



LOSING OUT

Sierra Leone's massive revenue losses from tax incentives

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Photo: Joseph Ayamga

Schoolchildren from Nyandehun Primary School in Kailahun District. In 2012, revenue lost as a result of tax incentives could have provided teaching the materials for 100,000 pupils and increased the textbook-pupil ratio. (Government of Sierra Leone, Government Budget and Statement of Economic and Financial Policies).

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Photos: Joseph Ayamga and Abu Bakarr Kamara
Many of Sierra Leone's roads are in need of urgent work. The revenue lost as a result of tax incentives could pay for the completion of the Pendembu to Kailahun road (pictured top) - a project that would cost Le 96 billion (Public Investment Programme 2013-15 of the Sierra Leone Ministry of Finance and Economic Development). The Sierra Leone government has spent significant funds on roads in recent years, as seen in the picture below, which shows the widening of Wilkinson Road to a dual-carriageway.

SUMMARY

This report is the first attempt in Sierra Leone to analyse the government's 'tax expenditure' – ie, the amount of revenues lost by the government's granting of tax incentives and exemptions. It shows that these revenue losses are extremely large. This means that the government is spending far less than it could on the country's urgent development priorities, such as health, education and agriculture.

Taxes raised from companies and individuals fund key public services needed to promote the welfare of the population and reduce poverty. But tax incentives granted by the government are a major reason for Sierra Leone's low tax revenues. The UN estimates that Least Developed Countries need to raise at least 20 per cent of their GDP through taxes to meet the Millennium Development Goals by 2015. Yet Sierra Leone is way off this target, currently raising only around 10.9 per cent of GDP in taxes. The major tax incentives provided by the government include exemptions on customs duties and payments of the Goods and Services Tax, along with reductions in the rate of income tax payable by corporations, which are being granted supposedly to attract foreign investment.

A transparent tax system supports good governance and the accountability of policy-makers towards the public. But the granting of special tax incentives in opaque deals, at the discretion of individual ministers, without public scrutiny, undermines good governance and can increase the risk of corruption. It is not suggested that any of the companies mentioned in this report have been involved in any illegitimate activity. Tax incentives are granted in many countries simply to promote political patronage, not socioeconomic goals. In Sierra Leone, parliament and the public lack information about the tax incentives granted and are usually not aware of the details until after they have been agreed, and sometimes not even then. It is currently impossible for elected parliamentarians, the media and civil society to scrutinise and debate these deals properly to ensure that the country optimally benefits.

REVENUE LOSSES

Current tax incentives are resulting in massive revenue losses for Sierra Leone. Using figures obtained from the National Revenue Authority, we estimate that the government lost revenues from customs duty and Goods and Services Tax exemptions alone worth Le (Sierra Leonean Leone) 966.6bn (US\$224m) in 2012, amounting to an enormous 8.3 per cent of GDP. In 2011, losses were even higher – 13.7 per cent of GDP. The annual average loss over the three years 2010-12 was Le 840.1bn (US\$199m).

There has been a massive rise in revenue losses since 2009 – the result of tax incentives granted to the mining sector in relation to the major investments that took place during 2010-2012. However, the government is set to lose further revenues by providing significant corporate income tax incentives to mining companies. We estimate that the government will lose revenues of US\$131m in the three years from 2014-16 alone from corporate income tax incentives granted to five mining companies – an average of US\$43.7m a year. Nearly all of these losses are the result of the agreements with African Minerals and London Mining.

If tax expenditure continues in its present trend, it is likely that Sierra Leone will lose more than US\$240m a year from tax incentives in the coming years.

DEVELOPMENT FOREGONE

Tax expenditures could instead be spent on improving education and health services, investing in agriculture – the backbone of the economy – and in providing social protection to vulnerable groups. It will be impossible for the government to implement its poverty reduction strategy,

Proponents of tax incentives often argue that they are needed to attract foreign investment but evidence from elsewhere in Africa suggests that in most cases they are not

the Agenda for Prosperity, without a large increase in revenue. Yet, in 2011, the government spent more on tax incentives than on its development priorities, and in 2012 spent nearly as much on tax incentives as on its development priorities. In 2012, tax expenditure amounted to an astonishing 59 per cent of the entire government budget. Put another way, government tax expenditure in 2012 amounted to more than eight times the health budget and seven times the education budget.

PROBLEMS WITH TAX INCENTIVES

Proponents of tax incentives often argue that they are needed to attract foreign investment but evidence from elsewhere in Africa suggests that in most cases they are not. A report by the African Department of the International Monetary Fund, focusing on tax incentives in East Africa, notes that 'investment incentives - particularly tax incentives - are not an important factor in attracting foreign investment'. The countries that have been most successful in attracting foreign investors have not offered large tax or other incentives; more important factors in attracting foreign investment are good quality infrastructure, low administrative costs of setting up and running businesses, political stability and predictable macro-economic policy.

Government officials in Sierra Leone, interviewed for this research, thought that the tax incentives for the extractive sector were excessive and resulted in a huge loss of revenue. They argued that government should provide an improved enabling environment for foreign investment, such as good infrastructure, rather than providing incentives.

GOVERNMENT POLICY

There are three major problems with government policy on tax incentives. First, too many tax

incentives are granted to individual companies at the discretion of a very small number of ministers and officials. Such a system can lead to an increased risk of corruption and the possibility that deals will be offered to companies that are outside or go beyond national legislation. In fact, Sierra Leone's constitution requires tax waivers to be approved by parliament.

Secondly, related to this, transparency is extremely poor. Many of the tax incentives are negotiated behind closed doors between government and companies, with no effective parliamentary or media scrutiny. The government does not publish any figures on total tax expenditure. Thirdly, the government has produced no solid economic rationale for offering widespread tax incentives in Sierra Leone. Assumptions are casually made about the effectiveness of tax incentives, but no convincing case has been presented.

In our interviews, officials from the National Revenue Authority expressed frustration at the current fiscal regimes, saying that there was insufficient consultation between the agencies granting the tax incentives (the Ministry of Mines and Mineral Resources, in the case of mining) and those responsible for generating revenue, such as the National Revenue Authority. A deeper underlying problem is that tax revenue collections in Sierra Leone have often been politicised. Tax incentives are often seen as tools for delivering political patronage - providing benefits to key segments of society to maintain political influence.

It is unclear if the government is committed to increasing or reducing tax incentives. For example, the Budget Speech for 2011, delivered in November 2010, outlined a 'comprehensive range

of tax incentives' for investors while at the same time announcing a new Revenue Management Bill that would aim to reduce them.

Implementing the draft Revenue Management Bill is crucial in that it would require the government to publish a statement of its tax expenditure, detailing all tax exemptions, the beneficiaries and the revenue foregone. The Bill was meant to be effective from 2011, but progress towards enacting it has been very slow. Moreover, the government's latest Letter of Intent to the International Monetary Fund, of September 2012, which outlines continuing tax reforms, says nothing about reducing tax expenditure. Similarly, the 2013 Budget Speech committed the government to 'review the import duty exemptions regime' but said nothing about generally reducing tax expenditure.

RECOMMENDATIONS

We recommend that the government should:

- enact the Revenue Management Bill into law as soon as possible and ensure that the Bill commits the government to produce an annual public statement on its tax expenditure, the beneficiaries and revenue losses
- ensure that the Revenue Management Bill includes an additional clause that mandates the Ministry of Finance and the National Revenue Authority to provide parliament with a cost-benefit analysis of all tax incentives granted
- review all existing tax incentives granted with the purpose of reducing them, and ensure that parliament is able to play an oversight role in this
- abolish discretionary tax incentives (ie, those given to individual companies or organisations). Any tax incentives granted must be in accordance with national legislation, and the same for all companies/organisations in that

sector. This means that all current mining agreements must be reviewed and revised where necessary, to bring them into line with legislation

- ensure that fiscal regimes in specific sectors, especially mining and agriculture, are subject to proper parliamentary debate and approval and subject to cost/benefit analyses
- ensure that audits are undertaken to guarantee company compliance with fiscal regimes and sectoral tax incentives
- work with other governments in the Economic Community Of West African States (ECOWAS) to ensure that there is no regional 'race to the bottom' in lowering tax rates and increasing tax incentives to corporations.

We recommend that parliament should:

- press for the above measures, and especially ensure that the Revenue Management Bill is discussed and passed before the start of the next financial year
- build the capacity of the Finance and Public Account Committee so that it can play its oversight role regarding tax expenditures effectively.

We recommend that civil society organisations should:

- press the government and parliament to promote the above measures, and emphasise the importance of accountability and transparency on tax expenditures in their work.



Photo: Joseph Ayamga

A child playing near Wordu Sandor Peripheral Health Unit. In 2012, the revenue lost as a result of tax incentives could have helped support the provision of free healthcare for mothers and children - an initiative with an estimated cost of close to Le48 billion. (Government of Sierra Leone, Government Budget and Statement of Economic and Financial Policies).

INTRODUCTION

Sierra Leone has come a long way since the end of its civil war in early 2002. It has re-established security and democratic governance, implemented a decentralisation programme and launched its third poverty reduction strategy (the Agenda for Prosperity). The country has recorded impressive real GDP growth rates during 2007-11: an average of 5.3 per cent. The economy's growth rate of 15.2 per cent in 2012 was faster than that of any other country in sub-Saharan Africa for that year.¹

Yet despite this growth, insufficient resources are flowing to Sierra Leone's people, around 53 per cent of whom live below the national poverty line (which rises to 66 per cent in rural areas).² In particular, the country is struggling to raise enough revenues to fund its development needs. For this task, tax revenues are fundamental. Taxes collected from companies and individuals fund the key public services, such as education and health, needed to promote the welfare of the population and to reduce poverty. Taxation can also be used to redistribute wealth - by taxing the rich more than the poor - which is important in a country like Sierra Leone where inequality is high.

The tax incentives being granted by the government are one of the major reasons for Sierra Leone's low tax revenues. Not all tax incentives are bad, and indeed some can help the poor and/or organisations promoting development. But too many tax incentives are, in our view, currently being granted to companies. The major incentives include waivers on customs duties and payments of the Goods and Services Tax, along with reductions in the rate of income tax payable by

corporations, which are being granted supposedly to attract foreign investment. Yet a critical issue is to balance the need to attract such investment with the need to raise sufficient revenues to reduce poverty. This report shows that Sierra Leone is currently not getting this balance right, and that the government is being far too generous to foreign investors at the expense of developing the nation. Mining companies, in particular, have been granted excessively large tax incentives.

A transparent tax system supports good governance and the accountability of policy-makers towards the public. But the granting of special tax incentives in opaque deals, at the discretion of individual ministers, without public scrutiny, undermines good governance and can increase the risk of corruption. It is not suggested that any of the companies mentioned in this report have been involved in any illegitimate activity. Tax incentives are granted in many countries simply to promote political patronage, not socioeconomic goals. In Sierra Leone, parliament and the public lack information about the tax incentives granted and are usually not aware of the details until after they have been agreed, and sometimes not even then. It is currently impossible for elected parliamentarians, the media and civil society to scrutinise and debate these deals properly to ensure that the country optimally benefits.

The term 'tax expenditure' refers to the fact that the provision of tax incentives functions the same way as government expenditure or subsidy. However, unlike expenditure programmes, the cost of tax

incentives is rarely estimated and is therefore little known. This undermines transparency in government budget-making and makes it harder to hold governments to account for their spending.

Box 1: Methodology

The research drew on a review of literature from government, academia and other sources, and involved interviews with government officials, academics and representatives of civil society.

The study focuses on the three main taxes paid by foreign investors – customs and excise duties, the Goods and Services Tax (GST) and corporate income tax.

This study's analysis of GST exemptions is based on figures collected from the Domestic Tax Department of the National Revenue Authority and covers six companies for a three-year period: these are the mining companies London Mining, African Minerals, Sierra Rutile, and Koidu Holdings; the agribusiness Addax Bioenergy, and the Sierra Leone Cement Corporation (LEOCCEM). The figures for revenue losses are based on analysis produced by the National Revenue Authority.

On customs (ie, import) duty exemptions, the Customs and Excise Department provided information on imports (using the Automated System for Customs Data or ASYCUDA) for the same six companies. The estimate of revenue losses from customs duty waivers relies on analysis done by the National Revenue Authority.

Data on corporate income tax incentives was also drawn from the National Revenue Authority. The estimated revenue losses were drawn from figures from the Ministry of Finance and Economic Development for 2014-2016, covering five major investors (African Minerals, London Mining, Koidu Holdings, Vimetco and Sierra Rutile).

The report's authors have made every effort to verify the figures used in this analysis. This included a meeting with the Minister of Finance, his deputy and the Commissioner of the National Revenue Authority in Freetown in October 2013, at which the officials appeared to accept the veracity of the data presented.

Throughout the report, figures are presented in Leones (Le) and United States Dollars (US\$). Conversion rates used were: US\$1: Le 2,959 in 2007; US\$1: Le 2,938 in 2008; US\$1: Le 3,179 in 2009; US\$1: Le 3,859 in 2010; US\$1: Le 4,275 in 2011; US\$1: Le 4,310 in 2012; US\$1: 4,329 in 2013 and for subsequent years.³

Limitations of the study

This research hopes to open up further debate on the use of tax expenditure as a policy tool by the government and how it affects revenue mobilisation. There is no published work on tax expenditure in Sierra Leone. The study is not a full analysis of all tax expenditure in Sierra Leone but focuses on a select number of key foreign investors and taxes. Thus the estimates of revenue losses presented in this study – although extremely large – are also conservative, in that they provide only a partial picture of all revenue losses from tax incentives and exemptions.

1. TAX AND REVENUE COLLECTION IN SIERRA LEONE

Sierra Leone imposes both central government taxes - such as income tax, a Goods and Services Tax and customs duties - and local taxes - which include market dues and business licences. Various acts govern the central tax system in Sierra Leone.⁴ The standard rate of corporate income tax, payable on profit, is currently 25 per cent for resident companies and 30 per cent for non-resident companies, while personal income tax is 0-30 per cent, depending on income.⁵ The Goods and Services Tax - a levy on the domestic consumption of certain imported and locally produced goods - is 15 per cent.⁶

1.1 Main tax revenues

Most revenues are collected by the National Revenue Authority, set up in 2002, soon after the end of the war. Table 1 below outlines government tax revenues broken down by type of tax.

It shows that:

- income taxes (both personal and corporate) are the largest contributors to revenues. (Government figures do not disaggregate personal income taxes paid by individuals and corporate income taxes paid by companies - yet revenues raised from taxes paid by individuals are believed to be far larger, partly due to extensive tax incentives given to corporations)
- the second largest contributor to government revenues is the Goods and Services Tax, which was introduced in 2010 to replace an array of other sales taxes.

Table 1 below shows that mining royalties became a significant contributor to taxes only in 2011. Up to then, revenues from mining were miniscule, amounting to less than three per cent of all tax revenues.

Table 1: government tax revenues, 2008-12 - Le billions (US\$m)

Total government tax revenues	2009	2010	2011	2012 (projected)
Total government tax revenues	Le 660 (US\$207.6)	Le 916 (US\$237.9)	Le 1,383 (US\$323.5)	Le 1,746 (US\$405.1)
Of which:				
Income tax (personal and corporate)	Le 183 (US\$57.6)	Le 292 (US\$75.8)	Le 467 (US\$109.2)	Le 760 (US\$176.3)
Goods and Services Tax		Le 246 (US\$63.9)	Le 351 (US\$82.1)	Le 410 (US\$95.1)
Sales tax	Le 141 (US\$44.3)			
Excise	Le 107 (US\$33.7)	Le 133 (US\$34.5)	Le 55 (US\$12.9)	Le 3 (US\$0.7)
Import (customs) duties	Le 170 (US\$53.5)	Le 190 (US\$49.3)	Le 282 (US\$66.0)	Le 271 (US\$62.9)
Mining royalties and licences	Le 20 (US\$6.3)	Le 24 (US\$6.2)	Le 202 (US\$47.2)	Le 278 (US\$64.5)
Others	Le 39 (US\$12.3)	Le 31 (US\$8.0)	Le 24 (US\$5.6)	Le 24 (US\$5.6)

Source: IMF, *Fourth Review under the Three-Year Arrangement Under the Extended Credit Facility and Financing Assurances Review*, October 2012, p22, imf.org

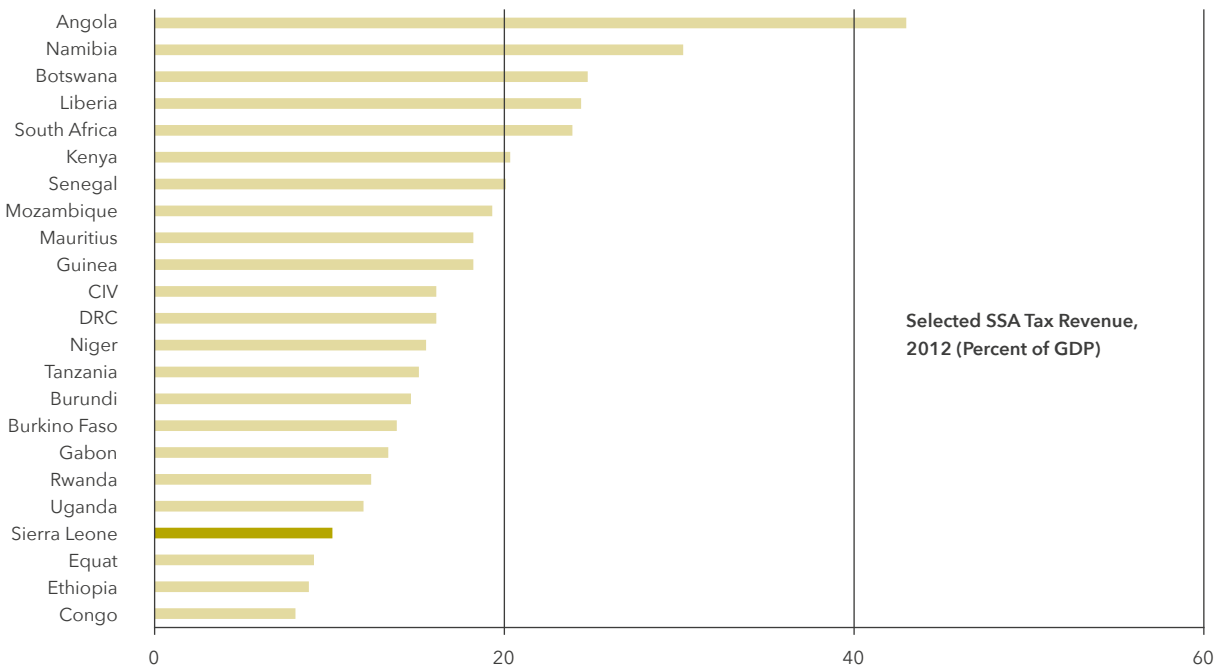
2. TAX AND REVENUE COLLECTION IN SIERRA LEONE

1.2 Low revenue collection

The UN has estimated that the world's Least Developed Countries need to raise at least 20 per cent of their GDP through taxes to meet the Millennium Development Goals (MDGs) by 2015.⁷ The 20 per cent figure is also one of the 'convergence criteria' agreed to by West African heads of state in their commitment to establish a single currency union. Yet Sierra Leone is way off this target, currently raising only around 10.9 per

cent of GDP in taxes, a figure that is also well below the average for the sub region.⁸ (See Box 2) The figure is well above the tax revenue collection of just six per cent at the time of the peace settlement in 1999, showing that government efforts to increase collections have certainly improved over the past decade.⁹ However, revenue collections in the past few years have increased only marginally, from 9.8 per cent in 2009.¹⁰

Box 2: Sierra Leone's tax revenues, compared to other African countries



Source: IMF, *Fourth Review under the Three-Year Arrangement Under the Extended Credit Facility and Financing Assurances Review*, October 2012, p18, imf.org

The provision of tax incentives by the government is not the only reason for low revenue collections. One key reason is that many Sierra Leoneans pay no taxes at all, since they work in the informal sector. Another relates to the tax authority's lack of efficiency in collecting all the tax payments that companies and individuals should be paying. Interviews conducted for a 2010 study by the Tax Justice Network-Africa found that National Revenue Authority officials were confident that many firms under-declare their profits and salaries, but they lacked the capacity to prove this was the case.¹¹

2. REVENUE LOSSES FROM TAX INCENTIVES

The Government of Sierra Leone is granting a widespread range of tax incentives and exemptions, mainly to corporations, in order to attract foreign investment. These incentives are offered to all investors in certain sectors, notably mining and agribusiness, but are also often granted as part of special deals with individual companies. For example:

- regarding the mining sector, the government has abolished customs duties on capital equipment and has offered major reductions in corporate income tax to two recent British investors, London Mining and African Minerals. London Mining has, for example, been granted a six per cent corporate income rate for the first three years of operations, compared to the statutory 30 per cent. It has also been granted a complete exemption on payment of the Goods and Services Tax for goods in Sierra Leone and for imported capital goods, vehicles and equipment
- in the agribusiness sector, the government now gives all investors a 10-year holiday on corporate income tax payments and reductions on customs duties.¹² Tax incentives given to Swiss company Addax Bioenergy, however, go even further: the company has been granted a 13-year corporate income tax exemption, among other incentives.¹³

Foreign investment has increased in Sierra Leone in recent years, and amounted to US\$446m in 2010 and US\$1.2bn in 2011, the bulk of which came from mining companies.¹⁴ Projections by the International Monetary Fund are that levels of foreign investment will fall to US\$407m in 2012 and to US\$270m in 2013.¹⁵ Yet this foreign investment is not the same as a revenue stream to government: foreign investment can benefit company operations but not necessarily local communities or wider society. Hosting foreign investors is also not free as government makes investments in infrastructure, and local communities often see their livelihoods negatively affected by pollution, resettlement and large-scale acquisition of land. Society can benefit from the jobs that investors bring, but mining and

agribusiness companies often provide few jobs. As such, benefits to Sierra Leone will largely come from the taxes paid by the companies making these investments. This is especially the case with the mining sector, as wealth from natural resources belongs to society and will eventually run out.

Yet as shown in this report, current tax incentives are resulting in massive revenue losses for Sierra Leone, especially from the mining sector. We turn first to how much revenue is lost from customs duty and Goods and Services Tax exemptions, before turning to corporate income tax.

2.1 Customs duty and Goods and Services Tax exemptions

Table 2 overleaf, which uses figures obtained from the National Revenue Authority, shows government tax expenditure (ie, revenue losses) on customs duty and Goods and Services Tax (GST) exemptions in the six years from 2007-12. The table provides only a partial picture since the figures on GST exemptions cover losses from six foreign investors only (London Mining, African Minerals, Sierra Rutile, Koidu Holdings, Addax Bioenergy and the Sierra Leone Cement Corporation (LEOCEM)). The table shows that:

- the government lost revenues from customs duty and GST exemptions worth Le 966.6bn (US\$224m) in 2012, amounting to an enormous 8.3 per cent of GDP
- in 2011, losses were even higher - 13.7 per cent of GDP
- the annual average over the three years 2010-12 was Le 840.1bn (US\$199m).

2. REVENUE LOSSES FROM TAX INCENTIVES

Table 2: Estimated tax expenditure on customs duty and GST - Le billion (US\$m)

	2007	2008	2009	2010	2011	2012
Customs duty exemptions	Le 5.8 (US\$ 1.96)	Le 6.09 (US\$2.08)	Le 6.09 (US\$1.92)	Le 88.4 (US\$22.9)	Le 349.5 (US\$81.8)	Le 318.5 (US\$73.9)
GST exemptions for mining companies				Le 282.1 (US\$73.3)	Le 836.1 (US\$195.6)	Le 648.1 (US\$150.4)
Total tax expenditure	Le 5.8 (US\$1.96)	Le 6.09 (US\$2.08)	Le 6.09 (US\$1.92)	Le 370.5 (US\$96.01)	Le 1,185.6 (US\$277.3)	Le 966.6 (US\$224.3)
Tax expenditure as per cent of GDP	0.1	0.1	0.09	5.1	13.7	8.3

Source: National Revenue Authority/Ministry of Finance and Economic Development

The massive rise in revenue losses after 2009 is the result of tax incentives granted to the mining sector in relation to the major investments that took place from 2010-2012, notably concerning the huge imports of capital equipment and petroleum products. The scale of revenue losses is alarmingly high.

- Losses from tax incentives in 2012 – of Le 966.6bn – amount to more than half (55 per cent) of the revenue actually collected in the same year (Le 1.75tn).

- The losses arising from the GST waivers granted to the six mining companies alone (Le 648bn) far exceed all the actual GST revenues collected by the government (Le 410bn).

It should be noted that not all the customs duty exemptions are for foreign companies. As Box 3 below makes clear, mining companies are the largest beneficiaries, but other beneficiaries include embassies and NGOs. Note that Table 3 below provides slightly different figures for some years.

Box 3: Revenue losses from customs duty exemptions

Table 3 lists customs duty exemptions, which have been granted to five categories of recipient. The largest beneficiaries are mining companies.

Table 3: revenue losses from customs duty exemptions - Le bn (US\$m)

	2007	2008	2009	2010	2011	2012
Embassies	Le 4.4 (US\$1.5)	Le 4.3 (US\$1.5)	Le 6.5 (US\$2.0)	Le 13.9 (US\$3.6)	Le 13.2 (US\$3.1)	Le 10.3 (US\$2.4)
Public International Organisations	Le 6.7 (US\$2.3)	Le 17.1 (US\$5.8)	Le 16.5 (US\$5.2)	Le 53.5 (US\$13.9)	Le 53.0 (US\$12.4)	Le 41.7 (US\$9.7)
NGOs	Le 7.4 (US\$2.5)	Le 9.6 (US\$3.3)	Le 6.6 (US\$2.1)	Le 15.3 (US\$4.0)	Le 22.8 (US\$5.3)	Le 24.7 (US\$5.7)
Mining/exploration companies	Le 6.6 (US\$2.2)	Le 7.9 (US\$2.7)	Le 6.2 (US\$1.9)	Le 80.8 (US\$21.0)	Le 342.0 (US\$80.0)	Le 288.4 (US\$66.9)
Others	Le 14.9 (US\$5.0)	Le 19.5 (US\$6.6)	Le 24.3 (US\$7.6)	Le 105.0 (US\$27.3)	Le 155.0 (US\$36.3)	Le 223.8 (US\$51.9)
Total	Le 40.0 (US\$13.5)	Le 58.4 (US\$19.9)	Le 60.0 (US\$18.9)	Le 268.6 (US\$69.8)	Le 586.0 (US\$137.1)	Le 589.1 (US\$136.7)

Source: Revenue and Tax Policy Division, MoFED

2.2 Losses from corporate income tax incentives

The government is set to lose further revenues by providing significant corporate income tax incentives to mining companies. As noted above, some companies, notably London Mining and African Minerals Ltd, have been given reduced corporate income tax rates from the statutory 30 per cent. Mining companies are also allowed to deduct much of their expenditure (such as

exploration depreciation, capital depreciation, management fees and decommissioning fees) against tax and carry forward losses for at least 10 years from the start of their operations. This also reduces their taxable profits.

Table 4 shows the rates of corporate income tax currently payable by five major mining companies: African Minerals, London Mining, Koidu Holdings, Sierra Rutile and Vimetco.

Table 4: corporate income tax for five main mining companies

	African Minerals	London Mining	Koidu Holdings	Sierra Rutile	Vimetco
Corporate income tax payable (statutory rate is 30%)	25%	6% up to 2013, 25% up to 2020, then 30%	30%	0% up to 2013, then 30%	30%

Source: MoFED/IMF Mining Revenue Model

The government is set to lose further revenues by providing significant corporate income tax incentives to mining companies

2. REVENUE LOSSES FROM TAX INCENTIVES

Table 5 below shows how much these companies will pay in corporate income tax according to the incentives they have been granted. Table 6 below shows how much they would pay if they were required to pay the statutory 30 per cent corporate income tax rate currently prevailing in Sierra Leone. The figures come from government sources using the Mining Revenue Model.¹⁶

The tables show that mining companies are set to pay US\$244m in corporate income taxes to the government during 2014-16. However, if they were required to pay the 30 per cent rate, they would pay US\$375m. **This is a revenue loss of US\$131m over those years - an average of US\$43.7m a year.** Nearly all of these losses are the result of the agreements with African Minerals and London Mining.

Table 5: current income tax payments (US\$m)

	2014	2015	2016	TOTAL
African Minerals	20	76	60	156
London Mining			14	14
Koidu Holdings			3	3
Vimetco	3	5	5	13
Sierra Rutile	6	25	27	58
TOTAL	29	106	109	244

Source: MoFED/IMF Mining Revenue Model

Table 6: corporate income tax payments at 30 per cent (US\$m)

	2014	2015	2016	TOTAL
African Minerals	28	106	84	218
London Mining		1	82	83
Koidu Holdings			3	3
Vimetco	3	5	5	13
Sierra Rutile	6	25	27	58
TOTAL	37	137	201	375

Source: MoFED/IMF Mining Revenue Model

If tax expenditure continues on its present trend, it is likely that Sierra Leone will lose more than US\$240m a year from tax incentives. This is based on an average of US\$199m a year of losses from customs duty and GST waivers during 2010-12 and an additional projected revenue loss from corporate income tax averaging US\$43.7m a year during 2014-16. These figures are conservative since they do not cover all companies and all tax incentives. The losses to the country are likely to be even greater, amounting to around 10 per cent of GDP.

3. REVENUE LOSSES AND DEVELOPMENT PRIORITIES

The challenge facing a developing country like Sierra Leone is to develop tax policies that increase revenues to the government and promote growth that helps to improve the lives of the poor, while also being sustainable over time. Since the majority of Sierra Leoneans live below the national poverty line, there is an urgent need to improve access to public services in Sierra Leone.

The World Bank's recent Poverty Profile highlights the lack of adequate basic services for people living in rural areas:

- 57 per cent of children live more than an hour's distance from their secondary school
- more than half live more than an hour away from their nearest food market
- 27 per cent have no access to sanitation
- 35 per cent live more than an hour's distance to a health clinic
- less than one per cent of households list electricity as their main source of lighting.¹⁷

Increased government revenues could be spent on improving education and health services, investing in agriculture – the backbone of the economy – and in providing social protection to vulnerable groups, for example. Implementing the Agenda for Prosperity will be impossible without significant resources.

3.1 The costs to development

Table 7 below outlines the government's budget allocation to priority programmes in the Agenda for Prosperity. It shows that, in 2012, the total allocation to all these priorities amounted to Le 1.10tn (US\$234m). However, in 2012, the government lost Le 966bn (US\$224m) in tax expenditure on customs duty and Goods and Services Tax, as noted above in table 2. Thus:

- **In 2011 the government spent more on tax incentives than on its development priorities, and in 2012 spent nearly as much on tax incentives as on its development priorities.**
- **In 2012, tax expenditure amounted to an astonishing 59 per cent of the entire government budget.**
- **Put another way, government tax expenditure in 2012 amounted to more than eight times the health budget and seven times the education budget.**

Increased government revenues could be spent on improving education and health services and investing in agriculture – the backbone of the economy

According to the International Monetary Fund (IMF), in the three years from 2009-11, the average deficit amounted to Le 493bn (US\$131m) a year, a figure which includes aid from donors

Table 7: sectoral allocation to priority programmes - Le bn (US\$m)

	2010	2011	2012
Agriculture	Le 118 (US\$30.6)	Le 130 (US\$30.4)	Le 130 (US\$30.2)
Roads	Le 278 (US\$72.2)	Le 284 (US\$66.4)	Le 395 (US\$91.6)
Health	Le 97 (US\$25.2)	Le 119 (US\$27.8)	Le 111 (US\$25.7)
Education	Le 127 (US\$33.0)	Le 142 (US\$33.2)	Le 139 (US\$32.2)
Energy/water	Le 82 (US\$21.3)	Le 229 (US\$53.6)	Le 206 (US\$47.8)
Transport/aviation			Le 30 (US\$7.0)
Total sectoral allocation	Le 703 (US\$182.6)	Le 904 (US\$211.5)	Le 1,011 (US\$234.6)
Total budget	Le 1,180 (US\$306.5)	Le 1,457 (US\$340.8)	Le 1,639 (US\$380.3)
Estimated Tax Expenditure (customs duty and GST exemptions only)	Le 370.5 (US\$96.01)	Le 1,185.6 (US\$277.3)	Le 966.6 (US\$224.3)

Source: Government of Sierra Leone, Budget Profiles for FY 2008-12, FY 2009-13 and FY 2011-15, Annex I, mofed.gov.sl

3.2 The budget deficit

Every year, Sierra Leone records a national budget deficit, whereby expenditures are greater than revenues. According to the International Monetary Fund (IMF), in the three years from 2009-11, the average deficit amounted to Le 493bn (US\$131m) a year, a figure which includes aid from donors.¹⁸

This means that Sierra Leone currently borrows a very large amount of money to finance its spending.

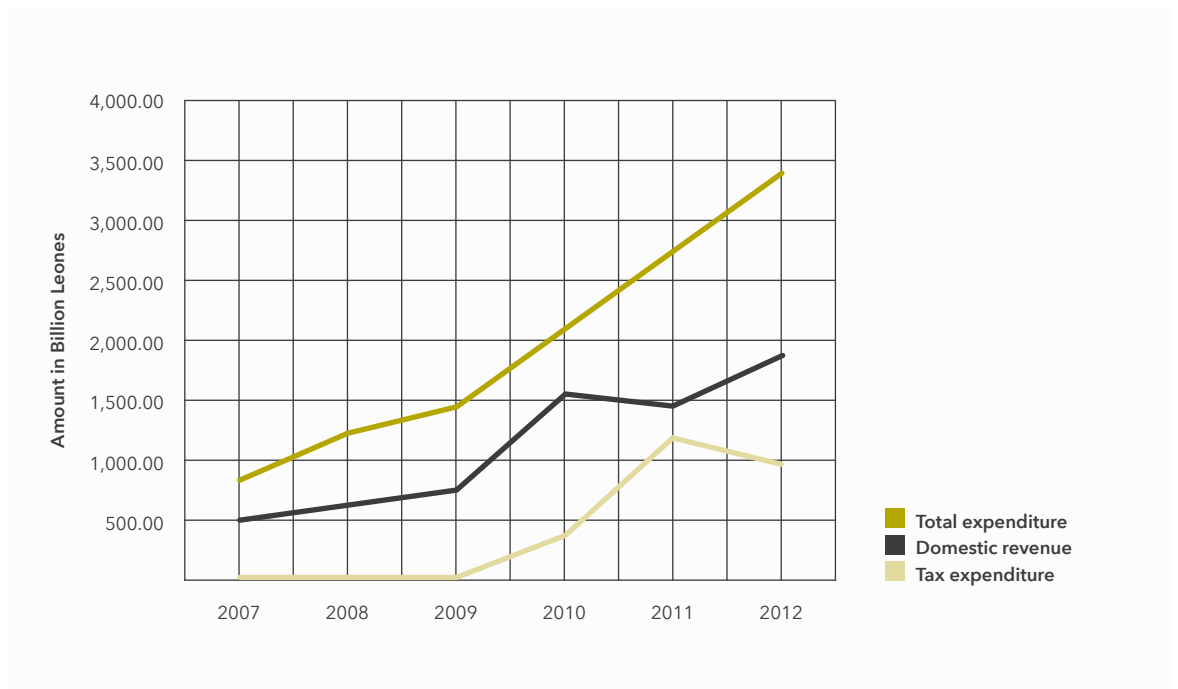
Revenue losses from tax incentives are contributing massively to this budget deficit. According to figures from the Ministry of Finance (which are slightly different to those from the IMF):

- domestic revenue has increased from Le 536bn (US\$180m) in 2007 to Le 1.9tn (US\$432m) in 2012

- over the same period, government expenditure has increased from Le 835bn (US\$280m) in 2007 to Le 3.4tn (US\$775m) in 2012
- thus the deficit has increased from Le 299bn (US\$100m) in 2007 to Le 1.5tn (US\$343m) in 2012.

Graph 2 below compares domestic revenues with expenditure and tax expenditure (from customs duty and GST waivers only). It shows that the budget deficit (the gap between revenue collections and expenditure) has been worsening over the years, a trend which, if it continues, could mean greater economic problems in the years ahead.

Graph 2: fiscal outturns on domestic revenue, expenditure and tax expenditure (Le million)



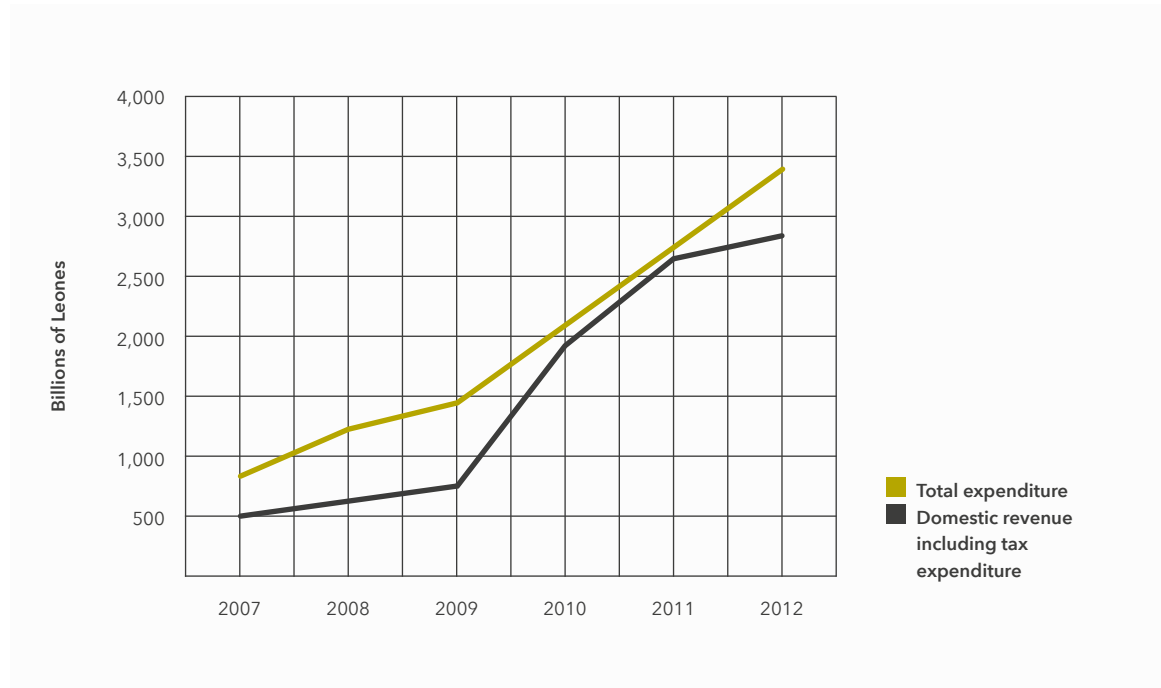
Source: MoFED and the National Revenue Authority

If the revenue losses from tax exemptions had been collected, Sierra Leone's budget could have become balanced. However, the deficits have meant that the government has had to borrow massively from the domestic market - and at great cost. The interest rate on treasury bills, the main instrument used to finance the deficit, has been more than 20 per cent and interest payments in 2011 and 2012 amounted to Le 226bn (US\$52.9m) and Le 256bn (US\$59.4m) respectively. **These interest payments alone cost nearly twice the health budget in 2011 and more than twice the health budget in 2012.**

Since the end of the war, Sierra Leone has benefitted from aid (in the form of grants) from donors, which have contributed significantly to government revenue. However, the chart below compares these grants to government tax expenditures (on customs duty and GST waivers only). Tax expenditures have been higher than aid in recent years.

Sierra Leone's current financing deficit gives further cause for alarm in that the government's poverty reduction strategy Agenda for Prosperity already has a financing gap of more than US\$2bn.¹⁹ This adds to the imperative of reducing tax incentives.

Graph 3: grants and estimated tax expenditure



Source: Fiscal tables, Budget Bureau, MoFED

Sierra Leone's current financing deficit gives further cause for alarm in that the government's poverty reduction strategy Agenda for Prosperity already has a financing gap of more than US\$2bn. This adds to the imperative of reducing tax incentives

4. PROBLEMS WITH TAX INCENTIVES

4.1 The pros and cons of tax incentives

Proponents of tax incentives often argue that lower tax burdens give investors a higher net rate of return and therefore free up additional income for reinvestment. The host country thus attracts increased foreign investment, raises its income and also benefits from the transfer of technology. A further argument, particularly in relation to less developed countries, is that it is imperative to provide incentives to investors given the otherwise poor investment climate: the volatility in politics, dilapidated infrastructure, the high cost of doing business, the macroeconomic instability, corruption and an inefficient judiciary. Revenue losses are rationalised by arguing that the capital and jobs created will improve the welfare of citizens and expand the economy.

However, there is also a long list of disadvantages associated with tax incentives. An IMF report notes that they could:

- result in a loss of current and future tax revenue
- create differences in effective tax rates and thus distortions between activities that are subsidised and those that are not
- require large resources to administer
- result in rent-seeking (ie, corruption) and other undesirable activities
- be outside the budget and non-transparent.²⁰

Tax expenditures also break with the principle of horizontal equity, ie, that taxpayers who have the same income should pay the same amount in taxes. Tax expenditure can either make a tax system more progressive (ie, increase income equality by reducing taxes on the poor) or more regressive (ie, lower income equality by reducing taxes on the rich). In Sierra Leone, the latter mainly prevails. The key need is to broaden the tax base, increase the number of taxpayers and ensure that wealthy individuals and companies pay their fair share in taxes.

4.2 Are tax incentives needed to attract foreign investment?

A key question is whether tax incentives are needed to attract foreign investment. Evidence from elsewhere in Africa suggests that in most cases they are not. For example, a report by the African Department of the IMF, focusing on tax incentives in East Africa, notes that 'investment incentives – particularly tax incentives – are not an important factor in attracting foreign investment'.²¹ The IMF report argues that countries that have been most successful in attracting foreign investors have not offered large tax or other incentives and that providing such incentives was not sufficient to attract large foreign investment if other conditions were not in place. The report also notes that in 'specific circumstances, well-targeted investment incentives could be a factor affecting investment decisions' but that 'in the end, investment incentives seldom appear to be the most important factor in investment decisions'.²² This conclusion is supported by a large body of literature showing that more important factors in attracting foreign investment are good quality infrastructure, low administrative costs of setting up and running businesses, political stability and predictable macro-economic policy.²³

Government officials in Sierra Leone, interviewed for this research, thought that the tax incentives for the extractive sector were excessive and resulted in a huge loss of revenue. They argued that government should provide an improved enabling environment for foreign investment, such as good infrastructure, rather than providing incentives. Investments in infrastructure can only happen when revenue collection increases; thus tax incentives are counter-productive for building an enabling environment for businesses.

4. PROBLEMS WITH TAX INCENTIVES

If incentives are to be used by governments, they need to be chosen carefully to balance the likely costs and potential benefits. When considering how to stimulate certain economic activities or sectors or when establishing its policy to attract investment, government should always ask what policies are likely to generate the best economic benefits. Incentives should clearly not be deployed if investments are going to happen anyway. If incentives are to work, they must result in increased investment than would otherwise have taken place, and social benefits in the form of employment, for example. The onus is on governments to show that they have a positive impact; otherwise the result will simply be lost potential revenues.

Photo: Joseph Ayamga
Women and children participating in community sensitisation on their right to better health service delivery in Wordu Sandor Chiefdom, Kono. In 2012, the revenue lost as a result of tax incentives could have helped pay healthcare workers. (Government of Sierra Leone, Government Budget and Statement of Economic and Financial Policies).



5. GOVERNMENT POLICY

‘The international prices of mineral and petroleum products are often volatile and unpredictable. This makes it absolutely essential for the Government to broaden the tax base, especially non-mineral revenues’

Finance Minister Dr Kaifala Marah, Budget Speech 2013²⁴

‘The public as taxpayers have a right to be fully aware of the use of public resources’

Finance Minister Samura Kamara, Budget Speech 2012²⁵

5.1 The key problems

There are three major problems with government policy concerning tax incentives in Sierra Leone.

First, too many tax incentives are granted to individual companies at the discretion of a very small number of ministers and officials. This system can lead to an increased risk of corruption and the risk that deals will be offered to companies that are outside or go beyond national legislation. In fact, Sierra Leone’s constitution requires tax waivers to be approved by parliament. It is not suggested that any of the companies mentioned in this report have been involved in any illegitimate activity.

Box 4: the Constitution on tax incentives

According to the 1991 Constitution, section 110:

- (1) No taxation shall be imposed or altered otherwise than by or under the authority of an Act of Parliament.
- (2) Where an Act enacted pursuant to subsection (1) confers a power on any person or authority to waive or vary a tax (otherwise than by reduction) imposed by that Act, the exercise of the power of waiver or variation in favour of any person or authority shall be subject to the prior approval of Parliament by resolution passed in that behalf.

Second, related to this, transparency is extremely poor. Many of the tax incentives are negotiated behind closed doors between government and companies, with no effective parliamentary or media scrutiny. Some of the tax incentives deals – for example, with mining companies – are not formally revealed to the public at all. The government publishes no figures on total tax expenditure. Yet the budget should cover all expenditure by the government, including any areas of discretionary spending. A clear need is to publish such a figure and to detail all the beneficiaries of tax incentives. Without this, public debate and scrutiny by parliament and media is extremely difficult.

Third, the government has produced no solid economic rationale for offering widespread tax incentives in Sierra Leone. Assumptions are casually made about the effectiveness of tax incentives, but no convincing case has been presented. Furthermore, no cost/benefit analysis has been undertaken. Indeed, officials from the Ministry of Finance and the National Revenue Authority interviewed for this research said that tax expenditures are not even calculated. Thus the country’s revenue base is being eroded on the back of a strategy for which there is no actual evidence that it is useful.

One of the underlying problems with the granting of tax incentives in Sierra Leone relates to the lack of coordination across government ministries. In our interviews, officials from the National Revenue Authority, for example, expressed frustration at the current fiscal regimes. This stems from the absence of sufficient consultation between the agencies granting the tax incentives (the Ministry of Mines and Mineral Resources, in the case of mining) and those responsible for generating revenue, such as the National Revenue Authority.

A deeper, underlying problem is that tax revenue collections in Sierra Leone have often been politicised, for example with competition between the political parties over making senior appointments in the National Revenue Authority.²⁶ More generally, tax incentives are often seen as tools for delivering political patronage – providing benefits to key segments of society to maintain political influence.

The use of tax incentives by individual countries can easily lead to a ‘race to the bottom’, whereby countries compete with each other to lower taxes, thus lowering all countries’ revenues. However, Sierra Leone also currently faces a domestic ‘race to the bottom’: new foreign investors appear to be looking at the very generous tax incentives offered to existing investors, and wanting the same or better.

5.2 The two faces of government

It is unclear if the government is committed to increasing or reducing tax incentives. It says both, at different times. For example, the Budget Speech for 2011, delivered in November 2010, outlined a ‘comprehensive range of tax incentives’ for investors, at the same time as announcing a new Revenue Management Bill that would aim to reduce them. (See Box 5)

Box 5: increasing or reducing tax incentives? The 2011 Budget Speech

On the one hand, the government stated: ‘As part of the overall strategy to encourage domestic as well as foreign investments, a comprehensive package of investment incentives focusing on agriculture, mining, manufacturing, tourism, and infrastructure investments approved by Cabinet has now been fully incorporated into the Finance Bill 2011. These include a reduction in the corporate tax rate for mining companies from 37.5 percent to 30.0 percent and a reduction in import duty for raw materials from 5.0 percent to 3.0 percent. Furthermore, all agricultural inputs will also benefit from zero import duty. To encourage the participation of the private sector in large public projects, income derived from Public-Private Partnership infrastructure projects investing at least US\$20 million will enjoy a Tax Holiday of fifteen years... For the Tourism Sector, income derived from tourist activities will have a tax relief for a period not exceeding five years and shall not extend beyond 2015.’²⁷

On the other hand, it stated: ‘A Revenue Management Bill will soon be laid before this noble House for enactment. The objective of this bill is to regulate the management of revenues with particular reference to the granting of tax incentives and discretionary duty waivers. Consistent with its provision, Government will publish a statement of Tax Expenditure detailing tax exemptions, including the amount of revenue forgone, the beneficiaries and the specific tax provisions relating to these exemptions. This statement will be submitted to Parliament by the Ministry of Finance and Economic Development on an annual basis, with effect from 2011.’²⁸

Implementing the Revenue Management Bill is crucial in that it would require the government to publish a statement of its tax expenditure, detailing all tax exemptions, the beneficiaries and the revenue foregone. The Bill also commits the Minister of Finance to review all tax expenditures to assess whether they should continue and to ensure that they 'meet the objectives of the budget', including on revenue mobilisation. Crucially, however, the Bill leaves it to the minister to decide at what interval these reviews should be carried out.²⁹

The Revenue Management Bill was meant to be effective from 2011, but progress enacting it has been very slow. Moreover, the government's latest Letter of Intent to the IMF, of September 2012, which outlines continuing tax reforms, says nothing about reducing tax expenditure.³⁰ Similarly, in his 2013 Budget Speech, delivered in December 2012, Finance Minister Dr Kaifala Marah committed the government to 'review the import duty exemptions regime' but said nothing about generally reducing tax expenditure.³¹ Neither did the speech mention the level of tax exemptions or lost revenues.

The government is taking some steps to improve the tax system. It plans to introduce a new Resource Rent Tax for mining (to take effect when profits are abnormally high) and is implementing a new regime for small taxpayers to improve compliance with tax payments, for example.³² To curb tax evasion and strengthen revenue collection, the government has also recently applied penalties for the failure to file tax returns, and levied interest payments for the late payment of taxes.³³ The government has also drafted an Extractive Industries Revenue Bill, which spells out the taxes applicable to the mining and petroleum sector. According to the Finance Ministers' Budget Speech of 2013, 'this implies that the fiscal regime defined in the draft Bill will apply to all future mining and petroleum agreements'.³⁴ These are positive developments. However, as with the Revenue Management Bill, the key is to implement them.

Implementing the Revenue Management Bill is crucial in that it would require the government to publish a statement of its tax expenditure, detailing all tax exemptions, the beneficiaries and the revenue foregone

RECOMMENDATIONS

We recommend that the government should:

- enact the Revenue Management Bill into law as soon as possible and ensure that the Bill commits the government to produce an annual public statement on its tax expenditure, the beneficiaries and revenue losses
- ensure that the Revenue Management Bill includes an additional clause that mandates the Ministry of Finance and the National Revenue Authority to provide parliament with a cost-benefit analysis of all tax incentives granted
- ensure that the Revenue Management Bill is amended so that annual reviews of the continuation of tax expenditures will be carried out by the Ministry of Finance
- review all existing tax incentives granted with the purpose of reducing them, and ensure that parliament is able to play an oversight role in this
- abolish discretionary tax incentives (ie, those given to individual companies or organisations). Any tax incentives granted must be in accordance with national legislation, and the same for all companies/organisations in that sector. This means that all current mining agreements must be reviewed and revised, where necessary, to bring them into line with legislation
- ensure that fiscal regimes in specific sectors, especially mining and agriculture, are subject to proper parliamentary debate and approval and subject to cost/benefit analyses
- ensure that audits are undertaken to ensure company compliance with fiscal regimes and sectoral tax incentives
- work with other governments in ECOWAS to ensure that there is no regional 'race to the bottom' in lowering tax rates and increasing tax incentives to corporations.

We recommend that parliament should:

- press for the above measures, and especially ensure that the Revenue Management Bill is discussed and passed before the start of the next financial year.

We recommend that civil society organisations should:

- press the government and parliament to promote the above measures, and emphasise the importance of accountability and transparency on tax expenditures in their work
- build the capacity of the Finance and Public Account Committee so that it can effectively play its oversight role regarding tax expenditures.

All the companies named in this report were sent a draft and asked for their response. Only one, London Mining, replied.

Its comments included the following:

GST

- London Mining's agreement with the government is in line with international best practice and with revised national legislation and it does not agree that this gives rise to tax expenditure by the government of Sierra Leone.

Corporate Income Tax

- London Mining stated that it has been operating for less than two years and that it does not expect to make a profit in early years because of high start-up costs and high levels of investment, which generate tax losses from capital expenditure. Accordingly the tax rate during years where there are no profits is irrelevant because no tax is payable and indeed the low tax rate means that London Mining is saving tax on start-up losses at only 6% rather than 30%.

Negotiation of tax arrangements

- London Mining said that its MLA is not a publicly available document because it contains commercially confidential information. But it said that negotiations about the document could not be described as opaque because the original agreement and the re-negotiated version were tabled to Parliament for ratification and every member of Parliament has access to a copy.

Contribution to the economy

- LM stated that in its two years of operation it has paid royalties, rents and other taxes, despite not making a profit.
- It employs over 1,200 local workers at its mine and office, which together with indirect and induced employment opportunities is estimated to generate 10,000 new jobs.

ENDNOTES

- 1 World Bank, 'Taking Advantage of a Fast-Growing Economy to End Extreme Poverty, Boost Shared Prosperity', 27 August 2013, worldbank.org/en/news/feature/2013/08/27/taking-advantage-of-a-fast-growing-economy-to-end-extreme-poverty-boost-shared-prosperity
- 2 World Bank, *A Poverty Profile for Sierra Leone*, 2013, p5.
- 3 These are exchange rates prevailing on 1 June of each year.
- 4 These include the Consolidated Income Tax Act 2000 (and amendments); Payroll Tax Act 1972; Anti Money Laundering Act 2005; Finance Acts 2006, 2007, 2008 and 2009; Customs and Excise Act 1978 and Customs Regulation; Goods and Services Tax Act 2009.
- 5 Those earning more than Le 750,000 a month currently pay 30 per cent.
- 6 KPMG, *Sierra Leone Fiscal Guide 2012/13*, pp1-3.
- 7 United Nations Development Programme, *What Will It Take to Achieve the Millennium Development Goals? An International Assessment*, June 2010, p26.
- 8 IMF, *Fourth review under the Three Year Arrangement under the Extended Credit Facility and Financing Assurances Review*, October 2012, p23, imf.org
- 9 Wilson Pritchard/Tax Justice Network Africa, *Building a Fair, Transparent and Inclusive Tax System in Sierra Leone*, 2010, p1.
- 10 See note 8.
- 11 See note 9, p25.
- 12 SLIEPA, *Sierra Leone Investment Outreach Campaign: Opportunities for Investors in the Oil Palm Sector*, April 2010, p30, sliepa.org
- 13 See, for example, Action for Large-Scale Land Acquisition Transparency, *Who is Benefiting?: The social and economic impact of three large-scale land investments in Sierra Leone*, July 2013, p66. The report estimates that Sierra Leone is losing an average of US\$18.8m a year from tax incentives granted to three companies: Addax, Socfin and Goldtree.
- 14 See note 8, p25.
- 15 Ibid.
- 16 This model was developed for the government with assistance from the Fiscal Affairs Department of the International Monetary Fund.

- 17 See note 2, p19.
- 18 See note 8, p22.
- 19 Government of Sierra Leone, *Agenda for Prosperity*, 2013, p158.
- 20 IMF, *Kenya, Uganda and United Republic of Tanzania: Selected Issues*, 1 December 2006, p10; ActionAid/Tax Justice Network Africa, *Tax Competition in East Africa: A race to the bottom?*, April 2012.
- 21 IMF, *Kenya, Uganda and United Republic of Tanzania: Selected Issues*, 1 December 2006, p11.
- 22 Ibid.
- 23 See, for example, IMF, OECD, UN and World Bank, *Supporting the Development of More Effective Tax Systems*, Report to the G-20 Development Working Group, 2011; IMF, *Kenya, Uganda and United Republic of Tanzania: Selected Issues*, 1 December 2006; Bethuel Kinuthia, *Determinants of Foreign Direct Investment in Kenya: New Evidence*, University of Nairobi, August 2010.
- 24 *Government Budget and Statement of Economic and Financial Policies For the Financial Year 2013*, p18, mofed.gov.sl/index.php?option=com_content&task=blogcategory&id=42&Itemid=155
- 25 Ibid.
- 26 See note 9, pp23-4.
- 27 Budget Speech 2011, p24, mofed.gov.sl/index.php?option=com_content&task=view&id=320&Itemid=165
- 28 Ibid, p23.
- 29 The Revenue Management Bill states that: 'The review [of the continuance of existing tax incentives] shall take place every five years or at such intervals, as the Minister may determine' (emphasis added).
- 30 See note 8, p37.
- 31 See note 24, p16.
- 32 See note 8, p12.
- 33 Ibid, p37.
- 34 See note 24, p13.

