement under the Act; or
  - (b) having paid the tax specified in the Third Schedule, fails or refuses to display the tax stamp in accordance with this regulation commits an offence, and is liable on summary conviction to a fine of not less than fifty penalty units and not more one hundred penalty units.

(8) The Commissioner-General may issue tax stamps in respect of the class of persons specified in the first column of the Third Schedule.

(9) Any person who belongs to a class of persons identified in the first column of the Third Schedule may obtain a tax stamp from the Commissioner-General upon payment of the appropriate tax specified in the second column of the Third Schedule in relation to the category.

(10) Any tax paid by a person under this regulation shall be a payment on account and shall not relieve the person from the obligation to file a return of income under section 124 of the Act.

(11) The Commissioner-General may, for purposes of the Third Schedule, issue necessary directives in writing with respect to any class of taxable persons as may be determined by the Commissioner-General in appropriate cases.

(12) For purposes of this regulation, each person shall obtain a Taxpayer Identification Number.

**Winnings from lottery**

24. (1) For purposes of subparagraph (iv) of paragraph (a) of subsection (2) of section 6 of the Act, "winnings from lottery" includes gaming, betting and any game of chance.

(2) The rate of tax specified in subsubsubparagraph (viii) of subsubparagraph (b) of subparagraph (1) of paragraph 8 of the First Schedule to the Act shall be applied only to the excess amount above the threshold specified in that paragraph.

**Withdrawals from provident fund**

25. For purposes of section 94 of the Act and with reference to subsection (5) of section 112 of the National Pensions Act, 2008 (Act 766), a withdrawal of funds from contributions made to a provident fund is subject to a final tax of fifteen percent.



*Income Tax Regulations, 2016***Withholding Certificate**

26. The prescribed form of a withholding tax certificate shall be as specified in the Fourth Schedule.

*Petroleum operations***Withholding tax rate for petroleum sub-contractors**

27. (1) In accordance with section 71(4) of the Act, a person shall withhold tax as follows:

- (a) where a contractor under a petroleum agreement sub-contracts part of the contract obligation to a sub-contractor, the contractor shall withhold tax when making payment to the sub-contractor for the works or services provided by the sub-contractor;
- (b) where a sub-contractor under a petroleum agreement sub-contracts part of the obligations under the sub-contract, the sub-contractor shall withhold tax when making payment to the sub-sub-contractor for works and services provided by the sub-sub-contractor; or
- (c) where a contractor under a petroleum agreement sub-contracts part of the contract obligation to a syndicate of sub-contractors, the contractor shall withhold tax from the aggregate amount when making payment to that syndicate.

(2) A payment to be made to a syndicate of sub-contractors under paragraph (c) of subregulation (1) shall be made to the leader of the syndicate for distribution among the members of the syndicate.

(3) A leader of a syndicate of sub-contractors shall not withhold tax when distributing payment made by the contractor for works or services provided by the members of the syndicate.

(4) Where a sub-contractor enters into a contract with a non-resident person under which contract the non-resident person is to provide works or services in connection with a petroleum agreement, the sub-contractor shall notify the Commissioner-General, in writing, within thirty days after entering into the contract for the Commissioner-General to determine the tax treatment of the income of the non-resident person from that contract in accordance with subsection (11) of section 116 of the Act.

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(5) For purposes of this regulation, a "syndicate of sub-contractors" means a group of sub-contractors who have an agreement among themselves to provide works and services in respect of a project for a contractor under an arrangement where one of the sub-contractors serves as the lead sub-contractor.

**Deduction from pool balance of exploration and development expenditure**

28. For purposes of subsection (4) of section 65 of the Act, the pool balance referred to in subsection (2) of section 65 of the Act shall, during the exploration and development phase of the operation, be reduced by

- (a) an amount which is included in calculating the income of the person from the separate petroleum operation under section 66 of the Act; and
- (b) consideration received in respect of a depreciable asset or capital asset of the operation.

**Gains from assignment of petroleum rights**

29. In determining a gain from an assignment of a petroleum right under paragraph (d) of section 66 of the Act,

- (a) the written down value of the capital allowance expenditure at the beginning of the year in which the petroleum right was assigned shall be deducted from the consideration derived from the assignment; and
- (b) where a part of the petroleum right is assigned, the written down value of the capital allowance expenditure at the beginning of the year in which the petroleum right was assigned shall be apportioned in proportion to the percentage of the petroleum right assigned and deducted from the consideration derived from the assignment.

**Disposal of petroleum rights**

30. For the purpose of subsection (2) of section 69 of the Act, where five percent or more of the underlying ownership of an entity that holds petroleum rights in the country is disposed off, to determine the gain from the disposal,

- (a) the written down value of the capital allowance expenditure of the entity at the beginning of the year in which its underlying ownership was disposed off shall, be apportioned in proportion to the percentage of the underlying ownership disposed off; and

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- (b) deduct from the consideration derived from the disposal or from the market value of the proportion of the right deemed to be disposed off, whichever is higher.

*Mineral and mining operations***Waste removal, overburden stripping and shaft sinking**

31. (1) For the purpose of paragraph (c) of subsection (9) of section 81 of the Act, where waste removal, overburden stripping and shaft sinking cost is incurred during

- (a) pre-production stage of mining, or  
(b) production stage of mining

to get improved access to ore bodies to be mined in the future, costs shall be capitalised.

(2) Where waste removal and overburden stripping cost is incurred during production for the extraction of ore in the current period, the cost shall be expensed.

**Disposal of mineral rights**

32. For the purpose of subsection (2) of section 83 of the Act, where five percent or more of the underlying ownership of an entity that holds mineral rights in Ghana is disposed off, to determine the gain from the disposal,

- (a) the written down value of the capital allowance expenditure of the entity at the beginning of the year in which its underlying ownership was disposed off shall be apportioned in proportion to the percentage of the underlying ownership disposed off; and  
(b) deduct from the consideration derived from the disposal or from the market value of the proportion of the right deemed to be disposed off, whichever is higher.

**Loan benefit**

33. In quantifying a loan benefit under the Fourth Schedule to the Act,

- (a) the rate to apply shall be the applicable statutory rate at the time the loan was taken; and  
(b) the loan benefit shall be determined monthly.

*Income Tax Regulations, 2016***Foreign tax credit**

34. (1) In accordance with section 112 of the Act, a resident taxpayer shall be allowed a credit for the foreign taxes paid in a foreign country in the year of assessment in which the income corresponding to the tax has been assessed to tax in the country.

(2) A resident taxpayer will be allowed a foreign tax credit relief after submitting to the Commissioner-General, a tax credit certificate, an official receipt or a functional equivalent of a tax credit certificate from the tax department of the foreign country, specifying the nature of income and the quantum of taxes deducted or paid by the taxpayer.

*Miscellaneous provisions***Capital allowance**

35. (1) All capital allowance expenditure of a petroleum operation or mineral and mining operation shall be put into a separate pool and capital allowance granted in accordance with Parts II and III of the Fifth Schedule.

(2) Capital allowance shall be calculated in accordance with the steps set out in the Fifth Schedule.

(3) For purposes of subsection (3) of section 14 of the Act, capital allowance granted to a person for a year of assessment shall be deducted to arrive at the chargeable income of that person or the loss to be carried forward in accordance with section 17 of the Act.

(4) Where a person uses depreciable assets in the production of income which is exempt from tax

(a) that person is granted capital allowance under the Fifth Schedule; and

(b) the allowances shall be deducted in ascertaining the income, and where the assets are subsequently used by that person in the production of income which is not exempt from tax, only the written down value of the pool or written down value of the asset, as the case requires, shall be used in calculating capital allowance granted to that person in respect of that subsequent use.

(5) For the purpose of this regulation and the Third Schedule to the Act, a person shall maintain a fixed assets register as prescribed under Generally Accepted Accounting Principles.

*Income Tax Regulations, 2016***Interpretation**

36. In these Regulations, unless the context otherwise requires, "repealed enactment" means the Internal Revenue Act, 2000 (Act 592), repealed by section 136(1)(a) of the Act.

**Revocation and savings**

37. (1) The Internal Revenue Regulations, 2000 (L. I. 1675) is revoked.  
(2) Despite the revocation in subregulation (1), any document issued, notice or ruling given under the revoked Regulations and in force on the commencement date of these Regulations shall continue in force until it is expired, reviewed or replaced.

**Transitional provisions**

38. (1) In calculating the capital allowance of a person for the first basis period after the commencement of the Act, the written down value of depreciable assets at the end of the previous basis period ending within the 2015 year of assessment shall be the written down value at the beginning of the 2016 year of assessment.

- (2) For purposes of subregulation (1),
- (a) classes 1 and 2 depreciable assets under the Third Schedule to the repealed enactment shall be brought forward as classes 1 and 2 of the Third Schedule to the Act;
  - (b) class 3 depreciable asset under the Third Schedule of the repealed enactment shall be dealt with in accordance with subregulation (3);
  - (c) classes 4, 5 and 6 depreciable assets under the Third Schedule of the repealed enactment is deemed to be the classes respectively specified as classes 3, 4 and 5 of the Third Schedule to the Act; and
  - (d) with respect to petroleum operations, the written down value of capital allowance expenditure at the end of the basis period ending within the 2015 year of assessment shall be put in a separate pool and shall be granted capital allowance for the unexpired period applying the straight line method.

*Income Tax Regulations, 2016***FIRST SCHEDULE**  
*(regulations 1 and 3(4)(b))***DETERMINATION OF CHARGEABLE INCOME**

- Step 1 Identify each employment, business and investment conducted by the person during any basis period ending within the year.
- Step 2 Calculate separately for each employment, business and investment identified, the income of the person from that business, employment, or investment for each basis period ending within the year.
- Step 3 To calculate the income of the person from any employment, business or investment, work out according to ordinary accounting rules, the gains or profits from that business, employment or investment, as the case requires.
- Step 4 Adjust the gains or profits worked out to ensure that all amounts required to be included by sections 4, 5, and 6 of the Act, as the case requires, are included in the calculation but exclude any payment subject to final withholding under sub paragraph (b) of subsection (1) of section 1 and section 119 of the Act, exempt income under section 7 or regulation 5 and any gains on realisation of capital assets by an individual which will otherwise be taxed under subparagraph (a) of paragraph 3 of the First Schedule to the Act.
- Step 5 Adjust the gains or profits worked out to ensure that any amount deducted in the calculation is only deducted in accordance with Division IV of Part II of the Act but do not deduct any amount that relates to a payment subject to final withholding payment under paragraph (b) of subsection (1) of section 1 and section 119 of the Act.
- Step 6 The gains or profits of the person from the business, employment or investment as worked out under Step 3 and adjusted under Step 4 and Step 5 is the income of the person from that business, employment or investment, as the case requires.

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- Step 7 Determine whether the income from the employment, business or investment has the necessary connection with the country as provided for by sections 3, 103, 104 and 105 of the Act and whether the income is exempt income.
- Step 8 Any income from employment, business or investment for a basis period ending within the year that has the necessary connection with the country and that is not exempt income is the assessable income of the person from the employment, business or investment for the year.
- Step 9 Determine the assessable income of the person for the year from each employment, business and investment separately.
- Step 10 In line with section 17 of the Act, deduct any unrelieved loss of the person in the order in which they were incurred.
- Step 11 Where a person has a loss from business, that person may off-set the loss from income from investment but a loss from investment shall not be deducted from the gains from business but may be deducted as in Step 10.
- Step 12 In the case of an individual, a loss from business or investment shall not be deducted from employment income however, may be carried forward.
- Step 13 Reduce the assessable income in Step 9 by any deductions available for the year under section 100 of the Act and where the person is an individual, any deductions available for the year under sections 51 and 93 of the Act.
- Step 14 Determine the chargeable income of that person from each source separately.
- Step 15 The aggregate of each separate chargeable income shall be the person's chargeable income for the year.
- Step 16 Use the applicable tax rate as appropriate.

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**SECOND SCHEDULE**  
(regulation 22 (1), (2) and (14))

**TAX TO BE PAID BY A PERSON WHO OWNS A COMMERCIAL  
VEHICLE AS PROVIDED IN REGULATION 22**

CLASS OF VEHICLE	DESCRIPTION	RATIONALISED ANNUAL RATE (GH¢)	QUARTERLY RATES (GH¢)
A1	Tractor, power tillers and tanker	40.00	10.00
A2	Taxis/private taxis	48.00	12.00
A3	One pound, one pound/ Peugeot cars/ fork-lift, recovery towing trucks	60.00	15.00
A4	Trotro (up to 15 persons)	64.00	16.00
B1	Hiring cars (saloon, caravan)	320.00	80.00
B2	Hiring cars (4x4) four wheel	480.00	120.00
B3	Trotro (up to 19 persons)	80.00	20.00
B4	Trotro (20-23 persons)	88.00	22.00
B5	Trotro (24-32 persons & above)	120.00	30.00
C1	Commuter (up to 15 persons)	80.00	20.00
C2	Commuter (16 - 19 persons)	100.00	25.00
C3	Ford buses, commuter (up to 23 persons)	80.00	20.00
C4	Tour operators (up to 15 persons)	320.00	80.00
C5	Commuter (up to 38 persons)	160.00	40.00
C6	Tour operators (up to 16 - 23 persons)	400.00	100.00
C7	Commuter (39 - 45 persons)	200.00	50.00
C8	Tour operators (24 - 38 persons)	280.00	70.00
C9	Tour operators (above 45 persons)	600.00	150.00
C10	Commuter (46 and above persons)	240.00	60.00
D1	Dry cargo (below 2 tons) pay loaders/ pickups 2 - 3.5 tons	140.00	35.00
D2	Dry cargo (2 - 4 tons) tankers 2000 gallons/ sewage tankers garbage trucks/cranes	256.00	64.00
D3	Tankers above 2000 gallons/ graders/bulldozer	404.00	101.00
D4	Dry cargo (4 - 7 tons)	480.00	120.00
D5	Tipper trucks (single axle)	320.00	80.00
D6	Tipper trucks (double axle)	480.00	120.00
D7	Articulated truck trailers (18 cubic)/timber trucks	800.00	200.00
D8	Tipper truck (12 - 14 wheelers)	600.00	150.00
D9	Ambulance/motor hearse	88.00	22.00
D10	Articulated truck trailers (single axle)	800.00	200.00



*Income Tax Regulations, 2016***THIRD SCHEDULE***(regulation 23(1), (2), (7), (8), (9) and (11))***TAX TO BE PAID BY SPECIFIED SELF-EMPLOYED**

Category	Current Rates Per Quarter GH¢
A. Large Medium Small Table Top	45.00 30.00 10.00 3.00
B. Large Medium Small Table Top	35.00 20.00 5.00 3.00
C. Large Medium Small Table Top	25.00 15.00 3.00 3.00

**Category "A": Taxpayers on Tax Stamp**

- (i) Retail Traders
- (ii) Susu Collectors
- (iii) Drinking and Chop Bar Owners
- (iv) Bakeries
- (v) Business Centres
- (vi) Estates and Accommodation Agents

*Income Tax Regulations, 2016***Category "B" Taxpayers on Tax Stamp**

- (i) Dress Makers and Tailors
- (ii) Hairdressers, Beauticians and Barbers
- (iii) Artisans (includes masons, carpenters, plumbers, electricians, tilers, steel benders, labourers etc.)
- (iv) Hiring Services other than vehicle hiring
- (v) Freelance Photographers (persons who make a living out of photography other than operating in a photo studio or specific location).

**Category "C" Taxpayers on Tax Stamp**

- (i) Butchers
- (ii) Individual Undertakers
- (iii) Corn and Other Millers
- (iv) Charcoal and Firewood Vendors
- (v) Auto Technicians
- (vi) Vulcanizers and Alignment Operators
- (vii) Shoes and Equipment repairs
- (viii) Traditional Healers and

Other businesses determined by the Minister and published in the *Gazette*.

*Income Tax Regulations, 2016***FOURTH SCHEDULE***(regulation 26)***GRA**TAX CREDIT CERTIFICATE

I .....(the Agent) hereby issue this tax credit certificate on behalf of Ghana Revenue Authority, in accordance with section 118 of the Income Tax Act, 2015 (Act 896) as detailed below:

Agent's Information	Withholdee Information
TIN: <input type="text"/>	TIN: <input type="text"/>
Name: .....	Name: .....
Tax Office Code: .....	Tax Office Code: .....
Tax Office: .....	Tax Office: .....
Contact Number(s) .....	Contact Number(s) .....
Email: .....	Email: .....
<b>Transaction Information</b>	
Year for Assessment: ..... Month: .....	

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Year of Assessment: .....	Month: .....
Transaction No.: .....	Transaction Date: .....
Withholding Type: .....	Rate: .....
Gross Amount Gh¢: .....	Amount Withheld Gh¢: .....
Date Issued: .....	Withholding Return Ref. No.: .....

Declaration

*Income Tax Regulations, 2016***FIFTH SCHEDULE***(regulation 35(1), (2) and (4)(a))***Part A****CALCULATION OF CAPITAL ALLOWANCE GENERAL**

- Step 1 Separately for each business of the person, identify the pool of depreciable assets owned by the person as at the end of the last basis period of the person ending within the year of assessment 2015 that are used by the person in carrying on the business.
- Step 2 Identify the class of each depreciable asset in accordance with paragraph 1 of the Third Schedule to the Act.
- Step 3 Rearrange in accordance with subregulation (2) of regulation 37, the written down value of each depreciable asset as at the time referred to in Step 1.
- Step 4 Separately for each business and each of the person's Class 1, 2 and 3 depreciable assets, bring down the written down values at the end of the basis period for the previous year into the respective pools.
- Step 5 The result is treated as the written down value of the Class 1, 2 or 3 pool of depreciable assets, as the case requires, as at the time referred to in Step 1.
- Step 6 Add to the written down value of the pool as at the time referred to in Step 1, the cost base of assets added to the pool after that time but before the end of the basis period.
- Step 7 Reduce the result, but not below zero, by any consideration received from the realisation of an asset from the pool during the basis period. (Any excess of amounts so received is treated in accordance with subsubparagraphs (a) and (b)(i) of subparagraph (1) of paragraph 4 of the Third Schedule of the Act).

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- Step 8      The result, if any, is the written down value of the pool at the end of the basis period to which the formula in subparagraph (4) of paragraph 2 of the Third Schedule to the Act shall be applied.
- Step 9      In the case of class 4 and 5 depreciable assets, reduce the result, but not below zero, by any consideration received from the realisation of an asset from the pool during the basis period. (Any excess of amounts so received is treated in accordance with subparagraphs (a) and (b) (ii) of subparagraph (1) of paragraph 4 of the Third Schedule to the Act).
- Step 10     In applying the limit in subparagraph (7) of paragraph 2 of the Third Schedule of the Act, the amount added to the depreciation basis under subparagraph (ii) of subparagraph (a) of subparagraph (2) of paragraph 3 shall include the excess expense provided in subsection (3) of section 12 of the Act.

*Income Tax Regulations, 2016***Part B****CALCULATION OF CAPITAL ALLOWANCE IN PETROLEUM OPERATIONS**

- Step 1 For each separate petroleum operation, identify the written down value of capital allowance expenditure for the 2015 year of assessment.
- Step 2 Calculate capital allowance in accordance with Part II of the Third Schedule of the Act.
- Step 3 Any additions in the year should be placed in a separate pool and capital allowance granted.
- Step 4 Where an asset is disposed off in any year of assessment in respect of a separate petroleum operation, the consideration received shall be added to the income of that separate petroleum operation.
- Step 5 Where an asset is partly used in different separate petroleum operations, capital allowance shall be computed on that asset and apportioned in proportion to the use of the asset in each separate petroleum operation.
- Step 6 Where in a year of assessment, a petroleum right is assigned, the written down value of the capital allowance expenditure of the assignor shall be transferred to the assignee.
- Step 7 Where in a year of assessment, part of a petroleum right is assigned, the written down value shall be apportioned between the assignor and the assignee in proportion to the percentage of the interest retained and the percentage of the interest assigned.

*Income Tax Regulations, 2016***Part C****CALCULATION CAPITAL ALLOWANCE FOR MINERALS  
AND MINING OPERATIONS**

- Step 1 In the case of each separate minerals and mining operation of a person, identify the pool of depreciable assets owned and used by the person in carrying on the business as at the end of the basis period within the year of assessment 2015 and place in a separate pool of depreciable assets.
- Step 2 For each separate mineral and mining operations of a person, bring down the written down value of the capital allowance expenditure at the end of the basis period for the previous year into the mineral and mining pool.
- Step 3 Where an operating mine has two or more processing facilities, a processing and pits services shall be considered as a separate minerals and mining operation and the value of depreciable assets as identified in Step 1 shall be apportioned on the basis of turnover connected to each separate minerals and mining operation.
- Step 4 Any additions in the year should be placed in a separate pool of depreciable assets.
- Step 5 Calculate capital allowance in accordance with Part III of the Third Schedule to the Act
- Step 6 Where an asset is disposed off in any year of assessment in respect of a separate minerals and mining operation, the excess of the consideration received over the written down value shall be added to the income of the separate minerals and mining operation.



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- Step 7 Where an asset is disposed off in any year of assessment in respect of a separate mineral and mining operation, and the written down value of the assets exceeds the consideration received from the disposal, an additional capital allowance equal to the excess shall be granted.
- Step 8 Where an asset in a separate minerals and mining operation is partly used in a different separate minerals and mining operation, capital allowance shall be computed on that asset and apportioned in proportion to the use of the asset in each separate mineral operation.
- Step 9 Where in a year of assessment a mineral right is assigned, the written down value of the capital allowance expenditure of the assignor shall be transferred to the assignee.
- Step 10 Where in a year of assessment part of a mineral right is assigned, the written down value shall be apportioned between the assignor and the assignee in proportion to the percentage of the interest retained and the percentage of the interest assigned.

HON. SETH E. TERKPER  
*Minister responsible for Finance*

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