



# **Interim South West Administration**

***PRESIDENTIAL DECREE NO. 49/2015***

**A Decree**

**for the purposes of establishing**

**Interim Revenue Measures**

**of the**

**Interim South West Administration**

**9<sup>th</sup> July 2015**

## Table of Contents

Section 1. Title, Authority and Commencement: .....	3
Section 2. Purpose .....	3
Section 3. Interpretation .....	3
Section 4. Payroll Tax on Businesses .....	4
Section 5. The Taxpayer.....	4
Section 6. Determination of Deemed Value of Payroll and Turnover .....	5
Section 7. Exemptions and Thresholds.....	5
Section 8. Requirement to Register and file a Return .....	5
Section 9. Tax Payments.....	6
Section 10. Turnover tax on businesses .....	7
Section 11. Identity of taxpayer, General provisions.....	7
Section 12. Rate of Tax .....	7
Section 13. Payment and receipt.....	7
Section 14. Business Licenses .....	7
Section 15. Property Levy .....	8
Section 16. Fuel Tax .....	8
Section 17. Electricity Generation Tax.....	9
Section 18. Market Fees .....	9
Section 19. Vehicle License and registration .....	9
Section 20. Extraction and Harvesting License .....	10
Section 21. Rules and Regulations.....	10
Section 22. Taxation of NGOs, Private Companies and Entities managing funds.....	11
Schedules.....	12
Schedule 1. Amounts Payable by Grade B and C businesses in respect of Payroll and Turnover Tax. .....	12
Schedule 2: Default Assessments of Grade A Businesses .....	12
Schedule 3. Tax rates applicable.....	13
Schedule 4. Annual Business Licenses .....	14
Schedule 5. Penalties and fines .....	15

# INTERIM SOUTH WEST ADMINISTRATION

## INTERIM REVENUE MEASURES

### Section 1. Title, Authority and Commencement:

1. This decree may be cited as the "Interim Revenue Decree 2015" and shall come into force on the date of its signature by the President and shall remain in force until repealed by the President or by legislation enacted by the assembly. It shall apply in all the territories of the Interim South West Administration.

### Section 2. Purpose

2. The purpose of the Decree is to authorize the assessment and collection of certain taxes, levies and charges, and to provide standards and norms to be followed in the assessment and collection of taxes and other revenue, the rights and obligations of taxpayers, and other issues related thereto. This decree refers to the following taxes, fees, licenses and other charges that may be imposed by State and Local Governments:
  - Payroll tax on business
  - Turnover tax on business
  - Property Levy
  - Business Licenses
  - Market security and cleansing fee
  - Fuel Tax
  - Electricity Generation Tax
  - Vehicle Registration Fee
  - Extraction and Harvesting License

### Section 3. Interpretation

3. In this Decree, unless the context otherwise requires, the following words and expressions shall have the meanings assigned to them respectively:

*“Deemed Value”* means an estimate made by the Ministry of Finance of the value of the payroll or turnover of a business.

*“Business Enterprise”* means any economic activity entered into by an individual for profit including but not limited to: retail operations, manufacturing, trade, entertainment, food and beverage services, transport, agricultural, vocational, and professional or other services.

*“Extraction and Harvesting License”* means the license as described and defined in this decree

*“Local Government”* means a Regional or District Government

*“Minister”* means the Minister for Finance of the ISWA.

“*Person*” means any individual or legal entity, including a firm, cooperative, corporation, company, association, partnership, organization, joint venture, trust or estate.

“*President*” means the President of the Interim South West Administration.

“*Presumptive Tax on Business*” means the tax as described and defined in this decree.

“*Regulation*” means a regulation made under this decree.

“*Taxpayer*” means any person who is subject to tax according to this decree.

“*Taxation Year*” means the calendar year.

“*Vehicle Registration Fee*” means the fee as described and defined under this decree;

#### **Section 4. Payroll Tax on Businesses**

4. A tax is hereby imposed each year on the value of gross salaries paid to employees of businesses situated in the Interim South West Administration area.
5. **Rate and Amount of Tax.**
  - a. The amount of tax for any taxable year shall be the product of the rate of tax as established in schedule 3 of this decree and either;
  - b. In the case of businesses designated as Category A by the Ministry of Finance, the amount transferred weekly or monthly to employees as remuneration by the electronic payments system of the taxpayer or, by instruction, of the taxpayer’s bank. Or
  - c. If payments are not made through an electronic payment system the deemed payroll value specified in schedule 1 of this decree.
  - d. The rate of tax to be applied shall be established each year by the State legislature of the ISWA. At commencement of this decree the rate will be as specified in schedule 3.
  - e. Unless the rates are adjusted, the rates contained in Schedule 3 will apply until the legislature of the ISWA adjusts and publishes new rates.

#### **Section 5. The Taxpayer**

6. The payroll tax on businesses shall be assessed and paid by the owner or deemed owner if no owner can be identified.
7. If a business is owned by more than one person, the owners shall appoint and authorize one of the co-owners as the representative of all the owners for purposes of fulfilling the obligations imposed by this decree.
8. Notwithstanding paragraph 3 of this section, if more than one person is the owner of immovable property, all owners shall be jointly and severally liable for the tax imposed by this Chapter.
9. When there is no registered owner of a business or the owner cannot be identified, the taxpayer shall be deemed to be the beneficiary, which shall include:

- a. The person or persons deriving financial benefit from the proceeds of the business.
- b. The person occupying the premises of the business.
- c. The person registered as the owner of the land or business on or in which the business operates.

## **Section 6      Determination of Deemed Value of Payroll and Turnover**

10. The Ministry shall carry out an annual survey for the purposes of classifying businesses according to the nature of their activities, and according to their size.
  - a. Classification of business according to the nature of their activities shall utilize only the categories in schedule 1.
  - b. Businesses shall be classified according to size into five grades to be designated: ABCDE. In determining this classification the ministry shall take into account the following factors: Area of premises, number of employees, daily turnover, nature of activities, location of the business.
  - c. Businesses classified as A grade are required to keep accurate and correct records of the amounts paid to employees (payrolls), and of their sales (turnover), and must retain such records for inspection or audit by officials of the Ministry of Finance for a period of 5 years. Failure to comply with this provision will be penalized by a fine not exceeding \$5000, and revoking of the license to operate a business.
11. Appeals: Taxpayers may appeal their classification or assessment based on the deemed payroll or turnover, or on the classification of their businesses. The Minister is required to establish the administrative means to receive and consider appeals in a fair and timely manner.
  - a. Manner and grounds for appeal: Taxpayers who appeal the deemed payroll must present witnessed documents providing proof of the actual payroll or turnover. If successful, the taxpayer's liability will be calculated using the values accepted by the Ministry.
  - b. Taxpayers who appeal their assessment based on the size classification of their business must present witnessed proof relating to the criteria specified in paragraph 13 of this section. If successful the Taxpayers liability will be calculated in accordance with the deemed payroll and turnover values relating to the new classification, in schedule 1.

## **Section 7.      Exemptions and Thresholds**

12. Businesses shall be exempted from the tax if they are classified as size D or E. NGOs carrying out Humanitarian or disaster relief work are exempted.

## **Section 8.      Requirement to Register and file a Return**

13. Every operator of a business or NGO is required to submit an application for registration on the prescribed form to the Ministry of Finance. The Ministry of Finance will issue the taxpayer with a unique Taxpayer Identification Number, and will classify the business in accordance with section 10 of this decree. Proof of registration must be displayed prominently in the registered premises

of the business. The Taxpayer Identification Number must be referenced in all returns or correspondence with the Ministry of Finance.

- a. Every taxpayer subject to the payroll or turnover tax shall submit a tax declaration each month on the prescribed form to the Ministry of Finance no later than the 15<sup>th</sup> day of the following month.
  - b. The tax return shall be signed by the taxpayer or his or her representative and thereafter submitted to an authorized official at an office designated by the ministry of finance, along with payment, or proof of payment.
14. The Ministry of Finance shall make publicly available official tax return forms no less than 30 days prior to the deadline for submission specified in this decree or elsewhere. The forms shall request the following information from the taxpayer:
- a. Taxpayer Identification Number
  - b. The registered name of the business
  - c. The address or location of all premises from which the taxpayer conducts business.
  - d. The name of the taxpayer or the owner or deemed owner;
  - e. Self-calculation of the tax liability. Businesses classified as category A must determine their payments to employees for the month and multiply by the applicable rate to be found in schedule 3
  - f. Businesses with classifications other than A must make payments of applicable amounts specified in schedule 1, in accordance with their grade.
15. Taxpayers are required to have a copy of the current assessment and receipt of payment of taxes available for inspection at the premises by authorized tax inspectors.

## **Section 9. Tax Payments**

16. The tax, as self-assessed and declared by the taxpayer in accordance with section 14, and shown on the tax return, must be paid to an authorized tax official at the designed office on or before 15<sup>th</sup> of the following month. .
17. An official receipt must be given to the taxpayer containing following information:
- a. The date
  - b. The name and number of the official receiving the payments
  - c. The place at which payment is made.
  - d. The name and identifying number of the Taxpayer.
  - e. The Amount paid.
  - f. The liability in respect of which payment is made.
18. The records of all taxes collected must be kept in the form and according to procedures prescribed by regulations.
19. If the amount of tax due or any portion thereof is not paid on or before the last day for payment, a penalty of two percent of the underpayment per month shall be assessed.
20. Monthly tax payments may be pre-paid up to the end of the current tax year.
21. Declarations must be systematically checked by the Ministry of Finance, and, if errors are found, re-assessments may be issued by the designated officials of the ministry, and penalties imposed at the rates specified in schedule 5.

22. Grade A businesses which fail to make a declaration of self-assessment, or who fail to provide business records may be assessed by designated officials of the Ministry of Finance using records of past payments or the amounts specified on schedule 2, whichever is highest.
23. Freeze period: The Minister may, by a notice in the official gazette, designate certain areas within the jurisdiction of ISWA as “frozen” for a specific period of time, for reason of climatic, security or other emergencies declared by in accordance with relevant legislation. Presumptive turnover and payroll taxes are not payable during this designated period.

#### **Section 10. Turnover tax on businesses**

24. A presumptive tax on the turnover of businesses shall be paid for each Taxation Year by every business as defined in section 2 who carries out entrepreneurial activities at any time during the Taxation Year in the area of the Interim South West Administration (regardless of whether a profit was made in the applicable tax year).
25. NGOs will be required to pay the turnover tax on the annual budgeted value of their projects.

#### **Section 11. Identity of taxpayer, General provisions.**

26. All provisions relating to the payroll tax shall apply to this tax, except for the provisions of the following paragraph 27.
27. Self-assessment. Businesses other than those classified as grade A must make monthly payments in accordance with the amounts specified in schedule 1.
  - a. Businesses classified as category A shall base their self-assessment on records of sales and receipts, which records must be witnessed and retained for inspection if requested by the Ministry of Finance.
  - b. Schedule 1 must be calculated annually by the Ministry of Finance in accordance with the relevant tax rates approved in the annual Appropriation Act and must incorporate the latest available information regarding the bases of the taxes.

#### **Section 12. Rate of Tax**

28. The tax rate used to calculate amounts payable in the schedule shall be as specified in schedule 3.

#### **Section 13. Payment and receipt.**

29. Payment must be made in accordance with provisions of section 9 of this decree.
30. The taxpayer must post a legible copy of the receipt at the entrance of every business premise.

#### **Section 14. Business Licenses**

31. Owners of all businesses operating in the area of the Interim South West Administration are required to register and pay a license fee annually in respect of each business premises from which business is conducted.

- a. Payment must be made before March 1st each year.
- b. Receipts must be issued, and displayed prominently near the entrance of each premises from which business is conducted.
- c. The amount payable shall be in accordance with schedule 4.

## **Section 15. Property Levy**

- 32. Owners, tenants or occupants of all commercial or rented properties are required to pay a property levy on the annual rental value at a rate specified in schedule 3.
- 33. Heads of households which occupy a surveyed urban plot within the jurisdiction of a district government are required to pay an annual tax in respect of that household.
  - a. The applicable rate is specified in schedule 3 of this decree.
  - b. A person is designated a head of a household if
    - i. He or she is an adult and resides in an independent residence together with a partner and at least one other related person. A residence is independent if separate cooking takes place.
    - ii. If there is more than one adult, the taxpayer is the one who provides more than half the resources to maintain the household.
  - c. Administrative arrangements. The property levy must be collected annually, before 31st March.
  - d. The Minister may designate community or religious leaders as agent collectors for this purpose.
  - e. Ad hoc collectors must be given identity documents, and must deliver payments to an accredited revenue official who must issue a receipt and remit the funds in accordance with specified procedure.

## **Section 16. Fuel Tax**

- 34. A tax must be paid by all bulk purchasers of fuel.
  - a. Purchases are deemed "bulk" if they are in containers of 50 Liter or more.
  - b. The applicable tax rate is specified in schedule 3.
  - c. Purchasers of bulk fuel must apply for registration with the Ministry of Finance as wholesale fuel suppliers, within 1 month of the date of this decree.
  - d. The Ministry may register wholesale fuel suppliers in accordance with criteria determined by the Minister in consultation with relevant authorities, and published. A registration fee may be charged, as specified in schedule
  - e. The Ministry must issue a certificate of registration to successful applicants which must be retained by the business for inspection. A legible copy must be displayed near the entrance of each premises which conducts business as a Fuel wholesaler.
  - f. Fuel wholesalers must keep accurate records of all fuel purchases, and must make a monthly declaration, along with payment by the 10th of each month, relating to the purchases of the previous month.
  - g. All records and receipts must be retained for inspection by an authorized revenue official.



35. It is an offence to purchase fuel in bulk for own consumption or to carry on business as a fuel wholesaler without a valid and current registration. Penalties are specified in schedule 5.

#### **Section 17. Electricity Generation Tax**

36. A tax must be paid by operators of generators with a total capacity exceeding the capacity specified in schedule 3, expressed in Kilo-Volt Amps (KVA) .
- a. The rate of the tax is specified in schedule 3.
  - b. Owners of generators above the specified capacity are required to register with the Ministry of Finance.
  - c. The tax is payable annually, in the same manner as specified for the payroll tax above.
  - d. Tax is payable per KVA installed.

#### **Section 18. Market Fees**

37. All operators of businesses or stalls in the designated market area must pay a monthly fee for security and cleansing.
- a. The proceeds of the fee must be allocated to the relevant district government.
  - b. The amount of the fee is specified in schedule 3.
  - c. The Minister may appoint a member of the local government to collect the fee, and to issue a pre-printed numbered payment ticket, showing the date and place of collection.
  - d. The local collector must remit the fees monthly to an accredited revenue official of the Ministry of Finance and receive an official receipt.

#### **Section 19. Vehicle License and registration**

38. A vehicle registration fee equal to the amount established in Schedule 3 of this Decree shall be imposed by the State on an annual basis when the vehicle is registered each year in the State.
- a. A taxpayer is any person who is a resident in the State and who owns a vehicle that must be registered in the State.
  - b. A taxpayer includes any person who is a resident in the State and who purchases a vehicle that must be registered in the State.
  - c. The vehicle registration tax must be paid when the vehicle is purchased, and before 31st March of each subsequent year.
  - d. Failure to pay the vehicle registration tax will result in a penalty of two percent per month of the amount of the tax owed.
  - e. Persons paying the vehicle registration tax will be issued a registration certificate which they must publicly display on the vehicle.
39. Without proof of payment of the vehicle registration fee, the vehicle may not be registered, re-registered or inspected.

40. Vehicle license and registration fees may be collected by officials of the Ministry of Transport who are accredited as collection agents by the Ministry of Finance.

## **Section 20. Extraction and Harvesting License**

41. Any person who operates a business that extracts or harvests resources listed in Schedule 6 from public land of the Interim South West Administration Region, or any local government Authority, must obtain a license from the State prior to extracting or harvesting such resources. The license must specify the amount of the resource allowed to be extracted by the license holder.
- a. The license fee amount is equal to the quantity of the resources allowed to be extracted or harvested under the license based on the unit of measurement multiplied by a flat fee per unit of measurement in Schedule 3. The same license fee shall apply to all extractive or harvesting businesses regardless of size, activities or turnover.
  - b. The State, or Local Government Authority, may adjust the national standard license fee amount periodically based on an annual survey of extraction and harvesting businesses to reflect local conditions.
  - c. The license fee shall be paid at the time the license is acquired.
  - d. As proof of payment of the license fee, the State, or Local Government Authority, shall issue a numbered license to the taxpayer in respect of each resource extracted or harvested. The license shall contain the following information:
    - i. The name of the taxpayer;
    - ii. The name of the business;
    - iii. Registration number of the business;
    - iv. The location of the business;
    - v. Type of business;
    - vi. Nature and size of the business;
    - vii. Type of resource extracted or harvested;
    - viii. Amount allowed to be extracted or harvested for each resource;
    - ix. The period for which the license is valid; and
    - x. The amount of the license fee paid
  - e. The business must retain a copy of the license for inspection by the ministry of Finance, or representative of the Local Government Authority.
42. Failure to pay the license fee will result in confiscation of resources extracted or harvested and a one year ban on extracting or harvesting such resources.

## **Section 21. Rules and Regulations**

43. The Minister shall make such rules and regulations as may be necessary for the effective and efficient implementation of the provisions of this Decree.
44. The Minister may prescribe forms, notices, returns and other documents necessary for the efficient and effective implementation of the provisions of this Decree. The Minister shall make these documents available to the public free of charge.

**Section 22. Taxation of NGOs, Private Companies and Entities managing funds.**

45. Licenses: Any entity operating or intending to operate as an NGO, private company, or as a manager of funds within the jurisdiction of the Interim South West Administration must register and obtain a certificate of registration issued by the Ministry of Planning.
46. A registered organization will be subject to all the Laws of ISWA including all financial requirements and taxes contained in this and other decrees.
47. It is an offence to make false declarations when registering, punishable by fines specified in schedule 5 or de-registration or both.
48. Tax on new investment. New companies wishing to register and operate in the jurisdiction of ISWA are required to pay tax on its capital outlay at the rate reflected in schedule 3.
49. Tax on payrolls. NGOs and companies are required to pay tax on the value of gross salaries paid or amount transferred weekly or monthly to employees as remuneration by the electronic payments system of the taxpayer or, by instruction, of the taxpayer's bank, to employees of NGO's , companies and business entities situated in ISWA, in accordance with section 5 of this decree.
50. Projects tax rate. NGOs, managers of donor funds, and companies implementing private projects in ISWA area are subject to the turnover tax, based on the budgeted annual value of their projects.

## Schedules

### Schedule 1. Amounts Payable by Grade B and C businesses in respect of Payroll and Turnover Tax.

<b>Business Grade</b>	<b>Payroll Tax Payable</b>	<b>Turnover Tax Payable</b>	<b>Total</b>
<b>B1</b>	\$ 24.00	\$ 180.00	\$ 204.00
<b>B2</b>	\$ 22.00	\$ 160.00	\$ 182.00
<b>B3</b>	\$ 15.00	\$ 120.00	\$ 135.00
<b>B4</b>	\$ 12.00	\$ 100.00	\$ 112.00
<b>C1</b>	\$ 8.00	\$ 80.00	\$ 88.00
<b>C2</b>	\$ 8.00	\$ 60.00	\$ 68.00
<b>C3</b>	\$ 3.00	\$ 40.00	\$ 43.00
<b>C4</b>	\$ 3.00	\$ 20.00	\$ 23.00

### Schedule 2: Default Assessments of Grade A Businesses

<b>Business Grade</b>	<b>Payroll Tax Payable</b>	<b>Turnover Tax Payable</b>	<b>Total</b>
<b>A1</b>	\$ 75.00	\$ 400.00	\$ 475.00
<b>A2</b>	\$ 60.00	\$ 300.00	\$ 360.00
<b>A3</b>	\$ 45.00	\$ 250.00	\$ 295.00
<b>A4</b>	\$ 37.50	\$ 200.00	\$ 237.50

**Schedule 3. Tax rates applicable**

	<b>Type of Tax</b>	<b>Rate of tax</b>	<b>Applicable base</b>
1	Payroll Tax on Business, NGOs, and companies.	5%	Annual payroll or deemed payroll
2	Presumptive Tax on Turnover	1%	Annual Turnover or Deemed turnover
3	Business licenses	See schedule 4	
4	Fuel Tax	\$10	Per 50litre container purchased.
5	Electricity generation tax applicable to operators with total capacity in excess of 11KVA	\$40.00	Per KVA of installed capacity per annum
6	Household levy (property tax)	\$10.00	Per household per annum
7	Market cleansing and security Fee	\$1	Per day
8	Resource fee - Charcoal	\$0	Per large bag
10	Saloon Cars	\$50	Per annum
11	Land Cruisers	\$100	Per annum
12	Trucks	\$100	Pet ton per annum
13	Drivers licenses	\$50	
14	Tax on new investment	0.5%	The value of new investment in ISWA jurisdiction
15	Property levy	5%	Annual rental

**Schedule 4. Annual Business Licenses**

	Category of enterprise	Size Classification of business				
		A	B	C	D	E
1	Warehouses	80	50	40	exempt	exempt
2	Shops	30	20	10	exempt	exempt
3	Para fumes/ Cosmetics	80	50	40	exempt	exempt
4	Pharmacies	80	50	40	exempt	exempt
5	Spare parts	80	50	40	exempt	exempt
6	Electronics	120	100	80	exempt	exempt
7	Tailors	80	50	40	exempt	exempt
8	Snacks /Cold drinks	15	10	10	exempt	exempt
9	Power Companies	1200	1000	800	exempt	exempt
10	Telecommunications	1200	1000	800	exempt	exempt
11	Water factories	120	100	80	exempt	exempt
12	Money transfer Companies	600	500	400	exempt	exempt
13	Mattress Factory	600			exempt	exempt
14	Fuel Wholesalers	1000	800	600	exempt	Exempt
15	Restaurants	400				
16	Hotels	1000				
17	local NGOs	500				
18	international NGOs/companies	2000				
19	Local Contract companies	1,000				
20	Investment companies	1,000				

**Schedule 5. Penalties and fines**

Non payment of taxes	2% per month	
Making a false declaration of tax liability or on a registration form	\$1000	
Carrying on Business without registration.	\$1000	
Failure to keep proper records as required	\$5000, De-registration	

President

Interim South West Administration

H.E. Sharif Hassan Sheikh Aden



Baidoa 9 July 2015

