

# **Consolidated Tax Amendments to the Revenue Code - Title 36 - Liberian Code of Laws Revised**

## **AMENDMENTS TO THE REVENUE CODE OF LIBERIA ACT OF 2000 - CONSOLIDATED TAX AMENDMENTS ACT OF 2011.**

WHEREAS, the current world economic climate calls for action to be taken to stimulate the economy by providing tax relief to the citizens of the Republic of Liberia;

WHEREAS, the management of national finances and sources of revenue according to the best practices is both desirable and advantageous to the Republic of Liberia;

WHEREAS, regional natural resource discoveries and changes in the international climate for investment have made Liberia an increasingly attractive venue for foreign investment;

WHEREAS, the sustainable economic development of the Republic of Liberia requires fiscal policies, including tax incentives that are stable and investor- friendly;

WHEREAS, principles of fiscal transparency and accountability require that tax be imposed and collected according to published law in a manner that is equitable and clearly stated;

WHEREAS, a review of the tax law and tax incentive structure has identified several ways in which carefully crafted tax incentives can be added to encourage investment in business sectors and geographical zones most in need of economic transformation, as initially developed in draft legislation previously referred to as the Economic Stimulus Tax Act;

WHEREAS, amendments to pivotal provisions of the Liberia Revenue Code will enhance revenues while creating a stimulus effect, as initially developed in draft legislation previously referred to as the Tax Amendments Act;

WHEREAS, the intent of the Legislature and goals of the nation are best served by enactment, as soon as practicable, of the consolidated amendments resulting from careful consideration of these legislative drafts;

It is hereby enacted by the Senate and the House of Representatives of Liberia in Legislature assembled that:

### **Preliminary Section 1 Title**

1. This Act amending the Revenue Code of Liberia Act of 2000 shall be known as the **Consolidated Tax Amendments Act of 2011**.

2. Amendments made by this Act shall be incorporated into the text of the Liberia Revenue Code of 2000, which shall then be re-issued and re-printed under the title "Liberia Revenue Code of 2000 as Amended" followed by the date of approval of this Act.

### **Preliminary Section 2 Repeals**

1. The turnover tax as a presumptive tax in lieu of the income tax is hereby repealed in its entirety.

2. Section 204(e) of the Liberia Revenue Code (2000) (last amended September 22, 2004) is hereby repealed. There shall hereinafter be no authority vested in any person to negotiate the tax and customs duties provided in the Liberia Revenue Code of 2000 except for investments in excess of US\$10 million in sectors provided in Section 16. This prohibition on negotiation of tax and customs duties extends to those investments provided for in Chapters 6 and 7 of the Liberia Revenue Code of 2000 as added by this Act.

3. Schedule III of the Customs Revenue Code (2000), which is superseded by new provisions in Chapter 17 and Chapter 18, is hereby repealed.

4. Schedule IV of the Customs Revenue Code (2000), which is superseded by new provisions in Chapter 17 and Chapter 18, is hereby repealed.

5. Part VI, Customs Revenue Offenses, is hereby repealed and Sections 1900-1999 are reserved. The substance of these provisions, revised for clarity and conformity with other Parts of this Code, has been added as Subchapter C, Additional Criminal Offenses, in Part I, General Provisions. The new Subchapter C in Part I applies to all taxes imposed by this Code (including Part V, Customs Revenue Code).

### **Preliminary Section 3 Effective Date**

1. Except as expressly provided to the contrary, the amendments made by this Act shall be effective for tax periods beginning on or after January 1, 2011.

2. The provisions of Section 16 as added by this Act shall expire June 30, 2015 unless extended by an Act of the Legislature.

3. The provisions of Chapter 6 and Chapter 7 of Part II, Income Tax shall apply to projects governed by concession agreements effective prior to January 1, 2011 to the extent not inconsistent with the terms of such agreements to which the Republic is

bound.

4. To the extent consistent with this Act, all regulations and procedures in force immediately prior to the approval of this Act shall remain in force unless inconsistent with the provisions of this Act.

#### **Preliminary Section 4 Amendments to Schedule 1 of the Customs Law**

The tariff applicable to imported items listed in Chapter 17, Schedule 1, Tariff Schedule, in the Harmonized System categories set out in the table below are hereby amended from the tariff stated in Column 3 to the amount stated in Column 4:

*[Please see pdf file for tables and figures]*

#### **Preliminary Section 5 Amendment to Non-Tax Law**

Amendment to Central Bank Law §53 (Central Bank of Liberia). The text of Section 53 is hereby replaced with the following text:

#### **Section 53. Exemption from Taxation**

The Central Bank is exempt from income taxation. It shall be subject to other taxes imposed by the Liberia Revenue Code, except that Excise Tax, Goods and Services Tax, and Customs duties (and related levies) shall not be applied to the Central Bank's importation of bank notes.

#### **Preliminary Section 6 Amendments to the Liberia Revenue Code**

The amended sections or subsections of the Liberia Revenue Code, set out word for word as follows, are to be inserted in place of the same-numbered sections or subsections of the Liberia Revenue Code as they existed immediately prior to approval of this Act. An ellipsis ("\*\*\*\*") is used to indicate omitted text not affected by this Act. The amended text of the Code begins on the following page.

### **Chapter 1. General Provisions**

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#### **Section 3. Tax Legislation of the Republic of Liberia**

(a) The tax legislation of the Republic of Liberia consists of this Code and regulations promulgated thereunder.

(b) In the case of a conflict between this Code and other legislation, the provisions of this Code are applied for purposes of taxation. Concepts and terms of civil, family, and other branches of legislation of the Republic of Liberia used in this Code, are applied in

the same meaning as they are used in these branches of legislation, unless otherwise provided by this Code.

(c) All changes relating to taxation are instituted by amendments to this Code, notwithstanding contrary provisions of other laws.

(d) Matters connected with taxation may not be included in non-tax legislation, except for provisions on the priority of tax obligations as included in the bankruptcy law.

(e) Where an international agreement ratified by the Legislature has entered into force and establishes rules inconsistent with those provided by this Code, the international agreement takes priority over and supersedes this Code to the extent of the inconsistency.

(f) Privileges contemplated by international treaties on the avoidance of double taxation do not apply to a resident of a state that is party to the treaty if such resident has been used or established by another person who is not a resident of such state for the purpose of obtaining the privileges.

#### **Section 4. Taxes In Effect In The Republic Of Liberia**

The taxes in effect in the Republic of Liberia are:

(a) The Personal and Business Income Tax, Chapters 2-9 of this Code, and royalties stated in this Code;

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(f) Obligatory payments required of a person under a mining or petroleum agreement with the Government of Liberia in accordance the Mining Law or Petroleum Law (for example, concession fees, social development fund charges, signature bonus payments), are not taxes under this Code, but may be collected according to the procedures of this Code as if they were tax liabilities under this Code, and the person having the obligatory payment obligation may be treated as a taxpayer.

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#### **Section 5. Persons Regulated by Tax Legislation**

The following persons are subject to the Liberia Revenue Code:

(a) Natural and legal persons considered taxpayers in accordance with this Code;

(b) All persons considered tax agents in accordance with this Code;

(c) Tax offices, agencies and their employees, including the Minister and Deputy Minister and their delegates, and the offices, agencies, and employees of the Revenue Department;

(d) Customs offices, agencies, and their employees (in cases where responsibility for the collection of tax or tariff under this Code devolves upon the Commissioner of Customs);

(e) The Ministry of Finance, finance agencies (in cases where tax receipt, collection, or withholding responsibility is assigned by this Code to finance agencies);

(f) Other agencies and officials responsible for tax collection, receipt, or enforcement;

(g) Members of the Board of Tax Appeals; and

(h) Any other persons whose rights, authority, or duties are determined by this Code.

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### **Section 6. Amount Stated in Dollars**

(a) Accounts. Dollar amounts stated in this Code are in Liberian dollars, and taxation books of account may be kept in Liberian dollars or US dollars (but if kept in US dollars the Liberian dollar equivalent of taxable income and tax must be shown in the financial statement). Tax may be assessed either in Liberian dollars or US dollars and may be paid in Liberian dollars or US dollars. If payment is made in US dollars, the amount due in Liberian dollars is to be translated into US dollars at the market rate of exchange published by the Central Bank in effect on the day payment is made. The term "Liberian dollar" refers to money authorized and duly issued under the law establishing the Central Bank.

(b) US Dollars. The Government of Liberia may, by regulation, require that— (1) Certain user fees, license fees, and other fees which are designed to cover the cost of providing a service be stated in US dollars;

(2) Customs duties be stated in US dollars and paid in US dollars.

(c) Foreign Exchange Transactions. Except as otherwise provided by this Code, when it is necessary to translate foreign currency into Liberian or US dollars, or US dollars into Liberian dollars, the exchange rate shall be the applicable buying rate published by the Central Bank.

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### **Section 9. Exempt Persons**

(a) General Rule. The Government of the Republic of Liberia, government agencies, and charitable private organizations that are approved by and registered with the Ministry of Finance, Republic of Liberia are referred to as "Exempt Persons" and are exempt from tax to the extent provided by this Code.

(b) Public Corporations. A public corporation that is not a government agency as defined in Section 10 is subject to taxes imposed by this Code.

(c) Regulatory Agencies. A regulatory agency or regulatory authority is subject to Customs duties but not to other taxes imposed by this Code, except as a withholding agent. If it is structured to achieve a profit it is subject to income taxation under Part II.

(d) **Central Bank.** The Central Bank is exempt from income taxation. It shall be subject to other taxes imposed by this Code, except that Excise Tax, Goods and Services Tax, and Customs duties (and related levies) shall not be applied to the Central Bank's importation of bank notes.

(e) **Foreign Agencies.** Foreign governments, foreign diplomatic representatives, foreign consular officials, international organizations and officials of international organizations that are exempt from taxation under international agreements and conventions are exempt from tax to the extent required by those agreements or conventions.

(f) **Registered Charities.** A private charitable or not for profit organization qualifies for registration as a registered charity if it is a noncommercial organization established for the purpose of carrying out charitable activity.

(1) An organization does not qualify as a registered charity, or if registered is subject to loss of its approved and registered status, if—

(A) it pursues political goals or performs political activities, including direct or indirect participation in the election campaign of any political party, public organization or movement, or person; or

(B) the revenue or property of the organization is used in a way inconsistent with the charitable purposes for which the organization was established.

(2) If a registered charity engages in activity inconsistent with its charitable purposes, or has income from business activity (whether or not consistent with its charitable purposes), the charity is subject to tax with respect to those activities and, under conditions as specified in regulations, may lose its approved and registered status.

(g) **Cross-Reference.** Nonresident natural and legal persons are taxable on their Liberia-source income as provided in Chapter 8, Income Taxation of Nonresidents.

## **Section 10. Definitions**

(a) **Assessment.** The term "assessment" means an assessment as defined in Section 74 of this Code. An assessment is the amount of a taxpayer's unpaid tax liability, and is immediately due and payable. The Minister is empowered (subject to the conditions specified in Section 64 and 65) to enforce an assessment on the assessment date.

(b) **Board of Tax Appeals.** The term "Board of Tax Appeals" means a 5-member deliberative body convened to review taxpayer protests of the Minister's determinations. The composition of the Board of Tax Appeals and its obligations under the Code are set out in Section 60. A decision of the Board of Tax Appeals is a final administrative determination for purposes of Section 6.2 of the Judiciary Law (1972) as amended.

(c) **Corporation.** The term "corporation" means a joint stock company, an insurance

company, a business trust, and any similar organization or association whether or not incorporated. The terms "shareholder" and "stockholder" mean any person having an ownership or equity interest in a corporation including a person holding a right, including a contingent right, to participate in the income or capital of a corporation.

(d) **Certification.** The term Certification, when used in this Act, means ensuring compliance and confirmation by the Minister that the standards and policies prescribed by the Commissioners of the National Investment for the grant of Special Investment Incentives as provided in Section 16 are adhered to.

(e) **Day.** Unless otherwise provided, the term "day" means a calendar day, unless the term is used in a stated period of less than 7 days, in which case the term "day" means business or working day.

(f) **Deputy Minister.** The term "Deputy Minister" means the Deputy Minister of Finance for Revenue as defined in Section 21.6 of the Executive Law and any person to whom the Deputy Minister delegates authority to perform a duty of the Deputy Minister (subject to the limitations on delegation described in Section 10.6 of the Executive Law).

(g) **Determination.** The term "determination" means a decision of the Minister listed in Section 70(b). If the taxpayer submits a protest within 30 days, a determination is subject to review by the Board of Tax Appeals. If the taxpayer does not protest within the 30-day period, the determination is a final administrative determination for purposes of Section 6.2 of the Judiciary Law (1972) as amended.

(h) **Employment Contract.** The term "employment contract" means any employment arrangement or relationship, whether agreed to orally or in writing, in which the hiring party has supervisory authority over the other party.

(i) **Estate.** The term "estate" means the property that a deceased natural person owned at the time of death; the estate comes into existence at the moment of death and continues during the period before complete distribution of property to devisees, legatees, trustees or other persons in accordance with a will or the applicable laws of inheritance.

(j) **Fiduciary.** The term "fiduciary" means a person with a legal duty of loyalty or care, and includes a guardian, trustee, executor, administrator, receiver, conservator, or other person acting in a similar capacity.

(k) **Government.** The term "government" means the Government of the Republic of Liberia, and "government agency" means a Ministry, board, council, or other organization created for administrative purposes and carrying out administrative functions of the government including the Central Bank, but not including a public corporation carrying out profit-making endeavors.

(l) **Legal Person.** The term "legal person" means any person other than a natural

person. The term has the same meaning as the term "person" in Title 16 of the Liberian Code and includes any legal person created by the operation of law such as a government agency, partnership, corporation, trust, estate, or similar legal person created under foreign law. A legal person created under foreign law is to be taxed under the rules applicable to the Liberian legal person to which it is most similar.

(m) **Liberia.** The term "Liberia" means the political entity of the Republic of Liberia, and also means the geographical territory of the Republic of Liberia, its territorial waters, and areas adjacent to the territorial waters of Liberia over which Liberia may exercise rights, in accordance with international law, with respect to the seabed, soil, and natural resources.

(n) **Mining Law.** The term "Mining Law" means An Act Adopting a New Minerals and Mining Law (2000) as it may be amended from time to time, or any successor law.

(o) **Minister.** The term "Minister" means the Minister of Finance as defined in Section 21.2 of the Executive Law, and any person to whom the Minister delegates authority to perform a duty of the Minister (subject to the limitations on delegation described in Section 10.6 of the Executive Law).

(p) **Ministry.** The term "Ministry" means the Ministry of Finance, with the authority to collect taxes, audit, maintain records of taxpayer information, monitor and enforce taxpayer compliance with this Code, and to establish offices for the payment of tax and the filing of tax returns.

(q) **Month.** Unless otherwise provided, the term "month" means a calendar month.

(r) **Partnership.** The term "partnership" means any joint enterprise or venture organized to engage in activities for profit, including a syndicate, group, pool, or other unincorporated organization, but does not include a corporation, trust, or estate.

(s) **Partner.** The term "partner" means any member-owner or member-participant in a partnership.

(t) **Petroleum Law.** The term "Petroleum Law" means An Act Adopting the New Petroleum Law of the Republic of Liberia (2002) as it may be amended from time to time, or any successor law.

(u) **Person.** The term "person" means any legal person or any natural person.

(v) **Regulations.** The term "regulations" means the rules, promulgated by the Deputy Minister with the consultation and concurrence of the Minister, for the purpose of interpreting this Code and to specify the procedures or standards for compliance with it.

(w) **Rent.** The term "rent" means periodic payments received for the use of real or personal property under a lease agreement whether written or oral. The term "real

property" includes buildings or structures fixed to the land and the term "personal property" includes structures that are not fixed.

(x) **Tax.** The term "tax" means any tax, tariff, duty, impost, or license or registration fee imposed by this Code, including an advance payment under Section 904, and shall be subject to the assessment and collection rules of Subchapter B of this Part.

(y) **Tax Court.** The term "Tax Court" means the Tax Court established under Chapter 6 of the Judiciary Law (1972) as amended. If a Tax Court is not constituted or operational in a county or territory of the Republic of Liberia, any other court of competent jurisdiction is empowered to hear matters that otherwise would be referred to the Tax Court, including the Circuit Court.

(z) **Taxpayer.** The term "taxpayer" means any person subject to a tax imposed by this Code, or subject to a related obligation to pay interest, penalties, or fees. In the case of a renewable resource project subject to Chapter 6, or a mining project or petroleum project subject to Chapter 7—

(1) The Chapter 6 contractor or Chapter 7 producer is the taxpayer legally responsible for reporting, withholding, and paying tax on behalf of a project.

(2) If the contractor or producer is organized as a partnership or similar form of unincorporated joint venture, each partner shall be considered a taxpayer with respect to the activities of the project.

(3) A taxpayer is not permitted to combine or consolidate projects for the purpose of determining liability for any tax under this Code.

(aa) **Tax Return.** The term "tax return" means any return, tax declaration, voucher, Customs entry form, or withholding statement required to be submitted under this Code (including a statement required to be filed with an advance payment under Section 904).

(bb) **Trust.** The term "trust" means any testamentary or inter vivos arrangement under which property is placed in the hands of a trustee for management or distribution. A trustee is:

(1) An executor, administrator, tutor, or curator,

(2) A liquidator or judicial manager,

(3) A person having or taking on the administration or control of property subject to another person having a beneficial interest in the property,

(4) A person acting in a fiduciary capacity,

(5) A person having the possession, control, or management of the property of a person

under a legal disability, or

(6) A person who manages property under a private foundation or other similar arrangement.

(cc) **Value.** The phrase "fair market value" (including its short form, "value") means the fair market value as determined in an arm's length transaction by parties acting without obligation or coercion. A transaction between related persons is assumed not to be at arm's length, and regulations may specify disclosure and documentation requirements not applicable to transactions between unrelated persons. The meaning of "arm's length" may be established for related-person transactions through a methodology specified in an advance pricing agreement in accordance with Section 18.

### **Section 16. Special Investment Incentives.**

**(a) Incentives for New Investment.** In the case of a new investment activity qualifying under both paragraphs (1) and (2) below, the qualifying activity is entitled to the special tax incentives specified in paragraph (3) below, upon Certification by the Minister.

(1) *Procedure.*

(A) To be qualified for Special Investment Incentive, under section 16(a), investors qualifying under subsection (2) shall make application to the National Investment Commission ("NIC"), which shall conduct an economic evaluation of the business plan and make recommendations to the Minister for Certification of the investment, along with (pursuant to subsection (3)(B)) any recommended positive listing for exemptions of GST under Part III and import duty under Part V, including types of goods and quantities proposed for exemption and the investor's proposed importation schedule.

(B) Within 15 working days as of the receipt of the recommendation from the National Investment Commission, the Minister is required to either issue a Certification or give the NIC a written statement of the grounds for denial of certification.

(2) *Requirements.*

(A) The investment activity must be in one of the following sectors, which shall be defined and limited in regulations—

(i) Tourism carried out through tourist resorts, hotels and cultural sites

(ii) Manufacturing of finished products having at least 30% local raw material content excluding water

(iii) Energy

(iv) Hospitals and medical clinics

(v) Low and medium income housing

- (vi) Air, sea, rail, and road transport infrastructure, including ports
- (vii) High-impact information and communication technology
- (viii) Banking in the non-bank areas in the southeastern region and in Zone 1
- (ix) Poultry
- (x) Horticulture
- (xi) Exportation of sea products
- (xii) Agricultural food-crop cultivation and processing, including cocoa and coffee
- (xiii) Small- and medium-scale rubber and oil-palm cultivation and processing
- (xiv) Manufacturing or assembly of finished products for export, provided that at least 70% of production is exported from Liberia within any 12-month period
- (xv) Waste management

(B) Upon the recommendation of the Commissioners of the National Investment Commission, an Administrative Regulation shall be issued by the Ministry of Finance, to include other investment activities, not listed above, but which are compatible with the economic growth policy of the Government, thereby enhancing and improving the economic development of the Country.

(C) Capital invested must be at least US \$1 million (one million) for foreign owned businesses; and for businesses with 100 percent Liberian ownership, the capital invested must be at least US \$300,000. If the investment is to establish a hospital or health clinic, the minimum capital invested must be at least US\$50,000.

(3) *Special Tax Incentives.* An investment activity qualifying under both paragraphs (1) and (2) is entitled to the special tax incentives of this paragraph for a period of five (5) years from the commencement of investment as stated in the Minister's certification. Any special tax incentives allowable under this paragraph with respect to a qualifying cost may be deducted in lieu of (and not in any way combined with) any incentive deduction otherwise allowable under Section 204(d).

(A) In lieu of the 30-percent incentive deduction limitation under Section 204(d)(1), a special tax incentive deduction is allowed for up to 100- percent of the qualifying cost with respect to the following:

- (i) 30% of the cost of equipment and machinery used in the activity in the year the asset is placed in service.

(ii) 30% of the construction cost of a new hotel or tourist resort. The construction cost of a new hotel or tourist resort does not include the equipment and machinery purchased for the hotel or tourist resort. The equipment and machinery purchased for the hotel or tourist resort is deductible under (i).

(iii) 10% of the cost of buildings and fixtures used in a manufacturing process that produces finished products (whether for domestic consumption or for export) having a graduated scale of local raw material content at:

***[Please see pdf file for tables and figures]***

(iv) A percentage of the cost of investment in an asset specified in (i), (ii), or (iii) that is placed in service in an economically deprived zone, as follows—

***[Please see pdf file for tables and figures]***

(v) A percentage of the cost of an asset specified in (i), (ii), or (iii) that is placed in service in an investment activity certified by the Minister as meeting standards for increase in employment, as follows—

***[Please see pdf file for tables and figures]***

(B) Exemption from GST under Part III and import duty under Part V, as follows—

(i) All medical and educational equipment and supplies purchased for use directly in or in connection with the investment activity and intended to be placed in service within one year of purchase.

(ii) Other assets purchased for use directly in the activity and intended to be placed in service immediately upon purchase, to the extent specified below and as further described in regulations—

***[Please see pdf file for tables and figures]***

(C) The following shall apply to any special tax incentives under Section 16:

(i) The allowances provided in (i), (ii), or (iii) of paragraph (3)(A) above may be combined with the allowances provided in (iv) and (v) of that paragraph with respect to any qualifying cost to reach the allowable deduction limit of 100 percent.

(ii) The amount allowable as a special tax incentive deduction reduces the asset's tax cost to arrive at the asset's adjusted tax cost, which adjusted tax cost shall be used for purposes of determining the allowable amount of depreciation for the particular asset.

**(b) Investment Agreements Under Prior Law.**

(1) An investment agreement allowing tax concessions and entered into under the Liberia Revenue Code prior to its amendment by the Consolidated Tax Amendments of 2011 shall be given effect if approved according to the terms allowed by the Code at the time of approval; provided, however, that the holder of such an agreement—

(i) Shall only be allowed a special tax incentives deduction under Section 16(a)(3)(A) with respect to a particular asset in the amount by which the special tax incentives deduction otherwise allowable, exceeds the amount of any deduction allowable under the investment agreement with respect to such asset;

(ii) Shall file a copy of the investment agreement with the Ministry;

(iii) Shall file an annual income tax return for information purposes, regardless of whether filing is required by the agreement.

(2) Investment agreements described in this subsection are nontransferable and become invalid if the conditions for application of Section 405 apply.

**(c) Consequences of Noncompliance.** A holder of an investment agreement (including the holder of an investment agreement allowing tax concessions and entered into prior to January 1, 2011) who does not materially comply with the requirements of the agreement or this Code as it relates to the agreement is subject to the consequences described in this subsection, unless the agreement expressly provides an alternative process.

(1) If the Minister determines that noncompliance has occurred, and that the failure to comply is not knowing and willful misconduct, the Minister must serve the holder with a notice of determination of noncompliance allowing the holder ninety (90) days to correct the noncompliance. If the noncompliance is not corrected within 90 days—

(A) The Minister is authorized to suspend or terminate any tax benefit allowed under the agreement; and

(B) If the Minister elects to terminate a tax benefit, the holder's right to future claims or allowances of the terminated tax benefit is forfeit, and with respect to that benefit the investment activity is returned to taxation under the standard rules of this Code.

(2) If the Minister determines that noncompliance has occurred, and that the failure to comply is knowing and willful misconduct, the Minister must serve the holder with a notice of determination of noncompliance specifying—

(A) Immediate suspension or termination of any tax benefit allowed under the agreement;

(B) If the Minister elects to terminate a tax benefit, the holder's right to future claims or allowances of the terminated tax benefit is forfeit, and with respect to that benefit the

investment activity is returned to taxation under the standard rules of this Code;

(C) With respect to a terminated tax benefit, the holder must repay any benefits previously allowed with respect to the two tax periods preceding the first determined act of noncompliance; and

(D) The holder must pay a forfeiture penalty in an amount equal to three times the repayment amount under subsection (iii).

(3) A determination under this subsection is a Section 70 determination subject to the taxpayer's right of protest and appeal within 30 days of the notice date, except that an alternative method of resolving disputes specified in an investment agreement is substituted if the method is expressly applicable to the asserted noncompliance.

**(d) Investments Exceeding US \$10 Million.** For investments exceeding US \$10 million, and subject to approval by the President and the Legislature, the tax incentives permitted by this section may be allowed for a period of up to 15 years. No tax incentive under this subsection shall be valid or enforceable without legislative approval. Investment evaluation procedures applicable to investments under this subsection shall be transparently defined in regulations to be published jointly by the National Investment Commission and the Ministry of Finance (subject to the Public Procurement and Concessions Act 2005 or successor legislation, if otherwise applicable to the investment). Only those sectors listed in subsection (a)(2)(A) may be granted additional tax incentives. No tax incentives additional to those provided in subsection (a)(3) are permitted.

**(e) Exclusion of Investments Subject to Part II Chapter 6 or 7.** The tax incentives allowed by this section are not allowed to an investment covered by Chapter 6 or Chapter 7 of Part II.

### **Section 17. Stability Of Fiscal Regime For Mining, Petroleum, and Renewable Resource Projects**

When entering into an agreement with a Chapter 6 contractor, or a Chapter 7 producer, the Government of Liberia is permitted to accept a clause stabilizing the following aspects of taxation to the terms under Code provisions for a period not to exceed 15 years from the effective date of the agreement:

- (1) The income tax rate;
- (2) The rate of royalty;
- (3) The special rule for extended net operating loss carryforward;
- (4) The special rule for depreciation and other cost recovery;
- (5) The rate for withholding of tax on payments;

(6) The exemption provided in Section 1001(e)(6) and 1001(g)(5);

(7) The exemption provided in Section 1708(b); and

(8) The exemption provided in Section 2009(i).

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### **Section 18. Advance Pricing Agreement**

**(a) General Rule.** The term "advance pricing agreement" ("APA") means an agreement with the Government of Liberia establishing a transfer pricing methodology ("TPM") intended to reflect transactions between related parties as they would be if they had been between unrelated parties dealing at arm's length. If a person who has entered into an APA complies fully with its terms and conditions, the Ministry of Finance will not contest the application of the TPM to the subject matter of the APA.

(1) In addition to the TPM, an APA may specify the related party transactions or transfers the agreement covers ("covered transactions"), the APA term, operational and compliance provisions, appropriate adjustments, critical assumptions regarding future events, mandatory recordkeeping, annual reporting responsibilities, and other provisions that may be appropriate, necessary, or desirable.

(2) An APA is a supplement to administrative and judicial mechanisms for resolving transfer pricing issues.

(3) A person who has entered into an APA must maintain books and records sufficient to enable the Ministry of Finance to examine whether the producer has complied with the APA.

(4) Both while an APA request is pending and after an APA is executed, a person who has entered into an APA is under a continuing duty to supplement material facts and information submitted in connection with the person's request for the APA. If, after an APA is executed, the person discovers that information provided in connection with the APA request was false, incorrect, or incomplete in some material respect, the person must disclose the error or omission in its next-filed tax return or other scheduled report (or sooner as specified in regulations).

**(b) Guidelines.** The term "Guidelines" means the guidelines established by the Organization for Economic Cooperation and Development and by the United Nations with respect to transfer pricing.

**(c) Obligations of the Parties.** In negotiation of a TPM, the Ministry of Finance and the producer are required to take the Guidelines into account.

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### **Section 50. Time and Place for Filing and Payment of Tax**

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**(i) Tax Clearance Certificate.** The Minister may by regulation require persons who are in specified categories of taxable persons to obtain a tax clearance certificate from the Ministry.

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## **Section 51. Penalty for Late Filing or Failure to File**

**(a) Late Filing or Failure to File.** A taxpayer who is late in filing a return is subject to the late-filing penalty and may also be subject to the failure-to-file penalty.

(1) *Late-Filing Penalty.*

(A) A taxpayer is subject to the late-filing penalty if a return is not filed by the required due date (determined with regard to any granted extension of time for filing).

(B) If the delay in filing is for not more than one month, the late-filing penalty is 5 percent of the amount of tax shown on the return. For each additional month (or partial month) that the delay continues, an additional 5-percent penalty is imposed on the sum of the tax shown plus any previously imposed penalty. The total penalty under this paragraph is not permitted to exceed 50 percent of the amount of tax shown on the return.

(C) If a late return shows no tax due, or if it is subsequently determined that there is no tax due, the taxpayer is subject to a flat penalty amount specified in regulations, but not more than US\$150,000.

(2) *Failure-to-File Penalty.*

(A) A taxpayer is subject to the failure-to-file penalty if a return is not filed within the listed period after the due date (determined with regard to any granted extension of time for filing)—

(i) Six months for an income tax return;

(ii) One month for any other return.

(B) The failure-to-file penalty is equal to the late-filing penalty and is in addition to it. If a taxpayer has not filed a return, the Minister may assert a failure-to-file penalty specified in regulations that is not more than US\$300,000. This penalty must be recomputed based on (a) if the taxpayer files a return.

**(b) Penalty Imposed on Net Amount.** The penalty is imposed on the net amount of unpaid tax liability shown on the return, increased by previously imposed penalties, and reduced by payments made on or before the payment due date (including withheld tax creditable on the taxpayer's return).

(1) If the taxpayer is found to owe more tax than the amount shown on the return, the penalty is recalculated using the higher amount (as if it had been shown on the return) .

(2) If the taxpayer is found to owe less tax than the amount shown on the return, the penalty is recalculated using the lower amount (as if it had been shown on the return).

**(c) Penalty for Willful Failure to File.** If the taxpayer is convicted of willful failure to file a tax return in a criminal court proceeding as authorized under the Criminal Justice Law of Liberia, the penalty under subsection (a) is doubled and the taxpayer may also be subjected to a term of imprisonment of up to five years.

**(d) Tax Return for Tax Required to be Collected on Import.** On the import of goods for which a Customs consumption entry is required, evidence of payment of any tax required to be collected on import is sufficient to satisfy the return filing requirement with respect to those goods (and the Customs entry form is evidence of the amount and type of tax paid).

**(e) Coordination with Late Payment Penalty.** For the coordination of the penalties imposed under this Section with the penalties imposed under Section 52, see Section 52(e).

## **Section 52. Penalty for Failure to Pay Tax**

**(a) Failure to Pay Amount Shown.** A taxpayer is required to pay the correct tax liability on or before the payment due date. If a taxpayer does not pay by that date (determined with regard to any granted extension of time to make payment) the amount shown as tax liability on the taxpayer's return, a penalty is imposed.

(1) If the delay in payment is for not more than a month, the penalty is 5 percent of the amount of tax shown. For each additional month (or partial month) the delay continues, an additional 5-percent penalty is imposed on the balance, which is sum of—

(A) the tax shown, plus

(B) previously imposed Section 52(a) penalty.

(2) If the taxpayer makes a partial payment after the due date, the tax liability is reduced by the payment and for succeeding months the penalty is calculated based on the remaining unpaid balance.

(3) The total penalty under this subsection is not permitted to exceed 25 percent of the amount of tax shown on the return.

(4) In accordance with the treatment of the amount shown on a tax return as a final assessment, the Minister may use the collection procedures described in this Part to collect the tax shown on the return, increased by the penalty under this subsection.

**(b) Failure to Pay Correct Tax Liability.** If a taxpayer fails to pay the full amount of correct tax liability on or before the payment due date, a penalty is imposed.

(1) If the delay in payment is for not more than a month, penalty is 0.5 percent of the amount correct tax liability. For each additional month (or partial month) that the delay continues, an additional 0.5-percent penalty is imposed on the balance, which is sum of—

(A) the tax shown, and

(B) previously imposed Section 52(b) penalty.

(2) If the taxpayer makes a partial payment after the due date, the tax liability is reduced by the payment and for succeeding months the penalty is calculated based on the remaining unpaid balance.

(3) The total penalty under this subsection is not permitted to exceed 50 percent of the amount of correct tax liability, and is in addition to the penalty described in subsection (a).

**(c) Coordination of Penalties.** A taxpayer may be subject to penalties under Section 51, Section 52, or both sections.

(1) If a taxpayer does not pay on time, the Section 52 penalty applies even if the taxpayer has filed on time.

(2) If a taxpayer does not file on time, the Section 51 penalty applies even though the taxpayer has paid on time.

(3) If the conditions for imposition of a penalty under both Section 51(a) and Section 52(a) apply, both penalties are imposed; provided, however, that the amount of the penalty under Section 51(a) shall be reduced by the amount of the penalty under Section 52(a) for any month or fraction thereof to which a penalty applies under both Section 51(a) and Section 52(a).

(4) If the conditions for imposition of a penalty under both Section 51(a) and Section 52(b) apply, both penalties are imposed without any reduction.

**(d) Penalty for Willful Failure to Pay.** If the taxpayer is convicted of willful failure to pay tax in a criminal court proceeding as authorized under the Criminal Justice Law of Liberia, the penalty under subsections (a) or (b), as the case may be, is doubled and the taxpayer is also subject to a term of imprisonment of up to ten years.

**(e) Payment of Tax Required to be Collected on Import.** On the import of goods for which a Customs entry is required, payment at the time of import of any tax required to be collected on import is sufficient to satisfy the tax payment requirement with respect to the import of those goods (and the Customs entry from is evidence of the amount and type of tax paid). Failure to pay at the time of import any tax required to be paid on

import is subject to the penalties provided in this Code for failure to pay tax (including Customs duties).

### **Section 53. Taxpayer Identification Number**

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#### **(b) Penalties**

(1) If tax withholding is required on a payment, and the payment amount is \$1,000 or more, a withholding agent who makes a payment to a person who has not supplied a TIN is liable to pay a fine of \$5,000 or the amount of the tax required to be withheld, whichever is less.

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### **Section 54. Confidentiality of Tax Return Information**

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**(b) Exceptions.** Information concerning a taxpayer may be disclosed to another person with the taxpayer's written consent. Without the taxpayer's written consent, an officer, agent, or employee of the Ministry of Finance (or former officer, agent, or employee) may disclose confidential information only to the following persons or agencies (and only to the extent required for performance of their official functions)—

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(7) To the administrator of the Extractive Industries Transparency Initiative (EITI) to the extent necessary for Liberia's participation in and compliance with the EITI, including the publication of disaggregated reports that may identify payments by persons or projects.

### **Section 55. Records**

#### **(a) Records to Be Kept.**

(1) Every person with a tax obligation, whether for payment of tax or withholding of tax, shall maintain in Liberia, in the English language, books and records adequate to substantiate the tax due in accordance with the person's method of accounting (provided such method is consistent with international accounting standards and any applicable regulations), and is required to produce them upon request.

(2) The records to be maintained include the following items as well as any other items specified in regulations:

(A) A copy of all goods and services tax invoices, purchase orders, sales receipts, sales logs, invoices, bank statements (from Liberian and foreign banks, whether resident or nonresident), credit notes, and debit notes issued by the person;

(B) Customs documentation relating to imports or exports (including transshipment) by the person.

(C) Accounting and other financial and related records specified in regulations.

(3) For purposes of paragraph (2), regulations may specify additional records to be kept,

provided that they are reasonably related to the determination of tax liability or to compliance with obligations under this Code, and may specify the records appropriate to a particular type of business.

(A) Regulations may specify additional disclosure and documentation requirements for transactions between related persons that are not applicable to transactions between unrelated persons.

(B) An agreement governing a related-party transaction is a record subject to this section and must be provided upon request.

(4) The invoices, receipts, or notes a person generates must be serialized and must be created using a method that allows for production in duplicate or, in the case of a Goods and Services Tax invoice, in triplicate, one copy of which is retained by the person.

**(b) Retention Period.** The books and records required to be maintained under this section must be retained for 7 years after the end of the tax period to which they relate.

**(c) Electronic Records.** Regulations may permit or require that taxpayers with the capacity to do so keep records in electronic form and process transactions using at minimum electronic equipment such as a cash register.

**(d) Information Collection.**

(1) Information Collection Authority. In accordance with Section 83.1 of the Executive Law, and Section 55 of this Code, the Minister is authorized to request, demand, and collect from any person, natural or legal, within the Republic of Liberia, or from the head of an agency of the Government, all information necessary to enable the Ministry effectively carry out its lawful functions (including but not limited to the records, inspections, and entry onto premises specified in Section 55).

(2) A person with a recordkeeping obligation under this section must make records and business premises available and open for Ministry inspection upon request, within reasonable bounds of consideration for the convenience of the taxpayer). In the case of a Section 74 jeopardy assessment proceeding, convenience of the taxpayer is not a consideration.

(3) Information the Minister collects is entitled to the confidential protections of Section 83.2 of the Executive Law.

\*\*\*

(f) **Non-Cooperation Penalty.** A person who refuses to cooperate with the Minister's request for records, request to inspect the person's business premises, or request to examine records at the business premises, is subject to a civil tax penalty of \$50,000 per day of refusal, and to the criminal penalty for non-cooperation described in Section 93.

(g) Order of Inspection. If a person refuses to produce records for inspection, or refuses entry to the person's business premises, the Minister is authorized to obtain the assistance of the Ministry of Justice to enter the premises or seize the records.

(h) Emergency Hearing. A person objecting to entry to premises or to seizure of records is entitled to an emergency hearing (described in Section 61) to review the legality of the entry or seizure, but the Minister is not required to give advance notice to a taxpayer who has refused a written request to produce records or to allow entry onto premises.

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## **Section 60. Board of Tax Appeals**

### **(a) Board Of Tax Appeals.**

(1) The Board of Tax Appeals, a five-member deliberative body, hears taxpayer appeals from determinations by the Minister and emergency protests of the Minister's actions and is the final administrative remedy available to taxpayers. The Board has the authority to approve, modify, or reverse a determination of the Minister. The taxpayer may appeal a decision of the Board to the Liberia Tax Court, provided that the appeal is lodged within 30 days of the Board's decision and is in conformity with the rules of the Tax Court.

(2) The Board is independent of the Ministry. The Board is administered under the authority of the Ministry, but has autonomous decision-making power. The Ministry may appeal an decision of the Board to the Liberia Tax Court, provided that the appeal is lodged within 30 days of the Board's decision and is in conformity with the rules of the Tax Court.

(3) The Minister is required to take all reasonable steps to ensure a proper appropriation to fund the Board, which is authorized to manage its own budget funds, hire its own staff, and make arrangements for its administrative offices and hearing room.

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(e) Composition Of Board. The members of the Board are to be appointed by the President with the concurrence of the Legislature for a term of five years, for no more than two consecutive terms. Members must meet the following minimum qualifications:

(1) The member must have been awarded a university degree;

(2) The member shall not be a current member of the board of directors or officer of any Liberian legal person; be related (within the definition of Section 208) to an employee of the Ministry; or be related (within the definition of Section 208) to a Liberian legal person.

(3) The member must have experience or training in at least one of the following areas: law, accounting, banking, business administration, finance, or economics.

(4) At least two Board members must be lawyers.

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(i) Compensation. A Board member serves on a part-time basis and is compensated for service at a minimum rate of US \$1,500 per month, with an additional per-case fee as specified in regulations. The Board's chairperson also serves on a part-time basis and is compensated for service at US \$2,500 per month (plus a per-case fee). The Minister has the authority and responsibility to propose to the National Legislature any necessary adjustments in the Board's annual budget.

(j) Removal. Members of the Board may be removed from office for gross misconduct or inability (by reason of infirmity of mind or body) to perform the functions of the office. Removal occurs on the recommendation of the President followed by impeachment by the National Legislature.

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### **Section 61. Procedure for Taxpayer Protest and Appeal**

**(a) Regular Hearing.** The Board of Tax Appeals may schedule a hearing at the Board's convenience, but no more than six months after the date of the taxpayer's request for hearing.

(1) To appeal a Section 70 determination, the taxpayer must submit a written request for a regular hearing stating briefly the basis for appeal.

(2) Within 30 days of the date of the hearing request, the taxpayer must also submit a written protest containing an explanation of the issues to be heard.

(b) Emergency Hearing. If a seizure of property has taken place and no more than 10 days have elapsed; if the taxpayer's place of business has been closed under Section 78 and no more than 3 days have elapsed; if a person objects to seizure of records or entry into premises as described in Section 55; or if the Minister has acted or given notice of an intent to act in a way likely to cause immediate harm if the action is not prevented or immediately reversed, the taxpayer has a right to an emergency hearing—

(1) within 5 days of the taxpayer's protest and request for hearing in the case of a seizure of property under Section 65;

(2) within 2 days in the case of a closing of the taxpayer's place of business under Section 78; and

(3) within 3 days in any other case (unless the taxpayer agrees to a longer period, which is not permitted to exceed 10 days).

(4) An emergency hearing must be granted if:

(A) The taxpayer makes a written protest and request for hearing within the relevant period stated in this subsection;

(B) With respect to property seized under Section 65, the taxpayer attaches a certified copy of evidence that the correct amount of tax has been paid;

(C) With respect to a closure of business under Section 78, the taxpayer attaches a certified copy of evidence establishing that the taxpayer has registered (if required to register), has filed any tax returns due, and has kept the records required to be kept each year for the preceding three years (or for a shorter period in the case of a taxpayer who has been required to file returns for less than three years); or

(D) The taxpayer submits evidence (or an affidavit stating that evidence is available) establishing that the Minister has made an error as to the identity of a taxpayer, the owner of the property seized, or the operator of the business premises that were closed. Copies of tax returns, invoices, or registration documentation; taxpayer identification number; affidavits of witnesses with knowledge of the relevant facts; or other documentary evidence establishing that the Minister's seizure or closure is based on a factual error is sufficient to warrant an emergency hearing if a reasonable person would consider it to be clear and compelling.

**(c) Minister's Acquiescence.** If the taxpayer makes a written protest satisfying the requirements for an emergency hearing and the Minister upon review of the protest and supporting evidence does not dispute the taxpayer's assertions of fact, the Minister may acquiesce in the taxpayer's position.

(1) If the Minister acquiesces, the Minister must immediately permit the taxpayer to recover the property or to re-open the business premises, or immediately rescind the action or refrain from the action protested, and the emergency hearing is cancelled.

(1) If the Minister's actions are insufficiently prompt to allow the taxpayer access to the property or premises within two days of the taxpayer's written protest, the emergency hearing proceeds (unless the taxpayer agrees that there is no longer cause for a hearing).

(2) If the Minister's acquiescence eliminates the need for an emergency hearing, the taxpayer may request a regular hearing to object to the Minister's handling of the matter that was the subject of the taxpayer's request for an emergency hearing.

**(d) Determination of the Board.** If the Board of Tax Appeals determines that the Minister's seizure of goods or closure of business premises constitutes an abuse of discretion within the meaning of Section 56(c), the Board may make an order permitted under that Section.

**(e) Burden of Proof.** The taxpayer shall have the burden proving the Minister's determination incorrect, except in the case of a jeopardy assessment or a determination of fraud, when the Minister shall have the burden of proof.

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## **Section 70. Determination**

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**(b) Determination.** Any of the following decisions of the Minister is a “determination” subject to the procedures of this Section:

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(3) A determination to deny the taxpayer's claim for credit or refund, or the failure to act on such a claim within 6 months of the date of the claim;

(4) A determination that the holder of an investment agreement with the Government of Liberia has failed to materially comply with the requirements of the agreement (or with the requirements of this Code as it relates to the agreement); furthermore—

(A) This paragraph also applies to an agreement (whether called an “investment agreement” or “concession agreement”) entered into prior to January 1, 2011; and

(B) This paragraph does not apply to noncompliance in regard to aspects of an investment agreement for which the agreement expressly provides an alternative process;

(5) A determination to certify an investment under Section 16; and

(6) Any other decision specified in regulations as a “determination.”

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## **Section 72. Refund of Excess Tax Paid**

**(a) Overpayment.** If the amount of tax paid by or on behalf of a taxpayer for a particular tax period exceeds the amount of tax assessed for such tax period, then:

(1) The tax authorities shall apply the excess (or so much thereof as necessary) against the taxpayer's outstanding tax liability, if any, for other taxes then due and payable; and

(2) Any remaining balance over the amount applied under paragraph (1) shall, at the written election of the taxpayer, be:

(A) Applied against the taxpayer's liabilities with respect to future payments; or

(B) Refunded to the taxpayer within 90 days of the taxpayer's filing of a refund claim.

**(b) Notice.** If the excess tax paid by the taxpayer is applied against the taxpayer's outstanding tax liability under subsection (a) (1), the tax authorities must provide the taxpayer with a notice setting forth the amount of the excess applied against other taxes then due, and a description of the type of tax and the tax period with respect to such other taxes.

**(c) Election.** A taxpayer may make an election under subsection (a)(2) with the filing of the tax return that sets forth the overpayment or with an approved standard refund claim form. The Minister shall make available an approved standard refund claim form for the election of a refund claim.

**(d) Time Limit for Election.** A taxpayer may make an election under subsection (a) (2) at any time before the end of three years after the payment due date, or two years after payment is made, whichever is later.

**(e) Time Limit for Processing Claim.** The tax authorities shall timely process each taxpayer election under subsection (a)(2), and make available each approved refund claimed under subsection (a)(2)(B) within 90 days of the taxpayer's filing of such refund claim. Any refund not timely made available to the taxpayer shall be subject to interest under Section 14(b). If a refund claim (or portion thereof) is denied by the tax authorities, the tax authorities must provide the taxpayer with a written notice setting forth the reason for such denial.

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### **Section 77. Mutual International Administrative and Legal Cooperation**

The Minister shall determine the rules and procedures pursuant to which representatives of foreign tax authorities may assist in the application and enforcement of tax laws in Liberia and, conversely, Liberian tax officers may assist in the application and enforcement of tax laws in foreign countries, in accordance with international treaties or agreements to that effect.

### **Section 78. Temporary Closure of Business [formerly Section 1042(d)]**

Where a taxpayer commits one or more criminal or civil violations under this Code (for example, failure to pay tax on the due date) and, after receiving a 72-hour warning notice, fails to contact the Ministry to make arrangements for payment, or for the purpose of a spot audit, or is unable upon request to present books and records for inspection as required by Section 55, the Minister may lock and seal the person's place of business and keep it closed for not more than 5 days for the purposes of examination of taxpayer records, audit, and provision of advice to the taxpayer concerning compliance with tax obligations; and the decision of the Minister to do so is a determination within the meaning of Section 70 and subject to the emergency hearing procedure for taxpayer protest under Section 61(b).

### **Sections 79-89. Reserved**

## **Subchapter C. Additional Criminal Offenses**

Section 90. Tax Evasion

Section 91. Knowing Disregard of Tax Obligations

Section 92. Knowing Failure to Obtain Required License or Registration

Section 93. Willful Violation of Information Collection Obligation

Sections 94-99. Reserved

### **Section 90. Tax Evasion**

(a) **Tax Evasion Classified as Felony.** A person who willfully evades or attempts to evade tax imposed under this Code commits a felony. Upon conviction, in addition to any other sanctions that may be provided by law, the person is subject to a fine of not more than \$200,000; imprisonment for not more than 5 years; or both.

(b) **Tax Evasion Defined.** A person willfully evades or attempts to evade tax if, with intent to evade or defeat tax liability or tax payment, the person—

- (1) Files or causes the filing of a tax return or declaration that is false in a material way;
- (2) Conceals or removes assets applicable to the collection thereof;
- (3) Fails to account for or pay over when due taxes previously collected or withheld, or received from another with the understanding that they will be paid over to the Ministry;
- (4) Willfully fails to file a tax return or declaration when due;
- (5) Otherwise attempts in any manner to evade or defeat any tax.

### **Section 91. Knowing Disregard of Tax Obligations**

(a) **Withholding or Collection Obligation.** A person required under the provisions of this Code or regulations hereunder to withhold, collect, segregate, account for, or pay over any tax or other revenues of the Republic and who knowingly fails to do so commits a misdemeanor. Upon conviction, in addition to any other sanctions that may be provided by law, the person is subject to a fine of not more than \$50,000, imprisonment for not more than one year, or both.

(b) **Tax Payment or Tax Reporting Obligation.** A person required under the provisions of this Code or regulations hereunder to pay tax; to make a tax return, declaration, or other statement; to keep any records or supply any information, and who knowingly fails to do so, commits a misdemeanor. Upon conviction, in addition to other sanctions that may be provided by law, the person is subject to a fine of not more than \$25,000, imprisonment for not more than 30 days, or both.

### **Section 92. Knowing Failure To Obtain Required License Or Registration**

A person who knowingly engages in any business, enterprise, trade, service, occupation or profession for which an annual license or registration is required under the provisions of this Code or any other statute without having obtained the required license commits a misdemeanor. Upon conviction, in addition to other sanctions that may be provided by law, the person is subject to a fine of not more than \$25,000, imprisonment for not more than 30 days, or both.

### **Section 93. Willful Violation of Information-Collection Obligation**

Any person who refuses or willfully neglects to cooperate with the collection of

information described in Section 55; who willfully furnishes false or inaccurate information; or who knowingly violates the confidential protections afforded to information furnished under the authority of Section 55 is subject to the criminal sanctions provided for in the Executive Law Section 83.1 and Section 83.2.

## **Sections 94-99. Reserved**

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## **Section 200. Tax Imposed**

### **(a) Resident Natural Persons.**

(1) An annual income tax is hereby imposed on the annual taxable income of every natural person resident in Liberia (including resident Liberian citizens employed by an embassy, a diplomatic mission, or international organization).

(2) The tax is collected during the tax year in accordance with the withholding rules of Section 905 or the advance payment rules of Section 904.

(3) The tax rate applicable to the income of a natural person is determined in accordance with the following rate schedule—

(A) The tax rate and tax computation shall be as stated in the following table:

***[Please see pdf file for tables and figures]***

(B) If a natural person is required to file an income tax return under Section 900 and that person is a partner in a partnership or a beneficiary of a trust that pays tax under this Part, the amount of tax paid by the partnership or trust is creditable against tax owed by the partners or the beneficiaries and is apportioned among them in accordance with their interests in the partnership or their interest in the trust.

### **(b) Resident Legal Persons.**

(1) An annual income tax is hereby imposed on the annual taxable income of every legal person resident in Liberia.

(2) Tax is imposed on taxable income at the following rates:

(A) For income from activities described in Chapters 6 or 7, as provided in those Chapters;

(B) For income of legal persons that derive more than 30 percent of their income from life insurance, a 4% tax on gross receipts from life insurance premiums and 25% on taxable income from other sources of income;

(C) For income of other legal persons, 25%.

(3) The tax is collected during the tax year in accordance with the withholding rules of

Section 905 or the advance payment rules of Section 904.

**(c) Presumptive Tax for Small Taxpayers.** A legal or natural person carrying on a trade or business with turnover of less than \$3,000,000 (three million dollars) per year is a “small taxpayer” who is taxable under this subsection in lieu of the regular income tax imposed by subsection (a) or (b).

(1) Tax under this subsection is imposed at the rate of 4% of annual turnover except as specified in paragraph (4).

(2) A person taxable under this subsection may elect to be taxed under subsection (a) or (b) (whichever is applicable). A person making the election is required to file a regular income tax return and to comply with all other requirements for income tax filers.

(3) The presumptive tax is collected during the tax year in accordance with the withholding rules of Section 905 and the advance payment rules of Section 904, except that it is a final tax unless the taxpayer makes the election under (2).

(4) A natural person with annual turnover of less than \$200,000 is a petty trader taxable annually under this paragraph at the following rates:

(A) \$2,400 if the petty trader conducts trade or business from a fixed structure with a roof and walls (including an office or workstation located within a personal residence).

(B) \$1,200 if the petty trader conducts trade or business from a fixed, open structure with a roof.

(C) \$480 (or \$240 if the conduct of the trade or business is exclusively outside Montserrat County) if the petty trader conducts trade or business other than as described in (A) or (B).

**(d) Exempt Persons.** Exempt persons (defined in Section 9) are exempt from income taxation under this Part. If an exempt person’s exempt status depends on an international agreement, the exemption from income taxation is available only to the extent permitted under the international agreement.

**(e) Regulations.** Regulations may specify the procedures to be followed for collection of (i) income tax and petty trader tax imposed under this section, (ii) advance payments under the advance payment provisions of Section 904, and (iii) tax withheld under the withholding provisions of Section 905.

## **Section 201. Taxable Income**

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**(b) Gross Income.** Gross income for income tax purpose means the aggregate of all income earned, from wherever source derived by a tax payer during a tax year. Examples of items included in gross income are:

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(3) non-exempt interest, rents, royalties, and non-exempt dividends;

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(6) gain on the disposition of property (whether real or personal, tangible or intangible) used in a business or held for investment (including gain sometimes called “capital gain”).

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## **Section 204. Depreciation And Amortization**

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### **(d) Incentive Deduction.**

(1) Qualifying manufacturing and service businesses are entitled to deduct an aggregate of up to 30 percent of the purchase price of equipment and machinery specified in paragraph (2).

(A) An incentive deduction with respect to an asset is permitted only for the tax period in which a qualifying asset is placed in service.

(B) The allowances provided in paragraph (2) may be combined with respect to an asset to reach the limit of 30 percent.

(C) The amount allowable as an incentive deduction reduces the asset's tax cost to arrive at the asset's adjusted tax cost, which is added to the appropriate depreciation pool for the tax period in which the asset is placed in service.

(2) Allowances.

(A) Manufacturing and service businesses. 20 percent of the purchase price of equipment and machinery.

(B) Manufacturing, agriculture processing, and service businesses (other than tourist facilities) located outside of Montserrado County, outside any Government-owned Industrial Free Zone, and outside any Industrial Park. 10 percent of the purchase price of equipment and machinery.

(C) A business providing tourist facilities, or a transnational corporation that uses Liberia as its regional headquarters. 10 percent of the purchase price of equipment and machinery.

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**(e) Apportionment of Purchase Price.** If a building or other depreciable property is bought or sold together with land, the tax cost is to be apportioned reasonably between the property and land to arrive at a separate value of the depreciable property.

**(f) Mixed-Use Property.** If property is used only in part for the production of income, a depreciation allowance deduction is permitted only with respect to the percentage of the cost that is equal to the proportion of use for the production of income.

**(g) Manufacture.** The term "manufacture" means the subjection of physical matter to any process (including the assembly of parts) that materially changes its substance or character.

### **Section 205. Other Deductions**

**(a) Standard Deduction.** An annual standard deduction for a natural person, in an amount of up to \$70,000, is reflected in the tax table of Section 200(a) as a zero bracket amount. No additional amount shall be deducted as a standard deduction.

**(b) Charitable Contribution Deduction.** A deduction is allowed to a taxpayer filing a tax return under Section 900 or 901 for the amount of a contribution made to a qualifying organization.

(1) Qualifying organizations are the Government, a Government agency designated as an approved recipient of charitable donations, or a registered charity described in Section 200(d).

(2) When the contribution is in the form of noncash property, the amount of the contribution is the property's adjusted tax cost or its fair market value, whichever is lower, except as provided in Section 207(b)(3)(B). The deduction for charitable contributions is limited to an amount not in excess of 15 percent of the taxpayer's taxable income (computed before reduction for charitable contributions but after inclusion of any gain on the transfer as provided under Section 207(b)).

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### **Section 206. Limitations on Deductions**

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**(f) Withheld Tax.** A person who withholds and pays to the government an amount of tax in accordance with Section 806 or Section 905 is not permitted to deduct those amounts as an independent cost of producing income, although a deduction of the payment's gross amount (not reduced for withheld tax) is deductible if a deduction is otherwise allowed (for example, the gross amount of a \$10,000 payment to a contractor for services rendered to produce taxable income is allowed as a deduction). A person whose payment is subject to withholding is not permitted to deduct the amount of tax withheld, although if the person files an income tax return in accordance with Section 900 or Section 901 the amount withheld is creditable against income tax liability.

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### **Section 212. Currency Exchange Rate Fluctuations**

For the purpose of computing taxable income, nominal gains and losses resulting from foreign exchange fluctuations are recognized only when they are realized through the

completion of a transaction, that is, when payment is made or services are performed. If a taxpayer uses a different accounting treatment of foreign currency gains and losses for financial (as opposed to income tax) accounts, a statement reconciling the two sets of figures must accompany the tax return.

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## **Chapter 6. Income Taxation of Agriculture and Renewable Resources**

Section 600. Definitions

Section 601. Scope of Chapter

Section 602. Rate of Tax

Section 603. Valuation

Section 604. Surface Rent, Royalties, and Fees

Section 605. Determination of Taxable Income

Sections 606-609. Reserved

Section 610. Special Rule for Depreciation

Section 611. Special Rule for Net Operating Loss Carry forward

Section 612. Special Rule for Interest Deduction

Sections 612-619. Reserved

Section 620. Transactions Between Related Persons

Section 621. Partnerships and Joint Ventures

Section 622. Treatment of Property Transfers

Section 623. Successor Agreement; Transfer of Interest in Project

Sections 624-699. Reserved

### **Section 600. Definitions**

(a) *Renewable Resources*. Renewable resources include the uncultivated forest, cultivated trees (for example, rubber or palm), other growing plants (including food and tree crops), the raising and subsequent harvesting of fish or livestock, the sea, the sun, wind, rivers, and other similar resources that are not exhausted if their energy is captured or their products are prudentially harvested, but do not include cultivated forest or uncultivated trees if used in forestry.

(b) *Extraction of Renewable Resource Product*. The extraction of renewable resource product means the harvesting of a product of a renewable resource or the production of energy or other valuable commodity from a renewable resource.

(c) *Renewable Resource Contract*. A renewable resource contract is an agreement with the Government of Liberia, acting through an authorized renewable resource development agency, for extraction of renewable resources or for management of the renewable resource contract area described in the contract. Examples are—

(1) Agricultural Concession Agreement (Ministry of Agriculture)

(2) Rice Plantation Concession Agreement (Ministry of Agriculture)

(d) *Renewable Resource Project*. A renewable resource project is a venture for the extraction of a renewable resource product subject to a renewable resource contract, including the use of land for agricultural purposes under an agricultural concession agreement.

(e) *Operations*. For the purpose of determining when a renewable resource project has begun operations, the term "operations" includes the acquisition of carbon credits with respect to a resource area.

(f) *Commercial Production*. For the purpose of determining when a renewable resource project has begun commercial production, the term "commercial production" includes the production of carbon credits with respect to a renewable resource contract area. A project begins "commercial production" on the date of the first shipment of product extracted from a renewable resource contract area as part of a regular program of profit-seeking activity.

(g) *Production Development Expenditures*. Production development expenditures are costs associated with the development of a renewable resource contract area, or a part thereof, to prepare it for commercial production.

(h) *Contractor*. A "contractor" is a person who holds a renewable resource contract subject to Chapter 6.

## **Section 601. Scope Of Chapter**

**(a) Income Taxation.** Income tax is imposed on taxable income from agricultural production and renewable resource projects (as defined in Section 600).

(1) Income from agricultural production not under an agricultural concession agreement ("general agricultural production") is subject to the general rules of Part II, except as expressly provided otherwise in this Chapter.

(2) Income from renewable resource projects or from agricultural production under an agricultural concession agreement is subject to rules of this Chapter. In the absence of a specific rule, the general rules of Part II apply.

**(b) Rate of Tax.** Taxable income from a renewable resource project is subject to income tax at the rate stated in Section 602.

**(c) Form of Organization Disregarded.** Regardless of the legal form of organization adopted by one or more persons having an interest in a renewable resource project, a person's taxable income shall be determined separately for each project, and a person with an interest in more than one project shall not be permitted to consolidate income or loss of one project with that of any other.

(1) For purposes of determining income tax, income from a renewable resource project is considered to be income of a resident legal person or of a Section 803 permanent

establishment taxable according to rules applicable to a resident legal person. Taxable income and income tax liability are determined under provisions of the regular income tax of Chapter 2, subject to special rules provided in this Chapter.

(2) In accordance with Section 10(z), a contractor who holds a renewable resource contract granted by a renewable resource development agency is considered to have an interest in the renewable resource project that is the subject of the renewable resource contract, and is the taxpayer legally responsible for paying tax with respect to income of the project. If the contractor is organized as a partnership or similar form of unincorporated joint venture, each partner shall be considered a taxpayer with respect to the activities of the project.

(3) The Chapter 9 filing and advance payment rules for the regular income tax apply to a contractor with income from a renewable resource project.

**(d) Renewable Resource Laws and Authorities.**

(1) Rubber. The Rubber Industry Rehabilitation and Development Fund Act governs non-tax terms of extraction of rubber-tree resources in Liberia. The Ministry of Agriculture is the renewable resource development agency for rubber-tree resources.

(2) Palm Oil. The Oil Palm Development Fund Act governs non-tax terms of extraction of palm-oil resources in Liberia. The Ministry of Agriculture is the renewable resource development agency for palm-oil resources.

(3) Tree Crops, including coffee and cocoa. The Ministry of Agriculture is the renewable resource development agency for tree crop resources.

(4) Food Crops. The Ministry of Agriculture is the renewable resource development agency for food crops.

(5) Rice. The Ministry of Agriculture is the renewable resource development agency for rice.

(6) Non-Palm Bio-Diesel. Reserved.

(7) Solar. Reserved.

(8) Wind. Reserved.

(9) Sea. Reserved.

(10) Geothermal. Reserved.

(11) Carbon Credits. Reserved.

**(e) US Dollar Accounting.** Books and records of a renewable resource project may be

kept in Liberian or US Dollars, but a project's tax and taxable income shall be determined in US Dollars.

**(f) Consolidated Account.** An amount that a contractor is required to contribute to a development fund or other fund specified in this Chapter is to be paid into the consolidated account.

**(g) Compliance.** An amount due or amount in default under a renewable resource contract is treated as a tax liability under this Code, and is subject to the same procedural requirements (including penalties, fees, and interest).

### **Section 602. Rate of Tax**

The rate of tax on taxable income from extraction of renewable resources, with the exception of rice production project, shall be 25 percent. The rate of tax on taxable income for rice production projects shall be 15 percent.

### **Section 603. Valuation**

**(a) General Rule.** Resources extracted by a renewable resource project are valued for all purposes at fair market value f.o.b. Liberia without reduction for claims, counterclaims, discounts, commissions, or any other asserted offset or deduction.

**(b) Cross-Reference.** The fair market value f.o.b. Liberia is determined for the day of shipment in accordance with Section 10(cc), and in the case of a product for which there is a reliable international price index, as specified in regulations referencing that index.

**(c) Advance Pricing Agreement.** The Government of Liberia and a contractor may agree to a transfer pricing methodology in an advance pricing agreement in accordance with Section 18.

### **Section 604. Surface Rent And Royalties**

**(a) Surface Rent.** A contractor must pay an annual surface rent of US \$2 (Two United States Dollars) per acre for developed land and US \$1 (One United States Dollar) per acre for undeveloped land, irrespective of the value of the assets contained thereon. The valuation of and the payment for the value of the assets in a proposed concession area may be made a biddable item in the concession procurement process.

(1) Annual payments are due on or before the effective date of the agreement and thereafter on the agreement anniversary date.

(2) Surface rent amounts stated in this section are subject to inflationary adjustment in accordance with the GDP Implicit Price Deflator as published and revised from time to time by the U.S. Department of Commerce, Bureau of Economic Analysis ("the deflator"). The inflation-adjusted rent shall be effective January 1 of each calendar year based on the ratio of the value of the revised deflator for the second quarter of the immediately preceding calendar year to the value of the revised deflator for the second

quarter of 2008.

**(b) Royalty for Carbon Credits.** A contractor who has entered into renewable resource contract and who obtains carbon credits must pay a carbon credit royalty equal to 10 percent of the value of the credits. Regulations may specify a calculation method for determining the value of carbon credits of a type not traded on an exchange or not otherwise easily convertible into currency. The Minister does not have regulatory authority to reduce the royalty rate below the rate specified in this subsection.

**(c) Fees Payable Under Non-Tax Laws.** Fees payable under non-tax laws specified in Section 601(d), including payments to a community or industry development fund, are treated as a cost of producing income and are deductible as specified in Section 605(b).

### **Section 605. Determination Of Taxable Income From Renewable Resource Projects**

**(a) Gross Income.** The gross income of a renewable resource project includes

(1) All revenues resulting from production and other operations carried out under the project's contract;

(2) Any other income that the project receives from business activity or investment accruing in, derived from, brought into or received in, Liberia, including currency gains when realized (but not gains from hedging transactions), less the deductions set forth in subsection (b).

**(b) Deductions Allowed from Gross Income.** In accordance with the rules of Chapter 2, all expenditures incurred during the tax period wholly, exclusively, and necessarily in connection with project operations (including non-capital operating costs but excluding capital costs except to the extent of the annual allowance for depreciation), are allowed as deductions, including but not limited to the following items:

(1) Surface rent and other fees specified in Section 604, including non-tax fees paid in accordance with an applicable renewable resource law, limited in any period to the amount paid during or prior to the period and in the amount attributable to the period.

(2) An allowance for depreciation of plant and equipment in accordance with the depreciation rules of Chapter 2, subject to the special rule of Section 610.

(3) A carryforward of net operating loss from a prior year to the extent permitted under Section 203(e), as modified by the special rule of Section 611.

(4) Interest on any indebtedness of the project, and other financing costs incurred in connection with operations and paid to an affiliate or to a third party, for the tax period incurred.

(5) Production development expenditures defined in Section 600.

(6) Subject to the provisions of Chapter 2, management fees paid, whether to an affiliate or to a third party, but not the amount in excess of 2 percent of other operating expenses incurred for the tax period.

(7) Subject to the provisions of Section 203(c), the amount of bad debt incurred, so long as that amount was subject to income taxation in a prior tax period.

(8) Charitable contributions made in Liberia to a qualifying organization within the meaning of Section 205(b) for educational or community development projects, social welfare, or medical purposes or for the provision of other social services.

(9) Expenses related directly to the project's "other income" under subsection (a)(2), to the extent otherwise allowable as a deduction under Chapter 2 and this Chapter.

**(c) Deductions Not Allowed.** The following expenses are not allowed as a deduction from gross income:

(1) A payment to an expatriate employee as reimbursement for taxes and duties paid by the employee to the Government.

(2) A loss from a hedging transaction.

(3) An incentive deduction allowed by Section 204(d).

(4) An amount otherwise allowable as a special tax incentive deduction by Section 16.

## **Sections 606-609. Reserved**

### **Section 610. Special Rule For Depreciation**

**(a) Commencement of Period.** For property placed in service before commercial production begins, the period for depreciation of property described in Section 204(b) shall begin in the first tax period in which commercial production begins.

(1) Up-front payments that are mandatory under a contract are treated as the cost of property placed in service before commercial production begins, and are to be amortized over a period of 10 years.

(2) The costs of community development contributions or social contributions that are mandatory under a contract are deductible in the year incurred.

**(b) Tangible Moveable Property.** The cost of tangible moveable property shall be recovered over the period and by the method described in Section 204(b)(1).

**(c) Tangible Fixed Property used in Agriculture.** Buildings and fixed tangible assets used in agricultural production are to be pooled and depreciated at 20 percent each

year. The cost of planting trees or palms is to be treated as the cost of a fixed tangible asset and included in the pool.

**(d) Cost of Clearing Land.** A contractor's cost of land clearing, excavation of irrigation channels, establishing access roads, and similar activities is a deductible expense.

**(e) Food Crops.** In the case of an agricultural concession contract for food crop production, capital expenditures are deductible in the year the capital item is placed in service.

**(f) Special Incentive Deduction.** A special incentive deduction is allowed in the first year in which an agricultural asset (tangible equipment or tangible fixed property) is placed in service in an economically deprived zone. No deduction is allowed under this subsection for an expenditure that is deductible under subsection (e). The amount of the deduction under this subsection is the specified percentage of the cost of the asset, as follows—

*[Please see pdf file for tables and figures]*

#### **Section 611. Special Rule For Net Operating Loss Carryforward**

For the purpose of determining a contractor's taxable income from a renewable resource project, the Section 203(e) period for carryforward of net operating loss shall begin with the first tax period in which commercial production begins and shall be seven years.

#### **Section 612. Special Rule For Interest Deduction**

**(a) Carryforward Allowed.** Interest incurred in a tax period and subject to the limitation of Section 203(d) may be carried forward to the next tax period.

**(b) Treatment.** The amount of the carryforward is treated as interest incurred in the subsequent period, and is deductible to the extent permitted under Section 203(d).

**(c) No Expiration.** The interest carryforward allowed by this Section does not expire.

#### **Sections 613-619. Reserved**

#### **Section 620. Transactions Between Related Persons**

**(a) General Rule.** A renewable resource project's gain, loss, and other tax consequences in transactions with related persons are determined in accordance with the definitions in Section 10 (in Part I, General Provisions), and the provisions of this Part, especially Section 207, Property Transfers; Section 208, Related Persons; Section 209, Finance Leasing; Section 210, Income Splitting; and Section 211, Transactions Between Related Persons.

**(b) Disclosure.** A contractor must—

- (1) Disclose the existence of related-party transactions and contemporaneously document the manner in which prices are set in transfers to related persons;
- (2) Notarize an agreement governing a related-party transaction in accordance with the law of the related person's country of residence; and
- (3) Upon request of the Ministry, provide copies of agreements and other documents substantiating the existence of related-party transactions and the manner by which prices are set.

**(c) Advance Pricing Agreement.** The Government of Liberia and a contractor may agree to a transfer pricing methodology in an advance pricing agreement in accordance with Section 18.

**(d) Regulations.** The Minister is required to issue regulations clarifying, to the degree feasible, the reference prices, comparables, and standards that will be used to evaluate transfer prices. Regulations are required to take into account the Guidelines described in Section 18(b).

#### **Section 621. Partnerships And Joint Ventures**

**(a) Pass-Through of Tax Attributes.** If a contractor is organized as a partnership or similar form of unincorporated joint venture, the renewable resource project's income, expenses, loss, credits, and character of income or loss shall be attributed to the partners in accordance with their interests (including the items specified in Section 605) for the purpose of determining taxable income, loss, credits, and tax liability separately for each partner.

**(b) Application of Other Rules.** If subsection (a) applies-

- (1) The provisions of this Chapter shall apply separately to each partner;
- (2) Each partner shall be considered a taxpayer for purposes of this Part (Part II, Income Tax) and a contractor for purposes of this Chapter, and shall be liable for income tax as determined under this Chapter.

#### **Section 622. Treatment Of Property Transfers**

**(a) General Rule.** Unless an exception applies under this Chapter, a renewable resource project's gain or loss on the transfer of depreciable property used by the project is treated in accordance with section 204. A project's transfer of non-depreciable property used in the business, or of property other than property connected with a renewable resource project, is determined in accordance with the property transfer rules of Section 207.

**(b) Special Cases.**

- (1) Hedging. Hedging transactions by a renewable resource project are taxable as a separate business activity, and hedging gains and losses incurred are not includible or deductible in determining taxable income of the project or for the purposes of Section

605.

(2) Investment Gain. Gain on property a renewable resource project holds for investment is determined under Section 207 and is includible in income of a project, except to the extent reduced by investment loss under the rule of Section 203(b)(2).

### **Section 623. Successor Agreement; Transfer of Interest in Project**

**(a) Successor Agreement.** If the development agreement for a renewable resource project (the “original agreement”) is terminated and a new agreement (the “successor agreement”) is entered into with the same contractor for the same contract subject (the “successor project”), the project’s loss carryforward existing at the termination date of the development agreement is deductible in the first tax period of the successor project under the successor agreement, provided:

(1) The whole of the geographic area covered by the contract area of the successor agreement is within the contract area of the original agreement; and

(2) The successor agreement entered into force within one month following the termination of the original agreement.

**(a) Transfer of Interest.** If the holder of an interest in a renewable resource project transfers that interest—

(1) The taxable income of the project shall continue to be determined using the tax cost and other tax attributes applicable at the date of the interest transfer; and

(2) The transferer of the interest shall determine gain or loss under Section 207, which also applies to determine the transferee’s tax cost in the interest.

### **Sections 624-699. Reserved**

## **Chapter 7. Income Taxation Of Natural Resources**

Section 700. Definitions

### **Subchapter A. Mining**

Section 701. Scope of Subchapter

Section 702. Rate of Tax

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Section 704. Royalties and Surface Rent

Section 705. Determination of Taxable Income of Mining Projects

Section 706. Special Rule for Depreciation

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Section 709. Special Rule for Mining Exploration and Development Expenditures

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### **Subchapter B. Petroleum**

Section 740. Scope of Subchapter  
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Section 751. Transactions between Related Persons  
Section 752. Partnerships and Joint Ventures  
Section 753. Royalty  
Section 754. Equity Participation  
Sections 755-799. Reserved

### **Section 700. Definitions**

**(a) Producer.** The term “producer” means a “mining project producer” or a “petroleum project producer” as specified in subsections (b) and (c).

#### **(b) Mining Project.**

(1) Producer. A "mining project producer" (or the short form “producer,” used for convenience when the context is clear) is a person who—

(A) Carries out mineral exploration under a mineral exploration license issued under the Mining Law; or

(B) Carries out mineral exploration, development, or production activity under a mineral development agreement or a Class A mining license issued in accordance with the Mining Law.

(2) Mineral Exploration License Area. A "mineral exploration license area" is the geographic area covered by a mineral exploration license.

(3) Mining License Area. A "mining license area" is the geographic area covered by a Class A mining license.

(4) Mining Project. The term "mining project" means mineral exploration, mineral development, or mining carried out by a mining project producer within a mineral exploration license area or a mining license area.

(5) Mining Production Project. The term "mining production project" means mineral development, mining, or related activities carried out by a mining project producer within a mining license area.

(5) Other Mining Activity. Mineral exploration, mining development, mining, or related activities carried out under any category of license issued in accordance with the Mining Law other than a mining exploration license or a Class A mining license is not a "mining project" and is taxable under the general rules of Chapter 2 rather than as a "mining project" under this Chapter, except that the royalty rates of Section 704 apply to the sale or other disposition of minerals mined under a license other than a Class A license.

**(c) Petroleum Project.**

(1) Petroleum Project Producer. A "petroleum project producer" (or the short form "producer," used for convenience when the context is clear) is a person who has entered into an agreement with the Government of Liberia to carry out petroleum exploration, development, or production of petroleum in accordance with the Petroleum Law.

(2) Petroleum Agreement. A "petroleum agreement" is any agreement described in paragraph (1).

(3) Petroleum Area. A "petroleum area" is the geographic area that is the subject of a petroleum agreement.

(4) Petroleum Project. The term "petroleum project" means petroleum exploration, petroleum development, petroleum extraction, production of petroleum, or related activities within a petroleum area.

(5) Petroleum Production Project. The term "petroleum production project" means petroleum development, petroleum extraction, petroleum production, and related activities under a petroleum agreement governing the sharing of produced petroleum between the petroleum project producer and the Government of Liberia.

**(d) Capital Goods.** For purposes of this Chapter, the term "capital goods" has the same meaning as in Section 1001(g)(5).

**(e) Commercial Production.**

(1) A mining or petroleum project begins "commercial production" on the date of the first shipment of mineral or petroleum extracted from a mining license area or petroleum area as part of a regular program of profit-seeking activity.

(2) Commercial production ends on the last day of a tax period in which the number of shipments is less than one-tenth of the average shipments during the first three years of commercial production.

**(f) Exploration Expenditures.**

(1) Mining. “Mineral exploration expenditures” are costs associated with exploration of a mineral exploration license area to determine whether it is possible to develop the area for production of minerals.

(1) Petroleum. “Petroleum exploration expenditures” are costs associated with exploration of a petroleum area to determine whether it is possible to develop the area for the production of petroleum.

**(g) Development Expenditures.**

(1) Mining. “Mining development expenditures” are costs associated with the development of a mining license area, or a part thereof, to prepare it for commercial production.

(2) Petroleum. “Petroleum development expenditures” are costs associated with the development of a development site identified in a petroleum agreement for petroleum development, extraction, and production.

**(h) Attribution of Expenditures.** Exploration, development, and capital goods expenditures incurred prior to a project's first tax period are attributable to it for income tax purposes as follows—

(1) Mining Project. In the case of a mining project, expenditures incurred prior to the existence of any mining production project within a mineral exploration license area are attributable to the first mining production project established within the first mining license area within a mineral exploration license area. Subsequent expenditures in the mineral exploration license area after the date of the first Class A mining license, but outside the first mining license area, are attributed to subsequent mining production projects under subsequent Class A mining licenses issued for the mineral exploration license area. Exploration, development, and capital goods expenditures not attributable to a mining production project described in this paragraph are not deductible in determining taxable income.

(2) Petroleum Project. In the case of a petroleum project, exploration expenditures incurred prior to the identification of a site for development are attributable to the first development site established under a petroleum agreement and leading to commercial production. Subsequent exploration expenditures within the petroleum area are attributed in the same fashion to any subsequent development site leading to commercial production. Exploration, development, and capital goods expenditures not attributable to a petroleum project described in this paragraph are not deductible in determining taxable income.

## Subchapter A. Mining

### Section 701. Scope of Subchapter

**(a) Income Taxation.** In accordance with the provisions of Part II (to the extent applicable) and as specifically provided in this Chapter, income tax is imposed on taxable income from a mining project (as defined in Section 700). In case of inconsistency with other provisions of Part II, the provisions of this subchapter are determinative.

**(b) Rate of Tax.** Taxable income from a mining project is subject to income tax at the rate stated in Section 702.

**(c) Form of Organization Disregarded.** Regardless of the legal form of organization adopted by one or more persons having an interest in a mining project, a producer's taxable income shall be determined separately for each mining production project, and a person with an interest in more than one mining production project shall not be permitted to consolidate income or loss of one mining production project with that of any other.

(1) For purposes of determining income tax, income from a mining project is considered to be income of a resident legal person or of a Section 803 permanent establishment taxable according to the rules applicable to a resident legal person. Taxable income and income tax liability are determined under provisions of the regular income tax of Chapter 2 subject to special rules provided in this Chapter.

(2) In accordance with Section 10(z), a producer who holds a Class A mining license ("license") granted under the Mining Law is considered to have an interest in the mining project that is the subject of the license and is the taxpayer legally responsible for paying tax with respect to income of the project.

(3) The Chapter 9 filing and advance payment rules for the regular income tax apply to a producer with income from a mining project.

**(d) Mining Law.** The Mining Law governs non-tax terms of extraction of minerals in Liberia, including licenses and fees.

**(e) Valuation of Minerals.** Extracted minerals shall be valued for all purposes of this Code using the valuation method described in Section 703.

**(f) US Dollar Accounting.** Books and records of a mining project may be kept in Liberian or US Dollars, but a mining project's tax and taxable income shall be determined in US Dollars.

**(g) Consolidated Account.** An amount that a producer is required to contribute to a development fund or other fund specified in this Chapter, or a payment a producer is required to make under the Mining Law, is to be paid into the consolidated account.

**(h) Compliance.** An amount due or amount in default under an agreement between a mining project producer and the Government of Liberia is treated as a tax liability under this Code, and is subject to the same procedural requirements (including penalties, fees, and interest).

### **Section 702. Rate of Tax**

**(a) Rate.** The rate of tax on taxable income from a mining project shall be 30 percent.

**(b) Surtax on Income from High-Yield Projects.** Income from a high-yield mining project, as defined in Section 730, shall be subject to a higher marginal rate of income tax on taxable income under the conditions and using the calculation method set out in that section.

### **Section 703. Valuation**

**(a) General Rule.** Minerals extracted by a mining project are valued for all purposes at fair market value f.o.b. Liberia without reduction for claims, counterclaims, discounts, commissions, or any other asserted offset or deduction.

**(b) Cross-Reference.** The fair market value f.o.b. Liberia is determined for the day of shipment in accordance with Section 10(cc), and in the case of a product for which there is a reliable international price index, as specified in regulations referencing that index.

**(c) Gold.** The fair market value of gold f.o.b. Liberia is the London afternoon gold price fixing ("London PM fix") for the day the gold is shipped from Liberia.

**(d) Advance Pricing Agreement.** The Government of Liberia and a producer may agree to a transfer pricing methodology in an advance pricing agreement in accordance with Section 18.

### **Section 704. Royalties and Surface Rent**

**(a) Royalties.** A royalty is due and payable to the Government of Liberia at the time of each shipment and in the amount of the stated percent of the value of commercially shipped mineral, regardless of whether the shipment is a sale or other disposition:

- (1) Iron ore. 4.5 percent.
- (2) Gold and other base metals. 3 percent.
- (3) Commercial diamonds. 5 percent.

**(b) Surface Rent.** A producer who has a mineral exploration license or a Class A mining license shall pay an annual surface rent. (1) The surface rent is:

- (A) Land within a mineral exploration license area. US \$0.20 (Twenty United States

Cents) per acre.

(B) Land within a mining license area. (i) Year 1-10 US \$5.00 per acre.

(ii) Year 11-25 US \$10.00 per acre.

(2) Annual payments are due on or before the effective date of the agreement and on the agreement anniversary date thereafter.

(3) Surface rent amounts stated in this section shall be subject to inflationary adjustment in accordance with the GDP Implicit Price Deflator as published and revised from time to time to time by the U.S. Department of Commerce, Bureau of Economic Analysis ("the deflator"). The inflation-adjusted rent shall be effective January 1 of each calendar year based on the ratio of the value of the revised deflator for the second quarter of the immediately preceding calendar year to the value of the revised deflator for the second quarter of 2008.

### **Section 705. Determination of Taxable Income of Mining Projects**

**(a) Gross Income.** The gross income of a mining project includes—

(1) All revenues resulting from production and other operations carried out under the project's mining license;

(2) Any other income that the project receives from business activity or investment accruing in, derived from, brought into or received in Liberia, including currency gains when realized (but not gains from hedging transactions), less the deductions set forth in subsection (b).

**(b) Deductions Allowed from Gross Income.** In accordance with the rules of Chapter 2, all expenditures incurred during the tax period wholly, exclusively, and necessarily in connection with project operations (including non-capital operating costs but excluding capital costs except to the extent of the annual allowance for depreciation), are allowed as deductions, including but not limited to the following items:

(1) Royalties and surface rent (as specified in Section 704), and fees and rent paid for the privilege of a mining exploration license or a Class A mining license in accordance with the Mining Law.

(2) An allowance for depreciation of mining plant and equipment in accordance with the depreciation rules of Chapter 2, subject to the special rule of Section 706.

(3) A carryforward of net operating loss from a prior year to the extent permitted under Section 203(e) as modified by Section 707.

(4) Interest on any indebtedness of the mining project, and other financing costs incurred in connection with operations and paid to an affiliate or to a third party, for the

tax period incurred, subject to the special rule of Section 708.

(5) Exploration and development expenditures as specified in Section 709. (6) Payments to a Government-approved trust fund for mining reclamation, subject to the specific limitations set out in Section 710.

(7) Any taxation amount determined under Section 730 and paid during the tax period.

(8) Subject to the provisions of Chapter 2, management fees paid, whether to an affiliate or to a third party, but not the amount in excess of 2 percent of other operating expenses incurred for the tax period.

(9) Subject to the provisions of Section 203(c), the amount of bad debt incurred, so long as that amount was subject to income taxation in a prior tax period.

(10) Charitable contributions made in Liberia to a qualifying organization within the meaning of section 205(b) for educational or community development projects, social welfare, or medical purposes, or for the provision of other social services.

(11) Expenses related directly to the mining project's "other income" under subsection (a)(2), to the extent otherwise allowable as a deduction under Chapter 2 and this Chapter.

**(c) Deductions Not Allowed.** The following expenses are not allowed as a deduction from gross income:

(1) A payment to an expatriate employee as reimbursement for taxes and duties paid by the employee to the Government.

(2) A loss from a hedging transaction.

(3) An incentive deduction allowed by Section 204(d).

(4) An amount otherwise allowable as a special tax incentive deduction by Section 16.

### **Section 706. Special Rule for Depreciation**

**(a) Commencement of Period.** For property placed in service before commercial production begins, the period for depreciation of property described in Section 204(b) (the cost of which is attributable to a mining production project) begins in the first tax period in which the mining production project's commercial production begins.

(1) Up-front payments that are mandatory under a contract are treated as the cost of property placed in service before commercial production begins, and are to be amortized over a period of 10 years.

(2) The costs of community development contributions or social contributions that are

mandatory under a contract are deductible in the year incurred.

**(b) Tangible Moveable Property.** The cost of tangible moveable property shall be recovered over the period and by the method described in Section 204(b)(1).

**(c) Five-Year Cost Recovery Period.**

(1) In place of the 15-year period set out in Section 204(b)(2) and (3) for recovering the cost of tangible fixed property and intangible property, a mining project is allowed to recover the cost of a mining production asset on an asset-by-asset basis using the straight-line method over a five-year period at the rate of 20 percent per year.

(2) The term “mining production asset” means—

(A) Tangible fixed property used directly in the mining and quarrying of metallic and nonmetallic minerals and the milling, beneficiation, and other primary preparation of minerals, but not equipment used to smelt, reduce, refine, or process minerals or mineral ores; and

(B) Intangibles acquired to develop the site, for example the cost of ground- cover stripping, preparation of waste dumps, emplacement of haulage roads, and similar pre-development expenditures.

**(d) 15-Year Cost Recovery Period.** A mining project’s other tangible fixed property and intangible property shall be depreciated on an asset-by-asset basis over a 15-year period or the expected period of commercial production (whichever is shorter) using the straight-line method.

**(e) Termination of Project.** If a mining project is terminated before the end of the cost recovery period, the remaining unrecovered cost is treated as an expense deduction in determining taxable income for the tax period in which the project is terminated.

**Section 707. Special Rule for Net Operating Loss Carryforward**

For the purposes of determining taxable income of a mining project, the Section 203(e) period for carryforward of net operating loss shall begin with the first tax period in which commercial production begins and shall be seven years.

**Section 708. Special Rule for Interest Deduction**

(a) Interest incurred in a tax period and subject to the limitation of Section 203(d) may be carried forward to the next tax period.

(b) The amount of the carryforward is treated as interest incurred in the subsequent period, and is deductible to the extent permitted under Section 203(d).

(c) The interest carryforward allowed by this section does not expire.

### **Section 709. Special Rule for Mining Exploration and Development Expenditures**

Mining exploration expenses and mining development expenses are attributable to a mining production project under the rules of Section 700 and are deductible in the first tax period in which commercial production begins.

### **Section 710. Special Rule for Decommissioning Expenses**

**(a) Qualification.** A mining project's payment for decommissioning expenses is deductible from gross income under Section 705(b) only in the amount paid during the tax period—

(1) To defray reclamation or decommissioning expenses upon cessation of commercial production, and remedying damage caused to land used by the project or environmental damage the project may have caused (including damage that extends beyond the mining license area), but not if drawn from a trust fund described in paragraph (2); or

(2) To an approved trust fund established to defray future expenses of the type specified in paragraph (1), subject to any limitations or requirements specified in regulations.

**(b) Recapture.** An amount taken as a deduction under subsection (a) but not used for the specified purpose—

(1) If remaining after the tax period in which commercial production ends, shall be included in income for the following tax period; or

(2) If used for another purpose, shall be included in income in the tax period within which the amount is so used.

### **Section 711. Treatment of Property Transfers**

**(a) General Rule.** Unless an exception applies under this Chapter, a mining project's gain or loss on the transfer of depreciable property used by the project is treated in accordance with section 204. Transfer of non-depreciable property used in the business, or transfer of property other than property connected with mining, is determined in accordance with the property transfer rules of Section 207.

#### **(b) Special Cases.**

(1) Hedging. Hedging transactions by a mining project are taxable as a separate business activity, and hedging gains and losses incurred are not includible or deductible in determining taxable income of the project or for the purposes of Section 730.

(2) Investment Gain. Gain on property the project holds for investment is determined under Section 207 and is includible in income of a project, except to the extent reduced by investment loss under the rule of Section 203(b)(2).

### **Section 712. Successor Agreement; Transfer of Interest in Mining Project**

**(a) Successor Agreement.** If an agreement for a mining project (the "original

agreement") is terminated and a new agreement (the "successor agreement") is entered into with the same producer for the same geographic area (the "successor project"), the project's loss carryforward existing at the termination date of the development agreement is deductible in the first tax period of the successor project under the successor agreement, provided:

(1) The whole of the geographic area covered by the contract area of the successor agreement is within the contract area of the original agreement; and

(2) The successor agreement entered into force within one month following the termination of the original agreement.

**(b) Transfer of Interest.** If the holder of an interest in a mining project transfers that interest—

(1) The taxable income of the project shall continue to be determined using the tax cost and other tax attributes applicable at the date of the interest transfer; and

(2) The transferor of the interest shall determine gain or loss under Section 207, which also applies to determine the transferee's tax cost in the interest.

**(c) Contract Area.** For the purposes of subsection (a), the term "contract area" means mineral exploration license area or mining license area, whichever is applicable.

### **Section 713. Transactions Between Related Persons**

**(a) General Rule.** A mining project's gain, loss, and other tax consequences in transactions with related persons are determined in accordance with the definitions in Section 10 (in Part I, General Provisions), and the provisions of this Part, especially Section 207, Property Transfers; Section 208, Related Persons; Section 209, Finance Leasing; Section 210, Income Splitting; and Section 211, Transactions Between Related Persons.

**(c) Disclosure.** A mining project producer must—

(1) Disclose the existence of related-party transactions and contemporaneously document the manner in which prices are set in transfers to related persons;

(2) Notarize an agreement governing a related-party transaction in accordance with the law of the related person's country of residence; and

(3) Upon request of the Ministry, provide copies of agreements and other documents substantiating the existence of related-party transactions and the manner by which prices are set.

**(d) Advance Pricing Agreement.** The Government of Liberia and a producer may agree to a transfer pricing methodology in an advance pricing agreement in accordance

with Section 18.

**(e) Regulations.** The Minister is required to issue regulations clarifying, to the degree feasible, the reference prices, comparables, and standards that will be used to evaluate transfer prices. Regulations are required to take into account the Guidelines described in Section 18(b).

#### **Section 714. Partnerships and Joint Ventures**

**(a) Pass-Through of Tax Attributes.** If a mining project producer is organized as a partnership or similar form of unincorporated joint venture, the mining project's income, expenses, loss, credits, and character of income or loss shall be attributed to the partners in accordance with their interests (including the items specified in Section 705), for the purpose of determining taxable income, loss, credits, and tax liability separately for each partner.

**(b) Application of Other Rules.** If subsection (a) applies—

(1) The provisions of this Chapter shall apply separately to each partner;

(2) Each partner shall be considered a taxpayer for purposes of this Part (Part II, Income Tax) and a mining project producer for purposes of this Chapter, and shall be liable for income tax as determined under this Chapter.

#### **Sections 715-729. Reserved**

#### **Section 730. Surtax On Income From High-Yield Projects**

**(a) Purpose.** This section applies to determine whether a mining project is sufficiently high-yield to be subject to surtax and, if so, the amount of tax.

**(b) Definition of High-Yield.** A mining project is considered high-yield and thus subject to surtax when the project's pre-tax rate of return on total investment is greater than 22.5 percent, the threshold rate of return for application of this Section.

**(c) Method to Calculate Yield.** A mining project's accumulated negative net cash flow shall be determined by applying an annual accumulation factor of 1.225 to negative net cash flow carried forward from a prior tax period. At the close of each tax period, accumulated negative net cash flow carried forward from the prior period shall be increased by current negative net cash flow or offset by current positive net cash flow. A project is not high-yield and subject to surtax unless its accumulated net cash flow at the close of a period is positive.

**(d) Surtax Rate.** Positive net accumulated cash flow at the close of a tax period is taxable at a rate of 20 percent, and the amount of this liability is deductible from gross income for the tax period in accordance with Section 705(b).

**(e) Re-Set Accumulation to Zero.** Following a tax period for which tax is due under

this section, a mining project's accumulated negative cash flow is re-set to zero and the method of subsection (d) is re-applied using zero as the starting point for the succeeding tax period.

**(f) Steps to Calculate Yield.** Beginning with the first tax period in which a mining project has a Class A mining license and has begun construction, the following steps are used to calculate yield in accordance with subsection (c).

(1) Cost. State the expenditures, as specified in Section 731, for the tax period.

This is the project's cost through the close of the period. Go to Step 2.

(2) Revenues. State the project's revenues, as specified in Section 732, for the tax period, including revenues, if any, from the exploration period as defined in Section 700. This amount is the project's revenues through the close of the period. Go to Step 3.

(3) Test Net Cash Flow.

(A) Determine net cash flow. Subtract from revenues the amount of cost to arrive at net cash flow ( $R - C = NCF$ ).

(B) Net cash flow zero or negative. If net cash flow is zero or negative, the project is not yet a high-yield project and the surtax does not apply. Multiply the negative net cash flow by 1.225 to arrive at the project's accumulated negative net cash flow to be carried to the next tax period. Go to Step 4.

(C) Net is positive. If net cash flow is positive, tax is determined under subsection (d), and this amount is deductible in determining taxable income under Section 703. Accumulated negative net cash flow is re-set to zero in accordance with subsection (e). Go to Step 4.

(4) Reprise. Re-apply steps (1) through (3) for each succeeding tax period, beginning with the period after the one tested under Step 3

(A) Add costs incurred in the succeeding period to any accumulated negative net cash flow carried from the prior period (zero if re-set) as under Step 1. Go to (B).

(B) State revenues for the succeeding period as under Step 2. Go to (C). (C) Test net cash flow as under Step 3.

### **Section 731. Determination Of Expenditures For Section 730 Purposes**

**(a) Expenditures Counted.** For the purposes of determining cost under Section 730(g)(1), a mining project's expenditures for a tax period is the sum of the following amounts incurred during the period, and does not include the amount of any income tax paid:

(1) Expenses deductible in computing taxable income, but not the allowance for depreciation or interest and finance charges or the surtax deduction under Section 705(b)(7);

(2) Capital expenditures to acquire or construct a tangible or intangible asset for use in mining operations, but not an addition to (or reduction in) working capital; and

(3) Mining exploration expenditures, mining development expenditures, and capital goods expenditures as defined in Section 700. For a project's first tax period, include expenditures for prior exploration, development, and capital goods attributable to the project under Section 700(h).

**(b) Transfer of Interest.** Consideration paid for transfer of an interest in a mining project is disregarded in determining the project's total expenditures.

**(c) Only Production Expenditures.** If an amount referred to in subsection (a) is related to commercial production as well as to some other non-production activity of a mining project, only the amount attributable to commercial production is included in determining the project's total expenditures.

### **Section 732. Determination Of Total Revenues**

**(a) Revenues Counted.** For purposes of Section 730(f)(2), a mining project's total revenues for a tax period is the sum of the following amounts:

(1) The project's gross income for income tax purposes for the tax period, including amounts from hiring or leasing-out property or the granting of rights to use property (but not including interest income);

(2) The project's consideration received for the tax period for the disposal, destruction, or loss of any property (including materials, equipment, plant, facilities, and intellectual property or rights) used in mining operations if the expenditure incurred in acquiring the property was deducted in computing the project's net cash flow for any tax period;

(3) Any amount received for the tax period for provision of information or data obtained from any survey, appraisal, or study relating to mining operations, if the expenditure incurred in undertaking the survey, appraisal, or study was previously deducted in computing the project's net cash flow for any tax period;

(4) Any other amount received for the tax period that is a reimbursement, refund, or other recoupment of an amount previously deducted in computing the net cash flow of the project for any tax period; and

(5) If property used in mining operations has been destroyed or lost, any compensation, indemnity, or damages the project received in respect of the property under an insurance policy, indemnity agreement, settlement, condemnation action, or judicial decision.

**(b) Transfer of Interest.** Consideration received for transfer of an interest in a mining project is not included in the project's total revenues.

**(c) Only Production Revenues.** If an amount referred to in subsection (a) is related to commercial production as well as to some other non-production activity of a mining project, only the amount attributable to commercial production is included in determining the project's total revenues.

## **Sections 733-739. Reserved**

### **Subchapter B. Petroleum**

#### **Section 740. Scope Of Subchapter**

**(a) Income Taxation.** In accordance with the provisions of Part II (to the extent applicable) and as specifically provided in this Chapter, income tax is imposed on taxable income from a petroleum project (as defined in Section 700). In case of inconsistency with other provisions of Part II, the provisions of this subchapter are determinative.

**(b) Rate of Tax.** Taxable income from a petroleum project is subject to income tax at the rate stated in Section 741.

**(c) Form of Organization Disregarded.** Regardless of the legal form of organization adopted by one or more persons having an interest in a petroleum project, a petroleum producer's taxable income shall be determined separately for each petroleum production project, and a person with an interest in more than one project shall not be permitted to consolidate income or loss of one project with that of any other.

(1) For purposes of determining income tax, income from a petroleum project is considered to be income of a resident legal person or of a Section 803 permanent establishment taxable according to rules applicable to a resident legal person. Taxable income and income tax liability are determined under provisions of the regular income tax of Chapter 2 subject to special rules provided in this Chapter.

(2) In accordance with Section 10(z), a producer who holds a petroleum agreement is considered to have an interest in the petroleum project that is the subject of the petroleum agreement, and is the taxpayer legally responsible for paying tax with respect to income of the project.

(3) The Chapter 9 filing and advance payment rules for the regular income tax apply to a producer with income from a petroleum project.

**(d) Petroleum Law.** The Petroleum Law governs non-tax terms of extraction of petroleum in Liberia, including the sharing of production under a production sharing agreement, which determines the petroleum producer's share of income from petroleum

extraction.

**(e) US Dollar Accounting.** Books and records of a petroleum project may be kept in Liberian or US Dollars, but a project's tax and taxable income shall be determined in US Dollars.

**(f) Consolidated Account.** All payments, pursuant to the Petroleum Law, including, royalty; transfer and withdrawal fees; surface rental; production fees, as specified in production sharing agreements, taxes on National Oil Company share of profit oil; and social/community development fund and all special funds, shall be paid into the consolidated account.

Additionally, the National Oil Company of Liberia, after deducting operation cost, shall be subject to taxes on its share of profit oil in accordance with the Tax Law of General Application in keeping with the Revenue Code of Liberia.

**(g) Compliance.** An amount due or amount in default under a petroleum agreement is treated as a tax liability under this Code, and is subject to the same procedural requirements (including penalties, fees, and interest).

#### **Section 741. Rate Of Tax**

The rate of tax on taxable income from a petroleum project shall be 30 percent.

#### **Section 742. Valuation**

**(a) General Rule.** Petroleum and petroleum products extracted by a petroleum project are valued for all purposes at fair market value as determined in an arm's length transaction f.o.b. Liberia without reduction for claims, counterclaims, discounts, commissions, or any other asserted offset or deduction.

**(b) Cross-Reference.** The fair market value f.o.b. Liberia is determined for the day of shipment in accordance with Section 10(bb), and in the case of a product for which there is a reliable international price index, as specified in regulations referencing that index.

**(c) Advance Pricing Agreement.** The Government of Liberia and a producer may agree to a transfer pricing methodology in an advance pricing agreement in accordance with Section 18.

#### **Section 743. Determination of Taxable Income of Petroleum Project**

**(a) Gross Income.** The gross income of a petroleum project includes—

(1) The petroleum producer's cost share and profit share of income from a petroleum project as specified in the Petroleum Law or the applicable petroleum agreement;

(2) Any other income that the petroleum project receives from business activity or investment accruing in, derived from, brought into or received in Liberia, including

currency gains when realized, less the deductions set forth in subsection (b).

**(b) Deductions Allowed from Gross Income.** In accordance with the rules of Chapter 2, all expenditures incurred during the tax period wholly, exclusively and necessarily in connection with the operations of a petroleum project (including non-capital operating costs but excluding capital costs except to the extent of the annual allowance for depreciation), are allowed as deductions, including but not limited to the following items:

(1) An allowance for depreciation of plant and equipment in accordance with the depreciation rules of Chapter 2, subject to the special rule of Section 744.

(2) A carryforward of net operating loss from a prior year to the extent permitted under Section 203(e) as modified by Section 745.

(3) Interest on any indebtedness of the project, and other financing costs incurred in connection with operations and paid to an affiliate or to a third party, for the tax period incurred, subject to the special rule of Section 746.

(4) Exploration and development expenditures incurred that are attributable to the project, to the extent allowed by Section 747.

(5) Payments to a Government-approved trust fund for reclamation and decommissioning, subject to the specific limitations set out in Section 748.

(6) Subject to the provisions of Chapter 2, management fees paid, whether to an affiliate or to a third party, but not the amount in excess of 2 percent of other operating expenses incurred for the tax period.

(7) Subject to the provisions of Section 203(c), the amount of bad debt incurred, so long as that amount was subject to income taxation in a prior tax period.

(8) Charitable contributions made in Liberia to a qualifying organization within the meaning of section 205(b) for educational or community development projects, social welfare, or medical purposes or for the provision of other social services.

(9) Expenses related directly to the project's "other income" under subsection (a)(2), to the extent otherwise allowable as a deduction under Chapter 2 and this Chapter.

**(c) Deductions Not Allowed.** The following expenses are not allowed as a deduction from gross income:

(1) A payment to an expatriate employee as reimbursement for taxes and duties paid by the employee to the Government.

(2) A loss from a hedging transaction.

(3) An incentive deduction allowed by Section 204(d).

(4) An amount allowed as a special tax incentive deduction by Section 16.

#### **Section 744. Special Rule for Depreciation**

**(a) Commencement of Period.** For property placed in service before commercial production begins, the period for depreciation of property described in Section 204(b) shall begin in the first tax period in which commercial production begins.

**(b) Tangible Moveable Property.** The cost of tangible moveable property shall be recovered over the period and by the method described in Section 204(b)(1).

**(c) Five-Year Cost Recovery Period.** In place of the 15-year period set out in Section 204(b)(2) for recovering the cost of tangible fixed property and intangible property, a petroleum project shall be entitled to recover the cost of this property on an asset-by-asset basis using the straight-line method over a five-year period at the rate of 20 percent per year.

**(d) 15-Year Cost Recovery Period.** A petroleum project's tangible fixed property outside the project's production area (or beginning inside and extending outside) shall be depreciated on an asset-by-asset basis over a 15-year period or the expected period of commercial production (whichever is shorter) using the straight-line method.

**(e) Termination.** If a petroleum project is terminated before the end of the cost recovery period, the remaining unrecovered cost is treated as an expense deduction in determining taxable income for the tax period in which the project is terminated.

#### **Section 745. Special Rule for Net Operating Loss Carryforward**

For the purposes of determining taxable income of a petroleum project, the Section 203(e) period for carryforward of net operating loss begins with the first tax period in which commercial production begins and is a seven-year period.

#### **Section 746. Special Rule for Interest Deduction**

**(a) Carryforward.** Interest incurred in a tax period and subject to the limitation of Section 203(d) may be carried forward to the next tax period.

**(b) Treatment.** The amount of the carryforward is treated as interest incurred in the subsequent period, and is deductible to the extent permitted under Section 203(d).

**(c) No Expiration.** The interest carryforward allowed by this section does not expire.

#### **Section 747. Special Rule for Petroleum Exploration Expenditures**

Petroleum exploration expenses and petroleum development expenditures are attributable to a petroleum project under the rules of Section 700(h) and are deductible in the first tax period in which commercial production begins.

### **Section 748. Special Rule For Decommissioning Expenses**

**(a) Qualification.** A petroleum project's payment for decommissioning expenses is deductible from gross income under Section 743(b) only in the amount paid during the tax period—

(1) To defray reclamation or decommissioning expenses upon cessation of commercial production, and remedying damage caused to land used by the project or environmental damage the project may have caused (including damage that extends beyond the petroleum area), but not if drawn from a trust fund described in paragraph (2).

(2) To an approved trust fund established to defray future expenses of the type specified in paragraph (1), subject to any limitations or requirements specified in regulations.

**(b) Recapture.** An amount taken as a deduction under subsection (a) but not used for the specified purpose—

(1) If remaining after the tax period in which commercial production ends, shall be included in income for the following tax period; or

(2) If used for another purpose, shall be included in income in the tax period within which the amount is so used.

### **Section 749. Treatment of Property Transfers**

**(a) General Rule.** Unless an exception applies under this Chapter, a petroleum project's gain or loss on the transfer of depreciable property used by the project is treated in accordance with section 204. Transfer of non-depreciable property used in the business, or transfer of property other than property connected with petroleum, is determined in accordance with the property transfer rules of Section 207.

#### **(b) Special Cases.**

(1) Hedging. Hedging transactions by a petroleum project are taxable as a separate business activity, and hedging gains and losses incurred are not includible or deductible in determining taxable income of the project.

(2) Investment Gain. Gain on property a petroleum project holds for investment is determined under Section 207 and is includible in income of the project, except to the extent reduced by investment loss under the rule of Section 203(b)(2).

### **Section 750. Successor Agreement; Transfer Of Interest In Project**

**(a) Successor Agreement.** If a petroleum agreement (the "original agreement") is terminated and a new agreement (the "successor agreement") is entered into with the same producer for the same petroleum area (the "successor project"), the project's loss carryforward existing at the termination date of the petroleum agreement is deductible in the first tax period of the successor project under the successor agreement, provided:

(1) The whole of the geographic area covered by the petroleum area of the successor agreement is within the petroleum area of the original agreement; and

(2) The successor agreement entered into force within one month following the termination of the original agreement.

**(b) Transfer of Interest.** If the holder of an interest in a petroleum project transfers that interest—

(1) The taxable income of the project shall continue to be determined using the tax cost and other tax attributes applicable at the date of the interest transfer; and

(2) The transferer of the interest shall determine gain or loss under Section 207, which also applies to determine the transferee's tax cost in the interest.

### **Section 751. Transactions Between Related Persons**

**(a) General Rule.** A petroleum project's gain, loss, and other tax consequences in transactions with related persons are determined in accordance with the definitions in Section 10 (in Part I, General Provisions), and the provisions of this Part, especially Section 207, Property Transfers; Section 208, Related Persons; Section 209, Finance Leasing; Section 210, Income Splitting; and Section 211, Transactions Between Related Persons.

**(c) Disclosure.** A petroleum producer must—

(1) Disclose the existence of related-party transactions and contemporaneously document the manner in which prices are set in transfers to related persons;

(2) Notarize an agreement governing a related-party transaction in accordance with the law of the related person's country of residence; and

(3) Upon request of the Ministry, provide copies of agreements and other documents substantiating the existence of related-party transactions and the manner by which prices are set.

**(d) Advance Pricing Agreement.** The Government of Liberia and a producer may agree to a transfer pricing methodology in an advance pricing agreement in accordance with Section 18.

**(e) Regulations.** The Minister is required to issue regulations clarifying, to the degree feasible, the reference prices, comparables, and standards that will be used to evaluate transfer prices. Regulations are required to take into account the Guidelines described in Section 18(b).

### **Section 752. Partnerships And Joint Ventures**

**(a) Pass-Through of Tax Attributes.** If a petroleum producer is organized as a

partnership or similar form of unincorporated joint venture, the petroleum project's income, expenses, loss, credits, and character of income or loss shall be attributed to the partners in accordance with their interests (including the items specified in Section 743), for the purpose of determining taxable income, loss, credits, and tax liability separately for each partner;

**(b) Application of Other Rules.** If subsection (a) applies—

(1) The provisions of this Chapter shall apply separately to each partner;

(2) Each partner shall be considered a taxpayer for purposes of this Part (Part II, Income Tax) and a petroleum producer for purposes of this Chapter, and shall be liable for income tax as determined under this Chapter.

### **Section 753. Royalty**

A petroleum producer, including the National Oil Company of Liberia, engaged in the exploitation or extraction of petroleum deposits of Liberia is required to pay a royalty at the rate of 10 percent on gross production before the deduction of any cost.

### **Section 754. Equity Participation**

The government of Liberia, either through the National Oil Company of Liberia or other majority-government-owned company nominated by the government of Liberia, shall have the option to take up an equity participating share in a petroleum project to the extent permitted under the Petroleum Law.

### **Sections 755-799. Reserved**

## **Chapter 8. Income Taxation Of Nonresidents**

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### **Section 801. Resident Legal Person**

**(a) Resident Legal Person.** Except as specified in subsections (b) and (c), a legal person is a resident in Liberia for the purposes of this Code if it—

(1) Is incorporated or formed under the laws of Liberia and either:

(i) Has its management and control in Liberia; or

(ii) Undertakes the majority of its operations in Liberia;

(2) Is a corporation, registered business company, limited liability company, foundation, trust, limited partnership, or similar arrangement that undertakes some business activity in Liberia and has a majority (by vote or value) of direct or indirect shareholders, members, beneficiaries or unit holders resident in Liberia; or

(3) Is a general partnership, joint venture, or trust, and a partner, co-venturer, or trustee

is a resident in Liberia.

**(b) Exception for Vessel Company.** Regardless of subsection (a), a legal person is not a resident in Liberia if —

(1) it does one or more of the following:

(A) secures or maintains registry in Liberia of a ship (not including registration services);

(B) owns a Liberia flag vessel; or

(C) conducts activities in Liberia solely related to the operation, chartering or disposition of a ship other than for transportation exclusively within Liberia, and

(2) it carries out no activities in Liberia other than activities described in Section 801(b)(1).

**(c) Exception for Nonresident Domestic Entity.** Regardless of subsection (a), a legal person is not a Liberian resident if—

(1) it is incorporated or formed in Liberia under the Associations Law and is (i) a nonresident domestic corporation or a nonresident limited liability company, or (ii) a foundation, trust or limited partnership;

(2) it is not engaged in a business or activities in Liberia other than one or more of the activities described in subsection (e) below; and

(3) the Ministry has access to information regarding the entity's incorporation or formation.

**(d) Permanent Establishment.** A permanent establishment (as defined in Section 803) in Liberia of a nonresident person is treated as a resident legal person with respect to the person's income attributable to the permanent establishment, and is subject to income taxation on that income as specified in Part II, Income Tax, including the filing and advance payment requirements of Chapter 9.

**(e) Activities in Liberia.** For the purposes of subsection (a), a person is not considered to be a resident in Liberia solely because the person does one of the following—

(1) Maintains an administrative, management or statutory office in Liberia;

(2) Holds meetings of directors, shareholders, members or limited partners in Liberia;

(3) Invests in stock (or other equity ownership interests) or securities in a resident legal person (unless the investment is in a corporation, limited liability company, private foundation, trust, partnership or similar entity that provides to the investor a distributive

share of adjusted income consisting of income derived from operations carried on in Liberia);

(4) Maintains a bank account in Liberia;

(5) Maintains a resident agent as required by the provisions of the Associations Law or other similar provisions of the Liberian Code of Laws.

**(f) Effective Date of Amendments.** The amendments to this section made by the Consolidated Tax Amendments Act of 2011 shall be effective as if such amendment had been enacted along with the enactment of this Act (An Act To Repeal An Act Adopting A New Revenue And Finance Law of 1977, And All The Acts Amendatory Thereto, and To Enact The Revenue Code of Liberia, Phase One of The Reform Tax Code of Liberia, A.D. 2000).

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### **Section 803. Permanent Establishment**

**(a) Definition.** The permanent establishment of a nonresident person in the Republic of Liberia is the establishment in Liberia through which it carries on business activity in Liberia, in full or in part, for a period of no less than 90 days during the tax year, including activity carried out through an agent.

**(b) Examples.** Any of the following activities, for example, if carried out so as to meet the conditions stated in (a), is a permanent establishment:

(1) A branch office of a nonresident legal person;

(2) A construction site, an assembly or batching facility, or the exercise of supervisory activities connected with the site or facility;

(3) A site, drilling equipment, or ship used for prospecting for natural resources, or the exercise of supervisory activities connected with the site, equipment, or ship;

(4) A ship used for fishing in Liberian waters;

(5) A place used by a nonresident natural person for business activity.

**(c) Cross-Reference.** Although a person who carries on activities specified in Section 801(e) is not deemed a resident because of those activities, the activities may be considered to contribute to the person's permanent establishment in Liberia.

### **Section 804. Imposition of Tax**

**(a) General Rule.** A nonresident person is subject to tax on Liberia-source income (defined in Section 805). In lieu of the generally applicable income tax of Part II, The Personal and Business Income Tax, tax is collected by withholding on payments as specified in Section 806.

**(b) Exception.** A legal person described in Section 801(c) is not subject to tax.

### **Section 805. Source Of Income**

**(a) Income from a Liberian Source.** Income is from a source in Liberia if it is:

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(2) derived in respect of the performance of services or employment exercised in Liberia whether or not the gains or profits from the services or employment are received in Liberia;

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(8) a dividend, management fee, or director's fee paid in respect of a legal person resident in Liberia;

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**(b) Vessels.** Regardless of subsection (a), income derived from the sale, operation, rental or chartering of a vessel is not from a source in Liberia except to the extent such income is derived from transportation or use exclusively within Liberia.

**(c) Income from a Non-Liberian Source.** Any income that is not from a source in Liberia is foreign-source income.

### **Section 806. Withholding of Tax on Payments to Nonresidents**

**(a) Payments.** A person listed in this subsection who makes a payment of the kind specified in this section is required to withhold tax at the rate specified in this section. The payor is treated as a withholding agent for all purposes of this Code. This subsection applies to the following types of persons:

(1) a resident legal or natural person;

(2) a nonresident's permanent establishment in Liberia;

(3) a government agency;

(4) unless expressly exempted by international agreement or treaty, a nongovernmental organization operating in Liberia or a diplomatic mission to Liberia;

(5) a foreign corporation authorized to do business in Liberia.

**(b) Interest, Dividends, Royalties, License Fees, And Similar Payments.** A payor who makes a payment to a nonresident of Liberia-source non-exempt interest, dividends, royalties, license fees, a payment in respect of mineral rights, or other income (except rent) derived from rights in property (including any form of intellectual property) is required to withhold tax at a rate of 15 percent of the amount of the payment.

**(c) Gaming Winnings.** A payor who makes a payment to a nonresident of winnings from gaming within Liberia is required to withhold tax at a rate of 20 percent of the amount of the payment.

**(d) Payers of Rent.** A payor who makes a payment to a nonresident of Liberia- source rent is required to withhold tax at a rate of 15 percent of the amount of each payment.

**(e) Payments for Services Rendered.** A payor who makes a payment to a nonresident for Liberian-source services rendered is required to withhold tax at the rate of 15 percent of the amount of the payment if payment is of a sort that, if made to a resident, would be includible in gross income under Section 201 (including Board fees, management fees, commissions, and the like).

**(f) Special Rule for Payments by Mining Projects, Petroleum Projects, and Renewable Resource Projects.** In lieu of the rates otherwise applicable under this section, in the case of the following types of Liberian-source payments to a nonresident, which for the purpose hereof is considered a Liberian-source for the payee, made by a mining project producer, petroleum project producer, or renewable resource project contract holder, the withholding rates stated below shall apply to the following withholding obligations—

(1) Interest, 5 percent.

(2) Dividends, 5 percent.

(3) Payments for services, 6 percent.

**(g) Payments of Acquisition Price.** Upon the payment to a nonresident of the acquisition price for an interest in an investment asset in Liberia, the payor is required to withhold tax at the rate of 15 percent of the amount of the payment and pay it over to the Government of Liberia in accordance with the rules of subsection (h).

(1) For purposes of this subsection, the term “investment asset” means a direct or indirect interest in real property located in Liberia, shares of stock in a resident legal person, or an ownership interest or rights in a partnership, joint venture, or similar arrangement that has significant operations, property, or property rights in Liberia.

(2) This subsection does not apply if the investment asset is an ownership interest in a legal person described in Section 801(b) or (c).

**(h) Withholding Requirements, Remittance, And Statement.** Within 10 days after the last day of a month, a payor who has made a payment to a nonresident is required to remit to the tax authorities the total amount required to be withheld during that month. Each remittance of tax under this section must be accompanied by a statement specifying the name and address of each nonresident to whom a payment was made,

the type and amount of each payment, and the amount of tax withheld (and, if the Minister requests, underlying documentation in accordance with Section 55, including contracts).

If the withholding agent is a resident, the place for remittance is the withholding agent's filing location (as designated in Section 50). If the withholding agent is a nonresident, the place of remittance is the Ministry of Finance.

**(i) Election.** A nonresident subject to tax under this section may elect to file an income tax return by submitting it at the time and in the manner required by Part I and Chapter 9 of this Code, and is thereby required to pay the amount of income tax on taxable income specified in Section 200 or Section 201. An amount of tax withheld pursuant to Section 806 is creditable against income tax liability and refund of an overpayment may be available as described in Section 72. A nonresident's election to file an income tax return is effective for the tax period for which the election is made and for the next four succeeding tax periods.

**(j) Payments by Government Agency.** A government agency that makes a payment to a nonresident in circumstances other than those governed by subsections (a) through (g) is required to withhold a portion of the payment as specified in regulations, but not more than 4%.

**Sections 807-899. Reserved.**

### **Section 900. Filing Requirements for Resident Natural Persons**

**(a) Resident Natural Persons Required to File.** Except as set forth in subsection (b), a resident natural person who has taxable income (as computed under Section 201) for a tax period is required to file an income tax return for that period.

**(b) Resident Natural Persons Not Required to File.** A resident natural person is not required to file an income tax return for a period if, for that period, the person—

(1) derives 90 percent or more of gross income for a tax period from employment income (including salary, wages, and benefits) subject to withholding;

(2) is taxable under Section 200(c).

**(c) Small Taxpayers.** A resident natural person who for a tax period is taxable under Section 200(c) as a "small taxpayer" is not required to file a regular income tax return, but must comply in one of the following ways—

(1) A small taxpayer who qualifies as a petty trader is required to apply annually for a trading license badge and to pay the fee specified in Section 200(c)(4). The trader must wear the badge while engaged in trade or business or display the badge prominently in the business premises.

(2) A small taxpayer who does not qualify as a petty trader must file a presumptive tax return for the period using a simple form supplied by the Revenue Department.

**(d) Election to File Tax Return.** If a natural person not otherwise required to file an income tax return desires to claim a net operating loss, loss carryforward, or any other loss, deduction, credit, or allowance under this Code, that person may elect to file an income tax return for the tax period in which the loss, deduction, or credit was generated. The rules of Section 72 apply to an overpayment of tax.

### **Section 901. Filing Requirements For Resident Legal Persons**

**(a) Trusts And Estates.** A trust or estate that has taxable income for a tax period, as computed under Section 201, is required to file an income tax return for the period. If a trust or estate is required to file an income tax return, the information provided in the return is to include the name, address, and telephone number, and (if a resident) the tax identification number of each beneficiary, as well as a statement of each beneficiary's attributable income.

**(b) Partnerships.** A partnership that has taxable income for a tax period, as computed under Section 201, is required to file an income tax return for such tax period. If a partnership is required to file an income tax return, the information provided in the return is to include the name, address, and telephone number, and (if a resident) the tax identification number of each partner, as well as a statement of each partner's share of the partnership income.

**(c) Corporations.** A corporation that has taxable income for a tax period, as computed under Section 201, is required to file an income tax return for the period.

**(d) Election to File Tax Return.** If a legal person not otherwise required to file an income tax return desires to claim a net operating loss, loss carryforward, or any other loss, deduction, credit, or allowance under this Code, that person may elect to file an income tax return for the tax period in which the loss, deduction, or credit was generated. The rules of Section 72 apply to an overpayment of tax.

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### **Section 904. Advance Payments Of Income Tax**

**(a) Advance Payment Requirement.** All persons who are required to file an income tax return for a tax period are required to make advance payments of the income tax liability for the period.

(1) Advance payments are due quarterly and are creditable against the total income tax liability for the tax period.

(2) Income tax withheld on the payee's behalf on a payment or payments made by a person who has a tax withholding obligation under Section 905 is creditable against the payee's advance payments, provided that the payee supplies the payer with a Tax Identification Number, as defined in Section 53, at the time of or before the payment

subject to withholding.

(3) In determining the total amount of advance payments required for a tax year, the following rules apply:

(A) If a person was required to file an income tax return for the preceding tax period, that person's advance payments (plus any tax withholdings) must be at least

(i) 100 percent of the person's income tax liability for the preceding tax period, or

(ii) 90 percent of the person's income tax liability for the current tax period.

(B) If a person was not required to file an income tax return for the preceding tax period, that person's advance payments (plus any tax withholdings) must be at least 90 percent of the person's income tax liability for the current tax period.

(4) If the sum of the advance payments made for a tax period, and the withholding tax withheld on behalf of a person during a tax period, exceeds the income tax liability shown or required to be shown on an income tax return filed by the person for such tax period, the excess shall be subject to the refund provisions under Section 72 and interest on overpayments under Section 14(b).

(5) In this Section the term "tax liability" refers to income the tax liability for a tax period taking into account all Section 74(a) assessments with respect to the tax period and not only the tax liability derived from the taxpayer's self- assessment.

**(b) Quarterly Payments.** Advance payments are to be made quarterly. Except as otherwise permitted by subsection (a), each payment is to be in an amount equal to at least 25 percent of the total advance payment due for the year as determined under subsection (a)(3), but the amount may be reduced by the sum of payments described in subsection (a)(2).

**(c) Timely Payment.** An advance payment is timely made if payment is made at the designated hour and place for payment in accordance with Section 50 and if payment is made by the 15th day following the end of each quarter of the taxpayer's tax year. For a calendar-year taxpayer, the payments are due on April 15, July 15, October 15, and January 15. Failure to make timely payment is subject to the rules of Section 13 and Section 51.

**(d) Statement.** Each advance payment shall be made with an approved standard form. The Minister is required to make available an approved standard form for the payment of advance payments. The approved standard form for the payment of advance payments is a tax return within the definition under Section 10(z).

**(e) Penalties for payment and filing failures.** Any person who has an advance payment obligation and who fails to pay the amount of tax required to be paid by

advance payment is subject to the payment of interest required by Section 14 and to the Section 52 penalties for late payment and failure to pay. Failure to submit a required statement or payment voucher by the advance payment due date is subject to the Section 51 penalties for late filing and failure to file. References in Section 51 to the filing due date and in Section 52 to the payment due date are to be understood for this purpose as referring to the advance payment due date under this Section.

**(f) Penalties for Willful Failure to Pay.** A taxpayer who determines advance payments based on an estimate of tax liability as permitted in subsection (a)(7) and who underpays advance payments as a result of willful underestimation of tax liability shall be subject to the criminal penalties provided in Section 52 for willful failure to pay tax.

### **Section 905. Withholding of Tax on Payments to Residents**

**(a) Payments.** A person listed in this subsection who makes a payment of the kind specified in this section is required to withhold tax at the rate specified in this section. The payor is treated as a withholding agent for all purposes of this Code. This subsection applies to the following types of persons:

- (1) a resident legal or natural person;
- (2) a nonresident with a branch in Liberia or doing business in Liberia;
- (3) a government agency; or
- (4) unless expressly exempted by international agreement or treaty, a nongovernmental organization operating in Liberia or a diplomatic mission to Liberia.

**(b) Interest, Dividends, Royalties, License Fees, and Similar Payments.** A payor who makes a payment to a resident of non-exempt interest, dividends, royalties, license fees, or other income (except rent) derived from rights in property (including any form of intellectual property), including a payment in respect of mineral rights, is required to withhold tax at a rate of 15 percent of the amount of the payment.

**(c) Gaming Winnings.** A payor who makes a payment to a resident of winnings from gaming within Liberia is required to withhold tax at a rate of 20 percent of the amount of the payment.

**(d) Payers of Rent.** A payor who makes a payment to a resident of rent is required to withhold tax at a rate of 10 percent of the amount of each payment if the total amount of rental payments made during a 12-month period is expected to be \$70,000 or more.

**(e) Payments of Wages or Salary to Employees.** A payor who makes a payment of wages or salaries to an employee in an amount that during the tax year exceeds the standard deduction amount of Section 205(a) is required to withhold tax from each payment in accordance with the income tax rates specified in Section 200(a).

**(f) Payments for Services Rendered.**

(a) If a payor makes a payment to a resident for services rendered, and the services are not the subject of a contract of employment, the payor is required to withhold tax at the rate of 10 percent of the amount of the payment.

(b) This subsection applies only if—

(1) the payment is of a sort includible in gross income under Section 201 (including Board fees, management fees, commissions, and the like); and

(2) the payment is \$100,000 or more (or of any amount if the total amount of payments made to the payee is (or is expected to be) \$1,000,000 or more for the payer's tax year).

(c) A payment for the acquisition of goods is not a payment for services rendered. If the payment is for a mixture of goods and services, withholding is required only on the portion of the payment that is allocable to the services.

**(g) Payments of Acquisition Price.** A payor who makes a payment to a resident representing all or part of the acquisition price of an investment asset in Liberia is required to withhold tax at the rate of 10 percent of the amount of the payment.

(1) For purposes of this subsection, the term “investment asset” means a direct or indirect interest in real property located in Liberia, shares of stock in a resident legal person, or an ownership interest or rights in a partnership, joint venture, or similar arrangement that has significant operations, property, or property rights in Liberia.

(2) This subsection does not apply if the investment asset is an ownership interest in a legal person described in Section 801(b) or (c).

**(h) Special Rule for Payments by Mining, Petroleum, and Renewable Resource Projects and Registered Manufacturers.** In lieu of the rates otherwise applicable under this section, in the case of the following types of payments made to a resident by a mining project producer, petroleum project producer, or renewable resource project contract holder, the withholding rates stated below apply to the following withholding obligations—

(1) Interest, 5 percent.

(2) Dividends, 5 percent.

(3) Payments for services, 6 percent.

**(i) Payments to High-Risk Suppliers.** If a payor makes a payment to a high-risk supplier of goods, the payor must withhold tax at the rate (not to exceed 20 percent) specified in regulations. The term “high-risk supplier” means a person in a category of suppliers identified in regulations as presenting a high risk of tax avoidance.

**(j) Withholding Requirements, Remittance, And Statement.** Within 10 days after the last day of a month, a payor described in (a) is required to remit to the tax authorities the total amount required to be withheld during that month. Each remittance of tax under this section must be accompanied by a statement specifying the name and address of each resident to whom a payment was made, the type and amount of each payment, and the amount of tax withheld (and, if the Minister requests, underlying documentation in accordance with Section 55, including contracts). The place for remittance is the payor's filing location (designated in Section 50).

**(k) Treatment Of Withholding.** A person who has had tax withheld from a payment during a tax period may claim a credit against income tax due on the income tax return for that period. A person not otherwise required to file an income tax return may elect to file a return to establish entitlement to credit or refund. The rules of Section 72 apply to an overpayment of tax withheld under this section.

**(l) Information Reporting for Payments to Resident Legal Person.** If a payor described in (a) makes a payment that would be subject to withholding under subsection (f) if made to a natural person, but is made to a resident legal person, then the payor (while not required to withhold tax on such payments) is required to provide the tax authorities with a statement setting out the name, address, and taxpayer identification number of each payee to whom such payments were made, the amount of the payments, and related information requested on the form specified by the Minister. The statement is due within 15 days after the last day of the month in which a payment is made. The place for filing the statement is the withholding agent's filing location (designated in Section 50).

**(m) Penalties.** A person who has a withholding obligation under this section and fails to withhold and remit the amount of tax required to be withheld is subject to the Section 52 penalty for late payment and failure to pay. For the purpose of applying the Section 52 penalty to a failure to withhold and remit tax, references in Section 52 to the "payment due date" are to be understood as referring to the remittance due date under this section. A person who fails to provide the tax authorities with a required statement under subsection (l) is subject to a fine of \$10,000 for each required statement not provided.

**(n) Payments by Government Agency.** A government agency that makes a payment to a resident in circumstances other than those described in subsections (a) through (i) is required to withhold a portion of the payment as specified in regulations, but not more than 4%.

### **Section 907. Refunds**

The Section 14(b) allowance of interest on overpayments and the Section 72 refund provisions apply to overpayments of tax made as a result of Chapter 9 withholding or advance payments.

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## **Section 1000. Goods Tax Imposed**

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### **(b) Rate of Tax.**

(1) The rate of goods tax payable on a taxable supply of goods is the percentage specified in paragraph (3) of the taxable amount of the supply.

(2) The rate of goods tax payable on a taxable supply of goods imported or exported is the percentage specified in paragraph (3) of the taxable amount of the import or export.

(3) The rate of goods tax is 7 percent of the Section 1004 taxable amount, except that—

(A) If the supply is of an alcoholic beverage, 10 percent; (B) If the supply is an export of goods, zero (0) percent.

(4) For the rate of tax on services, see Section 1021(b).

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## **Section 1001. Taxable Supply**

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**(e) Exempt Supply.** The following supplies are exempt supplies—

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(6) Subject to subsection (f), a supply made to a registered manufacturer; a renewable resource contractor subject to Part II, Chapter 6 and in the business of agriculture; a mining project producer or petroleum project producer subject to Part II, Chapter 7; or the holder of a Forestry Resource License engaged in the business of forestry, if the supply is of—

(A) raw materials or other inputs for use directly in manufacturing;

(B) raw materials for use directly in forestry;

(C) raw materials for use directly in a renewable resource project described in Part II, Chapter 6;

(D) raw materials for use directly in a mining project or petroleum project described in Part II, Chapter 7; and

(E) capital goods.

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(8) The supply of medical and educational equipment and supplies purchased for use directly in or in connection with activities described in by Part II, Chapters 6 or 7, and intended to be placed in service within one year of purchase, if the supply is made to—

(A) a renewable resource contractor subject to Part II, Chapter 6 and in the business of agriculture;

(B) a mining project producer subject to Part II, Chapter 7, Subchapter A; or

(C) a petroleum project producer subject to Part II, Chapter 7, Subchapter B.

\*\*\*

**(g) Definitions.** In this Part, unless the context otherwise requires—

**(1) Application to Own Use.** The term "application to own use" means:

(A) Applying goods to a non-business use, including use by a related person, or

(B) The transfer by a registered manufacturer of that person's manufactured products for consideration.

**(2) Goods.** The term "goods" means any tangible movable property.

**(3) Manufacture.** The term "manufacture" means to subject physical matter to any process that materially changes its substance or character, and includes the assembly of parts.

**(4) Manufacturer.** The term "manufacturer" means any person who manufactures goods.

**(5) Capital Goods.** The term "capital goods" means—

(A) Plant or equipment (but not motor vehicles of any kind), and spare parts for these goods, for use exclusively and directly in manufacturing, agriculture, or forestry.

(B) The following goods for a producer's use exclusively and directly in a mining or petroleum project or in mining or petroleum exploration or development:

(i) Plant or equipment (including four-wheel-drive motor vehicles but not motorcycles, sedans or luxury vehicles as defined by regulation) and spare parts for these goods; and

(ii) From the inception of exploration until the date commercial production begins, intermediate inputs (including but not limited to explosives, drilling mud, grinding balls, tires for trucks used in operations, and similar items specified in regulations).

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## **Section 1004. Taxable Amount**

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**(d) Taxable Imports.** The taxable amount of a taxable import is the sum of the following amounts—

- (1) The CIF Liberian Port or Customs entry value, whichever is applicable;
- (2) If not included in the CIF Liberian Port or Customs entry value, the value of incidental services as defined in Section 1002(c)(2); and
- (3) The customs duty, customs service fee, ECOWAS Trade Levy, and excise tax (if any) on import.

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### **Section 1006. Registration of Manufacturers**

#### **(a) Persons Required To Register.**

(1) Subject to this Subchapter, every person who carries on a manufacturing business has an obligation to register –

(A) at the end of any 12-month period during which the person made taxable supplies the total taxable amount of which equaled or exceeded \$3,000,000; or

(B) at the beginning of any 12-month period during which there are reasonable grounds to expect that the total taxable amount of taxable supplies to be made by the person during that period will equal or exceed \$3,000,000.

(2) In determining whether a person has an obligation to register under paragraph (1), the Minister may include in the person's taxable supplies the taxable supplies made by another person who is a related person.

(3) In determining whether a person has an obligation to register under paragraph (1), the Minister may include in that person's taxable supplies of goods any taxable supplies of services the person provides. A person registered by reason of this Section is considered registered for purposes of Section 1026.

(4) Every person who has an obligation to register under paragraph (1) shall apply to the Minister for registration within 21 days of becoming so required.

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### **Section 1021. Services Tax Imposed**

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#### **(b) Rate of Tax.**

(1) General Rule. The rate of services tax is 7 percent of the taxable amount described in Section 1025.

(2) Exceptions. A service specified in Section 1022(a)(4), (6), (7), (8), or (9) is taxed at 10 percent. An 8 percent surtax applies to telecommunications services specified in Section 1022(a)(2).

\*\*\*

### **Section 1022. Taxable Services**

**(a) General Rule.** The term “taxable services” means any supply (other than an exempt supply) in connection with the carrying on of a business by a person of—

- (1) electricity services;
- (2) telecommunications services;
- (3) the provision of water for a fee;
- (4) services supplied in carrying on the business of a hotel or similar facility (including board, lodging, and incidental services), and restaurant meals, beverages, and other services supplied on the premises of a hotel;
- (5) services supplied in carrying on the business of a restaurant or café (including supplies of meals or beverages), and supplies of take-away meals by a restaurant, café, supermarket or similar supplier;
- (6) gambling services— (A) in a casino;  
(B) lottery ticket sales;  
(C) betting at a track or off-track betting establishment; or  
(D) drawings or other games of chance conducted by telecommunications suppliers or other similar suppliers;
- (7) sale of tickets by international transport services (air, sea, and land);
- (8) services of a travel agency or travel arranger, including the issuing of tickets;
- (9) sporting or game arranger services, including the issuing of tickets; and
- (10) other services (specified in regulations) in the sectors of air travel, vehicle rental, communications, automotive repair services, professional services (excepting medical services), and port-related services.

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### **Section 1026. Registration of Services Providers**

#### **(a) Persons Required To Register.**

- (1) Subject to this Subchapter, every person who carries on a business involving the performance of taxable services has an obligation to register—

(A) at the end of any period of twelve months in which the person made taxable supplies the total taxable amount of which equaled or exceeded \$3,000,000; or

(B) at the beginning of any period of twelve months where there are reasonable grounds to expect that the total amount of taxable supplies to be made by the person during that period will equal or exceed \$3,000,000.

(2) In determining whether a person has an obligation to register under paragraph (1), the Minister may include in the person's taxable supplies the taxable supplies made by another person who is a related person.

(3) In determining whether a person has, an obligation to register under paragraph (1) the Minister may include in the person's taxable supplies of goods any taxable supplies of services provided by the person. A person registered by reason of this Section is considered registered for purposes of Section 1026.

(4) Every person who has an obligation to register under paragraph (1) must apply to the Minister for registration within 21 days of becoming required to register.

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**(e) Collection from Recipient of Services.** If a person required to register as a services provider has not voluntarily registered and has been registered involuntarily as permitted under subsection (b), the Minister is authorized to collect the services tax from the recipient of the services.

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### **Section 1027. Port Service Tax**

**(a) General Rule.** A tax of US \$25 (or its equivalent in Liberian dollars) is imposed on passengers leaving Liberia by luxury ocean liner, US \$10 on passengers leaving Liberia by other commercial sea transport, and US \$5 on passengers leaving Liberia by commercial ground transport.

**(b) Collection Of Tax.** The tax imposed by this Section is payable on passing through Customs when exiting Liberia and is to be collected by an Authorized Revenue Agent.

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### **Section 1042. Offenses and Penalties**

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(d) Reserved [substance moved to new Section 78]

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### **Section 1100. Earth and Stone; Asbestos Products**

Excise tax, at a rate of 35 percent of CIF value, shall be levied on any asbestos product imported to or produced in Liberia, and on any earth or stone imported into Liberia.

### **Section 1101. Scrap Metal Exported from Liberia**

Excise tax, at a rate of 5 percent, shall be levied on the CIF value of scrap metal exported from Liberia.

### **Sections 1102-1119. Reserved**

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### **Section 1120. Alcoholic Beverages**

Excise tax, at a rate of 35 percent shall be levied on all beverages with an alcohol content in excess of one percent, including beer, wine, stout, ale, gin, whisky, bourbon, and other products intended for consumption by mouth that have the requisite alcohol content, whether imported to or produced in Liberia, but not including pharmaceutical products or medicinal preparations (for example, cough suppressants or similar products) if certified by the Pharmacy Board.

### **Section 1121. Tobacco and Tobacco Products**

Excise tax at a rate of 35 percent shall be levied on tobacco and on any product containing tobacco, including cigarettes, cigars, snuff, chewing tobacco, and similar products, whether imported to or manufactured in Liberia.

\*\*\*

### **Section 1140. Cosmetics, Non-Alcoholic Beverages, and Water**

**(a) Cosmetics.** Excise tax, at the rate of not less than 5 nor more than 10 percent, as determined by regulation, shall be levied on any cosmetics or any cosmetic aids imported or produced in Liberia, including perfumes, toilet preparations, hair products, and nail care products. Soap, toothpaste, toilet tissue, and disinfectants are not cosmetics or cosmetic aids.

#### **(b) Non-Alcoholic Beverages And Water**

(1) Excise tax, at the rate of 35 percent of the CIF value, shall be levied on water imported into Liberia.

(2) Excise tax, at the rate of 10 percent of the CIF value, shall be levied on non-alcoholic beverages (other than water) imported into Liberia.

(3) Excise tax, at a rate of 2 percent of the value (ex-factory price), shall be levied on non-alcoholic beverages manufactured in Liberia by a local registered manufacturer.

### **Section 1141. Luxury Goods**

**(a) General Rule.** Excise tax at the rate of 10% shall be charged on the following luxury goods imported to or manufactured in Liberia:

(1) Luxury automobiles

(2) Jewelry

(b) Definitions. For the purpose of this Chapter, the following definitions apply:

(1) The term "luxury automobile" means any automobile that is in the class of private passenger automobiles and that has a minimum of a CIF value of US \$40,000 for a new car or US \$20,000 for a used car.

(2) The term "jewelry" means any item of jewelry.

### **Section 1142. Sugar in Crystal or Granule Form**

Excise tax, at the rate of 5 percent of the CIF value, shall be levied on sugar in crystal or granule form with the Tariff No. 1701.99.10 and 1701.99.90.

### **Sections 1143-1159. Reserved**

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### **Section 14263. Transitional Rule for the Customs Code**

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(b) Prohibitions.

(1) Regulation on Protective Tariff of 25 Percent, MOF/R/99-001 dated 07 January 1999, shall not be renewed in light of the policy of Government to encourage a competitive free trade market, and encouragement of exportation of quality made in Liberia goods.

(2) There shall be no importation of used motor vehicles more than 10 years old, whether intended for transport of passengers or goods, or for private or commercial use.

(3) The following vehicles are exempt from the paragraph (2) prohibition on the import of vehicles more than 10 years old:

(A) Earth moving machinery;

(B) Heavy-duty trucks used in forestry or for the transportation of heavy equipment; and

(C) Industrial vehicles and tankers.

(4) Persons are exempt from Customs duties as follows—

(A) General Exemptions. General exemptions are stated in the Second Schedule to the Customs Code (Sections 100.00 – 100.07 except 100.06). Persons not mentioned therein shall pay Customs duties on the importation of commodities not exempt in Sections 100.00 – 100.07 at the rates specified in the First Schedule to the Customs Code.

(B) Special Circumstance Exemptions. Exemption shall be made in accordance with

Section 100.06 of the Second Schedule to the Customs Code.  
\*\*\*

## CHAPTER 17. CUSTOMS DUTIES

### Section 1700. Scope of Chapter

(a) This Chapter incorporates (with amendments) what was formerly the External Tariff Law and the Customs Revenue Code of Liberia. It imposes Customs duties, which for convenience are set out in Schedule I Customs Tariff, which is organized accordance with the Harmonized System.

(b) Definitions.

(1) "Harmonized System" means the Harmonized Commodity Description and Coding System established by and appended to the Harmonized System Convention, as amended.

(2) "Harmonized System Convention" means the International Convention on the Harmonized Commodity Description and Coding System, done at Brussels on June 14, 1983.

### Section 1701. Duties Imposed On Import and Export

#### (a) Duties.

(1) There shall be levied, collected, and paid on all goods imported into Liberia import duties at the rates set forth in this Chapter's Schedule 1, External Tariff Schedule.

(2) No duties are imposed on exports from Liberia, or on goods imported solely for the purpose of transshipment out of Liberia.

(3) Regulations may specify the levy, security, and other measures appropriate to ensure that import duties will be paid if an import that entered as intended for transshipment out of Liberia is not subsequently exported.

**(b) Prohibition.** It shall be unlawful for a government agency other than the Ministry of Finance to impose a customs levy on an import or export, including goods imported for transshipment out of Liberia, other than the levies imposed by this Code and specified in Schedule 1, External Tariff Schedule

(1) It is unlawful for a government agency to restrict the free movement of imports or exports in any manner, including by regulations, sale of forms (other than Customs entry forms) to the public, or the requirement of any permit or payment as a condition for movement of imports or exports.

(2) A person who intentionally acts in a manner that impedes the free movement of trade is subject to criminal sanctions, as provided in this Code.

(3) The Deputy Minister is required to monitor the movement of goods, and is empowered, in consultation with the Ministry of Commerce and Industry, to take appropriate measures to ensure the free movement of imports and exports.

### **Section 1702. Import Duties**

**(a) Levy and Payment.** Customs import duties shall be levied on and paid by the importer in respect of goods listed in this Chapter's Schedule 1, External Tariff Schedule at the rates specified therein.

**(b) Exception.** In the case of an import qualifying under Section 1708 for exemption from import duty, no duty is payable. An exempt import is nonetheless subject to the Customs User Fee described in Section 1802.

### **Section 1703. Reserved**

### **Section 1704. Rates**

The rates at which Customs duties are imposed are specified in Schedule 1, External Tariff Schedule.

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### **Section 1708. Exemption from Import Duties**

**(a) General Rule.** Any goods otherwise chargeable with customs import duties in accordance with Schedule I of this Chapter (the External Tariff Law) are exempt from duty if an exemption is specified in this Code and listed in Schedule II of this Chapter. The Minister's certification that the goods qualify for exemption is required for listing in Schedule II.

**(b) Special Rule for Mining and Petroleum Projects.** During the period from the inception of exploration until the date commercial production begins, a Chapter 7 mining project or petroleum project is allowed an import duty exemption of the following goods:

- (1) Plant or equipment (including four-wheel-drive motor vehicles but not sedans or luxury vehicles as defined by regulation) and capital spare parts for these goods;
- (2) Intermediate inputs (including but not limited to explosives, drilling mud, grinding balls, tires for trucks used in operations, and similar items specified in regulations); and
- (3) Raw materials, except that no exemption is permitted from the 10 percent duty on gasoline and gas oil.

**(c) Special Rule for Renewable Resource Projects.** During the period from the effective date of a Chapter 6 renewable resource contract until commercial production begins, a renewable resource project is allowed an import duty exemption on the import of capital equipment and inputs specified in regulations. No exemption is permitted from the 10 percent duty on gasoline and gas oil.

**(d) Medical and Educational Imports.** A project described in (b) or (c) is allowed an import duty exemption on all medical and educational equipment and supplies purchased for use directly in or in connection with the project and intended to be placed in service within one year of purchase.

**(e) Special Rule for Legislators.** A member of the Legislature is allowed an exemption from import duties and fees (but not the ECOWAS Trade Levy) on two vehicles (in the class of passenger automobiles or up-to-2-ton pickup truck or SUV) per calendar year. The foregoing exemption shall extend to and cover the personal effects of a Legislator.

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## Chapter 18. Customs Fees

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### Section 1802. Customs User Fee

**(a) Minister's Authority to Set Fee.** The Minister has the authority and obligation to fix just and reasonable fees to be charged by the Bureau of Customs or on its behalf for issuing documents and performing other services in connection with the operation of the Customs service, including pre-shipment inspection, that are not set forth herein or in any other statute or regulation, and must do so by regulation and by widely circulated notice.

**(b) Fee Limit on Imports.** The Customs user fee for imports must not exceed 1.5 percent of the CIF Liberian Port value of imported goods or US \$10,000 per item, whichever is less.

(1) Except as specified in (2), the fee applies to all imports at all borders regardless of whether the goods are exempt from import duty because it is intended to cover the cost of the inspection service for non-exempt persons and the duty-free service for exempt persons.

(2) Petroleum products are exempt from the import Customs user fee.

(3) If an import is entered solely for the purpose of transshipment out of Liberia, it is not subject to the fee in this subsection (b) but is subject to the fee described in subsection (c).

**(c) Fee Limit on Exports.** No Customs user fee shall be levied on any export except for unprocessed exportables, semi-processed exportables, and goods in transshipment. The fee for goods in transshipment or unprocessed exportables must not exceed 2.5 percent of the FOB value. The fee for semi-processed exportables must not exceed 1.25 percent of the FOB value. The fee applies regardless of whether the goods are exempt from export duty.

**(d) Scanning Fee.** The Minister is empowered to charge a fee directly related to the scanning of cargo containers. The fee must be proportionate to the length of the

container, and may not exceed US \$7 per foot.

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**PART VI. Reserved.  
Chapter 19. Reserved**

**Sections 1900-1999. Reserved.**

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**Section 2000. Real Property Tax**

**(a) Basis.** There shall be levied annually a tax on real property in accordance with the conditions hereinafter prescribed. The tax shall be imposed upon each parcel of land not exempt from taxation, as specified hereunder, and shall consist of (1) a tax on each parcel of unimproved land, which shall include under-improved land as hereafter defined, at rates prescribed herein depending upon its geographical classification and (2) a tax on each parcel of improved land at a stated percentage of its assessed value determined in accordance with the provisions of Section 2001, the rate to be imposed depending upon the use classification of the building and other improvements thereon.

**(b) Rates on Unimproved Land.** The following rates, varying according to its description and geographical location, are hereby imposed on unimproved land:

(1) Unimproved land contained in the following described units of land located within the corporate limits of a city, town, municipal or commonwealth district is subject to an annual tax as herein indicated:

(A) The rate of tax payable on a city or town lot as defined herein—shall be two percent of the assessed value thereof.

(B) The rate of tax payable on a parcel of land as defined herein which has not been divided into city or town lots and is used as farmland shall be four percent of the assessed value thereof provided that the minimum tax levied under this provision shall be five dollars on each parcel.

(C) Rate of tax payable on a parcel of land as defined herein which has not been divided into city or town lots and is being used for any purpose other than farmland shall be three percent on each acre or fraction thereof.

(2) Unimproved land contained in the following described units of land located outside the corporate limits of a city, town, municipal or commonwealth district is subject to annual tax as herein indicated:

(A) Parcels of land as defined herein and used as farmland—a tax of \$5.00 on each acre or fraction thereof provided that the minimum tax levied under this provision shall be \$200 on each parcel.

(B) Parcels of land as defined herein and used for any purpose other than farmland—a tax of \$5.00 on each acre or fraction thereof provided that the minimum tax levied under this provision shall be \$200 on each parcel.

**(c) Rates on Improved Land.** The following percentage rates, varying according to the use classification, hereinafter designated, of its buildings and other improvements, are hereby imposed on the assessed value of each parcel of improved land, no matter where situated.

(1) Business or commercial use. When such buildings and other improvements are being used for business or commercial purposes, in whole or in part, a tax of one and one half percent of assessed value.

(2) Industrial use. When such buildings and other improvements are being used for industrial purposes, in whole or in part, a tax of one and one half percent of assessed value.

(3) Residential use. When such buildings and other improvements are being used exclusively for residential purposes, a tax of one twelfth of one percent of assessed value.

(4) Farm use in urban areas. When such buildings and other improvements have been constructed on parcels of land used as farmland located within the corporate limits of any city, town, municipal or commonwealth district or village and are being used exclusively for farm purposes, a tax of one third of one percent of assessed value.

(5) Farm use outside of urban areas. When such buildings and other improvements have been constructed on parcels of land used as farmland located outside of the corporate limits of any city, town, municipal, commonwealth district or village and are being used exclusively for farm purposes, a tax of one fourth of one percent of assessed value.

(6) Buildings and other improvements situated on public land. When buildings or other improvements are situated on public land owned by the Government of the Republic of Liberia and are under lease to private persons (or are in the possession and control of private persons under license or otherwise), they shall nevertheless be taxed under the provisions of this section. The charge, however, shall only be against the buildings and other improvements and in such instances, and solely for the purposes of this subdivision, the private persons shall be deemed to be the owners of the real property involved. The rate of tax shall be one seventh of one percent of assessed value if the building is used for residential purposes, and one percent of assessed value if it is used for commercial purposes.

**(d) Definitions.** For the purposes of this Section the following words have the meanings respectively ascribed to them:

(1) The term “assessed value” means the taxable value of land subject to taxation on the basis of such valuation, whether improved or unimproved, ascertained in accordance with the provisions of Section 2001.

(2) The term “business or commercial use” in relation to buildings or improvements means buildings or improvements used mainly for the purpose of private profit or gain in the buying and selling of goods, the engaging in trade and commerce including retail trading, the provision and setting up of office accommodations for commercial and professional purposes, the letting of houses or apartments and includes motor vehicles service stations, motor vehicle sales rooms and garages together with any workshops associated therewith: provided that in assessing the value of any such buildings or improvements, such value not include the value of any plant, machinery, tools, or other appliances which are not fixed to the buildings or improvements or which are only so fixed that they may be removed therefrom without structural damage thereto.

(3) The term “city lot” or “town lot” means a parcel of land of such dimensions as has been or may be so designated by competent authority or so described and delimited on any official map or plot of the city, town, municipal district or commonwealth district within the corporate limits of which such lot is situated; provided, however that any fraction of such a lot which is separately owned shall for tax purposes be considered as a whole lot.

(4) The term “farmland” means an area of land of lot not less than five acres in area which is used primarily for agriculture, horticulture, the growing of tree crops, grazing, poultry- or pig-raising, or other farming purposes.

(5) The term “hut” means any structure built of indigenous natural materials (for example, earth, sticks, bamboo, round poles, leaves) with a foundation made of earth, walls made of earth and sticks, and a roof made of leaves or other indigenous natural materials.

(6) The term “improved land” means land upon which improvements (as defined in this section) have been effected.

(7) The term “improvements” means those physical additions and alterations to land, buildings, and all works carried out for the benefit of land that have the effect of increasing its value.

(8) The term “industrial use” means buildings or improvements occupied and used for the purpose of private profit or gain as a factory workshop, brewery or canning plant, or which are engaged in the manufacture and processing of goods for sale, provided that in assessing the value of any such premises such value shall not include the value of any plant, machinery, tools, or other appliances which are not fixed to the buildings or improvements or which are only so fixed that they may be removed therefrom without structural damage thereto.

(9) The term “market value” is the capital sum which land, buildings or improvements might be expected to realize as at the date of assessment if offered for sale on such reasonable terms and conditions as a bona fide seller would require.

(10) The term “parcel of land” means a unit of land which is separately owned, the area limits of which are contained within an unbroken continuous boundary.

(11) The term “residential use” means buildings or improvements wholly or principally used, constructed, or adapted for human habitation owned by a natural-person taxpayer and wholly used and occupied by that taxpayer as a primary place of residence, and does not include any such buildings or improvements that are let out either wholly or in part for the taxpayer’s private profit or gain.

(12) The term “under-improved land” means land where the value of the physical additions and alterations thereto or buildings thereon and all works carried out for the benefit of the land are of lower value than the value of the land itself.

(13) The term “unimproved land” means land on which no improvements (as defined in this section) have been effected and includes under-improved land (as defined in this section).

(14) The term “value of improvements” in relation to land means the added value that the improvements give to the land including the cost of the improvements.

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### **Section 2009. Exemptions**

The following categories of real property shall be exempt from real property taxes:

(a) All public lands, buildings and other improvements, including subsequent additions thereto, owned by the Government of the Republic of Liberia except to the extent set forth in subsection (f) of Section 2001.

(b) Property owned by churches, religious societies, and foreign and domestic missions, educational institutions, charitable organizations, and fraternal organizations; provided that the property is used for religious, educational, charitable, or fraternal purposes and not for profit; and provided further that the property is not rented or leased except to another organization whose property is exempt from real property taxes under this subsection (and then only if the rental income is used exclusively for the aforesaid purposes). If the property is otherwise rented or leased, it shall be subject to the tax prescribed by this Chapter and the tax is to be paid by the owner.

(c) All properties used exclusively for religious, charitable or educational purposes.

(d) All properties held by the University of Liberia.

(e) All properties of foreign governments on lands leased from or deeded by the

Republic of Liberia. In the case of land or property owned by a private person and rented or leased to a foreign governments, the property is not exempt from the tax prescribed by this Chapter, for which the owner of the property is liable, and with regard to which a withholding agent has a withholding obligation.

(f) All property which is exempt from real property tax under the terms of statutes, treaties or agreements passed or entered into by the Government of the Republic of Liberia, provided that the property is held and used in accordance with any conditions contained in such statutes, treaties or agreements.

(g) Real property leased from the Government and, on the enactment date of this Code, tax-exempt by agreement is exempt from property tax under this Part only for the duration of the lease period remaining on the enactment date (including renewal options).

(h) Real property used under a renewable resource contract for operations of a renewable resource project subject to Part II, Chapter 6.

(i) Real property within a mineral exploration license area, a mining license area, or a petroleum area and used for a mining project or petroleum project subject to Part II, Chapter 7.

(j) A parcel of improved land upon which the only improvement is a hut or huts.

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### **Section 2114. Notaries**

**(a) General rule.** An official revenue stamp in the amount of US \$5 is required to validate a notary's attestation.

**(b) Source.** An official revenue stamp is available only through the Ministry. A credentialed notary is authorized to obtain a supply of US \$5 revenue stamps from the Ministry.

**(c) Validity.** A notary's attestation is not valid unless an official revenue stamp is affixed next to the attestation.

### **Sections 2115-2199. Reserved**

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## **Chapter 23. Fiscal**

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### **Section 2304. Reserved.**

[Repealed; formerly, "Minister Under Direction of The President May Monopolize Sale and Export of Gold and Other Precious Metals and Precious Minerals" ]

**Section 2305. Reserved.**

[Repealed; formerly, "President May Modify Duty Or Fee On Gold And Other Precious Metals And Precious Minerals; Exceptions"]

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