GHANA REVENUE AUTHORITY

Practice Note on the Application of Minimum Chargeable Income Under the Income Tax Act, 2015 (Act 896)

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STAND OF CONTENT

1.0 TAX LAW

The Commissioner-General of the Ghana Revenue Authority is empowered under sections 100 and 101 of the Revenue Administration Act, 2016 (Act 915) to issue Practice Notes setting out the interpretations placed on provisions of the Act. Accordingly, this Practice Note is issued in respect of the Minimum Chargeable Income **(MCI)** under Section 2A of the Income Tax Act, 2015 (Act 896) as amended by Income Tax (Amendment) Act, 2023 (Act 1094).

2.0 INTERPRETATION

In this Practice Note the word "Act" means the Income Tax Act, 2015 (Act 896).
Chargeable income of a person for a year of assessment is the total of the assessable income of that person for the year from each employment, business, investment less the total amount of deduction allowed that person under this Act.

For the purpose of this practice note the following definitions apply;

(i) Loss of a person for a year of assessment from a business or investment is calculated as the excess of amount deducted in calculating the income of that person from the investment or business over amounts included in calculating that income (section 17 of the Act). Loss referred to in this practice note means tax loss.

(ii) Unrelieved loss means the amount of a loss that has not been deducted in calculating the income of the person under this Act.

(iii) Minimum Chargeable Income (MCI) means five percentage of a person's turnover for a year of assessment where that person has been declaring losses for the previous five years of assessment.

(iv) The previous five years means any consecutive five years of assessment preceding the current year of assessment.

(v) Turnover means the total income or revenue from business or investment before any expenses and operating costs are deducted.

Definitions and expressions used in this Practice Note have the same meaning as they have in the Act.

3.0 PURPOSE

The purpose of this practice note is to clarify the provisions of the Act that deal with the determination of minimum chargeable income for the purpose of calculating income tax payable by a person for the year of assessment.

It is also intended to provide direction and guidance to officers of the Ghana Revenue Authority, tax practitioners, consultants, taxpayers and the general public on the procedure for ascertaining minimum chargeable income of a person to ensure consistency in the administration of the Act.

4.0 APPLICATION OF THE LAW

A person may incur loss where total income or revenue from the sale of goods or services are insufficient to cover its expenses such as, staff costs, materials, interest on borrowed money, capital allowance and other allowable expenses.

Loss arising from trade, profession or vocation constitutes business loss, whiles investment loss arises from loss other than from business and employment. Loss from holding or realising capital assets or a liability as calculated under the Act is an example of investment loss.

The Income Tax (Amendment) Act, 2023 (Act 1094) seeks to impose a tax on a person who has been in business or investment for over the previous five years and continue to declare losses from its operations. Such a person would be required to pay tax on a minimum chargeable income of 5% on the turnover from the sixth year until the person declares a tax profit.

4.1 Exclusion from the application of the Minimum Chargeable Income

The minimum chargeable income is not applicable to a person:

a. Within the first five years of commencement of operations; or
b. Engaged in farming.

4.2 Determination of the Minimum Chargeable Income

The chargeable income of a person shall be determined as the assessable income of that person referred to in section 3 of the Act less deductions allowed that person under the Act.

a. Where a person is obliged to file a tax return by self-assessment, the minimum chargeable income shall be calculated on the turnover filed by that person.

b. Where a person fails to file a tax return as required by law, the minimum chargeable income shall be determined based on the Commissioner General's (CG) best judgement and information reasonably available to the CG. (Refer to section 37(2) of the Revenue Administration Act, 2016 (Act 915).

c. Where a person's assessment (i.e., loss) is adjusted by the CG by reason of additional information, the minimum chargeable income shall be subsequently determined on the adjusted turnover.

4.3 Treatment of Tax Paid under Minimum Chargeable Income

Tax paid under the minimum chargeable income shall not be treated as a tax credit to be carried forward to a future period or set off against any income tax liability of another year of assessment.

4.4 Carrying forward losses

Where a person is allowed to carry forward losses by reason of section 17 of the Act, the minimum chargeable income shall nonetheless be applicable despite the right to carry forward the losses. That person shall be allowed to carry forward the unrelieved losses to subsequent periods pursuant to section 17 of the Act.

5.0 ILLUSTRATION ON THE DETERMINATION OF MINIMUM CHARGEABLE INCOME

5.1 Exclusions from Minimum Chargeable Income

Illustration 1

BKK Mining Company Limited started operations in 2023. The company declared consecutive losses in its first five-year operations as follows:

Year of Assessment	Loss GH¢
2023	100,000.00
2024	120,000.00
2025	80,000.00
2026	140,000.00
2027	200,000.00

Determine the minimum chargeable income due if any.

Solution

BKK Mining Company Limited will *NOT* be subjected to the minimum chargeable income from 2023 to 2027. This is because the company declared the losses within the first five years of its operation. Per Section 2A (2a) of the Income Tax Act, 2015 (Act 896), as amended by Income Tax (Amendment) Act, 2023 (Act 1094), the minimum chargeable income (MCI) provision shall not apply to businesses within the first five years of operations.

Illustration 2

A&B Farms Limited started operation on 1st January, 2018 and declared tax losses as follows:

Year of Assessment	**Tax Loss GH¢**
2018	200,000.00
2019	100,000.00
2020	300,000.00
2021	50,000.00
2022	150,000.00

In 2023 year of assessment the company declared a loss of GH¢800,000.00 and a turnover of GH¢ 2,500,000.00.

Required:

Determine the MCI and tax payable by A&B Farms Limited in 2023 year of assessment:

Solution

In the case of A&B Farms Limited, the computation of the MCI will not apply, because the taxpayer is engaged in farming which is excluded under Section 2A (2b) of the Act.

5.2 Where Minimum Chargeable Income is Applicable

Illustration 3

Mike.com Limited is into the retail of computers. The company started operation on 1st January, 2017 and declared tax losses as follows:

Year of Assessment	**Tax Loss GH¢**
2018	200,000.00
2019	100,000.00
2020	300,000.00
2021	50,000.00
2022	150,000.00
2023	100,000.00

In 2023 year of assessment the company's declared turnover was GH¢8,000,000.00

Required:

Determine the MCI and tax payable by Mike.com Limited in 2023 year of assessment:

Solution

In the case of Mike.com Ltd, computation of the MCI will apply, because the taxpayer has met the requirement for computing the MCI (i.e., has been declaring losses for the previous five years of assessment).

Computation of MCI

Year of Assessment	**Turnover**	**5% of Turnover (MCI)**	**Corporate Tax Payable**
	GH¢	**GH¢**	**GH¢**
2023	8,000,000.00	(5/100 x 8,000,000) = **400,000.00**	
Tax Thereon@ 25% (25/100 x 400,000)			**100,000.00**

Note: Mike.com Ltd is allowed to carry forward the losses to subsequent periods pursuant to section 17 of the Act.

<u>Illustration 4</u>

Mr. John Addo trading as JA Enterprise is into the retail of mobile phones and started operation on 1st January, 20X1. JA Enterprise declared tax losses as follows:

Year of Assessment	**Tax Loss GH¢**
20X1	100,000.00
20X2	70,000.00
20X3	50,000.00
20X4	30,000.00
20X5	15,000.00
20X6	7.000.00

In 20X6 year of assessment, JA Enterprise declared a turnover of GH¢1,000,000.00

Required:

Determine the MCI and tax payable by JA Enterprise in 20X6 year of assessment:

Solution

Since JA Enterprise has been declaring losses for the previous five years of assessment, the computation of the MCI will apply in the current year.

Computation of MCI

Year of Assessment	Turnover	5% of Turnover (MCI)	Corporate Tax Payable
	GH¢	GH¢	GH¢
2023	1,000,000.00	(5/100 x 1,000,000.00) = **50,000.00**	

Tax thereon @ the Graduated Rate

	INCOME	TAX RATE (%)	TAX (GH¢)
FIRST	4,824.00	NIL	NIL
NEXT	1,320.00	5	66.00
NEXT	1,560.00	10	156.00
NEXT	36,000.00	17.5	6,300.00
NEXT	6,296.00	25	1,574.00
Tax payable			**8,096.00**

Note: JA Enterprise is allowed to carry forward the losses to subsequent periods pursuant to section 17 of the Act. Thus, JA Enterprise is entitled to carry forward a total loss of GH¢172,000.00 (for the period 20X2 to 20X6) to the year 20X7. The loss of GH¢100,000.00 incurred in 20X1 can only be carried forward and utilized up to 20X6.

5.3 Segmented Business with different tax rates.

(a) Where a taxpayer operates more than one business with turnover from segmented business and different tax rates

Where a taxpayer operates more than one business with turnover from segmented business and different tax rates, the MCI will be on the turnover from the segmented business and the respective businesses will be subjected to their respective tax rates for purposes of ring fencing of the incomes.

<u>Illustration 5</u>

XYZ Company Ltd commenced business in 2017 year of assessment and has been declaring losses over the period. It is into the business of non-traditional exports as well as retailing of goods.

The company declared a turnover of GH¢1,500,000.00 and a tax loss of GHS200,000.00 during the 2023 year of assessment;

Assuming the percentage contribution of non-traditional export to the total revenue is 60%

Required:

Determine the MCI and tax payable by XYZ Limited in 2023 year of assessment

Solution

2023 Year of Assessment	Non-Traditional Exports	Retail	TOTAL
	GHS	GHS	
Turnover			1,500,000.00
Percentage Contribution to the total turnover	60	40	
Computation of MCI (5% x Turnover)			(5/100 x 1,500,000)= **75,000**
Apportionment of MCI	(60% x 75,000)	(40%x75,000)	
MCI	**45,000**	**30,000.00**	
Tax Rate	8%	25%	
Tax Payable	(8/100 x 45,000) = 3,600.00	(25/100 x 30,000) = 2,400.00	**6,000.00**

5.4 Where a person declares losses and profits during the period of operation.

Illustration 6

Asempaye Wholesale and Retail Company Limited commenced business in 2014. The company deals in wholesale and retail of general hardware. During the period (2014 - 2023), the business incurred tax losses and carried forward the losses in the subsequent years. Find below the turnover and profits declared by the business.

Y/A	Adjusted Profit (GH¢)	Turnover (GH¢)
2014	50,000.00	500,000.00
2015	100,000.00	800,000.00
2016	45,000.00	400,000.00
2017	35,000.00	350,000.00
2018	(25,000.00)	300,000.00
2019	(15,000.00)	220,000.00
2020	(50,000.00)	150,000.00
2021	(10,000.00)	360,000.00
2022	(80,000.00)	600,000.00
2023	50,000.00	530,000.00

Required

i. Determine the minimum chargeable income for the 2023 year of assessment as applicable and

ii. Corporate tax payable for the 2023 assessment year

Solution

Asempaye has been operating since 2014 and has been declaring profit. However, for the past 5 years (2018 - 2022), the company had been declaring losses. Though the company made a profit in 2023, due to the fact the company qualifies to carry forward losses from the previous years, the 2023 year of assessment will still result in a tax loss position and therefore the MCI will be applicable as shown below;

Computation of Chargeable Income

2023 Y/A		GH¢
Adjusted Profit		50,000.00
Less:		
2018 Unrelieved loss	(25,000.00)	
2019 Unrelieved loss	(15,000.00)	
2020 Unrelieved loss	(10,000.00)	
Loss Utilised		(50,000.00)
Unutilised loss Carry forward		
2020 Unrelieved loss	(40,000.00)	
2021 Unrelieved loss	(10,000.00)	
2022 Unrelieved loss	(80,000.00)	
Unrelieved loss outstanding		**130,000.00**

Note:

Though the company made a profit in 2023, however, by virtue of the unrelieved loss brought forward the company was still in a loss position and will not be paying any tax hence the MCI applies

Computation of MCI:

Year of Assessment	Turnover GH¢	Computation of MCI GH¢	MCI GH¢	Tax payable @25% GH¢
2023	530,000.00	(5/100 x 530,000)	26,500.00	**6,625.00**

5.5 Where a loss declared in a particular year affects five subsequent year's profit

<u>Illustration 7</u>

Best bakery Ltd commenced business in 20X0. The company recorded huge loss in 20X1 but made profit in the subsequent years (20X2-20X6). However, in view of carry-over of the losses, the company declared no chargeable income for the subsequent five-year period. Below are the details of the profit/loss declared by the taxpayer.

Y/A	**Profit before Adjustment**	**Turnover (GH¢)**
20X1	(350,000.00)	450,000.00
20X2	20,000.00	300,000.00
20X3	30,000.00	220,000.00
20X4	50,000.00	150,000.00
20X5	80,000.00	360,000.00
20X6	50,000.00	600,000.00

Required:

Determine if the MCI will apply to Best Bakery in 20X6 year of assessment and compute the tax payable if any.

Solution

Description	**20X1**	**20X2**	**20X3**	**20X4**	**20X5**	**20X6**
Adjusted Profit before carry forward of losses	(350,000.00)	20,000.00	30,000.00	50,000.00	80,000.00	50,000.00
Loss brought down	0	(350,000.00)	(330,000.00)	(300,000.00)	(250,000.00)	(170,000.00)
Loss carried forward	(350,000.00)	(330,000.00)	(300,000.00)	(250,000.00)	(170,000.00)	(120,000.00)
Chargeable income/(Tax loss)	(350,000.00)	(330,000.00)	(300,000.00)	(250,000.00)	(170,000.00)	(120,000.00)
MCI	N/A	N/A	N/A	N/A	N/A	(5/100 x 600,000) = **30,000**
Tax Payable @ 25						(25/100 x 30,000) = **7,500**

Note:

Though Best Bakery Ltd declared a profit from the second to the sixth year, by reason of the tax loss carried forward from 20X1 through to 20X6, the company would be declaring tax losses for five consecutive years and therefore the MCI would be applicable in the sixth year. Also, the unrelieved loss of GH¢120,000.00 will also be forfeited after the fifth year since the company can only carry forward losses for a maximum of 5 years pursuant to section 17 of the Act.

5.6 Where a tax profit position is declared in the sixth year

<u>Illustration 8</u>

A-Z Company Ltd commenced business in 20X0. The company recorded huge loss in 20X1 but made profit in the subsequent years (20X2-20X6). Below are the details of the profit/loss declared by the taxpayer.

Y/A	Profit before Adjustment	Turnover (GH¢)
20X1	(350,000.00)	450,000.00
20X2	20,000.00	300,000.00
20X3	30,000.00	220,000.00
20X4	50,000.00	150,000.00
20X5	80,000.00	360,000.00
20X6	210,000.00	600,000.00

Required:

Determine if the MCI will apply to A-Z Company Ltd in 20X6 and compute the tax payable if any.

Solution:

Description	20X1	20X2	20X3	20X4	20X5	20X6
Adjusted Profit before carry forward of losses	(350,000.00)	20,000.00	30,000.00	50,000.00	80,000.00	210,000.00
Loss brought forward	0	(350,000.00)	(330,000.00)	(300,000.00)	(250,000.00)	(170,000.00)
Loss carried forward/ (Tax Loss)	(350,000.00)	(330,000.00)	(300,000.00)	(250,000.00)	(170,000.00)	40,000.00
Chargeable income/(Tax Loss)	(350,000.00)	(330,000.00)	(300,000.00)	(250,000.00)	(170,000.00)	40,000.00
MCI	N/A	N/A	N/A	N/A	N/A	N/A
Tax Payable @ 25% on Chargeable Income						(25/100 x 40,000) **= 10,000.00**

Note:

Since A-Z Company Ltd. declared a tax profit position in its sixth year, it is expected that the chargeable income will be used in computing the tax payable and MCI will not be applicable.

5.7 Where there are declaration of tax profits and losses within the previous five years.

<u>Illustration 9</u>

Moonlight Company Ltd commenced business in 20X0. Below are the details of the profit/loss declared by the taxpayer during the period (20X1-20X6).

Y/A	Profit/loss before Adjustment	Turnover (GH¢)
20X1	(10,000.00)	450,000.00
20X2	20,000.00	300,000.00
20X3	30,000.00	220,000.00
20X4	(10,000.00)	150,000.00
20X5	80,000.00	360,000.00
20X6	190,000.00	600,000.00

Required:

Determine if the MCI will apply to Moonlight Company Ltd in 20X6 and compute the tax payable if any.

Solution:

Description	20X1	20X2	20X3	20X4	20X5	20X6
Adjusted Profit before carry forward of losses	(10,000.00)	20,000.00	30,000.00	(10,000.00)	80,000.00	190,000.00
Loss brought forward	0	(10,000.00)	0	0	(10,000.00)	0
Loss carried forward	(10,000.00)	0	0	(10,000.00)	0	0
Chargeable income(Tax Loss)	(10,000.00)	10,000.00	30,000.00	(10,000.00)	70,000.00	190,000.00
MCI	N/A	N/A	N/A	N/A	N/A	N/A
Tax payable @ 25% on CI						(25/100 x 190,000.00) = **47,500**

Note:

Moonlight Company Ltd. declared tax profits and tax losses within the previous five years which does not satisfy the requirement for the imposition of MCI (i.e., declaring losses for the previous five years of assessment) , hence MCI will not be applicable in determining the tax liability of Moonlight Company Ltd.

The chargeable income declared in the sixth year will be used in computing the tax payable/liability of Moonlight Company Ltd.

6.0 EFFECTIVE DATE OF IMPLEMENTATION

The effective date of implementation is 1st May, 2023.

Signed ....

Date:.....20/03/24.....

Rev. Dr. Ammishaddai Owusu-Amoah

Commissioner-General