INCOME TAX REGULATION NO. 78/2002

COUNCIL OF MINISTERS REGULATIONS NO. 78/2002 REGULATIONS ISSUED
PURSUANT TO THE INCOME TAX PROCLAMATION

These Regulations are issued by the council of Ministers pursuant to Article (5) of the
Definitions of Powers and Duties of the Executive Organs of the Federal Democratic
Republic of Ethiopia Proclamation No. 4/1995 (as amended) and Article 117 of the
Income Tax Proclamation No. 286/2002
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PART I

General

1. Short Title

These Regulations may be cited as the "council of Ministers Income Tax Regulations No. 78/2002.

2. Definitions

1. In these Regulations:


b) “Tax Authority" shall mean the Federal Inland Revenue authority Head Office or any of its branch offices established in any part of Ethiopia and the tax authorities of the regional states;

2. A word or term in these Regulations shall have the same meaning that it has in the Proclamation;
PART II

Tax Payable Under Schedule "A"

3. Income Exempt from Tax

The following categories of payments in cash or benefits in kind shall be excluded from computation of income taxable under Schedule "A";

a) Amounts paid by employers to cover the actual cost of medical treatment of employees;

b) Allowances in lieu of means of transportation granted to employees under contract of employment;

c) Hardship allowance;

d) Amounts paid to employees in reimbursement of traveling expenses incurred on duty;

e) Amounts of traveling expense paid to employees recruited from elsewhere than the place of employment on joining and completion of employment or in case of foreigners traveling expenses from or to their country, provided that such payment are made pursuant to specific provisions of the contract;

f) Allowances paid to members and secretaries of boards of public enterprises and public bodies as well as to members and secretaries of study groups set up by the Federal or Regional Government;

g) Income of persons employed for domestic duties;

h) The Tax Authority is empowered to determine the amount of payments specified under Article 3(b), (d) and (e);

4. Adding Tax on Income

If the tax on income from employment, instead of being deducted from the salary or wage of the employee, is paid by the employer in whole or in part, the amount so paid shall be added to the taxable income and shall be considered as part thereof.
PART III

Tax Payable Under Schedule "B"

5. Taxable Income

Pursuant to Part III of the Proclamation, taxable income from sources chargeable under Schedule "B" shall be calculated as follows:

1. Gross income shall include:
   a) All payments in cash and all benefits in kind received by the lessor from the lessee;
   b) All payments made by the lessee on behalf of the lessor according to the contract of lease;
   c) The value of any renovation or improvement made under the contract of lease to the land or building, where the cost of such renovation or improvement was borne by the lessee in addition to rent payable to the lessor;

2. In calculating taxable income, only those items mentioned under Article 16 (1) (C) of the Proclamation shall be deductible from gross income.

6. Advance Payments

Unless the tax payer maintains books of account, if the amount of rent paid to the lessor or sub-lesser covers a period longer than one (1) year, the total amount of income from such rent shall be attributable to the fiscal year in which the payment was made, but the tax on such income payable for said fiscal year shall be computed by prorating the taxable income over the number of years covered by the amount paid.

7. Business Lease

Income from the lease of business, including goods, equipments and buildings which are part of the normal operation of a business, shall be taxable under Schedule "C"
PART IV

Tax Payable Under Schedule "C"

8. Deductible Expenses

Pursuant to Article 20 of the Proclamation, the following expenses shall be deductible from gross income in calculation taxable income;

1. The direct cost of producing the income, such as the direct cost of manufacturing, purchasing, importations, selling and such other similar costs;

2. General and administrative expenses connected with the business activity;

3. Premiums payable on insurance directly connected with the business activity;

4. Expenses incurred in connection with the promotion of the business inside and outside the country, subject to the limits set by the directive issued by the Minister of Revenue.

5. Commissions paid for services rendered to the business, provided that:
   a) Said services were in fact rendered;
   b) The amount paid as commission for said services correspond to the normal rates and paid by other businesses or persons or bodies similarly situated for similar services rendered in similar circumstances.

6. In the case of a business located and operating in Ethiopia as the branch, subsidiary or associated company of a business located and operating abroad, no payment of any kind made to the holding or associated company of the business in Ethiopia shall be accepted as deduction from gross income in calculating the taxable income unless:
   a) The payment in question was made for services actually rendered; and
   b) Said service was necessary for the business and could not be performed by other persons or bodies or by the business itself at a lower cost.

7. If the Income Tax Authority has reason to consider that the total amount of salaries and other personal emoluments payable to the manager or managers of a private limited company is exaggerated, it may reduces said amount for taxation purposes to the limit which, in view of operations of the company, appears justifiable, either by disallowing the payments made to more than one manager or in any other way which may be just and appropriate.

8. Sums paid as salary, wages or other emoluments to the children of the proprietor or member of the partnership shall only be allowed as deduction if such employees have the qualifications required by the post.
9. Non-Deductible Expenses

1. In addition to the items listed under Article 21 of the Proclamation, expenditures of the following nature shall not be allowed as deduction;
   
a) Sum paid as salary, wages or other personal emoluments to the proprietor or partner of the enterprise;

   b) Expenditure for maintenance or other private purpose for persons mentioned in Sub-Article (1) (a);

   c) Losses not connected with or not arising out of the activity of the enterprise.

2. For purposes of Article 21 (1) (j) of the Proclamation "representation allowance" shall mean hospitality expenses incurred in receiving guests coming from outside of the enterprise in connection with the promotion and enhancement of the business.

3. For purposes of Article 21 (1) (n) of the Proclamation "entertainment" means the provision of food, beverages, tobacco, accommodation, recreation or hospitality of any kind to any person whether directly or indirectly.

10. Deductible Interest

The rate of interest specified under Article 21 (1) (e) of the Proclamation shall be allowed as deductible if it is paid;

1. To lending institutions recognized by the National Bank of Ethiopia;

2. To foreign banks permitted to lend to enterprises in Ethiopia;

3. Notwithstanding the provisions of Sub-Article (2) above, interest aid to foreign banks may only be deductible upon fulfilling the following:

   a) The lending bank shall, prior to the granting of any loan to any such person, file a declaration in writing with the Tax Authority where in it informs said Authority concerning all loans granted to any person liable to pay income tax in Ethiopia;

   b) The borrower shall withhold 10% from the gross interest payable to the lender and transfer same to the Tax Authority within two months of the end of the fiscal year;
11. Conditions for Deduction Gifts and Donations

1. For purposes of Article 21 (2) of the Proclamation gifts and donations shall be allowed as deductions on the following conditions:

   a) If the recipient of the donation is registered as welfare organization and where it is certified by the registering authority that the organization has record of outstanding achievement and its utilization of resources and accounting system operates with transparency and accountability;

   b) If the contribution is made in response to emergency all issued by the Government to defend the sovereignty and integrity of the country, to prevent man made or natural catastrophe, epidemic or for any other similar cause;

   c) Donation made to non-commercial education or health facilities.

2. The grant and donation made for purposes listed above may only be allowed as deduction where the amount of the donation or grant does not exceed 10% of taxable income of the taxpayer.

12. Loss Carry Forward

For purposes of Article 28 of the Proclamation loss may be carried forward where the books of account showing the loss are acceptable to the Tax Authority.

13. Depreciation Allowance

1. Subject to the provisions of Article 23 of the Proclamation deductions shall be granted only to taxpayers who keep satisfactory records showing:

   a) The date and cost of acquisition of the asset;

   b) The total amount deducted for depreciation since the date of acquisition.

2. Any taxpayer claiming deductions for depreciation shall furnish the Tax Authority with satisfactory evidence that the data mentioned in Sub-Article (1) shown in the records are true and correct.

3. Except as otherwise provided by law, gain obtained as a result of re-evaluation of assets shall not be basis for depreciation.

4. Depreciation shall not be allowed for assets in respect of which all capitalized costs have been fully recovered if the transfer of such assets is mad between related persons.
14. Participation Deduction

1. For purposes of Article 27 of the Proclamation reinvestment of profit of a resident share company or registered partnership may only be allowed as deduction in an amount not exceeding 5% of the taxable income of each accounting year.

2. If the taxpayer transfers the share or capital contribution in respect of which deduction was allowed, the amount deducted shall be part of the taxable income of the accounting year in which the transfer was effected and shall be taxed as such.

3. Purchase of shares and capital contributions made between related persons shall not be allowed as deduction under Article 27 of the Proclamation.
PART V

Other Incomes

15. The Method of Calculating Gain Obtained from, the Transfer of Capital Assets

For purposes of Article 37 (1) of the Proclamation calculation of capital gains shall be made as follows:

1. When calculating the gain realized from the alienation of capital assets, the basis of calculation of the tax shall be the historical cost of the building or the par value of the share, as appropriate.

2. The gain obtained from the alienation of capital assets is the gain realized over the historical cost of the building or the par value of the share, as appropriate.

3. When calculating the capital gain specified under sub-Article (2), inflation adjustment at a rate determined by the appropriate authority, in respect of buildings, taxes paid for the land and the building shall be allowed as deduction.

4. When calculating the capital gain realized from the alienation of buildings, the cost registered with the appropriate government body at the time of issuance of permit for the construction of the building shall be taken to the cost of constructing the building.

5. Tax payable on gain realized from the alienation of buildings shall be applicable only to building municipal areas.

16. Exemption

For purposes of Article 37 (2) of the Proclamation building used for dwelling shall be exempt from capital gains only, if such building is fully used for dwelling for two years prior to the date of alienation.

17. Income from Rental of Property

For purposes of Article 35 of the Proclamation Income from rental of property shall mean gross income derived by a person not engaged in regular trade from casual rent of movable and immovable property.
PART VI

Declaration of Income & Assessment of Tax

18. Categories of Taxpayers

Category "A", category "B" and category "C" taxpayers are classified as follows:

1. Category "A" which shall include the following persons and bodies:
   a) Any company incorporated under the laws of Ethiopia or in a foreign country;
   b) Any other business having an annual turnover of Birr 500,000 (Five hundred thousand Birr) or more;

2. Category "B", unless already classified in category "A", any business having an annual turnover of over birr 100,000 (One hundred thousand Birr);

3. Category "c", unless already classified in Categories "A" and "B" whose annual turnover is estimated by the Tax Authority as being up to Birr 1000,000 (One hundred thousand Birr);

4. The Minister of Finance and Economic development may by directive increase or decrease the annual turnover specified above.

19. Maintenance of Accounts

Category "A" and "B" taxpayers shall maintain the following records and accounts:

1. Category "A" taxpayers shall at the end of the year submit to the Tax Authority a balance sheet and profit and loss statement and the detail of the following:
   a) Gross profit and the manner in which it is computed;
   b) General and administrative expense
   c) Depreciation; and
   d) Provisions and reserves,

2. Category "B" taxpayers shall at the end of the year submit to the Tax Authority profit and loss statement.

3. All entries in the records and account referred to in sub-Article 1 and 2 hereof shall be supported by appropriate vouchers.
20. Vouchers

1. Taxpayers who have the obligation to maintain books of account shall have to register with the Tax Authority the type and quantity of vouchers they use before having such vouchers printed.

2. Any printing press before printing vouchers of taxpayers shall ensure that the type and quantity of such vouchers is registered with the Tax Authority.

21. Standard Assessment For Category "C" Taxpayers

1. For purposes of Article 68 of the Proclamation category "C" taxpayers shall pay tax in accordance with schedule"1" and "2" attached with these /Regulations.

2. Where a taxpayer derives income from more than one business actives and such income has not been aggregated, the Tax Authority shall aggregate the taxable income of each activity indicated in Schedule"2" and"3" of these Regulations and shall apply the tax rate under which the sum falls.

3. If category" taxpayer maintains book of accounts acceptable to the Tax Authority, shall pay the tax on the basis for such books of account.

4. Where the Tax Authority finds that the taxpayer obtained gross revenue in excess of Birr 100,000 as a result of engaging in new business activity it shall assess the tax on the basis of such findings.

5. Regional Governments and city administrations may modify the standard assessment rate specified in the Schedules attached with these Regulations.

22. Declaration of Income

1. Category "C" taxpayer shall within he period prescribed under Article 68(2) of the Proclamation declare to the Tax Authority:

   a) His annual turnover;

   b) The amount derived from a source other than his regular operations;

   c) The type of business carried on is changed;

2. The Tax Authority may, on the basis of declaration submitted by category "A", "B" and "C" tax-payers, and on the basis of other information and surrounding circumstances, determine whether the taxpayer shall continue in the same category or his category be changed for the
following tax year.

3. If a non resident person operates his business activity through an agent or agents the non-resident person and the agent or agents shall be jointly responsible for submitting the declaration of income and payment of the tax thereon.

23. Place of Declaration of Income

1. Declaration of income shall be made to the Federal or Regional Tax Authority, as appropriate.

2. If a resident taxpayer is engaged in more than one business activities he shall declare his income to the Tax Authority at the place the head office of the business is situated.

3. A non-resident taxpayer shall declare his income to the Tax Authority at the place where he derived most of his income.

4. Notwithstanding the provisions of the preceding sub-Articles, unless it is specifically otherwise provided by law, a regional tax payer who operates business with licenses issued by more than one region or city administration shall declare his income and pay the tax thereon, to the Tax Authority of each such region or city administration which issued the business license.

24. Withholding Scheme

Organizations having legal personality, private non-profit organizations and non-governmental organizations shall, pursuant to article 53(2) of the Proclamation, withhold income tax of 2% from payments they make to tax payers providing the following goods and services.

1. Supply of goods involving more than Birr 10,000 in any one transaction or one supply contract;

2. Rendering of the following Services involving more than birr 500 in one transaction or one service contract;

   a) Consultancy service;

   b) Designs, written materials, lectures and dissemination of information;

   c) Lawyers, accountants, auditors and other services of similar nature:

   d) Sales persons, arts and sports professional, and brokers including insurance brokers and other commission agents;
e) Advertisements and entertainment programs for television and radio broadcasts;

f) Construction services;

g) Advertisement services

h) Patents for scientific and intellectual works;

i) Rent or lease of machineries' building and other goods including computers;

j) Maintenance services

k) Tailoring;

l) Printing;

m) Insurance,

3. The Minister of Finance and Economic Development may be directive increase or decrease the list of goods and services or the threshold.

4. Splitting procurements which otherwise should be made in single transaction, with the intention of hindering the withholding of tax, shall be a criminal offence punishable under the Proclamation.

25. Obligations of Withholding Agents

1. Any person who by law is required to withhold tax from payments to be made for the supply of goods or rendering of services listed under Article 24 above shall have the following obligations:

a) Issue serially numbered official receipt to persons and organizations from whom tax is withheld;

b) Fill in a form to be supplied by the Tax Authority the name, the tax payer identification number (If supplied) of a person or organization to whom payment is made, the total amount of money paid and tax withheld:

c) Person and organization withholding the tax shall transfer to the Tax Authority the amount withheld within the month, together with the form indicated under Sub-Article (1) above.

2. The Tax Authority shall prepare and distribute the form mentioned under (b) above.
PART VII

Miscellaneous

26. Information

Information shall be supplied only to the extent authorized by Article 39 of the Proclamation, where a person seeking the information submits a written request to the head of the Tax Authority; and the head of the Tax authority authorizes in writing the supply for such information;

27. Directives

The Minister of Revenue may issue directives for the proper implementation of these Regulations.

28. Repeal

The income Tax Regulations No. 258/1962 is repealed by these Regulations

29. Effective Date

These Regulations shall come into force as of the 19th day of July, 2002.
Done at Addis Ababa, this 19th day of July 2002.
### SCHEDULE 1

#### CATEGORY "C" PRESUMPTIVE TAX

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Federal Inland Revenue Authority website can be viewed at the following link: [www.ethiomarket.com/fira](http://www.ethiomarket.com/fira)

**Income Tax Proclamation 78/2002**
<p>| NO. | Business Sectors                        | Tax AAPR | Free Up To | 10001- | 15001- | 20001- | 25001- | 30001- | 35001- | 40001- | 45001- | 50001- | 55001- | 60001- | 65001- | 70001- | 75001- | 80001- | 85001- | 90001- | 95001- | 10000- |
|-----|----------------------------------------|----------|------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| 15  | Building Contraction                   | 13       | 6000       | 80      | 180     | 280     | 380     | 480     | 630     | 780     | 930     | 1080    | 1230    | 1380    | 1530    | 1682    | 1834    | 2050    | 2180    | 2310    |
| 16  | Cereal &amp; Pulses Trade                  | 13       | 6000       | 80      | 180     | 280     | 380     | 480     | 630     | 780     | 930     | 1080    | 1230    | 1380    | 1530    | 1682    | 1834    | 2050    | 2180    | 2310    |
| 17  | Coffee Trade                           | 14       | 6000       | 80      | 180     | 280     | 380     | 480     | 630     | 780     | 930     | 1080    | 1230    | 1380    | 1530    | 1682    | 1834    | 2050    | 2180    | 2310    |
| 18  | Fabric &amp; Treads Trade                  | 14       | 6000       | 80      | 180     | 280     | 380     | 480     | 630     | 780     | 930     | 1080    | 1230    | 1380    | 1530    | 1682    | 1834    | 2050    | 2180    | 2310    |
| 19  | cosmetics &amp; Perfume Trade              | 14       | 6000       | 80      | 180     | 280     | 380     | 480     | 630     | 780     | 930     | 1080    | 1230    | 1380    | 1530    | 1682    | 1834    | 2050    | 2180    | 2310    |
| 20  | Household Utensils Trade (dining Kitchen, &amp; the likes) | 14  | 6000       | 80      | 180     | 280     | 380     | 480     | 630     | 780     | 930     | 1080    | 1230    | 1380    | 1530    | 1682    | 1834    | 2050    | 2180    | 2310    |
| 21  | Glass Works &amp; Trade                    | 14       | 6000       | 80      | 180     | 280     | 380     | 480     | 630     | 780     | 930     | 1080    | 1230    | 1380    | 1530    | 1682    | 1834    | 2050    | 2180    | 2310    |
| 22  | Pepper &amp; Spices Trade                  | 15       | 6000       | 80      | 180     | 280     | 380     | 480     | 630     | 780     | 930     | 1080    | 1230    | 1380    | 1530    | 1682    | 1834    | 2050    | 2180    | 2310    |
| 23  | Cemetery status Work                   | 15       | 6000       | 80      | 180     | 280     | 380     | 480     | 630     | 780     | 930     | 1080    | 1230    | 1380    | 1530    | 1682    | 1834    | 2050    | 2180    | 2310    |
| 24  | Bed &amp; mattress production &amp; Trades     | 15       | 6000       | 80      | 180     | 280     | 380     | 480     | 630     | 780     | 930     | 1080    | 1230    | 1380    | 1530    | 1682    | 1834    | 2050    | 2180    | 2310    |
| 25  | Printing Press                         | 15       | 6000       | 80      | 180     | 280     | 380     | 480     | 630     | 780     | 930     | 1080    | 1230    | 1380    | 1530    | 1682    | 1834    | 2050    | 2180    | 2310    |
| 26  | Metal &amp; building materials Trade       | 16       | 6000       | 80      | 180     | 280     | 380     | 480     | 630     | 780     | 930     | 1080    | 1230    | 1380    | 1530    | 1650    | 1770    | 1890    | 2040    | 2200    | 2360    | 2520    |
| 27  | Animal &amp; Animal products Trade         | 18       | 6000       | 80      | 180     | 280     | 380     | 480     | 630     | 780     | 930     | 1080    | 1230    | 1380    | 1530    | 1665    | 1800    | 1940    | 2120    | 2300    | 2480    | 2660    |
| 28  | Hop &amp; Malt Trade                       | 20       | 6000       | 80      | 180     | 280     | 380     | 480     | 630     | 780     | 930     | 1080    | 1230    | 1380    | 1530    | 1680    | 1830    | 2000    | 2200    | 2400    | 2600    | 2800    |
| 29  | Barter Transaction                     | 20       | 6000       | 80      | 180     | 280     | 380     | 480     | 630     | 780     | 930     | 1080    | 1230    | 1380    | 1530    | 1680    | 1830    | 2000    | 2200    | 2400    | 2600    | 2800    |
| 30  | Vehicles Spare parts Trade &amp; Workshop Service | 20  | 6000       | 80      | 180     | 280     | 380     | 480     | 630     | 780     | 930     | 1080    | 1230    | 1380    | 1530    | 1680    | 1830    | 2000    | 2200    | 2400    | 2600    | 2800    |</p>
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