

LAWS OF SOUTH SUDAN

The Taxation Amendment Act, 2016

DECEMBER, 2016

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In accordance with the provisions of Article 55 (2)(3)(b) read together with Article 85(1) of the Constitution, the National Legislature with the assent of the President, hereby enacts the following:

CHAPTER 1

AMENDMENT TO THE TAXATION ACT 2009

1. **Title and Commencement.**

This Act shall be cited as the "Taxation Amendment Act, 2016" and shall come into force on the date of its signature by the President.

2. **Purpose.**

The purpose of this Act is to amend the Taxation Act, 2009 and related tax laws and to provide for related matters that will reduce burden on businesses; to incorporate changes to the Act made by Financial Act 2014/2015; and to establish new withholding taxes and other changes designed to increase the revenues of the Government

3. **Authority and Application.**

This Act is drafted in accordance with the provisions of Article 177(2) of the Constitution which grant the Republic authority to legislate for raising revenue or collecting taxes from certain sources. The Act is submitted in accordance with Article 88 (2) of the Constitution and Article 17(2) of the Public Financial Management and Accountability Act 2011, which provide for submission of Proposals for taxes, fees and other levies in support of the budget, together with the Appropriation Act.

4. **Amendment to Chapter I of the Taxation Act 2009 (Principal Act)**
Section 5.1 of the Taxation Act, 2009 is amended by including in the definitions the following:

"Technical fees" means fees paid to non-residents which are broadly defined to include technical services, managerial services and consultancy services.

"Hotel Services" means renting of rooms, houses, or other lodging accommodation for a fee including, but not limited to business centre services,

massage services, swimming pool services, laundry services etc whether paid by a guest of the hotel or a visitor to the hotel.

5. Section 14 of the Taxation Act, 2009 is amended in subsection (1) by inserting additional subsections immediately after subsection (d) to read:

- (e) To collect any tax debt owed to the Directorate of Taxation;
- (f) To verify filing or non-filing of any tax return or other document required to be submitted to the Directorate of Taxation and require submission of same

6. Section 37 of the Taxation Act, 2009 is amended -

- a) By deleting subsection (2) and substituting for it the following new subsection-

(2) Accrual shall commence on the 1st day of the fourth month after the month for which payment of tax was due, and shall be calculated on the 1st day of each successive month that passes until the obligation is fulfilled.

- b) By deleting subsection (3) and substituting for it the following new subsection-

(3) The penalty imposed under this section may be waived due to verifiable reasons beyond the control of the taxpayer, in accordance with the conditions prescribed by the regulations, or upon written determination of the Director General that partial waiver of the penalty, not to exceed 75% of the outstanding penalty amount, is appropriate in the interests of effective tax administration and to enhance voluntary compliance. This authority cannot be re-delegated and shall be subject to review within two years from the date of signature of this Act.

7. Section 38 of the Taxation Act, 2009 is amended-

- a) By deleting subsection 2 and substituting for it the following new subsection:

(2) If any person is required to file an information return with respect to any payment of a dividend, interest, or sale proceeds, or with respect to any other transaction, such person shall be assessed and shall pay a charge equal to 20% of the assessed amount if that person fails to file it on time, or a flat penalty of SSP 250 for each month the information report is late, whichever is greater. The penalty shall be assessed on the first of the month following the month in which the information return was due and the first of each month thereafter.

- b) By deleting subsection 3 and substituting for it the following new subsection:

(3) The additional charges which may be assessed under this section may be waived due to verifiable matters beyond the control of the taxpayer, in accordance with the conditions prescribed by the regulations, or upon written determination of the Director General that partial waiver of the penalty, not to exceed 75% of the outstanding penalty amount, is appropriate in the interests of effective tax administration and to enhance voluntary compliance. This

authority cannot be re-delegated and shall be subject to review within two years from the date of signature of this Act.

c) By inserting the following new subsection immediately after subsection (3):

(4) If any person fails to register with the Directorate of Taxation within 30 days of the time required by Section 17 of this Act, such person shall be liable to an administrative penalty of SSP 500 for each month or part month during which such failure to register continues, beginning with the first day of the month following the end of the 30-day period. This penalty may be imposed in addition to any criminal penalty that may be imposed in accordance with provisions of Chapter XIX of this Act.

8. Section 40 of the Taxation Act, 2009 is amended by inserting the following new subsection immediately after subsection 2-

(3) In his/her sole discretion, the Director General may determine that payments made by a taxpayer shall be designated as a payment of tax and give written direction that the payment be treated as such, so long as the payments so designated do not exceed 90% of the tax amount owed. This provision shall only be applicable when the total amount of accrued penalty and interest exceed the taxpayer's basic tax liability for the tax period to which the payment is to be applied. The authority may not be re-delegated.

9. Section 57 of the Taxation Act, 2009 is amended by inserting the following new subsection immediately after subsection 2-

(3) Exemptions from personal income tax granted by non-tax legislation, including, but not limited to, Section 38 of the Emoluments, Entitlements and Privileges of Executive and Legislative Constitutional Post Holders Act, 2010, are null and void.

There shall be no exemptions from personal income tax other than those provided in this Act.

10. The National Revenue Authority Act, 2016 is amended by deleting section 7 (3) (c) and replacing it with the following-

7(3) (c) Three members from civil society institutions and the private sector shall be appointed through consultation by the Minister.

11. Section 63 of the Taxation Act, 2009 is amended by deleting subsection 2 and substituting for it the following new subsection:

(2) Unless a taxpayer has paid advance tax under Chapter XIII of this Act, a taxpayer

whose entire tax due has been withheld pursuant to Chapter XIV of this Act shall not be required to submit a tax return under subsection (1) above.

12. Section 69 of the Taxation Act, 2009 is amended by inserting the following new Subsection immediately after subsection 2-

(3) Exemptions from Business Profits Tax granted by non-tax legislation, including, but not limited to, provisions of the Investment Promotion Act granting exemptions or alternative methods of tax computation, are null and void. There shall be no exemptions from Business Profits Tax other than those provided in this present Act.

13. Section 87 of the Taxation Act, 2009 is amended by deleting the tax Rate table and substituting it with the following table-

Tax shall be applied to all goods entered into South Sudan at the following rates:

Item	Description	Tax Rate
1	On all imported food items	Two percent (2%)
2	On all other imported goods	Four percent (4%)

14. Section 88 of the Taxation Act, 2009 is amended by deleting the whole provision and substituting for it the following new section-

88. Exemption from tax

(1) There shall be an exemption from the advance payment of tax for-

- (a) Humanitarian aid when imported by a bona fide organization as prescribed by regulations;
- (b) goods imported by a contractor, other than a local contractor, in the performance of a contract with the United Nations, the UN Specialized Agencies, or other international or governmental donors to the GRSS;
- (c) Goods imported by the United Nations, the UN Specialized Agencies, or other international or governmental donors to the GRSS;
- (d) Personal goods accompanying a traveler, except goods for resale; and,
- (e) Used household effects of any person intending to take up permanent residence in South Sudan.

(2) The Minister of Finance and Economic Planning shall be the sole authority to issue exemption letters.

15. Section 92 of the Taxation Act, 2009 is amended by inserting the following new consecutive subsections immediately after subsection (e)-

(f) GRSS institutions that make contract payments to contractors of the Government of the Republic of South Sudan.

(g) persons who pay technical fees to a non-resident of South Sudan for services performed in South Sudan, so long as the non-resident person is not otherwise exempted from taxation in South Sudan by provisions of this Act, or the non-resident entity has no permanent establishment in South Sudan and the gross compensation paid to the non-resident is more than SSP 10 thousand (SSP 10,000) in any twelve-month period.

16. Section 94 of the Taxation Act, 2009 is amended by inserting the following new sub-sections immediately after sub-sections 1, 2 and 3-

(4) Any person who pays rent shall withhold tax at the rate of twenty Percent (20% of the payment at the time of the payment, regardless of whether the beneficiary of the payment is a resident or not.

(5) Any GRSS Institution which makes contract payments to, or for the benefit of, a contractor of the Government of the Republic of South Sudan shall withhold tax at the rate of twenty percent (20%) of the payment at the time of the payment, regardless of whether the beneficiary of the payment is resident or not.

(6) Any person who pays technical fees to a non-resident of South Sudan as provided in Section 92(g) of this Act shall withhold tax at the rate of 10% of the gross compensation.

17. Section 96 of the Taxation Act, 2009 is amended by deleting the whole provision and substituting for it the following new section-

Section 96. Final Tax

Tax withheld on dividends, interest, rents, contract payments of GRSS Institutions, and technical fees shall be deemed to be a final payment of tax and not subject to a credit or refund under this Act, irrespective of whether the recipient is resident or non-resident.

Schedule II of the Taxation Act, 2009 is amended by substituting for the previous tables, the Tables below:

1.

No.	Amount of Taxable Income (Monthly Average)	Tax Rate
1.	SSP 600	Not subject to income tax (Zero rate)
2.	SSP 601 - SSP 5,000	Ten percent (10%)
3.	SSP 5001 and above	Fifteen percent (15%)

2. As provided in Financial Act 2014/2015, the Business Profits Tax Rates shall be:

S/No	Type of Business	Tax Rate
1	Small Business Enterprise (SSP 0 – 1,000,000 Annual gross turnover)	10%
2	Medium Business Enterprises (SSP 1,000,001 to 30,000,000)	20%
3	Large Business Enterprises (SSP 30,000,001 and above)	25%

3. Schedule III of the Taxation Act, 2009 is amended by substituting for the previous table, the Table below:

As provided in Financial Act 2014/2015, the Excise Tax Rates shall be (Harmonized and System Number for buses is corrected to 8702):

Harmonised System Number	Article Description	Original Rate of Excise Duty	Rate of Excise Duty as from 1st May 2013	New Rate as a result of the Finance Act 2014/2015 (Effective from 1 April 2016)
2009	Fruit Juices	N/A	10%	10%
2201	Waters, including natural or artificial mineral waters	N/A	10%	5%
2202	Soft drinks and other flavored waters	N/A	10%	10%
2203	Beer made from malt	15%	100%	100%
2204	Wine of fresh grapes, including fortified wines; grape (other than unfermented grape)	15%	100%	100%
2205	Vermouth and other wines of	15%	100%	100%

	fresh grapes flavoured with plants or aromatic substances			
2206	Other fermented beverages (including cider, prune wine, rice wine, or sake, sherry, and mead)	15%	100%	100%
2207.10.30	Indentured ethyl alcohol of an alcoholic strength by volume of 80 percent volume or higher for beverage purposes	20%	300%	100%
2208	Indentured ethyl alcohol of an alcoholic strength by volume of less than 80 percent vol.; spirits, liqueurs and other spirituous beverages; compound alcoholic preparations of a kind used in the manufacture of beverage	20%	200%	300%
2402	Cigars, cheroots, cigarillos and cigarettes, of tobacco or tobacco substitutes	15%	200%	250%
2403	Other manufactured tobacco and manufactured tobacco substitutes; "homogenized" or "reconstituted" tobacco; tobacco extracts and essences	15%	200%	250%
2710.00.10, 2710.00.15, or 2710.00.18	Gasoline, diesel fuel and other petroleum products	5%	5%	5%
8702	Buses	N/A	10%	10%
8703	Motor cars principally designed for the transport of <i>persons</i>	N/A	20%	20%
8704	Motor cars for the transport of <i>goods</i>	10%	10%	10%
8707	Bodies of cars	N/A	5%	5%
8711	Motorcycles	N/A	20%	50%
	All transport Services	10%	10%	20%
	Charter Services	10%	10%	20%
	Telecommunications Services	10%	10%	10%
	Insurance premiums	N/A	5%	5%

1. Schedule 4 of the Taxation Act, 2009 is amended by deleting the previous rates and substituting the ones appearing on the table as follows:

Schedule 4, Sales Tax on Domestically-produced goods

S/No	Type of Business	Basic Tax Rate
1	Small Business Enterprise (SSP 0 – 1,000,000 Annual gross turnover)	18 %
2	Medium Business Enterprises (SSP 1,000,001 to 30,000,000)	18 %
3	Large Business Enterprises (SSP 30,000,001 and above)	18 %

2. Schedule 5 of the Taxation Act, 2009 is amended by deleting the previous rates and substituting the ones appearing on the table as follows:

Schedule 5, Sales Tax on Hotel, Restaurant, and Bar services

S/No	Type of Business	Basic Tax Rate
1	Small Business Enterprise (SSP 0 – 1,000,000 Annual gross turnover)	18%
2	Medium Business Enterprises (SSP 1,000,001 to 30,000,000)	18 %
3	Large Business Enterprises (SSP 30,000,001 and above)	18 %

3. Schedule 6 of the Taxation Act, 2009 is amended by deleting the previous rates and substituting the ones appearing on the table as follows:


4. Schedule 6, Sales Tax on Imported Goods

S/No	Type of Business	Basic Tax Rate
1	Small Business Enterprise (SSP 0 – 1,000,000 Annual gross turnover)	18 %
2	Medium Business Enterprises (SSP 1,000,001 to 30,000,000)	18 %
3	Large Business Enterprises (SSP 30,000,001 and above)	18 %

Assent of the President

In accordance with the provision of Article 85 (1) of the Constitution, I, Gen. Salva Kiir Mayardit, President of the Republic of South Sudan, hereby Assent to the Taxation Amendment Act, 2016 and sign it into law

Signed in Juba this 20th day of the month of DEC. in the year 2016



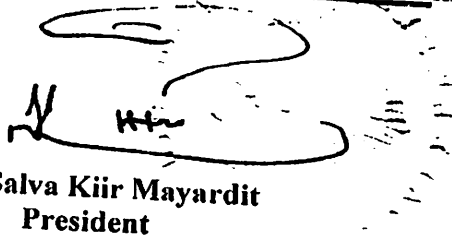
**Gen. Salva Kiir Mayardit
President
Republic of South Sudan
RSS - Juba**

S/No	Type of Business	Basic Tax Rate
1	Small Business Enterprise (SSP 0 – 1,000,000 Annual gross turnover)	18 %
2	Medium Business Enterprises (SSP 1,000,001 to 30,000,000)	18 %
3	Large Business Enterprises (SSP 30,000,001 and above)	18 %

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