
ACTS

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Act 1

Personal Income Tax Act

2007

LAWS OF SOUTHERN SUDAN

THE PERSONAL INCOME TAX ACT, 2007

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LAWS OF SOUTHERN SUDAN**THE PERSONAL INCOME TAX ACT, 2007**

In accordance with the provisions of Article 59(2)(b) read together with Article 85(1) of the Interim Constitution of Southern Sudan, the Southern Sudan Legislative Assembly, with the assent of the President of the Government of Southern Sudan, hereby enacts the following—

CHAPTER I**PRELIMINARY PROVISIONS****1. Title and Commencement.**

This Act may be cited as “the Personal Income Tax Act, 2007”, and shall come into force on the date of its signature by the President. *Signed on 22nd August, 2007*

2. Repeal and Saving.

Any provisions or existing legislations in Southern Sudan, which govern issues addressed by this Act, are hereby repealed or cease to operate in Southern Sudan; provided that, all proceedings, orders and regulations taken or made under existing legislation, except to the extent they are cancelled by or are otherwise inconsistent with the provisions of this Act, shall remain in force or effect, until they are repealed or amended in accordance with the provisions of this Act.

3. Purpose.

The purpose of this Act is to provide the rules and arrangements for the taxation of income of Southern Sudan tax payers; and matters related thereto.

4. Authority and Application.

- (1) This Act is drafted in accordance with the provisions of Article 184(1) (j) of the Interim Constitution of Southern Sudan, 2005 which grants the Government of Southern Sudan authority to legislate for collecting the personal income tax of Southern Sudan.
- (2) The provisions of this Act shall apply throughout Southern Sudan in all matters related to personal income tax.

5. Interpretations.

- (1) In this Act, unless the context otherwise requires, the following words and expressions shall have the meanings assigned to them respectively—

“Assembly” means the Southern Sudan Legislative Assembly;

“Capital Assets” means tangible property with a service life of one year or more;

“Government” means the Government of Southern Sudan (GoSS);

“Employee” means an individual, whether or not resident in Southern Sudan, who works for an employer for wages on a full-time basis or on a part-time basis and includes government officials and members of representative, judicial and executive bodies. An individual who is not called an employee, but who is under the control and supervision of an employer, shall be treated as an employee;

“Employer” means any person who pays wages, either directly or through another person, to an employee for services rendered in respect of employment in Southern Sudan, and includes:

- (a) any governmental unit;
- (b) any business organization whether a company or a partnership;
- (c) any business organization operating with public or socially owned assets;
- (d) any permanent establishment of a non-resident;
- (e) a non-governmental organization;
- (f) international organizations, liaison offices and diplomatic missions of foreign governments; and
- (g) an individual who pays wages in the course of carrying on business in Southern Sudan;

“Entrepreneurial activities” means any economic activities entered into for profit including, but not limited to, the following types of activities; retail, manufacturing and any trade, entertainment, transport, agricultural, vocational, professional, other services;

“Fair market value” means the price at which similar goods or services of like quality and quantity are sold at arm’s length in an open market transaction;

“Foreign source income” means gross income that is not Southern Sudan source income;

“Constitution” means the Interim Constitution of Southern Sudan, 2005 (ICSS);

“Non-resident person” means any person who is not resident in Southern Sudan;

“Payroll period” means a calendar month or portion thereof worked;

“Permanent establishment” means a workplace through which a non resident does business in Southern Sudan. This includes, but is not limited to, plants, branch offices, representative offices, factories, workshops and construction sites;

“Person” means a natural or a legal person;

“President” means the President of the Government of Southern Sudan;

“Principal employer” means the employer designated as such by the employee at a time and in the manner set out in an administrative instruction to be issued by the Ministry of Finance and Economic Planning. An individual may have only one principal employer at a time;

“Public agency” means a Southern Sudan, State, municipal, or local executive authority, public institution, ministry, department, or any other authority that exercises, pursuant to any Act, executive, legislative, regulatory, public-administrative or judicial powers;

“Related person” means a person with special relations with the taxpayer as defined by regulations;

“Representation costs” means all costs related to promotion of the business or its products and includes costs for publicity, advertising, entertainment, and representation;

“Resident person” means—

- (a) an individual who has a principal residence in Southern Sudan or is physically present in Southern Sudan for 183 days or more in any tax period; or
- (b) a company or a partnership which is established in Southern Sudan or has its place of effective management in Southern Sudan;

“Southern Sudan source income” means gross income that arises in Southern Sudan, which includes, but is not limited to—

- (a) wages from service performed in Southern Sudan;
- (b) income from entrepreneurial activity where such activity is located in Southern Sudan;
- (c) gain from the sale of movable property (other than inventory) where the seller is a resident of Southern Sudan;
- (d) income from the use of movable or immovable property in Southern Sudan;
- (e) income from the use of intangible property in Southern Sudan;
- (f) interest on debt obligations issued by a resident person or a public agency of Southern Sudan;
- (g) dividends from a resident company; and
- (h) gain from the sale of immovable property located in Southern Sudan;

“**Tax Administration**” means the body authorized to administer and enforce this Act;

“**Tax period**” means the calendar year;

“**Wages**” means any amount paid by an employer, in cash or in kind, as consideration for a service rendered by an employee in the course of employment, whether or not under a written contract of hire. Wages includes salary, emolument, bonus, commission, or any other form of payment relating to employment.

- (2) Unless specified in subsection (1) above, technical words and phrases in this Act having a peculiar and appropriate meaning shall be construed and understood according to their technical meanings and context.

CHAPTER II

OBJECTS, PRINCIPLES AND GENERAL MATTERS

10. Taxpayers.

- (1) Taxpayers shall include resident and non-resident persons who earn or receive gross income described in section 6 during the tax period.
- (2) Taxpayers shall not include persons whose only source of income is from entrepreneurial activities where the total annual turnover from those activities is (SDG300.00) three hundred Sudanese Pounds per month or less.

11. Object of Taxation.

- (1) The object of taxation for a resident taxpayer shall be the taxable income from Southern Sudan and foreign source incomes.

- (2) The object of taxation for a non-resident taxpayer shall be the taxable income from Southern Sudan source income.

12. Taxable Income.

Taxable income for a tax period shall, mean the difference between gross income earned or received during the tax period and the deductions allowable under this Act with respect to such gross income.

13. Tax Rates.

The personal income tax shall be charged on taxable income at the following rates—

- (a) for taxable income up to (SDG300.00) three hundred Sudanese Pounds per month - zero percent (0%);
- (b) for taxable income over (SDG300.00) three hundred Sudanese Pounds per month- ten percent (10%) on the excess over the (SDG300.00) three hundred Sudanese Pounds.

10. Gross Income.

Gross income means income earned or accrued from all sources which are not exempt under this Act including—

- (a) wages;
- (b) entrepreneurial activities;
- (c) rents;
- (d) the use of intangible property;
- (e) interest;

- (f) dividends;
- (g) capital gains;
- (h) lottery and other gambling winnings; and
- (i) any other source that increases the taxpayer's net worth.

11. Exempt Income.

The following income shall be exempt from gross income—

- (a) wages received by foreign diplomatic and consular representatives and foreign personnel of Liaison Offices in Southern Sudan, as defined by regulations;
- (b) wages received by foreign representatives, foreign officials and foreign employees of international governmental organizations and international non-governmental organizations with public benefit status;
- (c) where provided by an agreement with the Government of Southern Sudan, wages received by foreign representatives, foreign officials and foreign employees of donor agencies or their contractors or grantees carrying out humanitarian aid, reconstruction work, civil administration or technical assistance within Southern Sudan;
- (d) compensation for the damage or destruction of property as a result of a natural disaster or other catastrophe;
- (e) the proceeds of life insurance policies payable as a result of the death of insured person.

CHAPTER III

KINDS OF INCOME

12. Income from Wages.

- (1) Gross income from wages includes, but is not limited to—
 - (a) salaries paid by or on behalf of an employer for work that the employee does under the direction of the employer;
 - (b) bonuses, commissions, and other forms of compensation that an employer, or some other person on behalf of the employer, pays to employees over and above salary;
 - (c) income earned under contracts for temporary work;
 - (d) income from prospective employment, such as a signing bonus;
 - (e) insurance premiums that an employer pays for the employee;
 - (f) forgiveness of an employee's debt or obligation to the employer;
 - (g) payment of an employee's personal expenses; and
 - (h) except as otherwise provided in this Act, in-kind benefits given by an employer to an employee that exceed a *de minimis* amount as specified in an administrative instruction.
- (2) Gross income from wages shall not include—

- (a) reimbursement of actual business travel expenses in accordance with the rules established in administrative instruction or indemnity for work accidents; and
- (b) reimbursement or compensation for medical treatment and expenses, including hospitalization and medication, payable pursuant to health or disability insurance or in accordance with the applicable law, other than wages paid during the period of absence from work due to sickness or injury.

13. Income from Entrepreneurial Activities.

- (1) Gross income from entrepreneurial activities means gross receipts generated from such activities
- (2) There shall be allowed as a deduction from gross income from entrepreneurial activities—
 - (a) expenses paid or incurred during the tax period wholly and exclusively in connection with such activities;
 - (b) representation costs up to a maximum of two percent (2%) of total turnover;
 - (c) bad debts; provided that the amount corresponds to the debt that has been included in income in a prior tax period and if both;
 - (i) the debts are written off in the taxpayer's books as worthless; and
 - (ii) there is adequate evidence of substantial unsuccessful attempts made by the taxpayer to collect the debt;

- (d) expenses for travel, meals, lodging, and moving expenses under the circumstances provided for in finance administrative rules or instructions as being eligible for deduction.
- (3) Taxpayers who maintain stocks of goods in process or finished goods shall use the LIFO (last-in, first-out) inventory method or such other method as may be permitted by finance administrative rules or instructions.
- (4) Expenditures on capital assets may be recovered over time through depreciation deductions under the straight-line method at the following rates—
 - (a) buildings; 10%
 - (b) automobiles, office and computer equipment; and 33%
 - (c) all other property 25%
- (5) Amounts expended to repair, maintain, or improve capital assets are allowed as a deduction up to a maximum of 5% of the capital account. If the amount expended exceeds 5%, such excess shall be added to the capital account.
- (6) Expenditures on intangible assets that have a limited useful life are deductible in the form of amortization charges based on the life of the property and the straight-line method of amortization.
- (7) No deduction shall be allowed from entrepreneurial activities for—
 - (a) cost of acquisition and improvement of land;

- (b) cost of acquisition, improvement, renewal and reconstruction of assets that are depreciated under this Act;
 - (c) fines and penalties;
 - (d) income tax and value added tax for which the taxpayer claims a rebate or credit for input expenses;
 - (e) personal, living, or family expenses;
 - (f) any loss from the sale or exchange of property directly or indirectly between related persons; and
 - (g) amusement or recreation unless they are incurred in connection with the taxpayer's business of furnishing amusement or recreation activities.
- (8) All taxpayers who earn or receive income from entrepreneurial activities must keep the following simplified books and records—
- (a) a sales book that includes the date of the sale of goods or services, the quantity of goods sold or services rendered, a description of the goods or services, and the total gross receipts;
 - (b) a purchase book that includes the date of the purchase of goods or services, the quantity of goods or services, a description of the goods or services, the amount of the purchase, the seller's name, and the seller's taxpayer identification number;

- (c) an expense book that includes a list of all expenditures (such as wages, interest, and rent) not recorded in the purchase book;
- (d) a capital account, if applicable, that includes the opening balance, additions to capital, expenses to be capitalized, depreciation rate, amount of depreciation, dispositions, closing balance;
- (e) any other books or records required by finance administrative rules or instructions.

14. Income from Rents.

- (1) Gross income from rents includes—
 - (a) income generated by rental or real estate such as buildings, land or apartments; and
 - (b) income earned from rental of equipment, transportation vehicles and other types of moveable property.
- (2) There shall be allowed as a deduction from gross income from rent an amount equal to 20% of the rents received in order to cover the cost of repairs, collections charges and other expenses paid or incurred in generating the rent.

15. Income from Intangible Property.

- (1) Gross income from intangible property includes income from patents, copyrights, licenses, franchises, and other property that consists of rights only, but has no physical form.

- (2) There shall be allowed as a deduction from gross income from intangible property the actual expenses paid or incurred in connection with generating income from intangible property.
- (3) Expenditures on intangible assets that have a limited useful life are deductible in the form of amortization charges based on the life of the property and the straight-line method of amortization.

16. Interest Income.

Gross income from interest includes—

- (a) interest on loans given to natural or legal persons;
- (b) interest on bonds or other securities issued by public agencies and legal persons;
- (c) interest on saving accounts from banks and other financial institutions.

17. Dividends.

Gross income from dividends means dividends and other distributions of profit to a taxpayer.

18. Capital Gains.

- (1) Gross income from capital gains includes the gain that a taxpayer realizes through the sale or other disposition of assets including but not limited to real estate and securities.
- (2) The amount of capital gain is the positive difference between the sales price of the asset and the cost of the asset.

- (3) The sales price of the asset shall be the sum of money received plus the fair market value of any property, other than money received as consideration for the sale.
- (4) If the parties are related and the sales price is less than market price, then the sales price will be adjusted to the market price by the Tax Administration.
- (5) The cost of the asset is the amount that the taxpayer paid for the acquisition of the asset, increased by the cost of improvements, and reduced by depreciation.
- (6) Capital loss means a loss that a taxpayer realizes through the sale or other disposition of assets including real estate and securities.
- (7) The amount of capital loss is the negative difference between the sales price of the asset and the cost of the asset.
- (8) Capital losses may only be deducted from capital gains received from the sale of capital asset.
- (9) Capital losses that cannot be compensated in the same year may be carried forward for a period of up to five years and compensated from income from gains the disposition of capital assets.

19. Other Income.

Gross income includes any other income, such as income from lottery or gambling winnings, income from debt forgiveness, and other items from whatever source derived.

20. Documentation of Expenses.

No deduction shall be allowed under this Act for any expense unless, the taxpayer establishes, in the manner prescribed by regulation, that such expense was incurred, the purpose of the expense and the amount of the expense.

CHAPTER IV**WITHHOLDING PROVISIONS, ADVANCED PAYMENTS
AND TAX CREDITS****21. Wage withholding.**

- (1) An employer shall be responsible for withholding tax from the gross income from wages of its employees during each payroll period.
- (2) An employer who is the employee's principal employer shall withhold an amount of tax for the appropriate payroll period, in accordance with the rates shown in section 9 of this Act.
- (3) In calculating the tax to be withheld under subsection (2) above, the principal employer shall reduce the taxable income from which they are required to withhold tax by the amount of income taxed at zero percent (0%) referred to in section 9(a) of this Act.
- (4) An employer who is not the employee's principal employer shall withhold an amount equal to (10%) of the wages.
- (5) An employer shall submit a statement of tax withholding and remit the correct amount of tax withheld to the Tax Administration within fifteen (15) days after the last day of each calendar month, in accordance with the form and procedure that shall be specified in Finance administrative rules or instructions.
- (6) An employer shall provide by 1st March of the year following the tax period a certificate of withholding to every employee from whose wages tax have been withheld during the tax period. The certificate of withholding shall be in the form specified in Finance administrative rules or instructions and shall contain information about wages paid and tax withheld in respect of that employee.

- (7) An employer shall submit an annual tax reconciliation statement to the Tax Administration within thirty (30) days of the end of the tax period with information about wages paid and tax withheld and remitted in respect of each employee for that tax period in accordance with the form and procedure that shall be specified in an administrative instruction.

22. Withholding Tax on Interest.

- (1) A public agency, legal person, bank or other financial institution that makes a payment of interest shall be responsible for withholding tax of 10% from the employment.
- (2) A public agency, legal person, bank or other financial institution shall submit a statement of tax withholding and remit the correct amount of tax withheld to the Tax Administration within (15) days after the last day of each calendar month, in accordance with the form and procedure that shall be specified in finance administrative rules or instructions.
- (3) A public agency, legal person, bank or other financial institution shall provide by 1st March of the year following the tax period a certificate of withholding to every person who receives a payment of interest during the tax period. The certificate of withholding shall be in the form specified in finance administrative rules or instructions.
- (4) A public agency, legal person, bank or other financial institution shall submit an annual tax reconciliation statement to the Tax Administration within thirty (30) days of the end of the tax period with information about interest paid and tax withheld and remitted in accordance with the form and procedure that shall be specified in finance administrative rules or instructions.

23. Withholding Tax on Dividends.

- (1) A legal person who makes payment of dividends shall be responsible for withholding tax of 10% from the payment.
- (2) A legal person shall submit a statement of tax withholding and remit the correct amount of tax withheld to the Tax Administration within (15) days after the last day of each calendar month, in accordance with the form and procedure that shall be specified in finance administrative rules or instructions.
- (3) A legal person shall provide by 1st March of the year following the tax period a certificate of withholding to every person who receive a payment of dividends during the tax period. The certificate of withholding shall be in the form specified in finance administrative rules or instructions.
- (4) A legal person who makes payment of dividends shall submit an annual tax reconciliation statement to the Tax Administration within thirty (30) days of the end of the tax period with information about dividends paid and tax withheld and remitted in accordance with the form and procedure that shall be specified in the finance administrative rules or instructions.

24. Advance Payment of Tax.

- (1) A person engaged in any entrepreneurial activity shall submit a simplified statement of such activity and remit an advance payment of tax in an amount prescribed in subsection (2) below on or before the following dates—
 - (a) 15th April (for the period 1st January to 31 March);
 - (b) 15th July (for the period 1st April to 30 June);
 - (c) 15th October (for the period 1st July to 30 September);

- (d) 15th November (for the period 1st October to 31 December).
- (2) The form of the simplified statement mentioned in subsection (1) above and the procedures for making the payment shall be specified in finance administrative rules or instructions.
- (3) The amount of the advance payment for individuals engaged in retail, manufacturing, trade, transport, agricultural and other business activities shall be 2% of his or her quarterly gross receipts. The amount of the advance payment for individuals engaged in professional, vocational, entertainment or other service activities shall be 10% of his or her gross receipts.
- (4) A person who, receives income from rent shall submit a statement of rental activity and remit an advance payment of tax in an amount equal 10% of the rents received on or before the following dates—
- (a) 15th April (for the period 1st January to 31st March);
- (b) 15th July (for the period 1st April to 30th June);
- (c) 15th October (for the period 1st July to 30th September);
and
- (d) 15th November (for the period 1st October to 31st December).
- (5) The form of the statement and procedures for making the payment shall be specified in the finance administrative rules or instructions.

25. Credit Against Tax.

Taxpayers may credit against the amount of tax owed under section 26 below, for the taxable year, the following amounts—

- (a) amounts withheld during the same tax period under sections 21, 22 or 23 of this Act;
- (b) advance payments of tax under section 24 of this Act.

CHAPTER V**TAX RETURNS AND PAYMENTS****30. Tax Returns and Payments.**

- (1) Except where subsection (2) below applies, a taxpayer shall submit a tax return on or before 1st April of the year following the tax period, which declares his or her taxable income, the amount of tax payable thereon and the amount of tax paid by withholding during the tax period, in accordance with the form and procedure that shall be specified in the finance administrative rules or instructions.
- (2) With the exception of a taxpayer who disagrees with the amount withheld from him or her during the preceding year, a taxpayer is not entitled to submit a tax return under subsection (1) above where the only income he or she receives is in the form of wages, interest, and dividends, and where the entire tax due has been withheld.
- (3) A taxpayer who is required to submit a tax return under subsection (1) above shall perform a final settlement of tax and pay the final amount due on or before 1st April of the year following the tax period. The amount due for the final settlement shall be the difference between the amount of tax owed pursuant to subsection (1) above and the amount of tax paid through withholding or advance payment of tax.

- (4) If the total amount of tax paid through advance payments of tax under section 21 of this Act, is greater than the tax due under subsection (1) above, the taxpayer shall be entitled to a refund of the excess tax paid.
- (5) The location for submitting tax returns, remitting tax and claiming refunds shall be specified in the finance administrative rules or instructions.

CHAPTER VI

ASSESSMENTS, VIOLATIONS, PENALTIES AND ENFORCED COLLECTION

31. Inspection of Records, Assessments, Enforced Collection.

- (1) The Tax Administration may require from any person the production of documents or other information in accordance with the regulations.
- (2) The Tax Administration may issue a notice of assessment and demand for payment of tax in accordance with the regulations.
- (3) The Tax Administration may enforce collection of tax using methods adopted in accordance with the regulations.

32. Violations, Penalties and Interest.

- (1) Any person responsible for withholding, accounting for, or remitting the withheld tax on wages shall be liable to a penalty equal to five percent (5%) of the tax not so withheld, or withheld but not remitted, for every month of default.
- (2) If a person fails to withhold the tax from an employee, or fails to remit the amount of tax withheld, or delays withholding or remittance, interest shall be charged on the

difference between the tax required to be withheld and remitted and the amount actually remitted, for the period of default, in accordance with the commercial lending rates in Southern Sudan as publicly announced from time to time by the Tax Administration.

CHAPTER VII

MISCELLANEOUS PROVISIONS

33. Confidentiality.

Documents or other information received from any person relating to the tax affairs of any person shall not be disclosed or published except:—

- (a) to any other revenue officer for the purpose of protecting the revenue;
- (b) as evidence in a court dealing with the taxpayer's liability under this Act;
- (c) for matters that are part of the public record in proceedings before a Board or a High Court; or
- (d) as otherwise provided for under this Act.

30. Appeals.

Any person directly affected by an official determination made pursuant to this Act, may appeal to the Minister of Finance and Economic Planning, and his or her decision shall be final.

32. Regulations.

The Minister of Finance and Economic Planning may make such regulations as may be necessary for the effective and efficient implementation of the provisions of this Act.