

2. The exemption shall only be granted where the entrepreneur concerned proves that he will run an extraordinary risk, and that he will either produce new goods or, in producing goods, will use a more advanced technique which was not previously used.
3. Exemption shall also be granted where the entrepreneur proves that he will run an extraordinary risk in carrying on industrial or agricultural activities which, without involving any actual processing of goods, preserve or condition such goods thereby increasing their economic value.
4. Exemption shall also be granted to entrepreneur who enlarge or radically renovate existing enterprises, provided that the conditions mentioned in paragraphs 2 and 3 of this article are fulfilled.
5. An entrepreneur who can prove that he produces the same goods or uses the same technique as another entrepreneur to whom exemption from income tax has already granted, may be exempt from income tax under conditions not more favorable than those granted to the other entrepreneur. Such exemption shall expire on the date on which the exemption granted to the other enterprises expires.
6. This exemption shall only be granted in respect of income not exceeding 10% of the invested capital and only for the period which, in the opinion of the Minister of Finance, will be required for the amortization of the invested capital.

*CHAPTER V*

*DEDUCTIONS*

*Article 18*

*Expenses and liabilities*

1. For the purpose of ascertaining the net income of any person, there shall be deducted all liabilities and expenses incurred by such person in the production of the income.
2. There shall also be deducted all interests payable to persons having their domicile or residence in the national territory, or permanently carrying on there in.

**Article 19**

**Losses**

For the purpose of ascertaining the net income of an enterprise there shall be deducted any loss incurred by reason of the total or partial destruction of the property pertaining to the enterprise, or of the sale of such property at a price lower than the portion of costs which has not yet been written of.

**Article 20**

**Operating deficits**

1. Companies and associations assessable on the basis of the balance sheet may deduct the amount of the operating deficit relating to a financial year from the income of the subsequent financial years, for a period not exceeding three years.
2. The provision of the previous paragraph shall apply also to persons who are not assessable on the basis of a balance sheet, provided that the income of the three years preceding the year in which the deficit occurs has been ascertained on the basis of book entries kept in accordance with the regulations in force, and provided also that the income of the years in respect of which the deduction is allowed is ascertained in the same manner. The deficit shall be ascertained in accordance with the provisions concerning the ascertainment of income.

**Article 21**

**Depreciation**

1. The annual rates of depreciation in respect of the wear and tear of movable and immovable property, plants and machinery, patent and concession rights, trademarks and other property subject to depreciation shall be allowed as a deduction.
2. The rates of depreciation shall be reasonably proportioned to the duration of the property concerned.

**Article 22**

**Gratuities Fund**

1. Any amount yearly and voluntarily set aside in a fund for the payment of gratuities and other benefits relating to termination of service in accordance with the provisions on private employment contracts and collective labor agreements shall be yearly deducted from the gross income, provided that they are shown in a special account entered in the liability side of the balance sheet, of which an annual statement is

made, verified by the Direct Taxation Office, and provided also that they are placed in appropriate passbooks at a bank.

2. The amount of such fund shall be determined in relation to the legal position of the personnel employed in the business.
3. Any out-payment made for purposes other than those, for which the special fund was formed, shall be assessable.

**Article 23**

***Deduction in respect of the gross income from buildings***

The net income from buildings and structures referred to in Art.12 (e) shall be calculated by deducting from the gross income an amount equal to 30% of such income for repairs, maintenance, and any other expense or loss which might have been incurred.

**Article 24**

***Deduction not to be allowed***

No deduction shall be allowed in respect of

- a. Domestic or private expenses.
- b. Any loss, diminution, exhaustion or withdrawal of capital, any sum imputed as capital, or any expenditure for a capital purpose.
- c. Any loss or expense which is recoverable under any insurance, contract or indemnity;
- d. Rent of any building or part of building not paid for the purpose of the income.
- e. Any interest on the owner's capital.
- f. Remuneration for work done by the person assessable, or by his spouse, children and relatives up to the third degree who are employed in the business, provided they live together with the person assessable;
- g. Remuneration of directors of companies or associations assessable on the basis of their balance sheet.

**CHAPTER VI**

**RETURN**

**Article 25**

**Obligation to furnish returns of income**

1. Except as otherwise provided in Art.30, every person chargeable with income tax shall furnish a return of the income in respect of which he is chargeable.
2. A single return shall be furnished for all the incomes of the person chargeable.
3. The return of the income of minors, incapacitated person, corporate bodies of persons and persons absent from or not resident in the State territory shall be furnished by their representatives according to the provisions of this act.
4. The return may be furnished by an attorney of the person chargeable. The warrant of attorney shall be proved by a written document, even in the form of a letter, and shall be attached to the return.

**Article 26**

**Return of income of associations not having legal personality**

1. The returns of income of associations not having legal personality shall be furnished by the individual members in respect of the portions of income pertaining to them.
2. The competent office may request the legal representative of the association or any member thereof resident in the national territory to furnish the return.
- 3.
4. Where the members are absent from or not resident in the Territory, the return shall be furnished by the attorney, factor, agent receiver, or manager of the association.

*Article 27*

*Time-Limit within which returns are to be furnished*

1. The returns of income shall be furnished by 31 March in each year.
2. Companies and associations assessable on the basis of the balance sheet shall furnish the return within one month after the approval of the balance sheet or statement of accounts. Where the balance sheet or statement of accounts is not approved within the time-limit prescribed by law or by-laws, the return shall be furnished within one month after the expiry of such time-limit.
3. In case of incorporation or merger of companies or associations assessable on the basis of the balance sheet, the return, accompanied by the closing balance sheet of the company or association which has ceased to exist, shall be furnished by the incorporating company or association or by the Company or association resulting from merger, within three months after the date on which the deed of incorporation or merger has been signed.
4. Where a company or association is liquidated, the liquidators shall furnish a return of the residual income within three months after the deposit of the final balance sheet.

*Article 28*

*Contents and signing of the return*

1. The return shall indicate, for each item of income, the source, the gross profits, the expenses, the liabilities which can be deducted, the net income, and the particular of the receipt.
2. In order to be valid, the return shall be signed by the person chargeable with income tax or by this legal representative.

*Article 29*

*The presentation of the return*

1. The returns of income shall be furnished to the Direct Taxation Office, or to the Regional Revenue Office or to the offices of the District in which the person assessable resides, has his registered office, or carries on his prevailing activity.
2. The return may also be sent by mail, as a registered letter with return receipt.

3. The receipt issued by the competent office or the receipt for the registered letter shall be the only evidence that the return has been furnished.

*Article 30*

*Exemption from the obligation to furnish the return of income*

A person whose income does not exceed Sh S1 72,000 shall be exempt from furnishing the return of income, provided he has paid the local administration tax on trade licenses, and provided also that the exemption shall be granted only in respect of the income from that trade.

*CHAPTER VII*

*INCOME FROM EMPLOYMENT*

*Article 31*

*Income tax to be paid by employer*

1. The income tax chargeable upon the income from employment referred to in Art 12 (f) shall be paid by the physical or juridical persons, whether public or private, who employ the persons receiving such income. The employers shall recover the amount of the tax from the persons employed by them.
2. The amount of the tax shall be recovered by deducting it from the salary or wages paid to the employees, at the rates indicated in Art.37.
3. Where the amount of the tax is not recovered as indicated above, the tax shall be collected in the name of employee.

*Article 32*

*Travel allowance*

Travel and mission allowances paid without rendering of account, and wages and victuals paid to seamen shall be assessable to the extent of 50% of their amount.

**Article 33**

**Seniority and social security allowances**

1. Seniority and social security allowances paid upon termination of service shall be exempt from income tax, provided their total amount divided by the number of years of service gives a quotient not exceeding Sh SL 6,000
2. Where the quotient exceeds Sh SL 6,000 the income tax shall be charged in the same manner provided for salaries and wages.  
\*the amount of 6,000 Sh.SL is amended to 90,000 Sh.SL in the according Degree Lr. 23/2000, Date 28<sup>th</sup> August; 2000, page-4 attached here.

**Article 34**

**Deductions**

1. Contributions for social security which, according to law or collective agreements, are paid by workers shall be allowed as a deduction from the income from employment.
2. Contributions for social security, which according to law or collective agreements, are paid by employers, whether or not they are proportioned to the worker's remuneration, shall not be deemed to be apart of the assessable income.

**Article 35**

**Payment of tax and liability of employers**

1. The return of the incomes referred to in this Chapter shall be furnished, and the income tax shall be paid monthly or quarterly, within the month following each month or quarter to the Direct Taxation Office, or Regional Revenue Offices or District Offices.
2. Income tax charged upon a civil servant shall be directly collected by the State by deducting the corresponding amount from the salary or other emolument of any nature whatsoever paid to the civil servant.
3. Employers who are required to pay the tax and to recover the corresponding amount or directly deduct it from the emoluments paid to their employees, under the terms of the previous paragraphs, shall be personally liable for the payment of the tax.

## CHAPTER VIII

## RATES OF TAX

## Article 36

## Rates of tax on income from buildings

The income from buildings referred to in Art. 12 (e) and Art.23 shall not be assessed together with the income from any other source, and the income tax shall be separately charged upon to at the following rates:-

Up To	Sh SL 30,000	=	12%
On the Part exceeding	Sh SL 30,000	=	18%

## Article 37

## Rates of tax on income from employment

The yearly income from employment and pensions referred to in Art.12 (f) shall not be assessed together with the income from any other source, and the income tax shall be separately charged upon the following rates.

\*the amount of 6,000 Sh.SL is amended to 90,000 Sh.SL in the according Degree Lr. 23/2000, Date 28<sup>th</sup> August, 2000, page-4 attached here.

Income Up to	Sh SL 72,000		Exempt
On the part exceeding	Sh SL 72,000	Up to Sh 108,000	Rate 3%
On the part " "	Sh SL 108,000	Up to Sh 144,000	Rate 6%
On the part " "	Sh SL 144,000	and Above	Rate 9%

## Article 38

## Rates of tax on income from business

Income tax shall be charged upon the total chargeable income from the sources referred on in Art.12(a), (b), (c), (d) at the following rates:-

Income Up to	Sh SL 72,000		Exempt
On the part exceeding	Sh SL 72,000	Up to Sh 108,000	Rate 6%
On the part exceeding	Sh SL 108,000	Up to Sh 144,000	Rate 7%
On the part " "	Sh SL 144,000	Up to Sh 180,000	Rate 8%
On the part " "	Sh SL 180,000	Up to Sh 216,000	Rate 9%
On the part " "	Sh SL 216,000	Up to Sh 252,000	Rate 10%
On the part " "	Sh SL 252,000	Up to Sh 288,000	Rate 11%
On the part " "	Sh SL 288,000	Up to Sh 324,000	Rate 12%
On the part " "	Sh SL 324,000	Up to Sh 540,000	Rate 13%
On the part " "	Sh SL 540,000	Up to Sh 900,000	Rate 14%
On the part " "	Sh SL 900,000	Up to Sh 1,000,000	Rate 15%
On the part " "	Sh SL 1,000,000	Up to Sh 1,400,000	Rate 20%
On the part " "	Sh SL 1,400,000	Up to Sh 2,000,000	Rate 23%
On the part " "	Sh SL 2,000,000	and above	Rate 25%

**TITLE II**

**ASCERTAINMENT**

**Article 39**

**Synthetic ascertainment**

1. The return of income shall be examined by the Direct Taxation Office or Regional Revenue Offices, which may accept it or revise it by increasing the amount returned, on the basis of all information and data submitted by the person assessable or in possession of the offices, which are suitable for the purpose of ascertaining the net income.
2. In case of failure to furnish the return or to mention in the return any item of the chargeable income, the office shall have the power to ascertain the chargeable income on the basis of the information in its possession.

**Article 40**

**Optional assessment of the basis of the balance sheet**

1. Persons who are not assessable on the basis of the balance sheet may opt to be assessed on the basis of the balance sheet and shall communicate their option in writing to the Direct Taxation Office before the commencement of their financial year.
2. Persons who avail themselves of the option provided for in the previous paragraph shall attach to the return of income a copy of the balance sheet, or profit and loss statement, or statement of accounts.

**Article 41**

**Analytical ascertainment and notice of assessment**

1. The income of persons assessable on the basis of the balance sheet shall be ascertained on the basis of the final profits shown in the balance sheet and profit and loss statement or in the statement of accounts.
2. For the purpose of revising the entries shown in the balance sheet and ascertaining the income accordingly, the office shall have the power to verify the items of the balance sheet on the basis of the accounts and book entries, and it may also take into account all the information and actual data