

**PROCLAMATION NO.\_\_\_\_/2016**

**TAX ADMINISTRATION PROCLAMATION**

WHEREAS, it is necessary to enact a separate tax administration proclamation governing the administration of domestic taxes with a view to render the tax administration system more efficient, effective and measurable ;

WHEREAS, it is believed that introducing the system of advance tax ruling helps to address the problem of prolonged pendency of taxpayers cases resulting from divergent interpretation of tax laws within the tax administration;

WHEREAS, it is necessary to establish a system for review of taxpayers' complaints on tax decisions which is accessible, well organized and capable of efficient disposition of cases;

NOW, THEREFORE, in accordance with Article 55(1) and (11) of the Constitution of the Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows:

**PART ONE**

**GENERAL**

**1.     Short Title**

This Proclamation may be cited as the “Tax Administration Proclamation No. \_\_\_\_\_/2016”.

**2.     Definitions**

In the tax laws (including this Proclamation), unless the context otherwise requires:

- 1/     “Amended assessment” means an amended assessment made by the Authority under Article 28 of this Proclamation;
- 2/     “Appealable decision” means:
  - a)     an objection decision;
  - b)     any other decision of the Authority made under a tax law other than:
    - (1)    a tax decision;
    - (2)    a decision made by the Authority in the course of making a tax decision; or

- (3) a decision made by a prosecutor in relation to investigation or prosecution of tax related crime;
- 3/ “Approved form” has the meaning in Article 79 of this Proclamation;
- 4/ “Authority” means:
  - a) the Ethiopian Revenues and Customs Authority;
  - b) the Addis Ababa revenue bureau; and
  - c) the DireDawa revenue bureau;
- 5/ “Body” means a company, partnership, public enterprise or public financial agency, or other body of persons whether formed in Ethiopia or elsewhere;
- 6/ “Commission” means the Tax Appeal Commission established under Article 86 of this Proclamation;
- 7/ “Company” means a commercial business organisation established in accordance with the Commercial Code and having legal personality, and **includes** any equivalent entity incorporated or formed under a foreign law;
- 8/ “Controlling member”, in relation to a company, means a member who beneficially holds, directly or indirectly, either alone or together with a related person or persons:
  - a) 50% or more of the voting rights attaching to membership interests in the company;
  - b) 50% or more of the rights to dividends attaching to membership interests in the company; or
  - c) 50% or more of the rights to capital attaching to membership interests in the company;
- 9/ “Document” includes:
  - a) a book of account, record, register, bank statement, receipt, invoice, voucher, contract or agreement, or Customs entry;
  - b) a certificate or statement provided by a licensed tax agent under Article 22 of this Proclamation; or
  - c) any information or data stored on an electronic data storage device;
- 10/ “Estimated assessment” means an estimated assessment made by the Authority under Article 26 of this Proclamation;
- 11/ “Fiscal year” means the budgetary year of the Ethiopian Government;
- 12/ “Jeopardy assessment” means a jeopardy assessment made by the Authority under Article 27 of this Proclamation;
- 13/ “Garnishee order” means a garnishee order issued by the Authority under Article 43 of this Proclamation;
- 14/ “International agreement” means an agreement between the Government of Ethiopia and a foreign government or governments, or an international organisation;

- 15/ “International organisation” means an organisation the members of which are sovereign states or governments of sovereign states;
- 16/ “Late payment interest” means late payment interest imposed under Article 37;
- 17/ “Licensed tax agent” means a tax agent licensed under Article 96 or 97 of this Proclamation;
- 18/ “Licensing authority” means a person appointed under any law to issue a licence, permit, certificate, concession, or other authorisation;
- 19/ “Manager” means:
  - a) for a partnership, a partner or general manager of the partnership, or a person acting or purporting to act in that capacity;
  - b) for a company, the chief executive officer, a director, general manager, or other similar officer of the company, or a person acting or purporting to act in that capacity; or
  - c) for any other body, the general manager or other similar officer of the body, or a person acting or purporting to act in that capacity.
- 20/ “Member” in relation to a company, means a shareholder or any other person with a membership interest in the company;
- 21/ “Membership interest”, in relation to a company, means a share or other ownership interest in the company;
- 22/ “Ministry” or “Minister” means the Ministry of Finance and Economic Cooperation or the Minister of Finance and Economic Cooperation respectively;
- 23/ “Partnership” means a partnership formed under the Commercial Code and includes an equivalent entity formed under foreign law;
- 24/ “Penalty” means an administrative penalty for breach of a tax law imposed under Chapter Two of Part Fifteen of this Proclamation or under another tax law;
- 25/ “Penalty assessment” means an assessment of penalty made by the Authority under Article 114 of this Proclamation;
- 26/ “Person” means an individual, body, government, political subdivision of a government, or international organisation;
- 27/ “Secondary liability” means a liability of a person (referred to as the “primary liability”) that another person is personally liable for under Article 16(4), 40(3)(c), 41(12), 42(8), 43(10), 46(1), 47(1), or 48(1) of this Proclamation;
- 28/ “Self-assessment” means an assessment treated as having been made by a self-assessment taxpayer under Article 25 of this Proclamation;
- 29/ “Self-assessment declaration” means:
  - a) a tax declaration under the Income Tax Proclamation;
  - b) a VAT return under the Value Added Tax Proclamation;

- c) a Customs entry to the extent that it specifies the value added tax or excise tax payable in respect of an import of goods;
  - d) an excise tax declaration under the Excise Tax Proclamation;
  - e) a turnover tax return under the Turnover Tax Proclamation;
  - f) an advance tax declaration under Article 23 of this Proclamation; or
  - g) a tax declaration specified as a self-assessment declaration under a tax law;
- 30/ “Self-assessment taxpayer” means a taxpayer required to file a self-assessment declaration;
- 31/ “Tax” means a tax imposed under a tax law and includes the following:
- a) withholding tax;
  - b) advance payments of tax and instalments of tax payable under the Income Tax Proclamation;
  - c) penalty;
  - d) late payment interest;
- 32/ “Tax assessment” means a self-assessment, estimated assessment, jeopardy assessment, amended assessment, penalty or interest assessment, or any other assessment made under a tax law;
- 33/ “Tax avoidance provision” means:
- a) Articles 76, 77, and 78 of the Income Tax Proclamation;
  - b) Article 60 of the Value Added Tax Proclamation( as amended);
- 34/ “Tax decision” means:
- a) a tax assessment, other than a self-assessment;
  - b) a decision on an application by a self-assessment taxpayer under Article 29(1);
  - c) a determination under Article 40(2) of this Proclamation of the amount of tax payable or that will become payable by a taxpayer;
  - d) a determination of a secondary liability or the amount of tax recovery costs payable;
  - e) a determination of late payment interest payable;
  - f) a decision to refuse an application for a refund under Article 49 or 50;
  - g) a determination of the amount of an excess credit under Article 49 of this Proclamation, the amount of a refund under Article 50 of this Proclamation, or the amount of a refund required to be repaid under Article 50 of this Proclamation; or
  - h) a determination of the amount of unpaid withholding tax under Article 82(3) of the Income Tax Proclamation;

- 35/ “Tax declaration” means the following:
- a) a tax declaration required to be filed under the Income Tax Proclamation;
  - b) a withholding tax declaration required to be filed under the Income Tax Proclamation;
  - c) a VAT return required to be filed under the Value Added Tax Proclamation;
  - d) a Customs entry to the extent that it specifies the value added tax or excise tax payable in respect of an import of goods;
  - e) a declaration required to be filed under the Excise Tax Proclamation;
  - f) a turnover tax return required to be filed under the Turnover Tax Declaration;
  - g) a tax declaration required to be filed by a taxpayer under this Proclamation;
- 36/ “Tax law” means:
- a) this Proclamation;
  - b) the Income Tax Proclamation;
  - c) the Value Added Tax Proclamation;
  - d) the Excise Tax Proclamation;
  - e) the Stamp Duty Proclamation;
  - f) the Turnover Tax Proclamation;
  - g) any other legislation (other than legislation relating to Customs) under which a tax, duty, or levy is imposed if the Authority has responsibility for the administration of the tax, duty, or levy;
  - h) any regulation or directives made under a law referred to in the above paragraphs;
- 37/ “Tax officer” means:
- a) the Director-General of the Authority;
  - b) the Deputy Generals of the Authority;
  - c) an officer or employee of the Authority appointed under the Ethiopian Revenue and Customs Authority Establishment Proclamation with responsibility for the administration and enforcement of the tax laws;
  - d) when performing functions on behalf of the Authority:
    - (1) a member of the Ethiopian Federal police;
    - (2) an employee or official of the Ethiopian Postal Services; or
    - (3) an employee or official of Regional Tax Authorities ;

- 38/ “Tax period”, in relation to a tax, means the period for which the tax is reported to the Authority;
- 39/ “Tax recovery costs” means:
- a) the costs of the Authority referred to in Article 30(3) of this Proclamation incurred in recovering unpaid tax;
  - b) the costs of the Authority referred to in Article 41(9)(a) of this Proclamation incurred in undertaking seizure proceedings;
- 40/ “Tax representative”, in relation to a taxpayer, means an individual responsible for accounting for the receipt or payment of moneys or funds in Ethiopia on behalf of the taxpayer and includes the following:
- a) for a partnership, a partner in the partnership or a manager of the partnership,
  - b) for a company, a director of the company;
  - c) for an incapable individual, the legal representative of the individual responsible for receiving income on behalf or, or for the benefit of, the individual;
  - d) for a taxpayer referred to in Article 40 of this Proclamation, the receiver in relation to the taxpayer under that Article;
  - e) for any taxpayer, an individual that the Authority has, by notice in writing to the individual, declared to be a tax representative of the taxpayer for the purposes of the tax laws;
- 41/ “Taxpayer” means a person liable for tax and includes the following:
- a) for the income tax, a person who has zero taxable income or privilege of tax holiday or loss under Schedule ‘B’ or ‘C’ for a tax year;
  - b) for the VAT, a registered person;
  - c) for the Turn Over Tax, Turn Over taxpayer;
- 42/ “Unpaid tax” means tax that has not been paid by the due date or, if the Authority has extended the due date under Article 32 of this Proclamation, by the extended due date;
- 43/ “Withholding agent” means a person required to withhold tax from a payment under Part Nine of the Income Tax Proclamation;
- 44/ “Withholding tax” means tax that is required to be withheld from a payment under Part Nine of the Income Tax Proclamation;
- 45/ For the purpose of this Proclamation the term “tax” includes direct taxes where applicable.

### **3. Fair Market Value**

- 1/ For the purposes of the tax laws and subject to Article 76 of the Income Tax Proclamation, the fair market value of goods, an asset, service, or

benefit at a particular time and place is the ordinary open market value of the goods, asset, service, or benefit at that time and place.

- 2/ If it is not possible to determine the fair market value of goods, an asset, service, or benefit under sub-article (1) of this Article, the fair market value is the consideration any similar goods, asset, service, or benefit would ordinarily fetch in the open market at that time and place, adjusted to take account of the differences between the similar goods, asset, service, or benefit and the actual goods, asset, service, or benefit.
- 3/ For the purposes of sub-article (2) of this Article, goods, an asset, service, or benefit is similar to other goods, asset, service, or benefit, as the case may be, if it is the same as, or closely resembles, the other goods, asset, service, or benefit in character, quality, quantity, functionality, materials, and reputation.
- 4/ If the fair market value of goods, an asset, service, or benefit cannot be determined under the preceding sub-articles of this Article, the fair market value shall be the amount determined by the Authority provided it is consistent with generally accepted principles of valuation.
- 5/ For the avoidance of doubt, the fair market value of goods, an asset, service, or benefit may be greater or lesser than the actual price charged for the goods, asset, service, or benefit.
- 6/ The Authority may issue a Directive for the purposes of determining the fair market value of any goods, asset, service, or benefit.

#### **4. Related Persons**

- 1/ For the purposes of the tax laws and subject to sub-article (2) of this Article, two persons are related persons when the relationship between the two persons is such that one person may reasonably be expected to act in accordance with the directions, requests, suggestions, or wishes of the other person, or both persons may reasonably be expected to act in accordance with the directions, requests, suggestions, or wishes of a third person.
- 2/ Two persons are not related persons solely by reason of the fact that one person is an employee or client of the other, or both persons are employees or clients of a third person.
- 3/ Without limiting the generality of sub-article (1) of this Article, the following are related persons:
  - a) an individual and a relative of the individual unless the Authority is satisfied that neither person may reasonably be expected to act in accordance with the directions, requests, suggestions, or wishes of the other;
  - b) a body and a member of the body when the member, either alone or together with a related person or persons under another application of this Article, controls either directly or through one or more interposed bodies 25% or more of the rights to vote, dividends, or capital in the body;

- c) two bodies, if a person, either alone or together with a related person or persons under another application of this Article, controls, either directly or through one or more interposed bodies, 25% or more of the rights to vote, dividends, or capital in both bodies.

4/ The following are a relative of an individual:

- a) the spouse of the individual;
- b) an ancestor, lineal descendant, brother, sister, uncle, aunt, nephew, niece, stepfather, stepmother, or adopted child of the individual or spouse of the individual;
- c) a parent of the adoptive child of the individual or spouse of the individual;
- d) a spouse of any person referred to in paragraph (b) of this sub-article.

5/ The following are a spouse of an individual:

- a) an individual who is legally married to the first-mentioned individual;
- b) an individual who lives in an irregular union with the first-mentioned individual.

6/ An adopted child is treated as related to their adoptive parent in the first degree of consanguinity.

## **PART TWO**

### **ADMINISTRATION OF THE TAX LAWS**

#### **5. Duty of the Authority**

The implementation and enforcement of the tax laws shall be the duty of the Authority.

#### **6. Obligations and Responsibilities of Tax Officers**

- 1/ A tax officer shall exercise any power, or perform any duty or function, assigned to the officer for the purposes of the tax laws in accordance with the appointment of the officer under Ethiopian Revenues and Customs Authority Establishment Proclamation and any delegation of powers or duties to the officer under Article 8(3) of the Ethiopian Revenues and Customs Authority Establishment Proclamation.
- 2/ A tax officer shall be honest and fair in the exercise of any power, or performance of any duty or function, under a tax law, and shall treat each



taxpayer with courtesy and respect.

- 3/ A tax officer shall not exercise a power, or perform a duty or function, under a tax law that:
  - a) relates to a person in respect of which the tax officer has or had a personal, family, business, professional, employment, or financial relationship;
  - b) otherwise involves a conflict of interest.
- 4/ A tax officer or any officer of the Ministry who is directly involved in tax matters shall not act as a tax accountant or consultant, or accept employment from any person preparing tax declarations or giving tax advice.

## **7. Co-operation of Other Government Authorities**

All Federal and State government authorities and their agencies, bodies, local government administrations, and associations, and non-government organisations shall have the duty to co-operate with the Authority in the enforcement of the tax laws.

## **8. Confidentiality of Tax Information**

- 1/ Subject to sub-article (2) of this Article, a tax officer shall maintain the secrecy of all documents and information received in their official capacity.
- 2/ Nothing in this Article shall prevent a tax officer from disclosing a document or information to the following:
  - a) another tax officer for the purpose of carrying out official duties;
  - b) a law enforcement agency for the purpose of the prosecution of a person for an offence under a tax law or the prosecution of a person for an offence relating to a tax law under any other law;
  - c) the Commission or a court in proceedings to establish a person's tax liability, or liability for penalty or late payment interest, or in a criminal case;
  - d) the competent authority of the government of a foreign country with which Ethiopia has entered an agreement providing for the exchange of information, to the extent permitted under that agreement;
  - e) the Auditor-General when the disclosure is necessary to the performance of official duties by the Auditor-General;
  - f) the Attorney General when the disclosure is necessary to the performance of its official duties;

- g) the Regional Tax Authority when the disclosure is necessary to the performance of its Official duties;
  - h) a person in the service of the Government in a revenue or statistical department or conducting research when the disclosure is necessary to the performance of official duties by the person and provided the disclosure does not identify a specific person;
  - i) any other person with the written consent of the person to whom the information relates.
- 3/ A person receiving any information under sub-article (2) of this Article shall:
- a) maintain the secrecy of the information except to the minimum extent necessary to achieve the object for which the disclosure was permitted;
  - b) return any documents reflecting the information to the Authority.
- 4/ In this Article, “Tax officer” includes:
- a) a member or former member of the Advisory Board of the Authority;
  - b) a person employed or engaged by the Authority in any capacity including as contractor;
  - c) a former officer, employee, or contractor of the Authority.

### **PART THREE**

### **TAXPAYERS**

#### **CHAPTER ONE**

#### **REGISTRATION**

#### **9. Registration of Taxpayers**

- 1/ Subject to sub-articles (2) and (3) of this Article, a person who becomes liable for tax under a tax law shall apply to the Authority for registration unless the person is already registered.
- 2/ Sub-article (1) of this Article shall not apply to:
- a) a non-resident if the only Ethiopian source income derived by the person is subject to Articles 51 and 53 of the Income Tax Proclamation; or
  - b) an individual whose only income is subject to Article 64(2) of the Income Tax Proclamation.
- 3/ An employer shall apply for registration of an employee entering into

employment with the employer unless the employee is already registered.

- 4/ Sub-article (3) of this Article shall not relieve the employee of the obligation to apply for registration under sub-article (1) of this Article should the employer fail to make the application for the employee.
- 5/ An application for registration shall be:
  - a) made in the approved form;
  - b) accompanied by documentary evidence of the person's identity, including biometric identifier, as may be specified in the Regulations;
  - c) made within 21 days of becoming liable to apply for registration or within such further period as the Authority may allow.
- 6/ In the case of an application made by an employer for an employee under sub-article (3) of this Article, the biometric identifier required under sub-article (5)(b) of this Article shall be provided by the employee.
- 7/ Subject to sub-article (10) of this Article, the obligation of a person to apply for registration under sub-article (1) of this Article shall be in addition to an obligation or option of the person to apply for registration for the purposes of a particular tax under another tax law.
- 8/ The Authority shall register a person who has applied for registration under sub-article (1) of this Article if satisfied that the person is liable for tax under a tax law and issue the person with a registration certificate in the approved form.
- 9/ If the Authority refuses to register a person who has applied for registration, the Authority shall serve the person with written notice of the refusal within 14 days of the person filing the application for registration.
- 10/ When a person has applied for registration under sub-article (1) of this Article, the Authority shall use the information provided for the registration for the purposes of any other registration of that person required or permitted under a tax law for the purposes of a particular tax without the person being required to file any additional registration forms.
- 11/ Despite sub-article (8) of this Article, the Authority may request a person to provide any further information necessary to complete an additional registration of the person.
- 12/ The Authority may register a person who has failed to apply for registration as required under this Article and shall issue the person with a registration certificate in the approved form.
- 13/ The registration of a person under this Article shall take effect from the date specified on the person's registration certificate.

## **10. Notification of Changes**

- 1/ A registered person shall notify the Authority, in writing, of a change in any of the following within 30 days of the change occurring:
  - a) the person's name, physical or postal address, constitution, or

- principal activity, or activities;
  - b) the person's banking details used for transactions with the Authority;
  - c) the person's electronic address used for communication with the Authority;
  - d) such other details as may be specified in a Directive issued by the Authority.
- 2/ The notification of changes under sub-article (1) of this Article by a registered person shall be treated as satisfying any obligation to notify the same changes in relation to a registration of the person for the purposes of a particular tax under another tax law.

## **11. Cancellation of Registration**

- 1/ A person who ceases to be required to be registered for the purposes of all the tax laws shall apply to the Authority for cancellation of the person's registration.
- 2/ An application for cancellation of registration shall be made:
  - a) in the approved form; and
  - b) within 30 days of the person ceasing to be required to be registered for the purposes of all the tax laws or within such further time as the Authority may allow.
- 3/ An application by a person under sub-article (1) of this Article shall be treated as satisfying any obligation of the person to apply for cancellation of the person's registration for the purposes of a particular tax under another tax law.
- 4/ The Authority shall, by notice in writing, cancel the registration of a person who has applied under sub-article (1) of this Article when satisfied that the person has ceased all operations and is no longer required to be registered for the purposes of all the tax laws.
- 5/ A notice of cancellation of registration under sub-article (4) shall be served on the applicant within 30 days of receipt of the application and the Authority may conduct a final audit of the person's tax affairs within 90 days of service of the notice of cancellation of registration.
- 6/ If a person has failed to apply for cancellation of the person's registration as required under sub-article (1) of this Article, the Authority shall, by notice in writing to the person or the person's tax representative, cancel the registration of the person when satisfied that the person has ceased all operations and is no longer required to be registered for the purposes of all the tax laws, including when the person is a natural person who has died, a company that has been liquidated, or any other person that has ceased to exist.

- 7/ The cancellation of a person's registration under sub-article (4) or (5) of this Article shall include cancellation of any registration of the person for the purposes of a particular tax under another tax law.
- 8/ The cancellation of a person's registration shall take effect from the date specified in the notice of cancellation served on the person by the Authority.
- 9/ When the cancellation of the registration of a person involves cancellation of the person's registration for the purposes of a particular tax under another tax law, the person shall comply with any requirements relating to cancellation of that registration as specified under that other tax law.

## **CHAPTER TWO**

### **TAXPAYER IDENTIFICATION NUMBERS**

#### **12. Taxpayer Identification Number**

For the purposes of identification, the Authority shall issue a number, to be known as a taxpayer identification number ("TIN"), in accordance with this Chapter to a taxpayer registered for the purposes of the tax laws and the taxpayer shall use the TIN as required under the tax laws.

#### **13. Issue of a TIN**

- 1/ The Authority shall issue a TIN to a taxpayer registered for the purposes of the tax laws under Article 9 of this Proclamation.
- 2/ A TIN shall be issued for the purposes of all tax laws and a tax payer shall have only one TIN at any time.
- 3/ The Authority issues a TIN to a taxpayer by serving the taxpayer with written notice of the TIN.

#### **14. Use of a TIN**

- 1/ A taxpayer who has been issued with a TIN shall state the TIN on any tax declaration, notice, or other document filed or used for the purposes of a tax law, or as otherwise required under a tax law, including supplying the TIN to a withholding agent in respect of payments made by the agent to the taxpayer.
- 2/ A tax payer applying for a licence to carry on a business or occupation shall be required to supply the taxpayer's TIN to the licensing authority.
- 3/ A taxpayer shall supply the taxpayer's TIN on a renewal of a licence referred to in sub-article (2) of this Article only if the taxpayer's TIN has changed since the original application of the licence.

- 4/ A licensing authority issuing a licence to carrying on a business or occupation shall not issue a licence to a taxpayer unless the taxpayer has supplied their TIN.
- 5/ A TIN is personal to the taxpayer to whom it has been issued and, subject to sub-article (5) of this Article, shall not be used by another person.
- 6/ The TIN of a taxpayer may be used by a licensed tax agent when:
  - a) the tax payer has given written permission to the licensed tax agent o use the TIN; and
  - b) the licensed tax agent uses the TIN only in respect of the tax affairs of the taxpayer.

## **15. Cancellation of a TIN**

- 1/ The Authority shall, by notice in writing, cancel the TIN of a taxpayer when satisfied that:
  - a) the tax payer's registration has been cancelled under Article 11 of this Proclamation;
  - b) a TIN has been issued to the taxpayer under an identity that is not the taxpayer's true identity; or
  - c) the tax payer had been previously issued with a TIN that is still in force.
- 2/ The Authority may, at any time, by notice in writing, cancel the TIN issued to a taxpayer and issue the taxpayer with a new TIN.

## **CHAPTER THREE**

### **TAX REPRESENTATIVES**

## **16. Obligations of Tax Representatives**

- 1/ A tax representative of a taxpayer shall be responsible for performing any obligation imposed by a tax law on the taxpayer, including the filing of tax declarations and payment of tax.
- 2/ When there are two or more tax representatives of a taxpayer, each tax representative shall be jointly and severally liable for any obligations referred to in this Article but the obligations may be discharged by any of them.

- 3/ Except as provided otherwise under a tax law and subject to sub-article (4) of this Article, any tax that, by virtue of sub-article (1) of this Article, is payable by the tax representative of a taxpayer shall be recoverable from the tax representative only to the extent of the monies or assets of the taxpayer that are in the possession or under the control of the tax representative.
- 4/ Subject to sub-article (5) of this Article, a tax representative shall be personally liable for the payment of any tax due by the tax representative in that capacity when, while the amount remains unpaid, the tax representative:
  - a) alienates, charges, or disposes of any moneys received or accrued in respect of which the tax is payable; or
  - b) disposes of or parts with any moneys or funds belonging to the taxpayer that are in the possession of the tax representative or which come to the tax representative after the tax is payable, when such tax could legally have been paid from or out of such moneys or funds.
- 5/ A tax representative shall not be personally liable for tax under sub-article (4) of this Article if:
  - a) the monies were paid by the tax representative on behalf of a taxpayer and the amount paid has a legal priority over the tax payable by the taxpayer; or
  - b) at the time the monies were paid, the tax representative had no knowledge, and could not reasonably be expected to know, of the taxpayer's tax liability.
- 6/ Nothing in this Article relieves a taxpayer from performing any obligation imposed on the taxpayer under a tax law that the tax representative of the taxpayer has failed to perform.

## **PART FOUR**

### **DOCUMENTS**

#### **17. Record-keeping Obligations**

- 1/ A taxpayer shall, for the purposes of a tax law, maintain such documents (including in electronic format) as may be required under the tax law and the documents shall be maintained:
  - a) in Amharic or English;
  - b) in Ethiopia; and

- c) in a manner so as to enable the taxpayer's tax liability under the tax law to be readily ascertained.
- 2/ Subject to sub-article (3) of this Article or a tax law providing otherwise, a taxpayer shall retain the documents referred to in sub-article (1) of this Article for the longer of:
  - a) the record-keeping period specified in the Commercial Code; or
  - b) 5 years from the date that the tax declaration for the tax period to which they relate was filed with the Authority.
- 3/ When, at the end of the period referred to in sub-article (2) of this Article, a document is necessary for a proceeding under the Proclamation or any other law commenced before the end of the period, the tax payer shall retain the document until the proceeding and any related proceedings have been completed.
- 4/ When a document referred to sub-article (1) of this Article is not in Amharic or English, the Authority may, by notice in writing, require the taxpayer to provide, at the taxpayer's expense, a translation into Amharic or English by a translator approved by the Authority by the date specified in the notice.
- 5/ This Article is subject to the Transfer Pricing Directive issued by the Minister.

## **18. Inspection of Documents**

A taxpayer required to maintain documents under a tax law shall make the documents available for inspection at all reasonable times by the Authority during the period specified in Article 17 of this Proclamation.

## **19. Receipts**

- 1/ A taxpayer that has the obligation to maintain books of account shall register with the Authority the type and quantity of receipts before having such receipts printed.
- 2/ Any person operating a printing press engaged by a taxpayer to print receipts shall ensure that the type and quantity of receipts are registered with the Authority before printing the receipts.
- 3/ Any taxpayer that has an obligation to maintain books of account shall issue a receipt for any transaction.
- 4/ The Authority shall issue directives for the implementation

## **20. Sales Register Machines**

- 1/ The Council of Ministers shall issue Regulations on Sales Register Machines.



- 2/ The Regulations may provide for the following:
  - a) the obligatory use by taxpayers of sales register machines;
  - b) the conditions for the use by taxpayers of sales register machines;
  - c) the information required to be included on a receipt produced by a sales register machine;
  - d) the required features of sales register machines;
  - e) the process for suppliers to apply for accreditation of sales register machines and the reporting obligations of such suppliers;
  - f) the registration of a sales register machine sold to a taxpayer.
- 3/ In this Article:
  - a) “Cash register machine” means a machine that uses a firmware that is installed in an electronic programmable read only memory chip and can record the sale of goods or services in lieu of a regular sales receipt;
  - b) “Point of sale machine” means a machine that is a computerised replacement for a cash register machine and having additional capability to record and track customers’ orders and debit and credit card accounts, manage inventory, and perform similar functions;
  - c) “Sales register machine” means a cash register machine and a point of sale machine.

## **PART FIVE**

### **TAX DECLARATIONS**

#### **21. Filing of Tax Declarations**

- 1/ A taxpayer required to file a tax declaration under a tax law shall file the declaration in the approved form and in the manner provided for in the Regulations.
- 2/ Subject to sub-article (3) of this Article, the Authority may, by notice in writing, require a taxpayer to file by the due date set out in the notice:
  - a) a fuller declaration in relation to a tax declaration already filed; or
  - b) such other tax declaration as the Authority specifies in the notice.
- 3/ Sub-article (2)(a) of this Article shall not apply when the tax declaration already filed is a self-assessment declaration.
- 4/ The Authority shall not be bound by a tax declaration or information provided by, or on behalf of, a taxpayer and the Authority may determine a taxpayer’s tax liability based on any reliable and verifiable sources of information available to the Authority.

- 5/ Subject to sub-article (6) of this Article and Article 82 of this Proclamation, a taxpayer shall sign a tax declaration filed by him and the tax declaration shall contain a representation by the taxpayer that the declaration, including any attached material, is complete and accurate.
- 6/ A taxpayer's tax representative or licensed tax agent shall sign the taxpayer's tax declaration and make the representation referred to in sub-article (5) of this Article when the taxpayer is:
  - a) not an individual;
  - b) an incapable individual; or
  - c) an individual who is otherwise unable to sign the declaration provided the taxpayer has provided the representative or tax agent with authority in writing to sign the declaration.
- 7/ When a tax declaration is signed by the taxpayer's tax representative or licensed tax agent, the taxpayer shall be deemed to know the contents of the declaration and shall be treated as having made the representation as to completeness and accuracy referred to in sub-article (5) of this Article.

## **22. Licensed Tax Agent Certification of Tax Declaration**

- 1/ A licensed tax agent who prepares or assists in the preparation of a tax declaration of a taxpayer shall provide the taxpayer with a certificate, in the approved form, certifying that the tax agent has examined the documents of the taxpayer and that, to the best of his knowledge, the declaration together with any accompanying documentation, correctly reflects the data and transactions to which it relates.
- 2/ A licensed tax agent who refuses to provide a certificate referred to in sub-article (1) of this Article shall provide the taxpayer with a statement in writing of the reasons for such refusal.
- 3/ A licensed tax agent who prepares or assists in the preparation of a tax declaration of a taxpayer shall specify in the declaration whether a certificate under sub-article (1) of this Article or a statement under sub-article (2) of this Article has been provided to the taxpayer in relation to the declaration.
- 4/ A licensed tax agent shall keep a copy of certificates or statements provided to taxpayers under this Article for the period specified in Article 17(2) of this Proclamation and shall, when required to do so by notice in writing from the Authority, produce the copy to the Authority.

## **23. Advance Tax Declarations**

- 1/ A taxpayer who ceases to carry on any activity shall notify the Authority, in writing, of the cessation within 30 days of the date that the taxpayer ceased to carry on the other activity.
- 2/ A taxpayer to whom sub-article (1) of this Article applies shall, within 60 days after the date that the taxpayer ceased to carry on the activity or within

such lesser period as the Authority may require by notice in writing to the taxpayer:

- a) file an advance tax declaration for the tax period in which the taxpayer ceased to carry on the activity and for any prior tax period for which the due date for filing has not arisen; and
  - b) pay the tax due under the advance tax declaration at the time of filing the declaration.
- 3/ If a taxpayer is about to leave Ethiopia during a tax period and the taxpayer's absence is unlikely to be temporary, the taxpayer shall, before leaving:
- a) file an advance tax declaration for the tax period and for any prior tax period for which the due date for filing has not arisen by the time the taxpayer leaves; and
  - b) pay the tax due under the advance tax declaration at the time of filing the declaration or make an arrangement satisfactory to the Authority for the payment of the tax due.
- 4/ If, during a tax period, the Authority has reason to believe that a taxpayer will not file a tax declaration for the period by the due date, the Authority may, by notice in writing and at any time during the tax period, require:
- a) the taxpayer or the taxpayer's tax representative to file an advance tax declaration for the tax period by the date specified in the notice being a date that may be before the date that the tax declaration for the tax period would otherwise be due; and
  - b) pay any tax payable under the advance tax declaration by the due date specified in the notice.
- 5/ If a taxpayer is subject to more than one tax, this Article shall apply separately for each tax.
- 6/ In this Article, "activity" means a business or any other activity giving rise to income subject to tax under a tax law, other than an activity giving rise to income subject to withholding tax as a final tax.

## **24. Tax Declaration Duly Filed**

A tax declaration that is purported to be filed by or on behalf of a taxpayer shall be treated as having been filed by the taxpayer or with the taxpayer's consent unless the contrary is proved.

## **PART SIX**

### **TAX ASSESSMENTS**

## **25. Self-assessments**

- 1/ A self-assessment taxpayer who has filed a self-assessment declaration in the approved form for a tax period shall be treated, for all purposes of this Proclamation, as having made an assessment of the amount of tax payable (including a nil amount) for the tax period to which the declaration relates being that amount as set out in the declaration.
- 2/ When a self-assessment taxpayer liable for income tax under Schedule 'B' or 'C' has filed a self-assessment declaration in the approved form for a tax period and the taxpayer has a loss for the year, the taxpayer shall be treated, for all purposes of this Proclamation, as having made an assessment of the amount of the loss being that amount as set out in the declaration.
- 3/ When a self-assessment taxpayer has filed a VAT return in the approved form for a tax period and the taxpayer's total input tax for the period exceeds the taxpayer's total output tax for the period, the taxpayer shall be treated, for all purposes of this Proclamation, as having made an assessment of the amount of the excess input tax for the period being that amount as set out in the declaration.
- 4/ A tax declaration in the approved form completed and filed electronically by a taxpayer is a self-assessment return despite the following:
  - a) the form included pre-filled information provided by the Authority;
  - b) the tax payable is computed electronically as information is inserted into the form.

## **26. Estimated Assessments**

- 1/ When a taxpayer has failed to file a tax declaration for a tax period as required under a tax law, the Authority may, based on such evidence as may be available and at any time, make an assessment (referred to as a "estimated assessment") of:
  - a) in the case of a loss under Schedule 'B' or 'C' of the Income Tax Proclamation, the amount of the loss for the tax period;
  - b) in the case of an excess amount of input tax under the Value Added Tax Proclamation, the amount of the excess input tax for the tax period; or
  - c) in any other case, the amount of tax payable (including a nil amount) for the tax period.
- 2/ The Authority shall serve a taxpayer assessed under sub-article (1) of this Article with notice, in writing, of an estimated assessment specifying the following:
  - a) the amount of tax assessed, or loss or excess input tax carried forward, as the case may be;

- b) the amount assessed as penalty (if any) payable in respect of the tax assessed;
  - c) the amount of late payment interest (if any) payable in respect of the tax assessed;
  - d) the tax period to which the assessment relates;
  - e) the due date for payment of the tax, penalty, and interest being a date that is within 30 days from the date of service of the notice;
  - f) the manner of objecting to the assessment, including the time limit for lodging an objection to the assessment.
- 3/ The service of a notice of an estimated assessment under sub-article (2) of this Article shall not change the due date (referred to as the “original due date”) for payment of the tax payable under the assessment as determined under the tax law imposing the tax, and late payment penalty and late payment interest remain payable based on the original due date.
- 4/ This Article shall apply only for the purposes of a tax that is collected by assessment.
- 5/ Nothing in this Article relieves a taxpayer from being required to file the tax declaration to which an estimated assessment served under this Article relates.
- 6/ A tax declaration filed by a taxpayer for a tax period after notice of an estimated assessment has been served on the taxpayer for the period is not a self-assessment declaration.
- 7/ The Authority may make an estimated assessment at any time.
- 8/ The Authority may issue directives for the implementation of this Article.

## **27. Jeopardy Assessments**

- 1/ The Authority may, based on such evidence as may be available, make a “jeopardy assessment” of the tax payable by a taxpayer in the circumstances specified in Article 23 or 42 of this Proclamation for a tax period.
- 2/ Sub-article (1) of this Article applies only when:
- a) the taxpayer has not filed a tax declaration for the tax period; and
  - b) the tax is collected by assessment.
- 3/ A jeopardy assessment:
- a) may be made before the date on which the taxpayer’s tax declaration for the period is due; and
  - b) shall be made in accordance with the law in force at the date the jeopardy assessment was made.

- 4/ The Authority shall serve a taxpayer assessed under sub-article (1) of this Article with notice, in writing, of the jeopardy assessment specifying the following:
- a) the amount of tax assessed;
  - b) the amount assessed as penalty (if any) payable in respect of the tax assessed;
  - c) the tax period to which the assessment relates;
  - d) the due date for payment of the tax and penalty, which may be a date before the tax would otherwise be due for the tax period;
  - e) the manner of objecting to the assessment, including the time limit for lodging an objection to the assessment.
- 5/ The Authority may specify in a notice of a jeopardy assessment that the tax and penalty due are payable immediately.
- 6/ Nothing in this Article shall relieve a taxpayer from the requirement to file the tax declaration to which the jeopardy assessment served under this Article relates.
- 7/ A jeopardy assessment may be the subject of an amended assessment under Article 28 of this Proclamation so that the taxpayer is assessed in respect of the whole of the tax period to which the jeopardy assessment relates.
- 8/ A tax declaration filed by a taxpayer for a tax period after notice of a jeopardy assessment has been served on the taxpayer for the period is not a self-assessment return.

## **28. Amended Assessments**

- 1/ Subject to this Article, the Authority may amend a tax assessment (referred to in this Article as the “original assessment”) by making such alterations, reductions, or additions, based on such evidence as may be available, to the original assessment of a taxpayer for a tax period to ensure that:
- a) in the case of a loss under Schedule ‘B’ or ‘C’ of the Income Tax Proclamation, the taxpayer is assessed in respect of the correct amount of the loss for the tax period;
  - b) in the case of an excess amount of input tax under the Value Added Tax Proclamation, the taxpayer is assessed in respect of the correct amount of the excess input tax for the tax period; or
  - c) in any other case, the taxpayer is liable for the correct amount of tax payable (including a nil amount) in respect of the tax period.

- 2/ Subject to a tax law specifying otherwise, the Authority may amend a tax assessment under sub-article (1) of this Article:
  - a) in the case of fraud, or gross or wilful neglect by, or on behalf of, the taxpayer, at any time; or
  - b) in any other case, within 5 years of:
    - (1) for a self-assessment, the date that the self-assessment taxpayer filed the self-assessment declaration to which the self-assessment relates;
    - 2) for any other tax assessment, the date the Authority served notice of the assessment on the taxpayer.
- 3/ When the Authority has served a taxpayer with notice of an amended assessment made under sub-article (1) of this Article, the Authority may further amend the original assessment to which the amended assessment relates within the later of:
  - a) the period specified in sub-article (2)(b) of this Article applicable to the original assessment; or
  - b) one year after the Authority served notice of the amended assessment on the taxpayer.
- 4/ In any case to which sub-article (3)(b) of this Article applies, the Authority shall be limited to amending the alterations, reductions, or additions made in the amended assessment to the original assessment.
- 5/ The Authority shall serve a taxpayer with notice, in writing, of an amended assessment made under this Article specifying the following:
  - a) the original assessment to which the amended assessment relates and a statement of reasons for making the amended assessment;
  - b) the amount of tax assessed, or loss or excess input tax carried forward, as the case may be;
  - c) the amount of penalty assessed (if any) under the amended assessment;
  - d) the amount of late payment interest (if any) payable in respect of the tax assessed;
  - e) the tax period to which the amended assessment relates;
  - f) the due date for payment of any additional tax, and penalty and interest, payable under the amended assessment, being a date that is not less than 30 days from the date of service of the notice;
  - g) the manner of objecting to the amended assessment, including the time limit for lodging an objection to the assessment.

- 6/ If an amount of additional tax is payable under an amended assessment, any late payment penalty and late payment interest payable in respect of the additional tax shall be computed from the original due date for payment of tax under the original assessment to which the amended assessment relates.

## **29. Application for Making an Amendment to a Self-assessment**

- 1/ A taxpayer who has filed a self-assessment declaration may apply to the Authority for the Authority to make an amendment to the self-assessment.
- 2/ An application under sub-article (1) of this Article shall:
  - a) state the amendments that the taxpayer believes are required to be made to correct the self-assessment and the reasons for the amendments; and
  - b) be filed with the Authority within the period specified in Article28(2)(b)(1) of this Proclamation.
- 3/ When an application has been made under sub-article (1) of this Article, the Authority shall, in accordance with a Directive issued by the Authority, make a decision to amend the self-assessment or to refuse the application and such decision shall be made within 120 days of the receipt of the application.
- 4/ If the Authority makes a decision to amend the self-assessment:
  - a) the amended assessment shall be made in accordance with Article28(1) of this Proclamation; and
  - b) notice of the amended assessment shall be served on the taxpayer in accordance with Article28(5) of this Proclamation.
- 5/ If the Authority makes a decision to refuse an application under sub-article (1) of this Article, the Authority shall serve the taxpayer with written notice of the decision.

## **PART SEVEN**

### **COLLECTION AND RECOVERY OF TAX AND OTHER AMOUNTS**

#### **CHAPTER ONE**

#### **PAYMENT OF TAX AND OTHER AMOUNTS**

### **30. Tax as a Debt Due to the Government**

- 1/ Tax that is due and payable by a taxpayer under a tax law is a debt owed to the Government and shall be payable to the Authority.



- 2/ A taxpayer required to pay tax electronically by the Authority under Article 82(2) of this Proclamation shall do so unless authorised by the Authority, by notice in writing, to use another method of payment.
- 3/ If a taxpayer fails to pay tax by the due date, the taxpayer shall be liable for any costs incurred by the Authority in taking action to recover the unpaid tax.

### **31. Secondary Liabilities and Tax Recovery Costs**

- 1/ The Authority may serve a person liable for a secondary liability or tax recovery costs with notice of the amount of the liability payable by the person and the due date for payment.
- 2/ A reference in Parts Seven, Eight, Nine, and Ten, and Article 105 of this Proclamation:
  - a) to “tax”, shall include a secondary liability and tax recovery costs;
  - b) to “unpaid tax”, shall include an amount specified in paragraph (a) of this sub-article that is not paid by the due date; and
  - c) to “taxpayer”, shall include a person liable for an amount specified in paragraph (a) of this sub-article.
- 3/ An amount of a secondary liability paid by a person shall be credited against the primary liability of the taxpayer to which the secondary liability relates.

### **32. Extension of Time to Pay Tax**

- 1/ A taxpayer may apply, in writing, to the Authority for an extension of time to pay tax due under a tax law.
- 2/ When an application has been made under sub-article (1) of this Article, the Authority may, upon satisfaction that there is good cause and in accordance with a Directive issued by the Authority:
  - a) grant the taxpayer an extension of time for payment of the tax; or
  - b) require the taxpayer to pay the tax in such instalments as the Authority may determine.
- 3/ The Authority shall serve the taxpayer with written notice of the decision on an application under sub-article (1) of this Article.
- 4/ When a taxpayer permitted to pay tax by instalments under sub-article (2)(b) of this Article defaults in the payment of an instalment, the Authority may immediately take action to recover the whole balance of the tax outstanding at the time of default.
- 5/ The grant of an extension of time to pay tax or permission to pay tax due by instalments shall not prevent the liability for late payment interest arising from the original date the tax was due for payment.

### **33. Priority of Tax and Garnishee Amounts**

- 1/ This Article applies to the following amounts:
  - a) withholding tax, value added tax, turn over tax or excise tax; and
  - b) an amount payable under a garnishee order.
- 2/ A person owing, holding, receiving, or withholding an amount to which this Article applies holds the amount on behalf of the Government and, in the event of the liquidation or bankruptcy of the person, the amount:
  - a) shall not form part of the person's estate in liquidation or bankruptcy; and
  - b) shall be paid to the Authority before any distribution of property is made.
- 3/ Despite any other law, withholding tax withheld by a person:
  - a) shall not be subject to attachment in respect of any debt or liability of the person;
  - b) shall be a first charge on the payment or amount from which the tax is withheld; and
  - c) shall be withheld prior to any other deduction that the person may be required to make from the payment or amount under an order of any court or any law.

### **34. Order of Payment**

- 1/ When a taxpayer is liable for penalty and late payment interest in relation to a tax liability and the taxpayer makes a payment that is less than the total amount of tax, penalty, and interest due, the amount paid shall be applied in the following order:
  - a) first in payment of the tax liability;
  - b) then in payment of late payment interest;
  - c) then the balance remaining is applied in payment of penalty.
- 2/ When a taxpayer has more than one tax liability at the time a payment is made, the payment is applied against the tax liabilities in the order in which the liabilities arose.

### **35. Security for Payment of Tax**

- 1/ When it appears to the Authority necessary to do so for the protection of the revenue, the Authority may require any taxpayer to give security in such amount and manner as the Authority considers appropriate:
  - a) for the payment of tax that is or may become due by the taxpayer;  
or
  - b) as a condition of the taxpayer claiming a refund of tax under a tax law.

- 2/ Security under this Article may be given by cash or bank guarantee and shall be subject to such conditions as the Authority may reasonably require.
- 3/ A taxpayer shall be liable to give security only if the Authority serves the taxpayer with a notice setting out:
  - a) the amount of the security required;
  - b) the manner in which the security is to be provided; and
  - c) the due date for providing the security.
- 4/ An amount of security that a taxpayer fails to provide as required under this Article shall be treated as unpaid tax of the taxpayer for the purposes of this Part.

### **36. Indemnity**

- 1/ This Article shall apply to the following persons:
  - a) a withholding agent who has withheld tax from a payment under the Income Tax Proclamation and paid the tax to the Authority;
  - b) a tax representative who has paid an amount to the Authority pursuant to Article 16(1) of this Proclamation;
  - c) a receiver who has paid an amount to the Authority pursuant to Article 40 of this Proclamation;
  - d) a person who has paid an amount to the Authority pursuant to a garnishee order.
- 2/ A person to whom this Article applies shall be indemnified against any claim for payment of the amount paid on behalf of a taxpayer to the Authority in accordance with a tax law.

## **CHAPTER TWO**

### **LATE PAYMENT INTEREST**

### **37. Late Payment Interest**

- 1/ Subject to sub-article (8) of this Article, a taxpayer who fails to pay tax on or before the due date for payment shall be liable for late payment interest at the rate specified in sub-article (2) of this Article on the unpaid tax for the period commencing on the date the tax was due and ending on the date the tax was paid.
- 2/ The rate of late payment interest shall be the highest commercial lending interest rate that prevailed in Ethiopia during the quarter immediately before the commencement of the period specified in sub-article (1) of this Article increased by 15%.

- 3/ Late payment interest paid by a taxpayer under sub-article (1) of this Article shall be refunded to the taxpayer to the extent that the tax to which the interest relates is found not to have been payable.
- 4/ Late payment interest payable under this Article shall be in addition to any late payment penalty imposed under Article 105 of this Proclamation in respect of a failure to pay tax by the due date.
- 5/ Late payment interest payable under this Article shall be calculated as simple interest and shall be computed on a daily basis.
- 6/ The Authority may serve a taxpayer liable for late payment interest with a notice of the amount of interest payable by the taxpayer and the due date for payment.
- 7/ A notice of the amount of late payment interest payable by a taxpayer may be included in any other notice, including a notice of a tax assessment, issued by the Authority to the taxpayer.
- 8/ When:
  - a) the Authority notifies a taxpayer in writing of the taxpayer's outstanding tax liability under a tax law (including in a tax assessment); and
  - b) the taxpayer pays the balance notified in full within the time specified in the notification (including late payment interest payable up to the date of the notification),

late payment interest shall not accrue for the period between the date of notification and the date of payment.
- 9/ Late payment interest payable by a person in respect of withholding tax or a secondary liability payable by the person shall be borne personally by the person and shall not be recoverable from any other person.
- 10/ The total amount of late payment interest payable by a taxpayer shall not exceed the amount of the unpaid tax liability of the taxpayer.
- 11/ In this Article "tax" shall not include late payment interest.

## **CHAPTER THREE**

### **RECOVERY OF UNPAID TAX**

#### **38. Enforcement of Tax Assessments**

- 1/ Subject to sub-article (2) of this Article, a tax assessment served by the Authority on a taxpayer shall become final at the end of the objection period allowed under Article 54 of this Proclamation if the taxpayer has not filed an objection to the assessment within that period.

- 2/ If a taxpayer has filed an objection to a tax assessment, the tax assessment shall become final on the later of:
  - a) if the taxpayer has not appealed the tax assessment to the Tax Appeal Commission, at the end of the appeal period in Article 88 of this Proclamation;
  - b) if the taxpayer has appealed the tax assessment to the Tax Appeal Commission, at the end of the appeal period to the Federal High Court in Article 57 of this Proclamation;
  - c) if the taxpayer has appealed the tax assessment to the Federal High Court, at the end of the appeal period to the Federal Supreme Court in Article 58 of this Proclamation; or
  - d) if the taxpayer has appealed the tax assessment to the Federal Supreme Court, when the Court renders its final decision.
- 3/ Nothing in sub-article (2) of this Article shall prevent the payment of tax in dispute in accordance with Articles 56(2) and 57(5) of this Proclamation.
- 4/ A taxpayer who does not pay the tax due under a final assessment as determined under sub-articles (1) and (2) of this Article shall be in default.

### **39. Preferential Claim to Assets**

- 1/ Subject to sub-article (2) of this Article, from the date on which tax becomes due and payable by a taxpayer under a tax law, and subject to any prior secured claims registered with the Registering Authority, the Authority has a preferential claim upon the assets of the taxpayer until the unpaid tax is paid.
- 2/ The priority for prior secured claims under sub-article (1) of this Article shall include the priority of banks in relation to secured claims and the priority of employees in relation to salary and wages, but shall not apply in relation to the taxes referred to in Article 33(1)(a) of this Proclamation.
- 3/ When a taxpayer is in default in paying tax, the Authority may, by notice in writing, inform the taxpayer of the Authority's intention to apply to the Registering Authority to register a security interest in any asset owned by the taxpayer to cover the unpaid tax together with any costs incurred in recovery proceedings.
- 4/ If the taxpayer served with a notice under sub-article (3) of this Article fails to pay the tax specified in the notice within 30 days of service of the notice, the Authority may, by notice in writing, direct the Registering Authority that the asset specified in the notice, to the extent of the taxpayer's interest therein, shall be the subject of security for the amount of the unpaid tax specified in the notice.
- 5/ When the Authority has served a notice under sub-article (4) of this Article, the Registering Authority shall, without fee, register the notice of security as if the notice were an instrument of mortgage over, or charge on, as the case may be, of the asset specified in the notice and registration shall,

subject to any prior mortgage or charge, operate while it subsists as a legal mortgage over, or charge on, the asset to secure the unpaid tax.

- 6/ Upon receipt of the whole of the amount of tax secured under sub-article (5) of this Article, the Authority shall serve notice on the Registering Authority cancelling the direction made under sub-article (4) of this Article and the Registering Authority shall, without fee, cancel the registration of the notice security.
- 7/ The priority of banks in relation to secured claims in accordance with sub-article (2) of this Article applies only where the banks, before lending any amount, confirm that the taxpayer has a tax clearance certificate from the Authority.

#### **40. Duties of Receivers**

- 1/ A receiver shall notify the Authority, in writing, within 14 days after the earlier of being appointed to the position or taking possession of an asset in Ethiopia of a taxpayer.
- 2/ The Authority shall determine the amount of unpaid tax owing by the taxpayer and the amount of tax that will become payable by the taxpayer whose assets are under the control of the receiver and shall notify the receiver, in writing, of that amount within 30 days of the Authority receiving a notice under sub-article (1) of this Article.
- 3/ Subject to sub-article (4) of this Article, a receiver:
  - a) shall not, without prior approval of the Authority, dispose of an asset of the taxpayer whose assets are under the control of the receiver until a notice has been served on the receiver under sub-article (2) of this Article or the 30-day period specified in sub-article (2) of this Article has expired without a notice being served under that sub-article;
  - b) shall set aside, out of the proceeds of sale of an asset, the amount notified by the Authority under sub-article (2) of this Article, or a lesser amount as is subsequently agreed to by the Authority; and
  - c) shall be personally liable to the extent of the amount required to be set aside for the tax payable by the taxpayer who owned the asset.
- 4/ Nothing in sub-article (3) of this Article prevents a receiver from paying the following in priority to the amount notified under sub-article (2) of this Article:
  - a) a debt that has a legal priority over the tax referred to in the notice served under sub-article (2) of this Article;
  - b) the expenses properly incurred by the receiver in the capacity as such, including the receiver's remuneration.
- 5/ When two or more persons are receivers in respect of a taxpayer, the obligations and liabilities under this Article apply jointly and severally to both persons but may be discharged by any of them.

- 6/ In this Article, “receiver” means a person who, with respect to an asset in Ethiopia of a taxpayer or deceased taxpayer, is any of the following:
- a) a liquidator of a company;
  - b) a receiver appointed by a court or out of court;
  - c) a trustee for a bankrupt person;
  - d) a mortgagee-in-possession;
  - e) an executor of a deceased estate.

#### **41. Seizure of Property**

- 1/ Subject to sub-article (2) of this Article, the Authority may serve a notice on a taxpayer who has failed to pay tax by the due date stating the intention of the Authority to issue an order (referred to as a “seizure order”) for the seizure of the property of the taxpayer if the unpaid tax is not paid with 30 days of service of the notice.
- 2/ If the Authority makes a finding that the collection of the tax owing by a taxpayer is in jeopardy, the Authority may immediately issue a seizure order.
- 3/ If the taxpayer has failed to pay the tax due within the time specified in a notice served under sub-article (1) of this Article or sub-article (2) of this Article applies, the Authority may issue a seizure order on the taxpayer and any person having possession of the taxpayer’s property.
- 4/ A seizure order may be executed against any property of the taxpayer other than property that, at the time of execution of the order:
  - a) is subject to a prior secured claim of creditors;
  - b) is subject to attachment or execution under any judicial process; or
  - c) cannot be subject to attachment under the law of Ethiopia.
- 5/ If a seizure order has been issued in relation to a taxpayer or is about to be issued, the Authority may demand, by notice in writing, that any person having custody or control of documents containing evidence or statements relating to the property of the taxpayer exhibit the documents to the Authority.
- 6/ The Authority may request a police officer to be present during the execution of a seizure order and shall store the property seized in such manner as to ensure the security of the property.
- 7/ When the Authority has seized property of a taxpayer under this Article, the Authority shall serve a notice on the taxpayer:
  - a) specifying the seized property and the unpaid tax liability of the taxpayer; and

- b) stating that the Authority shall dispose of the property if the taxpayer does not pay the unpaid tax within the detention period specified in the notice.
- 8/ For the purposes of sub-article (7)(a) of this Article, the detention period is:
  - a) for perishable goods, the period that the Authority considers reasonable having regard to the condition of the goods; or
  - b) for any other case, 10 days after the seizure of the goods.
- 9/ If the taxpayer fails to pay the unpaid tax specified in the notice served under sub-article (7) of this Article by the end of the detention period, the Authority may sell the property by public auction and apply the proceeds as follows:
  - a) first towards the cost of taking, keeping, and selling the property as determined by the Authority;
  - b) then in payment of the unpaid tax liability of the taxpayer as specified in the notice served under sub-article (7) of this Article;
  - c) then in payment of any other unpaid tax liability of the taxpayer;
  - d) subject to sub-article (10), the remainder of the proceeds, if any, are to be paid to the taxpayer within 45 days of the sale of the property.
- 10/ With the written agreement of the taxpayer an amount referred to in sub-article (9)(d) may be carried forward for the payment of any future tax liability of the taxpayer under any tax law.
- 11/ When the proceeds of sale of the property under sub-article (9) of this Article are less than the total of the taxpayer's unpaid tax liability and the cost of taking, keeping, and selling the property as determined under sub-article (9)(a) of this Article, the Authority may proceed under this Chapter to recover the shortfall.
- 12/ Any person who fails or refuses to surrender any property of a taxpayer that is the subject of a seizure order shall be personally liable to the Government for an amount equal to the value of the property not surrendered but not exceeding an amount equal to the taxpayer's unpaid tax liability together with the costs of the seizure determined under sub-article (9)(a) of this Article.
- 13/ The power to issue a seizure order under this Article may be exercised only by the Director General or a tax officer specifically authorised by the Director-General to issue seizure orders.
- 14/ Any property seized under this Article shall be held and accounted for only by the Authority and the property shall not be transferred to or given over to any other Government agency for any purpose whatsoever.

#### **42. Preservation of Funds and Assets Deposited with Financial Institutions**



- 1/ This Article applies when the Authority has reasonable cause to believe that the collection of tax owing by a taxpayer is in jeopardy and there is urgency in the collection of the tax.
- 2/ When this Article applies, the Authority may serve an administrative order on a financial institution requiring the financial institution to:
  - a) block the accounts of the taxpayer;
  - b) freeze access to any cash, valuables, precious metals, or other assets of the taxpayer in a safe deposit box held by the financial institution; and
  - c) provide information relating to the accounts or contents of the safe deposit box.
- 3/ An order served on a financial institution under sub-article (2) of this Article shall specify the following the name, address, and TIN of the taxpayer to which the order applies.
- 4/ When an order has been served under sub-article (2) of this Article, the Authority may make an immediate jeopardy assessment of the tax payable by the taxpayer for the current and any prior tax year.
- 5/ The Authority shall obtain a court authorisation for the order within 10 days of service of the notice of the order on the financial institution.
- 6/ If there is no court authorisation of the order within 10 days of service of notice of the order, the order shall lapse.
- 7/ A financial institution served with an order under sub-article (2) of this Article shall comply with the order from the date of service until the date that the order expires according to its terms or lapses under sub-article (6) of this Article.
- 8/ A financial institution that, without reasonable cause, fails to comply with an order served on the financial institution under sub-article (2) of this Article shall be personally liable for the amount specified in the order.

#### **43. Recovery of Unpaid Tax From Third Parties**

- 1/ If a taxpayer is liable for unpaid tax, the Authority may serve an administrative order (referred to as a “garnishee order”) on a payer in respect of the taxpayer requiring the payer to pay the amount specified in the order to the Authority, being an amount that does not exceed the amount of the unpaid tax.
- 2/ When a garnishee order requires a payer to deduct amounts from a payment of salary, wages, or other similar remuneration payable at fixed intervals to the taxpayer, the amount required to be deducted by the payer from each payment shall not exceed one-third of the amount of each payment of salary, wages, or other remuneration (after the payment of income tax).
- 3/ A garnishee order may be served on a payer in relation to an amount in a joint account only when:

- a) all the holders of the joint account have unpaid tax liabilities; or
  - b) the taxpayer can withdraw funds from the account (other than a partnership account) without the signature or authorisation of the other account holders.
- 4/ A payer shall pay the amount specified in a garnishee order by the date specified in the order, being a date that is not before the date that the amount owed by the payer to the taxpayer becomes due to the taxpayer or held on the taxpayer's behalf.
- 5/ A payer who claims to be unable to comply with a garnishee order may notify the Authority, in writing and within 7 days of receiving the garnishee order, setting out the reasons for the payer's inability to comply with the order.
- 6/ When a payer serves a notice on the Authority under sub-article (5) of this Article, the Authority shall, by notice in writing:
- a) accept the notification and cancel or amend the garnishee order; or
  - b) reject the notification.
- 7/ The Authority shall, by notice in writing to the payer, revoke or amend a garnishee order when the taxpayer has paid the whole or part of the tax due or has made an arrangement satisfactory to the Authority for payment of the tax.
- 8/ The Authority shall serve the taxpayer with a copy of an order or notice served on a payer under this Article.
- 9/ The Authority shall credit any amount paid by a payer under this Article against the tax owing by the taxpayer.
- 10/ A payer who, without reasonable cause, fails to comply with a garnishee order shall be personally liable for the amount specified in the notice.
- 11/ This Article shall not apply to any amount that, under the law of Ethiopia, cannot be the subject of attachment.
- 12/ In this Article, "payer", in respect of a taxpayer, means a person who:
- a) owes or may subsequently owe money to the taxpayer;
  - b) holds or may subsequently hold money, for or on account of, the taxpayer;
  - c) holds money on account of some other person for payment to the taxpayer; or
  - d) has authority from some other person to pay money to the taxpayer.

#### **44. Departure Prohibition Order**

- 1/ This Article shall apply when the Authority has reasonable grounds to believe that a taxpayer or the manager of a body or a controlling member in a company may leave Ethiopia without paying::
  - a) tax that is or will become payable by the taxpayer; or
  - b) tax that is or will become payable by a company in which the taxpayer is a controlling member.
- 2/ When this Article applies, the Authority may issue an order (referred to as a“ departure prohibition order”) prohibiting the taxpayer from leaving Ethiopia until the taxpayer makes:
  - a) payment in full of the tax payable or that will become payable by the taxpayer or by the company in which the taxpayer is a controlling member; or
  - b) an arrangement satisfactory to the Authority for payment of the tax referred to in paragraph (a) of this sub-article.
- 3/ A departure prohibition order shall specify the following:
  - a) the name, address, and TIN of the taxpayer to which the order applies;
  - b) the amount of tax that is or will become payable by the taxpayer or by the company in which the taxpayer is a controlling member.
- 4/ A departure prohibition order issued under sub-article (2) of this Article shall expire after ten days from the date of issue unless a court of competent jurisdiction, on application by the Authority, extends the order for the period determined by the court.
- 5/ The Authority shall serve a copy of a departure prohibition order on the taxpayer named in the order, but the non-receipt of a copy of the order shall not invalidate any proceedings under this Article.
- 6/ On receipt of a departure prohibition order in relation to a taxpayer, the [Head, Department of Immigration] shall take such measures as may be necessary to comply with the order including the seizure and retention of the taxpayer’s passport, certificate of identification, or any other document authorising the taxpayer to leave Ethiopia.
- 7/ If the taxpayer pays the tax specified in the departure prohibition order or makes a satisfactory arrangement for payment of the tax, the Authority shall issue the taxpayer with a departure certificate and production of the certificate to an immigration officer shall be sufficient authority for the officer to allow the taxpayer to leave Ethiopia subject to other immigration requirements being satisfied.
- 8/ No proceedings, criminal or civil, may be instituted or maintained against the Government, or a tax, customs, immigration, police, or other officer for anything lawfully done under this Article.

- 9/ A departure prohibition order may be issued only by the Director General or a tax officer specifically authorised by the Director-General to issue departure prohibition orders.

#### **45. Temporary Closure of Business**

- 1/ This Article shall apply when a taxpayer regularly fails to:
  - a) maintain documents as required under a revenue law; or
  - b) pay tax by the due date.
- 2/ When this Article applies, the Authority may notify the taxpayer, in writing, of the intention to close down part or the whole of the business premises of the taxpayer for a temporary period not exceeding 14 days, unless the taxpayer pays the value added tax or excise tax or withholding tax due ,or maintains documents as required within a period of 7 days of service of the notice.
- 3/ If a taxpayer fails to comply with a notice under sub-article (2) of this Article, or fails to maintain the required documents, the Authority may issue an order (referred as a “closure order”) for the closure of part or the whole of the business premises of the taxpayer for a period not exceeding 14 days.
- 4/ The Authority may, at any time, enter any premises described in a closure order for the purposes of executing the order and may require a police officer to be present while a closure order is being executed.
- 5/ The Authority shall affix, in a conspicuous place on the front of the premises that have been closed under a closure order, a notice in the following words **“CLOSED TEMPORARILY FOR NOT COMPLYING WITH TAX OBLIGATIONS BY ORDER OF THE ETHIOPIAN REVENUES AND CUSTOMS AUTHORITY UNDER ARTICLE 45 OF THE TAX ADMINISTRATION PROCLAMATION”**.
- 6/ The Authority shall immediately arrange for the reopening of the premises if:
  - (a) the Director-General or authorised officer is satisfied that the taxpayer has put into place sufficient measures to ensure that documents are properly maintained in the future; or
  - (b) the taxpayer pays the tax due.
- 7/ A closure order may be issued only by the Director General or a tax officer specifically authorised by the Director-General to issue closure orders.

#### **46. Transferred Tax Liabilities**

- 1/ When a taxpayer (referred to as the “transferor”) has an unpaid tax liability in relation to a business conducted by the taxpayer and the taxpayer has transferred all or some of the assets of the business to a related person

(referred to as the “transferee”), the transferee shall be personally liable for the unpaid tax liability (referred to as the “transferred liability”) of the transferor in relation to the business.

- 2/ Sub-article (1) of this Article shall not preclude the Authority from recovering the whole or part of the transferred liability from the transferor.

#### **47. Tax Payable by a Body**

- 1/ When a body fails to pay tax by the due date, every person who is a manager of the body at the time of the failure or was a manager within 6 months prior to the failure shall be jointly and severally liable with the body for the unpaid tax.
- 2/ Sub-article (1) of this Article shall not apply to a person when:
- a) the failure by the body to pay tax occurred without the person’s consent or knowledge; and
  - b) having regard to the nature of the person’s functions and all the circumstances, the person has exercised reasonable diligence to prevent the body from failing to pay tax.

#### **48. Liability for Tax in the Case of Fraud or Evasion**

- 1/ A certified auditor, certified public accountant, or public auditor who:
- a) aided, abetted, counselled, or procured a taxpayer to commit fraud resulting in a tax shortfall or to evade tax; or
  - b) was in any way knowingly concerned in, or was a party to, fraud resulting in a tax shortfall or tax evasion committed by a taxpayer, shall be jointly and severally liable with the taxpayer for the amount of the tax shortfall or evaded tax resulting from the fraud or evasion.
- 2/ If a certified auditor, certified public accountant, or public auditor is liable under sub-article (1) of this Article, the Authority shall report the conduct to:
- a) the Institute of Certified Public Accountants, the Accounting and Auditing Board of Ethiopia, or other body having authority for the licensing of the person and request the Board to withdraw the person’s licence to practice; or
  - b) the licensing authority responsible for issuing business licences.
- 3/ In this Article, “tax shortfall” has the meaning in Article 109 of this Proclamation.

### **PARTEIGHT**

#### **CREDIT, REFUND, AND RELEASE FROM TAX LIABILITY**

#### **49. Credit for Tax Payments**

- 1/ Where the total amount of tax credits allowed to a taxpayer for withholding tax or advance tax payments of the taxpayer for a tax year exceed the income tax liability of the taxpayer for the year, the Authority shall apply the excess in the following order:
  - a) first, in payment of any tax (other than withholding tax) owing by the taxpayer under the Income Tax Proclamation;
  - b) then in payment of tax owing by the taxpayer under any other tax law;
  - c) subject to sub-article (2) of this Article and on application by the taxpayer by notice in writing, then refund the remainder, if any, to the taxpayer within 90 days of the date that the taxpayer filed the tax declaration for the year to which the tax credits relate.
- 2/ With the written agreement of the taxpayer an amount referred to in sub-article (1)(c) of this Article may be carried forward for the payment of any future tax liability of the taxpayer under any tax law.
- 3/ If the Authority fails to pay a refund to a taxpayer as required under sub-article (1)(c) of this Article, the taxpayer shall be entitled to interest for the period commencing from the end of the ninety period until the refund is paid.
- 4/ The rate of interest under sub-article (3) of this Article shall be the highest commercial lending rate that prevailed in Ethiopia during the quarter before the commencement of the period specified in sub-article (3) of this Article.

#### **50. Refund of Overpaid Tax**

- 1/ Subject to sub-article (2) of this Article, when a taxpayer has overpaid tax under a tax law (other than as specified in Article 49 of this Proclamation), the taxpayer may apply to the Authority, in the approved form, for a refund of the overpaid tax within 3 years after the date on which the tax was paid.
- 2/ This Article applies only when a refund of tax does not require the Authority to make an amended assessment.
- 3/ The Authority shall serve notice, in writing, to a taxpayer of the decision on an application by the taxpayer under sub-article (1) of this Article.
- 4/ When a taxpayer has made an application under sub-article (1) of this Article and the Authority is satisfied that the taxpayer has overpaid tax under the tax law, the Authority shall apply the amount of the overpayment in the following order:
  - a) first, in payment of any other tax (other than withholding tax) owing by the taxpayer under the tax law;

- b) then in payment of tax owing by the taxpayer under any other tax law;
  - c) subject to sub-article (5) of this Article, then refund the remainder, if any, to the taxpayer within 45 days of making the determination that the taxpayer is entitled to the refund.
- 5/ With the written agreement of the taxpayer an amount referred to in sub-article (4)(c) of this Article may be carried forward for the payment of any future tax liability of the taxpayer under any tax law.
- 6/ If the Authority has refunded tax under this Article to a taxpayer in error, the taxpayer shall, on notice of demand by the Authority, repay the amount erroneously refunded by the date specified in the notice.
- 7/ If a refund has been erroneously paid due to an error made by the taxpayer in claiming the refund, the taxpayer shall be liable to pay late payment interest at the rate specified in Article 37(2) of this Proclamation computed for the period commencing on the date that the refund was erroneously paid and ending on the date that the refund was repaid.
- 8/ An amount of refund that a taxpayer is required to repay under sub-article (7) of this Article shall be treated as tax payable by a taxpayer for the purposes of Part Seven of this Proclamation.

## **51. Relief in Cases of Serious Hardship**

- 1/ This Article applies if the Minister is satisfied that:
- a) the payment of the full amount of tax owing by a taxpayer will cause serious hardship to the taxpayer due to natural cause, or supervening calamity or disaster, or in cases of personal hardship not attributable to the negligence or any failure on the part of the taxpayer; or
  - b) owing to the death of a taxpayer, the payment of the full amount of tax owing by the deceased taxpayer will cause serious hardship to the dependents of the deceased taxpayer.
- 2/ Subject to sub-article (3) of this Article, if this Article applies, the Minister may release the taxpayer or the executor of the estate of a deceased taxpayer wholly or in part from payment of the tax due and any late payment interest payable in respect of the tax due.
- 3/ The relief to be granted to a tax payer pursuant to sub article (1) of this article shall be within the limits laid down by the regulation to be issued by the council of ministers. .
- 4/ If a decision of the Minister to release a taxpayer or the executor of the estate of a deceased taxpayer from tax is based on fraudulent or misleading information, the tax liability released shall be reinstated and this Proclamation shall apply as if the taxpayer was never released from the liability to pay the tax.
- 5/ The Minister shall maintain a public record of each amount of tax and interest released under this Article together with the reasons thereof and the

record of tax and interest released shall be reported to the Auditor General semi annually.

## **PART NINE**

### **TAX DISPUTES**

#### **52. Statement of Reasons**

When the Authority has refused an application made by a person under a tax law, the notice of refusal shall include a statement of reasons for the refusal.

#### **53. Finality of Tax and Appealable Decisions**

- 1/ Except in proceedings under this Part:
  - a) a tax or appealable decision shall be final and conclusive, and cannot be disputed in the Commission or a Court, or in any other proceedings on any ground whatsoever;
  - b) the production of a notice of a tax assessment or a determination, or a document certified by the Authority as a copy of a notice of a tax assessment or a determination shall be conclusive evidence of the due making of the assessment or a determination and that the amount and particulars of the assessment or a determination are correct; and
  - c) in the case of a self-assessment, the production of the original self-assessment declaration or a document certified by the Authority as a copy of such declaration shall be conclusive evidence of the contents of the declaration.
- 2/ When the Authority serves a notice of a tax assessment or a determination on a taxpayer electronically, the reference in sub-article (1)(b) of this Article to a copy of the notice of assessment or determination includes a document certified by the Authority identifying the assessment or determination and specifying the details of the electronic transmission of the assessment or determination.
- 3/ When a taxpayer has filed a self-assessment declaration electronically, the reference in sub-article (1)(c) of this Article to a copy of the declaration includes a document certified by the Authority identifying the declaration and specifying the details of the electronic transmission of the declaration.
- 4/ In this Article, “determination” means a determination referred to in paragraphs (b), (c),(d), (f), or (g) of the definition of “tax decision” in sub-article 33 of Article 2 of this Proclamation.



**54. Notice of Objection to a Tax Decision**

- 1/ A taxpayer dissatisfied with a tax decision may file a notice of objection to the decision, in writing, with the Authority within 21 days after service of the notice of the decision. However, the tax Director General or his authorized representative may extend such period for additional 10 days if he is convinced that there is good reason for not being able to submit the notice within 21 days.
- 2/ When the tax decision objected to is an amended assessment, a taxpayer's right to object to the amended assessment shall be limited to the alterations, reductions, and additions made in it to the original assessment.
- 3/ A notice of objection shall be treated as validly filed by a taxpayer under sub-article (1) of this Article only when the following conditions are satisfied:
  - a) the notice of objection states precisely the grounds of the taxpayer's objection to the tax decision, the amendments that the taxpayer believes are required to be made to correct the decision, and the reasons for making those amendments;
  - b) when the objection relates to a tax assessment, the taxpayer has paid any tax due under the tax assessment that is not disputed by the taxpayer in the objection; and
  - c) if a tax payer prefers to pay the tax assessed on protest, after the tax in dispute is fully paid.
- 4/ When the Authority considers that a notice of objection filed by a taxpayer has not been validly filed, the Authority shall immediately serve written notice on the taxpayer stating the following:
  - a) the reasons why the objection has not been validly filed; and
  - b) that the objection will lapse unless a valid objection is filed by the later of:
    - (1) 21 days from the date of service of the notice of the tax decision to which the objection relates; or
    - (2) 10 days from the date of service of the notice under this sub-article.
- 5/ The Authority shall serve written notice on the taxpayer when an objection shall be treated as lapsed under sub-article (4) of this Article.
- 6/ A taxpayer may apply, in writing and before the end of the objection period in sub-article (1) of this Article, to the Authority for an extension of time to file a notice of objection.
- 7/ When an application has been made under sub-article (6) of this Article, the Authority may allow an extension of time for a maximum of 10 days from the end of the objection period in sub-article (1) of this Article when satisfied that:

- a) owing to absence from Ethiopia, sickness, or other reasonable cause, the taxpayer was prevented from lodging the notice of objection within the period specified in sub-article (1) or (4) of this Article; and
- b) there has been no unreasonable delay on the part of the taxpayer in lodging the notice of objection.

## **55. Making Objection Decisions**

- 1/ The Authority shall establish a review department as a permanent office within the Authority to provide an independent review of objections validly filed under Article 54 of this Proclamation and make recommendations to the Authority as to the decision to be taken on an objection.
- 2/ The Authority shall issue a Directive specifying, and, department, the procedures for reviewing an objection including hearings, and the basis for making recommendations to the Authority and the decision making procedure.
- 3/ If, in considering an objection to a tax assessment, the review department is of the view that the amount of tax assessed should be increased, the review department shall recommend to the Authority that the tax assessment be referred to the tax officer for reconsideration.
- 4/ After having regard to the recommendations of the review department, the Authority shall make a decision to allow the objection in whole or part, or disallow it, and the Authority's decision shall be referred to as an "objection decision".
- 5/ The Authority shall serve notice, in writing, of an objection decision on the taxpayer and take all steps necessary to give effect to the decision, including, in the case of an objection to a tax assessment, the making of an amended assessment.
- 6/ A notice of an objection decision shall include a statement of findings on the material facts and the reasons for the decision.
- 7/ When the Authority has not made an objection decision within 180 days from the date that the taxpayer filed notice of the objection, the tax payer may appeal to the Tax Appeal Commission.

## **56. Appeal to Tax Appeal Commission**

- 1/ A taxpayer dissatisfied with an appealable decision may file a notice of appeal with the Tax Appeal Commission in accordance with Article 88 of this Proclamation.
- 2/ A notice of appeal to the Tax Appeal Commission in relation to an objection to a tax assessment shall be treated as validly filed by a taxpayer only if the taxpayer has paid to the Authority:
  - a) for an appeal under Article 55(7) of this Proclamation, 25% of the tax in dispute under the tax assessment; or

- b) for any other appeal, 50% of the tax in dispute under the tax assessment.
- 3/ The reference to “tax in dispute” in sub-article (2) of this Article shall not include penalty and late payment interest payable in respect of the disputed tax.
- 4/ The Tax Appeal Commission may issue a Directive providing for applications for an extension of time to file a notice of appeal under sub-article (1) of this Article.

## **57. Appeal to the Federal High Court**

- 1/ A party to a proceeding before the Commission who is dissatisfied with the decision of the Commission may, within 30 days after being served with notice of the decision, file a notice of appeal to the Federal High Court.
- 2/ The Federal High Court may, on an application in writing by a party to a proceeding before the Tax Appeal Commission, extend the time for lodging a notice of appeal under sub-article (1) of this Article.
- 3/ A notice of appeal to the Federal High Court by a taxpayer in relation to an objection to a tax assessment shall be treated as validly filed only if the taxpayer has paid 75% of the tax in dispute under the assessment.
- 4/ An appeal to the Federal High Court shall be made on a question of law only, and the notice of appeal shall state the question of law that will be raised on the appeal.
- 5/ The Federal High Court shall hear the appeal and may:
  - a) decide to affirm the decision of the Commission;
  - b) decide to set aside the decision of the Commission and:
    - (1) make a decision in substitution of the decision of the Commission; or
    - (2) remit the decision to the Commission or Authority for reconsideration in accordance with the directions of the Court;
  - c) decide to dismiss the appeal; or
  - d) make any other decision the court thinks appropriate.
- 6/ The reference to “tax in dispute” in sub-article (3) of this Article means the tax determined by the Tax Appeal Commission to be payable that is disputed by the taxpayer in the notice of appeal, but does not include penalty and late payment interest payable in respect of the disputed tax.

## **58. Appeal to the Federal Supreme Court**

- 1/ A party to a proceeding before the Federal High Court who is dissatisfied with the decision of the Federal High Court may, within 30 days after being

served with notice of the decision, file a notice of appeal to the Federal Supreme Court.

- 2/ The Federal Supreme Court may, on an application in writing by a party to a proceeding before the Federal High Court, extend the time for lodging a notice of appeal under sub-article (1) of this Article.

#### **59. Burden of Proof**

In any proceeding under this Part in relation to a tax decision, the burden shall be on the taxpayer to prove that the tax decision is incorrect.

#### **60. Implementation of Decision of Commission or Court**

- 1/ The Authority shall, within 30 days after being served with notice of the decision of the Tax Appeal Commission, Federal High Court, or Federal Supreme Court, take such action, including serving the taxpayer with notice of an amended assessment, as is necessary to give effect to the decision.
- 2/ The time limit in Article 28 for amending a tax assessment shall not apply to an amendment to give effect to a decision of the Tax Appeal Commission or a Court.

### **PART TEN**

#### **INFORMATION COLLECTION AND ENFORCEMENT**

#### **61. Tax Clearance**

- 1/ A taxpayer may apply to the Authority, in the approved form, for a tax clearance certificate.
- 2/ The Authority shall issue a tax clearance certificate to a taxpayer within 14 days of the taxpayer filing an application under sub-article (1) of this Article if satisfied that the taxpayer has fulfilled its obligations to pay tax under the tax laws as determined under a Directive issued by the Authority.
- 3/ If a taxpayer applying under sub-article (1) of this Article was not registered for tax for the preceding year or years, the Authority shall issue a tax clearance certificate to the taxpayer within 14 days of the taxpayer lodging the application stating that the taxpayer is registered with the Authority.
- 4/ No Ministry, Municipality, Department or Office of the Federal or a State Government, or other Government body shall issue or renew any licence to a taxpayer, or allow the taxpayer to participate in a public tender, unless the taxpayer produces a tax clearance certificate.

- 5/ If the Authority refuses to issue a taxpayer with a tax clearance certificate, the Authority shall provide the taxpayer with notice of the decision within 14 days of the taxpayer lodging an application under sub-article (1) of this Article.

**62. Filing of Memorandum and Articles of Association**

- 1/ A body shall file with the Authority a copy of the memorandum of association, articles of association, statute, partnership agreement, or other document of formation or registration within 30 days of the date of registration of the body.
- 2/ A body shall notify the Authority, in writing, of any change made to a document referred to in sub-article (1) of this Article within 30 days of the change being made.

**63. Public Auditors**

- 1/ Auditors shall file with the Authority the audit report of their clients within three months from the date of providing the report to their client.
- 2/ If an auditor fails to comply with sub-article (1) of this Article, the Authority shall notify the Accounting and Auditing Board of Ethiopia or Institute of Certified Public Accountants of Ethiopia of the failure and may request the Board or the Institute to withdraw the auditor's licence.
- 3/ In this Article, "auditor" means a certified auditor and a public auditor as defined under the Financial Reporting Proclamation.

**64. Notification of Services Contract with Non-resident**

- 1/ A person who enters into an Ethiopian source services contract with a non-resident shall notify the Authority, in the approved form, within 30 days of the earlier of the signing of the contract or the commencement of performance under the contract.
- 2/ In this Article, "Ethiopian source services contract" means a contract (other than an employment contract) under which the primary purpose is the performance of services, whether or not goods are also provided, which services give rise to Ethiopian source income.

**65. Notice to Obtain Information or Evidence**

- 1/ For the purposes of administering any tax law, the Authority may, by notice in writing, require any person whether or not liable for tax:
  - a) to furnish, by the time specified in the notice, such information relating to the person's or any other person's tax affairs as specified in the notice;

- b) to present himself at the time and place designated in the notice to give evidence concerning the person's or any other person's tax affairs as specified in the notice;
  - c) to produce, by the time specified in the notice, all documents in the person's custody or under the person's control relating to the person's or any other person's tax affairs as specified in the notice.
- 2/ When a notice under sub-article (1) of this Article requires the production of a document, it shall be sufficient if the document is described in the notice with reasonable certainty.
- 3/ This Article shall have effect despite:
  - a) any law relating to privilege or the public interest with respect to the giving of information or the production of any documents (including in electronic format); or
  - b) any contractual duty of confidentiality.

## **66. Power to Enter and Search**

- 1/ For the purposes of administering any tax law, the Authority:
  - a) shall have, at all times and without notice, full and free access to the following:
    - (1) any premises, place, goods, or property;
    - (2) any document;
    - (3) any data storage device;
  - b) may make an extract or copy of any document, including in electronic format, to which access is obtained under paragraph (a) of this sub-article;
  - c) may seize any document that, in the opinion of the Authority, affords evidence that may be material in determining the tax liability of a taxpayer and may retain the document for as long as the document may be required for determining a taxpayer's tax liability or for any proceeding under a tax law; and
  - d) may, if a hard copy or copy on a data storage media of information stored on a data storage device is not provided, seize and retain the device for as long as is necessary to copy the information required.
- 2/ The powers in sub-article (1) of this Article may be exercised only by the Director General or a tax officer specifically authorised by the Director-General to exercise such powers.
- 3/ A tax officer shall not enter or remain on any premises or place if, upon request by the owner or lawful occupier, the officer is unable to produce the Director General's written authorisation permitting the officer to exercise powers under sub-article (1) of this Article.

- 4/ The owner or lawful occupier of the premises or place to which an exercise of power under sub-article (1) of this Article relates shall provide all reasonable facilities and assistance to the Authority including:
  - (a) answering questions, either orally or in writing, relating to any document on the premises or at the place, whether on a data storage device or otherwise; or
  - (b) providing access to decryption information necessary to decrypt data to which access is sought under this Article.
- 5/ A person whose document or data storage device has been seized under sub-article (1) of this Article may examine it and make copies, including electronic copies of documents on a data storage device, at his own expense, during normal office hours and on such terms and conditions as the Authority may specify.
- 6/ The Director-General or authorised officer shall sign for any document or data storage device removed and retained under this Article.
- 7/ This Article shall have effect despite:
  - a) any law relating to privilege (including legal professional privilege) or the public interest with respect to access to premises or places, or the production of any property or document (including in electronic format); or
  - b) any contractual duty of confidentiality.

## **67. Implementation of Mutual Administrative Assistance Agreements**

- 1/ The Minister may, on behalf of the Government, enter into, amend, or terminate a mutual administrative assistance agreement with a foreign government or governments.
- 2/ If there is any conflict between the terms of a mutual administrative assistance agreement having legal effect in Ethiopia and a tax law, the mutual administrative assistance agreement prevails.
- 3/ If a tax treaty or mutual administrative assistance agreement having legal effect in Ethiopia provides for exchange of information, or reciprocal assistance in the recovery of tax or the service of process, the Authority shall use the powers available under this Proclamation or any other law to meet Ethiopia's obligations under the treaty or agreement on the basis that a reference in this Proclamation or other law:
  - a) to "tax", includes a foreign tax to which the exchange of information or reciprocal assistance relates;
  - b) to "unpaid tax", includes an amount specified in paragraph (a) of this sub-article that has not been paid by the due date;
  - c) to "taxpayer", includes a person liable for an amount specified in paragraph (a) of this sub-article; and

- d) to “tax law”, includes the law under which a foreign tax specified in paragraph (a) of this sub-article is imposed.

4/ In this Article:

- a) “international agreement” means an agreement between the Government of Ethiopia and a foreign government or governments;
- b) “mutual administrative assistance agreement” means a tax information exchange agreement or other international agreement for mutual administrative assistance in relation to taxation matters; and
- c) “tax treaty” means an international agreement relating to the avoidance of double taxation and the prevention of fiscal evasion.

## **PART ELEVEN**

### **ADVANCE RULINGS**

#### **CHAPTER ONE**

#### **PUBLIC RULINGS**

#### **68. Binding Public Rulings**

- 1/ The Ministry may make a public ruling in accordance with Article 69 of this Proclamation setting out the Ministry’s interpretation on the application of a tax law.
- 2/ A public ruling made in accordance with Article 69 of this Proclamation shall be binding on the Ministry and the Authority until withdrawn.
- 3/ A public ruling shall not be binding on a taxpayer.

#### **69. Making a Public Ruling**

- 1/ The Ministry shall make a public ruling by publishing the public ruling on the official website of the Ministry.
- 2/ A public ruling shall state that it is a public ruling and shall have a heading specifying the subject matter of the ruling by which it can be identified and an identification number.
- 3/ A public ruling shall have effect from the date specified in the public ruling or, when no date is specified, from the date the ruling is published on the official website of the Ministry.
- 4/ A public ruling sets out the Ministry’s opinion on the application of a tax law in the circumstances specified in the ruling and is not a decision of the Ministry for the purposes of this Proclamation or any other law.



**70. Withdrawal of a Public Ruling**

- 1/ The Ministry may withdraw a public ruling, in whole or part, by publishing notice of the withdrawal on the official website of the Ministry and the withdrawal shall have effect from the later of:
  - a) the date specified in the notice of withdrawal; or
  - b) the date that the notice of withdrawal of the ruling is published on the official website of the Ministry.
- 2/ When legislation is passed, or the Ministry makes another public ruling that is inconsistent with an existing public ruling, the existing public ruling shall be treated as withdrawn to the extent of the inconsistency from the date of application of the inconsistent legislation or public ruling.
- 3/ A public ruling that has been withdrawn, in whole or part:
  - a) shall continue to apply to a transaction commenced before the public ruling was withdrawn; and
  - b) shall not apply to a transaction commenced after the public ruling was withdrawn to the extent that the ruling is withdrawn.

**CHAPTER TWO****PRIVATE RULINGS****71. Binding Private Rulings**

- 1/ A taxpayer may apply to the Ministry for a private ruling setting out the Ministry's position regarding the application of a tax law to a transaction entered into, or proposed to be entered into, by the taxpayer.
- 2/ An application under this Article shall be in writing and:
  - a) include full details of the transaction to which the application relates together with all documents relevant to the transaction;
  - b) specify precisely the question on which the ruling is required; and
  - c) give a full statement setting out the opinion of the taxpayer as to the application of the relevant tax law to the transaction.
- 3/ Subject to Article 72 of this Proclamation, the Ministry shall, within 60 days of receipt of the application under this Article, issue a private ruling on the question to the taxpayer.
- 4/ If the taxpayer has made a full and true disclosure of all aspects of the transaction relevant to the making of a private ruling and the transaction has proceeded in all material respects as described in the taxpayer's application for the private ruling, the private ruling shall be binding on the Ministry and the Authority.

- 5/ A private ruling shall not be binding on a taxpayer.
- 6/ When a private ruling is inconsistent with a public ruling that is in force at the time that the private ruling is made, the private ruling shall have priority to the extent of the inconsistency

## **72. Refusing an Application for a Private Ruling**

- 1/ The Ministry may refuse an application by a taxpayer for a private ruling if any of the following applies:
  - a) the Authority or the Ministry, as the case maybe, has already decided the question that is the subject of the application in the following:
    - (1) a notice of a tax assessment served on the taxpayer;
    - (2) a public ruling made under Article 69 of this Proclamation that is in force;
    - (3) a private ruling published under Article 75 of this Proclamation that is in force.
  - b) the application relates to a question that is the subject of a tax audit in relation to the taxpayer, an objection filed by the taxpayer, or an application by the taxpayer under Article 29 of this Proclamation for an amendment to a self-assessment;
  - c) the application is frivolous or vexatious;
  - d) the transaction to which the application relates has not been carried out and there are reasonable grounds to believe that the transaction will not be carried out;
  - e) the tax payer has not provided the Ministry with sufficient information to make a private ruling;
  - f) in the opinion of the Authority, it would be unreasonable to comply with the application, having regard to the resources needed to comply with the application and any other matters the Ministry considers relevant;
  - g) the making of the ruling involves the application of a tax avoidance provision.
- 2/ The Ministry shall serve the taxpayer with a written notice of a decision to refuse to make a private ruling under this Article.

## **73. Making a Private Ruling**

- 1/ The Ministry shall make a private ruling by serving written notice of the private ruling on the taxpayer and the ruling shall remain in force for the period specified in the ruling or, if earlier, withdrawn under Article 74 of this Proclamation.

- 2/ The Ministry may make a private ruling on the basis of assumptions about a future event or other matter as considered appropriate.
- 3/ A private ruling shall state that it is a private ruling, set out the question ruled on, and identify the following:
  - a) the taxpayer;
  - b) the tax law relevant to the private ruling;
  - c) the tax period to which the ruling applies;
  - d) the transaction to which the ruling relates;
  - e) any assumptions on which the ruling is based.
- 4/ A private ruling sets out the Ministry's opinion on the question raised in the ruling application and is not a decision of the Ministry for the purposes of the Proclamation or any other law.

#### **74. Withdrawal of a Private Ruling**

- 1/ The Ministry may, for reasonable cause, withdraw a private ruling, in whole or part, by written notice served on the taxpayer and the withdrawal shall have effect from the date specified in the notice of withdrawal.
- 2/ When legislation is passed, or the Ministry makes a public ruling that is inconsistent with an existing private ruling, the private ruling shall be treated as withdrawn to the extent of the inconsistency from the date of application of the inconsistent legislation or public ruling.
- 3/ A private ruling that has been withdrawn:
  - a) shall continue to apply to a transaction of the taxpayer commenced before the ruling was withdrawn; and
  - b) shall not apply to a transaction of the taxpayer commenced after the ruling was withdrawn to the extent the ruling is withdrawn.

#### **75. Publication of Private Rulings**

- 1/ The Ministry shall publish a private ruling made under Article 73 of this Proclamation on the official website of the Ministry except that the identity of the taxpayer to whom the ruling relates and any confidential commercial information mentioned in the ruling shall not be indicated in the publication.
- 2/ Subject to sub-article (3) of this Article, any taxpayer may rely upon a ruling published under sub-article (1) of this Article as a statement binding on the Ministry and the Authority with respect to the application of the relevant tax law to the facts set out in the ruling and for the tax period covered by the ruling.
- 3/ When a private ruling has been withdrawn in accordance with Article 74 of this Proclamation, the Ministry shall immediately publish a notice of withdrawal on the official website of the Ministry stating that the ruling

shall cease to be binding with effect from the date determined under Article 74 of this Proclamation.

### CHAPTER THREE

#### **OTHER ADVICE OF THE MINISTRY**

##### **76. Other Advice Provided by the Authority**

No publication or other advice (oral or in writing) provided by the Ministry shall be binding on the Ministry or the Authority except a public ruling or private ruling binding under this Part.

### PART TWELVE

#### **COMMUNICATIONS, FORMS, AND NOTICES**

##### **77. Working Languages**

The working languages of Ethiopia are the official languages of the tax laws and the Authority may refuse to recognise any communication or document that is not in a working language.

##### **78. Forms and Notice**

- 1/ Forms, notices, tax declarations, statements, tables, and other documents approved or published by the Authority may be in such form as the Authority determines for the efficient administration of the tax laws and, except as required under a tax law, publishing of such documents on the official website of the Authority shall not be required.
- 2/ The Authority shall make the documents referred to in sub-article (1) of this Article available to the public at offices of the Authority and at any other locations, or by mail, electronically, or such other means, as the Authority may determine.

##### **79. Approved Form**

- 1/ A tax declaration, application, notice, statement, or other document shall be treated as filed by a taxpayer in the approved form when the document:
  - a) is in the form approved by the Authority for that type of document;

- b) contains the information (including any attached documents) as required by the form; and
  - c) is signed as required by the form.
- 2/ The Authority shall immediately notify a taxpayer, in writing, when a tax declaration, application, notice, statement, or other document filed by the person is not in the approved form.
- 3/ The Authority may decide to accept a document that is not filed in the approved form if the document has been filed in a form that contains substantially the information required by the approved form for the document.

#### **80. Manner of Filing Documents with the Authority**

- 1/ A taxpayer required by the Authority under Article 82(2) of this Proclamation to file a tax declaration, application, notice, statement, or other document with the Authority electronically shall do so unless authorised by the Authority by notice in writing to file the document in accordance with sub-article (2) of this Article.
- 2/ When sub-article (1) of this Article does not apply to a taxpayer, the taxpayer shall file a tax declaration, application, notice, statement, or other document with the Authority under a tax law by personal delivery or normal post.

#### **81. Service of Notices**

- 1/ A notice or other document issued, served, or given by the Authority under a tax law to a taxpayer shall be communicated in writing as follows:
  - a) by delivering it personally to the taxpayer or the taxpayer's tax representative or licensed tax agent, or, if no person can be found to accept service, by affixing the notice to the door or other available part of the taxpayer's place of business or residence in Ethiopia;
  - b) by sending it by registered post to the taxpayer's usual or last known place of business or residence in Ethiopia;
  - c) by transmitting it to the taxpayer electronically in accordance with Article 82(3) of this Proclamation.
- 2/ When none of the methods of service specified in sub-article (1) of this Article are effective, service may be discharged by publication in any newspaper in which court notices may be advertised with the cost of publication charged to the taxpayer.
- 3/ The validity of service of a notice or other document under a tax law shall not be challenged after the notice or document has been wholly or partly complied with.

## **82. Application of Electronic Tax System**

- 1/ Despite any other provisions of this Proclamation, the Authority may authorise the following to be done electronically through a computer system or mobile electronic device:
  - a) the lodging of an application for registration or for a TIN under a tax law;
  - b) the filing of a tax declaration or other document under a tax law;
  - c) the payment of tax or other amounts under a tax law;
  - d) the payment of a refund under a tax law;
  - e) the service of any documents by the Authority;
  - f) the doing of any other act or thing that is required or permitted to be done under a tax law.
- 2/ Subject to sub-article (4) of this Article, the Authority may direct that a taxpayer shall do anything referred to in sub-article (1) of this Article electronically through the use of a computer system or mobile electronic device.
- 3/ Subject to sub-article (4) of this Article, the Authority may do anything referred to in sub-article (1) of this Article electronically through the use of a computer system or mobile electronic device.
- 4/ Sub-articles (2) and (3) shall not apply to a taxpayer if the Authority is satisfied that the taxpayer does not have the capacity to receive or make communications or payments electronically.
- 5/ A taxpayer who files a tax declaration and pays tax electronically under this Article shall continue to do so unless otherwise authorised by the Authority.

## **83. Due Date for Filing a Document or Payment of Tax**

If the due date for:

- a) filing a tax declaration, application, notice, statement, or other document;
- b) the payment of tax; or
- c) taking any other action under a tax law,

falls on a Saturday, Sunday, or public holiday in Ethiopia, the due date shall be the following business day.

## **84. Defect Not to Affect Validity of Notices**

- 1/ This Article shall apply when:
  - a) a notice of a tax assessment or any other document has been served on a taxpayer under a tax law;

- b) the notice is, in substance and effect, in conformity with, or is consistent with the intent and meaning of, the tax law under which the notice has been made; and
- c) the tax payer assessed, intended to be assessed, or affected by the notice, is designated in the notice according to common intent and understanding.

2/ When this Article applies:

- a) provided the notice of the tax assessment or other document has been properly served, the notice shall not be affected by reason that any of the provisions of the tax law under which the notice has been made have not been complied with;
- b) the notice of the tax assessment or other document shall not be quashed or deemed to be void or voidable for want of form; and
- c) the notice of the tax assessment or other document shall not be affected by reason of any mistake, defect, or omission therein.

3/ A tax assessment shall not be voided by reason of:

- a) a mistake in the tax assessment as to the name of the taxpayer assessed, the description of any income or other amount, or the amount of tax charged; or
- b) any variance between the tax assessment and the duly served notice of the tax assessment,

provided the mistake or variance is not likely to deceive or mislead the taxpayer assessed.

## **85. Correction of Errors**

When a notice of a tax assessment or other document served by the Authority on a taxpayer under a tax law contains a clerical, arithmetic, or any other error that does not involve a dispute as to the interpretation of the law or facts of the case, the Authority may, for the purposes of correcting the mistake, amend the assessment or other document any time before the earlier of 5 years from the date of service of the notice of the tax assessment or other document.

## **PART THIRTEEN**

### **TAX APPEAL COMMISSION**

## **86. Establishment of Tax Appeal Commission**

- 1/ The Tax Appeal Commission is hereby established to hear appeals against appealable decisions.
- 2/ The president of the Commission shall be appointed by the Prime Minister.
- 3/ The Commission shall be accountable to the Prime Minister.

**87. Appointment of Members to the Commission**

- 1/ The Prime Minister shall appoint such number of members to the Commission as the Prime Minister considers necessary having regard to the needs of the Commission.
- 2/ Subject to sub-article (3) of this Article, an individual may be appointed as a member to the Commission if the individual satisfies any one of the following:
  - a) the individual is a lawyer with significant experience in tax or commercial matters;
  - b) the individual is a member of the Institute of Certified Public Accountants with significant experience in tax matters;
  - c) the individual has previously been engaged as a tax officer with significant technical and administrative experience in tax matters;
  - d) the individual has special knowledge, experience, or skills relevant to the functions of the Commission.
- 3/ The following individuals shall not be appointed as a member of the Commission:
  - a) a currently serving tax officer or an individual who has ceased to be a tax officer for a period of less than two years;
  - b) an individual who has been liable for a penalty or convicted of an offence under a tax law relating to tax avoidance or evasion;
  - c) an individual who has been convicted of a crime of corruption under the Corruption Crimes Proclamation or any other law;
  - d) an individual who is an un discharged bankrupt.
- 4/ A member of the Commission:
  - a) may be appointed as either a full-time or part-time member;
  - b) shall be appointed for a term of 3 years and shall be eligible for re-appointment; and
  - c) shall hold office on such terms and conditions, including in relation to remuneration and attendance fees, as the Prime Minister determines.
- 5/ The appointment of an individual as a member of the Commission shall terminate if:
  - a) the individual becomes employed or engaged as a tax officer;
  - b) the individual is liable for a penalty or convicted of an offence under a tax law relating to tax avoidance or evasion;
  - c) the individual is convicted of a crime of corruption under the Corruption Crimes Proclamation or any other law;
  - d) the individual becomes an un discharged bankrupt;



- e) the individual resigns by notice in writing to the Prime Minister;
  - f) the individual's term of appointment comes to an end and the individual is not reappointed as a member of the Commission; or
  - g) the individual is removed by the Prime Minister, by notice in writing, for inability to perform the duties of office or for proven misconduct.
- 6/ No member of the Commission shall be liable to any action or suit for any act or omission done in the proper execution of the member's duties under this Part.

**88. Notice of Appeal**

- 1/ A person may appeal an appealable decision by filing a notice of appeal against the decision with the Commission in the approved form and within 30 days of service of notice of the decision.
  - 2/ A notice of appeal shall include a statement of reasons for the appeal.
  - 3/ The Commission may, on an application in writing and if good cause is shown, extend the time for lodging a notice of appeal under this Article.
- 
- 4/ The Commission may issue a Directive specifying the procedure for dealing with applications for an extension of time to file a notice of appeal.
  - 5/ In this Article, "approved form" means the form approved by the President of the Commission for notices of appeal.

**89. Authority to File Documents with the Commission**

- 1/ The Authority shall, within 30 days of being served with a copy of a notice of appeal to the Commission or within such further time as the Commission may allow, file with the Commission:
  - a) the notice of the appealable decision to which the notice of appeal relates;
  - b) a statement setting out the reasons for the decision if these are not set out in the notice referred to in paragraph (a) of this sub-article;
  - c) any other document relevant to the Commission's review of the decision.
- 2/ If the Commission is not satisfied with a statement filed under sub-article (1)(b) of this Article, the Commission may, by written notice, require the Authority to file, within the time specified in the notice, a further statement of reasons.
- 3/ If the Commission is of the opinion that other documents may be relevant to an appeal, the Commission may, by written notice, require the Authority

to file the documents with the Commission within the time specified in the notice.

- 4/ The Authority shall give the person appealing a copy of any statement or document filed with the Commission under this Article.

## **90. Proceedings of the Commission**

- 1/ The President of the Commission shall serve as member of one of the panels of the Commission. The President of the Commission shall assign a member or members to the hearing of an appeal as the President considers appropriate having regard to the issues raised by the appeal.
- 2/ The Prime Minister may issue a Directive for the conduct of proceedings by the Commission.
- 3/ A member of the Commission who has a material, pecuniary, or other interest in any proceeding that could conflict with the proper performance of the member's functions shall disclose the interest to the President who must record the interest, and the member shall not take part in the proceeding.
- 4/ The President of the Commission may delegate authority to a Regional Tax Appeal Commission to hear any appeal under Article 88 of this Proclamation.

## **91. Decision of the Commission**

- 1/ The Commission shall hear and determine an appeal and make a decision as set out in sub-article (5) or (6) of this Article.
- 2/ The Commission shall decide an appeal within 120 days after the notice of appeal was filed.
- 3/ The President of the Commission may, by notice in writing to the parties to an appeal, extend the period for deciding the appeal for a period not exceeding 60 days having regard to the complexity of the issues in the case and the interests of justice.
- 4/ A failure by the Commission to comply with sub-article (2) or (3) of this Article shall not affect the validity of a decision made by the Commission on the appeal.
- 5/ If an appeal relates to a tax assessment, the Commission may make a decision to:
  - a) affirm, or reduce, or otherwise amend the tax assessment; or
  - b) remit the tax assessment to the Authority for reconsideration in accordance with the directions of the Commission.
- 6/ If, in considering an appeal relating to a tax assessment, the Commission is of the view that the amount of tax assessed should be increased, the

Commission shall remit the tax assessment to the Authority in accordance with sub-article (5)(b) of this Article.

- 7/ If an appeal relates to any other appealable decision, the Commission may make a decision to affirm, vary, or set aside the decision, or remit the decision to the Authority for reconsideration in accordance with the directions of the Commission.
- 8/ The Commission shall serve a copy of the decision on an appeal on each party to the appeal within 7 days of the making of the decision.
- 9/ The Commission's decision shall include the reasons for the decision and the findings on material questions of fact, and reference to the evidence or other material on which those findings were based.
- 10/ The decision of the Commission on an appeal shall come into operation upon the giving of the decision or on such other date as may be specified by the Commission in the notice of the decision.
- 11/ If the decision of the Commission is in favour of the taxpayer, the Authority shall take such steps as are necessary to implement the decision, including serving notice of an amended assessment, within 30 days of receiving notice of the decision under sub-article (8) of this Article.

## **92. Administration of the Commission**

- 1/ The President of the Commission shall be responsible for managing the administrative affairs of the Commission.
- 2/ The Commission shall have a Registrar and such other staff as the President determines.
- 3/ The Registrar of the Commission shall have the power to do all things necessary or convenient to be done for the purpose of assisting the President under sub-article (1) of this Article and may act on behalf of the President in relation to the administrative affairs of the Commission.

## **93. Finances**

- 1/ The budget of the Commission shall be allocated by the Government.
- 2/ The Commission shall keep complete and accurate books of account.
- 3/ The books of account and other financial documents of the Commission shall be audited by the Auditor-General or by an auditor designated by the Auditor-General.

## **94. Annual Report of the Commission**

- 1/ The President of the Commission shall prepare a report of the affairs of the Commission for each fiscal year.
- 2/ A report under sub-article (1) of this Article for a fiscal year shall be submitted to the Prime Minister within three months after the end of the fiscal year.

## PART FOURTEEN

### **LICENSING OF TAX AGENTS**

#### **95. Application for Tax Agent's Licence**

- 1/ An individual, partnership, or company wishing to provide tax agent services may apply to the Authority, in the approved form, for licensing as a tax agent.
- 2/ In this Part, "tax agent services" means:
  - a) the preparation of tax declarations on behalf of taxpayers;
  - b) the preparation of notices of objection on behalf of taxpayers;
  - c) the provision of advice to taxpayers on the application of the tax laws;
  - d) representing taxpayers in their dealings with the Authority; or
  - e) the transaction of any other business on behalf of taxpayers with the Authority.

#### **96. Licensing of Tax Agents**

- 1/ The Authority shall issue a tax agent's licence to an applicant under Article 95 of this Proclamation who is an individual when satisfied that the applicant is a fit and proper person to provide tax agent services.
- 2/ The Authority shall issue a tax agent's licence to an applicant under Article 95 of this Proclamation that is a partnership when satisfied that:
  - a) a partner in, or employee of, the partnership is a fit and proper person to provide tax agent services; and
  - b) every partner in the partnership is of good character and integrity.
- 3/ The Authority shall issue a tax agent's licence to an applicant under Article 95 of this Proclamation that is a company when satisfied that:
  - a) an employee of the company is a fit and proper person to provide tax agent services; and
  - b) every director, manager, and other executive officer of the company is of good character and integrity.
- 4/ The Regulations may provide guidelines for determining when a person is fit and proper to provide tax agent services.
- 5/ The Authority shall provide an applicant under Article 95 of this Proclamation with notice, in writing, of the decision on the application.

- 6/ A licence issued to a tax agent shall remain in force for three years from the date of issue and may be renewed under Article 97 of this Proclamation.
- 7/ The Authority may, from time to time, publish, in such manner as the Authority determines, a list of persons licensed as tax agents.
- 8/ A tax agent licence is a professional licence and a tax agent can carry on business as a tax agent only if the tax agent has been issued with a business licence.

**97. Renewal of Tax Agent's Licence**

- 1/ A tax agent may apply to the Authority for the renewal of the tax agent's licence.
- 2/ An application under sub-article (1) of this Article shall be:
  - a) in the approved form; and
  - b) filed with the Authority within 21 days of the date of expiry of the tax agent's licence or such later date as the Authority may allow.
- 3/ The Authority shall renew the licence of a tax agent who has applied under sub-article (1) of this Article if the tax agent continues to satisfy the conditions for licensing in Article 96.
- 4/ The renewal of a tax agent's licence shall be valid for three years from the date of renewal and can be further renewed in accordance with this Article.
- 5/ The Authority shall provide an applicant under sub-article (1) of this Article with notice, in writing, of the decision on the application.

**98. Limitation on Providing Tax Agent Services**

- 1/ Subject to sub-article (2) of this Article, no person, other than a licensed tax agent, shall, for a fee, provide tax agent services.
- 2/ Sub-article (1) of this Article shall not apply to a person who is a licensed advocate acting in the ordinary course of his profession providing tax agent services other than services specified in paragraph (a) of sub article (2) of Article 95 of the definition of "tax agent services".

**99. Cancellation of Tax Agent's Licence**

- 1/ A licensed tax agent shall notify the Authority, in writing, within 7 days prior to ceasing to carry on business as a tax agent.
- 2/ A licensed tax agent may apply to the Authority, in writing, for cancellation of the tax agent's licence when the tax agent no longer wishes to be a licensed tax agent.
- 3/ The Authority shall cancel the licence of a tax agent when any of the following applies:

- a) a tax declaration prepared and filed by the tax agent is false in any material particular, unless the tax agent establishes to the satisfaction of the Authority that this was not due to any wilful or negligent conduct of the tax agent;
  - b) the tax agent ceases to satisfy the conditions for licensing as a tax agent, or the Authority is satisfied that the tax agent has committed professional misconduct;
  - c) the tax agent has ceased to carry on business as a tax agent including, in the case of a company or partnership, when the company or partnership has ceased to exist;
  - d) the tax agent has applied for cancellation of the tax agent's licence under sub-article (2) of this Article;
  - e) the licence of the tax agent has expired and the agent has not filed an application for renewal of the licence under Article 97.
- 4/ The Authority shall serve notice, in writing, of a decision to cancel the licence of a tax agent.
- 5/ The cancellation of the licence of a tax agent shall take effect on the earlier of:
- a) the date the tax agent ceases to carry on business as a tax agent; or
  - b) 60 days after the tax agent has been served with notice of the cancellation.
- 6/ Despite anything in any tax law, if the Authority is of the opinion that a person who is a licensed tax agent has committed professional misconduct, the Authority shall report the conduct to:
- a) the Institute of Certified Public Accountants, the Accounting and Auditing Board of Ethiopia, or other body having authority for the licensing of the person as an accountant, auditor, or lawyer, as the case may be; and
  - b) the licensing authority responsible for issuing business licences.

## **PART FIFTEEN**

### **ADMINISTRATIVE, CRIMINAL PENALTIES AND REWARDS**

## **CHAPTER ONE**

### **GENERAL PROVISIONS**

**100. General Provisions Relating to Administrative and Criminal Liabilities**

- 1/ Where an act or omission entails both administrative and criminal liabilities at the same time, the person committing the offence shall not be relieved from criminal liability by the mere fact that he is held administratively liable.
- 2/ A taxpayer who is assessed for an administrative penalty or prosecuted for a criminal offence shall not be relieved from liability to pay any tax due.
- 3/ In this Part, the term “manager” has the meaning in Article 47 of this Proclamation.

## **CHAPTER TWO**

### **ADMINISTRATIVE PENALTIES**

**101. Penalties Relating to Registration and cancellation of registration**

- 1/ Subject to the other administrative penalties imposed by this proclamation, a person who fails to apply for registration as required under this Proclamation shall be liable for a penalty of 25% of the tax payable by the person for the period commencing on the date that the person was required to apply for registration and ending on the date that the person files the application for registration or the person is registered on the Authority’s own motion.
- 2/ Where there is no tax payable by the tax payer mentioned in sub article (1) of this article, the tax payer shall pay a penalty of 1000 birr for each month or part thereof from the day on which he should have been registered to the day of his actual registration.
- 3/ Where the penalty to be imposed pursuant to sub article 1 of this article is less than the penalty to be imposed pursuant to sub article 2 of this article, sub article 2 of this article shall apply
- 4/ A person who, without reasonable excuse, fails to apply for cancellation of registration as required under this Proclamation shall be liable for a penalty of birr 1,000 for each month or part thereof for the period commencing on the date that the person was required to apply for cancellation of registration and ending on the date that the person files the application for cancellation or the person’s registration is cancelled on the Authority’s own motion.

**102. Penalty for Failing to Maintain Documents**

- 1/ Subject to sub-article (2) of this Article, a taxpayer who fails to maintain any document as required under a tax law shall be liable for a penalty of 20% of the tax payable by the taxpayer under the tax law for the tax period to which the failure relates.

- 2/ If no tax is payable by the taxpayer for the tax period to which the failure referred to in sub-article (1) of this Article relates, the penalty shall be:
  - a) birr 20,000 for each tax year that the taxpayer fails to maintain documents for the purposes of the income tax; or
  - b) birr 2,000 for each tax period that the taxpayer fails to maintain documents for the purposes of any other tax.
- 3/ Where the penalty to be imposed pursuant to sub article 1 of this article is less than the penalty to be imposed pursuant to sub article 2 of this article, sub article 2 of this article shall apply.
- 4/ Without prejudice to sub-articles (1),(2) and (3) of this Article, the licensing authority responsible for issuing business licences, shall on notification by the Authority, cancel the business licence of a taxpayer who fails to maintain documents for more than 2 years.
- 5/ A taxpayer who fails to retain documents for the period specified in Article 17(2) shall be liable for a penalty of birr 50,000.
- 6/ A Category ‘B’ taxpayer who fails to retain documents for two years as required under Article 33(d) of the Income Tax Proclamation shall be liable for a penalty of birr 20,000.

### **103. Penalty in Relation to TINs**

- 1/ A taxpayer who fails to state their TIN on a tax invoice, tax debit or credit note, tax declaration, or any other document as required under a tax law shall be liable for a penalty of birr 3,000 for each failure.
- 2/ Except when Article 14(6) of this Proclamation applies, a taxpayer shall be liable for a penalty of birr 10,000 if the taxpayer:
  - a) provides their TIN for use by another person; or
  - b) uses the TIN of another person.
- 3/ If the pecuniary advantage obtained by the taxpayer or another person as result of conduct referred to in sub-article (2)(a) or (b) of this Article exceeds birr 10,000, the penalty shall be equal to the pecuniary advantage obtained by the taxpayer.

### **104. Late Filing Penalty**

- 1/ A person who fails to file a tax declaration by the due date shall be liable for a late filing penalty of 5 % of the unpaid tax for each tax period or part thereof to which the failure relates, provided that the penalty to be so imposed shall not exceed 25% of the unpaid tax.
- 2/ The penalty to which a tax payer is liable for non-filing of tax declaration for the first tax period or part thereof under sub article 1 of this article shall not exceed 50,000 birr.



- 3/ For the purpose of this article, unpaid tax means the difference between the amount of tax that should have been entered in the tax declaration and the tax paid on the due date.
- 4/ The penalty to be imposed shall under no circumstance be less than the lowest of the following:
  - a) birr 10,000
  - b) 100% of the amount tax that should have been entered in the tax declaration.
- 5/ Notwithstanding the provisions of this article, where the tax payer has no tax to pay for a tax period, he shall be liable for a penalty of birr 10,000 for each tax period to which the non-filing of tax declaration relates.

#### **105. Late Payment Penalty**

- 1/ A taxpayer who fails to pay tax by the due date shall be liable for the following late payment penalties::
  - a) 5% of the unpaid tax that remains unpaid at the expiration of 1 month after the due date; and
  - b) an additional 2% of the amount of the unpaid tax for each month or part of a month thereafter to the extent that the tax remains unpaid.
- 2/ The amount of penalty assessed under this Article shall not exceed the amount of the tax liability to which it relates.
- 3/ Late payment penalty paid by a taxpayer shall be refunded to the taxpayer in accordance with Article 50(4) of this Proclamation to the extent that the tax to which the penalty relates is found not to have been payable.
- 4/ This Article shall not apply when Article 106 applies in relation to the unpaid tax.

#### **106. Withholding Tax Penalties**

- 1/ A person who fails to withhold tax or, having withheld tax fails to pay the tax to the Authority, as required under the Income Tax Proclamation shall be liable for a penalty of 10% of the tax to be withheld or actually withheld but not transferred to the Authority.
- 2/ When sub-article (1) of this Article applies to a body and in addition to the penalty imposed under that sub-article, the manager of the body, chief accountant, or any other officer of the body responsible for ensuring the withholding and payment of withholding tax shall be liable for a penalty of birr 2,000 each.
- 3/ When Article 92(2) of the Income Tax Proclamation applies, both the supplier and purchaser shall be liable for a penalty of birr 20,000 each.
- 4/ A person, who, with the intention of avoiding withholding tax under Article 92 of the Income Tax Proclamation, refused to supply goods or services to

a person who is obliged to withhold tax under that Article shall be liable for a penalty of birr 10,000.

#### **107. VAT Penalties**

- 1/ A person who fails to apply for registration as required under the Value Added Tax Proclamation shall be liable for a penalty of birr 2,000 for each month or part there for the period commencing on the date that the person was required to apply for registration and ending on the date that the person files the application for registration or the person is registered on the Authority's own motion.
- 2/ In addition to the penalty imposed under sub-article (1) of this Article, a person to whom that sub-article applies shall also be liable for a penalty of 100% of the amount of VAT payable on taxable transactions made by the person during the period commencing on the day on which the person was required to apply for registration and ending on the date that the person files the application for registration or the person is registered on the Authority's own motion.
- 3/ The imposition of penalty under sub-article (2) of this Article shall not relieve the person from liability for the VAT payable on the taxable transactions made by the person during the period specified in that sub-article, but the amount of the VAT payable is reduced by any turnover tax paid by the person on those transactions.
- 4/ A person who deliberately issues an incorrect tax invoice resulting in a decrease in the VAT payable on a taxable transaction or an increase in the creditable VAT in respect of a taxable transaction shall be liable for a penalty of 100% of the decrease or increase, as the case may be.

#### **108. Failure to issue tax invoice**

Where a tax payer being required to issue tax invoice fails to do so, shall be liable for a penalty of 50,000 birr for each transaction to which the failure to issue tax invoice relates.

#### **109. Tax Understatement Penalty**

- 1/ A taxpayer whose declared tax liability is less than the taxpayer's correct tax liability (the difference being referred to as the "tax shortfall") shall be liable for a penalty of 10% of the tax shortfall.
- 2/ The penalty under sub-article (1) of this Article shall be increased to 30% for the second application of the Article to the taxpayer.
- 3/ The penalty under sub-article (1) of this Article shall be increased to 40% for the third or subsequent application of the Article to the taxpayer.

- 4/ No penalty shall be imposed under this Article if the tax shortfall arose as a result of a self-assessment taxpayer taking a reasonably arguable position on the application of a tax law on which the Ministry has not issued ruling prior to the taxpayer filing theirself-assessment declaration.

**110. Tax Avoidance Penalty**

If the Authority has applied anti-tax avoidance provision in assessing a taxpayer, the taxpayer shall be liable for a tax avoidance penalty equal to double the amount of the tax that would have been avoided but for the application of the anti-tax avoidance provision.

**111. Penalty for Failing to Comply with Electronic Tax System**

- 1/ When a taxpayer required by the Authority under a tax law to file a tax declaration or pay tax electronically fails to do so, the Authority shall serve the taxpayer with notice in writing seeking reasons for the failure.
- 2/ A taxpayer who fails to provide adequate reasons to the satisfaction of the Authority for the failure to file a tax declaration or pay tax electronically within 14 days of the date of service of the notice under sub-article (1) of this Article shall be liable for a penalty equal to Birr 50,000.

**112. Tax Agent Penalties**

A licensed tax agent shall be liable for a penalty of birr 10,000 if the tax agent fails:

- a) to provide a certificate or statement to their client as required under Article 22 of this Proclamation;
- b) to keep certificates and statements provided to clients for the period specified in Article 22(4);
- c) to notify the Authority as required under Article 99(1) that the tax agent has ceased to carry on business as a tax agent.

**113. Penalties Relating to Sales Register Machines**

- 1/ Any person who has the obligation to use sales register machine shall be liable for a penalty of :
- a) Birr 50,000 if found using sales register machine or point of sales machine software not accredited or registered by the tax Authority;
  - b) Birr 50,000 for carrying out transactions without receipt or invoice or for using any other receipt not generated by a sales register machine except at the time the machine is under repair or for any other justifiable reason ;

- c) Birr 100,000 if caused damage to or change of fiscal memory or attempts to cause damage to or change of fiscal memory;
  - d) Birr 25,000 for obstructing inspection of the audit system of a sales register machine by officer of the Tax Authority or for failure to have annual machine inspections performed by a service center;
  - e) Birr 25,000 for not having a valid service contract with an authorized service center for a sales register machine in use, or for using the sales register machine without connecting to the terminal, or for not keeping the inspection booklet besides the sales register machine, or for issuing refund receipts without properly recording the return of goods or customers' request for refund in the refund book;
  - f) Birr 10,000 for failure to inform the Tax Authority and the machine service center within three days of the termination of a sales register machine use due to theft or irreparable damage, or within two hours for failure to report machine malfunction due to any other causes;
  - g) Birr 50,000 for failure to notify the Tax Authority the correct place of business the sales register machine is in use;
  - h) Birr 25,000 for failure to notify the Tax Authority change of name or address or for failure to notify the Tax Authority and Service Center three days in advance in cases of termination of business;
  - i) Birr 10,000 for failure to put a conspicuous notice containing one or all the following information at a place where the machine is installed:-
    - (1) name of the machine user, trade name, location of trade, taxpayers' identification number, accreditation and permit numbers for the sales register machine;
    - (2) text stating that "in case of machine failure sales personnel must issue manual receipts authorized by the Tax Authority";
    - (3) text that reads "Do not pay if a receipt is not issued";
  - j) Birr 30,000 for changing or improving a point of sales machine software by a person not accredited by the Tax Authority.
- 2/ Any person who is accredited and permitted for the supply of sales register machine or software shall be liable for a penalty of:
- a) Birr 100,000 for failure to notify change of business address to the Tax Authority;
  - b) Birr 500,000 for selling a sales register machine not accredited by the Tax Authority;
  - c) Birr 50,000 for failure to get a machine registration code for each sales register machine from the Tax Authority or for not affixing the machine code stickers on a visible part of the machine;
  - d) Birr 100,000 for failure to notify to the Tax Authority in advance any change made to the sales register machine in use or for

- inserting or adding incorrect information or for omitting the correct information from the manual that guides the use of sales register machine;
- e) Birr 50,000 for failure to notify the Tax Authority in advance or for not being able to replace, within three days of the request made by a service center, sales register machine lost due to theft or sustained irreparable damage;
  - f) Birr 50,000 for failure to keep information about service centers with which it has signed agreements or for failure to notify the Tax Authority about contracts terminated or newly entered agreements with service centers.
- 3/ Any Sales Register Machine Service Center shall be liable for a penalty of:
- a) Birr 20,000 for failure to report to the Tax Authority within two days of change of the fiscal memory of a sales register machine;
  - b) Birr 20,000 for failure to perform annual technical inspections on sales register machines that are under contract;
  - c) Birr 50,000 for deploying every person not certified by the supplier and not registered by the Tax Authority.

#### **114. Miscellaneous Penalties**

- 1/ A taxpayer who fails to notify any change as required under Article 10 of this Proclamation shall be liable for a penalty of birr 20,000.
- 2/ A body that fails to file a copy of its memorandum of association, articles of association, statute, partnership agreement, or other document of formation or registration, or any amendment to such document, with the Authority as required under Article 62 of this Proclamation shall be liable for a penalty of birr 10,000 for each month or part thereof that the document remains unfiled.
- 3/ A public auditor who fails to file an audit report with the Authority as required under Article 63 shall be liable for a penalty of birr 10,000 for each month or part of a month that the document remains unfiled.
- 4/ The penalty provided for under sub-article (3) of this Article shall be in addition to any action taken by the Accounting and Auditing Board of Ethiopia in relation to the public auditor's licence.
- 5/ A person who fails to notify the Authority as required under Article 64 of this Proclamation shall be liable for a penalty of birr 1,000 for each day of default.
- 6/ A taxpayer who fails to provide details of transactions with related persons as required under Article 79 of the Income Tax Proclamation shall be liable for a penalty of birr 100,000.
- 7/ Any person having the obligation to supply information fails to give any information requested by the authority, that person or the head of the organization, as appropriate, from which the information is sought shall be liable for a penalty of birr 5000.

**115. Assessment of Administrative Penalties**

- 1/ The Authority shall serve a person liable for an administrative penalty with notice of the penalty assessed.
- 2/ When the same act or omission may involve administrative penalties in relation to more than one tax, the penalties shall be aggregated after being assessed separately for each tax.
- 3/ A person liable for an administrative penalty may apply in writing to the Authority, for waiver of the penalty payable and such application shall include the reasons for the requested remission.
- 4/ The Authority may, upon application under sub-article (3) of this Article or on its own motion waive, in whole or in part, an administrative penalty imposed on a person in accordance with a Directive issued by the Authority.
- 5/ The Authority shall maintain a public record of each administrative penalty waived and report it to the Ministry on a quarterly basis.

**CHAPTER THREE****TAX OFFENCES****116. Procedure in Tax Offence Cases**

A tax offence is a violation of the criminal law of Ethiopia and shall be charged, prosecuted, and appealed in accordance with Ethiopian criminal procedure law.

**117. Offences Relating to TINs**

- 1/ A person who:
  - a) obtains, or attempts to obtain, more than one TIN;
  - b) allows their TIN to be used by another person; or
  - c) uses the TIN of another person,

shall be punishable with a fine of birr 20,000 and simple imprisonment for a term of one to three years,

- 2/ Sub-article (1)(a) of this Article applies separately to each TIN obtained or attempted to be obtained.
- 3/ Sub-article (1)(b) and (c) of this Article shall not apply when a TIN is used in the circumstances specified in Article 14(6) of this Proclamation.

**118. False or Misleading Statements, and Fraudulent Documents**

- 1/ A person who, with intent to defraud the Authority:
  - a) makes a false or misleading statement to the Authority; or
  - b) provides the Authority with fraudulent documents,
 shall be punishable with a fine of birr 50,000 to 100,000 and rigorous imprisonment for a term of five to seven years,
- 2/ The reference in sub-article (1) of this Article to a statement made to the Authority by a person shall include a statement made by the person to another person with the knowledge or reasonable expectation that the person will pass on the statement to the Authority.
- 3/ Whoso ever, with the intension to evade tax, engages in business in an agents capacity by obtaining a trade license in the name of a person who is not alive or whose address is not known or who doesn't have the legal capacity to give power of attorney or who doesn't benefit from the business or who doesn't exist, shall apart from being responsible for the tax liability of the business, be punishable under sub article 1 of this article.

**119. Fraudulent or Unlawful Invoices**

- 1/ A person who:
  - a) prepares, produces, sells, or distributes fraudulent invoices; or
  - b) uses fraudulent invoices to reduce his tax liability or claim a refund,
 shall be punishable with a fine of birr 100,000 and rigorous imprisonment for a term of seven to ten years.
- 2/ If the pecuniary benefit obtained by a person from a fraudulent invoice under sub-article (1) of this Article is greater than birr 100,000, the sanction under sub-article (1) shall be equal to the pecuniary benefit derived and imprisonment for a term of ten to fifteen years.
- 3/ A person who possesses, sells, leases, or otherwise supplies a machine, equipment, or software that is used in making, preparing, or printing fraudulent invoices shall be punishable with a fine of birr 200,000 and rigorous imprisonment for a term of ten to fifteen years.
- 4/ Conviction for an offence under sub-article (3) of this Article shall not prejudice the confiscation of the machine, equipment, or software, and of the proceeds of the crime.
- 5/ A person who possesses, keeps, facilitates, or arranges the sale, or commissions the use of fraudulent invoices shall be guilty of an offence punishable by rigorous imprisonment for a term of three to five years.

**120. General Offences Relating to Invoices**

- 1/ Any tax payer with an obligation to issue tax invoice, carrying out transaction without tax invoice shall be punishable with a fine of birr 25,000 to 50,000 and with rigorous imprisonment for a term of three to five years.
- 2/ A person who understates a sales price by entering different amounts of the price in identical copies of the invoice for a single transaction shall be punishable with a fine of birr 100,000 and rigorous imprisonment for a term of seven to ten years.
- 3/ If the actual price of the sale is greater than birr 100,000, the sanction under sub-article (1) of this Article shall be a fine equal to the highest of the prices specified on the invoices and rigorous imprisonment for term of ten to fifteen years.
- 4/ A person who provides or accepts an invoice for which there is no transaction shall be punishable with a fine of birr 100,000 to 200,000 and rigorous imprisonment for a term of seven to ten years.
- 5/ If the invoice to which sub-article (4) of this Article applies is for an amount in excess of birr 200,000, the sanction under sub-article (1) of this Article shall be a fine equal to the amount stated on the invoice and to rigorous imprisonment for a term of ten to fifteen years.
- 6/ Whosoever without authorization from the tax authority prints tax invoices shall be punishable with a fine of birr 300,000 to birr 500,000 and with rigorous imprisonment of two to five years.
- 7/ A person convicted under sub article (6) of this article for the second time, shall forfeit his printing machine and/or his business and his business license shall be cancelled.

#### **121. Claiming Unlawful Refunds or Excess Credits**

- 1/ A taxpayer who claims a refund or tax credit with intent to defraud the Authority using falsified receipt or by employing any other similar method, shall be punishable with a fine of birr 50,000 and with rigorous imprisonment for a term of five to seven years.
- 2/ Conviction for an offence under sub-article (1) of this Article shall not relieve the taxpayer from the obligation to repay the refund under Article 50.

#### **122. VAT Offences**

- 1/ A person who has provided a tax invoice without being registered for VAT shall be punishable with a fine of birr 200,000 and rigorous imprisonment for a term of seven to ten years.
- 2/ A registered person who:
  - a) refuses to provide a tax debit note or tax credit note as required under the VAT Proclamation; or
  - b) provides a tax debit note or tax credit note otherwise than as allowed under the VAT Proclamation



shall be punishable with a fine of birr 10,000 and simple imprisonment for a term of one year, or both.

- 3/ A person who operates a printing press who has printed a tax invoice without the permission of the Authority shall be punishable with a fine of birr 300,000 to 500,000.

### **123. Stamp Duty Offences**

- 1/ A person who:
  - a) executes or signs (other than as a witness) a document subject to stamp duty on which no stamp duty is paid; or
  - b) disguises or hides the true nature of a document with the intention of not paying stamp duty or paying a lower amount of stamp duty,
 shall be punishable with a fine of birr 25,000 to birr 35,000 or rigorous imprisonment for a term of three to five years, or both.
- 2/ A person who:
  - a) being authorised to sell stamps or stamped papers violates the Stamp Duty Proclamation or Regulations; or
  - b) sells or offers for sale stamps or stamped papers without authorisation,
 shall be punishable with a fine of birr 5,000 to birr 25,000 or rigorous imprisonment for a term of three to five years, or both.

### **124. Offences Relating to Recovery of Tax**

- 1/ A receiver entrusted with the property of a tax payer failing to discharge his obligation under any tax law shall be punishable with a fine of birr 5, 000 and with simple imprisonment not exceeding one year.
- 2/ A person who, after receipt of a seizure order under Article 41:
  - a) sells, exchanges, or otherwise disposes of the property that is the subject of the order;
  - b) hides, breaks, spoils, or damages the property that is the subject of the order; or
  - c) destroys, hides, removes, damages, changes, cancels, or deletes any documents relating to the property the subject of the order,
 shall be punishable with simple imprisonment of two to three years.
- 3/ Subject to sub-article (5) of this Article, a person who fails to pay the amount specified in a garnishee order to the Authority shall be punishable with simple imprisonment of two to three years.

- 4/ A person who notifies the Authority under Article 43(5) of this Proclamation is treated as being in compliance with a garnishee order served on the person until the Authority serves the person with a notice under Article 43(6) of this Proclamation cancelling or amending the garnishee order or rejecting the person's notice under Article 43(5) of this Proclamation.
- 5/ The conviction of a person for an offence under sub-article (4) of this Article shall not relieve the person of liability to pay the amount required to be paid under the garnishee order.
- 6/ A person who departs or attempts to depart from Ethiopia in contravention of a departure prohibition order shall be punishable with simple imprisonment of two to three years.
- 7/ A financial institution that fails to comply with order issued under Article 42 of this Proclamation shall be punishable by a fine equal to the tax that the Authority failed to collect as result of the failure.
- 8/ If an offence under sub-article (8) of this Article was committed with the knowledge or as a result of negligence of the manager of the financial institution, the manager shall be punishable by a simple imprisonment of one to three years.
- 9/ A person who, without the permission of the Authority, opens or removes the seal of premises that are the subject of a closure order under Article 45 shall be punishable with simple imprisonment of two to three years.

#### **125. Tax Evasion**

- 1/ Whosoever, with the intention to evade tax, conceals his income or fails to file a tax declaration or pay tax by the due date shall be punishable with a fine of birr 100,000 to 200,000 and rigorous imprisonment for a term of three to five years..
- 2/ A withholding agent who withholds tax from a payment but fails to pay withheld tax to the Authority by the due date with the intention to evade tax shall be punishable by rigorous imprisonment for a term of three to five years.

#### **126. Obstruction of Administration of Tax Laws**

- 1/ A person who obstructs or attempts to obstruct a tax officer in the performance of duties under a tax law shall be punishable with simple imprisonment for a term of one to three years.
- 2/ A person who obstructs or attempts to obstruct the administration of a tax law shall be punishable with a fine of not less than birr 10,000 or rigorous imprisonment for a term of three to five years, or both.
- 3/ In this Article, the following and other similar actions constitute obstruction:
  - a) refusing to comply with a request of the Authority for inspection of documents, or the provision of reports or information relating to the

tax affairs of a taxpayer, including a refusal to comply with a notice served on the person under Article 65 of this Proclamation;

- b) non-compliance with a notice served on the person under Article 65 of this Proclamation requiring the person to attend and give evidence;
- c) preventing the Director-General or an authorised officer from exercising the right of access under Article 66 of this Proclamation;
- d) refusing to provide reasonable assistance or facilities as required under Article 66(4);
- e) provoking a disturbance in an office of the Authority or impeding an employee of the Authority from performing their duties of employment.

#### **127. Unauthorised Tax Collection**

A person not authorised to collect tax under the tax laws who collects or attempts to collect tax, shall be punishable with fine of birr 50,000 to 75,000 or rigorous imprisonment for a term of five to seven years, or both.

#### **128. Aiding or Abetting a Tax Offence**

A person who aids, abets, assists, incites, or conspires with another person to commit an offence under a tax law (referred to as the “principal offence”) shall be punishable by the same sanction as imposed for the principal offence.

#### **129. Offences Relating to the Tax Appeal Commission**

1/ A person who:

- a) insults a member of the Commission in the exercise of his powers or functions as a member;
- b) interrupts a proceeding of the Commission without authorisation;
- c) creates a disturbance, or takes part in creating a disturbance, in or near a place where the Commission is sitting with the intent of disrupting the proceedings of the Commission; or
- d) obstructs the function of the commission by whatever means,

shall be punishable with a fine of birr 500 to 3,000 and simple imprisonment for a term of six months to two years.

2/ A person who:

- a) without reasonable excuse, refuses or fails to comply with a summons to appear before the Commission, or to produce any document or provide any information to the Commission;
- b) without reasonable excuse, refuses or fails to take an oath before the Commission;

- c) without reasonable excuse, refuses or fails to answer any question asked of the person during a proceeding before the Commission;

shall be punishable with a fine of birr 300 to 3,000 and simple imprisonment for a term of six months to two years .

- 3/ Whosoever, knowingly gives false or misleading evidence to the Commission, shall be punishable with a fine of birr 50,000 and with rigorous imprisonment of three to five years.

### **130. Offences by Tax Advisers**

Whoso ever, without having a license to act as a tax agent, provides tax agent's services in contravention of Article 98 of this Proclamation shall be punishable by simple imprisonment for a term of one to three years.

### **131. Offences Relating to Sales Register Machines**

- 1/ Any person who has the obligation to use sales register machine commits an offence;
  - a) if found using a sales register machine not accredited or registered by the Authority, shall be punished with imprisonment for a term of not less than three year and not more than seven years;
  - b) if he, except at the time the sales register machine is under repair, or other justifiable reason , carried out transactions without receipt or invoice or used any other receipt not generated by a sales register machine shall be punished with imprisonment for a term of not less than two year and not more than five years;
  - c) if caused damage or change to the fiscal memory of a sales register machine or attempts to cause damage or change to the fiscal memory shall be punished with imprisonment for a term of not less than three years and not more than five years;
- 2/ Any person who is accredited and registered to supply sales register machines commits an offence:
  - a) if sold a software or a sales register machine not accredited by the Tax Authority shall be punished with imprisonment for a term of not less than three years and not more than five years;
  - b) if failed to notify the Authority in advance any change made to the sales register machine in use, or if inserted incorrect information to or omitted the correct information from the manual that guides the use of sales register machine shall be punished with imprisonment for a term of not less than three years and not more than five years.

- 3/ Who so ever without having a license to supply sales register machine or software, distributes sales register machine or software, shall be punishable with rigorous imprisonment of five to seven years.
- 4/ Any sales register machine service center deploying a service personnel that is not certified by the supplier and/or not registered by the Authority, shall be punished with a fine of birr 50,000 or imprisonment for a term of not exceeding one year.
- 5/ Any personnel of a sales register machine service center commits an offence if, without the knowledge of the service center and the Authority, dismantle or assemble a sales register machine, or if deliberately removed the seals on a sales register machine or changed parts of a sales register machine not reported to have any break down, or if committed any similar act and shall, upon conviction, be punished with a fine of not more than Birr 10,000 and imprisonment for a term of not less than one year and not more than three years.
- 6/ Any tax officer who, in violation of the rules and procedures of the use of sales register machines:
  - a) dismantles or assembles a sales register machine or approves its utilization without the presence of a service personnel or changes the machine registration code; or
  - b) knowingly or negligently fails to report to the Authority, within 24 hours, offences committed by the user, service center or its personnel or supplier of a sales register machine;
 commits an offence and shall, upon conviction, be punished with a fine of not more than Birr 5,000 and imprisonment for a term of not less than one year and not more than three years.

### **132. Offences by Bodies**

- 1/ When the person committing an offence under a tax law is a body, every person who is a manager of the body at the time the offence was committed shall be treated as having committed the same offence.
- 2/ Sub-article (1) of this Article shall not apply to a person where :
  - a) the offence was committed without the person's consent or knowledge; and
  - b) he has exercised due diligence and caution that a prudent person in his position is expected to take under similar circumstance.

### **133. Publication of Names**

- 1/ The Authority may from time to time publish a list of the names of persons convicted of an offence under a tax law in its website and through other mass media.

- 2/ A list published in accordance with sub-article (1) of this Article shall specify the following:
- a) the name, picture, and address of the convicted person;
  - b) particulars of the offence as the Authority considers appropriate;
  - c) the tax period or periods during which the offence was committed;
  - d) the amount of tax not paid by the convicted person as a result of commission of the offence;
  - e) the amount, if any, of penalty assessed to the convicted person.

## **CHAPTER FOUR**

### **REWARDS**

#### **134. Reward for Verifiable Information of Tax Evasion**

- 1/ If a person provides verifiable and objective information of tax evasion, through concealment, under-reporting, fraud, or other improper means, the Authority shall, in accordance with the directive to be issued by it, grant the person a reward of up to 20% of the amount of the tax evaded at the time the tax is collected by the Authority.
- 2/ A person shall not be entitled to a reward under sub-article (1) of this Article if:
  - a) the person participated in the tax evasion; or
  - b) the reporting of the tax evasion was part of the person's duties
- 3/ The Authority shall provide details of a reward under this Article by Directive.

#### **135. Reward for Outstanding Performance**

- 1/ The Authority shall reward tax officer for outstanding performance and a taxpayer for exemplary discharge of his tax obligations.
- 2/ The Minister shall provide details of a reward under this Article by Directive.

## **PART SIXTEEN**

### **MISCELLANEOUS PROVISIONS**

#### **136. Power to Issue Regulations and Directives**

- 1/ The Council of Ministers may issue Regulations necessary for the proper implementation of this Proclamation.
- 2/ The Minister may issue Directives necessary for the proper implementation of this Proclamation and Regulations issued under sub-article (1) of this Article.

### **137. Transitional Provisions**

- 1/ This Proclamation shall apply to an act or omission occurring or a tax decision made before its entry in to force.
- 2/ Notwithstanding sub article (1) of this proclamation,
  - a/ administrative penalties applicable to non-payment of taxes due before this proclamation becomes effective shall be assessed in accordance with the tax laws enforce prior to this proclamation.
  - b/ any case that has been pending in the tax appeal commission when this proclamation becomes effective shall be adjudicated in accordance with the tax laws enforce prior to this proclamation, as if this proclamation were not enacted.
  - c) the existing tax complaint review committee and tax appeal commission shall continue to function until such time as a new tax complaint review committee and federal tax appeal commission is established in accordance with this proclamation.
  - d) If the period for the making of an application and appeal had expired before the commencement of this Proclamation, nothing in this Proclamation can be construed as enabling the application and appeal to be made under this Proclamation by reason only of the fact that a longer period is specified in this Proclamation.
- 3/ For the purposes of this Proclamation, if the Institute of Certified Public Accountants is not established at the commencement of this Proclamation, any reference in this Proclamation to the Institute shall be treated as a reference to the Accounting and Auditing Board of Ethiopia until the Institute is established.
- 4/ The Obligatory Use of Sales Register Machines Council of Ministers Regulations No. 139/2007 shall continue to apply for the purposes of Article 20 of this Proclamation until replaced by new Regulations issued by the Council of Ministers.

### **138. Inapplicable Laws**

Subject to the provisions of Article 137 of this proclamation, any law which is inconsistent with this proclamation shall not be applicable in respect of matters provided for in this proclamation.

### **139. Effective Date**

- 1/ This Proclamation shall enter in to force on the date of its Publication in the Federal Negarit Gazeta.
- 2/ Notwithstanding sub article (1) of this Article, the provisions of part eleven of this proclamation shall begin to apply as from the date to be specified by the minister by notice to be published in a newspaper of wide circulation.
- 3/ Notwithstanding sub article (1) of this Article, the provisions of part fourteen of this proclamation shall begin to apply as from the date to be specified by the authority by notice to be published in a newspaper of wide circulation.

Done at Addis Ababa, this – day of ----, 2016.

MULATU TESHOME (Dr.)  
PRESIDENT OF THE FEDERAL DEMOCRATIC  
REPUBLIC OF ETHIOPIA