TANZANIA REVENUE AUTHORITY

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THE INCOME TAX ACT, CAP.332

PRACTICE NOTE

INCOME FROM BUSINESS

PRACTICE NOTE NO. 05/2013.

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Contents Pages

1.0 TAX LAW.

This Practice Note applies in respect of the taxation of income from business.

2.0 INTERPRETATION.

1.1 In this Practice Note, unless the context requires otherwise –
"Act" means the Income Tax Act, Cap 332.

1.2 Definitions and expressions used in this Practice Note that are used in the Act have, unless the context requires otherwise, the same meaning in this Practice Note as they have in the Act.

3.0 THE PURPOSE OF THIS PRACTICE NOTE.

This Practice Note explains the taxation of a person's gains is profits from carrying out a business as provided for under Section 8 of the Act and considers the following:-

1.3 Activities constituting business.

1.4 Receipts deemed to be gains or profits from a business.

1.5 Claim of right to derive income or incur an expenditure

1.6 Reverse of amounts

1.7 Deductions from business income.

1.8 Amounts not deductible from business income.

1.9 Gains and losses from realisation of assets and liabilities.

1.10 Carry forward of losses.

1.11 Donations.

4.0 HOW THE LAW APPLIES.

4.1 Activities constituting conducting a business.

The term "business" includes a trade, concern in the nature of trade, manufacture, profession, vocation or isolated arrangement with a business character; and a past, present or prospective business, but excludes employment and any activity that having its nature and the principal occupation of its owners or underlying owners, is not carried on with a view to deriving profits. Therefore business excludes employment and activities carried on by a person for pleasure rather than deriving profits (hobby).

The term "concern in the nature of trade is not synonymous to trade" but includes any operation carried out with business character.

Income from business is calculated as follows: -

Amounts derived from conducting the business

<u>Add</u>: net gains derived from realisation of business assets and amounts required to be included under Paragraph 4 of the Third Schedule (after deducting losses from realisation of business assets)

<u>Add or Deduct:</u> depreciation balancing adjustments

<u>Deduct:</u> any payments, which have been subjected to a final withholding tax deduction.

<u>Deduct:</u> depreciation allowance

<u>Deduct:</u> trading stock allowance

<u>Deduct:</u> any loss carry forward from previous year

4.2 Receipts to be included in calculating gains or profits from a business

4.2.1 Amounts to be included in calculating income from a business

Profits and gains of any business are chargeable to tax provided the business is carried on by a person in that year of income.

Amount treated as gains or profits from a business is the total of the amounts coming into the business for sale of goods and services (including sale of trading stock) and any other amount derived by the person in doing the business.

In calculating a person's income from any business the following amounts are included –

(a) Service fees.

These are payments which are attributable to services rendered by a person through a business of that person or a business of any other person and includes a payment for any theatrical or musical performance, sports or acrobatic exhibition or any other entertainment performed, conducted, held or given.

(b) Incomings for trading stock.

Receipts from sale of assets owned by a person that are sold or intended to be sold in the ordinary course of the person's business and in the case of a person carrying on a banking and in the case of includes loans made in the ordinary course of that business.

(c) Gains from realisation of business assets or liabilities.

Where business assets or liabilities of a business of a person i.e. assets other than depreciable assets and liabilities are realised within the meaning of section 39 of the Act, the gain, being the difference between incomings and cost of the asset or liability, is to be included in calculating the person's business income.

(d) Amounts to be included on realisation of depreciable assets.

Amounts required to be included in calculating income from a business as provided for under Paragraph 4 of the Third Schedule on realisation of depreciable assets of the business. These are amounts which are excess of incomings derived from the realisation over the depreciation basis or the written down value of the pool as appropriate based on the type of class of the depreciable assets (see Calculation in Para 4.2.2below).

(e) Amounts derived as consideration for restriction on conducting the business.

These are amounts paid to a person whether in lump sum or periodically as consideration for accepting a restriction on the person's capacity to conduct the business. Such payments are made so that the person conducts less business purposely and usually for the advantage of another person interested in the performance of that business be below capacity.

(f) Gifts and other *ex gratia* payments received in respect of the business.

Any amounts of gifts or ex-gratia payments received by a person in respect of the person's business are taxable amounts.

(g) Amounts derived that are effectively connected with the business that would otherwise be investment income.

Amounts that are derived from conducting an investment are taxed in accordance with the provisions of section 9. However, where such amounts are effectively connected with a person's business the amounts shall be treated and taxed as income from the business of the person.

(h) Other amounts required to be included under Division ll of Part lll, lV, V or Vl

Amounts which are derived in accordance with the requirements of the Part lll (Income Tax Base), Part IV (Application to Particular Types of Persons), Part V (Special Industries) or Part Vl (International Incomes) with respect to a business carried on by the person shall be included in calculating the person's income from the business for a year of income.

4.2.2 Calculation of amounts required to be included in calculating business income derived from realisation of depreciable assets

(a) Realisation of an asset in a pool without dissolving the pool

In calculating a person's income for a year of income from the business in which the depreciable assets are or were employed the excess of incomings over the deprecation basis or the written down value of the pool, as appropriate, shall be included. The excess is calculated as follows:

(i) *Class 1, 2, 3 or 8 pool of depreciable assets*

The excess of –

(a) incomings derived by a person during a year of income for any of the assets during the year of income; over

(b) the depreciation basis of the pool at the end of the year of income calculated under paragraph 3(3) but disregarding these incomings.

(ii) *Class 4,5 or 6 pool of depreciable assets*

The excess of –

(a) incomings derived a person during the year of income;or

(b) the written down value of the pool at the end of the year of income disregarding those incomings.

Illustration

An entity D Corp Limited's balance of depreciable basis of its Class 2 pool of depreciable assets at the end of the year 2011 was TZS 7,500,000/=. The entity transferred in year 2012 one of its assets in the pool to its resident subsidiary for TZS 8,000,000 being the market value calculated in consistence with the Act.

The amount to be included in calculating the entity's income from the business for year of income 2012 in respect of the realisation is the excess of the incomings over the depreciation basis of the pool, calculated as follows:

Incomings		TZS	8,000,000
Less:			
- Depreciation basis 2011 -	7,500,000		
- Depreciation for year 2012	1,875,000		
Depreciation basis end of 2012		TZS	5,625,000
The excess to be included		TZS	2,375,000

Note

If the asset was realised for a value (incomings) of less than the depreciation basis of the pool at the end of the year, in this case TZS 5,625,000 the entity would have incurred a loss. The loss is not deductible in calculating the entity's income since section 18 allows only deduction of loss from realisation of a business asset of the business.

(b) Dissolution of a pool of depreciable assets

Where the assets in a pool of depreciable assets of a person are all realised by the person before the end of a year of income the pool shall be dissolved and –

(aa) an amount is included in calculating the person's income for the year of income calculated in accordance with the following formula –

$$A - B$$

(bb) an allowance shall be granted to the person for the year of income calculated in accordance with the following formula –

$$B - A$$

Where;

A is the person's incomings derived during the year of income or to be derived for the assets; and

B is the sum of –

(i) the written down value of the pool at the end of the previous year of income; and

(ii) any initial allowance otherwise available in respect of the pool for the following year of income under Paragraph 2; and

(iii) expenditure added to the deprecation basis of the pool during the year of income or to be added during the following year of income under paragraph 3(5).

4.3 Receipts deemed to be gains or profits of a business

The following receipts are deemed to be gains or profits chargeable to tax for a year of income even though the business which they relate ceased to exist in the year of receipts.

4.3.1 Claim of right to derive income or incur an expenditure

For the purposes of accounting for income tax, an amount shall be treated as derived or expenditure incurred by a person notwithstanding that the person is not legally entitled to receive the amount or liable to make the payment provided that the person claims to be legally entitled to receive or legally obliged to pay the amount. The legality of receipts or expenditure should not be considered as long as there is a qualifying claim for the receipt of the amount or incurring expenditure.

4.3.2 Reverse of amounts including bad debts

Where a person has deducted expenditure in calculating the person's income and the person later recovers the expenditure, the person shall, at the time of recovery, include the amount recovered in calculating the person's income. Such reversals include: -

- Where a person has included an amount in calculating the person's income but because of the legal obligation to do so, the person later refunds the amount, the person may deduct the amount at the time of refund.

- Where in calculating income on accrual basis a person deducts expenditure that the person shall be obliged to make and the person later disclaims an obligation to incur the expenditure the person shall, at the time of disclaimer, include the amount disclaimed in calculating the person's income.

- Where in calculating income on an accrual basis a person includes an amount to which the person is entitled and the person later disclaims an entitlement to receive the amount or in the case of a bad debt claim of the person, the person writes off the debt as bad the person may, at the time of disclaimer or write off, deduct the amount.

4.4 Amounts to be excluded in calculating income from a business

The following amounts are excluded in calculating income from a business:

(a) exempt amounts and final withholding payments.

(b) amounts those are included in calculating the person's income from any employment.

4.5 Deductions from business income.

(a) Business expenditure is deductible only when it is incurred by a person in the production of income from any business carried on by the person at any time during the year of income.

(b) For the purposes of calculating a person's income from a business for any year of income no deduction shall be allowed for:

i) consumption expenditure
ii) excluded expenditure
iii) expenditure of capital nature
iv) otherwise, except as provided for by the Act

"consumption expenditure" means any expenditure incurred by any person in the maintenance of himself, his family or establishment, or for any other personal or domestic purpose.

"expenditure of capital nature" means expenditure:-

i) that secures a benefit lasting longer than twelve months; or
ii) incurred in respect of natural resource prospecting, exploration and development, and

"excluded expenditure" means:-

i) tax payable under the Act.
ii) bribes and expenditure incurred in corrupt practice.
iii) fines and similar penalties payable to a government or a political subdivision of a government of any country for breach of any law or subsidiary legislation.
iv) expenditure to the extent to which incurred by a person deriving exempt amounts final withholding payments or
v) distribution by an entity.
vi) mining operations shall not include exploration activities conducted outside the mining licence area which shall be accumulated and allowed when the commercial operation commences.

(c) For the purposes of calculating a person's income for a year of income from a business, there shall be deducted all expenditure incurred during the year of income by the person, wholly and exclusively in the production of the income.

4.5.1 General Principles of Deduction

(a) Determination tests for deduction

Sufficient nexus or link between the expenditure or loss and production of income common tests are:-

- An allowable deduction, a loss or outgoing must be incidental and relevant to the gaining or production of income.
- The expenditure and loss must have an essential character of an income producing.
- It must have been incurred for the purpose of producing income.

(b) Apportionment of expenditure

Expenditure which is incurred for trade and other purposes may not be deductible unless it is capable of allocation into distinct purposes, one or more of which can be said to have been incurred wholly and exclusively in the production of income.

(c) Expenditure to earn future profits

If the requisite purpose for incurring the expenditure is established there is no further enquiry whether that expenditure actually produced or increased profits. The fact that the expenditure can only produce a return in the future, if at all, does not prevent it from being incurred for the purpose of the trade.

(d) Duality of the purpose for expenditure

The question whether expenditure is incurred for the purpose of a trade is a question of fact, so the question whether that was the only purpose or whether there were other purposes in the person's mind when he incurred the expenditure is a question of fact. However the fact that the incurring of the expenditure achieves more than one result is a factor to be considered and taken into account.

(e) Expenditure to promote the business or improve profitability

Expenditure incurred with a view to promoting the business or improve profitability of the business such as advertising expenditure is normally deductible. The fact that such expenditure does not secure any immediate benefit or does not secure benefit at all does not prevent deduction to be made.

4.5.2 Principles for Specific Deductions

In calculating the income from business, the following deductions in addition to the general and administrative expenses are allowable:

i) Interest expense.

(a) Interest incurred by a person during a year of income under a debt obligation shall be treated as incurred wholly and exclusively in the production of income from a business if the debt obligation was incurred in borrowing money employed in the business or to acquire an asset that is employed during the year of income in the production of the income. In any other case, the debt obligation was incurred wholly and exclusively in the production of the business income.

(b) The total amount of interest that an exempt-controlled resident entity may deduct for a year of income shall not exceed the sum of interest equivalent to debt-to-equity ratio of 7 to 3

For the purpose of adhering to the restriction of interest expense in respect of exempt controlled resident entities, the terms "exempt controlled resident entity", "debt", "equity" and "period" mean the following:

"exempt-controlled resident entity" is an entity which is resident during the year of income and at any time during the year of income 25 percent or more of the underlying ownership of the entity is held by entities exempt under the Second Schedule, approved retirement funds, charitable organisations, non-resident persons or associates of such entities or persons.

''debt" means any debt obligation excluding a non-interest bearing debt obligation; a debt obligation owed to a resident financial institution; a debt obligation owed to a non-resident bank or financial institution on whose interest tax is withheld in the United Republic;

''equity" means paid up share capital; paid up share premium; and retained earnings on an unconsolidated basis determined in accordance with generally accepted accounting principles;

''period" means a month or a part of month.

Example

An exempt-controlled resident company, Mayai International (T) Limited derived chargeable income of TZS 600m/= after deduction of interest expense of TZS 50.0m/= for the year 2012. The entity's balance sheet for the year of income shows the following position.

Assets		**in Sh. Millions**
Current Assets	TZS	400
Non-Current Assets	TZS	675
		1,075

Liabilities and Equity

Current liabilities	TZS	150
Interest bearing loan from non-bank or financial institutes	TZS	600
Non-interest bearing loans	TZS	175
Retained Earnings (non-consolidated)	TZS	25
Revaluation reserve	TZS	25
Paid up share capital	TZS	100
	TZS	1075

Required

(a) Calculate the allowable interest deduction amount for the year of income;
(b) Calculate the adjusted income from the business for the year of income.

Solution

(a)The allowable interest expense is calculated as follows:

Debt =Current Liabilities + Long-term Loans
= 150,000,000 + 600,000,000
= 750,000,000

Equity = Retained Earnings + Reserve + Share Capital
= 25,000,000 + 25,000,000 + 100,000,000
= 150,000,000

Company Debt to Equity Ratio 750,000,000:150,000,000 = 5:1
(Assuming that the company`s debt to equity ratio remains constant throughout the year of income)

Maximum Ratio 7:3 equivalent to 2.33:1 is lower than the company ratio of 5:1

The allowable interest expense

$$= \frac{\text{Maximum debt to equity ratio x Interest expense claimed}}{\text{Company Ratio}}$$

$$= \frac{7/3 \text{x } 50{,}000{,}000}{5/1}$$

$$= 23{,}333{,}333$$

Therefore, the allowable interest expense is **TZS 23,333,333**

(b). Adjusted Taxable income

Business income declared	TZS.	600,000,000
Add: Interest deducted	TZS	50,000,000
	TZS	650,000,000
Deduct Allowable interest deduction	TZS	23,333,333
	TZS	626,666,667

The adjusted Taxable income is **TZS 626,666,667**

Note:
Where there is a change of the amount of debt or equity, during a year of income, the amount of equity or debt shall be the average of balances of amount of debt or equity at the end of each period (a month or part of a month).

Illustration
The debt balances of an exempt – controlled resident entity for a year of income were TZS 800,000/= and TZS 750,000,000/= at the end of January and March respectively and TZS 640,000,000/= for each of the other ten (10) months. The average debt balance at the end of the year is calculated as follows:

Debt balance for the 10 months @ 640,000,000	TZS	6,400,000,000
Add:		
Debt balance for January	TZS	800,000,000
Debt balance for March	TZS	750,000,000
	TZS	7,950,000,000
Divide by 12		662,500,000

The average debt balance at the end of the year TZS 62,500,000

(ii) Trading Stock Allowance.
For calculating a person's business income for a year of income there shall be deducted trading stock allowance. The allowance is calculated as:

The opening value of trading stock of the business for the year of income

Add: expenditure incurred by the person during the year that is included in the cost of the trading stock.
Deduct: the closing value of the trading stock of the business for the year of income.

The closing value of trading stock of a business for a year of income shall be the lower of the cost of the trading stock of the business at the end of the year of income OR the market value of the trading stock of the business at the end of the year. When the closing value of the trading stock is determined on the basis of the market value the cost of the trading stock shall be reset to that value.

Example
The trading stock position of company J Ltd as at the end of the year of income is shown in the Trading Account as follows:

Opening Stock TZS 15,000,000

Purchases and costs	TSZ	<u>60,000,000</u>
	TZS	75,000,000
Closing stock	TZS	<u>30,000,000</u>
Trading stock allowance	TZS	<u>45,000,000</u>

However, at the end of the year the market value of the stock is determined to be TZS. 22,000,000.

Revised trading stock allowance
Since the closing stock value is adjusted at market value the adjusted stock allowance is reset as:

Opening stock value	TZS	15,000,000
Add Purchases and cost	TZS	<u>60,000,000</u>
	TZS	75,000,000
Less: revalued closing stock	TZS	<u>22,000,000</u>
Adjusted Trading Stock allowance	TZS	<u>53,000,000</u>

The trading stock allowance for the year of income is taken as TZS. 53,000,000 and not TZS. 45,000,000. Note that the opening stock value for the next year of income will now be TZS. 22,000,000 and not TZS. 30,000,000.

(iii) Repair and Maintenance expenditure.
For the purposes of calculating a person's income for a year of income from any business, there shall be deducted all expenditure to the extent incurred in respect of the repair and maintenance of depreciable assets owned and employed by the person wholly and exclusively in the production of the person's income from the business. Note that no deduction shall be allowed for expenditure of improving a depreciable asset, which may be included in the cost of the asset and allowed either in calculating gains or losses on realisation or depreciation allowances

The concept of repair and maintenance is based on the following:
(a) The essence of repair is the restoration of the asset to its previous condition it formerly had without changing its character;
(b) The asset must be in need of the restoration before it can be repaired, and
(c) Repair or maintenance involves a replacement of a part of an asset, not the entire asset.

Initial expenditures carried out in order to make good defects which existed at the time the asset was acquired and which prevented the person's use of the asset when acquired is not allowable. Such expenditure is part of the cost of the asset.

(iv) Agriculture, research, development and environmental expenditures.

For the purposes of calculating a person's income from business for any year of income, expenditure on agricultural improvement, research and development and environmental expenditure to the extent incurred wholly and exclusively in the production of the income from the business shall be allowed.

(v) Agricultural improvement expenditure

For the purposes of the deduction "agricultural improvement expenditure" means expenditure incurred by the owner or occupier of farm land in conducting agriculture, livestock farming or fish farming business where the expenditure is incurred on clearing the land and excavating irrigation channels or planting perennial crops or trees bearing crops.

(vi) Environmental expenditure

"Environmental expenditure" means expenditure incurred by the owner of farmland for the prevention of soil erosion or in connection with remedying any damage caused by natural resource extraction operations to the surface of or environment on land. Where in conducting a resource extraction business a person makes a provision for any expenditure in connection with remedying any damage caused by the resource extraction the Commissioner may, in writing, subject to such terms and conditions as the Commissioner thinks and for the purpose of the deduction only, treat the provision as environmental expenditure incurred in conducting the business.

Terms and conditions for Commissioner's approval of a provision for environmental expenditure.

In approving a provision for environmental expenditure to be allowed as a deduction incurred a person the Commissioner shall specify a date by which the expenditure must be incurred by the person, which date shall not be more than two years after the date by which resource extraction has substantially ceased.

Where the Commissioner approves the provision and the person does not incur the expenditure by the specified time the Commissioner shall adjust any assessment of the person so as to remove the deduction, which adjustment will be made irrespective of the time limit for making an assessment under section 96(2) of the Act. The person shall be liable for interest for under estimating the tax payable by instalment and interest for failure to pay tax. The person shall also be liable for penalty for making false or misleading statement calculated as though the person made, without reasonable excuse, a statement to the Commissioner in claiming the deduction that was false or misleading in a material particular.

(vii) Research and development expenditure

"Research and development expenditure" means expenditure incurred in the process of developing the person's business and improving business products or process and includes expenditure incurred by a company for the purposes of an initial public offer and first listing on the Dar es Salaam Stock Exchange. However, the expenditure excludes any expenditure incurred that is otherwise included in the cost of any asset used in any such process, including an asset consisting expenditure incurred by a person in the person's business in respect of natural resource prospecting, exploration and development.

(viii) Gifts to public and charitable institutions.

For the purposes of calculating income from a business amounts contributed during the year of income to a charitable institution referred to in section 64(8) of the Act or social development project or deduction made under section 12 of the Education Fund Act, 2001 shall be deducted. The available deduction in respect of donations other than a donation made under the Education Fund Act, 2001, shall be capped at 2 percent of the person's income from business calculated without the deduction.

(ix) Depreciation Allowances for Depreciable Assets.

Depreciation Allowances are allowed in respect of depreciable assets. A depreciable asset is an asset employed wholly and exclusively in the production of income of a business and which is likely to lose value because of wear and tear, obsolescence or the passing of time. Land, shares and trading stock are excluded. When a person purchases and starts using a depreciable asset, or makes an improvement to a depreciable asset, the person cannot deduct the full amount of the expenditure in the first year, except for depreciable assets used in agriculture and mining business, but can deduct portions of the expenditure for a number of years until the full expenditure amount has been exhausted. The deduction system can be straight-line method or reducing balance method depending on the type (Class) of the asset. The conditions for entitlement to depreciation allowances are that the asset should be owned by the person and the asset should actually be used wholly and exclusively in the production of the income for a year of income.

(x) Losses on realisation of business assets and liabilities.

In calculating a person's income for any year of income from any business, losses from the following realisations shall be deducted:

- Business asset of the business that was employed wholly and exclusively in the production of the income from the business;

- a debt obligation incurred in borrowing money which was employed or an asset purchased with the money is or was employed wholly and exclusively in the production of the income; or

- a liability of the business other than a debt obligation incurred in borrowing money, where the liability was incurred wholly and exclusively in the production of the income from the business.

(xi) Losses incurred from conducting a business.

In calculating the income of a person from a business other than the income of a partnership or a foreign permanent establishment, any unrelieved loss of the year of income of the person from any other business and any unrelieved loss of a previous year of income of the person from business shall be deducted subject to the following conditions:

- Foreign source losses shall be deducted only in calculating the person's foreign source income.
- Losses incurred on agricultural business shall be deducted only in calculating the person's income derived from agricultural business.
- Losses from mining operations are restricted to specific mining licensed area and should not include exploration expenses incurred outside themining licensed area.
- Losses from petroleum contracts are restricted to distinct petroleum contract areas.

Example

M/s Kalute Company Ltd is performing an agro processing business, specifically processing fruit juice concentrates. The company has been in business for ten years now. Since last year company decided to venture on farming business. During the year the following expenses were incurred:-

- Plant and machinery used in agriculture TZS 350 million
- Land clearing and cultivation TZS. 300million

- Irrigation system TZS. 280million
- Prevention of soil erosion and wind breaks TZS. 110 million
- Fruits seedlings preparations and planting TZS. 220 million
- Direct Factory expenses   TZS 500 million
- Administrative overheads TZS 120 million (20% farm and 80% factory)

The Company sold juice concentrates at an amount of TZS.5,800 million from its agro processing business. Calculate the taxable income for that year of income.

Calculation of taxable income of the company.

	Business Type (TZS Million)	
	Agro processing	**Farming**
Gross receipt	5,800	0
Less: Expenditure		
Plant and machinery		350
Land Clearing and cultivation		300
Irrigation systems		280
Prevention of soil erosion and wind breaks		110
Fruit seedlings		220
Direct Factory Expenses	500	0
Administrative overheads	96	24
Total Taxable Income/ (Loss)	5,204	(1,284)

Note:
Total taxable income of the company is TZS 5,204 million. The deficit of TZS 1,284 from farming business will not be used to offset profit from Agro processing business.

Example
Job Company invested in two different licensed mining areas; Area ''A'' its investment has been accumulated to TZS 200 million while in Area ''B'' has invested TZS 300 million. In area ''A'' a gross revenue gained amounted to TZS. 7,500million has been realized in the year of income. In the same year , the company was granted another mining area ''C'' of which has carried out exploration activities at a cost of TZS. 80 million.

Calculation of Total Income of M/s Job Company for the year of income :-

	Licensed Mining Area (TZS Mill)		
	A	**B**	**C**

Gross revenue	7500	0	0
Accumulated cost	200	300	80
Profit/ (Loss)	7300	(300)	(80)
Taxable income for the year	7300	Nill	Nill

Note:

Losses incurred in areas B and C will not offset income derived from area B but will offset future profits derived from each respective licensed mining area.

Where a person calculates income for a year of income from more than one business of the person and deducts an unrelieved loss in more than one such calculations, the person may choose the calculation or calculations in which the loss or part of the loss is deducted.

(xii) Losses from realisation of a business asset or liability.

In calculating income from business only losses from realisation of a business asset or liability are deductible. Business assets are assets which are used in a person's business and includes a membership interest of a partner in a partnership but excludes trading stock or depreciable assets. The following assets are not business assets hence loss incurred from their realisation is not deducted in calculating income from the business: -

- Interest in land held by an individual that has a market value of less than shillings 10 million at the time it is sold and that has been used for agricultural purposes for at least two of the three years prior to sale.

- Shares or securities listed on the Dar es Salaam Stock Exchange.

(xiii) Carry forward of losses.

If a person made a loss from the person's business in the previous year, the loss can be carried forward and deducted from the current year's business income. Losses can be carried forward this year from year to year indefinitely. However loss carry forward is subject to the following limitations: -

(a) Limits on losses of entities where there as ownership change

If aab entity charge (at least 50% of the underlying ownership) then losses made by it before the sale cannot be used to offset its income after the sale. The exception is where for a period of two years after the change in the ownership, the corporation conducts no business other than that conducted at any time during the twelve-month period before the change.

(b) Limits of losses from agricultural business

If a person makes a loss from agricultural a business, the person can offset only gains from agricultural business assets.

(c) Foreign losses

Foreign business losses can offset only foreign business income; losses on the sale of foreign business assets can offset only gains on sale of foreign business assets.

(d) Losses from mining

Losses incurred from mining business are ring fenced based on licensed areas.

(e) Losses from Petroleum contract areas

Losses from petroleum contract areas are ring fenced based on distinct contract areas.

Example

A corporation C Ltd made during the year of income 2011 business loss of sh. 1,200,000 and investment loss of TZS 2,800,000. During the year 2012 the corporation made business profits of TZS 4,200,000 and investment gain of TZS 2,000,000. The corporation's taxable income from business and investment in year 02 will be calculated as follows: -

Business income

Business profits for the year 2012	TZS	4,200,000
Loss brought forward from year 2011	TZS	(1,200,000)
Net profit for year 2012	TZS	3,000,000

Investment income

Gains from investment for year 2012	TZS	2,000,000
Investment loss brought forward from 2011	TZS	(2,800,000)
Net investment loss carry forward to year 2013	TZS	(800,000)

Taxable income of C Ltd for the year 2012 is as follows: -

Business income	TZS.	3,000,000
Investment loss	TZS.	800,000

C Ltd will pay tax on business profits of TZS 3,000,000 and carry forward investment loss of TZS 800,000 to year 2013.

(xiv) Bad debt

For the purposes of calculating income of a person from any business deduction is allowed in respect of any debt or part thereof, which has become bad or irrecoverable during the year of income subject to the following conditions:

- In the case of a debt claim of a financial institution, only after the claim has become bad debt as determined in accordance with the relevant standards established by the Bank of Tanzania.
- In any other case, only after the person has taken all reasonable steps in pursuing payment and the person reasonably believes that the debt claim will not be satisfied.
- The debt amount must have been included in calculating the person's income for the year of income.
- The debt must have been written off as irrecoverable in the books of accounts of the person for that year of income in which the debt is claimed to have become bad.

5.0 REVOCATION

Pursuant to the provisions of section 130)2) the Practice Note Number 04/2004 issued on 15th December, 2004 in hereby revoked.

Signed...................
Commissioner
1st November, 2013.