



LESOTHO

TAX POLICY OF THE GOVERNMENT OF LESOTHO

TAX POLICY COMMITTEE MEMBERS

NAME	ORGANISATION
Moepi Sematlane (Chairperson)	Finance & Development Planning
'Maselone Thite	Finance & Development Planning
Nthoateng Lebona	Finance & Development Planning
Nthabiseng Sello	Finance & Development Planning
Simon Davies	Finance & Development Planning
Bernadette Sehapi	Finance & Development Planning
Hesse McKechnie	Finance & Development Planning
'Mannana Sethobane	Lesotho Revenue Authority
Retšelisitsoe Motšoeneng	Lesotho Revenue Authority
Ithabeleng Theko	Lesotho Revenue Authority
Mosonngoa Monkhi	Lesotho Revenue Authority
Mpoi Doti	Lesotho Revenue Authority
Itumeleng Mochochoko	Lesotho Revenue Authority
Seth Macheli	Lesotho Revenue Authority
Setsoto Ranthocha	Lesotho Revenue Authority
Nteboheleng Pule	Lesotho Revenue Authority

1. INTRODUCTION

The Government Tax Policy is a statement on the principles governing tax instruments and how tax revenues are collected. This policy statement provides a set of rules, modus operandi and guidance to which all stakeholders in the tax system will subscribe. Moreover the document serves as a reference point for all stakeholders in the country by stipulating their roles and responsibilities.

1.1 Rationale for Taxation

Government of Lesotho, like all other governments around the world has some core functions to perform. These include macroeconomic management, regulation of markets, provision of public goods and services, distribution of income and wealth, and protection and promotion of the welfare of citizens. To be able to carry out these functions, Government raises money through imposition of various taxes on economic activities within its territory (territorial principle) and on income generated by its residents (residential principle).

1.2 Guiding Principles of a Good Tax System

The following section provides the fundamental features for all taxes, which the Lesotho Tax system will adhere to. In general any tax system that violates these guiding principles undermines the spirit of taxation. These principles are:

- Horizontal Equity People with similar incomes should pay similar tax
- Vertical Equity Tax Policy should distribute the tax burden among people that have different abilities to pay equivalently (generally to mean that those with higher incomes/wealth should pay more).
- Inclusiveness Those who should pay, do pay, and that all are treated consistently by the tax system.
- Symmetry If gains are taxed then losses should be deductible.
- Neutrality The tax system should encourage economic efficiency by not affecting economic decisions.

- **Administrational Ease** Tax compliance costs and resource costs of enforcement should be low so that the tax yield is not undermined.

There are, however cases where specific taxation decisions do depart from the above mentioned principles and these will be fully justified.

2. OBJECTIVES OF THE TAX SYSTEM

Lesotho Government's Tax Policy objective is to collect adequate revenue necessary for delivering government policies and priorities in an efficient and equitable manner. To achieve the main objectives, the following sub-objectives are realised:

2.1 To Enable Economic Growth and Development

The overriding objective of the Lesotho Tax System is to achieve economic growth and development. As such, the system should allow for stimulation of the economy and should not stifle economic growth. It is through sustained economic growth that the potential ability to offer improvements in the well-being of Basotho will arise. The tax rates should not in any manner distort incentives for individuals to work or to save, or where the investment decisions of firms are distorted, then economic growth and development could be undermined. Consequently the Lesotho Tax System shall seek to cause as little disruption as possible to potential business activity and the economic growth whilst at the same time meeting its revenue requirements.

2.2 To Provide the Government with a Sustainable Source of Revenue

Taxation is the only source of sustainable revenue for the Government. Adequate tax collections are necessary to enable the Government to carry out its core functions and to provide basic public goods and services e.g. education, healthcare, infrastructure, security etc. Moreover this revenue is needed if the Government is to pursue an effective development agenda. To this end and in harmony with general taxation principles, Government may raise additional forms of taxation or abandon taxation where this is optimal.

2.3 To Pursue Fairness and Distributive Equity

The Lesotho Tax System both in the present and future must be fair and concerned with pursuing both horizontal and vertical equity as explained in section 1.2 above. The Lesotho Tax System should seek to avoid discrimination against economically similar entities to the fullest extent possible in any new taxation policy it introduces and in the ways in which these policies are administered.

The Lesotho Tax System shall recognise the ability-to-pay principle which means that individuals should be taxed according to their ability to bear the tax burden. Those with the highest absolute income should pay the highest absolute tax whilst ensuring that individuals or companies are not overly burdened and that work or investment incentives are not eroded. The overall Tax System shall be fair, so that similar cases are treated in a similar manner while different cases are handled differently.

2.4 Simplicity, Certainty and Clarity

Every person carrying out business in Lesotho must begin to truly trust the tax system, and this can only be achieved if the tax policy endeavours to keep all taxes simple, creates certainty through considerable restrictions on the need for discretionary judgements, and produces clarity by educating the public on how the relevant tax laws impact on their lives. It is therefore imperative that the Lesotho Tax System be simple (easy to understand by all), certain (its administration must be consistent) and clear (stakeholders must understand the basis of its imposition). To create an environment conducive for trade and investment, the tax laws and regulations must be predictable and certain in their interpretation and applications.

3. STAKEHOLDERS IN THE LESOTHO TAX SYSTEM

Stakeholders include entities that contribute to and derive benefits from a country's tax system. This broad definition makes it difficult to imagine any individual, corporate entity or government agency as not being a stakeholder

in a country's tax administration. The relevant stakeholders in the tax system of Lesotho can be broadly categorised as follows:

1. Three Arms of State

- The Executive
 - The Lesotho Cabinet
 - Ministry of Finance and Development Planning

- The Legislature
 - The Senate
 - The National Assembly

- The Judiciary
 - Appeal Court
 - High Court
 - Revenue Appeals Tribunal

2. The Lesotho Revenue Authority (LRA)

3. All Tax Payers

- Lesotho Public (tax paying and non tax paying)
- Corporate Organisations
- Private and Public Sectors

3.1 The Roles of the Stakeholders in the Lesotho Tax System

All stakeholders in the Lesotho Tax System have critical roles to play in the development of Tax Policy. Stated hereunder are the respective roles that each of these stakeholders have to play.

3.1.1 The Role of the Executive arm of Government

The executive arm of government plays a crucial role in the development of a good tax culture in Lesotho. The executive is also responsible for encouraging voluntary tax compliance by making the most efficient use of the tax revenue.

The Ministry of Finance and Development Planning is the body charged with providing the oversight function over the activities of the Lesotho Revenue Authority (LRA), as well as being the sole organisation responsible for tax policy matters, including drafting any amendments to laws or legislations on taxation. In this regard all line Ministries must consult with the Ministry of Finance and Development Planning (in particular the Tax Policy Committee) regarding any legislation that has bearings on any aspect of tax

3.1.2 Role of the Legislature

Under the Constitution of Lesotho, Parliament is the supreme law-making organ of the state. Comprising the lower house, the National Assembly, and the upper house, the Senate, Parliament is positioned to interrogate and approve, as it independently sees fit, Government's policies brought to it as legislative proposals. In that role, Parliament plays a central role in the development and shaping of tax policy that gets legislated in the country.

3.1.3 Role of the Judiciary

In its constitutional role as adjudicator in tax disputes and controversies, the judiciary has a role in the development and shaping of tax policy reform in the country. This is done in two distinct ways: First, as an indirect tax policy reform agent through judgements that point out inconsistencies and impracticalities in the tax legislation. Such judgements may have significant revenue implications for Government, thereby prompting speedy legislative interventions. Secondly it acts as direct tax policy reform agents through interpretation of tax legislation. Interpretation involves development of tax principles, methodologies and solutions.

3.1.4 Role of the Lesotho Revenue Authority (LRA)

The administration and implementation of tax policy and various tax laws is under the care and management of the LRA. Apart from general administration of taxes (assessment and collection of taxes), including accounting for the taxes collected, the LRA is responsible for advising government on tax treaty negotiation issues. In addition, the LRA ensures that in carrying out its tax assessments and collection role, every claim, objection,

appeal, representation or the like made by any tax payer are sufficiently considered by it. This will ensure that tax payers have confidence in the administration of the tax system in the country. The LRA is also expected to provide guidance to the taxable public as well as general public.

3.1.5 Role of Taxpayers

The taxpayers have a very significant role to play in the administration of tax in Lesotho. Apart from making the correct tax returns and payments, as required under the law, tax payers are expected to provide the Government and the LRA with useful information and suggestions that could assist it in improving the tax administration.

4 TAX INCENTIVES IN LESOTHO

The Lesotho Tax System's central objective as enunciated in section two is to encourage economic growth and development. This implies that the tax system must also focus on growth facilitation in both domestic and foreign investment. Lesotho should therefore use the tax system as one of the many tools for achieving a competitive advantage for investment. This competitive advantage will emerge if the business climate in Lesotho is sufficiently efficient to allow companies to compete with those from other countries. In this regard, Lesotho tax incentives are meant to nurture specific sectors that are regarded as key or strategic.

However, tax incentives, by their nature, on several occasions, come in conflict with the principles of good taxation and should therefore be kept to the minimum possible as this over-complicates the tax system, making it more expensive to monitor the beneficiaries of such incentives and therefore increase the possibilities for tax evasion.

5 TAX TREATIES AND TRADE AGREEMENTS

Lesotho shall ensure that all the international tax obligations contracted by it are respected. Lesotho shall also continue to pursue and expand on international tax treaties both within the Southern African Development

Community (SADC) and with all other trading partners, especially to protect its revenue base and assisting in tax administration issues.

In addition, regional trade agreements have consequences for tax revenue collection. These consequences should be reviewed regularly and tax policy adjusted accordingly in line with the guiding principles of achieving economic growth and development.

6 IMPLEMENTATION OF THE TAX POLICY

The LRA, which was established by Act of Parliament in 2001 and became operational in 2003, is the principal authority responsible for the implementation of tax policy in Lesotho. The LRA is responsible for assessment, collection and remittance to the Government of public tax revenues.

Moreover any collecting authority has to ensure that it administers the tax laws in an impartial and even-handed manner, in order to prevent tax fraud and fiscal evasion. In so doing, they will create a revenue environment that supports fair competition between businesses and treats all individuals as equals.

7 CONCLUSION

This National Tax Policy has set out the fundamental objectives of the Lesotho Tax System and has prescribed the characteristics that must be embedded within all future tax laws. That the tax system must currently be focused on the main objective of enabling economic growth and development is a reflection of the need for improving the lives of Basotho. It has stated the roles of stakeholders in the tax system and the interactions between them, as well as highlighting various tax related issues in creating a fair business environment within the country. Overall, the document has provided a set of guiding principles for all taxation in Lesotho. It shall provide a stable point of reference for all stakeholders in the tax system to refer to, and a standard on which stakeholders shall be held accountable.