

Amendment "C" to The Gambia Gazette No. _____ of _____, 2007
 and Sales Tax (Amendment) (No. 2) Act, 2007



THE GAMBIA

NO. 14 OF 2007

Assented to by The President,

this 17th day of December, 2007

YAHYA A. J. J. JAMMEH
 President

AN ACT to further amend the Income and Sales Tax Act, 2004 and for matters connected therewith.

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Income and Sales Tax (Amendment) (No. 2) Act, 2007.

Amendment of
 No. 19 of 2004

2. The Income and Sales Tax Act, 2004, as amended, is hereby further amended in the Second Schedule as set out in the Schedule to this Act.

Schedule

SCHEDULE (section 2)**AMENDMENT OF SECOND SCHEDULE TO THE
INCOME AND SALES TAX ACT, 2004****PART I - PRELIMINARY****Paragraph 1 (1)**

- (a) in the definition of **"Best Industry Practice"**, substitute-
- (i) for the opening sentence, the following
- ‘**"Best Industry Practice"** means the best practices prevailing in the modern international petroleum industry’;
- (ii) for sub-paragraph (f), the following new sub-paragraph-
- “(f) conducting petroleum operations in accordance with the Petroleum Act, the terms and conditions of any applicable licence or permit, regulations made under that Act, and any other applicable law;”;
- (b) in sub-paragraph (a) of the definition of **"Gross Income From Petroleum"**, insert immediately before the words “petroleum products”, the words “petroleum or”;
- (c) substitute for the definition of **"Income After Operating Costs"**, the following new definition-

“Income After Operating Costs” means for, any tax year, in regard to any licence or permit held by a person in The Gambia, beginning in the year of First Commercial Production under the licence or permit, the amount (positive or negative) remaining after Direct Operating Costs are deducted from Gross Income from Petroleum Operations;”

(d) in the definition of “Net Income from Petroleum Operations”, substitute for sub-paragraph (b), the following new sub-paragraph-

“(b) any amount deemed under paragraph 6 of this Schedule to be included in Net Income from Petroleum Operations;”

(e) in the definition of “Return on Capital Factor”, substitute for sub-paragraphs (b) and (c), the following new sub-paragraphs-

“(b) ΣA is the aggregate of the licensee’s Net Income from Petroleum Operations in respect of the licence from the effective date until the end of the last tax year;

(c) ΣB is the aggregate of the licensee’s income tax and additional profits tax paid pursuant to the licence from the effective date until the end of the last tax year; and”;

(f) in the definition of "Specified Rate", substitute for sub-paragraph (d), the following new sub-paragraph-

"(d) for additional profits tax, the greater of the rate specified in the licence or ten per cent;"

PART II – APPLICATION OF THIS ACT AND THIS SCHEDULE

Paragraph 2

Substitute for sub-paragraph (2), (3), (4), (6) and (7), the following new sub-paragraphs-

"(2) This Schedule applies exclusively to any amounts of income received or receivable by a person, and to costs paid or incurred by a person, arising out of or in connection with petroleum operations in any licence or permit held by the person in The Gambia, and the other provisions of this Act (including the various fiscal obligations provided for in it) shall not apply to such amounts.

(3) The other provisions of this Act apply only to amounts of income received or receivable by a person, and to costs paid or incurred by a person, not arising out of, or in connection with, petroleum operations in any licence or permit held by the person in The Gambia.

(4) Without limitation, any amounts received or receivable by a person either-

(a) for the disposition of an interest in a licence or permit; or

(b) in regard to a change of control as described in section 68 of this Act,

is not subject either to income tax under this Schedule or to income tax or any other fiscal obligations under this Act (including withholding taxes), which means that, no tax or other fiscal obligation of any kind is applicable to such amount, provided that in the case of a disposition of an interest in the licence or permit as described in sub-paragraph (4)(a), the transferee must become an entity comprising, licensee or permit holder, and any change of control shall have no impact on the person's tax position under this Schedule.

(6) There shall be a six year limitation on the carry forward of any tax losses on a first-in, first-out, basis, provided for under this Schedule, beginning in the year of First Commercial Production.

(7) Any fiscal obligation exclusion or fiscal stabilization provisions described in an applicable licence or permit, or in the Petroleum Act on the effective date of the licence or permit, shall be enforceable in accordance with those provisions, and applicable to all forms of fiscal obligations, including all forms of taxes and other fiscal obligations described in this Schedule or in this Act."

PART III – INCOME TAX LIABILITY

Substitute for the heading of Part III, the following new heading-

“INCOME TAX AND ADDITIONAL PROFITS TAX LIABILITY”

Paragraph 3

Substitute for paragraph 3, the following new paragraph-

“3. (1) A person described, or undertaking any activities described, in paragraph 2 of this Schedule, is liable, for each tax year, for income tax at the specified rate multiplied by the person's Net Income from Petroleum Operations, for each tax year in which the person's Net Income from Petroleum Operations is a positive amount.

(2) A person described, or undertaking any activities described in paragraph 2 of this Schedule, is liable, for each tax year, for additional profits tax at the additional profits tax specified rate multiplied by the person's Net Income from Petroleum Operations in the relevant tax year less income tax payable in the relevant tax year during which Return on Capital Factor exceeds 2:1.”

**PART IV – CALCULATION OF NET INCOME
FROM PETROLEUM OPERATIONS**

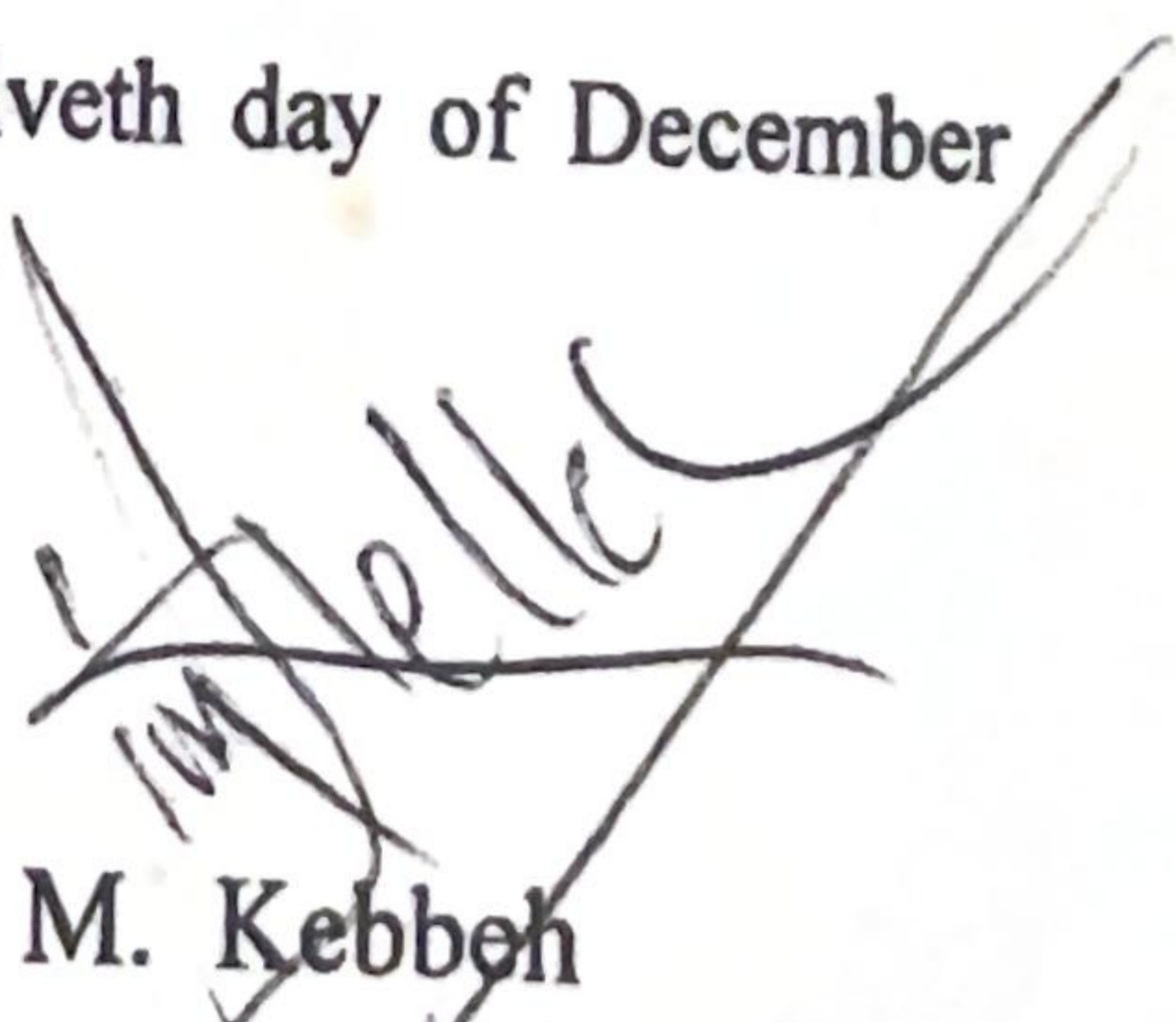
Paragraph 5

Substitute for the words “sub-paragraph (4), the words “paragraph 4 of this Schedule”

Paragraph 8

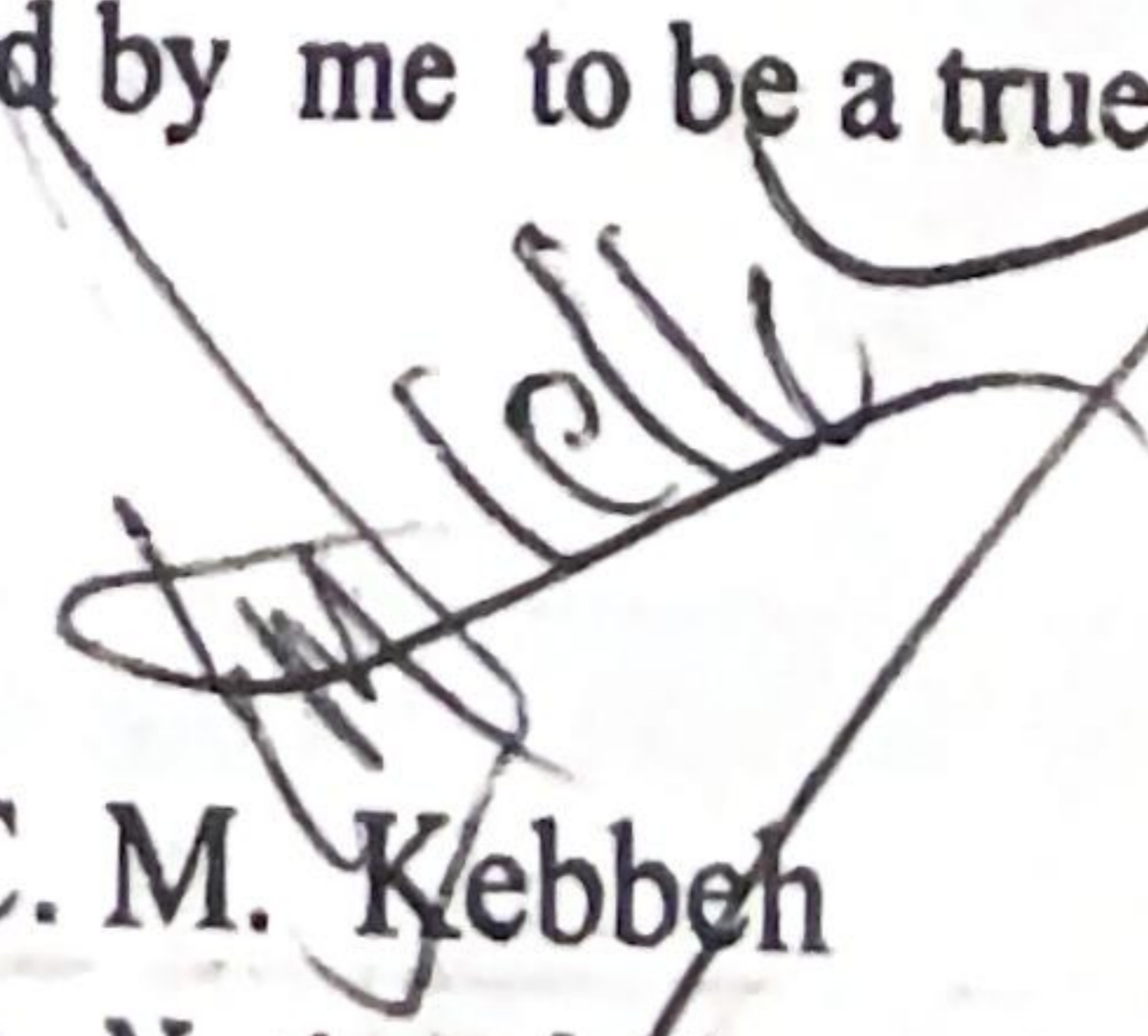
- (a) substitute for the word “matter”, the word “matters”
- (b) in sub-paragraph (c), substitute for the words “permit hold”, the words “permit holder”

PASSED in the National Assembly this Twelveth day of December in the year of Our Lord Two Thousand and Seven.



D. C. M. Kebbeh
Clerk of the National Assembly.

HIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed in the National Assembly, and found by me to be a true and correct copy of the said Bill.



D. C. M. Kebbeh
Clerk of the National Assembly.