Council of Ministers Regulation No.410 /2017

COUNCIL OF MINISTERS REGULATION ON THE FEDERAL INCOME TAX

This Regulation is issued by the Council of Ministers pursuant to Article 5 of the Definitions of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia Proclamation No.916/2015 and Article 99 of the Federal Income Tax Proclamation No.979/2016.

SECTION ONE
GENERAL PROVISIONS

1. Short Title

This Regulation may be cited as the “Council of Ministers Federal Income Tax Regulation No.410/2017”.

2. Definition

Unless the context requires otherwise, in this Regulation:

...
1/ “Proclamation” means the Federal Income Tax Proclamation No. 979/2016;

2/ “Repealed Proclamation” means the Income Tax Proclamation No.286/2002 (as amended), the Mining Income Tax Proclamation No.53/1993 (as amended) and the Petroleum Operations Income Tax Proclamation No. 296/1986 (as amended);

3/ terms and phrases used shall have the same meaning as in the Proclamation or the Federal Tax Administration Proclamation No.983/2016, as the case may be.

SECTION TWO

APPLICATION OF TERMS USED IN THE PROCLAMATION

3. Interest

An amount, however described, paid by a saving and credit association as the return on deposits with, or member’s contributions to the association shall be treated as interest for the purposes of this Proclamation.

4. Permanent Establishment

1/ In determining whether a person exceeds the 183-day period specified in Article 4(2)(c) of the Proclamation, account shall be taken of a connected project of the person or of a related person.

2/ When a person operates a building site or conducts a project or activity referred to in Article 4(3) of the Proclamation, any connected activities conducted by a related person shall be added to the period of time during which the first-mentioned person has operated the building site or conducted the project or activities for the purpose of determining whether the 183-day period is exceeded.
5. Resident Individual

1/ Subject to sub-article (2) of this Article, in calculating the number of days an individual is present in Ethiopia for the purposes of Article 5(2)(c) of the Proclamation:

a) a part of a day that an individual is present in Ethiopia (including the day of arrival in, and the day of departure from, Ethiopia) shall count as a whole day of such presence;

b) the following days in which an individual is wholly or partly present in Ethiopia shall count as a whole day of such presence:

(1) a public holiday;
(2) a day of leave, including sick leave;
(3) a day in which the individual’s activity in Ethiopia is interrupted because of a strike, lock-out, delay in the receipt of supplies, adverse weather conditions, or seasonal factors;
(4) days spent by the individual on holiday in Ethiopia before, during, or after any activity conducted by the individual in Ethiopia.

2/ A day or part of a day when an individual is in Ethiopia solely by reason of being in transit between two different places outside Ethiopia shall not count as a day present in Ethiopia.
6. Shares and Bonds

1/ The reference to “shares and bonds” in Article 59(7)(c) of the Proclamation includes any interest in shares or bonds, such as, in the case of shares, a right or option to acquire shares.

2/ A gain arising on disposal of an interest in a share in, or a bond issued by, a resident company shall be Ethiopian source income.

SECTION THREE
SCHEDULE ‘A’ INCOME
SUB-SECTION ONE
FRINGE BENEFITS

7. Sub-Section One of Section Three Definition

1/ In this Section:

a) “employee share scheme” means an agreement or arrangement under which an employer company or a related company may allot shares to an employee of the employer company;

b) “household personnel” means a housekeeper, cook, driver, gardener, or other domestic assistant;

c) “market lending rate”, in relation to a month, means:

(1) for a commercial bank, the lending rate on loans and rediscount facilities granted by the National Bank of Ethiopia to commercial banks that prevailed in Ethiopia during the month; or
(2) for any other person, the lowest lending interest rate of commercial banks that prevailed in Ethiopia during the month;

d) “related company”, in relation to a company, means another company that is a related person in respect of the first-mentioned company;

e) “remote area” means a location that is thirty kilometres from an urban centre with a population of twenty thousand;

f) “services” include the use of property and the making available of any facility;

g) “vehicle” means a motor vehicle designed to carry a load of less than one tonne and fewer than nine passengers.

2/ In this Sub-section:

a) a reference to an “employer” includes a related person of the employer and a third party acting under an arrangement with an employer or a related person of the employer;

b) a reference to an “employee” includes a related person of the employee.

8. Fringe Benefits

1/ For the purposes of Article 12(1)(b) of the Proclamation and subject to this Article, benefits listed below which an employer provides to an employee are fringe benefits:

a) debt waiver;

b) household personnel;

c) housing;

d) discounted interest loan;

e) meal or refreshment;

etc.
2/ A benefit is not a fringe benefit to the extent that, if the employee had acquired the benefit, the expenditure incurred by the employee in acquiring the benefit would have been incurred in deriving employment income.

3/ In determining whether a benefit is a fringe benefit and the value of a fringe benefit, any restriction on transfer of the benefit and the fact that the benefit is not otherwise convertible to cash are to be disregarded.

4/ The following benefits are not treated as fringe benefits for the purposes of the Proclamation or this Regulation:

a) a benefit that is exempted income under Schedule ‘E’ of the Proclamation;

b) a benefit the value of which, after taking into account the frequency with which the employer provides similar benefits, is so small as to make accounting for it unreasonable or administratively impracticable in accordance with the directive to be issued by the Minister;

c) subsidy to a meal or refreshment provided in a canteen, cafeteria, or dining room operated by, or on behalf of, an employer solely for the benefit of employees and that is available to all non-casual employees on equal terms;

d) the provision of accommodation or housing to a non-managerial employee in a remote area if:

f) private expenditure;

g) property or service;

h) an employee share scheme;

i) vehicle;

j) residual fringe benefit.
(a) the employee’s usual place of employment is in the remote area; and

(b) it is necessary for the employer to provide the accommodation or housing to the employee in the remote area because the nature of the employer’s business is such that the employee is likely to move frequently from one residential location to another or there is insufficient suitable residential accommodation available in the remote area;

e) the provision of a mobile phone by an employer for use by an employee;

f) the payment by an employer of the cost of mobile phone calls made by an employee, including with a mobile phone provided by the employer;

g) tuition fees paid by an employer for the benefit of an employee for attendance at a course offered by a university, college, or other institution providing adult education courses;

h) the provision of the services of a security guard for the benefit of an employee;

i) the provision of food and beverage services by Hotels, Restaurants and other similar establishments for their employees;

j) the provision of uniforms and related work materials.

9. Debt Waiver Fringe Benefit

1/ The waiver by an employer of the obligation of an employee to pay or repay an amount owing to the employer is a debt waiver fringe benefit.
Federal Negarit Gazette No. 82, 24th August, 2017

1. **Debt Waiver Fringe Benefit**

   The value of a debt waiver fringe benefit shall be the amount waived.

10. **Household Personnel Fringe Benefit**

   The value of a household personnel fringe benefit for a month shall be the total employment income paid to the household personnel in that month for services rendered to the employee reduced by any payment made by the employee for such services.

11. **Housing or Accommodation Fringe Benefit**

   1/ The value of a housing fringe benefit provided by an employer to an employee for a month when the employer owns the accommodation or housing shall be the fair market rent of the accommodation or housing for the month reduced by any payment made by the employee for the accommodation or housing.

   2/ The value of a housing fringe benefit provided by an employer to an employee for a month when the employer leases the accommodation or housing shall be the rent paid by the employer for the accommodation or housing during the month reduced by any payment made by the employee for the accommodation or housing.

12. **Discounted Interest Loan Fringe Benefit**

   1/ A loan provided by an employer to an employee is a discounted interest loan fringe benefit if the interest rate under the loan is less than the market lending rate.

   2/ The value of a discounted interest loan fringe benefit for a month shall be the difference between the interest paid by the employee on the loan for the month, if any, and the interest that would have been paid by the employee on the loan for the month if the loan had been made at the market lending rate for that month.

13. **Meal or Refreshment Fringe Benefit**

   The value of a meal or refreshment fringe benefit shall be the...
be the total cost to the employer of providing the meal or refreshment reduced by any amount paid by the employee for the meal or refreshment.

14. Vehicle Fringe Benefit

1/ A vehicle provided by an employer to an employee wholly or partly for the private use of the employee is a vehicle fringe benefit.

2/ Subject to sub-articles (3) and (4) of this Article, the value of a vehicle fringe benefit for a month shall be the amount calculated in accordance with the following formula:

\[
(\text{A} \times 5\%) \times 12
\]

Where: “\(\text{A}\)” is the cost to the employer of acquiring the vehicle or, if the vehicle is leased by the employer, the fair market value of the vehicle at the commencement of the lease. However, in case of a vehicle imported free of duty and taxes, the value of the vehicles’ fringe benefit shall include the duty and taxes that would otherwise have been paid on the vehicle.

3/ From the value of a vehicle fringe benefit calculated under sub-article (2) of this Article the following shall be reduced:

a) any payment made by the employee for the use of the vehicle or for maintenance and running costs;

b) the proportion of the use of the vehicle (if any) by the employee in the conduct of employment;

c) the proportion of the month (if any) that the vehicle was not provided to the employee for private use.
4/ የጆቃግር ከወስኗን በወስኗ ከታማ የምስር ከአምስት ዓመት የኖር የሚሟላ ከሆነ፣ የቓሆን ከአንቀጽ የትልቅም የሚያስገኝ እስከሆነ የግሌ ወጪ የተከፈሇ ገንዘብ የግሌ ወጪ የዓይነት ጥቅም ነው፡፡

5/ የግሌ ወጪ የዓይነት ጥቅም ዋጋ በወስኗ አንቀጽ የትልቅም የሚቆጠር ወጪ መሠን ይሆናሌ፡፡

15. Private Expenditure Fringe Benefit

1/ ይህ ከተለያዩ ዋጋ ተሳትፋ ዋጋ ተሳትፋ የሚታወቅ ከሆነ የግሌ ወጪ የዓይነት ጥቅም ነው፡፡

2/ የግሌ ወጪ የዓይነት ጥቅም ዋጋ በወስኗ አንቀጽ የትልቅም የሚቆጠር ወጪ መሠን ይሆናሌ፡፡

3/ የግሌ ወጪ የዓይነት ጥቅም ዋጋ በወስኗ አንቀጽ የትልቅም የሚቆጠር ወጪ መሠን ይሆናሌ፡፡

16. Property or Services Fringe Benefit

1/ ይህ ከተለያዩ ዋጋ ተሳትፋ ዋጋ ተሳትፋ የሚታወቅ ከሆነ የግሌ ወጪ የዓይነት ጥቅም ነው፡፡

2/ ይህ ከተለያዩ ዋጋ ተሳትፋ ዋጋ ተሳትፋ የሚታወቅ ከሆነ የግሌ ወጪ የዓይነት ጥቅም ነው፡፡

3/ ይህ ከተለያዩ ዋጋ ተሳትፋ ዋጋ ተሳትፋ የሚታወቅ ከሆነ የግሌ ወጪ የዓይነት ጥቅም ነው፡፡

4/ ይህ ከተለያዩ ዋጋ ተሳትፋ ዋጋ ተሳትፋ የሚታወቅ ከሆነ የግሌ ወጪ የ_unpack_pages_

5/ ይህ ከተለያዩ ዋጋ ተሳትፋ ዋጋ ተሳትፋ የሚታወቅ ከሆነ የግሌ ወጪ የ_unpack_pages_
3/ The value of a property fringe benefit determined under sub-article (2) of this Article shall be reduced by any payment made by the employee for the property or services.

4/ For the purposes of sub-article (2)(a) of this Article, if the property or services fringe benefit is the provision of free or subsidised air travel by an employer that is an airline operator, the normal selling price is the standard economy fare for the flight provided by the employer.

17. Employees’ Share Scheme Benefit

1/ The allotment of shares to an employee under an employee share scheme, including shares allotted as a result of the exercise of an option or right to acquire the shares, is an employee share scheme fringe benefit.

2/ The value of a right or option to acquire shares granted to an employee under an employee share scheme shall not be treated as a fringe benefit or otherwise included in employment income:

a) if the employee exercises the right or option, this Article applies to;

b) if the employee disposes of the right or option, Article 59 of the Proclamation shall apply to the disposal on the basis that the right or option is a class ‘B’ taxable asset.

3/ Subject sub-article (4) of this Article, the value of an employee share scheme fringe benefit shall be the fair market value of the shares at the date of allotment reduced by the employees’ contribution for the shares.
4/ If shares allotted to an employee under an employee share scheme are subject to a restriction on the transfer of the shares, the employee is treated as having derived the employee share scheme benefit on the earlier of:

a) the time the employee is able to freely transfer the shares; or

b) the time the employee disposes of the shares.

5/ When sub-article (4) of this Article applies, the fair market value of the shares is determined at the time the employee share scheme benefit is derived as determined under this sub-article (4).

6/ In this Article, “employees’ contribution”, in relation to shares allotted to an employee under an employee share scheme, means the sum of the consideration, if any, given by the employee:

a) for the shares; and

b) for the grant of any right or option to acquire the shares.

18. Residual Fringe Benefit

1/ A benefit provided by an employer to an employee not covered by another Article in this section is a residual fringe benefit.

2/ The value of a residual fringe benefit is the fair market value of the benefit determined at the time it is provided, as reduced by any payment made by the employee for the benefit.

19. Limitation of Tax Liability on Fringe Benefits

1/ Notwithstanding the provisions of this sub-section, the aggregate tax liability on fringe benefits shall under any circumstance not exceed 10% of the salary income of the employee.
2/ For the purpose of this Article “salary” doesn’t include other employment related benefits.

SUB-SECTION TWO
FOREIGN EMPLOYMENT INCOME

20. Foreign Employment Income

1/ Article 93(1) of the Proclamation shall apply to a resident employee employed by a non-resident employer otherwise than as an employee of an Ethiopian permanent establishment of the non-resident.

2/ If a resident employee has derived foreign employment income for a calendar month on which the employee has paid foreign income tax, the employee shall be allowed a tax credit of an amount equal to the lesser of:

a) the foreign income tax paid; or
b) the employment income tax payable in respect of the foreign employment income calculated by applying the average rate of employment income tax applicable to the resident employee to the foreign employment income of the employee for the month.

3/ Article 45(3), (4), and (5) of the Proclamation shall apply for the purposes of the tax credit allowed under this Article on the basis that the reference to “business income tax” is a reference to “employment income tax” and the reference to “tax year” is a reference to the “calendar month”.

4/ In this Article:

a) “average rate of employment income tax”, in relation to a resident employee for a calendar month, means the percentage that the employment income tax payable by the employee for the month, before the allowance
of any tax credit, is of the total employment income of the employee for the month;

b) “foreign employment income” means foreign income that is taxable under Schedule ‘A’ of the Proclamation;

c) “foreign income tax” means income tax, including withholding tax, imposed by the government of a foreign country or a political subdivision of a government of a foreign country, but does not include a penalty, additional tax, or interest payable in respect of such tax;

d) “resident employee” means an employee who is a resident of Ethiopia.

SECTION FOUR
SCHEDULE ‘B’ INCOME

21. Rental Payment Covering More Than One Year

If a lessor or sub-lessor to whom Article 15(5) of the Proclamation applies receives an amount of rental income for a period in excess of one year, the total amount of rental income received shall be treated as having been derived in the tax year in which it was received but the tax payable on the amount shall be calculated by prorating the rental income over the number of tax years to which the payment relates.

22. Lease of Business Assets

Income derived from the lease of a business, including goods, equipment, and buildings that are part of the normal operation of a business, shall be taxable under Schedule ‘C’ of the Proclamation.
23. Depreciation of a Rental Building, Furniture, and Equipment

For the purposes of Article 15(7)(c) of the Proclamation, the deduction allowed for a tax year for depreciation of a rental building, furniture, and equipment shall be determined in accordance with Article 25 of the Proclamation and Sub-section Two of Section Five of this Regulation on the basis that:

1/ the rental building is a depreciable asset being a structural improvement to immovable property; and

2/ any furniture and equipment leased with the building are depreciable assets.

24. Rental Income Losses

1/ If the total rental income for a tax year of a taxpayer keeping records is exceeded by the deductions allowed to the taxpayer under Article 15(7)(c) of the Proclamation for the tax year, the amount of the excess shall be treated as a rental loss for the year.

2/ Article 26 of the Proclamation and Article 42 of this Regulation shall apply to a taxpayer who has a rental loss on the basis that the reference in those Articles to a “loss” is a reference to a “rental loss”.

25. Foreign Rental Income

1/ If a resident taxpayer has foreign rental income for a tax year on which the taxpayer has paid foreign income tax, the taxpayer shall be allowed a tax credit of an amount equal to the lesser of:

a) the foreign income tax paid; or

b) the rental income tax payable in respect of the foreign rental income of the taxpayer.
calculated by applying the average rate of rental income tax applicable to the taxpayer to the net foreign rental income of the taxpayer for the tax year.

2/ Article 45(3), (4), and (5) of the Proclamation shall apply for the purposes of the tax credit allowed under this Article on the basis that the reference to “business income tax” is a reference to “rental income tax”.

3/ In this Article:

a) “average rate of rental income tax”, in relation to a resident of Ethiopia for a tax year, means the percentage that the rental income tax payable by the resident for the year, before the allowance of any tax credit, is of the taxable rental income of the resident for the year;

b) “foreign income tax” means income tax, including withholding tax, imposed by the government of a foreign country or a political subdivision of a government of a foreign country, but does not include a penalty, additional tax, or interest payable in respect of such tax;

c) “foreign rental income” means foreign income taxable under Schedule ‘B’; and

d) “net foreign rental income”, in relation to a resident taxpayer for a tax year, means the total foreign rental income of the taxpayer for the year reduced by the deductions allowed under Article 15(7) of the Proclamation that relate to the derivation of that income.
26. Notification of Rental of New Building

For the purpose of Article 17(1) of the Proclamation, the period of notification of the completion or rental of new building shall be within one month of the earlier of the completion or rental of such building.

SECTION FIVE
SCHEDULE ‘C’ INCOME

SUB-SECTION ONE
DEDUCTIONS

27. Representation Expenditures

For the purposes of Article 27(1)(i) of the Proclamation, “representation expenditures” shall mean hospitality expenditures incurred by an employee in receiving guests from outside the business for the purposes of promoting and enhancing the business.

28. Deductibility of Interest Paid to a Foreign Lender

Interest paid to a foreign lender referred to in Article 23(2)(a)(2) of the Proclamation shall be deductible only if the borrower has provided the Authority with a copy of the letter of authorization to provide loan issued by the National Bank of Ethiopia to the foreigner lender.

29. Medical Expense Incurred for Employees’

Medical expense incurred by an employer for his employee including premium payments made under employees’ health insurance scheme shall be deducted in accordance with Article 22(1)(a) of the Proclamation.

30. Food and Beverage Services Provided by Establishments Engaged in the Provision of Food and Beverage Services

1/ Expenditure incurred in the provision of food and beverage services by Hotels, Restaurants or other similar establishments for their employees shall be deducted in accordance with Article 22(1)(a) of the Proclamation.
2/ The limit to the deduction allowed pursuant to sub-article (1) of this Article shall be determined by a directive to be issued by the Minister.

31. Business Promotion Expenditure

The limit to the deduction of business promotion expenses incurred locally or abroad pursuant to Article 22(1)(a) of the Proclamation shall be determined by a directive to be issued by the Minister.

32. A Lessee Maintaining or Repairing or Improving a Business Asset at his own Expense

Expenditure incurred by a lessee of his own volition at variance with the terms of the contract concluded with the lessor in the maintenance or repair or improvement of the leased business asset shall be deducted from the business income of the lessee.

33. Charitable Donation

1/ A deduction allowed under Article 24(1) of the Proclamation for charitable donations shall apply to expenses incurred by the tax payer in the management of his own charitable activities.

2/ For the purpose of Article 24(1) (b) of the Proclamation, call by the government means call by the federal government or a regional state and includes a call by the Addis Ababa and Dire dawa city administrations.

3/ For the purpose of sub-article (1) of this Article “charitable donation” means a donation made in support of education, health, environmental protection or provided in the form of humanitarian aid other than for the tax payer’s own employees.

34. Deduction allowed for Business Asset held under Capital Goods Lease Agreement

1/ Lease payment made for business asset held under
capital goods lease agreement is deductible business expenditure from gross business income.

2/ A person realizing deduction under sub-article (1) of this Article shall not be entitled to depreciation on the asset.

35. Head Office Expense

Payment made by a permanent establishment doing business in Ethiopia to its parent non-resident body in reimbursement of actual expenses incurred by the parent non-resident body for the benefit of the permanent establishment shall be deducted to the extent that such expense was incurred in deriving, securing or maintaining business income.

SUB-SECTION TWO

DEPRECIATION DEDUCTION

36. Depreciation Deduction of Depreciable Assets and Business Intangibles

1/ Subject to sub-article (2) of this Article, a taxpayer may determine the depreciation deduction allowed under Article 25(1) of the Proclamation according to the straight-line method under Article 37 of this Regulation or the diminishing value method under Article 38 of this Regulation provided:

a) the taxpayer has used the same method of depreciation in its financial accounts prepared in accordance with financial reporting standards; and

b) the same method of depreciation is used by the taxpayer for all depreciable assets owned by the taxpayer.
2/ The following assets shall be depreciated only under the straight-line method:

a) a business intangible;

b) a structural improvement of immovable property;

3/ For the purposes of calculating the depreciation deduction in relation to a structural improvement of immovable property, the cost of the structural improvement shall not include the cost of the land on which the improvement is situated.

4/ No depreciation deduction shall be allowed for the cost of a depreciable asset or business intangible acquired by a taxpayer from a related person (“transferor”) when the cost of the asset or intangible had been fully depreciated by the transferor.

37. **Straight-line Depreciation**

1/ Subject to Article 25(3) and (4) of the Proclamation, the depreciation deduction allowed to a taxpayer for a tax year in respect of a depreciable asset or business intangible under the straight-line method shall be calculated by applying the rate specified in Article 39 of this Regulation against the cost of the asset.

2/ The total deductions allowed, or that would be allowed but for Article 25(4) of the Proclamation, to a taxpayer in respect of a depreciable asset or business intangible under this Article for the current tax year and all previous tax years shall not exceed the cost of the asset.

38. **Diminishing Value Depreciation Deduction**

1/ Subject to Article 25(3) and (4) of the Proclamation,
the depreciation deduction allowed to a taxpayer for a tax year in respect of a depreciable asset under the diminishing value method shall be calculated by applying the rate specified in Article 39 of this Regulation against the net book value of the asset at the beginning of the year.

2/ If Article 25(4) of the Proclamation applies to a depreciable asset for a tax year, the net book value of the asset shall be calculated on the basis that the asset has been used in that year solely to derive business income.

3/ If the balance of a depreciable asset of the taxpayer is not more than two thousand Birr, the amount shall be fully deducted in the tax year to which the balance corresponds.

39. Rates of Depreciation Deduction

1/ The rates of depreciation applicable to a depreciable asset are specified in the following table based on the following categories:
### Depreciable Asset

<table>
<thead>
<tr>
<th>Depreciable Asset</th>
<th>Straight-line Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Computers, software, and data storage equipment</td>
<td>20%</td>
</tr>
<tr>
<td>Greenhouses</td>
<td>10%</td>
</tr>
<tr>
<td>Structural improvement on immovable property other than a greenhouse</td>
<td>5%</td>
</tr>
<tr>
<td>Any other depreciable asset</td>
<td>15%</td>
</tr>
<tr>
<td>Depreciable asset used in mining and petroleum development operations</td>
<td>25%</td>
</tr>
</tbody>
</table>

2/ The rate of depreciation applicable to a business intangible shall be:

a) for preliminary expenditure, 25%;

b) for a business intangible with a useful life of more than 10 years, other than a business intangible referred to in paragraph (a), 10%; or

c) for any other business intangible, 100% divided by the useful life of the intangible.

3/ In this Article, “preliminary expenditure” means expenditure referred to in paragraph (4) of the definition of “business intangible” in Article 25(7)(a) of the Proclamation incurred by a taxpayer before the commencement of a business.
40. Depreciation allowed on a Building used Partially as a Business Asset

Depreciation on a building used partially as a business asset shall be allowed only in proportion to the portion of the property used as a business asset.

41. Repairs and Improvements

1/ Subject to sub-article (2) of this Article, a taxpayer shall be allowed a deduction for a tax year for the cost of a repair or improvement made to a depreciable asset during the year.

2/ The amount of the deduction allowed under sub-article (1) of this Article shall not exceed twenty percent of the net book value of the asset at the end of the tax year.

3/ If the cost of a repair or improvement made to a depreciable asset during the year exceeds twenty percent of the net book value of the asset, the whole cost of the repair or improvement shall be added to the net book value of the asset.

SUB-SECTION THREE

LOSS CARRY FORWARD

42. Loss Carry Forward

1/ If a taxpayer has a loss carried forward under Articles 26, 38 or 46 of the Proclamation for more than one tax year, the loss of the earliest year shall be deducted first.

2/ A loss may be carried forward only if the taxpayer’s books of account showing the loss are audited and acceptable to the Authority.

3/ Despite sub-article (2) of this Article, a taxpayer may carry a loss forward if:
a) the taxpayer has submitted books of account to the Authority showing that the loss has been audited by external auditors; and

b) the Authority has failed to audit the taxpayer’s books of account before the due date for filing the taxpayer’s tax declaration for the next following tax year.

4/ Nothing in sub-article (3) of this Article prevents the Authority from subsequently auditing the loss and serving the taxpayer with a notice of amended assessment in relation to the loss in accordance with Article 28 of the Federal Tax Administration Proclamation.

43. Loss carry Backward

For the purpose of Article 32 of the Proclamation, loss sustained in the performance of a long term contract may be carried backward until the loss is fully deducted.

SUB-SECTION FOUR

FOREIGN CURRENCY EXCHANGE GAINS AND LOSSES

44. Foreign Currency Exchange Gains and Losses

1/ A foreign currency exchange gain derived by a taxpayer shall be included in business income.

2/ Subject to sub-article (3) of this Article, if a taxpayer incurred a foreign currency exchange loss during a tax year, the loss shall be offset against a foreign currency exchange gain derived by the taxpayer during the year subject to the following:

a) the unused amount of a loss can be carried forward indefinitely for offset against foreign currency exchange gains until fully offset;
3/ Sub-article (2) of this Article shall not apply to a foreign currency exchange loss incurred by a financial institution and the amount of the loss shall be allowed as a deduction provided the financial institution has substantiated the amount of the loss to the satisfaction of the Authority.

4/ A taxpayer derives a foreign currency exchange gain or incurs a foreign currency exchange loss when the gain or loss is realised.

5/ In determining whether a taxpayer has derived a foreign currency exchange gain or incurred a foreign currency exchange loss in respect of a foreign currency transaction, account must be taken of the taxpayer’s position under a hedging contract entered into by the taxpayer or by a related person in relation to the transaction.

6/ In this Article:

a) “debt obligation” means an obligation to make a payment of money to another person, including accounts payable and the obligations arising under promissory notes, bills of exchange, and bonds;

b) the taxpayer has substantiated the amount of the loss to the satisfaction of the Authority.

c) “foreign currency exchange gain” means a gain attributable to currency exchange rate fluctuations derived in respect of a foreign currency transaction;

d) “foreign currency exchange loss” means a loss attributable to currency exchange rate fluctuations incurred in respect of a foreign currency transaction;
the following transactions entered into in the conduct of a business to derive business income:

1. a dealing in a foreign currency;

2. the issuing of, or obtaining a debt obligation, denominated in foreign currency; or

3. any other dealing in which foreign currency is denominated;

e) “hedging contract” means a contract entered into by a person for the purpose of eliminating or reducing the risk of adverse financial consequences that might result for the person under another contract from currency exchange rate fluctuations.

SUB-SECTION FIVE

BANKS AND INSURANCE COMPANIES

45. Loss Reserve of Banks

A bank shall be allowed a deduction for a tax year for eighty percent of its loss reserve for the year, provided that the amount of the reserve has been calculated in accordance with the prudential requirements prescribed by the National Bank of Ethiopia and is consistent with financial reporting standards.

46. Reserve for Unexpired Risks of General Insurance Companies

1/ Subject to sub-article (2) of this Article, an insurance company carrying on the business of general insurance shall be allowed a deduction for a tax year of the balance of its reserve for unexpired risks as at the end of the year provided the amount of the reserve has been calculated in accordance with financial reporting standards.
2/ If an insurance company is a non-resident company carrying on business through a permanent establishment in Ethiopia, the deduction allowed under sub-article (1) of this Article shall be limited to the balance of the company’s reserve for unexpired risks in Ethiopia.

3/ The business income of an insurance company carrying on the business of general insurance for a tax year shall include the amount of the company’s reserve for unexpired risks deducted in the previous tax year under sub-article (1) or (2) of this Article, as the case may be.

4/ In this Article, “general insurance” means all insurance other than life insurance as defined in the Commercial Code.

47. Taxable Income from Life Insurance Business

1/ The taxable income of an insurance company from the conduct of the business of life insurance for a tax year shall be calculated according to the following formula:

\[ (A + B + C + D) - (E + F + G + H) \]

where:

“A” is the life insurance premiums derived by the company during the year but not including premiums returned to policy holders during the year;

“B” is investment income derived by the company during the year relating to the business of life insurance;

“C” is the amount of any previously deducted reserves for life policies cancelled during the year;
“መ” ከሚያካሂዯው የህይወት መዴን ሥራ ያገኘው ላሊ ማንኛውም ገቢ፣ የጠሇፋዋስትና አረቦንን፣ የሥጋት ትንተናወጪዎችን፣ በፖሉሲው ሊይ የሚጠየቁየመንግሥት ክፍዎችን እና የሥራ ማስኬጃወጪዎችን��ምሮ በዓመቱ ከመዴን ፖሉሲሽያጭ ጋር በተያያዘ ያወጣው ወጪ፤

“ረ” ሊወጣቸው አዱስ የህይወት መዴን ፖሉሲዎች የያዘውን መነሻ የመጠባበቂያ ሂሣብጨምሮ የያዘው ተጨማሪ የህይወት መዴንፖሉሲ መጠባበቂያ ሂሣብ፤

“ሰ” ሊወጣቸው የህይወት መዴን ፖሉሲዎች የያዘውን ጠቅሊሊ የመጠባበቂያ ሂሣብመጠን እና በዚህ ሂሣብ ሊይ ካገኘው ገቢ በሊይ በህይወት መዴን ፖሉሲዎች መሠረት ሇቀረቡ የህይወት መዴን ክፍያ ጥያቄዎችን የፈፀመውክፍያ፣ እና

“ሸ” ከህይወት መዴን ጋር በተገናኘ ኩባንያውበዓመቱ ውስጥ ያወጣው ላሊ ማንኛውም ተቀናሽወጪ ነው፡፡

2/ ከአንቀጽ አፈጻጸም “የህይወት መዴን” በንግዴሕግ የተሰጠው ትርጉም ይኖረዋሌ፡፡

“D” is any other income derived by the company during the year relating to the life insurance business;

“E” is underwriting expenses incurred by the company during the year in the conduct of life insurance business, including commissions paid, reinsurance premiums, risk analysis costs, Government charges on the policy, and operating expenses;

“F” is the additions to life policy reserves, including the initial reserve on new life policies issued during the year;

“G” is the amount of claim payments under life policies made in excess of the sum of reserved amounts and income earned on the reserved amounts in relation to life policies paid out during the year; and

“H” is any other deductible expenditure incurred by the company during the year in relation to the life insurance business.

2/ If a company conducts the business of life insurance and some other business including the business of general insurance, the taxable income of the company from the conduct of the life insurance business shall be calculated separately from the taxable income from other business of the taxpayer.

3/ In this Article, “life insurance” has the meaning given to the term in the Commercial Code.
48. Obligation of Micro Enterprises to Maintain Books of Account

For the purpose of Article 82 of the Proclamation, micro enterprises shall be treated as individual and the obligation to maintain books of account shall apply to such enterprises on the basis of their annual turnover.

SUB-SECTION SEVEN

CATEGORY ‘C’ TAXPAYERS

49. Presumptive Business Tax of Category ‘C’ Taxpayers

1/ The presumptive business tax to be paid by category “C” taxpayers shall be calculated in accordance with the SCHEDULE attached to this Regulation.

2/ The annual taxable income of a tax payer shall be assessed in accordance with the maximum annual turnover in the income bracket within which the annual gross income of the tax payer falls.

3/ The Minister shall revise the schedule in accordance with which the tax to be paid by category “C” tax payers is assessed at least every three years.

4/ If a tax payer who is the owner of a vehicle, drives the vehicle he uses in the business of rendering transport service, the employment income tax that the driver would have paid had the owner employed such driver, shall be included in calculating the tax payable by the owner of the vehicle.
SECTION SIX
SCHEDULE ‘D’ INCOME

50. Income from Casual Rental of Asset

For the purpose of Article 58 of the Proclamation “income derived from casual rental of asset” means gross income derived by a person who is not engaged in the regular business of rental of movable or immovable asset.

51. Repatriated Profit of a Permanent Establishment

1/ The tax under Article 62 of the Proclamation on the repatriated profit of a non-resident body conducting business through a permanent establishment in Ethiopia shall be imposed by reference to the body’s tax year.

2/ The repatriated profit of a body for a tax year shall be calculated in accordance with the following formula:

\[ A + (B - C) \); D \]

where:

“A” is the total cost of assets, net of liabilities, of the permanent establishment at the commencement of the tax year;

“B” is the net profit of the permanent establishment for the tax year calculated in accordance with the financial reporting standards;

“C” is the business income tax payable on the taxable income of the permanent establishment for the tax year; and

“D” is the total cost of assets, net of liabilities, of the permanent establishment at the end of the tax year.
3/ In calculating the repatriated profit of a permanent establishment for a tax year, the total cost of assets of the permanent establishment at the end of a tax year shall be the total cost of assets at the commencement of the next following tax year.

52. The Effect of Adjustment of Business Profit on Paid out Dividends

The fact of a business profit declared by a body being less than the adjusted business profit of the body by the authority in accordance with the finding of a tax audit, shall not affect the tax on dividend distributed to shareholders on the basis of the profit declared by that body.

53. Capital Gains Tax Payable on the Disposal of Certain Investment Assets by Donation

1/ For the purpose of Article 59 of the Proclamation, tax payable on a capital asset disposed by donation shall be calculated on the difference between the original cost of the asset and the cost of the asset at the time of disposal by donation.

2/ The receiver of donation shall be liable to pay tax on a capital asset disposed by donation.

SECTION SEVEN

EXEMPT INCOME

54. Exempt Income

1/ The following items of income are exempt from income tax:

a) employment income of not exceeding five years paid to expatriate professionals recruited for transfer of knowledge by investors engaged in export business in accordance with a directive to be issued by the Minister;
a) income from employment received by unskilled employee working for the same employer whether continuously or intermittently for not more than thirty (30) days within any twelve month period; provided, however, that the tax payable on income from employment received by a casual employee working intermittently for the same employer for more than thirty (30) days within twelve months period shall be calculated only on the income received by that employee from the last employment;

b) for the purpose of the exemption under paragraph (b) of this sub-article “unskilled employee” means an employee who has not received vocational training, does not use machinery or equipment requiring special skill, and who is engaged by an employer for a period aggregating not more than thirty (30) days during a calendar year.

c) The exemption accorded under Article 65(1)(a)(1) of the Proclamation to an amount paid by an employer to cover the cost of medical treatment of an employee shall include premium payments made by an employer on behalf of an employee under employees’ medical insurance scheme.

SECTION EIGHT
ASSETS

55. Disposal and Acquisition of Asset

For the purpose of depreciation and capital gain tax, when a registerable asset is transferred by sale, exchange or gift, the transferor is treated as having disposed of the asset and the transferee is treated as having acquired the asset at the time the contract of sale, exchange or gift is registered by an entity empowered to exercise the function of the notary.
56. Cost

1/ The cost of a class ‘A’ taxable asset provided in the Proclamation shall be adjusted for inflation as determined under a directive issued by the Minister.

2/ If the acquisition of an asset by a taxpayer is the derivation of an amount that is:
   a) included in the income of the taxpayer subject to tax under the Proclamation, the cost of the asset is the amount so included plus any amount paid by the taxpayer for the asset; or
   b) exempt income, the cost of the asset is the exempt amount plus any amount paid by the taxpayer for the asset.

57. Transfer of share

If a share that a non-resident person transfers is related directly or indirectly with an asset in Ethiopia, such share shall be treated as having been transferred in Ethiopia.

SECTION NINE
ADMINISTRATIVE AND PROCEDURAL RULES

58. Books of Account to be kept by Category ‘B’ Tax Payers

1/ The Authority shall determine by directive the documents that category “B” tax payers shall be required to submit together with their simplified books of account.

2/ Category “B” taxpayers may voluntarily account on accrual basis provided that they comply with the requirements set under financial reporting standards.
59. Books of Account and Documents to be Kept by Category ‘C’ Taxpayers

1/ For the purpose of Article 82(3) of the Proclamation, Category “C” tax payers may keep book of accounts that Category “B” tax payers are required to maintain. The tax of Category “C” tax payers maintaining books of account shall be assessed in accordance with such books of account as are acceptable to the Authority.

2/ Notwithstanding the provision of sub-article (1) of this Article, a Category “C” tax payer employing a worker shall keep documents showing any amount of employment income paid to the employee and any amount withheld in tax from such income.

60. Payment of Tax by Category ‘C’ Taxpayers

1/ For the purposes of Article 49 of the Proclamation, Category “C” tax payers shall pay tax in accordance with turnover based standard presumptive business tax or indicator based presumptive business tax methods.

2/ Category “C” taxpayers engaged in the business of transport service shall pay the withholding tax from employment income together with their business income tax.

61. Non-Applicability of Withholding Tax

For the purpose of Article 92 of the Proclamation, the Minister shall specify by a directive:

1/ the type of services to which withholding tax shall not apply;

2/ persons to whom the obligation to withhold tax shall not apply.
62. Withholding of Tax from Domestic Payments

1/ A withholding agent required to withhold tax under Article 92 of the Proclamation shall issue a serially numbered official receipt to the recipient of the payment from which tax is to be withheld under that Article.

2/ If the withholding agent is a Government agency, the receipts referred to in sub-article (1) of this Article shall be authenticated by the Ministry.

3/ Article 19 of the Federal Tax Administration Proclamation shall apply to receipts referred to in sub-article (1) of this Article issued by a withholding agent other than a Government agency.

63. Requirement to provide Trade License to a Withholding Agent

Apart from the requirement of Tax Identification Number (TIN) laid down in Article 92 sub-article (4) of the Proclamation, a tax payer shall also be required to submit his trade license.

64. The Liability of a Withholding Agent

1/ Article 97(3) of the Proclamation shall not apply where a withholding agent required to withhold and transfer tax to the Authority under the Proclamation presents evidence to the tax authority that the principal tax payer has paid the tax, notwithstanding that the withholding agent has failed to withhold and transfer the tax.

2/ The provision of sub-article (1) of this Article does not preclude the penalty imposed under Article of 106(1) of the Tax Administration Proclamation.
65. Delayed Submission of Books of Account

1/ Books of account shall not be rejected by more reason of late submission.

2/ The provision of sub-article (1) of this Article shall:
   a) not apply where the tax has been assessed by estimation because of non-filing of tax return;
   b) not preclude the penalty imposed under article 102 of the Tax Administration Proclamation.

66. Income Derived after Ceasing of Business

For the Purpose of Article 74 of the Proclamation, the Tax Authority shall issue a directive on the procedure of payment of tax by a tax payer deriving income after ceasing business.

SECTION TEN
MISCELLANEOUS

67. Pooled Depreciable Assets

1/ A taxpayer who has a positive balance in a depreciation pool at the commencement of the Proclamation shall continue to depreciate the balance of the pool in accordance with repealed Proclamation.

2/ If a taxpayer to whom sub-article (1) of this Article applies disposes of a depreciable asset in a depreciation pool, the consideration for the disposal shall reduce the depreciation base of the pool.

3/ If, as a result of a disposal a depreciable asset referred to in sub-article (1)of this Article, the depreciation base of a depreciation pool is a negative amount:
   a) the negative amount is included in business income; and
b) the pool is treated as closed and any assets remaining in the pool are treated as fully depreciated.

4/ A taxpayer who has acquired a depreciable asset on or after the commencement of the Proclamation shall depreciate the asset in accordance with Article 38 of this Regulation and the cost of the asset shall not be added to a depreciation pool referred to in sub-article (1) of this Article.

68. Business Loss Carried Forward

1/ A taxpayer who has a business loss under the repealed Proclamation that has not been fully deducted under the repealed Proclamation shall continue to be deducted in accordance with the repealed Proclamation.

2/ Any loss incurred under the repealed Proclamation shall not be taken into account for the purposes of Article 26(4) of the Proclamation.

69. Exemptions under Directives

An exemption provided for in a Directive issued by the Minister prior to the commencement of the Proclamation shall remain in force until the earlier of:

1/ the date that the Directive lapses according to its terms; or

2/ the date that the Minister repeal the Directive.

70. Repealed and Inapplicable Laws

1/ The Income Tax Regulation No. 78/2002 (as amended) are repealed by this Regulation.

2/ The repealed Regulation shall continue to apply for tax years preceding the effective date of this Regulation.

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71. Effective Date

This Regulation shall apply on income derived as of 8th day of July, 2016.

Done at Addis Ababa, this 24th day of August 2017.

HAILEMARIAM DESSALEGN
PRIME MINISTER OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA