

Income Tax Rules, 2059 (2002)

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Amendment:

1. Income Tax (First Amendment) Rules, 2059.9.22
2059 (2003) (6 Jan. 2003)
2. Income Tax (Second Amendment)
Rules, 2064 (2008) 2060.12.16
(29 March 2008)
3. Income Tax (Third Amendment) Rules, 2067.8.4
2067 (2010) (20 Nov. 2010)

In exercise of the powers conferred by Section 138 of the Income Tax Act, 2058 (2002), Government of Nepal has framed the following Rules.

Chapter-1

Preliminary

1. **Short title and commencement:** (1) These Rules shall be called as the "Income Tax Rules, 2059 (2002)".
(2) These Rules shall come into force immediately.
2. **Definitions:** Unless the subject or the context otherwise requires, in these Rules, -
 - (a) "Act" means the Income Tax Act, 2058 (2002).
 - (b) "Permanent account number" means the account number provided by the Department to any person to identify such person for purposes of tax.

Chapter-2

Tax Exemption

3. **Application to be submitted for exemption of tax:** (1) Any organization entitled to enjoy tax exemption pursuant to Clause (s) of Section 2 of the Act shall submit an application, accompanied by the following details, to the Department for the exemption of tax: -

- (a) In the case of an organization required to be registered pursuant to the prevailing law, a duplicate copy of the registration certificate,
- (b) A copy of the statute of the organization,
- (c) Where the permanent account number has been obtained, a copy of such certificate, and
- (d) A duplicate copy of an audit report, if any.

(2) Upon conducting necessary examination as to the application for tax exemption submitted pursuant to Sub-rule (1), the Department shall register such organization as an organization entitled to enjoy tax exemption and issue a certificate.

(3) Notwithstanding anything contained in Sub-rules (1) and (2), the Department may specify any entity falling within the organization entitled to enjoy tax exemption so as they may not be required to be registered.

4. **Entity enjoying tax exemption by advance ruling:** The Department may, by an advance ruling pursuant to Section 76 of the Act, specify any entity established with non-profit motive, other than the entity mentioned in Clause (s) of Sub-clause (1) of Section 2 of the Act, as an entity entitled to enjoy tax exemption.

5. **Submission of financial statement:** Any entity to be registered pursuant to Sub-rule (2) of Rule 3 and any entity entitled to enjoy tax

exemption pursuant to Rule 4 shall compulsorily submit its audited annual financial statements to the Department within Three Months from the date of expiration of the fiscal year. Any entity which did not submit such statement shall not get tax exemption until the submission of such statement.

Chapter-3

Computation of Income

6. **Payment of petty amounts:** In making payment of petty amounts mentioned in Clause (d) of Sub-section (3) of Section 8 or in (c) of Sub-clause (2) of clause (a) of explanatory part of Section 21 of the Act, the payer may make payment of a maximum of Five Hundred Rupees at a time for tea expenses, stationery, gift, prize, casual medical treatment and for similar kind of payment as specified by the Department.
7. **Not to be included in depreciation base:** In computing the depreciation base of any class of any property for purposes of computing the threshold referred to in Sub-section (2) of Section 16 of the Act, the excess expenses to be incurred pursuant to Sub-section (3) of Section 16 of the Act or any portion thereof shall not be included.
8. **Method of accounting:** (1) In maintaining accounts of tax pursuant to Section 22 of the Act, accounts shall be maintained in accordance with the accounting standards, if any, prescribed by the prevailing law.
(2) In cases where any accounting standards are not specified pursuant to Sub-rule (1), tax accounting shall be carried out as per the accounting standards specified by the Department based on any prevailing international principle or practice.
9. **Standards on conversion into unrecoverable or bad debt:** For purposes of Clause (a) of Sub-section (2) of Section 25 and sub-clause (1) of Clause (c) of Sub-section (3) of Section 40 of the Act, the

standards determined by the *Nepal Rastra Bank* shall apply in respect of a debt of a bank or financial institution becoming as unrecoverable or its conversion into a bad debt.

10. **Contract with deferred consideration**: In cases where a party to any contract does not show the matters specified by the Department in respect of the estimated profit and loss in periods of every Six months, such contract shall be a contract with deferred consideration.

11. **Excluded contract**: The following contract shall be an excluded contract:-

- (a) Any contract created because of having an interest in any entity or having obtained membership of a retirement fund, or
- (b) Any contract of investment insurance.

12. **Other provisions relating to long-term contract**: (1) In cases where the income derived by any person from investment, employment or business at any time is not computed likewise in a normal income year at any time, the amounts to be included in computing the income at that time or at the time preceding it shall be the amounts to be included as per the sum of gradual increase.

(2) In cases where the income derived by any person from business or investment at any specific time is not computed likewise in a normal income year at any time, the amounts allowed to be deducted in computing the income at that time or at the time preceding, it shall be the amounts to be deducted as per the sum of gradual increase.

(3) In determining the completion percentage of the contract mentioned in Sub-section (2) of Section 26 of the Act at any specific time, it shall be determined as follows:-

- (a) In respect of a contract related with production, construction or installment or a contract on the fulfillment of the services related thereto, by

comparing the amount to be deducted as per the sum of gradual increase at that time with the amount to be deducted as per the sum of gradual increase at the time when the contract expires, or

- (b) In cases other than those mentioned in clause (a), as specified by the Department subject to that clause.

(4) The provisions of the long-term contract mentioned in Section 26 of the Act shall not apply to the person who is not required to submit a return of estimated tax in any income year pursuant to Section 95 of the Act.

(5) The provisions of the long-term contract mentioned in Section 26 of the Act shall apply to the following contract:-

- (a) A contract related with production, construction or installment or a contract on the fulfillment of the services related thereto, at the time of commencement of the Act, and
- (b) In cases other than those mentioned in clause (a), a contract as per such time and condition as specified by the Department.

13. **Provision relating to motor vehicle and building of personal**

use: (1) For a motor vehicle used or made available for use by any person for personal purposes, in full or in part, for any beneficiary including an employee or worker, amount shall be determined/assessed as follows for any income year pursuant to Sub-clause (1) of clause (b) of Sub-section (1) of Section 27 of the Act:-

- (a) In cases where it is provided to an employee or worker or any other person receiving remuneration on a monthly basis, the amount to be set by zero

point five percent (0.5%) of salary being drawn by him/her.

- (b) In cases other than those mentioned in Clause (a), the amount to be set by One percent of the prevailing market value of the motor vehicle per annum.

Explanation: For purposes of this Rule, "motor vehicle" means a motor, car, jeep and other motor vehicle of similar kind.

(2) For a building used or made available for use by any person for personal purposes, in full or in part, for any beneficiary including an employee or worker, amount shall be determined/assessed as follows for any income year pursuant to Sub-clause (2) of Clause (b) of Sub-section (1) of Section 27 of the Act:-

- (a) In cases where the person providing the building provides it to an employee or worker or any other person receiving remuneration on a monthly basis, the amount to be set by Two percent of the salary being drawn by him/her,
- (b) In cases where the person providing the building rents it and provides it to a person other than that mentioned in Clause (a), the amount to be set by Twenty-five percent of the amount paid for the rent,
- (c) In cases where the person providing the building provides a building for which rent is not to be paid to a person other than that mentioned in Clause (a), the amount to be set by Twenty-five percent of the prevailing house rent.

14. **Small denomination of money not to be counted**: In certifying any payment pursuant to Section 27 of the Act or making conversion into Nepalese rupees pursuant to Section 28 of the Act, denomination of paisa exceeding the rupee shall not be counted.

15. **Fixation of value in advance**: (1) In cases where any one or more than one person makes a request in writing to become clear as to the distribution, allocation or allotment to be made by the Department on the basis of arms length in respect of the amounts to be included or deducted in computing the income of any person pursuant to Sub-section (1) of Section 33 of the Act, the Department may issue a notice in writing as follows:

(a) In a manner that the period of the notice in writing does not exceeds Five income years at a time,

(b) In a manner that the notice in writing can be renewed notwithstanding anything contained in Clause (a).

(2) The notice in writing referred to in sub-rule (1) shall be binding to the Department and the party making such request.

Provided that, in cases where the Department agrees to the request made by the concerned applicant, the notice in writing shall be invalid.

16. **Circumstances where involuntary disposal with substitution is created**: (1) In cases where, by virtue of the unification or restructuring of any entity, the interest of any person in any entity is replaced by another interest of that entity or by the interest of any other entity, an involuntary disposal shall be deemed to have been created.

(2) In cases where an involuntary disposal is created pursuant to Sub-rule (1), the entity or person shall submit an application to the Department for an approval.

(3) The Department may provide approval on the application submitted pursuant to Sub-rule (2).

Chapter-4

Special Provisions on Natural Person and Entity

17. **Approved medical treatment expenses and threshold:** (1) For purposes of computing tax adjustment for medical treatment pursuant to Section 51 of the Act, the following medical treatment expenses shall be deemed as the approved medical treatment expenses:-

- (a) Insurance premium paid by any natural person for health insurance,
- (b) The amount as per the bill including the expenses for medicines incurred in doing treatment of any natural person by a recognized hospital, nursing home, health centre or a doctor.

(2) Notwithstanding anything contained in sub-rule (1), the following expenses shall not be deemed as approved medical treatment expenses:-

- (a) The expenses incurred in cosmetic surgery, and
- (b) The expenses mentioned in Clause (b) of Sub-rule (1) for which compensation has been obtained from insurance mentioned in Clause (a) of Sub-rule (1).

(3) The threshold of the amount for which tax can be adjusted pursuant to Sub-section (3) of Section 51 of the Act shall be Seven Hundred Fifty Rupees.

18. **Amount of dividend need not to be included in computing the income:** (1) For purposes of the proviso Clause of Sub-section (3) of Section 51 of the Act, in cases where any entity distributes dividends except profits to any beneficiary for the following acts, for any other

reason except in the course of carrying on the business of that entity, the dividends need not to be included in computing the income:-

- (a) The service provided by that entity to the beneficiary, or
- (b) The property under ownership of that entity, which has been provided for the use of the beneficiary.

(2) In the cases as referred to in sub-rule (1), no expenses including depreciation deduction shall be deducted in respect of such service or property.

19. ¹

Chapter-5

Special Provision on Retirement Saving

20. **Approval of retirement fund**: (1) In cases where an application is received pursuant to Section 63 of the Act for approval of the retirement fund, the Department may give approval subject to Sub-rule (2).

(2) In giving approval pursuant to Sub-rule (1), the Department may so give approval as requiring the retirement fund to abide by the following terms:-

- (a) To invest the moneys deposited in the retirement fund or to be obtained by the retirement fund only in the approved investment,
- (a1)² To have the paid up capital shall be at least Ten Million Rupees (one *carore*),
- (a2)³ To have the number of beneficiaries, workers and employees shall be at least One Thousand,

¹ Repealed by Second Amendment.

² Inserted by Second Amendment.

³ Inserted by Second Amendment.

- (b) In cases where the retirement fund has to accept retirement contribution from an employer on behalf of an employee or worker, the management of that fund has to be carried out distinctly from the employer,

Provided that, this Clause shall not be applicable in the case of the employee or worker of that fund.

- (c) To deposit the retirement contribution into the retirement fund within One month of the debiting where the retirement contribution amount was debited in the month of *Ashad*, and within Fifteen days of the debiting in the case of the other months,
- (d) Retirement payment can be made to the beneficiary of the retirement fund only in the following circumstances:-
 - (1) In cases where the employee or worker is retired from the service,
 - (2) In cases where the beneficiary attains the age of Fifty-eight years, or
 - (3) In cases where the beneficiary dies or becomes disabled permanently.
- (e) To have the retirement fund audited by an auditor recognized by the Department of the Auditor General.

Explanation: For purposes of this Rule, "approved investment" means the investment made as follows:-

- (a) The investment made in the citizen investment fund established pursuant to the prevailing laws,

- (b) The investment made in the debentures issued by Government of Nepal,
- (c) The investment made in the bank operated pursuant to the prevailing banking laws,
- (d) The investment made on co-financing with a bank, and
- (e) The investment made for beneficiaries except own shareholders.

(3) In cases the approved retirement fund who has obtained an approval from the Department does not abide the terms and conditions as referred to in Sub-rule (2), the Department may cancel the approval of such fund.

(4) Notwithstanding anything contained in Sub-rules (1), (2) and (3), the provident fund, retirement fund or citizen investment fund being operated under the prevailing laws at the time of commencement of the Act shall be deemed as the approved retirement fund until the ⁴last day of Ashad of the year 2060 (16 July 2003).

(5) The fund pursuant to Sub-rule (4) shall obtain an approval from the Department within the period as referred to in Sub-rule (4). In cases where such retirement fund does not obtain approval within that period, it shall be converted into an unapproved retirement fund after that period.

(6) Notwithstanding anything contained elsewhere in these Rules, the following provisions shall be applicable to the following amounts:-

- (a) The amounts included the principal and interest of an employee or worker deposited in the provident fund or citizen investment fund in the income years preceding the commencement of this Act and the

⁴ Amended by First Amendment.

amount for gratuity and accumulated leave accrued until that period shall be exempted from tax, and

- (b) The medical treatment expense in a sum not exceeding One Hundred Eighty Thousand Rupees payable to the employee or worker in service at the time of commencement of this Act, when he/she gets retirement from service as per the rules of the terms and conditions of his/her service, shall not be included in the income of the employee or worker.

21. **Threshold of retirement contribution:** In any income year, a natural person who is the beneficiary of an approved retirement fund may, in making retirement contribution to the retirement fund, subtract from his/her taxable income a sum of Three Hundred Thousand Rupees or One-thirds of his/her assessable income, whichever is lower.

Chapter-6

Tax Administration and Governmental Documents

22. **Procedures relating to advance ruling:** (1) A person who demands for an advance ruling pursuant to Section 76 of the Act shall submit an application to the department in the format specified by the Department.
- (2) Upon receiving an application pursuant to Sub-rule (1), the Department shall decide within Forty-five days.
- (3) In cases where an advance ruling is not received from the Department within the period as referred to in Sub-rule (2), the applicant may submit an application to the Department for administrative review pursuant to Section 115 of the Act or make an appeal to the Revenue Tribunal pursuant to Sub-section (4) of Section 116 of the Act.

(4) The Department may, prior to making decision pursuant to sub-rule (2), if it deems necessary, shall investigate from an officer and other expert.

23. **Permanent account number:** (1) Any person who is not obtained the permanent account number at the time of commencement of these Rules and intends to earn assessable income or any person whomsoever who withhold tax under Chapter-17 of the Act ⁵shall submit an application to the Department for the permanent account number prior to earning such income or withholding tax.

(2) Other person who is not required to obtain the permanent account number pursuant to Sub-rule (1) and who is not obtained the permanent account number may submit an application to the Department for the permanent account number.

(3) Upon receiving an application pursuant to Sub-rules (1) or (2), the Department shall provide the permanent account number to the applicant.

24. **Amendment to the details of the permanent account number:**

(1) In cases where the details mentioned in the permanent account number obtained by any person are altered, the person shall provide information thereof to the Department within Fifteen days from the date of such alteration.

(2) Upon receiving information pursuant to Sub-rule (1), the Department shall make necessary amendments to the permanent account number.

25. **Change in place of transactions of person:** In cases where the place of transactions of any person changes, the person shall provide information thereof to the Department.

⁵ Amended by Second Amendment.

26.⁶ **Tax clearance certificate**: (1) A person may submit an application to the Department for the certificate of payment of the entire tax payable pursuant to the Act by any certain date along with the documents as referred to in Sub-section (2) of Section 96.

(2) Upon receiving an application pursuant to Sub-rule (1), the Department shall inquiry the computing of tax whether correct or not, on the basis of mathematics and if the tax, fees, interest and withhold of tax and interest is remain, such tax is to be levied and the certificate of tax clearance shall be provided on the evidence of tax payment to such person.

27. **Tax exemption certificate**: (1) Any person entitled to enjoy tax exemption may submit an application to the Department for the tax exemption certificate.

(2) Upon receiving an application pursuant to Sub-rule (1), if it appears that the person is entitled to enjoy tax exemption, the Department shall provide the tax exemption certificate to such person.

28. **Officer's identity card**: The format of the Officer's identity card shall be as prescribed in Schedule-1.

Chapter-7

Payment of Tax

29. **Mode of and place for payment of tax**: (1) Any person shall pay tax payable by him/her pursuant to the Act, in the following place and in the following manner:-

- (a) A place where the Department has notified for the payment of tax to any person,

⁶ Amended by Second Amendment.

- (b) In the cases other than that mentioned in Clause (a), in the bank recognized to carry on governmental transactions, or the Department.

(2) In cases any person pays tax to the bank recognized to carry on governmental transactions pursuant to Sub-rule (1), such person shall provide information thereof to the Department.

(3) The tax may be paid as follows while paying the tax pursuant to Sub-rule (1):-

- (a) Paying in to the Department, by cash up to the limit prescribed by the Department and by cheque or draft where the amount is more than the limit, or
- (b) Paying in to the bank recognized to carry on governmental transactions, by cash, cheque or draft.

(4) In cases where tax is paid by a cheque pursuant to Sub-rule (3) and the cheque is not paid for any reason, the person handing over the cheque has to pay to the department such amount as specified by the department for all the expenses incurred by it until the date of payment. The amount of expenses to be so specified by the Department shall also include the amount of interest, fee and fine chargeable for tax until the date of payment.

30. **Order of payment**: In cases where any person is to pay due tax, interest and fee in various income years or of various sources but does not pay all amounts, the Department shall decide the matter which income year or which source that amount is considered to belong to or is related with.
31. **Method of withholding by employer**: Any employer shall, in withholding tax from employment pursuant to Sub-section (1) of Section 87 of the Act, carry out as follows:-

- (a) If an adjustment of tax for medical treatment is allowed pursuant to Section 51 of the Act, adjust such amount, and
 - (b) Withhold tax on a monthly basis on *pro rata* of the tax payable on the annual remuneration of the employee or worker.
32. **Installment amount to be subtracted only after submission of evidence:** In cases where the following evidences are submitted to the Department, tax may be paid by subtracting the amount which is substantiated from the evidences from the amount of installment computed pursuant to Sub-section (1) of Section 94 of the Act:-
- (a) In cases where tax has been withheld pursuant to Chapter-17 of the Act, the tax-withholding certificate issued pursuant to Sub-section (1) of Section 91 of the Act,
 - (b) In cases where tax adjustment has been claimed for medical treatment, bills, receipts of approved medical treatment expenses incurred for medical treatment.
33. **Return of estimated tax not required:** For purposes of Sub-section (6) of Section 95 of the Act, the Department may so specify that the following persons are not required to submit the return of estimated tax as referred to in Sub-section (1) of Section 95 of the Act:-
- (a) A person who is not required to submit the return pursuant to Section 96 of the Act,
 - (b) A person who has assessable income source in Nepal from employment only, and
 - (c) A person mentioned in Sub-section (4) of Section 4 of the Act.
34. **Return (Details) of estimated tax:** A person, who has to pay installment in any income year, shall submit to the Department the return of estimated tax, pursuant to Section 95 of the Act, in the format referred to in Schedule-2.

Chapter-8

Auction and refund

35. **Procedures for auction**: (1) The Department shall fix the place for auction the property taken under possession pursuant to Sub-section (3) of Section 105 of the Act, also having to any proper place for sale in view of the nature of the property.

(2) The property obtained by the Department under its possession shall be sold by auction as follows, subject Sub-section (4) of Section 105 of the Act:-

- (a) As far as possible, to publish a Fifteen days notice on auction sale in at least one local newspaper in circulation in the place as referred to in Sub-rule (1),

Provided that, this provision shall not apply to any perishable (*sadi gali jane*) goods.

- (b) To fix the market value of the property subject to auction, in presence of a representative of the local administration nearest to the place as referred to in Sub-rule (1) and a representative of any other governmental office located nearby.

(3) The *Dutch (badabad)* auction shall be conducted in presence of a representative of the local administration nearest to the place as referred in Sub-rule (1), and the property shall not be sold unless the person participating in the auction offers to buy it for its market value fixed pursuant to Clause (b) of Sub-rule (2).

(4) In cases a value less than the market value fixed pursuant to Clause (b) of Sub-rule (2) has been offered in auction pursuant to sub-

rule (3), the property shall be auctioned for the second time by publishing a Seven days notice pursuant to Clause (a) of Sub-rule (2).

(5) In cases a value less than the market value fixed pursuant to Clause (b) of Sub-rule (2) has been offered in auction pursuant to Sub-rule (4), the property shall be auctioned for the third time by publishing a Three days notice pursuant to Clause (a) of Sub-rule (2); and it may be sold by auction irrespective the quantum of value offered.

(6) The Department shall provide an entitlement slip to the person who pays the bid value offered by him/her on the auction of the property.

36. **Procedures for demanding refund of amount:** In making a demand for the refund of amount pursuant to Sub-section (3) of Section 113 of the Act, application shall be submitted to the department in such format as prescribed by the Department, and accompanied by the document supporting that the amount of which refund is demanded is over-plus and also by such other documents as prescribed by the Department.

Chapter-9

Miscellaneous

37. **Officer investing cases:** The officer designated by the Department shall investigate cases relating to offenses punishable pursuant to Chapter-23 of the Act.
38. **Threshold of remote allowances:** For purposes of Sub-section (5) of Section 1 of Schedule-1 of the Act, the amount for remote allowances to be added to the threshold of non-taxable amount of any person shall be as follows:-

- (a)⁷ Fifty Thousand Rupees in the areas of category "a".
- (b)⁸ Forty Thousand Rupees in the areas of category "b".
- (c)⁹ Thirty Thousand Rupees in the areas of category "c".
- (d)¹⁰ Twenty Thousand Rupees in the areas of category "d".
- (e)¹¹ Ten Thousand Rupees in the areas of category "e".

39. **Pension income:** The amount to be deducted pursuant to Sub-section (9) of Section 1 of Schedule-1 of the Act shall not be more than the pension income.

40. **Repeal and Saving:** (1) Income Tax Rules, 2039 (1982) is, hereby, repealed.

(2) All acts and actions done or taken under Income Tax Rules, 2039 (1982) shall be deemed to have been done or taken under Rules.

⁷ Amended by Third Amendment

⁸ Amended by Third Amendment

⁹ Amended by Third Amendment

¹⁰ Amended by Third Amendment

¹¹ Amended by Third Amendment

Schedule-1

Officer's Identity Card

(Relating to Rule 28)

Government of Nepal

Ministry of Finance

Inland Revenue Department

Officer's Identity Card

Name:-

Designation:-

Identity Card No.:-

Officer's Photo

Certified by:-

Designation:-

Schedule-2

Return/statement of Estimated Tax

(Relating to Rule 34)

Taxpayer's name:- Permanent account number:-

Type of transaction:- Income year:-

Statue of taxpayer:- Proprietorship; partnership; company- Pvt. Ltd/Ltd

Method of drawing out the estimated tax for current income year

(a)	Estimated profit or benefit to be derived from business or investment in the current income year:-		Rs.
(b)	The amount to be deducted:- Income:-	Rs.	Rs.
(c)	The amount enjoying tax exemption pursuant to Sections 11 and 64 of the Income Tax Act, 2058 (2000) (to subtract)	Rs.	
(d)	The income of other business or investment (to add) Assessable income	Rs.	Rs.
(e)	Donation (to subtract)	Rs.	
(f)	Retirement contribution (to deduct)	Rs.	
	Taxable income		Rs.

Amount of tax chargeable in the abovementioned taxable income:-	Rs.
Where there is income from foreign source, amount of estimated income tax paid and payable abroad	Rs.
Income to be sent abroad in the current income year by a non-resident person's permanent establishment situated in Nepal	Rs.
Amount of tax chargeable in the income to be sent abroad	Rs.

Return submitted by:- (signature)

Designation:-

Date: -