



THE UNITED REPUBLIC OF TANZANIA

**THE INCOME TAX REGULATION,
2004**

THE INCOME TAX ACT, 2004

(Act No. 11 of 2004)

REGULATIONS

Made under section 129

PART I

PRELIMINARY

- | | |
|---|--------------------------|
| 1. These Regulations may be cited as the income Tax Regulations, 2004; | Citation |
| 2. In these Regulations, unless the context requires otherwise:- | Interpre-
tation |
| “Act” means the Income Tax Act, 2004; and | Act. No
11 of
2004 |
| “generally accepted accounting principles” means accounting principles adopted by the National Board of Accountants and Auditors from time to time. | |

PART II

INCOME TAX BASE

- | | |
|--|--------------------------------------|
| 3.-(1) The power of the Minister to:- | Exemp-
tion and
Remi-
ssion |
| (a) grant an exemption under section 10 of the Act or vary an exemption on terms that reduce a person’s liability to tax; or | |
| (b) remit tax under section 125 of the Act, shall be exercised only with the prior approval of Cabinet and, in addition, only for the purposes of alleviating the effects of an emergency, and the purposes for which those powers are granted shall be interpreted accordingly. | |

Income Tax Regulations

G. N. No. 464 (cont.)

(2) For the purposes of this regulation, “emergency” means any occasion for which assistance is needed to supplement local efforts to:-

- (a) save lives and to protect property and public health and safety;
- or
- (b) lessen or avert the threat of a catastrophe.

Certain
Expenditure
of an
employer
not
Deductible

4. Expenditure incurred by an employer for the benefit of or on behalf of employees is not wholly and exclusively incurred in the production of income unless:-

- (a) the payments is included in calculating the income of an employee; or
- (b) the amount of the expenditure is so small as to make it unreasonable or administratively impracticable to account for it.

Apportionment
of In-kind
Benefits

5. Where a payment or benefit to be included in calculating a person’s income (such as income from employment) is not easily attributed to a particular month (such as the use of a motor vehicle or house) then for the purposes of these Regulations the amount shall be treated as paid to the person proportionately over each month during which the payment or benefit is provided.

Transfer
Pricing
and other
arrangements
between
Associates

6. Section 33(1) of the Act shall be construed in such a manner as best secures consistency with the transfer pricing guidelines in the Practice Notes issued by the Commissioner pursuant to Section 130 of the Act.

Replacement
interests
under a
merger
reconstruction

7. Where under a merger or reconstruction of an entity a person replaces a security in the entity with:-

- (a) another security in the entity; or
- (b) a security in another entity, the entity or the person may apply to the Commissioner and the Commissioner may treat the replacement as an involuntary disposal for the purposes of section 45(4) of the Act.

PART III
SPECIAL INDUSTRIES

8.-(1) For the purposes of the definition of "approved retirement fund" in section 3 of the Act, the following entities shall be treated as having a ruling under section 131 stating that they are an approved retirement fund:-

Approval
of
Retire-
ment
funds

- (a) the Parastatal Pensions Fund established under the Parastatal Pensions Act, 1978; Act No. 14 of 1978
- (b) the National Social Security Fund established under the National Social Security Fund Act, 1997; Act No. 28 of 1997
- (c) the Public Service Pensions Fund established under the Public Service Retirement Benefits Act, 1999; and Act No 2 of 1999
- (d) the Local Government Provident Fund established under the Local Government Provident Fund Act, 2000. Act No. 6 of 2000

(2) Any resident retirement fund not provided for in paragraph (1) of this regulation seeking approval under the Act shall:-

- (a) apply to the Commissioner in the prescribed form stating its tax identification number; and
- (b) attach to the application:-
 - (i) two copies of the instrument under which the fund is established and the rules under which the fund is regulated; and
 - (ii) any other information that the Commissioner may prescribe.

(3) The Commissioner shall not approve an application under paragraph (2) of this regulation unless the Commissioner is satisfied that:-

- (a) the applicant is both a retirement fund and a resident entity as defined under section 3 of the Act; and
- (b) the rules of the fund comply with regulation 9 of these Regulations.

(4) After consideration of any application referred to in paragraph (2), of this regulation the Commissioner shall inform the fund in writing of the Commissioner's decision and, in the case of approval, the year of income from which the fund is approved and any conditions to which the approval is subject.

Income Tax Regulations

G. N. No. 464 (cont.)

(5) Where there is any alteration to the instrument under which an approved retirement fund is established or the rules under which the fund is regulated, the fund shall, within 14 days of the alteration, provide the Commissioner with two copies of the alteration document.

(6) The Commissioner may at any time by notice in writing withdraw an approval granted to a retirement fund, other than a fund mentioned in paragraph (1), of this regulation where:-

- (a) the Commissioner is of the opinion that the fund no longer complies with requirements under paragraph (3) of this regulation;
- (b) the fund fails to provide the Commissioner with a copy of an alternation document within the time prescribed by paragraph (5), of this regulation or;
- (c) the Commissioner is of the opinion that the fund is not complying with the rules referred to in regulation 9 of these Regulations.

9. The rules of an approved retirement fund, other than a fund referred to under paragraph (1) of regulation 8(1) shall provide that:-

Rules
and
Invest-
ments of
approved
retire-
ment
funds

- (a) where the fund accepts retirement contributions from an employer on behalf of employees, the fund is managed independently of the employer;
- (b) retirement contributions made to the fund and amounts accruing to the fund on its investments must be invested within 15 days of the date of contribution;
- (c) retirement payments shall only be made by the fund with respect to a beneficiary:-
 - (i) upon the beneficiary reaching:-
 - (aa) the compulsory retirement age provided by law or the age of 55, whichever is lower; or
 - (bb) some greater age; or
 - (ii) upon the death or permanent disability of the beneficiary;
- (d) every beneficiary of the fund or nominated relatives thereof shall have a right to specific retirement payments on the happening of the events referred to in paragraph (c) of this regulation;
- (e) the rights referred to in paragraph (c) are conferred on a non-discriminatory basis (such as on the basis of period of service or contributions made by or on behalf of a beneficiary);

