# SIERRA LEONE
# NATIONAL REVENUE AUTHORITY

# A GUIDE TO THE GST LEGISLATION

**(Paragraphs marked in blue require further checking, and/or are dependent upon decisions yet to be made)**

*These notes are intended as a summary of the provisions of the Sierra Leone Goods and Services Tax (GST) Act 2008 and GST Regulations 2008 and as guidance for those wishing to examine the legislation in more detail. As such, they are not legally binding. Whilst care has been taken in preparing them, no responsibility can be accepted for any mistake, omission or misinterpretation and readers are advised to consult the full legislative documents for authoritative text.*

# A GUIDE TO THE GST LEGISLATION

## Foreword

**(By the Commissioner General of the NRA, Mr Alieu Sesay)**

No-one enjoys paying taxes…….but taxes are necessary to pay for vital services such as education, hospitals, roads, welfare provisions and national security, that are provided by the State for the benefit of all its citizens.

However, while it is right that all citizens should make a fair contribution towards the running of these services, citizens also have the right to expect that they will pay only a just and proper amount and that they will not have to contribute more than is necessary as a result of poor laws, administrative inefficiencies, or because others have cheated by avoiding the payment of their share.

For this reason, taxes should raise the maximum amount of revenue for the minimum administrative cost and be protected against fraud - without placing unnecessary burdens on the taxpayer, or interfering with the free flow of legitimate trade.

That is why the National Revenue Authority (NRA) was established in 2003 to be responsible for the collection of all State taxes and why the Sierra Leone Government has now decided to introduce a Goods and Services Tax (GST).

GST is not just 'another tax.' It is a modern and effective system of taxation that will be good news for businesses, members of the public and the Government alike. At a stroke, it will replace seven existing but inefficient and out-dated taxes.

It will be 'tax neutral.' This means that honest taxpayers will pay no more tax overall than at present. In addition, some essential items, such as rice, piped water, fuel, books, educational and medical services and certain pharmaceutical supplies, will not be taxed at all in order to reduce the impact of the new tax on the poorer members of the community.

However, more revenue will be available for the Government to spend on the services it provides. This is because GST is a more efficient system, costing less to administer than the combined existing taxes, and because those who have cheated on their tax payments under the present system will find GST much more difficult to evade: they will have to pay their fair share under the GST system.

It is planned to introduce GST in March 2009. In preparation for this, our first task has been to prepare the legislation necessary to enable it to be implemented - i.e. the GST Act 2008, that will provide the framework for the new tax and give it legal authority, and the GST Regulations 2008 that will facilitate its implementation and govern the administrative requirements.

This information booklet has been produced by my Authority to provide an easy-to-understand explanation of how GST will operate in Sierra Leone and to give guidance on the various sections of the GST Act 2008 (See Annex A) and the GST Regulations 2008 (See Annex B).

I understand that legal issues are likely to be of most interest to the business community, lawyers and accountants but, since GST will affect everyone living and working in Sierra Leone, we are making this leaflet widely available for everyone.

I believe GST has the potential to bring many benefits that will improve Sierra Leone's economy and the welfare of its citizens. Once you have had the opportunity to study this and other information leaflets that we are producing, I am sure you also will be convinced that GST will be good news for all sections of Sierra Leonean society - citizens, businesses, institutions, investors and the Government.

Signature Picture

DATE 2008

## Background

Sierra Leone's National Revenue Authority (NRA) was officially established as the country's integrated taxation organisation in 2003 following recommendations by the International Monetary Fund (IMF) to improve revenue collection. The NRA now administers all national taxes, customs duties and non-tax revenues.

Since its formation the NRA has significantly improved the collection of State revenues. However, the IMF has also recommended that even greater improvements could be achieved by the adoption of a Goods and Services Tax (GST) - and the Government of Sierra Leone has now passed the necessary legislation to enable this.

GST will be come into force on 1st March 2009. It will replace seven existing taxes - Import Sales Tax, Domestic Sales Tax, Entertainment Tax, Restaurant and Food Tax, Messages Tax, Hotel Accommodation Tax and Professional Services Tax - thereby simplifying and streamlining the present system of indirect taxation and reducing the cost of administration for the Government, the NRA and businesses. (See Note 1 below).

*Note 1: Non-tax charges, direct taxes, such as Income Tax and Corporation Tax, and Import Duty, Excise Duty and Export Duty will continue to be charged, as now, in tandem with GST.*

## What is GST?

GST is a modern form of sales tax - a tax on the domestic consumption of goods and/or services (not exports), paid as a percentage of their monetary value at the time they are sold. There are some exceptions, but most goods and services normally attract GST.

The Tax is chargeable at every stage of production, distribution and supply and is collected by GST-registered businesses when they sell goods and/or services that have been defined by law as 'taxable supplies.'

Businesses must register for GST if their annual sales of taxable supplies exceed a set limit, or threshold. Businesses with sales below the threshold are not required to register but may apply for voluntary registration. (See Part Three Section 15 of the GST Act in Annex A below and the NRA public information leaflet **"Should I be registered for GST?"**)

GST-registered businesses must account for GST in their sales records. They must make regular returns and pay to the taxation authority the tax they collect from their customers.

However, at the same time, they are able to reclaim, or offset, any GST they have paid on the business expenses they incur in the making of taxable supplies. (See Note 2 below). In this way, although the full amount of tax (based on the value of the final product or service), is borne by the consumer or user, there is no 'tax on tax' effect. GST is not paid on GST.

*Note 2: Business expenses include, for example, the legitimate costs incurred in making taxable supplies, such as goods for resale, raw materials, tools, processing costs and sub contractors' fees but not, goods diverted for private use, private expenses, or mobile phones, motor cars, or entertainment, unless these items are an essential part of your business - for example if you deal in mobile phones, or you sell motor cars, or operate a taxi business, or if you provide entertainment as a commercial enterprise.*

GST is a very cost-effective and efficient tax and, as such, it is in use in various forms in more than 120 countries around the world.

## Why do we need GST in Sierra Leone?

In addition to avoiding a 'tax on tax' situation for the final customer, GST has many features that make it an attractive revenue-raising option for Sierra Leone. –

- GST will increase the efficiency and cost effectiveness of Sierra Leone's taxation system because it will replace seven existing but outdated indirect taxes.

- It will simplify tax accounting for businesses.

- It is a fair system because it affects the broadest range of taxpayers - ensuring that those who benefit from public services also contribute to paying for them. People who have avoided paying taxes in the past will in future have to pay their fair share.

- Substantial amounts of revenue can be generated, even at relatively low tax rates.

- It is a more stable revenue source than many other taxes. Because it depends only on how much people consume, it is less affected by economic cycles and the shock effect of world events, such as oil prices, foreign wars, acts of terrorism etc. It therefore avoids the economic uncertainties and fluctuations of direct taxation, such as property taxes, income tax, and corporation tax.

- Because GST is a tax on consumption at the point of sale and the revenue accrues steadily throughout the supply chain, there is an early cash flow benefit to the Government.

- Because it is applied to most goods and services it does not unfairly discriminate against a few goods, as do some forms of Sales Tax.

- It is a relatively inexpensive tax to administer - with operating costs typically in the region of only one per cent of the tax yield. Further economies in the overall cost of tax collection will be possible in Sierra Leone because GST is replacing several existing taxes. The result will be that a greater portion of the taxes collected will be available for Government spending.

- The compulsory issue of tax receipts and invoices provides an audit trail that gives an element of self-policing and makes the system less susceptible to fraud and evasion.

- Unlike corporation and personal income taxes, GST does not tax investments and savings. Since GST is payable on personal income when it is spent on goods and services, rather than when it is earned, this encourages saving rather than spending and indirectly rewards enterprise and encourages economic resilience.

- Because GST applies only to the domestic consumption of goods and services, the tax incurred in the process of producing exports can be fully identified and refunded, assisting exporters to be competitive in the world market. It does not damage export markets and allows existing businesses to grow.

- Visitors to Sierra Leone will contribute to the country's revenue when they purchase goods and services for domestic consumption.

- Because it covers a broad range of goods and services, GST is effective in controlling the growth of overall consumption. It is not surprising, therefore, that since the mid-1980s, many advanced countries of Europe and Asia have tried to rebalance their tax systems away from a heavy reliance on direct taxes and towards the taxation of consumption.

## How does GST work?

Here is how a typical GST transaction works. -

Let us take the example of three registered traders involved in the manufacture and sale of a chair - a timber merchant, a furniture maker and a shopkeeper, where the rate of tax is 15 per cent.

First the furniture maker buys wood from the timber merchant. If the cost of the wood is Le 30,000 the timber merchant charges the furniture maker Le 30,000 plus 15 per cent GST (Le 4,500), making the total cost Le 34,500.

The timber merchant must give a receipt for the transaction and keep a record of the sale. He is then responsible for paying the Le 4,500 of GST to the tax authority.

Having made the chair, the furniture maker then sells it to a shopkeeper for Le 60,000. In doing so, Le 30,000 of value has been added to the original item. The furniture maker must therefore charge the shopkeeper Le 60,000 plus Le 9,000 - representing 15 per cent GST - making the total cost of the chair so far Le 69,000.

Again the furniture maker must give a receipt for the transaction and must keep a record of the sale. He then pays Le 9,000 to the tax authority, minus the Le 4,500 GST he paid on his raw materials. So the tax authority receives another Le 4,500.

Finally the shopkeeper sells the chair to a customer for Le 90,000. More value has been added to the chair. The shopkeeper therefore charges his customer Le 90,000 plus 15 per cent GST of Le 13,500 **-** a total of Le 103,500.

Again, he must give the customer a receipt and keep a record of the transaction. He then pays to the tax authority Le 13,500 minus the Le 9,000 GST he has already paid to the chair maker.

So, as the sale of the chair has progressed, the tax authority has received Le 4,500 from the timber merchant, Le 4,500 from the furniture maker and Le 4,500 from the shopkeeper - making a total of Le 13,500, or 15 per cent of the final cost of Le 90,000**.**

However, at the end of the chain, it was the consumer, not the dealers, who eventually bore the whole cost of Le 13,500, representing 15 per cent of tax on the final value of the product.

**Graphic**

A big advantage of this system is that it produces a trail of invoices and receipts, which makes it is easier for the tax authority to uncover fraud and less likely that the customer will be cheated. The system fits in well with the normal procedures traders adopt for their routine accounting and, because the system is largely self-monitoring, there is the added benefit for the honest trader of minimum interference by tax officials.

## Proposed implementation in Sierra Leone

In designing a GST system for Sierra Leone, the underlying objective has been to achieve a tax that will be as simple and efficient as possible for all concerned, while having the minimum possible impact on business activities and the cost of living.

GST will therefore be applied to the majority of goods and services at a single standard rate of 15 per cent. However, in order to protect poorer members of society, some items, such as rice, piped water, fuel, books, educational and medical services and specified pharmaceutical supplies, will be excluded. With few exceptions, exports will also be taxed at a zero rate in order to maintain Sierra Leone's competitiveness in world markets. (See the NRA public information booklet "**What will be taxed under GST?**" for full details).

With the introduction of GST, Import Sales Tax, Domestic Sales Tax, Entertainment Tax, Restaurant and Food Tax, Hotel Accommodation Tax, Foreign Travel Tax and Messages Tax will be abolished. It is intended that, overall, people will pay no more tax under the GST system than they pay at present.

The threshold of sales, below which businesses will not be required to register for GST, has been set deliberately high. Businesses which have annual sales below this level will not be required to register for GST and will be relieved from the responsibility of collecting and accounting for GST.

In fact, it is estimated that only the top ten or 20 per cent of Sierra Leone's businesses will be required to register for the tax - thereby adding to the simplicity of the system. (See the NRA's public information leaflet **"Should I be registered for GST?"**)

For those businesses that will be required to register, it is intended that the cost of compliance should be as low as possible because the system will be simple to operate and easy to understand.

As a further result of these measures, it is anticipated that the administration of GST by the NRA will be very cost-effective. In part this is because registered businesses will act as tax collectors and the system will be largely 'self-policing.' However, by adopting a 'simple' system (i.e. a single rate of tax; few exceptions to the items to be taxed; and a relatively small number of registered businesses as a result of a high threshold), the number of NRA staff, and therefore the cost to the Government, will also be kept to a minimum.

## Further information

Copies of the GST Act 2008 and the GST Regulations 2008 are available at…..or may be downloaded from the NRA's website **www.nationalrevenuesl.org**

The Commissioner General has also established a Taxpayer Services Unit to deal with enquiries from the public and businesses about GST and other taxes and levies and has published a series of information leaflets about various aspects of GST.

The Taxpayer Services Unit can be contacted (Details). Copies of the information leaflets can be obtained from NRA offices, or can be downloaded from the NRA's website **www.nationalrevenuesl.org**

In addition to this leaflet the following are available. -

- An Introduction to GST for Businesses
- The Taxpayer Identification Number
- Should I be registered for GST?
- Why do we need GST in Sierra Leone?
- What will be taxed under GST?
- GST: Books and records to be kept
- GST visits by NRA officers
- GST special retail schemes
- The GST Margin Scheme
- A Guide to claiming GST refunds
- A guide to completing your GST return
- GST and the Consumer

## Glossary

The following terms are used in the GST Act 2008 and the GST Regulations 2008. -

**'Taxable supplies'** are those goods and services subject to GST.

**'Zero rated supplies'** are those supplies that are within the scope of GST but are taxed at a zero rate.

**'Exempt supplies'** are those goods and services that are not taxed.

**'Taxable person'** is a person or business making taxable supplies, who is legally required to register for GST as a result of having an turnover above a set limit, or threshold. Taxable persons must account for and pay to the taxation authority the GST they collect from their customers.

**'Registered person'** is a person or business making taxable supplies, who has registered for GST as a result of the legal requirement, or who registers voluntarily.

**'The Commissioner General'** is the Commissioner General of the National Revenue Authority, who is the official charged under the GST Act 2008 to administer GST.

**'Output tax'** is the GST charged on the supply of goods and services - i.e. sales going 'OUT' of a business.

**'Input tax'** is the amount of GST incurred by a registered person in the course of making taxable supplies to his/her customers - i.e. purchases coming 'IN' to a business. Subject to a few restrictions input tax can be reclaimed from the tax authority.

**'Exempt input tax'** is that portion of GST that cannot be reclaimed as input tax because it is incurred in the provision of exempt supplies.

**'Partial exemption'** relates to a situation where a taxable person makes both taxable supplies and exempt supplies. In this case, the allowable input tax must be apportioned - e.g., in the most simple case, if 30 per cent of a taxable person's business relates to exempt supplies, only 70 per cent of the GST incurred in business expenses may be included as input tax. However, if more than 95 per cent of taxable supplies are made all of the allowable input tax may be claimed.

**'Tax year'** is any period of 12 calendar months, beginning on the first day of April, May, or June, according to the accounting periods allocated to a taxable person.

**'Accounting period,'** in relation to a taxable person, means the period determined by the Commissioner General for that person to make returns and payments of GST.

**'Regulations'** - The primary GST Law contains provisions for subsidiary law, in the form of regulations. These may be made to cover administrative, technical and operational matters. They will empower the Commissioner General, to prescribe formal and procedural requirements (such as the method of filing returns and making payments) and will enable changes to cover new situations and 'loopholes,' without alteration to the primary GST Law.

## ANNEX A

# THE SIERRA LEONE GST ACT 2008

A Bill entitled "The Goods and Services Tax Act 2008" provides for the imposition of a broad based tax on the consumption of goods and services in Sierra Leone and for other related matters. It is divided currently into 22 Parts and four Schedules, as follows. –

**Part One (Sections 1-13):** Preliminary

**Part Two (Section 14):** Imposition of Goods and Services Tax

**Part Three (Sections 15-18):** Registration

**Part Four (Sections 19-26):** Basic Rules Relating to Supplies

**Part Five (Sections 25 & 26):** Rules Relating to Imports

**Part Six (Section 27):** Calculation and Payment of GST Net Amount

**Part Seven (Sections 28-30):** Input Tax Credits

**Part Eight (Sections 31-36):** GST Documentation

**Part Nine (Sections 37-40):** GST Returns and Payments

**Part Ten (Section 41):** Refunds

**Part Eleven (Sections 42-45):** Assessments

**Part Twelve (Sections 46-51):** Powers and Duties of the Commissioner General

**Part Thirteen (Sections 52-54):** Miscellaneous

**Part Fourteen (Section 55):** Registration at Commencement of GST

**Part Fifteen (Sections 56-87):** Interest, Penalties and Offences

**Part Sixteen (Section 88-91):** Collection and Recovery

**Part Seventeen (Sections 92-94):** Objections and Appeals

**Part Eighteen (Sections 95-98):** Record-keeping and Information Collection

**Part Nineteen (Section 99):** Taxpayer Identification Number

**Part Twenty (Sections 100-107):** Appointment of Representatives

**Part Twenty-one (Sections 108-110):** Forms and Notices

**Part Twenty-two (Sections 111-113):** Miscellaneous

**Schedule 1:** Zero-rated supplies

**Schedule 2:** Exempt supplies

**Schedule 3:** Institutional Reliefs

**Schedule 4:** Transactions outside the scope of GST

## PART ONE: PRELIMINARY

This is the introductory clause of Act. It contains thirteen sections (Sections 1-13) and describes the legal meanings of terms used in the main body of the Law and gives force to Schedules One, Two, Three and Four.

**Section 1 (Commencement)** enables the Act to come into force on 1st March 2009 (with Sections 46-48, 51, 55, 58, 60, 62, 72-75, 77, 78, 80, 81, 84,88, 93 and 95 coming into force on 1st October 2008.

**Section 2 (Interpretation)** is a general dictionary of terms used in the Act.

**Section 3 (Consideration**) defines the term 'consideration' as the amount of money, or the fair market value of any other form of payment, made for the supply or acquisition of goods (after any reduction of the price by discounts or rebates). This is an important definition since GST is levied as a percentage of the monetary value of goods or services and it covers situations where payments are made in-kind, in return for some other goods, or services, or favours, including a gift or donation.

**Section 4 (Fair market value)** defines the 'fair market value' of a supply of goods and services (including anything provided as in-kind payment for another supply), as the monetary value of the supply on the open market between unrelated persons. It allows that, where it is not possible to determine such an amount, the figure may be determined by the Commissioner General.

**Section 5 (Related persons)** states that persons are considered to be 'related' if they are close family members, or closely linked by business interests, e.g. officers or directors of one another's businesses; partners in a partnership, or shareholders controlling more than 25 per cent of the voting power in a company. This definition is important in determining a true market value of supplies between 'unrelated' persons.

**Section 6 (Supply of goods and services)** defines the 'supply of goods' as the sale, lease, hire, exchange or other transfer of ownership. It specifies the supply of services as anything that is not a supply of goods or money, including a grant or assignment of a right, the provision of a facility, opportunity, or advantage, the issue of a licence, permit or authorisation. It also states that, if a taxable person applies goods or services to a private or exempt use, this will be treated as a supply.

**Section 7 (Taxable activity)** describes a 'taxable activity' as anything carried out, whether or not for profit, if it involves, or is intended to involve, the supply of goods or services to another person. This includes any business, trade, manufacture, commerce, or adventure in the nature of trade. However, it does not include the work of an employee, the normal activities of a director, a pre recreational pursuit or hobby, or an activity carried on by a government entity or by a local government authority, council, or similar body, except when that activity involves the supply of goods or services for a fee.

**Section 8 (Taxable Supply)** defines the supply of goods or services as those made by a taxable person in the course of business, including the processing of data, the supply of staff, the acceptance of a wager, the appropriation of business goods for private use, the assignment, sale, licensing or transfer of patents, copyrights, computer software and other proprietary information, the producing of goods as a result of reprocessing or treating another person's goods, the supply of any form of power, where the supplier receives payment in money or other benefit.

**Section 9 (Exempt Supply)** states that those goods and services named in Schedule Two will be classified as exempt supplies and will not be taxed.

**Section 10 (Zero-rated supply)** states that the goods and services named in Schedule One will be zero-rated.

**Section 11 (Exempt import)** states that imported goods will be exempt if they are listed in Schedule Two of the Act.

**Section 12 (Exemption from GST)** enables individuals, organisations and businesses specified in Schedule Three of the Act to be relieved from payment of GST.

**Section 13 (Supplies outside the scope of GST)** requires both the transferor and transferee to notify the Commissioner General when a supply is outside the scope of GST (as specified in Schedule Four).

## PART TWO: IMPOSITION OF GST

Part Two of the Act contains a single section (Section 14), describing the scope of the Tax.

**Section 14 (Imposition of GST)** states that GST will be levied on taxable supplies and taxable imports based on their value in money (at a rate, or percentage, of 15 per cent), except in the case of zero-rated supplies, which will be taxed at zero per cent. It imposes a duty on all suppliers and importers to account for the tax (using the formula laid down in Section 27), unless they are specifically exempted by the Act.

## PART THREE: REGISTRATION

This Part of the Act contains four sections (Sections 15-18), dealing with the requirements for registering businesses for GST.

**Section 15 (Application for registration)** establishes the registration threshold for taxable supplies at Le 200 million (i.e. where the total value of taxable supplies made in the course or furtherance of a taxable activity during a 12 month period is equal to or greater than Le 200 million). It also enables amendment of the threshold figure by statutory instrument. (Note: In this context, 'taxable supplies' means the total taxable turnover, not just sales).

Section 15 requires a person to register for GST if, on the last day of any month, that person exceeds, or is expected to exceed, the registration threshold in any period of 12 calendar months or less, or if he or she will exceed, or is expected to exceed, one third of the registration threshold in a period of four calendar months. It lists those supplies that may not be included in determining whether a person has exceeded the threshold and it also enables the voluntary registration by persons making taxable supplies below the threshold for compulsory registration.

Irrespective of the threshold, a person is required to apply for registration under this Section, if the person is a government entity or a local authority, council, or similar body that carries on a taxable activity, or if the person is a promoter of public entertainment, or a licensee, or proprietor of a place of public entertainment.

Also under Section 15, applications for registration are required to be in a form approved by the Commissioner General.

**Section 16 (Registration of persons)** places an obligation on the Commissioner General to register persons who apply for and qualify for registration and to provide registration certificates and individual tax identification numbers. It enables a group of taxable persons to be registered as a single entity, provided they are jointly liable under the Act.

This Section also requires registration certificates to be displayed by registered persons at their principal places of business and places an obligation on registered persons to notify the Commissioner General of any changes of name, address, or business activity.

**Section 17 (Cancellation of registration)** specifies the conditions under which a registered person may apply to cancel the registration, e.g. if that person ceases to make taxable supplies or the level of taxable supplies falls below the registration threshold. It also outlines a person's responsibilities following cancellation of registration.

**Section 18 (National register of persons registered for GST)** requires the Commissioner General to maintain a national register of all GST registered persons, stating names, addresses, tax identification numbers and the date of registration.

## PART FOUR: RULES RELATING TO SUPPLIES

There are six Sections in Part Four (Sections 19-24), defining the time, place and valuation of supplies.

**Section 19 (Time of Supply**) is important in establishing the time at which GST should be applied. It states that a supply of goods or services will be deemed to have been made when an invoice is issued by the supplier, or when any of the consideration (i.e. payment in whatever form), is made - whichever is the earlier. In the case of the progressive or periodic supply of goods or services, this Section specifies that each successive supply may be treated as an individual supply, providing separate invoices are issued. A supply under a hire purchase agreement or finance lease occurs on the date on which the goods are made available.

**Section 20 (Place of supply)** determines that a supply of goods or services will be regarded as taking place in Sierra Leone if the supplier is a resident; or the supplier is a non-resident but the goods and/or services are supplied or performed in Sierra Leone. It also specifies the rules for the supply of telecommunications.

**Section 21 (Value of supply)** establishes what is meant by 'consideration' (the price including GST) and 'value (the price including duties and taxes but excluding GST) and outlines the rules for determining the value and consideration of supplies made in various circumstances.

It also establishes the "Tax fraction" used to calculate the amount of GST that is due on sales, as follows: -

$$\frac{R}{(100 + R)}$$

where R is the rate of GST (i.e. 15 per cent under the current Law) and 100 + R is the tax-inclusive price.

**Section 22 (Post-supply adjustments for GST adjustment events)** enables adjustments to be made to input and output taxes if there have been changes in the terms of supply. It states that a GST adjustment event occurs if a taxable supply is cancelled; the consideration for a taxable supply is altered; all or part of the goods or services are returned to the supplier; or the nature of a supply is fundamentally varied or altered.

**Section 23 (Post supply adjustments for bad debts**) sets out the conditions under which suppliers can make GST adjustments in the case of their customers' bad debts.

**Section 24 (Reverse charge on imported services)** deals with the situation where a non-resident person supplies services to a taxable person in Sierra Leone, otherwise than through a resident agent. It specifies that the supply will be treated as a taxable supply, made by the recipient, if the supply would have been taxable if made by a resident who was registered for GST and if the supply is not or would not be zero rated.

## PART FIVE: BASIC RULES RELATING TO IMPORTS

This Part contains two sections (Sections 25 and 26) dealing with the timing and value of imports.

**Section 25 (Time of import**) states that an import occurs on the date goods are entered under the Customs Act, or in all other cases, the date they are brought into Sierra Leone.

**Section 26 (Value of Import)** determines the value of an import as the sum of its value for the purpose of customs duties plus the cost of any insurance, freight and additional services and the amount of any customs duty, customs service charge and any other tax (other than GST) that is payable upon importation. Where goods are re-imported after being exported for repair, renovation, or improvement, the value of the goods is deemed to be the increase in their value, provided the character of the goods has not been changed.

## PART SIX: CALCULATION AND PAYMENT OF GST NET AMOUNT

In Part Six, Section 27 deals with the amounts of GST that are due.

**Section 27 (Net amount of GST to be remitted in a tax period)** states that the amount of GST that a taxable person must remit to the Commissioner General for a tax period is the total output tax for the period minus the total allowable input tax credits.

## PART SEVEN: INPUT TAX CREDITS

There are three sections in this part (Sections 28-30) dealing with input tax**.**

**Section 28 (Goods and services for which no input tax credits are allowed)** excludes passenger vehicles and their running costs and the provision of entertainment, including the provision of food and any form of hospitality, from the list of allowable input tax, unless the vehicles or the entertainment form part of a person’s taxable activity - e.g. the use of vehicles for hire. In this context, ‘passenger vehicle’ means an off-road or on-road vehicle designed or adapted to transport nine or fewer passengers and ‘entertainment’ means the provision of food, beverages, tobacco, amusement, recreation, or hospitality of any kind, including gambling. The Section also excludes the membership or right of entry to any club, association or society as allowable input tax, or when the acquisition or import is for private purposes.

**Section 29 (Input tax credits)** enables taxable persons to claim as input tax credits all of the input tax paid on taxable acquisitions or imports, except where otherwise disallowed in the Law. This Section gives details of how the input tax should be calculated.

**Section 30 (Acquisitions or importations by agents)** states that if a non-resident principal makes an acquisition or import through a resident agent, any input tax credit allowed is for the resident agent and not the non resident principal.

## PART EIGHT: GST DOCUMENTATION

Part Nine contains six sections (Sections 31-36) specifying what records must be kept.

**Section 31 (GST invoices and sales receipts)** requires a registered supplier to issue a GST invoice when making a taxable supply. (For the first 12 months after the commencement of GST invoices must be as printed by the Commissioner General for the use of the registered person, unless otherwise authorised).

This Section also states that a GST invoice and sales receipt must contain prescribed information (as specified in the Regulations).

**Section 32 (GST credit and debit notes)** specifies the conditions under which GST credit and debit notes may be made when GST has been overcharged or undercharged. It states that the GST Regulations will specify what information should be included in these notes.

**Section 33 (Documentation issued by or to agents)** covers any documentation required to be issued in situations where agents act on behalf principals, whether or not the agents are registered and whether or not the principals are resident or non-resident.

**Section 34 (Requests for GST documentation)** states that a registered recipient who has not received the required documentation from the suppler may make a written request for GST documentation. It requires the supplier to comply with a request 14 days.

**Section 35 (Prohibitions)** specifies that only one original GST invoice, credit or debit note may be issued - although clearly-marked copies may be given if recipients claim to have lost the originals.

**Section 36 (Retention of records)** requires registered persons to keep copies of all GST invoices, credit and debit notes issued and received, all customs documentation relating to imports and exports and, in relation to imported services, sufficient written evidence to identify the supplier and the recipient and to show the nature and quantity of services supplied, the time and place of supply, the consideration for the supply, and its use.

## PART NINE: GST RETURNS AND PAYEMENTS

Four sections in Part Ten (Sections 37-40) deal with the manner in which GST returns must be made.

**Section 37 (GST returns)** requires a taxable person to lodge a GST return with the Commissioner General for each tax period, no later than the end of the month following the tax period. The return must be in the form prescribed by the Commissioner General and must contain the information specified in the form.

**Section 38 (Due date for payment of GST)** requires GST to be paid by the due date for the lodgement of the GST return for the relevant tax period. This Section gives the Commissioner General discretion to grant an extension of time for payment, or payment by instalments but does not remove the liability for interest arising from the date when the GST became payable.

**Section 39 (Due date for payment on GST on imports)** specifies that the GST payable by an importer becomes due at the time of import.

**Section 40 (GST payable on imports)** requires the Commissioner General to collect the GST due on imports and authorises him to make arrangement for this to be done on his behalf through the postal services. It also places an onus upon importers to pay any GST due and to make declarations in the form prescribed by the Commissioner General.

## PART TEN: REFUNDS

Part Ten contains only Section 41, which relates to refunds.

**Section 41 (Refunds)** enables tax credits to be made to registered persons in a subsequent tax period if their input tax in any period exceeds their output tax, or in cases where there has been an erroneous overpayment of tax, and specifies the rules for the granting of refunds.

## PART ELEVEN: ASSESSMENTS

There are four Sections in Part Eleven (Sections 42-45) dealing with assessments.

**Section 42 (Assessments)** empowers the Commissioner General to make an assessment of the GST payable by a taxable person if he is not satisfied about the accuracy of a GST return, or if the person has failed to lodge a GST return, or has been paid a refund or allowance to which the person is not entitled - subject to a decision of the Appeal Commissioners or a Judge.

**Section 43 (Assessment of recipient)** deals with a situation where a supplier has incorrectly treated a taxable supply as exempt or zero-rated, because of misrepresentation or fraud on the part of the recipient. It empowers the Commissioner General to assess the recipient of the supply for the payment of GST and any interest or penalty - whether or not the recipient is a taxable person.

**Section 44 (Negation of tax benefit from a scheme)** applies when the Commissioner General is satisfied that a person has obtained a tax benefit as a result of a 'scheme' in a manner that abuses the provisions of the Law. (A scheme includes a course of action and an agreement, arrangement, promise, plan, proposal, or undertaking, whether express or implied and whether or not legally enforceable). It empowers the Commissioner General to determine the liability of the person who obtained the tax benefit.

**Section 45 (General provisions relating to assessments)** specifies that the original or a certified copy of a notice of assessment is to be regarded in legal proceedings as conclusive evidence that an assessment has been duly made.

## PART TWELVE: POWERS AND DUTIES OF THE COMMISSIONER-GENERAL

Part Twelve confers certain powers on the Commissioner General to enable him to take action to protect the GST revenue and outlines his duties under the Law and his responsibilities to the taxpayer. It contains six sections (Section 46-51).

**Section 46 (Powers and Duties of the Commissioner General)** gives the Commissioner General responsibility for the general administration of GST and confers upon him the powers necessary to execute his responsibilities.

**Section 47 (Secrecy)** requires the Commissioner General and any tax officer to maintain confidentiality of tax information, except where it is necessary under revenue laws or for the performance of official duties, or if a person consents in writing that personal information may be disclosed to another person. It states that the Commissioner-General may disclose information concerning a taxpayer's affairs to a person claiming to be the taxpayer or the taxpayer's authorised representative, only after obtaining reasonable assurance of the authenticity of the claim.

**Section 48 (Power to require security)** empowers the Commissioner General to require a security from a person for the purpose of securing a GST payment. The Commissioner-General must apply the amount of the security first to reduce any interest or penalty payable by the person, then against any GST due and then against payment of any other taxes, levies, or duties collected by the Commissioner-General, including any unpaid amounts under the repealed taxes.

**Section 49 (Power to seize goods)** gives the Commissioner General the legal authority to enter premises and seize and store goods, if he has reasonable grounds to suspect that GST on the supply or import of the goods has not been or will not be paid. In the event that payment is not made the Commissioner General may sell the goods to defer the cost of seizing, keeping, and selling the goods and then towards payment of the GST, interest or penalties that are due. The balance, if any must be paid to the owner of the goods but any balance still owing may be recovered by the Commissioner General.

**Section 50 (Power to seal off premises)** gives the Commissioner General the legal authority to order the locking up of premises or the prevention of entry to premises by any person where there are reasonable grounds to suspect that tax due has not been paid or that a false claim has been made. An officer in the performance of his or her duties under this Section may seek the assistance of the police.

**Section 51 (Delegation of powers)** enables the Commissioner General to delegate his duties, powers and functions (for example to tax officers operating on his behalf).

## PART THIRTEEN: MISCELLANEOUS

Five sections under Part Thirteen (Sections 52-55) deal with miscellaneous matters.

**Section 52 (Branches and divisions)** stipulates that, unless otherwise allowed by the Commissioner General, a taxable activity that is conducted in branches, or divisions, will be regarded as a single entity for the purposes of GST.

**Section 53 (Currency)** specifies that, for the purposes of GST, monies must be accounted for Sierra Leone currency. If an amount is expressed or paid in another currency, it must be paid at the exchange rate applicable under the Customs Act, for imports or, in any other case, must be converted to Sierra Leone currency at the National Bank mid-exchange rate applying between the foreign currency and Sierra Leone currency on the date the amount is taken into account.

**Section 54 (GST-inclusive or exclusive pricing)** stipulates that a price charged by a taxable person in respect of a taxable supply must include the amount of GST applicable. In the case of advertisements or quotations, the price must show the amount inclusive of GST or state the amount of the GST payable with equal or greater prominence.

## PART FOURTEEN: REGISTRATION ON COMMENCEMENT OF GST

Section 55 is the only section in this part. It sets out the requirements to register for GST.

**Section 55 (Registration at the commencement of GST)** states that a person required to register under this Act must do so no later than two months before its introduction. It also empowers the Commissioner General to register persons who have not applied if he is satisfied that they should have done so.

## PART FIFTEEN: INTEREST, PENALTIES, AND OFFENCES

There are 32 sections in this Part (Sections 56-87), dealing with interest on late payments administrative penalties and penalties for criminal offences.

**Section 56 (Interest on late payments)** enables the Commissioner General to recover interest payments, in the case of late payments of the tax, at the Bank of Sierra Leone lending rate, calculated from the date the payment was due to the date that payment is made. Interest payable under this Section is payable in addition to any late payment, penalty, or fine, that may be imposed.

**Section 57 (General provisions on payment of penalties)** specifies that no penalty is payable by a person who has been compounded under Section 88 of the Act. It empowers the Commissioner-General to make an assessment of a penalty as if the penalty were GST payable under the Law and authorises him to remit the penalty in whole or part if he is satisfied that there is good cause to do so.

**Section 58 (Failure to pay GST by due date)** states that a person who fails to pay GST on or before the due date for payment is liable to a penalty equal to one half of the Central Bank lending rate for each month that the amount remains outstanding.

**Section 59 (Failure to apply for registration by due date)** states that a person who is required to apply for registration and fails to do so, is liable to a penalty of not less than ten per cent and not exceeding 25 per cent of the amount of GST that should have been paid from the date that he or she was required to be registered until the person files an application or is registered by the Commissioner-General, whichever is earlier.

**Section 60 (Failure to display registration certificate)** states that a person who fails to display a GST Registration Certificate, or a certified copy, is liable for a penalty of Le 100,000 per day for each day on which the failure occurs. Where the failure is continued the offender may be liable to a fine not exceeding Le 5,000,000, or imprisonment not exceeding two years, or both.

**Section 61 (Failure to notify changes affecting registration, etc)** makes it an offence to fail to comply with the provisions of Section 16 or Subsection (1) of Section 17 of the Act and imposes a fine not exceeding Le 5,000,000, or imprisonment not exceeding one year, or both. Where such a failure is connected with any tax evasion or fraud, the penalties are doubled.

**Section 62 (GST invoice, credit note, etc)** makes it an offence for a person to issue a false invoice, credit, debit, or sales note, or to provide or fail to provide a GST invoice, credit note, etc, otherwise as provided in Part Eight, and imposes a penalty of Le 200,000, or 15 per cent of the GST evaded, whichever is the greater. Where the failure is connected to any tax evasion or fraud a person is liable to a fine not exceeding Le 5,000,000 or to a term of imprisonment not exceeding two years, or both.

**Section 63 (Failure to file returns by due date)** states that a person who fails to file a GST return by the due date is liable to a penalty, for each month in which the return is outstanding, equal to the greater of Le 1,000,000 or five per cent of the GST payable for the period to which the return relates.

**Section 64 (Failure to comply with a notice for recovery of GST)** applies where a person fails to comply with a notice for the recovery of outstanding GST that is due for payment and imposes a penalty not exceeding 25 per cent of the amount.

**Section 65 (Failure to keep records)** imposes a penalty of Le 2,000,000, or 50 per cent of the amount of GST assessed by the Commissioner General, whichever is the greater, where a person fails to keep proper records, as required by Sections 35 and 95.

**Section 66 (Failure to provide facilities)** imposes a penalty of Le 2,000,000, or ten per cent of the GST assessed by the Commissioner General, whichever is the greater, if a person fails to provide a taxation officer with reasonable facilities and assistance to enable the officer to undertake his or her legal duties.

**Section 67 (Failure to comply with notice to give information)** states that a person who fails to comply with a notice issued under Section 96 to provide information within the specified time, is liable for a penalty not less than Le 500,000 and not exceeding Le 5,000,000.

**Section 68 (Non-compliance with GST-inclusive price quotation requirements)** states that a person who contravenes the requirements of Section 54 in relation to the advertising or quotation of prices for taxable supplies, is liable to an initial penalty of Le 500,000 and a further penalty of Le 50,000 for each day the breach continues following a written warning from the Commissioner General.

**Section 69 (Penalty for making false or misleading statements)** imposes a penalty for making false or misleading statements (including omissions) to taxation officers, by whatever means, if the proper amount of tax due exceeds the amount that would be due if the misleading statement were taken to be true. The penalty for this is the greater of Le 500,000 and …………………………………What?

**Section 70 (Penalty for unauthorised collection of the tax)** protects the consumer by making it an offence for a person (whether a taxable person or not) to unlawfully charge and collect the tax. The penalty on conviction is a fine not exceeding ten times the amount of tax or revenue involved in the offence, or imprisonment for up to five years, or both.

**Section 71 (Sanction for prosecution)** specifies that prosecutions under the GST Law must be sanctioned by the Commissioner General, subject to the powers of the Director of Public Prosecutions under the Constitution.

**Section 72 (Time Limit for proceedings to be taken)** allows proceedings to be commenced within three years after the Commissioner General has become aware of the offence in the case of the doing of an act, or the failure to do an act, or if the offence has involved non-disclosure or incorrect disclosure of a person's liability to GST in any tax period, within three years after the person's correct liability had become final.

**Section 73 (Failure to apply for registration)** makes it an offence to fail to register for GST, if required, and imposes a penalty on conviction of a fine not less than Le 2,000,000 and not exceeding Le 5,000,000, or to a term of imprisonment (of what?)

**Section 74 (Failure to cancel registration)** makes it an offence to fail to comply with the cancellation of registration requirements set out in Section 17 Subsection (8) Paragraphs (a), (b) and (c). Persons convicted of this offence are liable to a fine not exceeding Le 5,000,000, or imprisonment for up to two years, or both.

**Section 75 (Tax evasion**) states that a person who is knowingly concerned in, or is taking steps with a view to the fraudulent evasion of GST by him or her, or any other person, is liable to a fine equal to the greater of 100 per cent of the GST payable or Le 500,000, or a term of imprisonment not exceeding five years, or both.

**Section 76 (Impeding the tax administration)** imposes a fine on summary conviction not less than Le 500,000 and not exceeding Le 5,000,000, or to imprisonment not exceeding six months, or both, if a person impedes or attempts to impede the Commissioner-General in the administration of the GST Law.
An offence under this Section is committed if a person. -

- fails to comply with a lawful request by a taxation officer to examine documents, records, documents, or data within the control of the person;
- fails to comply with a lawful request by the Commissioner General to appear before a taxation officer authorised by the Commissioner General;
- interferes with the lawful right of a taxation officer to enter onto a business premises or a dwelling unit; or
- otherwise impedes the determination, assessment, or collection of GST.

**Section 77 (Failure to preserve secrecy)** protects the right of taxpayers for confidentiality of their tax affairs. It states that a person who contravenes Section 47 of the Act, concerning secrecy, commits an offence and is liable on summary conviction to a fine not less than Le 500,000 and not exceeding Le 2,000,000, or to imprisonment for a term not exceeding six months, or both.

**Section 78 (Improper claims for refund)** makes it an offence to make a false claim for a GST refund and imposes upon summary conviction a fine of Le 10,000,000, or 300 per cent of the amount of the improper refund, whichever is the greater, or to a term of imprisonment for up to five years, or both.

**Section 79 (Offences by taxation officers)** imposes high standards of conduct upon taxation officers and protects taxpayers. It makes it an offence for a taxation officer, in carrying out his or her duties. -

- to directly or indirectly ask for, or take, a payment or reward of any kind, other than that to which he or she was lawfully entitled to receive; or
- to agree to abstain from doing, or to permit, conceal, or connive at anything that is contrary to the GST Law, or to the proper execution of the officer's duty, or that has the effect that the tax revenue is or may be defrauded.

Upon conviction a person is liable to a fine equal to the greater of Le 2,000,000 or 200 per cent of the amount involved in such offences, or to imprisonment for a term not exceeding two years, or both,

In addition, the Court may order the convicted person to pay to the Commissioner General an amount of GST that has not been paid as a result of the officer's wrongdoing and which cannot be recovered from the person liable for the GST.

**Section 80 (Failure to pay security)** makes it an offence for a person to fail to pay on time any security required under Section 48 and imposes a penalty on summary conviction of a fine not exceeding Le 10,000,000, or imprisonment for up to two years, or both.

**Section 81 (Offences under the GST Regulations)** states that the GST Regulations may prescribe specific offences for breach of the Regulations, and for the penalties for such breaches, but such penalties may not exceed a fine of Le 5,000,000 and imprisonment for a term of up to three years.

**Section 82 (Offences by companies)** states that, if an offence under the GST Law has been committed by a company, every person who at the time of the commission of the offence was. -

a). a director or other similar officer of the company; or

b). was acting or purporting to act in such capacity,

will be deemed to have committed the offence, unless the offence was committed without the person's consent or knowledge and the person exercised due diligence to prevent the commission of the offence.

**Section 83 (Aiding and abetting)** states that a person who aids, abets, assists, counsels, incites, or induces the commission of an offence under the GST Law is liable to the same penalties as the person committing the offence.

**Section 84 (Falsification and alteration of documents)** makes it an offence to forge, falsify, or wilfully alter any document, seal, or other mark that is relevant under the Act. A person convicted of an offence under this Section is liable to a fine of not less than Le 5,000,000, or to imprisonment for up to five years, or both. In addition, any goods involved may be forfeited to the State.

**Section 85 (Breaking sealed premises)** states that any person who breaks the seal on any sealed premises, without the consent of the Commissioner General commits an offence and is liable to a fine of not less than Le 5,000,000, or to imprisonment for up to two years, or both.

**Section 86 (Impeding tax administration)** imposes a fine on summary conviction not less than Le 500,000 and not exceeding Le 5,000,000, or to imprisonment not exceeding two years, or both, if a person wilfully impedes or attempts to impede the Commissioner-General in the administration of the GST Law.

**Section 87 (Compounding of offences)** empowers the Commissioner General to compound an offence (other than an offence under Sections 78 and 80) prior to the commencement of any court proceedings, subject to the powers of the Director of Public Prosecutions under the Constitution. This means that the Commissioner General may order a person who has committed an offence under this Division to pay a sum of money, not exceeding the maximum amount of the fine prescribed for the offence, but only if the person concerned makes a written request for compounding. The Commissioner General is required to provide a copy of the compounding order to the Director of Public Prosecutions.
If the Commissioner General compounds an offence under this Section, the offender is not liable for further prosecution, or penalty, in respect of that offence.

## PART SIXTEEN: COLLECTION AND RECOVERY

There are four sections in Part Sixteen (Sections 89-92) dealing with the mechanisms for collecting and recovering GST.

**Section 89 (Recovery of GST)** states that any GST that is due is a debt owed to Sierra Leone and is payable to the Commissioner General. It enables the Commissioner General to sue for and recover any outstanding amount in a court and to publish details of a defaulter and his or her debt.

In cases where the Commissioner General is unable to make a recovery, this Section empowers him to write-off amounts up to Le 50 million. Larger debts require Cabinet approval before they can be written-off.

If, at a later date, the Commissioner General discovers that a person whose debt was extinguished has assets that may be attached to recover all or part of the unpaid amounts, the liability for the debt may be reinstated by an order of the Commissioner General or the Minister.

This section does not apply to GST on importation collected by the NRA, which is recoverable under procedures for recovery of customs duty.

**Section 89 (Allocation of payments)** states that, in cases where an amount of interest or penalty is payable, in addition to any amount of GST due, and where the amount paid is less than the total that is due, the money paid must be applied first, to reduce the amount of interest; then to reduce the amount of penalty and finally to reduce the amount of outstanding GST.

**Section 90 (Garnishment)** states that when any tax, penalty or interest is due from a taxable person, the Commissioner General may order any individual or business owing money to the taxable person, or holding money on the taxable person’s account, to pay sufficient of that money to discharge the debt to the NRA.

**Section 91 (Recovery of GST from persons leaving Sierra Leone)** states that, if the Commissioner General has reasonable grounds to believe that any person leaving Sierra Leone is seeking to evade the payment of GST that is due, he may inform the Director of Immigration who shall prevent the person from leaving the country for 72 hours, unless the person makes payment in full, or makes an arrangement to pay that is satisfactory to the Commissioner General. The High Court may extend the period of 72 hours on application by the Commissioner General.

**PART SEVENTEEN: OBJECTIONS AND APPEALS**

Three sections in Part Seventeen (Sections 92-94) deal with the mechanisms for appealing and/or objecting to decisions or assessments by the Commissioner General.

**Section 93 (Reviewable decisions)** lists the decisions that are subject to review. These include.-

- a decision under Section 16 to register or not to register.
- a decision under Section 17 to cancel or not cancel a registration.
- a decision under Subsection 3 of Section 37 requiring the lodgement of fuller or additional returns.
- a decision under Section 41 not to pay a refund or allow an input tax credit.
- the issue of an assessment under Part Eleven.
- a decision under Section 44 to make a determination of a taxpayer’s liability.
- a decision under Section 48 to require a person to give security.
- a decision under Subsection (9) of Section 57 not to remit a penalty, or to remit the penalty only in part.
- a decision under Section 100 to appoint a person as a representative of a taxable person.
- a decision under Section 29 to allow or not allow an input tax credit to a taxable person (including a decision as to the amount).
- a decision on liability or tax treatment of a supply.

The provisions under this Section may be amended by Regulations.

**Section 93 (Objections to the Commissioner General)** makes provision for notices of objection to be lodged, requesting the Commissioner General to reconsider a decision, and sets out the procedure for making such objections.

**Section 94 (Appeal to the Board of Appellate Commissioners and to a judge)** enables appeals on reviewable decisions to be made to the Board of Appellate Commissioners and thereafter to the High Court on matters of law.

**PART EIGHTEEN: RECORD-KEEPING AND INFORMATION COLLECTION**

Part Eighteen contains four sections (Sections 95-98) that prescribe the requirements for record-keeping and the Commissioner General’s powers to require or obtain records.

**Section 95 (Maintenance of accounts and records)** states that every taxable person must maintain, in Sierra Leone, such accounts, documents, and other records, as required by the Act for a minimum of six years after the end of the tax period to which they relate. Such accounts etc may be recorded in any form, according to conditions prescribed by Regulations.

**Section 96 (Power to require provision of information)** empowers the Commissioner General to demand information, or to order a person to attend an examination, under oath, concerning the tax affairs of that person, or any other person, and to produce any book, record, or computer stored information.

For the purposes of this Section, the Commissioner General is entitled to have full and free access to any premises, place, or property and any book, record, computer, or electronic storage device. The Commissioner General, or an officer authorised by him, is empowered to seize and retain any book or record, or computer that affords material evidence in determining a person’s liability to tax or a penalty under the Act.

The owner, manager, or other person on entered premises is also required to provide reasonable facilities and assistance for the effective exercise of the powers under this Section.

This Section has effect notwithstanding any enactment relating to privacy, privilege, or the public interest, or any contractual duty of confidentiality with respect to the giving of information or the production of records, etc.

**Section 97 (Power to enter and search)** gives legal powers to the Commissioner General, or an officer authorised by him, to have full and free access to any premises, place, property, book, record, or computer; or to copy or seize documents, computers or computer-stored information, if he has reasonable grounds to suspect a breach of this Act, or if the information may be necessary to determine a taxpayer's liability for GST. The Commissioner General may require a police officer to be present for the purposes of exercising his powers under this Section. The owner or lawful occupier of the entered premises must provide all reasonable facilities and assistance to the Commissioner General or his authorised officers in the execution of powers under this Section.

This Section has effect notwithstanding any enactment relating to privacy, privilege, or the public interest, or any contractual duty of confidentiality with respect to access to premises or places, or the production of property, books and records, etc.

**Section 98 (Translation of records)** applies where relevant GST documents and computer records are not maintained in English and enables the Commissioner General to demand a translation into English, at the taxable person's expense.

## PART NINETEEN: TAXPAYER IDENTIFICATION NUMBER

This part contains only one section (Section 99).

**Section 99 (Taxpayer Identification Number)** requires the Commissioner General to issue every registered person with a unique Taxpayer Identification Number (TIN) for GST purposes. This number may be the same as, or related to, the number used to identify the person for the purposes of Income Tax or another tax, or non-tax revenue, administered by the Commissioner-General.

This Section also requires every taxable person to include their TIN in any return, notice, or other document prescribed or used for the purposes of the GST Law.

## PART TWENTY: APPOINTMENT OF REPRESENTATIVES

Part Twenty deals with the status and responsibilities of representatives, directors of companies, officers of unincorporated bodies, executors and trustees and contains eight sections (Sections 100-107).

**Section 100 (Power to appoint representatives)** empowers the Commissioner General to declare an individual to be a representative of a person for the purposes of the Act.

**Section 101 (Liabilities and obligations of representatives)** places an onus on every representative of a person to perform the duties or obligations imposed by the GST Law - including the payment of amounts due and payable. If there are two or more representatives of a person, the duties or obligations referred to in this section apply jointly and severally to the representatives but may be discharged by any of them.

However, nothing in this Section relieves a person from performing duties or obligations imposed on the person by the Act that the representative(s) of the person has or have failed to perform.

**Section 102 (Duties of receivers)** applies to liquidators of companies, a receiver appointed out of court or by a court, a trustee for a bankrupt person, a mortgagee in possession, an executor of the estate of a deceased person and any other person conducting business on behalf of a person who is legally incapacitated. It specifies that a receiver must notify the Commissioner General within 14 calendar days after the earlier of being appointed to the position or taking possession of an asset of a person liable to GST in Sierra Leone. It obliges a receiver to account for GST and makes the receiver personally liable for any GST payments.

**Section 103 (Directors of companies)** states that if a company fails to pay any amount required by the Act, the persons who were directors of the company at the time the company was required to pay the amount are jointly and severally liable, together with the company, to pay that amount and any interest or penalties accruing. However, a director will not be liable under this Section if the director exercised care, diligence, and skill to prevent the failure.

**Section 104 (Officers of unincorporated bodies)** states that any liability or obligation placed on an unincorporated body under this Act is imposed also on any person who is an officer of the body at the time the liability or obligation is imposed, and the body and each officer are jointly and severally liable for that liability or obligation. An offence under the GST Law committed by an unincorporated body will be taken to have been committed by the officers of the unincorporated body.

**Section 105 (Continuity of partnerships or unincorporated associations)** applies if a partnership or other unincorporated association dissolves and reforms as a result of changes in membership and continues to carry on a previous taxable activity. In these circumstances the dissolved partnership, association, or body and the new partnership, association, or body are, for the purposes of the GST Law, deemed to be one and the same, unless the Commissioner General otherwise directs.

**Section 106 (Death or insolvency of taxable person: mortgagee in possession)** covers situations where an executor or trustee carries on a taxable activity previously undertaken by a deceased taxable person, or where a mortgagee in possession of land or property carries on a taxable activity previously undertaken by a mortgagor who was a taxable person.

In these cases, the executor or trustee and the mortgagee will be deemed to be the taxable person (in the case of the mortgagee this will be from the date the mortgagee took possession of the land or property until he or she ceases to be in possession of it). If a mortgagee is in possession of land or other property previously mortgaged by a mortgagor who is a taxable person, and the mortgagee carries on a taxable activity in relation to the land or other property, the mortgagee is deemed, to be the taxable person carrying on the taxable activity.

**Section 107 (Trustee)** states that, for the purposes of the GST Law, if a person is a trustee in more than one capacity, the person will be treated as a separate person for each of those capacities.

## PART TWENTY-ONE: FORMS AND NOTICES

This part deals with the manner in which forms and notices are prepared and served and contains three sections (Sections 108-110).

**Section 108 (Forms, notices and authentication of documents)** stipulates that forms, notices, returns and documents must be in a form prescribed by the Commissioner General for the efficient administration of the Act and will be valid once published in the Gazette and at least two national daily newspapers. It requires the Commissioner General to make the forms available to the public at the offices of the NRA and by any other means he thinks appropriate.

A notice or other document issued, served, or given by the Commissioner General under the Act will be considered to be sufficiently authenticated if the name of the Commissioner General or an authorised taxation officer is printed, stamped, or written on the document.

**Section 109 (Service of notices)** states that a notice or other document will be deemed to have been properly served if it is personally served on a person, or his or her representative, left at the person's last known address in Sierra Leone, or sent by registered post to the last known address.

**Section 110 (Validity of documents)** states that no document made, issued or executed under the Act will be quashed or deemed voidable for want of form or by reason of mistake, defect, or omission if it substantially conforms to the provisions of the Act.

## PART TWENTY-TWO: MISCELLANEOUS

This Part contains four sections (Sections 111-114) relating to consequential issues.

**Section 111 (Purposive interpretation and extrinsic materials)** states that the headings of the sections, parts, divisions and subdivisions into which the Act is divided and the schedules to the Act shall be considered to be part of the Act. It states that, in interpreting the Act, a construction that would promote the purpose or object underlying the Act (whether or not expressly stated) should be preferred to a construction that would not promote that purpose or object. It also deals with matters of ambiguity.

**Section 112 (Regulations)** enables the Minister of Finance to make regulations to cover administrative and operational matters and to close any loopholes in the Act, or to give it better effect.

**Section 113 (Repeals, savings and modifications)** states that on the date that GST becomes chargeable under this Act, the following Acts shall cease to be applicable and will be repealed. -

- The Entertainment Tax Act 1971.
- The Restaurant and Food Tax Act 1989.
- Section 53(1) (a) of the Development of Tourism Act 1990 and
- The External Telecommunications Tax Decree 1995
- The Sales Tax Act 1995.

Notwithstanding the repealed enactments, they shall stay in force for the purpose of verifying relevant tax returns and the assessment and recovery of any tax owing and for pursuing any offences relating to the taxes replaced by GST.

This Section also enables the Customs Act and Customs Tariff Act 1975 to be modified as necessary to give effect to the GST Act.

**Section 114 (Payment of the Tax into a Consolidated Revenue Fund)** prescribes that any tax, interest or penalties collected under the Act shall be paid into the Consolidated Revenue Fund.

This Section also allows for five per cent of the GST revenue to be paid into a separate GST Refund Account, out of which any refunds may be paid.

## SCHEDULE 1

### ZERO-RATED SUPPLIES: EXPORTS OF GOODS AND OTHER SUPPLIES OF GOODS FOR CONSUMPTION OUTSIDE SIERRA LEONE

This Schedule specifies that a supply of goods will be zero-rated for the purposes of this Act if it is listed in this Schedule, namely. –

1. The export of goods, excluding minerals (including rutile and its products, iron ore, bauxite, gold and diamonds).
2. Goods shipped as stores on vessels and aircraft leaving the territories of Sierra Leone.

## SCHEDULE 2

### EXEMPT SUPPLIES

A supply listed in one of the items below is an exempt supply for the purposes of this Act: -

1. Animals, fish and birds imported for breeding and rearing purposes and seeds and bulb rooting imported for propagation.
2. Rice in its raw state.
3. Agricultural inputs
4. Water (excluding bottled, packaged and distilled waters).
5. Printed matter (books and newspapers).
6. Education services.
7. Medical services and pharmaceuticals.
8. Transportation of passengers.
9. Crude oil and hydrocarbons (excluding lubricating oils).
10. Financial services.

11. Goods for the disabled.

12. Land, buildings and public works.

13. Machinery for use exclusively in agriculture, veterinary, fishing and horticulture, manufacturing and mining.

14. Exports of minerals (including rutile and its by-products, bauxite, iron ore, gold and diamonds).

**SCHEDULE 3**

**INSTITUTIONAL RELIEFS**

Relief from GST will be granted under this Act for the institutions listed in this Schedule. –

1. President of the Republic of Sierra Leone

2. Commonwealth, foreign embassies and missions (where reciprocal arrangements exist).

3. Other international agencies subject to agreement with the Government of Sierra Leone and approved by Parliament and specifically providing relief from payment of local taxes on goods and services.

4. An import of goods (including foodstuff) for use in rehabilitation or relief following natural disaster. (Subject to approval of the Minister of Finance).

**SCHEDULE 4**

**OUTSIDE THE SCOPE OF GST**

The following will be outside the scope of GST. -

1. The transfer of a going concern.

## ANNEX B

# THE SIERRA LEONE GST REGULATIONS

The GST Regulations are enabled by the primary legislation and prescribe the procedures for the efficient administration of GST. They may be amended, as necessary, to ensure the efficient collection of the revenue.

The Regulations are divided currently into 50 sections contained in ten parts, as follows. –

**Part One:** Registration of taxable persons

**Part Two:** Supply of goods and services

**Part Three:** Taxable supplies

**Part Four:** Time and Place of supply

**Part Five:** Taxable value

**Part Six:** Deduction of input tax and refunds

**Part Seven:** Tax returns, records and assessments

**Part Eight:** Recovery of due GST, interest and penalties

**Part Nine:** Diplomatic missions

**Part Ten:** Miscellaneous provisions

### PART ONE: REGISTRATION OF TAXABLE PERSONS

This Part contains eight regulations (Regulations 1-8) dealing with registration issues.

**Regulation 1 (Application for registration)** states that a person who qualifies as a taxable person on the date of introduction of GST (or has good grounds to believe that he or she might qualify) must apply to the Commissioner General to be registered not less than 30 days before the effective date. Thereafter, a person qualifying as a taxable person (or having good grounds to believe that he or she might qualify), must apply for registration within 30 days of qualifying or having grounds to believe that he or she qualifies. This Section stipulates that applications must be made in the form and manner directed by the Commissioner General.

**Regulation 2 (Registration name)** dictates that the name to be used for registration of a taxable person. In the case of an individual this must be the name of the individual (except where the application indicates a business registered name, in which case both names must be recorded) and, in the case of a partnership, or company, the name shall be that of the partnership or company.

**Regulation 3 (Group registration)** enables two or more taxable persons to be registered as a group, where one individual or company controls the others. The Commissioner General may nominate a representative for the group pr substitute any member of the group.

**Regulation 4 (Transfer of a going concern)** requires a person to register if he or she takes over a business carried on by a taxable person.

**Regulation 5 (Notification of registration)** requires the Commissioner, upon registering a person, to notify the person within 21 days that he or she has been registered. Where the Commissioner General refuses to register a person he is required to notify the person within 30 days of the submission of the application.

**Regulation 6 (Request for further information)** enables the Commissioner General to demand whatever additional information may be required for the purposes of registration.

**Regulation 7 (Taxpayer Identification Number)** requires the Commissioner General, upon registering a person or group of persons, to issue a Tax Identification Number (TIN), which will be the same number for other tax purposes.

**Regulation 8 (Display of GST Registration Certificate)** requires a taxable person to display his or her registration certificate in a prominent place at the principal place of business.

## PART TWO: SUPPLIES OF GOODS AND SERVICES

The three regulations in Part Two (Regulations 9-11) deal with the details of supplies.

**Regulation 9 (Supplies made by a partnership)** places responsibility for supplies on every member of a partnership. Its states that where two or more persons in a partnership make a taxable supply the partnership will be regarded as having made the supply together with each partner.

**Regulation 11 (Mixed supplies)** stipulates that the supply of goods incidental to the supply of services and the supply of services incidental to the supply of goods or the import of goods will be deemed to be part of the principal supply.

## PART THREE: TAXABLE SUPPLIES

Part three deals with the rules of supply where the supply is part of a transfer of a going concern. It contains one regulation (Regulation 12).

**Regulation 12 (Supply as part of the transfer of a going concern)** states that the transfer of a taxable activity includes a part of the transfer if that part is capable of separate operation. It stipulates that a transfer of a taxable activity as a going concern occurs if all the goods necessary for its continued operation are transferred and the supplier continues the activity until the day of transfer. This section also deals with transfers that are outside the scope of GST.

## PART FOUR: TIME AND PLACE OF SUPPLY

The seven regulations in Part Four Part (Regulations 13-19) are concerned with the rules for governing where and when a supply is made.

**Regulation 13 (Rules for the place of supply of services)** defines where a supply is deemed to have been made where the customer is outside the country, when cultural, artistic, sporting or similar activities are carried out, when moveable goods are concerned and where a lease, hire, or licence of goods is concerned.

**Regulation 14 (Deposits)** stipulates that a deposit is regarded as a payment or part payment for a supply.

**Regulation 15 (Goods supplied on sale or return)** states that, where goods are supplied on sale or return, the time of supply will be deemed to be the earliest of the issue of an invoice, the receipt of payment, the expiry period for the return of goods, or three months after the date of despatch of the goods.

**Regulation 16 (Vending machines)** determines that the time of supply of goods through a vending machine, meter or other automatic device (including a pay telephone) will be the time that the coin, note or token is removed by the seller.

**Regulation 17 (Time of supply for telecommunications services)** sets the time of supply for ‘top-up’ cards and electronic vouchers as the time of sale to the distributor or customer and, in the case of post-paid services, the earlier of when the service was rendered or the invoice was issued.

**Regulation 18 (Imported goods)** states that the time of supply for imported goods is the time at which import duties become due under the Customs Act.

**Regulation 19 (Lay-bye sales)** defines a lay-bye agreement as a purchase agreement for goods where at least one further payment is due after the payment of a deposit, the delivery of goods takes place on completion of the payment and when ownership is transferred by delivery. A supply under lay-bye agreement is deemed to have taken place on the date the goods are delivered to the purchaser. This section also covers instances where lay-bye agreements are terminated.

## PART FIVE: TAXABLE VALUE

The two regulations under Part Five (Regulations 20 and 21) deal with adjustments to the value of items supplied.

**Regulation 20 (Adjustment of values, bad debts)** enables the Commissioner General to grant a credit for GST already paid by a taxable person in the event of the supplier's customer failing to pay.

**Regulation 21 (Adjustment of value, debt and credit notes)** outlines the requirements for making adjustments when GST has been overcharged in an invoice.

## PART SIX: DEDUCTION OF INPUT TAX AND REFUNDS

Part Six deals with the rules for claiming input tax credits and refunds and specifies what deductions and refunds are allowable. It contains five regulations (Regulations 22-26).

**Regulation 22 (Non-deductible input tax)** lifts the restriction on the deduction of input tax on motor vehicles and spare parts where the vehicles are purchased or imported by a taxable person whose business is dealing in or hiring motor vehicles, or where motor vehicles, other than motor cars are purchased or imported by a taxable person for the exclusive and necessary use of his or her business. For the avoidance of doubt, Regulation 22 defines the classification of motor cars and other motor vehicles.

**Regulation 23 (Purchases prior to registration)** enables a taxable person to recover the GST incurred on stock and capital goods purchased or imported prior to registration, provided the goods are still in the person's ownership at the time of becoming registered. In the case of stock, the purchase or import must have been within three months prior to registration and, in the case of capital goods, within six months.

**Regulation 24 (Deductible tax for mixed taxable and exempt supply)** excludes items that are outside the scope of GST from calculations to determine the amount of input tax that may be claimed.

**Regulation 25 (Refunds)** enables a taxable person to receive interest on refunds that are due if the Commissioner General failed to make a refund, without justification, within a period of two calendar months.

**Regulation 26 (Application of subtraction method to used goods)** enables a taxable person who deals in second-hand motor vehicles, household electronic and electrical appliances and furniture, to charge GST only on the difference between the buying and selling price, subject to the provision that no GST credit will be claimed on goods purchased for resale. Persons wishing to take advantage of this scheme must apply in writing to the Commissioner General. Where the transaction involves used goods between two registered persons, the normal method of accounting for GST shall apply.

## PART SEVEN: TAX RETURNS, RECORDS AND ASSESSMENTS

This Part contains 15 regulations (Regulations 27-41), dealing with returns and invoices, records and assessments. It also outlines the rules for a special retail scheme.

**Regulation 27 (Tax period)** determines that the tax period for taxable persons having a taxable turnover in excess of Le 600,000,000 shall be one calendar month and, for all other taxable persons, two calendar months.

**Regulation 28 (Specimen tax return form)** specifies that tax returns must be submitted on the form GST… in whatever form and manner the Commissioner General may require.

**Regulation 29 (Amended returns)** requires a taxable person to make a request in writing to the Commissioner General if he or she wishes to amend a GST return or to make an adjustment.

**Regulation 30 (GST Invoices)** requires a registered person to issue a GST invoice when supplying taxable goods or services to a customer. Such invoices must contain . –

- the name, address and taxpayer identification number (TIN) of the supplier;
- the time of supply;
- the number of the invoice taken from a consecutive series;
- your customer's name address and TIN (if that customer is also a taxable person);
- a description of the goods or service, including the quantity, or extent of the service;

- the type of sale (i.e whether sale, hire purchase, lease, exchange, or goods and services; received from your customer;
- the GST charge for each description of goods or services supplied;
- the rate of GST;
- the total charge on the invoice exclusive of GST;
- the rate of any discount;
- the total GST charge; and
- the total charge inclusive of GST.

This Regulation allows for a simplified retail receipt to be issued by persons authorised by the Commissioner General to operate a retail scheme (See the NRA's information leaflret **"The GST Retail Scheme"**).

**Regulation 31 (Retention of GST Invoices)** specifies that GST invoices received or issued by a taxable person and all customs entries, credit and debit notes and evidence of purchase, import, or export under these Regulations, must be retained for at least six years from the date of receipt  or issue, in a chronological of serial number sequence.

**Regulation 32 (Special retail scheme)** enables a taxable person who is a retailer of only taxable goods to apply to use a special retail scheme. (See the NRA's information leaflet **"The GST Retail Scheme"**).

**Regulation 33 (Annual adjustments)** states that a taxable person who calculates his or her output GST using the method described in Regulation 32 shall, on the last day of the tax period of the tax year, make an annual adjustment to his output GST for that year.

**Regulation 34 (Notification of decision of Commissioner General on operation of a special retail scheme)** requires the Commissioner General to notify a person in writing within 30 days of a decision to approve or reject an application to operate a retail scheme.

**Regulation 35 (Retail sales receipt)** specifies what information must be included in a sales receipt issued under a special retail scheme. (See the NRA's information leaflet **"The GST Retail Scheme"**).

**Regulation 36 (Use of electronic cash register under a special retail scheme)** specifies that a person who is registered under a special retail scheme, who makes annual sales of Le 400,000,000 or more, will be required to install an electronic cash register to record all sales and GST liability in lieu of the retail receipt. (See the NRA's information leaflet **"The GST Retail Scheme"**).

**Regulation 37 (Other schemes to be approved by the Commissioner General**) enables the Commissioner General to approve appropriate schemes to ensure the proper accounting of GST.

**Regulation 38 (Withdrawal of privilege)** enables the Commissioner General to withdraw the privilege of operating a special retail scheme if he is not satisfied with the compliance of the Regulations or his directives.

**Regulation 39 (GST Records)** specifies the records that must be kept to comply with Section 36 of the Act, which concerns the retention of records. (See the NRA's information leaflet **"Books and Records"**).

**Regulation 40 (Records to be maintained by a registered group)** stipulates that where a group of corporate bodies are granted approval to be registered as a single taxable person, all members of the group shall adopt the same tax period and same accounting basis and shall maintain distinct records.

**Regulation 41 (Assessment to include interest and penalties)** states that an assessment issued under Part Eleven of the Act, shall include all interest, payments and penalties incurred by the taxable person up to the date of issue of the assessment.

**PART EIGHT: RECOVERY OF DUE GST, INTEREST AND PENALTIES**

Part Eight contains three regulations (Regulations 42-44) dealing with liability issues.

**Regulation 42 (Liability of persons ceasing to partners**) states that a person who notifies the Commissioner General of his or her intention to relinquish partnership in a register business will remain liable for the payment of any GST in any tax period up to the time he or she ceased to be a member of the partnership.

**Regulation 43 (Liability of members of a group)** states that where any number of corporate bodies have been registered as a group, each member of the group will be held liable for any GST due from the representative member.

**Regulation 44 (Failure to issue appropriate GST invoices and receipts)** imposes a fine of Le 500,000, or five per cent of GST indicated on the GST invoices or receipts (whichever is the greater) if a person fails to issue a GST invoice or receipt, as required by these Regulations.

## PART NINE: DIPLOMATIC MISSIONS

This part contains two regulations (Regulations 45 and 46) detailing how claims for the refund of GST by diplomatic missions are to be made and lists those entities that qualify as recognises diplomatic missions.

**Regulation 45 (Claims for refunds by diplomatic missions)** defines what is meant by a diplomatic mission, agency and heads of missions and agencies and sets out the mechanism for giving effect to Schedule 3 of the Act.

**Regulation 46 (Procedure for making a claim)** specifies how claims for refunds by diplomatic missions should be made, which persons qualify for repayments and how refunds will be paid. It authorises the Commissioner General to allow other appropriate schemes for administering relief for institutions and bodies that qualify under Schedule 3 and Section 13 of the Act.

## PART TEN: MISCELLANEOUS PROVISIONS

The final six regulations (Regulations 47-52) cover a variety of subjects, as follows. -

**Regulation 47 (Use of banks and other organisations)** enables the Commissioner General to enter an agreement with any bank or other organisation to receive GST returns and payments on behalf of the NRA. This does not absolve the Commissioner General from his responsibility under the Act to collect and account for GST.

**Regulation 48 (Credit for sales tax paid)** provides a transitional arrangement that enables a taxable person to claim for credit as input tax on goods which are in stock at the start of GST on which Sales Tax has been paid, subject to the following conditions. -

- The taxable person must be registered by the effective date of GST.
- The goods on which credit is claimed must be in the possession of the taxable person at the start of business on the effective date of GST.
- A sales Tax invoice or Single Administrative Document, or an appropriate customs entry document and payment receipt
- The taxable person shall have no reason to believe that Sales Tax has not or will not be paid by his or her supplier.
- The supply or import was not more than six months before the effective date of GST.
- The taxable person claiming input tax under this Regulation will be required to produce an inventory of all goods held on the effective date of GST.

**Regulation 49 (Conditions for writing off a debt by the Commissioner General)** states that, in order for the Commissioner General to extinguish a bad debt, in accordance with Section 88 (5) of the Act, the debtor must have been bankrupt, or ceased to exist as a legal entity, or written reports must be produced by two independent audit/control verification teams from the local office of the debtor confirming that the debtor cannot be traced.

**Regulation 50 (Contracts entered into before and after the effective date of GST)** states that, where a contract was concluded between two or more parties before the effective date of GST and no provision for tax was made in the contract, the taxable person must charge GST on taxable supplies made, under the contract, after the effective date for GST.

**Regulation 51 (Manuals)** enables the Commissioner General to issue such administrative accounting and operational manuals that he considers necessary for collecting and accounting for the tax.

**Regulation 52 (Interpretation)** gives defines the following terms. -

- 'Act' means the Goods and Services Act 2008
- 'Effective date of GST' means the date GST become chargeable.
- 'Schedule' means a Schedule to these Regulations or the Act.
- 'Takings' means all forms of payment, including cash, cheques, bank drafts, credit cards and postal orders.
- 'Tax year' means the calendar year beginning from 1 January to 31 December.

## How can I find out more about GST?

Copies of the Goods and Services Tax Act 2008 and the GST Regulations 2008 will be available for inspection at ……………… and can be downloaded from the NRA's website **www.nationalrevenuesl.org**

The NRA has also established a Tax Advisory Unit to deal with enquiries about GST and other taxes and levies. The Unit can be contacted ……… In addition, the NRA is pubishing a series of information leaflets to assist the business community and the general public. In addition to this leaflet, among those that might be of particular interest are:

- An introduction to GST for businesses
- The Taxpayer Identification Number (TIN)
- Should I be registered for GST?
- Why do we need GST in Sierra Leone?
- What is taxable under GST
- GST: Books and records to be kept
- GST visits by NRA officers
- GST special retail schemes
- The GST Margin Scheme
- A guide to claiming GST refunds
- A guide to completing your GST return
- GST and the consumer

These leaflets are available from NRA offices, or can be downloaded from the NRA's website **www.nationalrevenuesl.org**