THE INCOME TAX ACT, 2004

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"arrangement" includes an action, agreement, course of conduct, dealing, promise, transaction, understanding or undertaking, whether express or implied, whether or not enforceable by legal proceedings and whether unilateral or involving more than one person;

"assessment" means an assessment under sections 94, 95, 96 or 103;

"asset" means a tangible or intangible asset and includes currency, goodwill, know-how, property, a right to income or future income and a part of an asset;

"associate" in relation to a person, means another person where the relationship between the two is-

(a) that of an individual and a relative of the individual, unless the Commissioner is satisfied that it is not reasonable to expect that either individual will act in accordance with the intentions of the other;

(b) that of partners in the same partnership, unless the Commissioner is satisfied that it is not reasonable to expect that either person will act in accordance with the intentions of the other;

(c) that of an entity and -

(i) a person who -

(aa) either alone or together with an associate or associates under another application of this definition; and

(bb) whether directly or through one or more interposed entities, controls or may benefit from 50 percent or more of the rights to income or capital or voting power of the entity; or

(ii) under another application of this definition, is an associate of a person to whom subparagraph (i) ,, applies; or

(d) in any case not covered by paragraphs (a) to (c), such that one may reasonably be expected to act, other than as employee, in accordance with the intentions of the other;

"banking business" means business of a financial institution approved under the Banking and Financial Institutions Act;

"business" includes -

(a) a trade, concern in the nature of trade, manufacture, profession, vocation or isolated arrangement with a business character; and

(b) a past, present or prospective business, but excludes employment and any activity that, having regard to its nature and the principal occupation of its owners or underlying owners, is not carried on with a view to deriving profits;

"business asset" means an asset to the extent to which it is employed in a business and includes a membership interest of a partner in a partnership but excludes -

(a) trading stock or a depreciable asset;

(b) an interest in land held by an individual that has a market value of less than 10 million shillings at the time it is realised and that has been used for agricultural purposes for at least two of the three years prior to realization;

(c) the beneficial interest of a beneficiary in a resident trust;

(d) shares in a corporation where receipt of a dividend in respect of the shares is exempt in the hands of the shareholder under section 54(2); and

(e) shares and securities listed on the Dar es Salaam Stock Exchange that are owned by a resident person, or by a non-resident person who either alone or with other associates controls less than 25% of the controlling shares of the issuer company;

" capitalisation of profits" by an entity, includes a capitalisation by way of issuing bonus, membership interests or increasing the amount paid upon membership interests in the entity or otherwise crediting profits to a capital or premium account *of* the entity;

"certified public accountant in public practice" has the meaning ascribed to it by the Auditors and Accountants (Registrations) Act.;

"chargeable income" has the meaning ascribed to it by section 6;

"charitable organisation" has the meaning ascribed to it by section 64;

"Class of depreciable assets" means a class determined in accordance with the provisions *of* paragraph I of the Third Schedule;

"Commissioner" means the Commissioner of Income Tax appointed under the Tanzania Revenue Authority Act;

"commuted pension" means a payment received by an individual on retirement of the individual for the surrender of at least half of the individual's pension rights in respect of a retirement fund;

"corporation" means any company or body corporate established, incorporated or registered under any law in force in the United Republic or elsewhere, an unincorporated association or other body of persons, a government, a political subdivision of a government, a parastatal organisation, a public international organisation and a unit trust but excludes a partnership;

"consumption expenditure" has the meaning ascribed to it by section 11;

"controlled foreign trust" and "controlled foreign corporation" means a non-resident trust or corporation in which a resident person owns a membership interest, whether directly or indirectly through one or more interposed non-resident entities, and where-

(a) the person is associated with the trust or corporation; or;

(b) there exist between one and four other resident persons which, if associated with the person, would cause the person to be associated with the trust or corporation;

"cost" of an asset has the meaning ascribed to it by section 37;

"debt claim" means an asset representing a right of one person to receive a payment from another person and includes a deposit with a financial institution, account receivable, note, bill of exchange or bond;

"debt obligation" means the obligation corresponding to a debt claim;

"dependant of an individual" with respect to a year of income, means a relative of the individual who has total income that does not exceed shillings 250,000 and receives substantial support from the individual during the whole year of income for the necessities of life;

"depreciable asset" means an asset employed wholly and exclusively in the production of income from a business, and which is likely to lose value because of wear and tear, obsolescence or the passing of time but excludes goodwill, an interest in land, a membership interest in an entity and trading stock;

"depreciation basis" at the end of a year of income with respect to a pool of depreciable assets, has the meaning ascribed to it by paragraph 3 of the Third Schedule;

"distribution" by an entity:

(a) means -

(i) a payment made by the entity to any of its members, in any capacity to the extent that the amount of the payment exceeds the amount of any payment made by the member to the entity in return for the entity's payment; or

(ii) any re-investment of dividends which enhances the value of shares;

(iii) any capitalisation of profits;

(b) includes a payment made by the entity to one of its members on cancellation, redemption or surrender of a membership interest in the entity, including as a result of liquidation of the entity or as a result of the entity purchasing a membership interest in itself;

(c) excludes a payment of the type referred to in paragraph (a) (i) or (b) -

(i) to the extent to which the payment is directly included in calculating the member's income or in calculating a final withholding payment, other than by reason of being a distribution; and

(ii) without limiting any amount treated as a distribution by paragraph (a)(ii), that consists of the issue of further membership interests in the entity to the entity's members in approximate proportion to the members' existing rights to share in dividends of the entity; and

(d) in the case of a controlled foreign trust or corporation, is interpreted in accordance with section 75;

"dividend of an entity" means a distribution by the entity to the extent that it is not a repayment of capital;

"document" means a statement in writing, includes an account, assessment, book, certificate, claim, note, notice, order, record, return or ruling and may take an electronic form;

"domestic asset" means -

(a) an asset owned by a resident person (other than foreign land or buildings or an asset held by a foreign permanent establishment of the person) or held by a domestic permanent establishment;

(b) an interest in land or a building situated in the United Republic; and

(c) shares in a resident corporation where the owner of the shares together with associates controls or within the previous five years controlled, either directly or indirectly, 25 percent or more of the voting power in the corporation;

"domestic liability" means a liability owed by a resident person (other than a liability attributable to a foreign permanent establishment of the person) or attributable to a domestic permanent establishment;

"domestic permanent establishment" means all permanent establishments of a non-resident individual, partnership, trust or corporation situated in the United Republic;

"employee" means an individual who is the subject of an employment conducted by an employer;

"employer" means a person who conducts, has conducted or has the prospect of conducting the employment of an individual;

"employment" means -

(a) a position of an individual in the employment of another person;

(b) a position of an individual as manager of an entity other than as partner of a partnership;

(c) a position of an individual entitling the individual to a periodic , remuneration in respect of services performed; or

(d) a public office held by an individual, and

includes a past, present and prospective employment;

"entity" means a partnership, trust or corporation;

"excluded expenditure" has the meaning ascribed to it by section 11;

"exempt amount" means an amount exempt from income tax by reason of section 10, 52, 54; 60 or 63;

"final withholding payment" has the meaning ascribed to it by section 86;

"financial institution" means a bank or financial institution approved under the Bank of Tanzania Act or the Banking and Financial Institutions Acts;

"foreign currency debt claim" means a debt claim that is denominated in a currency other than Tanzanian shillings;

"foreign currency debt obligation" means a debt obligation that is denominated in a currency other than Tanzanian shillings;

"foreign income tax " means income tax imposed by a foreign country and includes a final withholding tax or branch profits tax imposed by a foreign country;

"foreign permanent establishment" means all permanent establishments of an individual, partnership, trust or corporation that are situated in any one country that is not the country in which the individual, partnership, trust or corporation is resident but excludes a domestic permanent establishment;

"foreign source" means an amount that is not treated as having a source in the United Republic by sections 67, 68 or 69, as the case requires;

gain" from the realisation of an asset or liability has the meaning ascribed to it by section 36;

"general insurance business" means any insurance that is not life insurance;

"gift" means a payment without consideration or a payment with consideration to the extent that the market value of the payment exceeds the market value of the consideration;

"incapacitated individual" means a minor or any individual who is substantially blind or physically crippled or substantially mentally retarded or who is adjudged under any law, whether of the United Republic or of any other country, to be of unsound mind;

income" .

(a) from an employment, business or investment has the meaning ascribed in sections 7, 8 or 9, as the case requires; and

(b) when used without a reference to employment, business or investment, means a person's income from any employment, business or investment and an aggregation o f such income a s calculated in accordance with this Act, as the case requires;

"income tax" has the meaning ascribed to it by section 4;

"incomings for an asset" has the meaning ascribed to it by section 38;

"individual" means a natural person;

"insurance business" means the business of an insurer in effecting, issu ing and carrying out insurance;

"interest" means a payment for the use of money and includes a payment made or accrued under a debt obligation that is not a repayment of capital, any gain realised by way of a discount, premium, swap payment or similar payment, amounts treated a s interest under section 32, amounts recognised as interest under section. 71(6) (b)(ii) and interest imposed under Division I of Part VIII;

"investment" means the owning of one or more assets of a similar nature or that are used in an integrated fashion, on similar terms and subject to similar conditions, including as to location and includes a past, present and prospective investment, but does not include a business, employment and the owning of assets, other than investment assets, for personal use by the owner;

"investment asset" means shares and securities in a corporation, a beneficial interest in a non-resident trust and an interest in land and buildings but does not include -

(a) business assets, depreciable assets and trading stock;

(b) a private residence of an individual that has been owned continuously for three years or more and lived in by the individual continuously or intermittently for a total of three years or more, other than a private residence that is realised for a gain in access of 15,000,000 shillings;

(c) an interest in land held by an individual that has a market value of less than shillings 10,000,000 at the time it is realised and that has been used for agricultural purposes for at least two of the three years prior to realisation;

(d) shares in a corporation where receipt of a dividend in respect of the shares is exempt in the hands of the shareholder under section 54(2); and

(e) shares and securities listed on the Dar es Salaam Stock Exchange that are owned by a resident person, or by a non-resident person w ho either a lone o r with other associates controls less than 25% of the controlling shares of the issuer company;

"lease" means an arrangement providing a person with a temporary right in respect of an asset of another person, other than money, and includes a licence, *profit-a-prendre*, option, rental agreement, royalty agreement and tenancy;

"life insurance" means insurance of any of the following classes:

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

(b) insurance where -

(i) the specified event is an individual who is the insured or an associate of the insured sustaining personal injury or becoming incapacitated; and

(ii) the insurance agreement is expressed to be in effect for at least five years or without limit of time and is not

terminable by the insurer before the expiry of five years except in circumstances prescribed by the regulations;

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

(d) re-insurance of insurance referred to under paragraphs (a) to (c);

"life insurance business" means the business of an insurer in effecting, issuing and carrying out life insurance;

"loss from any business or investment" has the meaning ascribed to it by section 19 and from the realization of an asset or liability, has the meaning ascribed to it by section 36;

manager" in relation to an entity -

(a) means any councillor, director, manager, member, officer or other person who participates or may participate, whether alone or jointly with other persons, in making senior management decisions on behalf of the entity; and

(b) includes a partner of a partnership, a trustee of a trust and a person in accordance with whose directions and instructions the entity or a person described in paragraph (a) is required or accustomed to act;

"market value" means a market value determined under section 27;

member" in relation to an entity, means any person who owns a membership interest in the entity;

membership interest" in an entity means a right, including a contingent right and whether of a legal or equitable nature, to participate in any income or capital of the entity and includes the interest of a partner in a partnership, the interest of a beneficiary in a trust and shares in a corporation;

"mineral" has a meaning ascribed to it under the Mining Act, 1998; Act No. 5 of 1998

mining operations" means prospecting mining or operations connected with prospecting or mining carried out pursuant to rights granted under the Mining Act, 1998;

"Minister" means the Minister responsible for finance;

minor" with respect to a year of income means an individual under the age of eighteen years at the end of the year of income;

natural resource" means minerals, petroleum, water or any other non-living or living resource that may be taken from land or the sea;

"natural resource payment" means any payment, including a premium or like amount, for the right to take natural resources from land or

the sea or calculated in whole or part by reference to the quantity or value of natural resources taken from land or the sea;

"net cost" for an asset or liability to a particular time means -

(a) in the case of a depreciable asset, its share of the written down value of the pool to which it belongs at that time apportioned according to the market value of all the assets in the pool; and

(b) in the case of any other asset or a liability, the amount by which cumulative costs for the asset or liability exceed cumulative incomings for the asset or liability to the time;

"net ogains" from the realisation of investment assets of an investment of a person for a year of income has the meaning ascribed to it by section 36;

"notice of assessment" means a notice served under section 97 or 103(4);

"officer of the Tanzania Revenue Authority" means the Commissioner and any officer appointed under the Tanzania Revenue Authority Act;

"parastatal organisation" means -

(a) a local authority of the United Republic;

(b) a body corporate established by or under any Act or ordinance of the United Republic other than the Companies Act, and any company registered under the Companies Act where -

(i) in the case of a company limited by shares, not less than 50 percent of the issued share capital of the company is owned by the Government or an organisation which is a parastatal organisation under this definition; or

(ii) in the case of a company limited by guarantee-

(aa) the members of the company include the Government or an organisation which is a parastatal organisation under this definition; and

(bb) such members have undertaken to contribute not less than 50 percent of the amount to be contributed by members in the event of the company being wound up;

"partnership" means any association of individuals or bodies corporate carrying on business jointly, irrespective of whether the association is recorded in writing;

"payment" includes the transfer of assets or money, the transfer or decrease of a liability, the provision of services, the use or availability for use of money or an asset and the creation of an asset in another person;

"penalty" means a penalty imposed under Division I of Part VIII;

"permanent establishment" means a place where a person carries on business and includes -

(a) a place where a person is carrying on business through an agent, other than a general a gent o f independent status acting i n t he ordinary course of business as such;

(b) a place where a person has used or installed, or is using or installing substantial equipment or substantial machinery; and

(c) a place where a person is engaged in a construction, assembly or installation project for six months or more, including a place where a person is conducting supervisory activities in relation to such a project;

"person" means an individual or an entity;

"pool of depreciable assets of a person for a year of income" has the meaning ascribed to it by paragraph I of the Third Schedule;

"petroleum" has the meaning ascribed to it under the Petroleum (Exploration and Production) Act, 1980;

"premium" has the meaning as defined in the definition of "insurance ,

proceeds" has the meaning as defined in the definition of "insurance";

"realisation" of an asset has the meaning ascribed to it by section 39, and "liability" has the meaning ascribed to it under section 40;

"relative" means the individual's child, spouse, parent, grandparent, grandchild, sibling, aunt, uncle, nephew, niece or first cousin, including by way of marriage or adoption;

"religious organisation" means a resident entity of a public character established for the advancement of religion that has been issued with ruling by the Cornissioner under section 131 currently in force stating that, it is a religious organisation;

"rent" means any payment made by the lessee under a lease of a tangible asset including any premium and any other payment for the granting of the lease but excludes a natural resource payment and a royalty;

"repatriated income" has the meaning ascribed to it under section 72;

"residence" or "resident" with respect to a person has the meaning ascribed to it under section 66;

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

retirement fund" means any entity established and maintained solely for the purposes of accepting and investing retirement contributions in order to provide retirement payments to individuals who are beneficiaries of the entity;

"retirement payment" means a payment, by way of a lamp sum pension or commuted pension, made by a person to -

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

(b) a relative of an individual in the event of the individual's death;

"return of income" has the meaning ascribed to it by section 91;

"royalty" means any payment made by the lessee under a lease of an intangible asset and includes payments for -

(a) the use of, or the right to use, a copyright, patent, design, model, plan, secret formula or process or trademark;

(b) the supply of know-how including information concerning industrial, commercial or scientific equipment or experience;

(c) the u se o f, or right to u se, a cinematography film, videotape, sound recording or any other like medium;

(d) the use of, or right to use, industrial, commercial or scientific equipment;

(e) the supply of assistance ancillary to a matter referred to in paragraphs (a) to (d); or

(f) a total or partial forbearance with respect to a matter referred to in paragraphs (a) to (e),

but excludes a natural resource payment;

"service" has the meaning ascribed to it under section 1.36;

"service fee" means a payment to the extent to which, based on market values, it is reasonably attributable to services rendered by a person through a business of that person or a business of any other person and includes a payment for any theatrical or musical performance, sports or acrobatic exhibition or any other entertainment performed, conducted, held or given;

shareholder" means a person who is a member of a corporation;

source" has the meaning ascribed to it under sections 67, 68 or 69, as the case requires;

"statutory rate" in relation to a calendar year, means the Bank of Tanzania discount rate at the start of the year;

"Tanzania Revenue Authority" means the Authority established under the Tanzania Revenue Authority Act; Act No. 11 of 1995

"tax" has the meaning ascribed to it under section 78;

"tax payable on an assessment" has the meaning ascribed to it under sections 94, 95 and 96;

"tax identification number" has the meaning ascribed to it under section 133;

"technical services" in respect of mining operations, means services in respect *of* earthmoving, engineering and construction and includes geological geotechnical and metallurgical services or any other like services;

"total income" has the meaning ascribed to it under section 5 ,

"trading stock" means assets owned by a person that are sold or intended to be sold in the ordinary course of a business of the person, work in progress on such assets and inventories of materials to be incorporated into such assets and includes, in the case of a person carrying on a banking business, loans made in the ordinary course of that business;

"trust" means an arrangement under which a trustee holds assets but excludes a partnership and a corporation;

"trustee" -

(a) means an individual or body corporate holding assets in a fiduciary capacity for the benefit of identifiable persons or for some object permitted by law and whether or not the assets are held alone or jointly with other persons or the individual or body corporate is appointed or constituted trustee by personal acts, by will, by order or declaration of a court or by other operation of the law; and

(b) includes -

(i) any executor, administrator, tutor or curator;

(ii) any liquidator, receiver, trustee in bankruptcy or judicial manager;

(iii) any person having the administration or control of assets subject to a usufruct, *fideicommissum or* other limited interest;

(iv) any person who manages the assets of an incapacitated individual; and

(v) any person who manages assets under a private foundation or other similar arrangements;

"turnover" in relation to a business of a resident individual for a year of income, means amounts to be included in calculating the individual's income for the business for the year of income under section 8 without a deduction for any amount under subdivision D of Division I of Part III;

"unapproved retirement fund" means a retirement fund that is not an approved retirement fund;

"underlying ownership"

(a) in relation to an entity, means membership interests owned in the entity, directly or indirectly through one or more interposed entities, by individuals or by entities in which no person has a membership interest; or

(b) in relation to an asset owned by an entity, means the asset owned by the persons having underlying ownership of the entity in proportion to that ownership of the entity;

"unit trust" means -

(a) an arrangement under which a trustee holds assets for the benefit of at least 20 persons; and

(b) where the entitlements of the persons to participate in the income or capital of the arrangement are divided into units such that the entitlements are determined by the number of units owned;

"withholdee" means a person receiving or entitled to receive a payment from which income tax is required to be withheld under Subdivision A of Division II of Part VII;

"withholding agent" means a person required to withhold income tax from a payment under Subdivision A of Division II of Part VII;

"written down value" of a pool of depreciable assets-

(a) at the end of a year of income has the meaning ascribed to it under paragraph 4(4) of the Third Schedule;

(b) at a particular time ("the time") during a year of income means-

(i) the written down value of the pool at the end of the previous year of income; plus

(ii) expenditure incurred prior to the time, which is added to the depreciation basis of the pool during the year of income or to be added during the following year of income under paragraph 3(5) of the Third Schedule; less

(iii) incomings derived during the year of income or to be derived with respect to a realisation occurring prior to the time in respect of assets that are or have been in the pool; "year of income" has the meaning ascribed to it under section 20.

PART 11

IMPOSITION OF INCOME TAx

Change of tax

4.-(1) Income tax shall be charged and is payable for each year of income in accordance with the procedure in Part VII by every person-

(a) who has total income for the year of income;

(b) who has a domestic permanent establishment that has repatriated income for the year of income; or

(c) who receives a final withholding payment during the year of income.

(2) The amount of income tax payable by a person for a year of income shall be equal to the sum of the income tax payable with respect to subsection (1)(a), (b) and (c).

(3) Subject to the provisions of subsections (4) and *(5),* the income tax payable by a person with respect to subsection (1)(a) is calculated by-

(a) applying the relevant rates of income tax determined under paragraph I or 3(l) of the First Schedule, as the case requires, to the person's total income for the year of income; and

(b) subtracting from the resulting amount any tax credit that the person may claim for the year of income under section 77.

(4) The income tax payable with respect to subsection (1)(a) by a resident individual who is not required to file a return of income under section 92(a)(ii) (and who does not elect to file a return), shall be equal

to the sum of the amounts to be withheld under section 81 by the individual's employer or employers from payments made to the individual during the year of income and the sum of instalments paid by the person under section 88(l) with respect to gains realised during the year of income.

(5) Where a resident individual meets the requirements of paragraph 2(l) of the First Schedule with respect to a year of income, the income tax payable by the individual with respect to subsection (1)(a) for the year of income shall be equal to the amount of presumptive income tax provided for in paragraph 2(3) of the First Schedule.

(6) The income tax payable by a person with respect to subsection (1)(b) shall be calculated by applying the rate of income tax mentioned in paragraph 3(2) of the First Schedule to the permanent establishment's repatriated income for the year of income.

(7) Subject to the provisions of section 86(4), the income tax payable by a person with respect to subsection (1)(c) shall be the sum of the amounts calculated by applying the relevant rates of income tax determined under paragraph 4 of the First Schedule to the amount of each final withholding payment received by the person during the year of income.

PART III

INCOME TAX BASE

Division 1 Calculating the Income Tax Base

Subdivision A - Total Income

Total income

5.-(1) The total income of a person shall be the sum of the person's chargeable income for the year of income from each employment, business and investment less any reduction allowed for the year of income under section 61 relating to retirement contributions to approved retirement funds.

(2) The total income of each person shall be determined separately.

Subdivision B - Chargeable Income

Chargeable income

6.-(l) Subject to the provisions of subsection (2), the chargeable income of a person for a year of income from any employment, business or investment shall be-

(a) in the case of a resident person, the person's income from employment, business or investment for the year of income irrespective of the source of the income; and

(b) in the case of a non-resident person, the person's income from the employment, business or investment for the year of income, but only to the extent that the income has a source in the United Republic.

(2; The chargeable income of a resident individual who at the end of a year of income has been resident in the United Republic for two years or less in total during the whole *of* the individual's life shall be determined under subsection (1)(b).

Income from an employment

7.-(l) An individual's income from an employment f or a year of income shall be the individual's gains or profits from the employment of the individual for the year of income.

(2) Subject to the provisions of subsection (3), in calculating an individual's gains or profits from an employment for a year of income the following payments made to or on behalf of the individual by the employer or an associate of the employer during that year of income shall be included:

(a) payments of wages, salary, payment in lieu *of* leave, fees, commissions, bonuses gratuity or any subsistence travelling entertainment or other allowance received in respect of employment or service rendered;

(b) payments providing any discharge or reimbursement of expenditure incurred by the individual or an associate of the individual;

(c) payments for the individual's agreement to any conditions of the employment;

(d) retirement contributions and retirement payments;

(e) payment for redundancy or loss or termination of employment;

(f) other payment made in respect of the employment including benefits in kind quantified in accordance with section 27;

(g) other amounts as may be required to be included under Division 11 of this Part.

(3) In calculating an individual's gains or profits from an employment, the following shall be excluded -

(a) exempt amounts and final withholding payments;

(b) on premises cafeteria services that are available on a non-discriminatory basis;

(c) medical services, payment for medical services, and payments for insurance for medical services to the extent that the services or payments are -

(i) available with respect to medical treatment of the individual, spouse o f t he individual and u p to four o f their children; and

(ii) made available by the employer (and any associate of the employer conducting a similar or related business) on a non-discriminatory basis;

(d) any subsistence, travelling, entertainment or other allowance that represents solely the reimbursement to the recipient of an amount expended by him wholly and exclusively in the production o f h is income from h is employment o r services rendered;

(e) benefit derived from the use of motor vehicle where the employer does not claim any deduction or relief in relation to the ownership, maintenance, or operation of the vehicle;

(f) benefit derived from the use of residential premises by an employee of the Government or any institution whose budget is fully or substantially out of Government budget subvention;

(g) payment providing passage of the individual, spouse of the individual and up to four of their children to or from a place of employment which correspond to the actual travelling cost where the individual is domiciled more than 20 miles from the place of employment and is recruited or engaged for employment solely in the service of the employer at the place of employment;

(h) retirement contributions and retirement payments exempted under the Public Service Retirement Benefits Act, 1999; and Act No, 2 of' 1999

(i) payment that it is unreasonable or administratively impracticable for the employer to account for or to allocate to their recipients.

Income from a business

8.-(1) A person's income from a business for a year of income is the person's gains or profits from conducting the business for the year of income.

(2) Subject to the provisions of subsection (3), there shall be included in calculating a person's gains or profits from conducting a business for a year of income, the following amounts derived by the person from conducting the business during the year of income -

(a) service fees;

(b) incomings for trading stock;

(c) gains from the realisation of business assets or liabilities of the business as calculated under Division III of this Part;

(d) amounts required to be included under paragraph 4 of the Third Schedule on the realisation of the person's depreciable assets of the business;

(e) amounts derived as consideration for accepting a restriction on the capacity to conduct the business;

(f) gifts and other ex gratia payments received by the person in respect of the business;

(g) amounts derived that are effectively connected with the business and that would otherwise be included in calculating the person's income from an investment; and

(h) other amounts required to be included under Division 11 of this Part, Parts IV, V or VI.

(3) The following are excluded in calculating a person's gains or profits from conducting a business-

(a) exempt amounts and filial withholding payments; and

(b) amounts that are included in calculating the person's income from any employment.

Income from an investment

9.-(1) A person's income from an investment for a year of income is the person's gains or profits from conducting the investment for the year of income.

(2) Subject to the provisions of subsection (3), in calculating a persons gains or profits from conducting an investment for a year of income, the following amounts derived by the person from conducting the investment during that year of income shall be included, namely -

(a) any dividend, distribution of a trust, gains of an insured from life insurance, gains from an interest in an unapproved retirement fund, interest, natural resource payment, rent, retirement payment paid by an approved retirement fund or royalty;

(b) net gains from the realisation of investment assets of the investment as calculated under Division III of this Part;

(c) amounts derived as consideration for accepting a restriction on the capacity to conduct the investment; and

(d) other amounts required to be included under Division 11 of this Part, Parts IV, V or VI.

(3) In calculating a person's gains and profits from conducting an investment, the amounts shall be excluded, namely -

(a) exempt amounts and final withholding payments; and

(b) amounts that are included in calculating the person's income from any employment or business.

Subdivision C: Exemption from Tax

Minister may exempt income frorn tax

10.-(1) The Minister may, by order in the Gazette, provide -

(a) that any income o r c lass of incomes accrued i n or derived from the United Republic shall be exempt from tax to the extent specified in such order; or

(b) that any exemption under the Second Schedule shall cease to have effect either generally or to such extent as may be specified in such order

(2) The Minister may, by order in the *Gazette*, amend, vary or replace the Second Schedule.

3) Notwithstanding any law to the contrary, no exemption shall be provided from tax imposed by this Act and no agreement. shall be concluded that affects or purports to affect the application of this Act, except as provided for by this Act or by way of amendment to this Act.

Subdivision D. Deductions

General principal of deductions

11.-(1) For the purposes of calculating a person's income, no deduction shall be allowed -

(a) for consumption expenditure incurred by the person or excluded expenditure incurred by the person; or

(b) otherwise, except as provided for by this Act.

(2) Subject to this Act, for the purposes of calculating a person's income for a year of income from any business or investment, there shall be deducted all expenditure incurred during the year of income, by the person wholly and exclusively in the production of income from the business or investment.

(3) No deduction is allowed under subsection (2) for expenditure of a capital nature.

(4) For the purposes of this section -

"consumption expenditure" means any expenditure incurred by any person in the maintenance of himself, his family or establishment, or for any other personal or domestic purpose;

"expenditure of a capital nature" means expenditure -

(a) that secures a benefit lasting longer than twelve months; or

(b) incurred in respect of natural resource prospecting, exploration and development; and

"excluded expenditure" means -

(a) tax payable under this Act;

(b) bribes and expenditure incurred in corrupt practice;

(c) fines and similar penalties payable to a government or a political subdivision of a government of any country for breach of any law or subsidiary legislation;

(d) expenditure t o t he extent t o which Incurred by a person i n deriving exempt amounts or final withholding payments; or

(e) distributions by an entity.

Interest

12.-(1) For the purposes of section 11(2), interest incurred by a person during a year of income under a debt obligation shall be incurred wholly and exclusively in the production of income from a business or investment if -

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

(b) in any other case, the debt obligation was incurred wholly and exclusively in the production of income from the business or investment

(2) The total amount of interest that an exempt-controlled resident entity may deduct under section 11(2) for a year of income shall not exceed the sum of -

(a) all interest derived by the entity during the year of income that is to be included in calculating the entity's total income for the year of income; plus

(b) 70 percent of the entity's total income for the year of income calculated without including any interest derived or deducting any interest incurred by the entity.

(3) Any interest for which a deduction I's denied as a result of sub-section (2) may be carried forward and treated as incurred during the next year of income.

(4) In this section, an entity is an exempt-controlled resident entity for a year of income if it is resident and at any time during the year of income, 25 percent or more of the underlying ownership of the entity is held by entities exempt under the Second Schedule, approved retirement funds, charitable organisations, non-resident persons or associates of such entities or persons.

Trading Stock

13.-(l) For the purposes of calculating a person's income for a year of income from any business, there shall be deducted in respect of the trading stock of the business the allowance determined under subsection (2).

(2) The allowance shall be calculated as -

(a) the opening value of trading stock of the business for the year of income; plus

(b) expenditure incurred by the person during the year of income that is included in the cost of trading stock of the business; less

(c) the closing value of trading stock of the business for the year of income.

(3) The opening value of trading stock of a business for a year of income shall be the closing value of trading stock of the business at the end of the previous year of income.

(4) The closing value of trading stock of a business for a year of income shall be the lower of -

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

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

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

Repair and maintenance expenditure

14.-(l) For the purposes of calculating a person's income for a year of income from any business, there shall be deducted all expenditure to the extent incurred during t he y ear of income, b y the person and i n respect of the repair or maintenance of depreciable assets owned and employed by the person wholly and exclusively in the production of income from the business.

(2) No deductions shall be allowed under subsection (1) for expenditure in improving an asset, but that expenditure may be included in the cost of the asset if the requirements of section 36 are met.

Agriculture, research development and environmental expenditure

15.-(1) For the purposes of calculating a person's income for a year of income from any business, there shall be deducted agricultural improvement, research and development and environmental expenditure to the extent incurred by the person during the year of income in conducting the business.

(2) For the purposes of this section -

"agricultural improvement expenditure" means expenditure incurred by the owner or occupier of farm land in conducting an agriculture, livestock farming or fish farming business where the expenditure is incurred in -

(a) clearing the land and excavating irrigation channels; or
(b) planting perennial crops or trees bearing crops;

"environmental expenditure" means subject to subsection (3) expenditure incurred -

(a) by the owner or occupier of farm land for the prevention of soil erosion; or
(b) in connection with remedying any damage caused by natural resource extraction operations to the surface of or environment on land; and

"research and development expenditure" means expenditure incurred by a person in the process of developing the person's business and improving business products or process and includes expenditure incurred by a company for the purposes of an initial public offer and first listing on the Dar es Salaam Stock Exchange but excludes any expenditure incurred that is otherwise included in the cost of any asset used in the use in any such process, including an asset referred to in paragraph 1(3) of the Third Schedule.

(3) Where a person conducting a resource extraction business makes provision for any expenditure of the type referred to in paragraph (b) of the definition of "environmental expenditure" in subsection (2), the

Commissioner may, in writing, subject to such terms and conditions as he thinks fit and for the purposes of this section only, treat the provision as environmental expenditure incurred in conducting the business.

(4) In approving a provision under subsection (3), the Commissioner shall specify a date by which the expenditure must be incurred by the person, which date shall not be more than two years after the date by which resource extraction has substantially ceased by the person on such land.

(5) Where the Commissioner approves a provision under subsection (3), and the person does not incur the expenditure by the time specified in the approval in accordance with subsection (4) -

(a) the Commissioner shall adjust any assessment of the person which has been calculated on the basis of a deduction under this section for the provision so as to remove the deduction, which adjustment shall be made irrespective of any time limit imposed by section 96; and

(b) the person shall be liable for -

(i) interest under sections 99 and 100 based on any such adjusted assessment; and

(ii) a penalty under section 101 calculated as though the person made, without reasonable excuse, a statement to the Commissioner in claiming the deduction that was false or misleading in a material particular.

Gifts to public of charitable Institutions

16.-(1) For the purpose of calculating a person's income for a year of income from any business, there shall be deducted -

(a) amounts contributed during the year of income to a charitable institution or social development project; and

(b) any donation made under section 12 of the Education Fund Act, 2001.

(2) The deduction available under subsection (1)(a) for a year of income shall not exceed two percent of the person's income from the business calculated without a deduction under that subsection.

Depreciation allowances for depreciable assets

17. For the purposes of calculating a person's income for a year of income from any business, there shall be deducted in respect of depreciation of depreciable assets owned and employed by the person during the year of income wholly and exclusively in the production of the person's income from the business the allowances granted under the Third Schedule.

Losses on reliasation of business assets and liabilities

18. For the purposes of calculating a person's income for a year of income from any business, there shall be deducted any loss of the person, as calculated under Division III of this Part, from the realisation during the year of income of -

(a) a business asset of the business that is or was employed wholly and exclusively in the production of income from the business;

(b) a debt obligation incurred in borrowing money, where the money is or was employed or an asset purchased with the money is or was employed wholly and exclusively in the production of income from the business; or

(c) a liability of the business other than a debt obligation incurred in borrowing money, where the liability was incurred wholly and exclusively in the production of income from the business.

Losses from business or investment

19.-(1) For the purposes of calculating the income of a person (other than a partnership or a foreign permanent establishment) for a year of income from a business or investment, there shall be deducted-

(a) any unrelieved loss of the year of income of the person from any other business or investment; and

(b) any unrelieved loss of a previous year of income of the person from any business or investment.

(2) For the purposes of subsection (1), a person may deduct an unrelieved loss -

(a) in the case of a foreign source loss from an investment, only in calculating the person's foreign source income from an investment;

(b) in the case of other losses from an investment, only in calculating the person's income from an investment; and

(c) in the case of other foreign source losses, only in calculating the person's foreign source income.

(3) Where a person calculates income for a year of income from more than one business or investment of the person, and deducts an unrelieved loss in more than one such calculation, the person may choose the calculation or calculations in which the loss or part of the loss is deducted.

(4) For the purposes of this section -

loss" of a year of income of a person from any business or investment shall be calculated as the excess of amounts deducted in calculating the person's income from the business or investment over amounts included in calculating such income; and

unrelieved loss" means the amount of a loss that has not been deducted in calculating a person's income under subsection (1) or section 26(3).

Division II:
Rules Governing Amounts Used in Calculating the Income Tax Base

Subdivision A - Tax Accounting and liming

Year of income

20.-(1) Subject to the provisions of this section, the year of income for every person shall be the calendar year.

(2) Subject to the provisions of subsections (6), (7) and (8), an entity may apply, in writing, to the Commissioner for approval to change the entity's year of income from -

(a) the calendar year; or

(b) a twelve-month period previously approved by the Commissioner under subsection (3),

to another twelve-month period.

(3) Where, in an application under subsection (2), the entity shows a compelling need to change the entity's year of income, the

Commissioner may, by notice in writing, approve the application 3 subject to any conditions as the Commissioner prescribes.

(4) The Commissioner may, by notice in writing, revoke an approval granted to an entity under subsection (3).

(5) Where an entity's year of income changes, the period between the end of its previous year of income and the beginning of its new year of income shall be another year of income of length of up to twelve months, or to 18 months subject to approval of the Commissioner.

(6) The year of income for every person's foreign permanent establishment shall be the same as the year of income of its owner.

(7) The year of income for every non-resident partnership, trust or corporation shall be the period, not exceeding twelve months, for which the entity makes up its accounts or, if it has no such period, the calendar year.

(8) The initial year of income of a person shall be the period of twelve months or less or subject to the approval of Commissioner eighteen months or less from the time the person starts to exist until the end of the person's year of income as calculated according to the foregoing subsections.

Basis of accounting for income tax purposes

21.-(1) Subject to this Act, a person shall account for his income according to generally accepted accounting principles.

(2) Notwithstanding the provisions of subsection (1), an individual shall account for income tax purposes on a cash basis in calculating the individual's income from an employment or investment.

(3) A corporation shall account for income tax purposes on an accrual basis.

(4) Unless the Commissioner prescribes otherwise by notice in writing, individuals in calculating income from a business, partnerships and trusts shall account for income tax purposes on either a cash or accrual basis according to the method that most clearly reflects the person's gains or profits.

(5) Subject to the provisions of subsections (2) and *(3), a* person may apply in writing for a change in the person's basis of accounting for income tax purposes and the Commissioner may by notice in writing approve the application but only if satisfied that the change is necessary to clearly reflect the person's gains and profits.

(6) Where any aspect of a person's basis of accounting for income tax purposes is changed, adjustments shall be made in the year of income of the change so that no item is omitted or taken into account more than once.

Cash basis accounting

22. Subject to this Act, a person who accounts for income tax purposes on a cash basis -

(a) derives an amount and, therefore, shall include the amount in calculating the person's income or otherwise account for the amount as required by this Act when payment is received or made available to the person; and

(b) incurs expenditure and, therefore, may deduct the expenditure in calculating the person's income or otherwise account for the expenditure as required by this Act when payment is made.

Accrual Basis Accou-nting

23.-(1) Subject to this Act, a person who accounts for income tax purposes on an accrual basis-

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

(b) incurs expenditure when it is payable by the person.

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

(3) Subject to this Act, an amount shall be treated as payable by a person when all the events that determine liability have occurred and the amount of the liability can be determined with reasonable accuracy, but not before economic performance with respect to the amount occurs.

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

(a) with respect to the acquisition of services or property, at the time the services or property are provided;

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

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

(5) Where in calculating income on an accrual basis -

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

(b) subsequently that entitlement or obligation is satisfied by a payment received or made by the person, as the case requires, of a different quantity, including by reason of a change in currency valuations,

then appropriate adjustments shall be made at the time the payment is received or made so as to remedy the inaccuracy.

Claim of right

24. For the purposes of sections 22 and 23, an amount shall be treated as derived or expenditure incurred by a person notwithstanding that the person is not legally entitled to receive the amount or liable to make the payment, if the person claims to be legally entitled to receive, or legally obliged to pay the amount.

Reverse of amounts including bad debts

25.-(1) Where a person has deducted expenditure in calculating the person's income and the person later recovers the expenditure, the person shall, at the time of recovery, include the amount recovered in calculating the person's income.

(2) Where a person has included an amount in calculating the person's income and, because of a legal obligation to do so, the person later refunds the amount, the person may, at the time of refund, deduct the amount refunded in calculating the person's income.

(3) Where in calculating income on an accrual basis a person deducts expenditure that the person shall be obliged to make and the person later disclaims an obligation to incur the expenditure, the person shall, at the time of disclaimer, include the amount disclaimed in calculating the person's income.

(4) Subject to the provisions of subsection (5), where in calculating income on an accrual basis a person includes an amount to which the person is entitled and the person later -

(a) disclaims an entitlement to receive the amount; or

(b) in the case where the amount constitutes a debt claim of the person, the person writes off the debt as bad, the person may, at the time of disclaimer or writing off, deduct the amount disclaimed or written off in calculating the person's income.

(5) A person may disclaim the entitlement to receive an amount or write off as bad a debt claim of the person -

(a) in the case of a debt claim of a financial institution, only after the debt claim has become a bad debt as determined in accordance with the relevant standards established by the Bank of Tanzania; and

(b) in any other case, only after the person has taken all reasonable steps in pursuing payment and the person reasonably believes that the entitlement or debt claim will not be satisfied.

Longterm contracts

26.-(1) In the case of a person accounting for income tax purposes on an accrual basis, amounts to be included or deducted in calculating income that relate to a long-term contract shall be taken into account on the basis of the percentage of the contract completed during each year of income.

(2) The percentage of completion shall be determined by comparing the total expenditure allocated to the contract and incurred before the end of the year of income with the estimated total contract expenditure as determined at the time of commencement of the contract.

(3) Where for the year of income in which a long-term contract is completed, the person has an unrelieved loss (determined under section 19) for the year of income or a previous year of income that is attributable to the long-term contract, the Commissioner may allow the loss to be -

(a) carried back to a previous year of income; and

(b) treated as an unrelieved loss for that year.

(4) The amount treated as an unrelieved loss for a year of income under subsection (3)(b) shall not exceed the amount by which amounts included in calculating income for that year of income under the contract exceed deductions under the contract for the year.

(5) An unrelieved loss for a year of income shall be attributable to a long-term contract to the extent that deductions in calculating the income from the business that relate to the contract exceed inclusions in that calculation that relate to the contract.

(6) For the purposes of this section, "long-term contract" -

(a) means a contract for manufacture, installation, or construction, or, in relation to each, the performance of related services, which i s not completed within the y ear o f income in which work under the contract commences; but

(b) excludes a contract estimated to be completed within six months of the date on which work under the contract commenced.

(7) The regulations may apply the percentage of completion method to other types of contracts that span more than one year of income where the contract may accelerate expenditure in early years or delay income until later years of the contract.

Subdivision B -
Quantification, Allocation and Characterisation of Amounts

Qualification according to market value

27.-(1) A payment or amount to be included or deducted in calculating income shall be quantified as follows -

(a) for payments consisting of the availability for use or use of a motor vehicle during a year of income provided in return for services whether by way of employment or otherwise or provided by an entity to a member or manager of the entity, the amount of the payment shall be as prescribed in the Fifth Schedule;

(b) for payments consisting of a loan provided in return for services (whether by way of employment or otherwise) or by an entity to a member or manager of the entity -

(i) where the loan is made by an employer to an employee, the term of the loan is less than twelve months and the aggregate amount of the loan and any similar loans outstanding at any time during the previous twelve months does not exceed three months basic salary, the quantity of the payment is nil; and

(ii) in any other case, the amount by which -

(aa) the interest that would have been paid by the payee during the year of income of the payee in which the payment is made if interest were payable under the loan at the statutory rate for the year of income, exceeds;

(bb) the interest paid by the payee during the year of income under the loan, if any;

(c) for payments consisting of the provision of premises (including any furniture or other contents) by an employer for residential occupation by an employee during a year of income, (1) or (ii), whichever is less, reduced by any rent paid for the occupation by the employee, where -

(i) is the market value rental of the part of the premises occupied by the employee for the period occupied during the year of income; and (ii) is the greater of -

(aa) 15 percent of the employee's total income for the year of income, calculated without accounting for ' the provision of the premises and, where the premises are occupied for only part of the year of income, apportioned as appropriate; and

(bb) expenditure claimed as a deduction by the employer in respect of the premises for the period of occupation by the employee during the year of income; and

(d) in any other case, the amount prescribed by the regulations or, in the absence of regulations, the market value.

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

(3) The market value of an asset shall be determined without regard to any restriction on transfer of the asset or the fact that the asset is not otherwise convertible into a payment of money or money's worth.

Qualification in shillings

28.-(l) Subject to the provisions of subsection (4), for the purposes of this Act, a person's tax payable, income and amounts to be included and deducted in calculating income shall be quantified in Tanzania shillings.

(2) Subject to the provisions of subsection (3), where an amount to be included or deducted in calculating income is quantified in a currency other than Tanzania shillings, the amount shall be converted at the exchange rate quoted by the Bank of Tanzania and applying between the currency and the shilling at the time the amount is taken into account for income tax purposes.

(3) For the purposes of subsection (2) and where the Commissioner permits, by notice in writing, a person may use the average exchange rate applying during the year of income as determined by the Commissioner.

(4) The Commissioner may, by notice i n writing, for a specified period of time and on such terms and conditions as he thinks fit, permit an entity to quantify amounts to be included and deducted in calculating income in any foreign currency that is convertible into Tanzania shillings.

Inderect payments

29.-(1) Subsection (2) shall apply where a person indirectly benefits from a payment or directs who is to be the payee of the payment and the payer, an associate of the payer or a third person under an arrangement with the payer or with an associate of the payer intends the payment to benefit the person.

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

(a) treat the person as the payee of the payment;

(b) treat the person as the payer of the payment; or

(c) treat the person as the payee of the payment and as making an equal payment to the person who would be considered the payee of the payment if this subsection were, ignored.

30. -(1) For the purposes of calculating a person's income from an investment that is jointly owned with another person, amounts to be included and deducted in that calculation shall be apportioned among the joint owners in proportion to their respective interests in the investment.

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

Compensation and recovery payments

31. Subject to the provisions of section 25, where a person or an associate of the person derives an amount ("the compensation amount") which compensates for or represents recovery of -

(a) income or an amount to be included in calculating income, which the person expects or expected to derive; or

(b) a loss or an amount to be deducted in calculating income, which the person has incurred or which the person expects or expected to incur,

the compensation amount shall be included in calculating income of the person and takes its character from the amount compensated for.

Annuities, instalment sales and finance leases

32.-(1) Payments made by a person under a finance lease or in acquiring an asset under an instalment sale (other than an instalment sale that provides for commercial periodic interest payable on balance outstanding) shall be treated as interest and a repayment of capital under a loan made by the lessor or seller to the lessee or buyer, as the case requires.

(2) Payments made to a person under an annuity shall be treated as interest and a repayment of capital under a loan made by the person to the payer of the annuity.

(3) The interest and repayment of capital under subsections (1) and (2) shall be calculated as if the loan were a blended loan with interest compounded six-monthly.

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

(5) Subject to the provisions of section 44, where a person transfers an asset under an instalment sale or, by reason of subsection (4), under a finance lease -

(a) the person shall be treated as deriving an amount in respect of the transfer equal to the market value of the asset immediately before the transfer; and

(b) the person who acquires the asset shall be treated as incurring expenditure of an equal amount in acquiring the asset.

(6) Where the lessee under a finance lease returns the asset to the lessor before ownership passes to the lessee (other than by reason of subsection (4), the lessee shall be treated as transferring ownership of the asset hack to the lessor.

(7) For the purposes of this section -

"blended loan" means a loan under which payments by the borrower represent in part a payment of interest and in part a repayment of capital where the interest part is calculated on capital outstanding at the time of each payment and the rate of interest is uniform over the term of the loan;

"finance lease" means a lease where -

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

(b) the lease term exceeds 75 percent of the useful life of the asset;

(c) the estimated market value of the asset after expiry of the lease term is less than 20 percent of its market value at the start of the lease;

(d) in the case of a lease that commences before the last 25 percent of the useful life of the asset, the present value of the minimum lease payments equals or exceeds 90 percent of the market value of the asset at the start of the lease term; or

(e) the asset is custom-made for the lessee and after expiry of the lease term the asset will not be of practical use to any person other than the lessee; and

"lease term" includes an additional period for which the lessee has an option to renew a lease.

Transfer pricing and other arrangements between associates

33.-(l) In any arrangement between persons who are associates, the persons shall quantify, apportion and allocate amounts to be included or deducted in calculating income between the persons as is necessary to reflect the total income or tax payable that would have arisen for them if the arrangement had been conducted at arm's length.

(2) Where, in the opinion of the Commissioner, a person has failed to comply with the provisions of subsection (1), the Commissioner may make adjustments consistent with subsection (1) and in doing so the Commissioner may -

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

(b) apportion and allocate expenditure, including that referred to in section 71(2) incurred by one person in conducting a business that benefits an associate in conducting a business to the person and the associate based on the comparative turnovers of the businesses.

Income splitting

34.-(1) Where a person attempts to split income with another person, the Commissioner may, by notice in writing,

(a) adjust amounts to be included or deducted in calculating the income of each person; or

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

to prevent any reduction in tax payable as a result of the splitting of income.

(2) Subject to the provisions subsection (3), a reference in subsection (1) to a person attempting to split income includes a reference to a transfer, either directly or indirectly, between the person and an associate of the person of-

(a) amounts to be derived or expenditure to be incurred; or

(b) an asset with the result that the transferee receives or enjoys amounts derived from owning the asset.

(3) Subsection (2) applies only where the reason or one of the reasons for the transfer is to lower the tax payable by the person or the associate.

(4) In determining under the provisions of subsection (2) whether a person is seeking to split income, the Commissioner shall consider the market value of any payment made for the transfer

35.-(1) Notwithstanding anything in this Act, where the Commissioner is of the opinion that an arrangement is a tax avoidance arrangement, he may by notice in writing make such adjustments as regards a person's or persons' liability to tax (or lack thereof) as the Commissioner thinks appropriate to counteract any avoidance or reduction of liability to tax that might result if the adjustments were not made.

(2) A notice issued under subsection (1) shall specify the arrangement and the adjustments.

(3) For the purposes of this section, "tax avoidance arrangement" means any arrangement -

(a) one of the main purposes of which is the avoidance or reduction of liability to tax of any person for any year of income;

(b) one of the main purposes of which is prevention or obstruction in collecting tax; or

(c) where the main benefit that might be expected to accrue from the arrangement in the three years following completion of the arrangement is -

(i) an avoidance or reduction of liability to tax of any person for any year of income; or

(ii) prevention or obstruction in collecting tax,

but excludes an arrangement where it may reasonably be considered hat the arrangement would not result directly or indirectly in a misuse of the provisions of this Act or an abuse having regard to the provisions of this Act, other than this section, read as a whole.

Division III:
Assets and Liabilities

Subdivision A :
Central Concepts

Calculation of gains and losses

36.-(1) A person's gain from the realisation of an asset or liability is he amount by which the sum of the incomings for the asset or ability exceeds the cost of the asset or liability at the time of realisation.

(2) The loss of a person from the realisation of an asset or liability the amount by which the cost of the asset or liability exceeds the sum f the incomings for the asset or liability at the time of realisation.

(3) Subject to the provisions of subsection (4), net gains from the realisation of investment assets of an investment of a person for a year of income are calculated as the sum of all gains from the realisation of investment assets of the investment during the year reduced by -

(a) the total of all losses from the realisation of investment assets of the investment during the year;

(6) any unrelieved net loss of any other investment of the person for the year; and

(c) any unrelieved net loss for a previous year of income of the investment or any other investment of the person.

(4) A person may claim a reduction under subsection (3) with respect to a foreign source loss on the realisation of an asset or liability only to the extent that the amount, which the loss is to reduce, includes gains on the realisation of an asset or liability with a foreign source.

(5) Where a person may use an unrelieved net loss of an investment in more than one calculation under subsection (3), the person may choose the calculation or calculations in which the loss or part of the loss is used, and is limited to one such use.

(6) For the purposes of this section, "unrelieved net loss" of an investment for a year of income means the excess of losses over gains from the realisation of investment assets of the investment during the year of income reduced by any amount of the excess that has previously been taken into account under subsection (3)(b) or (c).

Cost of Asset

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

(a) expenditure incurred by the person in acquiring the asset including, where relevant, expenditure of construction, manufacture or production of the asset;

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

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

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

(e) any amount required -

(i) by Subdivision B of Division I of this Part to be directly included in calculating the person's income; or

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

but excludes consumption expenditure, excluded expenditure and expenditure to the extent to which it is directly deducted in calculating the person's income or included in the cost of another asset.

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

(a) no amount shall be included in respect of the repair, improvement or depreciation of depreciable assets; and

(b) subject to paragraph (a) but without otherwise limiting amounts to be included under subsection (1), the person shall use the absorption-cost method.

(3) Where assets owned by a person, being -

(a) trading stock; or

(b) any other type of asset prescribed by the regulations,

are fungible and not readily identifiable, the person may elect for the cost o f t he assets t o be determined according to t he f irst-in-first-out method or the average-cost method but, once chosen, the method may only be changed with the written permission of the Commissioner.

(4) Where a person inherits an asset from a deceased, that person shall be treated as having incurred expenditure equal to the market value of that asset at the time of such acquisition.

(5) Subject to the provisions of subsection (6), where a person becomes a resident of the United Republic for the first time, the net cost of an asset held by the person immediately before becoming resident is equal to the market value of the asset at that time.

(6) Subsection (5) does not apply to an asset that was a domestic asset of the person immediately before becoming resident.

(7) For the purposes of this section -

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

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

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

"direct asset costs" means expenditure incurred by a person in acquiring any asset or assets, as described in subsection (1)(a), that constitutes trading stock or becomes an integral part of trading stock produced;

"factory overhead costs" means all expenditure incurred by a person in producing trading stock except direct labour and direct asset costs and, in the case of a person carrying on a mining_ business, expenditure on earthworks incurred wholly and exclusively for developing the mine;

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

"incidental expenditure" incurred by a person in acquiring or realising an asset includes -

(a) advertising expenditure, taxes, duties and other expenditure of transfer and

(b) expenditure of establishing, preserving or defending ownership of the asset,

and the expenditure referred to in paragraphs (a) and (b) includes any related remuneration for the services of an accountant, agent, auctioneer, broker, consultant, legal advisor, surveyor or valuer.

Incomings for an asset

38. Subject to this Act, incomings for an asset of a person means -

(a) amounts derived by the person in respect of owning the asset including -

(i) amounts derived from altering or decreasing the value of the asset; and

(ii) amounts derived under the asset including by way of covenant to repair or otherwise; and

(b) amounts derived or to be derived by the person in respect of realising the asset;

but excludes any amount to the extent that it is an exempt amount, a final withholding payment or, other than in the case of trading stock, an amount to be directly included in calculating the person's income under Subdivision B of Division I of this Part.

Realisation

39. A person who owns an asset shall be treated as realising the asset -

(a) subject to paragraph (b), when the person parts with ownership of the asset including when the asset is sold, exchanged, transferred, distributed, cancelled, redeemed, destroyed, lost, expired or surrendered;

(b) in the case of an asset of a person who ceases to exist, excluding a deceased individual, immediately before the person ceases to exist;

(c) in the case of an asset other than a Class 1, 2 3 4 or 5 depreciable asset or trading stock, where the sum of the incomings for the asset exceeds the cost of the asset;

(d) in the case of an asset that is a debt claim owned by a financial institution, when the debt claim becomes a bad debt as determined in accordance with the relevant standards established by the Bank of Tanzania and the institution writes the debt off as bad;

(e) in the case of an asset that is a debt claim owned by a person other than a financial institution, the person reasonably believes the debt claim will not be satisfied, the person has taken all reasonable steps in pursuing the debt claim and the person writes the debt off as bad;

(f) in the case of an asset that is a business asset, depreciable asset, or trading stock, immediately before the person begins to employ the asset in such a way that it ceases to be an asset of any of those types;

(g) in the case of a foreign currency debt claim, on the last day of each year of income;

(h) in the case of an asset owned by an entity, in the circumstances referred to in section 56 (1).

Application of this Division to liabilities

40.-(1) The costs and incomings of a liability of a person shall be determined consistently with sections 37 and 38 as though a reference to an asset were a reference to a liability and the following shall be included:

(a) in the costs, expenditure incurred in realising the liability; and

(b) in the incomings, amounts derived in respect of incurring the liability.

(2) A person who owes a liability shall be treated as realizing the liability -

(a) subject to paragraph (b), when the person ceases to owe the liability including when the liability is transferred, satisfied, cancelled, released or expired;

(b) in the case of a liability of a person who ceases to exist, excluding a deceased individual, immediately before the person ceases to exist;

(c) in the case of a foreign currency debt obligation, on the last day of each year of income;

(d) in the case of a liability of an entity, in the circumstances referred to in section 56 (1); and

(e) subject to the provisions of subsection (3), in the case of a liability owed by a resident person, immediately before the person becomes a non-resident person, other than liabilities owed by the person through a permanent establishment situated in the United Republic immediately after becoming non-resident.

(3) Subject to any regulations, the provisions of Subdivision B shall apply, with any necessary adaptations, to liabilities in a manner similar to that in which they apply to assets.

Reverse, quantification and compensation for costs and incomings

41.-(1) Subject to the provisions of section 25, where a person has included expenditure in the cost of an asset or liability and later recovers the expenditure, the person shall include the amount recovered in the incomings for the asset or liability, as the case requires.

(2) Subject to the provisions of section 25, where a person has included an amount derived in the incomings for an asset or liability and, because of a legal obligation to do so, later refunds the amount, the person may include the amount refunded in the cost of the asset.

(3) Section 28 applies to the cost of and incomings for an asset or liability in the same manner as it applies to amounts to be included and deducted in calculating income.

(4) Subject to any or other adjustment under this Act, where a person or an associate of a person derives an amount "the compensation amount" which compensates for or represents recovery of actual or expected costs or incomings for an asset or liability or a loss in value

of an asset or increase in a liability, the compensation amount shall be included in the incomings for the asset or liability, as the case requires.

Subdivision B - Special Rules

Realisation with retention of asset

42. Where a person realises an asset in any of the manners described in section 39(l)(d) to (h) -

(a) the person shall be treated as having parted with ownership of the asset and deriving an amount in respect of the realisation equal to the market value of the asset at the time of the realisation; and

(b) the person shall be treated as reacquiring the asset and incurring expenditure of the amount referred to in paragraph (a) in the acquisition.

Transfer of asset to spouse or former spouse

43. Where on divorce settlement or bona fide separation agreement an individual transfers an asset to a spouse or former spouse and an election for this subsection to apply is made by the spouse or former spouse in writing -

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

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

Transfer of asset to an associate or for no consideration

44.-(I) Subject to the provisions of this section and section 43, where a person realises an asset by way of transfer of ownership of the asset to an associate of the person or by way of transfer to any other person by way of gift -

(a) the person shall be treated as deriving an amount in respect of the realisation equal to the greater of the market value of the asset or the net cost of the asset immediately before the realisation; and

(b) the person who acquires ownership of the asset shall be treated as incurring expenditure of the amount referred to in paragraph (a) in the acquisition.

(2) Where a person realises an asset, being a business asset, depreciable asset or trading stock, by way of transfer of ownership of the asset to an associate of the person and the requirements of

subsection (4) are met -

(a) the person shall be treated as deriving an amount in respect of the realisation equal to the net cost of the asset immediately before the realisation; and

(b) the associate shall be treated as incurring expenditure of the amount referred to in paragraph (a) in acquiring the asset.

(3) For the purposes of subsection (2), the net cost of a depreciable asset at the time of its realisation is equal to its share of the written down value of the pool to which it belongs at that time apportioned according to the market value of all the assets in the pool.

(4) The requirements specified in subsection (2) shall be -

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

(b) the asset or assets are business assets, depreciable assets or trading stock of the associate immediately after transfer by the person;

(c) at the time of the transfer -

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

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

(d) there is continuity of underlying ownership in the asset of at least *50* percent; and

(c) an election for subsection (2) to apply is made by both the person and the associate in writing.

Involuntary realisation of asset with replacement

45.-(I) This section shall apply where a person involuntarily realises an asset in any of the manners described in section 39(l)(a), acquires a replacement asset of the same type within one year of the realisation and elects in writing for this subsection to apply.

(2) Where this section applies, the person shall be treated as -

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

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

(ii) the amount, if any, by which amounts derived in respect of the realisation exceed expenditure incurred in acquiring the replacement asset (calculated ignoring this section); and

(b) incurring expenditure in acquiring the replacement asset equal to -

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

(ii) the amount, if any, by which expenditure incurred in acquiring the replacement asset exceed amounts derived in respect of the realisation (calculated ignoring this section).

(3) For the purposes of this section, the net cost of a depreciable asset at the time of its realisation is equal to its share of the written down value of the pool to which it belongs at that time apportioned according to the market value of all the assets in the pool.

(4) The regulations may prescribe the circumstances in which the replacement of one security in a corporation with another security in a corporation, including as a result of reconstruction, constitutes an involuntary realisation.

Realisation by separation

46. Subject to the provisions of section 32, where rights or obligations with respect to an asset owned by one person are created in another person, including by way of lease of an asset or part thereof, then -

(a) where the rights or obligations are permanent, the person shall be treated as realising part of the asset but is not treated as acquiring any new asset or liability; and

(b) where the rights or obligations are temporary or contingent, the person is not treated as realising part of the asset or liability but as acquiring a new asset.

Apportionment of costs and incomings

47.-(l) Where a person acquires one or more assets by way of transfer at the same time or as part of the same arrangement, the expenditure incurred in acquiring each asset shall be apportioned between the assets according to their market values at the time of acquisition.

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

(3) Where a person who owns an asset realises part of it, the net cost of the asset immediately before the realisation shall be apportioned between the part of the asset realised and the part retained according to their market values immediately after the realisation.

PART IV:
RULES APPLICABLE TO PARTICULAR TYPES OF PERSONS

Division I- In General

Subdivision A- Partnerships

Principies of taxation

48.-(I) Notwithstanding the provisions of section 4 but subject to the rest of this Act, a partnership shall not be liable to pay income tax with respect to its total income and shall not be entitled to any tax credit with respect to that income.

(2) Partnership income or a partnership loss of a partnership shall be allocated to the partners in accordance with this Subdivision.

(3) Amounts derived and expenditure incurred by partners in common shall be treated as derived or incurred by partnership and not the partners.

(4) Assets owned and liabilities owed by partners in common shall be treated as owned or owed by the partnership and not the partners and shall be treated as -

(a) in the case of assets, acquired when they begin to be so owned;

(b) in the case of liabilities, incurred when they begin to be so owed; and

(c) realised when they cease to be so owned or owed.

(5) All activities of a partnership shall be treated as conducted in the course of the partnership business.

(6) Subject to this Part and Division 11 of Part 111, arrangements between a partnership and its partners shall be recognised other than the following, which are taken into account in determining a partner's

share under section *50(4)* -

(a) loans made by a partner to a partnership and any interest paid with respect thereto; and

(b) services provided by a partner to a partnership, including by way of employment, and any service fee or income from employment payable with respect thereto.

(7) Subject to any consequences under section *56,* if on the change of partners in a partnership at least two existing partners continue, the partnership shall be treated as the same entity both before and after the change.

Partnership income or loss

49.-(I) Partnership income from a business of a resident or non-resident partnership for a year of income shall be the chargeable income of the partnership for the year of income from the business calculated as if the partnership were a resident partnership.

(2) A partnership loss from a business of a resident or non-resident partnership for a year of income shall be the loss of the partnership for the year of income from the business calculated under section 19(4).

Taxation of partners

50.-(I) For the purposes of calculating a partner's income from a partnership for a year of income of the partner there shall be -

(a) included the partner's share of any partnership income under section *49(l);* and

(b) deducted the partner's share of any partnership loss under section *49(2),*

for a year of income of the partnership ending on the last day of or during the year of income of the partner.

(2) Partnership income or a partnership loss allocated to partners under subsection (1) -

(a) shall retain its character as to type and source;

(b) shall be treated as an amount derived or expenditure incurred, respectively, by a partner at the end of the partnership's year of income; and

(c) shall be allocated to the partners proportionately to each partner's share, unless the Commissioner, by notice in writing, permits otherwise.

(3) At the time partnership income is treated as derived by partners under subsection (2)(b), any income tax under this Act or foreign income tax paid or treated as paid by the partnership with respect to the partnership income shall be allocated to the partners, proportionately to each partner's share, and treated as having been paid by them.

(4) For the purposes of this section and subject to section 48(6), a "partner's share" is equal to the partner's percentage interest in any income of the partnership as set out in the partnership arrangement.

Cost and incomings of partner's membership interest in partnership

51.-(l) The following costs and incomings shall be included in the cost of a partner's membership interest in a partnership, namely -

(a) amounts included in calculating the partner's income under section 50 (1)(a), at the time of that inclusion; and

(b) the partner's share determined under section 50(4) of exempt amounts and final withholding payments derived by the partnership at the time the amount or payment is derived.

(2) The following shall be included in the incomings for a partner's membership interest in a partnership:

(a) amounts deducted in calculating the partner's income under section 50(l)(b), at the time of deduction;

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

(c) the partner's share determined under section 50(4) of consumption or excluded expenditure incurred by the partnership, at the time the expenditure is incurred.

Subdivision B- Trusts

Taxation of trusts

52.-(I) A trust or unit trust shall be liable to tax separately from its beneficiaries and separate calculations of total income shall be made for separate trusts regardless of whether they have the same trustees.

(2) Distributions -

(a) of a resident trust or unit trust shall be exempt in the hands of the trust's beneficiaries; and

(b) of a non-resident trust or unit trust shall be included in calculating the income of the trust's beneficiaries.

(3) Amounts derived and expenditure incurred by a trust or a trustee in the capacity of trustee (other than as a bare agent), whether or not derived or incurred on behalf of another person and whether or not any other person is entitled to such an amount or income constituted by such an amount, shall be treated as derived or incurred by the trust and not any other person.

(4) Assets owned and liabilities owed by a trust or a trustee in the capacity of trustee (other than as a bare agent) shall be treated as owned or owed by the trust and not any other person.

(5) Where a receiver referred to in section I *1 6(5)* is a trustee -

(a) the trust shall be treated as conducting or continuing the activities of the person whose assets come into the possession of the receiver; and

(b) amounts derived and expenditure incurred by the trust shall be included in calculating the income of the trust in the same manner as they would have been included in calculating the income of the person if they were derived or incurred by the person prior to the event resulting in the appointment of the receiver.

(6) Subject to this Part and Division 11 of Part 111, arrangements between a trust and its trustees or beneficiaries shall be recognised.

Subdivision C. Corporations

Taxation of corporations ,,

53.-(I) A corporation shall be liable to tax separately from its shareholders.

(2) Amounts derived and expenditure incurred jointly or in common by the managers or shareholders for the purposes of a corporation that lacks legal capacity, shall be treated as derived or incurred by the corporation and not any other person.

(3) Assets owned and liabilities owed jointly or in common by the managers or shareholders for the purposes of a corporation that lacks legal capacity shall be treated as owned or owed by the corporation and not any other person.

(4) Subject to this Part and Division 11 of Part 111, arrangements' between a corporation and its managers or shareholders shall be recognised.

Taxation of shareholders

54--(l) Dividends -

(a) distributed by a resident corporation shall be taxed in the hands of the corporation's shareholders in the form of a final withholding tax; and

(b) distributed by a non-resident corporation shall be included in calculating the income of the shareholders.

(2) A dividend distributed by a resident corporation to another resident corporation shall be exempt from income tax where the corporation receiving the dividend holds 25 percent or more of the shares in the corporation distributing the dividend and controls, either directly or indirectly, 25 percent or more of the voting power in the corporation.

(3) Subsection (2) shall not apply to a dividend distributed to a corporation by virtue of its ownership of redeemable shares.

Division H.- General Provisions Applicable to Entities

Asset dealings between entities and members

55. Subject to the provisions of section 44(2), where an asset is realised by way of transfer of ownership of the asset by an entity to one of its members or vice versa -

(a) the transferor shall be treated as deriving an amount in respect of the realisation equal to the market value of the asset immediately before the realisation; and

(b) the transferee shall be treated as incurring expenditure of the amount referred to in paragraph (a) in the acquisition.

Change in Control

56.-(I) Subject to subsection (4), at the moment the underlying ownership of an entity changes by more than fifty percent as compared with that ownership at any time during the previous three years, the entity shall be treated as realising any assets owned and any liabilities owed by it immediately before the change.

(2) Subject to the provisions of subsection (4), where there is a change in ownership of the type referred to in subsection (1), after the change the entity shall not be permitted to -

(a) interest carried forward under section *12(3)* that was incurred by the entity prior to the change;

(b) deduct a loss under section 19(l) that was incurred by the entity prior to the change;

(c) in a case where the entity has, prior to the change, included an amount in calculating income in terms of section *25(2)* or (4), claim a deduction under those provisions after the change;

(d) carry back a loss under section *26(3)* that was incurred after the change to a year of income occurring before the change;

(e) reduce under section *36(3)* gains from the realisation of investment assets after the change by losses on the realisation of investment assets before the change; or

(f) carry forward foreign income tax under section *77(3)* that was originally paid with respect to foreign source income derived by the entity prior to the change.

(3) Where there is a change in ownership of the type referred to in subsection (1) during a year of income of the entity, the parts of the year of income before and after the change shall be treated as separate years of income.

(4) This section shall not apply where for a period of two years after a change of the type mentioned in subsection (1), the entity -

(a) conducts the business or, where more than one business was conducted, all of the businesses that it conducted at anytime during the twelve month period before the change and conducts them in the same manner as during the twelve month period; and

(b) conducts no business or investment other than those conducted at anytime during the twelve month period before the change.

Income or dividend stripping

57.-(I) Where a distribution is made by an entity to an acquirer in the course of an income or dividend stripping arrangement, the arrangement shall be treated as though -

(a) the payment (referred to in subsection (2) is a distribution made by the entity to the original member of the entity; and

(b) the distribution made by the entity to the acquirer is in an amount equal to the distribution less the amount of the payment.

(2) For the purpose of subsection (1) "income or dividend stripping arrangement" means an arrangement under which -

(a) an entity has accumulated, current or expected income (the "income");

(b) a person (the "acquirer") acquires a membership interest in the entity and the acquirer or an associate of the acquirer makes a payment (the "payment"), whether or not in respect of the acquisition and whether or not the payment is at the time of acquisition, to another person who is or was a member in the entity (the "original member") or an associate of such another person;

(c) the payment reflects, in whole or in part, the income of the entity; and

(d) after the acquirer acquires the interest in the entity, the entity makes a distribution to the acquirer that represents, in whole or in part, the income.

PART V
SPECIAL INDUSTRIES

Division P Insurance Business

General insurance business

58.-(I) For the purposes of this Act, a person's activities in conducting a general insurance business shall be treated as a business separate from any other activity of the person and the person's income or loss from the business for any year of income shall be calculated separately.

(2) For the purposes of calculating the income of a person for a year of income from a general insurance business -

(a) there shall be included, together with any other amounts to be included under other provisions of this Act -

(i) premiums derived during the year of income by the person as insurer, including as re-insurer, in conducting the business; and

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

(a) there shall be deducted, together with any other amounts deductible under other provisions of this Act -

(i) proceeds incurred during the year of income by the person as insurer, including as re-insurer, in conducting the business; and

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

Life insurance business

59.-(I) For the purposes of this Act, a person's activities in conducting a life insurance business shall be treated as a business separate from any other activity of the person and the person's income or loss from the business for any year of income shall be calculated separately.

(2) For the purposes of calculating the income of a person for a year of income from a life insurance business -

(a) there shall be included any amounts to be included under other provisions of this Act but the following amounts shall not be included and not be an incoming of the person:

(i) premium derived during the year of income by the person as insurer, including as re-insurer, in conducting the business; and

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

(b) there shall be deducted only the expenses of managing the business's investments (including commission) that are deductible under other provisions of this Act but the following amounts shall not be deductible and not be included in the cost of any asset or liability of the person:

(i) proceeds incurred during the year of income by the person as insurer, including as re-insurer, in conducting the business; and

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

Proceeds from insurance

60.-(I) Subject to the provisions of subsection (2) and sections 58 and 59, for the purposes of calculating the income of a person, the treatment of proceeds derived by the person from insurance shall be determined in accordance with section 3 1.

(2) Subject to the provisions of sections 58 and 59 , gains of an insured from life insurance shall be -

(a) in the case where the proceeds are paid by a resident insurer, exempt in the hands of the insured; and

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

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

Division 11 Retirement Savings

Retirement contribution to approved retirement fund

61--(1) Subject to the provisions of subsection (2), an individual may claim a reduction in calculating total income for a year of income equal to retirement contributions made during the year of income by -

(a) the individual; or

(b) an employer of the individual where the contribution is included in calculating the individual's income from the employment under section 7(2)(f),

to an approved retirement fund in respect of an interest of the individual or a spouse of the individual in the fund.

(2) The reduction claimed by an individual under subsection (1) for any year of income shall be the actual contribution or the statutory amount required whichever is lesser.

Taxation of retirement funds

62.-(I) Subject to the provisions of this section, the provisions of Parts III and IV shall apply to a retirement fund and the calculation of income of a retirement fund.

(2) For the purposes of calculating the income of a retirement fund -

(a) retirement contributions received by the fund shall not be included in the calculation and shall not be an incoming of the fund; and

(b) retirement payments shall not be deductible and are not included in the cost of any asset or liability of the fund.

(3) The income of an approved retirement fund shall be exempt.

(4) Where an approved retirement fund ceases to be an approved retirement fund during a year of income, its income tax payable under section 4(l)(a) for the year of income shall be increased by an amount equal to the income tax rate applicable to corporations applied to-

(a) all retirement contributions received by the fund from or on behalf of resident individuals and total income of the fund (calculated ignoring subsection (3)) during the period from its most recent approval as an approved retirement fund to when it ceased to be so approved, less;

(b) all retirement payments made by the fund from its most recent approval as an approved retirement fund to when it ceased to be so approved in respect of individuals who were resident during that period.

Retirement payments

63.-(I) For the purposes of calculating a person's income for a year of income from an interest in an approved retirement fund, there shall be included payments made by the fund to the person during the year of income in respect of the interest.

(2) Gains from an interest in an unapproved retirement fund shall be -

(a) in the case where the retirement payments are paid by a resident fund, exempt in the hands of the payee; and

(b) in the case where the retirement payments are paid by a non-resident fund, included in calculating the income of the payee.

(3) For the purposes of this section, "gain from an interest in an unapproved retirement fund" means the extent to which retirement payments made by an unapproved retirement fund in respect of an interest in the fund exceed retirement contributions paid to the fund in respect of the interest.

Division III: Charitable Organisations, Clubs and Trade Associations

Charitable organisations

64.-(I) A charitable organisation or religious organisation shall be treated as conducting a business with respect to its functions referred to in subsection (8) as the "charitable business"

(2) For the purposes of calculating the income of a charitable organisation or religious organisation for any year of income from its charitable business -

(a) there shall be included, together with any other amounts required to be included under other provisions of this Act, all gifts and donations received by the organisation or religious organisation; and

(b) there shall be deducted, together with any other amounts deductible under other provisions of this Act -

(i) amounts applied in pursuit of the organisation or religious organisation's functions referred to in subsection *(8)* by providing reasonable benefits to resident persons or, where the expenditure on the benefits has a source in the United Republic, persons resident anywhere; and

(ii) 25 percent of the organisation or religious organisation's income from its charitable business (calculated without any deduction under subparagraph (i)) and any investments.

(3) This subsection shall apply to any amount applied by a charitable organisation or religious organisation during a year of income other than in the manner referred to in subsection (2)(b)(i) or as a reasonable payment to a person for assets or services rendered to the organisation or religious organisation. by the person.

(4) Where subsection (3) applies -

(a) the organisation or religious organisation shall be treated as conducting a business other than its charitable business; and

(a) the sum of amounts to which that subsection applies for the year of income less any income of the organisation or religious organisation from a business other than its charitable business or business referred to in paragraph (a) shall be treated as income of the organisation or religious organisation that has a source in the United Republic derived during the year of income from the business referred to in paragraph (a).

(5) Notwithstanding the provision of section 19, a charitables organisation or religious organisation-

(a) may not set any loss from its charitable business against its income from any other business; and

(b) may only set losses from any other business against income from any such other business.

(6) Where a charitable organisation or religious organisation ceases to be a charitable organisation or religious organisation during a year of income -

(a) the organisation or religious organisation shall be treated as conducting a business other than its previous charitable business;

(b) there shall be included in calculating the organisation or religious organisation's income for the year of income from the business referred to in paragraph (a) any amounts claimed as a deduction under subsection (2)(b)(ii) during that year of income or any prior year of income during which the organisation was a charitable organisation or religious organisation.

(7) Where a charitable organisation or religious organisation wishes to save funds for a project that is detailed in material particulars and which the organisation is committed to, the organisation or religious organisation may apply to the Commissioner and the Commissioner may approve the saving as meeting the requirements of subsection (2)(b)(i):

(8) For the purposes of this section, "charitable organisation" or religious organisation means a resident entity of a public character that satisfies the following conditions:

(a) the entity was established and functions solely as an organisation for:
(i) the relief of poverty or distress of the public;
(ii) the advancement of education; or
(iii) the provision of general public health, education, water or road construction or maintenance; and

(b) the entity has been issued with a ruling by the Commissioner under section 131 currently in force stating that it is a charitable organisation or religious organisation.

Clubs and trade associations

65.-(I) Subject to the provisions of subsection (2), the activities of a club, trade association or similar institution shall be treated as a business and for the purposes of calculating the club, association or institution's income for a year of income from that business there shall be included, together with any other amounts to be included under other provisions of this Act, entrance fees, subscriptions and other amounts derived from members during the year of income.

(2) Where three-quarters or more of the amounts to be included in calculating the income of a member club or trade association for a year of income from the business referred to in subsection (1) are derived from members of the club or association, the income from that business shall be exempt and shall not constitute chargeable income of the club or association.

(3) For the purposes of this section -

"members club" means a club or similar institution all the assets of which are owned in common by tested ignoring section 53(3) or held in trust for the members thereof;

"member" means -

(a) in the case of a club or similar institution, a person who, while a member, is entitled to an interest in all the assets of the club or institution in the event of its liquidation or who is entitled to vote at a general meeting of the club or institution; and

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

"trade association" means any association of persons-

(a) that are all separately engaged in a particular type of business; and

(b) formed with the main object of safeguarding or promoting the business interests of such persons.

PART VI:

INTERNATIONAL

Division P Residence and Source

Resident persons

66.-(I) An individual is resident in the United Republic for a year of income if the individual -

(a) has a permanent home in the United Republic and is present in the United Republic during any part of the year of income;

(b) is present in the United Republic during the year of income for a period or periods amounting in aggregate to 183 days or more;

(c) is present in the United Republic during the year of income and in each of the two preceding years of income for periods averaging more than 122 days in each such year of income; or

(d) is an employee or an official of the Government of the United Republic posted abroad during the year of income.

(2) A partnership is a resident partnership for a year of income if at any time during the year of income a partner is a resident of the United Republic.

(3) A trust is a resident trust for a year of income if -

(a) it was established in the United Republic;

(b) at any time during the year of income, a trustee of the trust is a resident person; or

(c) at any time during the year of income a resident person directs or may direct senior managerial decisions of the trust, whether the direction is or may be made alone or jointly with other persons or directly or through one or more interposed entities.

(4) A corporation is a resident corporation for a year of income if-

(a) it is incorporated or formed under the laws of the United Republic;or

(b) at any time during the year of income the management and control of the affairs of the corporation are exercised in the United Republic.

Source of income and loss

67.-(I) A person shall calculate his income or loss from any employment, business or investment that has a source in the United Republic separately from any income or loss from that employment, business or investment that has a foreign source.

(2) A person's income from any employment, business or investment has a source in the United Republic to the extent to which -

(a) the amounts directly included in calculating that income that have a source in the United Republic, exceed the amount stip-u``lated in paragraph (b);

(b) the amounts directly deducted in calculating that income that have a source in the United Republic.

(3) A person's loss from any business or investment has a source in the United Republic to the extent to which the amounts referred to in subsection (2)(b) exceed those referred to in subsection (2)(a).

(4) A person's foreign source of income or loss from an employment, business or investment shall be calculated as -

(a) the person's worldwide income or loss from that employment, business or investment (calculated notwithstanding subsection (1)); less

(b) any income with a source in the United Republic from that employment, business or investment; or plus

(c) any loss with a source in the United Republic from that employment, business or investment.

Source of directly included and deducted amounts

68.-(I) Amounts directly included in calculating income have a source in the United Republic where they consist of -

(a) incomings, gains and amounts referred to in section 8(2)(b),

(c) or (d) or section 9(2)(b), to the extent to which a domestic asset or domestic liability is involved; and

(b) subject to paragraph (a), payments that have a source in the United Republic.

(2) Amounts directly deducted in calculating income have a source in the United Republic where they consist of -

(a) allowances referred to in sections 13(l) or 17 and expenditure referred to in section 14(l) to the extent to which -

(i) subject to subparagraph (ii), they relate to domestic assets; or

(ii) where the expenditure or allowances relate to moveable tangible assets used by a person who conducts a business of land, sea or air transport operator or charterer to carry passengers, cargo, mail or other moveable tangible assets, the assets are used to carry passengers who embark or cargo, mail or other moveable tangible assets that are embarked in the United Republic, other than as a result of transhipment;

(b) losses from the realisation of business assets, investment assets and liabilities of a business where the asset or liability involved is a domestic asset or domestic liability; and

(c) subject to paragraphs (a) and (b), payments that have a source in the United Republic.

Source of payments

69. The following payments have a source in the United Republic:

(a) dividends paid by a resident corporation;

(b) interest paid by a resident person or domestic permanent establishment;

(c) natural resource payments made in respect of or calculated by reference to natural resources taken from land or the sea situated within the United Republic or its territorial waters;

(d) rent paid for the use of, right to use or forbearance from using an asset situated in the United Republic;

(e) royalties paid for the use of, right to use or forbearance from using an asset in the United Republic;

(f) premiums for general insurance paid to and proceeds from general insurance paid by a person in respect of the insurance of any risk in the United Republic;

(g) payments received by a person who conducts a business of

land, sea or air transport operator or charterer in respect of -

(i) the carriage of passengers who embark or cargo, mail or other moveable tangible assets that are embarked in the United Republic, other than as a result of transhipment; or

(ii) rental of containers and related equipment which are supplementary or incidental to carriage referred to in subparagraph (i);

(h) payments received by a person who conducts a business of transmitting messages by cable, radio, optical fibre or satellite or electronic communication in respect of the transmission of messages by apparatus established in the United Republic, whether or not such messages originate in the United Republic;

(i) payments, including service fees, of a type not mentioned in paragraphs (g) or (h) for or attributable to employment exercised, service rendered or a forbearance from exercising employment or rendering service -

(i) in the United Republic, regardless of the place of payment; or

(ii) where the payer is the Government of the United Republic, irrespective of the place of exercise, rendering or forbearance;

(j) proceeds of life insurance and retirement payments not falling within paragraph (i) (the "return") paid by a resident person or a domestic permanent establishment and any premium or retirement contribution paid to a resident person or domestic permanent establishment to secure such a return;

(k) gifts and other ex-gratia payments to the extent received in respect of business or investment conducted with domestic assets; and

(1) payments not mentioned in the above paragraphs made in respect of -

(i) the acquisition of a domestic asset, incurring of a domestic liability or realisation of such an asset or liability; or

(ii) activity conducted or a forbearance from conducting activity in the United Republic.

Division H: Permanent Establishments

Principles of taxation

70.-(1) The income tax liability under section 4(l)(a) of a person with a domestic or foreign permanent establishment shall be calculated as if the person and the permanent establishment were independent but associated persons and the permanent establishment were resident in the country in which it is situated.

(2) In addition to taxation in accordance with subsection (1), a person with a domestic permanent establishment shall be taxed with respect to the repatriated income of the permanent establishment in accordance with sections 4(l)(b) and 74.

(3) Part VII of this Act shall apply as though a reference to a "resident person" includes a reference to a domestic permanent establishment of a non-resident person as though the permanent establishment were a person separate from the non-resident person.

Calculating the income of a permanent estalishment

71.-(I) Subsections (2) to (6) apply for the purposes of calculating the income of a domestic or foreign permanent establishment separately from that of its owner.

(2) Subject to Division 11 of Part III, the following amounts derived and expenditure incurred shall be attributed to the permanent establishment, namely -

(a) amounts derived and payments received in respect of assets held by, liabilities owed by or the business of the permanent establishment; and

(b) expenditure incurred and payments made for the purposes of assets held by, liabilities owed by or the business of the permanent establishment, but only to the extent the expenditure is recorded in the accounts of the permanent establishment.

(3) The following assets and liabilities shall be treated as assets or liabilities of the permanent establishment -

(a) tangible assets situated in the country of the permanent establishment;

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

(c) intangible assets, to the extent that they may be exploited in the market of the country of the permanent establishment;

(d) subject to subsection (6)(b), debt obligations incurred in borrowing money, to the extent that the money is employed in or used to acquire an asset that is employed in the business of the permanent establishment; and

(e) other liabilities arising directly out of the business of **the permanent establishment.**

(4) In addition to the circumstances specified in sections 39 and 40, the permanent establishment shall be treated as realising an asset held by it or liability owed by it -

(a) in the case of a tangible asset, when the asset is no longer situated in the country of the permanent establishment;

(b) in the case of an intangible asset, to the extent the asset is available for exploitation in the country in which the owner is resident or a country in which the owner has another permanent establishment; or

(c) in the case of a liability referred to in subsection (3)(d), the money or asset is no longer employed in the business of the permanent establishment.

(5) The following activities shall be treated as conducted by the permanent establishment-

(a) employment by the owner of any individual who is resident in the country of the permanent establishment;

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

(c) other business activities of the owner conducted with residents of the country of the permanent establishment of the same or a similar kind as those effected through the permanent establishment.

(6) Subject to Division II of Part III, the only arrangements between a permanent establishment and the owner that are recognised are the following -

(a) the transfer of an asset or liability between the permanent establishment and the owner or vice versa, in accordance with subsections (3) and (4); and

(b) where the owner carries on a banking business through the permanent establishment, has received written approval under this subsection from the Commissioner and subject to such conditions as the Commissioner thinks fit, entries shown in the same manner in the accounts of the owner and the permanent

establishment as-

(i) a debt obligation between the owner and the permanent establishment or vice-versa; and

(ii) interest derived or incurred with respect to a debt obligation referred to in subparagraph (i),

but where this paragraph applies no debt obligation incurred by the owner shall be attributed to the permanent establishment under subsection (3)(d).

(7) In this section, "the owner" means the owner of the permanent establishment.

Repatriated income of domestic permanent establishment

72.-(1) Subject to the provisions of subsection (2), the repatriated income of a domestic permanent establishment of a non-resident person for a year of income shall be calculated according to the following formula -

$$A+B-C$$

Where -

A. is the net cost of assets of the permanent establishment at the start of the year of income plus the market value of capital contributed to the permanent establishment by the owner during the year;

B. is net total income of the permanent establishment for the year of income; and

C. is the net cost of assets of the permanent establishment at the end of the year of income plus, where the establishment has no total income for the year of income, any unrelieved loss for the year of income referred to in section 19(4).

(2) The repatriated income shall not exceed -

(a) the net total income of the permanent establishment for the year of income plus the balance of the permanent establishment's accumulated profits account referred to in subsection (3) at the end of the previous year of income after the adjustments referred to in that subsection; less

(b) where the permanent establishment has no total income for the year of income, any unrelieved loss for the year of income referred to in section 19(4) for the year of income.

(3) For the purposes of calculating repatriated income, a domestic permanent establishment shall maintain an accumulated profits account which, at the end of each year of income, shall be -

(a) credited with the net total income of the permanent establishment for the year of income; and

(b) debited with the repatriated income and, where the permanent establishment has no total income, any unrelieved loss referred to in section 19(4) for the year of income.

(4) For the purposes of this section -

"net cost of assets" of a domestic permanent establishment -

(a) at the start of a year of income equals the net cost of assets at the end of the previous year of income, if any; and

(b) at the end of a year of income is calculated as -

(i) the written down value of the permanent establishment's pools of depreciable assets at the end of the year of income plus the net cost of other assets of the permanent establishment at the end of the year of income; less

(ii) the net incomings for liabilities of the permanent establishment at the end of the year of income;

"net incomings for a liability to a particular time" means the amount by which cumulative incomings for the liability exceed cumulative costs for the liability to the time; and

"net total income" of a domestic permanent establishment for a year of income is its total income for the year of income (calculated without any deduction under section 19(l)(b)) less income tax payable under section 4(l)(a) with respect to that income.

Division III Controlled Foreign Trusts and Corporations

Principles of taxation

73.-(1) Controlled foreign trusts and corporations and their members shall be taxed in accordance with Subdivisions B and B of Division I of Part IV as modified by this Division.

(2) A controlled foreign trust or corporation shall be treated as distributing its unallocated income to its members at the end of each year of income in accordance with section 75.

Unallocated Income of controlled foreign trust or corporation

74.-(I) The unallocated income of a controlled foreign trust or corporation for a year of income shall be -

(a) the attributable income of the trust or corporation for the year of income; less

(b) any distributions made by the trust or corporation during the

year of income (determined otherwise than in section 75(l) that are included in calculating the income of a member under section 52(2)(b) or 54(l)(b), respectively.

(2) The "attributable income" of a controlled foreign trust or corporation for a year of income shall be its total income for the year of income calculated as if the trust or corporation were resident.

Taxation of members of controlled foreign trusts or corporations

75.-(1) Where at the end of a year of income a trust or corporation is a controlled foreign trust or corporation, the trust or corporation shall be treated as distributing to its members at that time its unallocated. income for the year of income referred to in section 74(l) according to each member's share.

(2) A member who is treated as receiving a distribution under subsection (1) may deduct the amount treated as distributed in calculating the member's income of a future year of income to the extent to which -

(a) the amount has not previously been deducted under this subsection; and

(b) distributions of the type referred to in section 74(l)(b) received by the member during the year of income exceed the member's share of the trust or corporation's attributable income for the year of income referred to in section 74(2).

(3) To the extent that all dividends distributed by a controlled foreign corporation during a year of income, including as a result of subsection (1), do not exceed the corporation's attributable income for the year of income referred to in section 74(2), then dividends distributed to shareholders who are corporations and associated with the corporation at the time of distribution are treated as -

(a) having the same character as to type and source as the corporation's attributable income; and

(b) made proportionately out of each type and source of the corporation's attributable income.

(4) At the time an amount is treated as distributed by a controlled foreign corporation to an associated shareholder under subsection (3), the shareholder shall be allocated any income tax under this Act or foreign income tax paid or treated as paid by the corporation with respect to the amount.

(5) A shareholder is treated as having paid the tax allocated to the shareholder by subsection (4) at the time of allocation and foreign tax relief may be available to the shareholder under section *77* but no other tax credit shall be available to the shareholder.

(6) Subsections (3), (4) and (5) shall apply to distributions by a resident corporation made during any year of income to a non-resident associate of the corporation as though the corporation were a controlled foreign corporation and the attributable income of the corporation were its total income for the year of income.

(7) For the purposes of this section, a "member's share" with respect to income of trust or corporation shall be -

(a) equal to the member's percentage right to share in the income on distribution; or

(b) where that right is not reasonably certain, such percentage as the Commissioner thinks appropriate in the circumstances.

Cost and incomings of Member's interest in controlled foreign trust or corporation

76.-(1) Any amount treated as distributed to a member under section 75(l) shall be included in the cost of the member's membership interest in the non-resident trust or corporation at the time of distribution.

(2) Any amount deducted by a member under section 75(2) shall be included in the incomings for the member's membership interest in the non-resident trust or corporation at the time of deduction.

Division IV- Foreign Tax Relief

Foreign tax relief

77.-(I) Subject to the provisions of subsection (4), a resident person (other than a partnership) may claim a foreign tax credit for a year of income for any foreign income tax paid by the person to the extent to which it is paid with respect to the person's taxable foreign income for the year of income.

(2) Foreign tax credits claimed under subsection (1) are calculated separately for each year of income and shall not exceed the average rate of Tanzania income tax of the person for the year of income applied to the person's taxable foreign income.

(3) For the purposes of subsections (1) and (2), there shall be treated as foreign income tax paid by a resident person with respect to the person's taxable foreign income for a year of income any unrelieved foreign income tax of a previous year of income paid by the person.

(4) A person may elect to relinquish a foreign tax credit available for a year of income and claim a deduction for the amount of the foreign income tax but otherwise no deduction is available for foreign income tax.

(5) For the purposes of this section -

"average rate of Tanzania income tax[91] of a resident person for a year of income means the percentage that income tax payable by the person under section 4(l)(a) (calculated under section 4(3) without a reduction for any foreign tax relief) shall be of the total income of the person for the year of income;

"taxable foreign income" of a resident person for a year of income means foreign source income that shall be included in the person's chargeable income from any employment, business or investment for the year of income; and

"unrelieved foreign income tax" of a resident person means foreign income tax paid by the person with respect to the person's taxable foreign income -

(a) for which a foreign tax credit has not been granted under subsection (1) as a result of the limitation in subsection (2); and

(b) that has not been relinquished under subsection (4).

PART VII:
TAX PAYMENT PROCEDURE

Division I- General Obligations

Types of tax and Methods of Payment

78-41) Tax payable under this Act means -

(a) income tax imposed under section 4(l), including amounts payable by a withholding agent or withholdee under Division II, by an installment payer under Division III and on assessment under Division IV of this Part;

(b) interest and penalties imposed by assessment under Division I of Part VIII;

(c) an amount required to be paid to the Commissioner in collection from a tax debtor under section 112(9) or 128(3); and

(d) an amount required to be paid to the Commissioner in respect of a tax liability of a third party under sections 115 (2), 116 (3) or (4), 117(2) or 11 8(l) or (3).

(2) Tax shall be paid to the Commissioner in the form and at the place as may be prescribed.

Time for payment of tax

79.-(1) Subject to the provisions of subsection (2), tax shall be payable -

(a) in the case of income tax payable by withholding, at the time provided for in sections 84;

(b) in the case of income tax payable by installment, on the date by which the installment is to be paid under section 88 or 90;

(c) in the case of income tax payable on an assessment -

(i) under section 94, on the date by which the return of income must be filed;

(ii) under section 95, on the date specified in the notice of assessment served under section 97; or

(iii) under section 96, within thirty days from the date on which the person assessed is served with a notice of assessment under section 97;

(d) in the case of interest and penalties under Division I of Part VIII, on the date specified in the notice of assessment served under section 103;

(e) with respect to amounts required to be paid to the Commissioner under sections 112(9), 117(2), 118(l) or (3) or 128(3), on the date set out in the notice;

(f) with respect to a liability under section 115(2), at the same time as the tax is payable by the entity; or

(g) with respect to amounts required to be paid to the Commissioner under section 116(3) or (4), seven days after the sale from which the amount is set aside or the failure to set aside, respectively.

(2) On written application by a person, the Commissioner -

(a) may, where good cause is shown, extend the date on which tax or part of tax is payable including by permitting payment of the tax by instalments of equal or varying amounts; and

(b) shall serve the person with written notice of the Commissioner's decision on the application.

(3) Where an extension is granted under subsection *(2)* by permitting the person to pay tax by instalments and the person defaults in paying any of the instalments, the whole balance of the tax outstanding shall become payable immediately.

Maintenance of documentation

80--(1) Unless otherwise authorised by the Commissioner by notice in writing, every person liable to tax under this Act shall maintain in the United Republic such documents -

(a) as are necessary to explain information to be provided in a return or in any other document to be filed with the Commissioner under this Act;

(b) as are necessary to enable an accurate determination of the tax payable by the person; and

(c) as may be prescribed by the Commissioner.

(2) The documents referred to in this section shall be retained for a period of five years from the end of the year of income or years of income to which they are relevant unless the Commissioner otherwise specifies by notice in writing.

(3) Where any document referred to in subsection (1) is not in an official language of the United Republic, the Commissioner may, by notice in writing, require the person to provide, at the person's expense, a translation into an official language by a translator approved by the Commissioner in the notice.

(4) The Commissioner may, by service of a notice in writing, require a person, whether or not liable for tax under this Act to retain documents described with reasonable certainty in the notice for such period as may be specified in the notice.

Division H.- Income Tax Payable by Withholding

Subdivision A - Withholding Obligations

Withholding by employers

81-(1) A resident employer who makes a payment that is to be included in calculating the chargeable income of an employee from the employment shall withhold income tax from the payment at the rate provided for in paragraph 4(a) of the First Schedule.

(2) The obligation of an employer to withhold income tax under subsection (1) shall not be reduced or extinguished because the

employer has a right or is under an obligation to deduct and withhold any other amount from the payment or because of any other law that provides that an employee's income from employment shall not be reduced or subject to attachment.

Withholding from investment returns

82.-(l) Subject to the provisions of subsection (2), where a resident person-

(a) pays a dividend, interest, natural resource payment, rent, royalty or, where the person is an approved retirement fund, a retirement payment to another person; and

(b) the payment has a source in the United Republic and is not subject to withholding under section 81,

the person shall withhold income tax from the payment at the rate provided for in paragraph 4(b) of the First Schedule.

(2) This section shall not apply to -

(a) payments made by individuals unless made in conducting a business;

(b) interest paid to a resident financial institution;

(c) payments that are exempt amounts or paid to an approved retirement fund.

(d) rent paid to a resident person for the use of an asset other than land or buildings.

Withholding from service fees

83.-(1) Subject to the provisions of subsection (2), a resident person who -

(a) in conducting a mining business pays a service fee to another resident person in respect of technical services provided wholly and exclusively for the business; or

(b) pays a service fee or an insurance premium with a source in the United Republic to a non-resident person,

shall withhold income tax from the payment at the rate provided for in paragraph 4(c) of the First Schedule.

(2) This section shall not apply to -

(a) payments made by individuals unless made in conducting a business; or

(b) payments that are exempt amounts.

Subdivision B - Procedure Applicable to Withholding

State-ments and pay-ments of tax with-held or treated as with-held

84.-(1) Every withholding agent shall pay to the Commissioner within seven days after the end of each calendar month any income tax that has been withheld in accordance with Subdivision A during the month.

(2) Every withholding agent shall file with the Commissioner within 30 days after the end of each six-month calendar period a statement in the manner and form prescribed specifying-

(a) payments made by the agent during the period that are subject to withholding under Subdivision A of Division 11 of this Part;

(b) the name and address of the withholdee;

(c) income tax withheld from each payment; and

(d) any other information that the Commissioner may prescribe.

(3) A withholding agent who fails to withhold income tax in accordance with Subdivision A of Division 11 of this Part must nevertheless pay the tax that should have been withheld in the same manner and at the same time as tax that is withheld.

(4) Where a withholding agent fails to withhold income tax from a payment as required by Subdivision A of Division 11 of this Part-

(a) the withholdee shall jointly and severally, be liable with the withholding agent for the payment of the tax to the Commissioner; and

(b) the tax shall be payable by the withholdee within seven days after the end of the calendar month in which the payment is received.

(5) A withholding agent who withholds income tax under Subdivision A of Division 11 of this Part and pays the tax to the Commissioner shall be treated as having paid the amount withheld to the withholdee for the purposes of any claim by the withholdee for payment of the amount withheld.

(6) A withholding agent who fails to withhold income tax under Subdivision A of Division 11 of this Part but pays the tax that should have been withheld to the Commissioner in accordance with subsection (3) shall be entitled to recover an equal amount from the withholdee.

With-holding certifi-cates

85.-(I) A withholding agent shall prepare and serve on a withholdee-

(a) separately for each period referred to in subsections (2) and *(3);*

(b) at the time referred to in those subsections; and

(c) in the form prescribed,

a withholding certificate setting out the amount of payments made to the withholdee and income tax withheld from those payments under Subdivision A of Division 11 of this Part by the agent during the period.

(2) Subject to the provisions of subsection (3), a withholding certificate shall cover a calendar month and shall be served within 30 days after the end of the month.

(3) In the case of income tax withheld under section 81, a withholding certificate -

(a) shall cover the part of the calendar year during which the employee shall be employed; and

(b) shall be served by 30 January after the end of the year or, where the employee has ceased employment with the withholding agent during the year, no more than 30 days from the date on which the employment ceased.

Final with-holding pay-ments

86.-(1) For the purposes of this Act, the following are final withholding payments:

(a) dividends paid by -

(i) a resident corporation;

(ii) non-resident corporation to a resident individual, other than a dividend received by -

(aa) an individual in conducting a business; or

(bb) an individual referred to in section 6(2);

(b) interest paid by financial institution to a resident individual where the interest is paid with respect to a deposit held with the institution, other than -

(i) interest received by the individual in conducting a business; or

(ii) foreign source interest paid to an individual referred to in section 6(2);

(c) rent paid to a resident individual under a lease of land or a building and associated fittings and fixtures, other than -

(i) rent received by an individual in conducting a business; or

(ii) foreign source rent paid to an individual referred to in section 6(2);

(d) service fees paid to a resident person that are subject to withholding under section 83(1)(a); and

(e) payments made to non-resident persons (other than through a domestic permanent establishment of the person) that are subject to withholding under Subdivision A of Division II of this Part or would be so subject if section 83(l)(a) were not applied.

(2) Income tax -

(a) withheld from a final withholding payment under Subdivision A of Division 11 of this Part; or

(b) paid with respect to a final withholding payment in accordance with section 84(3) or (4),

satisfies the withholdee's income tax liability under section 4(l)(c) with respect to the payment.

(3) Subject to the provisions of subsection (4), where a final withholding payment is not subject to withholding tax, (whether by reason of section 83(2)(a) or that the payer is non-resident) -

(a) the recipients income tax liability under section 4(l)(c) with respect to the payment shall be payable by way of assessment under Division IV of this Part as though that liability were a liability under section 4(l)(a); and

(b) where the payment is a foreign source payment, a foreign tax credit shall be available under section 77 for any foreign income tax imposed on the payment and the credit shall be calculated as though the payment were taxable foreign income.

(4) Where -

(a) a resident individual (the "landlord") receives rent during a year of income in respect of residential premises situated in the United Republic that are leased by another individual as the residence of that other individual;

(b) the rent is not received by the landlord in conducting a business; and

(c) the total of the rent received by the landlord under the lease and any other lease meeting the requirements of paragraphs (a) and (b) during the year of income does not exceed Shs. 500,000,

then the landlord shall not have tax liability under section 4(l)(c) with respect to receipt of the rent.

Credit for non-final with-holding tax

87. The withholdee of a payment that is not a final withholding payment shall be treated as having paid any income tax -

(a) withheld from the payment under Subdivision A of Division 11 of this Part; or

(b) paid with respect to the payment in accordance with section 83(3) or(4),

and the withholdee is entitled to a tax credit in an amount equal to the tax treated as paid for the year of income in which the payment is derived.

Division III: Income Tax Payable by Instalment

Payment of income tax by quarterly install-ment

88.-(I) A person (an "installment payer") who derives or expects to derive any chargeable income during a year of income -

(a) from a business or investment; or

(b) from an employment where the employer is not required to withhold tax under section 81 from payments received by the person that are included in calculating the person's income from the employment,

shall pay income tax for the year of income by quarterly instalments as provided for by this section.

(2) An installment payer shall pay instalments of income tax -

(a) in the case of a person whose year of income is a twelve month period beginning at the start of a calendar month, on or before the last day of the third, sixth, ninth and twelfth months of the year of income; or

(b) in any other case, at the end of each three-month period commencing at the beginning of the year of income and a final installment on the last day of the year of income unless it coincides with the end of one of the three-month periods.

(3) Subject to the provisions of subsection (5), the amount of each installment of income tax payable by an installment payer for a year of income is calculated according to the following formula -

$$\frac{[A - C]}{B}$$

Where -

A is the estimated tax payable by the installment payer for the year of income at the time of the installment under section *89;*

B is the number of instalments remaining for the year of income including the current installment; and

C is the sum of any -

(a) income tax paid during the year of income, but prior to the due date for payment of the installment, by the person by previous installment under this section; or section 90;

(b) income tax withheld under Subdivision A of Division 11 of this Part during the year of income, but prior to the due date for payment of the installment, from payments received by the person that are included in calculating the person's income for the year of income; and

(c) income tax paid in accordance with section 84(3) or (4) with respect to a payment of the kind referred to in paragraph (b) that shall be paid to the Commissioner by the withholding agent or the withholdee during the year of income but prior to the due date for payment of the installment.

(4) Where an installment shall be payable at a time when an installment payers estimated tax payable for a year of income Tshs. 50,000/= or less or the amount of an installment calculated under subsection (3) is Shs. 12,500 or less, the amount of the installment shall be nil.

(5) Where an installment payer is a resident person who conducts agricultural business involving seasonal crops in the United Republic during a year of income and conducts no other type of business during that year of income, the amount of the person's first and second installments for the year of income shall be nil.

(6) An installment payer shall be entitled to a tax credit for a year of income in an amount equal to the income tax paid by way of installment for the year of income under this section.

Statement of estimated tax payable

89.-(1) Subject to the provisions of subsection (7) and section 93, every person who is an installment payer for a year of income under section 88 shall file with the Commissioner -

(a) in the case of a resident person to whom section 88(5) applies, by the end of September, of the year of income; and

(b) in any other case, by the date for payment of the first tax installment an estimate of tax payable for the year of income.

(2) An estimate of tax payable of a person for a year of income shall, subject to any instructions by the Commissioner to the contrary -

(a) be in the manner and form prescribed estimating -

(i) the person's chargeable income for the year of income from each employment, business and investment and the source of that income;

(ii) the person's total income for the year of income and the income tax to become payable with respect to that income under section 4(l)(a);

(iii) in the case of a domestic permanent establishment of a non-resident person, the permanent establishment's repatriated income for the year of income and the income tax to become payable with respect to that income under section 4(l)(b); and

(iv) any other information that the Commissioner may prescribe;

(b) be signed by the person stating whether to the best of his knowledge and belief the estimate is true and correct; and

(c) have attached to it any other information that the Commissioner may prescribe.

(3) Subject to the provisions of subsections (6) and (9), the sum of the income tax referred to in subsection (2)(a)(ii) and (iii) shall be the persods estimated tax payable for the year of income.

(4) In estimating income tax payable for a year of income under subsection (2)(a)(ii) and, in particular, calculating any foreign tax relief to be claimed under section 77, a person may take account of foreign income tax only if the person has paid such tax or the person reasonably estimates that such tax shall be paid during the year of income.

(5) An installment payer's estimate under subsections (1) and (2) shall remain in force for the whole of the year of income unless the person files with the Commissioner a revised estimate, in the form and specifying the information referred to in subsection (2), together with a statement of reasons for the revision.

(6) Subject to the provisions of subsection (8), a revised estimate filed by a person under subsection (5) is the person's estimated tax payable for the year of income, but only for the purposes of calculating instalments payable under section 88 for the year of income after the date the revised estimate is filed with the Commissioner.

(7) The Commissioner may -

(a) specify by notice in writing that an installment payer or class of installment payers are not required to submit an estimate under subsection (1); or

(b) extend the time for filing such an estimate in accordance with section 93.

(8) Where an installment payer fails to file an estimate for a year of income as required by subsection (1), or an installment payer shall not required to submit an estimate by reason of subsection (7), the Commissioner shall -

(a) make an estimate of the person's estimated tax payable for the year of income, which may take into account the income tax payable under section 4(l)(a) and (b) for the previous year of income; and

(b) serve on the installment payer a written notice stating the Commissioner's estimate, and the manner in which it is calculated.

(9) Where the Commissioner serves an installment payer with a notice under subsection (8), then for the purposes of section 88 the estimated tax payable by the person for the year of income shall be the amount estimated by the Commissioner.

Single installment at time of realisation or receipt

90.-(I) Where a person (an "installment payer") derives a gain in conducting an investment from the realisation of an interest in land or buildings situated in the United Republic, the person shall pay income tax by way of single installment equal to -

(a) in the case of a resident person, ten percent of the gain; or

(b) in the case of a non-resident person, twenty percent of the gain.

(2) The installment referred to in subsection (1) shall be paid before the title to an interest in land or buildings is transferred and the Registrar of Titles shall not register such a transfer without the production of a certificate of the Commissioner certifying that the installment has been paid or that no installment is payable.

(3) This subsection applies where -

(a) a non-resident person (an "installment payer") receives a payment in conducting a business of land, sea or air transport operator or charterer;

(b) no part of that business is conducted through a permanent establishment of the person situated in the United Republic; and

(c) the payment is received in respect of-

(i) the carriage of passengers who embark or cargo, mail or other moveable tangible assets that are embarked in the United Republic, other than as a result of transhipment; or

(ii) rental of containers and related equipment which are supplementary or incidental to carriage referred to in paragraph (a).

(4) Where subsection (3) applies, the person shall pay income tax by way of single installment equal to five percent of the gross payment.

(5) A tax certificate issued by the Commissioner showing that the installment referred to in subsection (4) has been paid is necessary before the vehicle, ship or aircraft in respect of which the payment shall be received shall be permitted to clear customs and leave the United Republic and the proper officer of Customs by whom customs clearance may be granted shall refuse clearance until such a certificate is produced.

(6) No civil or criminal proceedings shall be instituted or maintained against the proper officer of Customs or any other authority in respect of a refusal of clearance under this section, nor shall the fact that a vehicle, ship or aircraft is detained under this section affect the liability of the owner, charterer or agent to pay border, harbour or airport dues and charges for the period of detention.

(7) An installment payer shall be entitled to a tax credit for a year of income in an amount equal to the income tax paid by way of single installment for the year of income under this section.

Division IV- Income Tax Payable on Assessment

Subdivision A - Returns

Returns of income

91.-(I) Subject to the provisions of sections 92, 93 and 95, every person shall file with the Commissioner not later than six months after the end of each year of income a return of income for the year of income.

(2) A return of income of a person for a year of income shall, subject to any instructions by the Commissioner to the contrary -

(a) be in the manner and form prescribed specifying -

(i) the person's chargeable income for the year of income from each employment, business and investment and the source of that income;

(ii) the person's total income for the year of income and the income tax payable with respect to that income under section 4(l)(a);

(iii) in the case of a domestic permanent establishment of a non-resident person, the permanent establishment's repatriated income for the year of income and the income tax payable with respect to that income under section 4(l)(b);

(iv) any income tax paid by the person for the year of income by withholding, installment or assessment for which a tax credit is available under sections 87, 88, 90 or 95;

(v) the amount of income tax still to be paid for the year of income calculated as the sum of the tax referred to in subparagraphs (ii) and (iii) less the tax already paid referred to in subparagraph (iv); and

(vi) any other information that the Commissioner may prescribe;

(b) in the case of a corporation, be prepared or certified by a certified public accountant in public practice;

(c) include a declaration that the return is complete and accurate;

(d) be signed by -

(i) the person , and

(ii) a certified public accountant in public practice as may be required by section 135(l); and

(c) have attached to it -

(i) any withholding certificates supplied to the person under section *85* with respect to payments derived by the person during the year of income;

(ii) any statement provided to the person under section *135(2);* and

(iii) any other information that the Commissioner may prescribe.

(3) Subject to the provisions of sections *92, 93* and *95,* where prior to the date for filing a return of income for a year of income under subsection (1) -

(a) a person becomes bankrupt, is wound-up or goes into liquidation;

(b) a person is about to leave the United Republic indefinitely;

(c) a person is otherwise about to cease activity in the United Republic; or

(d) the Commissioner otherwise considers it appropriate,

the Commissioner may, by notice in writing served on the person, require the person to file, by the date specified in the notice, a return of income for the year of income or part of the year of income.

Return of income not required

92. Unless requested by the Commissioner by notice in writing served on the person and subject to a right of the person to elect to file a return, no return of income for a year of income shall be required under section 91 from -

(a) a resident individual -

(i) who has no income tax payable for the year of income under section 4(l)(a); or

(ii) whose income for the year of income consists exclusively of either or both of the following:

(aa) income from any employment where the employer is required to withhold tax under section 81 from payments made to the individual that are included in calculating the individual's income from the employment; or

(bb) gains of the type referred to in section 90(l); or

(b) a non-resident person (other than one with a domestic permanent establishment) who has no income tax payable for the year of income under section 4(l)(a) or whose income tax payable for the year of income under section 4(l)(a) consists exclusively of gains of the type referred to in section 90(l).

Extension of time to file return of income

93.-(1) Subject to the provisions of subsection (2), where a person who is required to file an estimate under section 89 or a return under section 91 makes a written application to the Commissioner by the due date for filing the estimate or return, the Commissioner -

(a) may, on such terms and conditions as the Commissioner thinks appropriate (including as to payment of security) and where reasonable cause is shown, extend the date by which the estimate or return is to be filed; and

(b) shall serve the person with written notice of the Commissioner's decision on the application.

(2) The Commissioner may grant multiple extensions under subsection (1) but the extensions shall not in total exceed 60 days from the date the estimate or return was originally to be filed.

Subdivision B- Assessments

Self-Assessments

94.-(I) Where an entity files a return of income for a year of income, an assessment shall be treated as made on the due date for filing the return of -

(a) the income tax payable by the entity for the year of income under section 4(l)(a) and (b) in the amount shown in the return; and

(b) the amount of that tax still to be paid for the year of income in the amount shown in the return (the "tax payable on the assessment").

(2) Where an entity fails or is not required to file a return of income for a year of income then, until such time as a return shall be filed, an assessment shall be treated as made on the due date for filing the return that -

(a) the income tax payable by the entity for the year of income shall be equal to the sum of any income tax withheld from payments derived by the entity during the year of income under Division 11 of this Part and any income tax paid by the person by installment for the year of income under Division III of this Part; and

(b) there is no tax payable on the assessment.

(3) Where an individual files a return of income, the Commissioner shall assess the tax as expeditiously as possible after the expiry of the time allowed for the filing of a return of income.

(4) Where an individual has filed a return of income, the Commissioner may-

(a) accept such return and make assessment on the basis of the return; or

(b) if the Commissioner has reasonable cause to believe that such return is not true and correct, determine, according to the best of his judgment, the amount of the income of that individual and assess the tax accordingly.

(5) Where an individual has not filed a return for any year of income, whether or not he has been required by the Commissioner so to do, and the Commissioner considers that, that individual has income chargeable tax for such year, the Commissioner may determine, according to the best of his judgment, the amount of the income of that individual and assess the tax accordingly.

(6) Subsection *(5)* shall not affect any liability otherwise incurred by that individual under this Act in consequence of the failure to file a return.

Jeopardy assess-ments

95.-(1) Where a person is required to file a return of income under section *91(3)* for part of a year of income, section *94* applies as though a reference to a year of income were a reference to the part of the year of income for which the return is to be filed.

(2) In the circumstances specified in section 91(3), instead of requiring a person to file a return of income, the Commissioner may, according to the Commissioner's best judgment, make an assessment of -

(a) the amounts referred to in section 91(2)(a)(i) to (iv) for the year of income or part of the year of income; and

(b) in accordance with section 91(2)(a)(v), the amount of income tax still to be paid for the year of income or part of the year of income (the "tax payable on the assessment").

(3) Where an assessment is made under section 94 by reason of subsection (1) or under subsection (2) (the "jeopardy assessment") -

(a) with respect to a full year of income, the assessed person shall not file a return of income for the year of income under section 91(l); or

(b) with respect to part of a year of income, the assessed person shall still be required to file a return of income for the year of income under section 91(l).

(4) Any income tax paid on a jeopardy assessment of the type referred to in subsection (3)(b) shall be available as a tax credit against the tax payable on an assessment made for the full year of income.

Adjusted assessments

96.-(1) Subject to the provisions of this section, the Commissioner may adjust an assessment made under sections 94, 95 or this section so as to adjust the assessed person's liability to tax, including any tax payable on the assessment, in such manner as, according to the Commissioner's best judgment and information reasonably available, shall be consistent with the intention of this Act.

(2) Subject to the provisions of subsections (3) and (4), the Commissioner may adjust an assessment under subsection (1) within three years after -

(a) in the case of an assessment under section 94 (including by reason of section 95(l)), the due date for filing the return of income to which the assessment relates; or

(b) in the case of an assessment under section 95(2), the date on which the notice of assessment is served on the person assessed as required by section 97.

(3) The Commissioner may adjust an assessment under subsection (1) at any time -

(a) in the case of an assessment under section 94 where the person assessed fails to file a return of income in accordance with section 91 with the intent of evading or delaying the payment of tax; or

(b) in the case of an assessment that is inaccurate by reason of fraud by or on behalf of the assessed person.

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(4) The Commissioner may not adjust an amended assessment issued in accordance with the Tax Revenue Appeals Act, or an assessment to the extent that the assessment has been adjusted or reduced pursuant to an order of a court of competent jurisdiction unless the assessment or order is vacated.

(5) An assessment ceases to have effect to the extent to which it is adjusted in accordance with the section.

Notice of assessment

97. Where the Commissioner makes an assessment under section 95(2) or 96, the Commissioner shall serve a written notice of the assessment on the person stating -

(a) the Commissioner's assessment of the income tax payable by the person under section 4(l)(a) and (b) and the tax payable on the assessment for the year of income or period to which the assessment relates;

(b) the manner in which the assessment referred to in paragraph (a) is calculated;

(c) the reasons why the Commissioner has made the assessment;

(d) the date by which the tax payable on the assessment must be paid; and

(e) the time, place and manner of objecting to the assessment.

PART V111: NON-COMPLIANCE

Division P Interest and Penalties

Penalty for failure to maintain documents or file Statement or return of income

98.-(1) A person who fails to -

(a) maintain proper documents for a year of income as required by section 80(l);

(b) file an estimate for a year of income as required by section 89(l); or

(c) file a return of income for a year of income as required by section 91 (I),

shall be liable for a penalty for each month and part of a month during which the failure continues calculated as the higher of -

(d) 2.5 percent of the difference between the income tax payable by the person for the year of income under section 3(l)(a) and (b) and the amount of that income tax that has

been paid by the start of the month; or

(e) Tshs. I 0,000 in the case of an individual or Shs. I 00,000 in the case of a corporation.

(2) A withholding agent who fails to file a statement as required by section 84(2) is liable for a penalty for each month or part of a month during which the failure continues calculated as the higher of -

(a) the statutory rate applied to the amount of income tax required to be withheld under Subdivision A of Division 11 of Part VII from payments made by the agent during the month to which the failure relates; or

(b) Tshs. 100,000.

Interest for Under-stating Estirna-ted Tax Payable by Install-ment

99--(1) This section applies where -

(a) an installment payer's estimate or revised estimate of income tax payable for a year of income under section 89, which shall be used to calculate an installment of income tax for the year of income payable under section 88, shall be less than;

(b) 80 percent of the income tax payable by the payer for the year of income under section 4(l)(a) and (b) (the "correct amount").

(2) Where this section applies, the installment payer shall liable for interest for each month or part of a month (the "period") from the date the first installment for the year of income is payable until the due date by which the person must file a return of income for the year of income under section 9 1 (1).

(3) The amount of interest that an installment payer must pay for each period under subsection (2) shall be calculated as the statutory rate, compounded monthly, applied to the excess of-

(a) the total amount that would have been paid by way of instalments during the year of income to the start of the period had the person's estimate or revised estimate equaled the correct amount; over

(b) the amount of income tax paid by instalments during the year of income to the start of the period.

Interest for failure to pay tax

100.-(1) A person who fails to pay tax on or before the date on which the tax is payable shall be liable for interest for each month or part of a month (the "period") for which any of the tax is outstanding calculated as the statutory rate, compounded monthly, applied to the amount outstanding at the start of the period.

(2) For the purposes of calculating interest payable under subsection (1), any extension granted under section *79(2)* or *93* shall not be applied.

(3) A withholding agent may not recover from a withholdee interest payable by the agent in respect of a failure to comply with section 84(l) or *(3).*

Penalty for making false or misleading statements

101.-(l) A person who -

(a) makes a statement to the Commissioner that is false or misleading in a material particular; or

(b) omits from a statement made to the Commissioner any matter or thing without which the statement is misleading in a material particular,

shall be liable for a penalty equal to -

(c) where the statement or omission is made without reasonable excuse, 50 percent of the underpayment of tax that, in the Commissioner's view, may have resulted if the inaccuracy of the statement had gone undetected; or

(d) where the statement or omission is made knowingly or recklessly, 100 percent of the underpayment of tax that, in the Commissioner's view, may have resulted if the inaccuracy of the statement had gone undetected.

(2) A reference in this section to a statement made to the Commissioner is a reference to a statement made in writing to the Commissioner or an officer of the Tanzania Revenue Authority acting in the performance of duties under this Act and includes a statement made -

(a) in an application, estimate, notification, return, objection, statement or other document made, prepared, given or filed under this Act;

(b) in a document furnished to the Commissioner or such an officer otherwise than pursuant to this Act;

(c) in answer to a question asked of a person by the Commissioner or such an officer; or

(d) to another person with the knowledge or reasonable expectation that the statement will be conveyed to the Commissioner or such an officer.

Penalty for aiding and abetting

102. A person who willfully or negligently aids, abets, counsels or induces another person to commit an offence of a type referred to in Division 11 of this Part, shall be liable for a penalty equal to I 00 percent of the underpayment of tax that, in the Commissioner's view, may have resulted if the offence had been committed and had gone undetected.

Assessment of interest and penalties

103.-(1) The Commissioner shall make an assessment of the interest and penalties for which a person is liable under this Division.

(2) Liability for interest and penalties under this Division with respect to a particular failure or statement shall be calculated separately for each section of this Division.

(3) The imposition of interest and penalties under this Division is in addition to any other tax imposed by this Act and does not relieve any person from liability to criminal proceedings under Division 11 of this Part.

(4) Where an assessment has been made under this section, the Commissioner shall serve a written notice of assessment on the person, which notice may be incorporated with a notice under section 97, stating -

(a) the Commissioner's assessment of the interest or penalties;

(b) the manner in which the assessment referred to in paragraph (a) is calculated;

(c) the reasons why the Commissioner has made the assessment;

(d) the date by which the interest or penalties are payable; and

(c) the time, place and manner of objecting to the assessment.

(5) Section 96 applies to an assessment made under this section as though -

(a) a reference to an assessment in section 96(l), (2)(b), (3) and (4) included an assessment made under this section; and

(b) a reference in section 96(2)(b) to section 98 were a reference to subsection (4) of this section.

Division II: Offences

Offence of failure to Comply with Act

104. Except as otherwise provided for in this Act, any person who fails to comply with a provision of this Act, commits an offence and shall be liable on summary conviction -

(a) where the failure results or, if undetected, may have resulted in an underpayment of tax in an amount exceeding shillings 500,000/=, to a fine of not less than shillings. I 00,000/= and not more than shillings 5 00,000/=; and

(b) in any other case, to a fine of not less than shillings. 25,000/= and not more than shillings. 100,000/=.

Offence of failure to pay tax

105. Any person who without reasonable excuse fails to pay any tax on or before the date on which the tax is payable, commits an offence and shall be liable on summary conviction -

(a) where the failure is to pay tax in excess of shillings 500,0001=, to a fine of not less than shillings 250,000/= and not more than shillings 1,000,000/=, imprisonment for a term of not less than three months and not more than one year or both; and

(b) in any other case, to a fine of not less than shillings 50,000/= and not more than shillings 250,000/=, imprisonment for a term of not less than one month and not more than three months or both.

Offence of making false or Misleading statements

106.-(1) A person who -

(a) makes a statement to the Commissioner that is false or misleading in a material particular; or

(b) omits from a statement made to the Commissioner any matter or thing without which the statement is misleading in a material particular,

commits an offence and shall be liable on conviction -

(c) where the statement or omission is made without reasonable excuse-

(i) and, if the inaccuracy of the statement were undetected, may have resulted in an underpayment of tax in an amount exceeding shillings 500,000, to a fine of not less than shillings 250,000 and not more than shillings 1,000,000, imprisonment for a term of not less than three months and not more than one year or both; and

(ii) in any other case, to a fine of not less than shillings 50,000 and not more than shillings 250,000, imprisonment for a term of not less than one month and not more than three months or both; or

(d) where the statement or omission is made willfully or negligently -

(i) and, if the inaccuracy of the statement were undetected, may have resulted in an underpayment of tax in an amount exceeding shillings 500,000, to a fine of not less than shillings 500,000 and not more than shillings 2,000,000, imprisonment for a term of not less than one year and not more than two years or both; and

(ii) in any other case, to a fine of not less than shillings 100,000 and not more than shillings 500,000, imprisonment for a term of not less than six months and not more than one year or both.

(2) A reference in this section to a statement made to the Commissioner has the same meaning as in section 101 (2).

Offence of impeding tax Administration

107. A person who without reasonable excuse -

(a) obstructs or attempts to obstruct an officer of the Tanzania Revenue Authority acting in the performance of duties under this Act;

(b) fails to comply with a notice under section 139; or

(c) otherwise impedes or attempts to impede the administration of this Act,

commits an offence and shall be liable on conviction to a fine of not less than shillings 100,000 and not more than shillings 2,000,000, imprisonment for a term of not more than two years or both.

Offences by authorised and unauthorised persons

108.-(1) Any person who -

(a) being an officer of the Tanzania Revenue Authority acting in the performance of duties under this Act -

(i) directly or indirectly asks for or takes in connection with any of the officer's duties, any payment or reward whatsoever, whether pecuniary or otherwise or promise or secure for any such payment or reward, not being a payment or reward that the officer is lawfully entitled to receive; or

(ii) agrees to, permits, conceals, connives at or acquiesces in any act or thing whereby the Government is or may be defrauded with respect to any matter under this Act, including the payment of tax; or

(b) not being authorised under this Act, collects or attempts to collect an amount of tax payable under this Act or an amount that the person describes as such tax or otherwise impersonates a person authorised under this Act,

commits an offence and is liable on conviction to a fine of not less than shillings 500,000, imprisonment for a term of not less than one year and not more than three years or both.

(2) Any person who contravenes section 140, commits an offence and is liable on summary conviction to a fine not exceeding shillings 1,000,000, imprisonment for a term not exceeding one year or both.

Offence of aiding or abetting

109. Any person who willfully or negligently aids, abets, conceals or induces another person to commit an offence under this Act (the "original offence"), commits an offence and shall be liable on conviction-

(a) where the original offence involves a statement of the kind mentioned in section 106(l)(a) or (b) that, if the inaccuracy of the statement were undetected, may have resulted in an underpayment of tax in an amount exceeding shillings 500,000, to a fine of not less than shillings 500,000 and not more than shillings 2,000,000, imprisonment for a term of not less than one year and not more than two years or both; and

(b) in any other case, to a fine of not less than shillings I 00,000 and not more than shillings 500,000, imprisonment for a term of not less than six months and not more than one year or both.

Division III: Recovery of Tax from Tax Debtor

Suit for unpaid tax

110. Tax that has not been paid when it is payable may be sued for and recovered in any court of competent jurisdiction by the Commissioner acting in the Commissioner's official capacity.

Security for income tax payable by withholding

111.-(1) Income tax that a withholding agent is required to withhold from a payment under Subdivision A of Division 11 of Part VII shall be-

(a) a first charge on the payment; and

(b) withheld prior to any other deduction that the withholding agent may be required to make by virtue of an order of any court or any other law.

(2) Income tax withheld by a withholding agent under Subdivision A of Division II of Part VII, including any assets acquired by the agent into which the tax withheld may be traced-

(a) is held in trust for the Government of the United Republic;

(b) is not subject to attachment in respect of a debt or liability of the agent; and

(c) in the event of the liquidation or bankruptcy of the agent, does

not form part of the estate in liquidation or bankruptcy and the Commissioner acting for the Government has a first claim over the tax or assets before any distribution in liquidation or bankruptcy is made.

Charge-over assets

112.-(1) The Commissioner may cause a charge to be created in favour of the Government of the United Republic over the assets of a person (the "tax debtor") as provided for by this section where the person fails to pay tax on or before the date the tax is payable.

(2) Subject to the provisions of subsection (3), the Commissioner creates a charge referred to in subsection (1) by serving the tax debtor with a notice in writing specifying the tax debtor, the assets charged, the extent of the charge as provided for in subsection (3), the tax to which the charge relates and details regarding the Commissioner's power of sale under section I 1 3.

(3) The assets of a tax debtor charged under subsection (2) are charged to the extent of the tax payable, interest accruing with respect to that tax under section 100 and any costs of charge and sale.

(4) A charge created under subsection (2) does not have effect until -

(a) where an interest in land or buildings are charged, the Commissioner files an application to register the charge under subsection (6); and

(b) in any other case, the notice is served on the tax debtor under subsection (2).

(5) A charge created under subsection (2) shall be released when the tax debtor pays to the Commissioner in full the amounts referred to in subsection (3) that are secured by the charge.

(6) Where the Commissioner creates a charge over an interest in land or buildings under subsection (2), the Registrar of Titles or otherwise referred to as the Registrar shall, without fee, register the charge on the title of the interest in land or buildings.

(7) Where a charge over an interest in land or buildings is released under subsection (5), the Registrar shall, without fee, remove the entry of the charge from the title of the interest in land or buildings within 30 days of the release.

(8) The activities of the Commissioner under this section, irrespective of whether they result in the transfer of title to an asset, are exempt from stamp duty.

(9) The Commissioner may at any time serve on a tax debtor a notice in writing specifying any costs of charge and sale with respect to assets of the debtor incurred by the Commissioner prior to the date of service and requiring the debtor to pay those costs to the Commissioner by the date specified in the notice.

(10) For the purposes of this section, "costs of charge and sale" with respect to assets means any expenditure incurred or to be incurred by the Commissioner or an authorised agent-

(a) under this section with respect to creating or releasing a charge over the assets; or

(b) under section 113 with respect to taking possession of, holding and selling the charged assets.

Sale of charged-assets

113.-(l) The Commissioner shall notify a tax debtor of the Commissioner's intention to sell charged assets owned by the debtor (a "subsection (1) notice").

(2) A subsection (1) notice may be incorporated into or accompany a notice referred to in section 112(2) and shall be in writing, served on the tax debtor and specify -

(a) the charged assets, the Commissioner's intention to sell those assets and the proposed method and timing of sale; and

(b) in the case of tangible assets that the Commissioner intends to take possession of, the manner in and place at which the possession shall occur.

(3) The Commissioner -

(a) may take possession of tangible assets referred to in a subsection (1) notice, whether directly or through an authorised agent, at any time after the notice is served;

(b) for the purposes of taking possession, may enter at any time any premises described in the subsection (1) notice and request the assistance of the police;

(c) shall, at the time of taking possession, provide the tax debtor with an inventory of assets seized; and

(d) where the assets are tangible assets other than an interest in land or buildings, store the assets, at the cost of the tax debtor, at any place that the Commissioner considers appropriate.

(4) Where the Commissioner serves a tax debtor with a subsection (1) notice, the Commissioner may, after public notice, sell the charged assets but not before -

(a) where the charged assets are an interest in land or buildings, 30 days after taking possession under subsection (3);

(b) where the charged assets are perishable tangible assets, one day after taking possession under subsection (3);

(c) where the charged assets are tangible assets other than those referred to in paragraph (a) or (b), 10 days after taking possession under subsection (3); and

(d) in any other case, 10 days after service of the subsection (1) notice.

(5) The proceeds of a sale under subsection (4) shall be used to pay the costs of charge and sale of the assets sold, then to pay the tax due and interest accrued with respect to that tax under section 100 and any remainder shall be paid to the tax debtor.

(6) After applying sale proceeds in accordance with subsection (5), the Commissioner shall serve the tax debtor with a written notice detailing the manner in which the sale proceeds have been applied.

(7) If the proceeds of a sale applied in accordance with subsection (5) are insufficient to pay in full the costs of charge and sale, the tax due and interest accrued with respect to that tax under section I 00, the Commissioner may proceed to collect the insufficiency with fresh actions under this Division or Division IV of this Part.

(8) This section does not restrict the exercise of any rights that the Commissioner otherwise has by reason of a security created under section 111 or 112.

(9) The activities of the Commissioner under this section, irrespective of whether they result in the transfer of title to an asset, are exempt from stamp duty.

(10) For the purposes of this section -

"charged assets" owned by a tax debtor means assets held by a withholding agent on trust under section 111(2) or assets of a tax debtor that the Commissioner has created a charge over under section 112(2);

"costs of charge and sale" with respect to assets has the meaning in section 112(10); and

"tax debtor" has the meaning in section 112 and includes a withholding agent referred to in section 111.

Departure Prohibition Order

114.-(1) Subsection (2) applies where a person fails to pay tax on or before the date the tax is payable.

(2) Where this subsection applies, the Commissioner may, by notice in writing to the Director of Immigration, order the Director to prevent the person from leaving the United Republic for a period of 72 hours from the time the notice is served on the Director.

(3) The Commissioner shall withdraw a notice under subsection (2) where the person pays the tax or makes an arrangement for payment satisfactory to the Commissioner.

(4) On application by the Commissioner, the High Court may extend the period referred to in subsection (2).

Division IV- Third Party Liability

Officers of entities

115.-(1) Subject to the provisions of subsection (3), when an entity commits an offence, every person who is an officer of the entity at that time shall be deemed to be committing the same offence.

(2) Subject to the provisions of subsection (3), where an entity fails to pay tax on the due date on which the tax is payable, every person who is an officer of the entity at that time or was such an officer within the previous six months shall be jointly and severally liable with the entity and every other such person for payment of the tax.

(3) Subsections (1) and (2) do not apply to a person where -

(a) the offence or omission is committed by the entity without the person's knowledge or consent; and

(b) the person has exercised the degree of care, diligence and skill that a reasonably prudent person would have exercised in comparable circumstances to prevent the commission of the offence or failure.

(4) Where a person pays tax under subsection (2) -

(a) the person may recover the payment from the entity;

(b) for the purposes of paragraph (a), the person may retain out of any assets (including money) of the entity in or coming into the possession of the person an amount not exceeding the payment; and

(c) no claim may be made against the person by the entity or any other person with respect to the retention.

(5) For the purposes of this section, "officer" of an entity means a manager of the entity or a person purporting to act in that capacity.

Recovery of tax from receiver

116.-(1) A receiver shall notify the Commissioner in writing within fourteen days of being appointed to the position of receiver or taking possession of an asset situated in the United Republic, whichever occurs first.

(2) The Commissioner may serve a receiver with a notice in writing specifying an amount that appears to the Commissioner to be sufficient to provide for any tax that is due or will become due by the tax debtor.

(3) After receiving a notice under subsection (2), a receiver -

(a) shall sell sufficient of the assets that come into the receiver's possession under the receivership to set aside, after payment of any debts having priority over the tax referred to in that subsection, the amount notified by the Commissioner under that subsection; and

(b) shall be liable to pay to the Commissioner on account of the tax debtor's tax liability the amount set aside.

(4) To the extent that a receiver fails to set aside an amount as required by subsection (3), the receiver is personally liable to pay to the Commissioner on account of the tax debtor's tax liability the amount that should have been set aside but may recover any amount

paid from the tax debtor.

(5) For the purposes of this section -

"receiver" means any person who, with respect to an asset situated in the United Republic, is -

(a) a liquidator of an entity;

(b) a receiver appointed out of court or by a court in respect of an asset or entity;

(c) a trustee for a bankrupt person;

(d) a mortgagee in possession;

(e) an executor or administrator of a deceased individual's estate; or

(f) conducting the affairs of an incapacitated individual; and

"tax debtor" means the person whose assets come into the possession of a receiver.

Recovery of tax from person owing money to tax debtor

117.-(1) This section applies where tax is due by a person, ("the tax debtor") and the tax debtor fails to pay the tax on or before the date it is payable.

(2) Where this section applies, the Commissioner may by notice in writing require any person, the "payer" -

(a) owing or who may subsequently owe money to the tax debtor;

(b) holding or who may subsequently hold money for or on account of, the tax debtor;

(c) holding or who may subsequently hold money on account of a third person for payment to the tax debtor; or

(d) having authority from a third person to pay money to the tax debtor,

to pay and the payer shall pay, on account of and to the extent of the tax due by the tax debtor, the money to the Commissioner on the date specified in the notice.

(3) The Commissioner shall serve the payer with the notice referred to in subsection (2) and, as soon as practicable after that service, serve the tax debtor with a copy of the notice.

(4) The date specified in the notice under subsection (2) shall not be a date before -

(a) the money becomes payable to the tax debtor or the money is held on behalf of the tax debtor; and

(b) the payer is served with the notice under subsection (3).

(5) A notice under subsection (2) ceases to have effect where the tax with respect to which the notice is issued is paid or otherwise satisfied.

(6) Where a person served with a notice under subsection (3) is unable to comply with the notice by reason of lack of moneys owing to, or held for, the tax debtor, the person shall, as soon as is practicable and in any event before the payment date specified in the notice, notify the Commissioner accordingly in writing setting out the reasons for the inability to comply.

(7) Where a notice is served on the Commissioner under subsection (6), the Commissioner may, by notice in writing -

(a) accept the notification and cancel or amend the notice issued under sub-section (2); or

(b) reject the notification.

(8) A person making a payment pursuant to a notice under subsection (2) is treated as having acted under the authority of the tax debtor and of all other persons concerned and is hereby indemnified in respect of the payment against all proceedings, Civil or Criminal, and all processes, judicial or extra judicial, notwithstanding any Provisions to the contrary in any written law, a contract, or agreement.

(9) For the purposes of this section, "money" includes a debt obligation denominated or payable in money.

Recovery of tax from agent of non-resident

118.-(1) Where a non-resident person (the "tax debtor") fails to pay tax on or before the date it is payable, the Commissioner may, by service of a notice in writing, require a person who is in possession of an asset owned by the tax debtor to pay tax on behalf of the tax debtor, up to the market value of the asset but not exceeding the amount of tax due by the tax debtor.

(2) For the purposes of subsection (1) -

(a) a tax debtor who charters an aircraft or ship under a charter exceeding three years shall be treated as owning the aircraft or ship during that period; and

(b) the captain of any aircraft or ship shall be treated as being in possession of the aircraft or ship.

(3) The Commissioner may, by service of a notice in writing, require a resident partnership or a resident partner to pay on behalf of a non-resident partner tax due by the non-resident partner up to the amount of tax due that is attributable to any amount included in calculating the non-resident partner's income under section 50.

(4) Where a person makes a payment to the Commissioner pursuant to a notice under subsection (1) or (3) -

(a) the person may recover the payment from the tax debtor or non-resident partner;

(b) for the purposes of paragraph (a), the person may retain out of any assets (including money) of the tax debtor or non-resident partner in or coming into the possession of the person an amount not exceeding the payment; and

(c) the tax debtor, non-resident partner or any other person may not make a claim against the person with respect to the retention.

Division V: *Proceedings Under Divisions II, III and IV of this Part*

Compounding offences

119.-(1) Subject to the provisions of subsection (2), where any person commits an offence under Division 11, of this Part, other than of a kind referred to in section 108, the Commissioner may, at any time prior to the commencement of court proceedings -

(a) compound the offence; and

(b) order the person to pay a sum of money specified by the Commissioner but not exceeding the amount of the fine prescribed for the offence.

(2) The Commissioner may compound an offence under this section only if the person concerned admits in writing that the person has committed the offence.

(3) Where the Commissioner compounds an offence under this section, the order referred to in subsection (1) -

(a) shall be in writing, specifying the offence committed, the sum of money to be paid and the date for payment and have attached the written admission referred to in subsection (2);

(b) shall be served on the person who committed the offence;

(c) shall be final and not subject to any appeal; and

(d) may be enforced in the same manner as an order of the High Court for the payment of the amount stated in the order.

(4) Where the Commissioner compounds an offence under this section, the person concerned shall not be liable for a penalty under Division I or prosecution under Division 11 of this Part with respect to that offence.

Officer may appear

120. Notwithstanding any law to the contrary, any officer duly authorised in writing by the Commissioner may -

(a) appear on behalf of the Commissioner in any court proceedings to which the Commissioner is a party; and

Act No. 9 of 1985

(b) subject to the directions of the Director of Public Prosecutions, conduct any prosecution for an offence under this Act, other than an offence committed by an officer or associate of an officer of the Tanzania Revenue Authority and for such purpose shall have all the powers of a public prosecutor appointed under the Criminal Procedure Act.

Venue

121. Any proceedings with respect to an offence or in recovery of tax under Divisions II, III or IV of this Part shall be commenced, heard and disposed of at the court with competent jurisdiction nearest to -

(a) the usual place of abode of the person who is charged with the offence or from whom recovery is sought, as the case requires; or

(b) the office of the Commissioner having primary responsibility for the person's affairs under this Act,

at the Commissioner's choice.

Admissibility of documents

122.-(1) Notwithstanding any law to the contrary -

(a) any document, or copy of or extract from any document, relating to the affairs of any person that has been seized or obtained by; or

(b) any statement of a person relating to the affairs of the person that is made to,

an officer of the Tanzania Revenue Authority in accordance with the provisions of this Act is admissible in any proceedings with respect to an offence or in recovery of tax under Divisions II, III or IV of this Part or in proceedings under any other Act administered by the Tanzania Revenue Authority.

(2) A document, copy, extract or statement is admissible under subsection (1) irrespective of whether any person was induced to provide the document, copy or extract or make the statement by reason that the person was led to believe -

(a) that the Commissioner might, on any terms, settle the institution or prosecution of proceedings; or

(b) that the decision of the Commissioner as to whether to settle the institution or prosecution of proceedings would be influenced by the fact that, the person confessed to being guilty of an offence and provided full facilities for investigation.

Proof of tax payable

123. In proceedings with respect to an offence or in recovery of tax under Divisions II, III or W of this Part, the production of a certificate signed by the Commissioner stating the name and address of the per-son liable and the amount of tax payable by the person is *prima facie* evidence of the amount of tax payable by the person.

124. Subject to the provisions of the Tax Revenue Appeals Act- Assessments and related decisions unaffected Act No. 15 of 2000

(a) the operation and enforcement of -

(i) an assessment or any decision taken by the Commissioner with respect to an assessment; or

(ii) the tax liability of a person under this Act; or

(b) the date on which tax is payable,

shall not be stayed or otherwise affected by -

(c) the institution of proceedings with respect to an offence or in recovery of tax under Divisions 11, III or IV of this Part or by reason that the Commissioner compounds an offence under section 119; or

(d) the filing of an objection or notice of appeal under the Tax Revenue Appeals Act. Act No. 15 of 2000

PART IX:

REMISSION AND REFUND

125.-(1) The Minister may, by order in the Gazette, remit any tax that is due by a person. Remission

(2) The Commissioner may remit in whole or in part any interest or penalty charged under Division I of Part VIII where the person liable for the interest or penalty shows good cause.

126.-(1) Where tax credits available to a person for a year of income under sections 87, 88, 90 or 95 exceed the person's income tax payable under section 4(l)(a) and (b) for the year of income or where the Commissioner is otherwise satisfied that a person has paid tax in excess of the person's tax liability, the Commissioner shall - Refunds, and set-off

(a) apply the excess in reduction of any tax due but unpaid by the person under this Act; and

(b) refund the remainder, if any, to the person within 45 days of the person making an application under subsection (3).

(2) Interest paid by a person under section 100 shall be refunded to the person to the extent that the tax to which the interest relates is found not to have been payable.

(3) A person may apply to the Commissioner in writing for a refund under subsection (1) within three years of the later of -

(a) the end of the year of income during which the events occurred that gave rise to the payment of the excess; or

(b) the date on which the excess was paid.

(4) The Commissioner shall serve the person with written notice of the Commissioner's decision on an application under subsection (3).

(5) Where the Commissioner refunds an amount of tax to a person, whether by reason of court order or otherwise, the Commissioner shall be liable to pay the person interest at the statutory rate, compounded monthly, for the period -

(a) where the refund relates to excess tax credits available to a person for a year of income, commencing three months after the person files a return of income for the year of income and ending on the day the refund is made; and

(b) in any other case, commencing three months from the date the person paid the tax to be refunded and ending on the day the refund is made.

PART X

ADMINISTRATION

Division I: The Commissioner and Other Officers

Delegation by the Commissioner

127. The Commissioner may, subject to such restrictions and limitations as he may specify, authorise an officer to exercise any of his powers and duties under this Act other than the power to -

(a) compound an offence under section 119; or

(b) remit interest and penalties under section 125(2).

Division II: *Official Documentation and Registration*

International Agreements

128.-(1) To the extent that the terms of an international agreement to which the United Republic is a party are inconsistent with the provisions of this Act, apart from subsection (5) and Subdivision B of Division 11 of Part 111, the terms of the agreement prevail over the provisions of this Act.

(2) This subsection applies where the Commissioner receives a request pursuant to an international agreement from the competent authority of another country for the collection in the United Republic

of an amount payable by a person otherwise referred to as the "tax debtor" under the tax laws of the other country.

(3) Where subsection (2) applies, the Commissioner may, by service of a notice in writing, require the tax debtor to pay the amount to the Commissioner by the date specified in the notice and for transmission to the competent authority.

(4) This subsection applies where an international agreement provides that the United Republic shall exempt income or a payment or subject income or a payment to reduced tax.

(5) Where subsection (4) applies, the exemption or reduction shall not be available to any entity that meets the following conditions:

(a) the entity is, for the purposes of the agreement, a resident of the other contracting state; and

(b) 50 percent or more of the underlying ownership of the entity is held by persons, being individuals or entities in which no individual holds part of the underlying ownership, that are not, for the purposes of the agreement, residents of the other contracting state or the United Republic.

(6) For the purposes of this section, "international agreement" means a treaty or other agreement with a foreign government that has entered into force in the United Republic providing for -

(a) relief of international double taxation and the prevention of fiscal evasion; or

(b) reciprocal administrative assistance in the enforcement of tax liabilities.

Regulations

129. The Minister may make regulations -

(a) for matters authorised to be made or prescribed under this Act by regulation;

(b) for the better carrying into effect of the principles, purposes and provisions of this Act;

(c) for the establishment, membership, powers and duties of District Tax Advisory Committees; and

(d) requiring persons or a class of persons to provide such information as may be prescribed, whether on an isolated or periodic basis.

Practice notes

130.-(1) To achieve consistency in the administration of this Act and to provide guidance to persons affected by this Act, including officers of the Tanzania Revenue Authority, the Commissioner may issue in writing practice notes setting out the Commissioner's interpretation of this Act.

(2) A practice note shall be binding on the Commissioner until revoked.

(3) A practice note shall be not binding on other persons affected by this Act.

(4) The Commissioner shall make practice notes available to the public at offices of the Tanzania Revenue Authority and at such other locations or by such other medium as the Commissioner may determine.

Private rulings

131.-(1) The Commissioner may, on application in writing by a person, issue to the person, by notice in writing served on the person, a private ruling setting out the Commissioner's position regarding the application of this Act to the person with respect to an arrangement proposed or entered into by the person.

(2) Where prior to the issue of a ruling under subsection (1), the person makes -

(a) a full and true disclosure to the Commissioner of all aspects of the arrangement relevant to the ruling; and

(b) the arrangement proceeds in all material respects as described in the person's application for the ruling,

the ruling shall be binding on the Commissioner with respect to the application of this Act to the person with respect to the arrangement.

(3) A ruling shall not be binding on the Commissioner under subsection (2) to the extent to which the Act as in force at the time the ruling is issued is changed.

Form of documentation

132.-(1) The Commissioner may from time to time specify the form of documents required under this Act, by regulations made under this Act and for the efficient administration of this Act.

(2) The Commissioner shall make the forms referred to in subsection (1) available to the public at offices of the Tanzania Revenue Authority and at such other locations or by such other medium as the Commissioner may determine.

Tax Identification Number

133.-(1) For the purposes of identifying persons liable to tax under this Act, the Commissioner may and, in the case of an applicant under subsection (2), shall, by service of a notice in writing on a person, issue the person with a number to be known as a tax identification number.

(2) Every resident person who carries on a business anywhere and non-resident person who carries on a business in the United Republic shall apply, in the prescribed form, to the Commissioner for a tax identification number within 15 days of beginning to carry on the business.

(3) All persons shall show their tax identification number, if they have one, in any claim, notice, return, statement or other document used for the purposes of this Act.

(4) Subject to any written direction by the Commissioner to the contrary, every institution specified in the First column of the Fourth Schedule shall require a taxpayer identification number from any person applying for the matters or engaged in the transactions listed in the second column of the Fourth Schedule.

(5) The Minister may, by order in the *Gazette*, amend, vary or replace the provisions of the Fourth Schedule.

Tax consultants

134.-(1) A person shall not (other than as an employee) in return for a payment practice or hold out to be an income tax consultant unless the person is an approved tax consultant.

(2) Approved tax consultants shall be those persons as approved by the Commissioner on such terms and conditions as may be prescribed in the Regulations.

Certification of Estimates and Returns

135.-(1) Subject to provisions of subsection (2), a certified public accountant in public practice who prepares or assists in the preparation of a return of income under section 91 or an attachment to such a return of another person, shall sign the estimate or return certifying that -

(a) the first-mentioned person has examined the relevant documents of the other person maintained under section 8 1, and

(b) to the best of the first-mentioned person's knowledge, the return or attachment presents a true and fair view of the circumstances to which it relates.

(2) Where a certified public accountant in public practice refuses to sign an estimate or return as required by subsection (1), the agent shall furnish the other person with a statement in writing of the reasons for such refusal, and must sign the return noting that the signature is subject to such a statement.

Filing and service of documents

136.-(1) A document to be served on a person under this Act is considered sufficiently served if -

(a) where the person is to be served by the Commissioner and the person has notified the Commissioner in writing of an address for service under this Act, including a fax number or electronic-mail address, left at or sent to the address;

(b) handed to the person or, in the case of an entity, a manager of the entity; or

(c) left at or sent by post to the usual or last known place of abode, business, office, post office box or other address of the person including, where the document is sent by registered post, where the person has been informed that the document awaits the person at the post office.

(2) The time at which a document is considered served in accordance with subsection (1) is -

(a) in the case of service by fax or electronic mail, at the time the transmission is sent;

(b) in the case of service by handing to a person or leaving at a place, at the time of handing or leaving;

(c) in the case of service by registered post, at the time the document is delivered or the person is informed that the document awaits them;

(d) in the case of other service by post to an address within the United Republic, ten days after posting; and

(e) in the case of other service by post to an address outside the United Republic, the time at which the document would normally be delivered in the ordinary course of post.

Authorised and defective documents

137.-(1) A document issued by the Commissioner under this Act is sufficiently authenticated if the name or title of the Commissioner, or authorised officer of the Tanzania Revenue Authority, is signed, printed, stamped or written on the document.

(2) A document issued under this Act is not invalid or defective if -

(a) it is in substance and effect in conformity with the Act; and

(b) the person to whom the document is addressed or to whom it applies is designated in the document according to common understanding.

(3) Where a document issued by the Commissioner under this Act contains a defect that does not involve a dispute as to the interpretation of this Act or facts involving a particular person, the Commissioner may, for the purposes of rectifying the defect, amend the document.

Division III: Audit and Information Collection

Commissioner's access to information

138.-(1) For the purposes of administering this Act, the Commissioner and every officer who is authorised in writing by the Commissioner -

(a) shall have -

(i) at all times during the day between 9am and 6pm and without any prior notice; and

(ii) at all other times as permitted by a search warrant granted by a District or Resident Magistrate's Court,
full and free access to any premises, place, document or other asset;

(b) may make an extract or copy, including an electronic copy, of any document to which access is obtained under paragraph (a);

(c) may seize any document that, in the opinion of the Commissioner or authorised officer, affords evidence that may be material in determining the tax liability of any person under this Act; and

(d) may, where a document is not available or a copy is not provided on request by a person having access to the document, seize an asset to which access is obtained under paragraph (a) that the Commissioner or authorised officer reasonably suspects contains or stores the document in any form.

(2) In exercising powers under subsection (1), an officer shall, on request, produce the authorisation referred to in that subsection to an occupier of the premises or place or to a person having access to the document or asset to which the exercise of powers relates.

(3) On request by the Commissioner or an authorised officer, an occupier of the premises or place or a person having access to the document or asset to which an exercise of powers under subsection (1) relates, shall provide all reasonable facilities and assistance for the effective exercise of the powers.

(4) The Commissioner may retain -

(a) any document seized under subsection (1)(c) for as long as is required to determine the person's tax liability or for any proceedings under this Act; and

(b) any asset seized under subsection (1)(d) for as long as is necessary to obtain access to the document, which document may be retained in accordance with paragraph (a).

(5) A person whose documents or assets are retained under subsection (4) may examine them and, in the case of documents, make copies or extracts from them, at the person's expense, during regular office hours under such supervision as the Commissioner may determine.

(6) The Commissioner or authorised officer may request the assistance of the police when exercising powers under subsection (1).

(7) For the purposes of this section, "occupier" in relation to premises or a place means the owner, manager or any other person on the premises or place.

Notice to obtain information

139.-(1) The Commissioner may, by service of a notice in writing, require a person, whether or not liable for tax under this Act -

(a) to produce, including by way of creation of a document, within the time specified in the notice, any information that is described with reasonable certainty in the notice;

(b) to attend at the time and place designated in the notice for the purpose of being examined on oath by the Commissioner or by an officer authorised in writing by the Commissioner concerning the tax affairs of the person or any other person; or

(c) to produce at an examination of the person under paragraph (b) and for the purposes of that examination any document in the control of the person that is described with reasonable certainty in the notice.

(2) Any person to be examined on oath under subsection (1)(b) is entitled to legal or other representation throughout the examination.

(3) A notice under subsection (1) shall be served by delivery of the notice by hand to the person to whom it is directed or leaving the notice at the person's last and usual place of business or abode.

Official Secrecy

140.-(1) Every officer authorised under or instructed with the administration of this Act or person who was formerly so authorised or instructed shall -

(a) regard and deal with all documents and information coming into the officer's possession or knowledge in connection with the performance of duties under this Act as secret; and

(b) not disclose such documents or information to a court, tribunal or other person except as provided for in subsections *(2)*, and (3).

(2) An officer may disclose a document or information referred to, in subsection (1) -

(a) to the extent required in order to perform the officer's duties under this Act;

(b) where required by a court or tribunal in relation to administrative review or proceedings with respect to a matter under this Act;

(c) to the Minister or the Chief Secretary of the President's Office;

(d) where the disclosure is necessary for the purposes of any law administered by the Tanzania Revenue Authority;

(e) to any person in the service of the Government of the United Republic or the Revolutionary Government of Zanzibar in a revenue or statistical department where such disclosure is necessary for the performance of the person's official duties;

(f) to the Auditor-General or any person authorised by the Auditor-General where such disclosure is necessary for the performance of official duties; or

(g) to the competent authority of the government of another country with which the United Republic has entered into an international agreement, to the extent permitted under that agreement.

(3) Any person, court, tribunal or authority receiving documents and information under subsection (2) shall keep them secret under the provisions of this section, except to the minimum extent necessary to achieve the purposes for which the disclosure is permitted.

PART XI

TRANSITIONAL

Repeal of Act No. 33 of 1973

141.-(l) The Income Tax Act, 1973 is hereby repealed.

(2) The applicable regulations, rules, orders or notices made under the Income Tax Act, and in force shall continue to be in force, as if they have been made as regulations, rules, orders or notices under this Act until such time as they are amended or revoked by regulations, rules, orders or notices made under this Act.

Transition

142.-(1) Subject to the provisions of subsection (6), the repealed legislation continues to apply for years of income commencing prior to the date on which this Act comes into effect.

(2) All appointments made under the repealed legislation and subsisting at the date this Act comes into effect shall be deemed to be appointments made under this Act.

(3) Any international agreement made by the Government of the United Republic that is effective at the time this Act comes into effect shall continue to have effect under this Act.

(4) All blank forms and other documents used in relation to the repealed legislation may continue to be used under this Act and all references in those forms and documents to provisions of and expressions appropriate to the repealed legislation are taken to refer to the corresponding provisions and expressions of this Act.

(5) A reference in this Act to -

(a) a previous year of income includes, where the context requires, a reference to a year of income under the repealed legislation; or

(b) this Act or to a provision of this Act includes, where the context requires, a reference to the repealed legislation or to a corresponding provision of the repealed legislation, respectively.

(6) Subject to the provisions of section 20(4), (6), (7) and (8), a person whose year of income under the repealed legislation is, at the time the repealed legislation ceases to have effect, a period of twelve months other than the calendar year shall be deemed as having been granted approval by the Commissioner under section 20(3) to use that year of income under this Act.

(7) Interest derived by a person from long-term bonds of not less than three years maturity period issued and listed on the Dar es Salaam Stock Exchange in the fiscal year 2002/2003 shall be exempted under this Act.

Agreements and Certificates for-fiscal stability

143.-(1) Subject to the provisions of subsection (2), where the Government of the United Republic has concluded a binding agreement with a person (whether before or after the commencement of this Act) such that certain provisions of the repealed legislation or provisions of this Act that are later repealed will continue to apply or not be altered to the detriment of the person-

(a) the provisions of the repealed legislation shall continue to apply -

(i) to the extent provided for in the agreement, for the duration of the agreement; or

(ii) until such time as the person relinquishes the right to apply those provisions,
whichever is earlier; and

(b) in calculating the tax liability of the person during the application period referred to in paragraph (a), the Commissioner may, in the Commissioner's discretion -

(i) continue to apply other provisions of the repealed legislation that the Commissioner considers are associated with or that have an application that is consequential upon the provisions mentioned in paragraph (a) instead of applying the corresponding provisions under this Act; and

(ii) disapply any provisions in this Act that have no corresponding provision in the repealed legislation.

(2) An agreement referred to in subsection (1) have no effect on the application of this Act until registered by the Minister in the Register of Tax Agreements.

(3) A person seeking the benefit of an agreement referred to in subsection (1) shall apply to the Minister for inclusion of the agreement in the Register of Tax Agreements.

(4) For the purposes of this section, an agreement concluded by the Government of the United Republic includes a certificate of incentive issued by the Tanzanian Investment Centre under the Tanzania Investment Act, 1997.

Act No. 26 of 1997

144.-(1) Subject to the provisions of subsection (2), the following provisions shall apply in calculating the cost of assets owned and net incomings of liabilities owed at the commencement of this Act:

Assets and liabilities at commencement

(a) the net cost of a depreciable asset or class of depreciable assets for which capital allowances were available under the repealed legislation is, at the commencement, the residue of expenditure or written down value for the asset or assets, as the case requires, under the repealed legislation at the time the repealed legislation ceased to have effect;

(b) the net cost of a depreciable asset for which capital allowances were not available under the repealed legislation is, at the commencement, the market value of the asset at that time;

(c) the net cost of a business asset or investment asset that is an interest in any premises or a financial asset within the meaning of section 13 of the Income Tax Act, 1973 is, at the commencement, the lower of the asset's cost (determined under section 13 of the Income Tax Act, 1973 and adjusted for

inflation and devaluation to the date of commencement of this Act only) and the market value of the asset at that time of commencement;

(d) the net cost of a business asset or investment asset, other than an asset referred to in paragraph (c), is, at the commencement, the market value of the asset at that time of commencement; and

(e) the net incomings of a liability of a business is, at the commencement, the market value of the liability (expressed in a positive amount) at that time.

(2) The net cost of an asset for which a deduction or immediate expensing was available under the repealed legislation is, at the commencement, nil.

Mining

145.-(1) Part III of the Second Schedule of the Income Tax Act, 1973 shall continue to apply for the purposes of this Act.

(2) Where expenditure or a purchase price falls to be treated under the Second Schedule of the Income Tax Act, 1973 that Schedule shall apply instead of section 7, Subdivision D of Division I of Part III and the Third Schedule of this Act, as the case requires

FIRST SCHEDULE

(Made Under Section 4(6))

TAX RATES

rates of income tax for individuals

1.-(1) Subject to the provisions of subparagraphs (2), (3) and (4) of this paragraph and paragraph 2, the total income of a resident individual for a year of income shall be taxed at the following rates:

TOTAL INCOME	RATE PAYABLE
Where total income does not exceed Shs. 600,000	NIL
Where total income exceeds Shs. 600,000 but does not exceed Shs. 2,160,000	18.5% of the amount in excess of Shs. 600,000
Where total income exceeds Shs. 2,160,000 but does not exceed Shs. 4,320,000	Shs. 288,600 plus 20% of the amount in excess of Shs. 2,160,000
Where total income exceeds Shs. 4,320,000 but does not exceed Shs. 6,480,000	Shs. 720,600 plus 25% of the amount in excess of Shs. 4,320,000
Where total income exceeds Shs. 6,480,000	Shs. 1,260,600 plus 30% of the amount in excess of Shs. 6,480,000

(2) Subparagraph (3) shall apply where -

(a) the total income of a resident individual for a year of income exceeds Shs. 600,000; and

(b) any of the following (the "gains") are included in calculating the individual's income:

(i) net gains from the realization of investment assets but not exceeding the amount calculated as -

A-B

Where -

A is any gain from the realization of shares and securities in a resident corporation or an interest in land or buildings situated in the United Republic; and

B is losses on the realization of assets referred to in A used in calculating the net gains; and

(ii) a commuted pension from an approved retirement fund.

(3) Where this subparagraph applies -

(a) the greater of -

(i) the individual's total income less the gains; or
(ii) Shs. 600,000,

shall be taxed at the rates specified in subparagraph (1) as though it were the only total income of the individual; and

(b) the balance of the total income shall be taxed at the rate of 10 percent.

(4) The total income of a non-resident individual for a year of income shall be taxed at the rate of 20 percent.

Presumptive Income Tax for Individuals

2.-(1) Where a resident individual meets the following requirements for a year of income the individual's income tax payable with respect to section 4(l)(a) for the year of income shall be equal to the amount of presumptive income tax provided for in subparagraph (3):

(a) the individual's income for a year of income consists exclusively of income from a business having a source in the United Republic;

(b) the turnover of the business does not exceed the threshold in subparagraph (2); and

(c) the individual does not elect to disapply this provision for the year of income.

(2) The threshold referred to in subparagraph (1)(b) is Shillings. 20,000,000.

(3) The amount of presumptive income tax referred to in subparagraph (1) is -

TURNOVER	**TAX PAYABLE WHERE INCOMPLETE RECORDS ARE KEPT**	**TAX PAYABLE WHERE COMPLETE RECORDS ARE KEPT**
Where turnover does not exceed shs. 3,000,000	Shs. 20,000	0.7% of the turnover
Where turnover exceeds 3,000,000 but does not exceed Shs. 7,000,000	Shs. 50,000	0.7% of the
Where turnover exceeds Shs. 3,000,000 but does not exceed	Shs. 165,000	Shs. 50,000 plus 1.6% of turnover in excess of Shs. 7,000,000
Shs. 7,000,000 Where turnover exceeds Shs. 14,000,000 but does	Shs. 385,000	Shs. 165,000 plus 3.6% of turnover in excess of Shs. 14,000,000

Rates of Income Tax for Entities

3.-(1) The total income of a corporation, trust, unapproved retirement fund or domestic permanent establishment of a non-resident person for a year of income shall be taxed at the rate of 30 percent.

(2) The repatriated income of a domestic permanent establishment of a non-resident person for a year of income shall be taxed at the rate of 10 percent.

Rates of Withhol-ding Tax

4. Income tax to be withheld from payments under Division 11 of Part VII shall be withheld at the following rates:

(a) payments to which section 81 applies -

(i) in the case of a resident withholdee - at the rates prescribed in regulations; or
(ii) in the case of a non-resident withholdee - 15 percent;

(b) payments to which section 82 applies -
(i) in the case of dividends -

(aa) of a corporation listed on the Dar es Salaam stock Exchange - 5 percent; or
(bb) of any other corporation - 10 percent;

(ii) in the case of interest, rent or a commuted pension paid to a resident withholdee or interest paid to a non resident withholdee -- I 0 percent; or
(iii) in the case of other payments - 15 percent; and

(c) payments to which section 83 applies -

(i) in the case of service fees referred to in section 83(l)(a) - 5 percent;
(ii) in the case of service fees referred to in section 83(l)(b) - 15 percent; and
(iii) in the case of insurance premiums referred to in section 83(l)(b) -- 5 percent.

Change of Rate Act No. 10 of 1963

5.-(1) Where an order relating to tax rates is in force under the Provisional Collection of Taxes and Duties Act, with respect to any year of income, the rates of tax referred to in this Schedule shall, so long as the order remains in force, be construed in accordance with the order.

(2) Subject to the provisions of subparagraph (1), where the rates of tax specified under paragraphs 1, 2, 3 or 4 are changed for a year of income without specifying the precise date from which the change takes effect then -

(a) in the case of tax rates under paragraphs 1, 2 and 3, the change shall be treated as having effect from the start of the calendar year specified or if no year is specified from the start of the calendar year after the Act changing the rate receives Presidential Assent; and

(b) in the case of tax rates under paragraph 4, the change shall be treated as having effect from the start of the calendar year specified or if no year is specified, from the date the Act changing the rate receives Presidential Assent.

(3) Where a tax rate specified under paragraphs 1, 2 or 3 changes and the change takes effect on a date other than the start of a person's year of income then for the year of income in which the change takes place -

(a) the person's total income shall be apportioned between the part of the year of income occurring before the change and the remaining part according to the number of days in each part;

(b) the total income attributable to the part of the year of income occurring before the change shall be taxed at the rate applicable before the change and that attributable to the remaining part shall be taxed at the rate applicable after the change; and

(c) in the case of a resident individual, the thresholds referred to in paragraph I (I), both before and after change, shall be reduced in proportion to the part of the year of income occurring before the change and the remaining part.

SECOND SCHEDULE

EXEMPT AMOUNTS

(Made under section I 0)

1. The following amounts are exempt from income tax -

(a) amounts derived by the President of the United Republic or the President of the Revolutionary Government of Zanzibar from salary, duty allowance and entertainment allowance paid or payable to the President from public funds in respect of or by virtue of the office as President; Act No. 30 of 1997

(b) amounts derived by the Government (including Executive Agency established under the Executive Agencies Act, 1997) or any local authority of the United Republic or by the Revolutionary Government of Zanzibar or any local authority of Zanzibar except amounts derived from business activities that are unrelated to the functions of government; Act No. 5 of 1986

(c) amounts derived by any person entitled to privileges under the Diplomatic and Consular Immunities and Privileges Act to the extent provided in that Act or in regulations made under that Act;

(d) amounts derived by an individual from employment in the public service of the government of a foreign country provided -

(i) the individual is a resident person solely by reason of performing the employment or is a non-resident person; and

(ii) the amounts are payable from the public funds of the country;

(e) foreign source amounts derived by -

(i) an individual who is not a citizen of the United Republic and who is referred to in paragraph (d); or

(ii) a spouse or child of an individual referred to in subparagraph (i) where the spouse is resident in the United Republic solely by reason of accompanying the individual on the employment;

(f) amounts derived by -

(i) the East Africa Development Bank;
(ii) the Price Stabilization and Agricultural Inputs Trust; and
(iii) the Investor Compensation Fund under the Capital Markets Regulatory Authority;

Act No. 15 of 1991

(g) amounts derived during a year of income by a primary co-operative society-

(i) registered under the Co-operative Societies Act;
(ii) solely engaged in activities as a primary co-operative in one of the following fields:

(aa) agricultural activities, including activities related to marketing and distribution;
(bb) construction of houses for members of the cooperative;
(cc) distribution trade for the benefit of the members of the cooperative; or
(dd) savings and credit society; and

(iii) whose turnover for the year of income does not exceed shs. 50,000,000;

(h) pensions or gratuities granted in respect of wounds or disabilities caused in war and suffered by the recipients of such pensions or gratuities;

(i) a scholarship or education grant payable in respect of tuition or fees for full-time instruction at an educational institution;

(j) amounts derived by way of alimony, maintenance or child support under a judicial order or written agreement;

(k) amounts derived by way of gift, bequest or inheritance, except as required to be included in calculating income under sections 7(2), 8(2) or 9(2); and

(1) amounts derived in respect of an asset that is not a business asset, depreciable asset, investment asset or trading stock.

(m) amounts derived by way of foreign living allowance by any officer of the Government that are paid from public funds and in respect of performance of the office overseas.

(n) amounts earned by non-residents on deposits in Banks registered by the Bank of Tanzania;

Act No. 11 of 2002

(o) income derived from investments exempted under the Economic Processing Zones Act;

(p) income derived from investments exempted under any written laws for the time being in force in Tanzania Zanzibar.

(q) rental charges on aircraft lease paid to a non- resident by a person engaged in air transport business;

(r) amounts derived by a crop fund established by farmers under a registered farmers cooperative society, union or association for financing crop procurement from its members;

(s) gratuity granted to a Member of Parliament at the end of each term;

(t) the fidelity fund established under the Capital Markets and Securities Act 1998.

THIRD SCHEDULE

(Made under section 1 7)

DEPRECIABLE ASSETS, ALLOWANCES AND INCLUSIONS

Classification and Pooling of Depreciable Assets

1.-(1) Depreciable assets are classified as follows:

CLASS	DEPRECIABLE ASSETS
I	Computers and data handling equipment together with peripheral devices; automobiles, buses and minibuses with a seating capacity of less than 30 passengers, goods vehicles with a load capacity of less than 7 tonnes; construction and earth-moving equipment.
2	Buses with a seating capacity of 30 or more passengers, heavy general purpose or specialised trucks, trailers and trailer-mounted containers; railroad cars, locomotives, and equipment; vessels, barges, tugs, and similar water transportation equipment; aircraft; other self-propelling vehicles; plant and machinery (including windmills, electric generators and distribution equipment) used in agriculture, manufacturing or mining operations; specialised public utility plant and equipment; and machinery or other irrigation installations and equipment.
3	Office furniture, fixtures and equipment; any asset not included in another Class.
4	Natural resource exploration and production rights and assets referred to in subparagraph (3) in respect of natural resource prospecting, exploration and development expenditure.
5	Buildings, structures, dams, water reservoirs, fences, and similar works of a permanent nature used in agriculture, livestock fanning or fishing farming.
6	Buildings, structures, and similar works of permanent nature other than those mentioned in Class 5.
7	Intangible assets other than those in Class 4.

(2) Each depreciable asset owned and employed by a person during a year of income wholly and exclusively in the production of the person's income from a particular business shall be, at the time the asset is first owned and so employed, placed in a pool -

(a) in the case of a Class 1, 2, 3, 4, 5 or 6 depreciable asset other than one referred to in paragraph (c), with all other assets of the same Class so owned and employed by the person in that business;
(b) in the case of a Class 7 depreciable asset, of its own separately from other assets of that Class or any other Class; and
(c) in the case of a moveable tangible asset used by a person who conducts a business of land, sea or air transport operator or charterer to carry passengers, mail, livestock or other moveable tangible assets between different countries, of its own separately from other assets of any Class,

and those pools are referred to as the person's pools of depreciable assets for the year of income.

(3) To the extent not otherwise provided, expenditure incurred by a person wholly and exclusively in the production of the person's income from a business in respect of natural resource prospecting, exploration and development shall be treated as if it were incurred in securing the acquisition of an asset that is used by the person in that production.

Initial Allowance

2.-(1) Subject to this paragraph, an allowance is granted to a person for each item of plant or machinery -

(a) that is -

(i) used in manufacturing processes and fixed in a factory;
(ii) used in agriculture, livestock farming or fish farming; or
(iii) used for providing services to tourists and fixed in a hotel; and

(b) that is added to the person's Class 2 or 3 pools of depreciable assets for a business of the person in accordance with paragraph 1(2).

(2) The amount of the allowance granted for each asset under subparagraph (1) is calculated as 50 percent of the net cost of the asset at the time it is added to the pool.

(3) The allowance granted to a person under subparagraph (1) is available in the year of income in which the asset is added to the person's pool of depreciable assets.

Depreciation Allowance

3.-(1) Subject to the provisions of this paragraph, an allowance shall be granted to a person for a year of income for each of the person's pools of depreciable assets equal to the depreciation for the year of income of each pool calculated in accordance with subparagraphs (2) and (7).

(2) Depreciation for a year of income for each of a person's pools of depreciable assets shall be calculated -

(a) in the case of Class 1, 2 and 3 pools, according to the diminishing value method; and

(b) in the case of Class 4, 5, 6 and 7 pools, according to the straight line method, using the following formula:

$$A \times B \times C/365$$

Where -

A is the depreciation basis of the pool at the end of the year of income;
B is the depreciation rate applicable to the pool; and
C is the number of days in the person's year of income.

(3) The depreciation basis of a Class 1, 2 or 3 pool of depreciable assets of a person at the end of a year of income is the total of-

(a) the depreciation basis of the pool at the end of the previous year of income, if any, after deducting depreciation for that pool calculated under subparagraphs (2) and (7) for that year of income; and
(b) amounts added to the depreciation basis of the pool during the year of income under subparagraph (5) in respect of additions to the cost of assets in or added to the pool,

reduced, but not below zero, by incomings for the assets in the pool or that have been in the pool derived during the year of income.

(4) The depreciation basis of a Class 4, 5, 6 or 7 pool of depreciable assets of a person at the end of a year of income shall be the total of -

(a) the depreciation basis of the pool at the end of the previous year of income; and
(b) amounts added to the depreciation basis of the pool during the year of income under subparagraph (5) in respect of additions to the cost of assets in or added to the pool,

reduced, but not below zero, by incomings for the assets in the pool derived during the year of income.

(5) Additions to the cost of a depreciable asset included in a person's pools of depreciable assets are added to the depreciation basis of the person's relevant pool at the time the asset is added to the pool in accordance with sub paragraph (2) of paragraph I or the expenditure incurred, whichever is later.

(6) The depreciation rates applicable to each pool referred to in subparagraph (2) are:

CLASS	RATE
1	37.5%
2	25%
3	12.5%
4	20%
5	20%
6	5%
7	I divided by the useful life of the asset in the pool and rounded down to the nearest half year

(7) If the depreciation basis of a pool of depreciable assets at the end of a year of income reduced by depreciation calculated under subparagraph (2) produces an amount that is less than shillings 1,000,000, additional depreciation of the pool shall be calculated as equal to that amount.

(8) The allowance granted to a person under subparagraph (1) for a year of income with respect to a Class 4, 5, 6 or 7 pool of depreciable assets shall not exceed the depreciation basis of the pool at the end of the year of income reduced by all other such allowances granted to the person in any previous year of income in respect of the pool.

(9) For the purposes of calculating the depreciation basis of a pool of depreciable assets -

(a) amounts to be added under subparagraph (5) in respect of an asset when it is added to the pool shall be reduced by any initial allowance available under paragraph 2 in respect of the asset, irrespective of the year of income for which the initial allowance is available; and

(b) expenditure incurred in acquiring a road vehicle, other than a commercial vehicle, to the extent that the expenditure exceeds Shs. 15,000,000 the excess shall not be recognized.

(10) For the purposes of this paragraph, "commercial vehicle" means -

(a) a road vehicle designed to carry loads of more than half a tonne or more than thirteen passengers; or

(b) a vehicle used in a transportation or vehicle rental business.

Realisation of Depreciable Assets

4.-(1) The excess of -

(a) incomings derived by a person during a year of income for any assets that are or have been in a Class 1, 2, 3, 4, 5 or 6 pool of depreciable assets of the person during the year of income; over;

(b) (i) or (11), as appropriate -

(i) in the case of a Class 1, 2 or 3 pool, the depreciation basis of the pool at the end of the year of income calculated under paragraph 3(3) but disregarding those incomings; or

(ii) in the case of a Class 4, 5 or 6 pool, the written down value of the pool at the end of the year of income calculated under subparagraph (4) but disregarding those incomings,

shall be included in calculating the person's income for that year of income from the business in which the assets are or were employed.

(2) Where the assets in a pool of depreciable assets of a person are all realised by the person before the end of a year of income, the pool shall be dissolved and -

(a) an amount is included in calculating the person's income for the year of income calculated in accordance with the following formula:

A-B

or

(b) an allowance shall be granted to the person for the year of income calculated in accordance with the following formula:

B-A

Where -

A is the person's incomings derived during the year of income, or to be derived, for the assets; and

B is the sum of -

(i) the written down value of the pool at the end of the previous year of income; and

(ii) any initial allowance otherwise available in respect of the pool for the following year of income under paragraph 2; and

(iii) expenditure added to the depreciation basis of the pool during the year of income or to be added during the following year of income under paragraph 3(5).

(3) For the purposes of subparagraph (2), a person realizes a Class 4 depreciable asset only at the later of the following times:

(a) when the person ceases to conduct natural resource prospecting, exploration, development and production in the country where the prospecting, exploration or development giving rise to the asset occurred; or

(b) two years prior to the time at which the person and all associates of the person cease to conduct natural resource prospecting, exploration, development and production in the country.

(4) For the purposes of this section, "written down value" of a pool of depreciable assets at the end of a year of income means -

(a) in the case of a Class 1, 2 or 3 pool, the depreciation basis of the pool at the end of the year of income, if any, after deducting depreciation for that pool calculated under paragraph 3(2) and (7) for that year of income; or

(b) in the case of a Class 4, 5, 6 or 7 pool, the depreciation basis of the pool at the end of the year of income reduced by all allowances granted to the person under paragraph 3(l) for that year of income and any previous year of income in respect of the pool.

FOURTH SCHEDULE

(Made under section 133(5))

TRANSACTIONS FOR WHICH TAXPAYER IDENTIFICATION NUMBER IS REQUIRED

INSTITUTION	PURPOSE OF TRANSACTION
Commissioner General of the Tanzania Revenue Authority	Registration of ownership or transfer of vehicles under the Road Traffic Act, 1973 and licensing of motor vehicles under the Transport Licensing Act, 1973.
Commissioner for Lands	Registration of title upon transfer of ownership.
Central and Local Government	Trade licence
Business Registration and Licensing Authority	New registrations
Registrar of Patents and Trade Service Marks	New registrations
Ministry of Industry and Commerce	Trade licensing and industrial licensing
Ministry of Natural Resources and Tourism	Licensing
Ministry of Energy and Minerals	Licensing
Commissioner for VAT	New registrations for VAT
Commissioner for Customs and Excise	Importation of goods; customs clearing and forwarding
All Government Ministries, Government Agencies, Local Government Authorities, Financial Institutions, Cooperative Societies and public bodies	All contracts, including contracts of supply of goods and services