

**THE ASSESSMENT AND COLLECTION OF TAXES ORDINANCE 2003  
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**ORDINANCE 30 OF 2003****THE ASSESSMENT AND COLLECTION OF TAXES  
ORDINANCE 2003**

***T.W. RIMMER***  
**ADMINISTRATOR**

7th July 2003.

**BE** it enacted by the Administrator of the Sovereign Base Areas of Akrotiri and Dhekelia as follows:-

**PART I  
PRELIMINARY**

**1.** This Ordinance may be cited as the Assessment and Collection of Taxes Ordinance 2003.

Short title.

**2.** In this Ordinance, unless the context otherwise requires -

Interpretation.

“body of persons” means any body politic, corporate or collegiate and any company, fraternity, fellowship or society of persons, whether corporate or unincorporated;

“Commissioner” means the Fiscal Officer of the Sovereign Base Areas;

“company” means any company with limited liability incorporated or registered under any Ordinance of the Areas, and any company which, though incorporated or registered outside the Areas, carries on business or has an office or place of business in the Areas;

“dependant” means the wife or any unmarried child below the age of eighteen of an individual and includes any child over eighteen years of age whose means of support are still provided by his parents or either of them;

“guardian” in relation to an infant, includes a parent;

“incapacitated person” means any infant, lunatic, idiot or insane person;

“tax” means any direct tax charged under any Ordinance whether such Ordinance was made before or after this Ordinance

comes into force, in respect of a period provided for by such Ordinance, whether such period falls wholly or partly before, or wholly or partly after the day that this Ordinance comes into force, where the amount of tax chargeable is ascertained on the basis of objective criteria laid down in the Ordinance which charges the tax;

“tax year” means the twelve-month period beginning on 1st January and ending on 31st December of each year.

Scope of this Ordinance.

**3.** - (1) Save where other provision is made in any other Ordinance, any tax, whether charged before or after the day that this Ordinance comes into force, shall be quantified and collected under the provisions of this Ordinance.

(2) Any powers which may be exercised and any duties which fall to be performed by the Commissioner under the provisions of any other Ordinance imposing any tax, may be exercised or performed by him whether in his capacity as Commissioner or in his capacity as Fiscal Officer and may be done concurrently, simultaneously or in combination under the provisions of this Ordinance and of such other Ordinance and any notice, communication or statement which is required or may be given or made by him under any of the aforesaid provisions, may be made in a combined document and signed by him either in his capacity as Commissioner or in his capacity as Fiscal Officer or in both such capacities.

Commissioner, officials and official secrecy.

**4.** - (1) The Commissioner shall take all such action as he deems necessary or expedient for the due and proper administration of this Ordinance.

(2) Any person having any official duty or being employed in the administration of this Ordinance shall regard and deal with any information and any returns, assessments and other documents relating to the tax affairs of any person as secret and confidential and shall make a declaration to that effect in the prescribed form before a judge of the Judge’s Court.

(3) Any person who acquires control of, or knowledge of the contents of any tax return, tax assessment or any other document relating to the tax affairs of any other person shall not transfer custody of such document nor disclose or attempt to disclose any part of the contents of such document otherwise than for the purposes of this Ordinance:

Provided that the Administrator may, in the public interest, authorise the transfer of such document or the disclosure of the whole or part of its contents to such person as he may specify.

(4) Where any arrangements have been made with the Government of any country or territory outside the Areas with a view to affording double taxation relief in relation to any tax, the obligations as to secrecy and confidentiality imposed by this section shall not prevent the disclosure to the authorised officers of the Government of that country or territory of such particulars as may be necessary to enable the proper relief to be allowed in cases where relief is claimed from tax in the Areas or in that country or territory.

**PART II**  
**TAX RETURNS AND STATEMENTS**

**5. - (1)** It shall be the duty of every body corporate and of every individual whose income for a tax year, after deducting any exemptions, allowances or credits to which he is entitled under any Ordinance, is chargeable to tax, to deliver to the Commissioner, no later than 30th of April of the year following the tax year, a tax return, and the fact that a person has not received a tax return form from the Commissioner shall not be a defence in any proceedings brought against that person for his failure to submit any tax return by the date that it was due from him: Returns.

Provided that where a person submits accounts with his tax return, he need not deliver a tax return until 31st December of the year following the tax year.

(2) Notwithstanding subsection (1), the Commissioner may by notice in writing require any person to deliver to the Commissioner, within such period as shall be specified in the notice, a tax return and such particulars as the Commissioner may require for the purposes of administering the Ordinance under which the tax is charged.

(3) An individual who is required to deliver a tax return in accordance with subsection (1) above shall deliver to the Commissioner a statement showing full details of his business and private assets and liabilities, either within the Areas or elsewhere, including such details of his spouse or of any dependant if his spouse or dependant has had no chargeable income during any five-year period ending on 31st December of any year:

Provided that this subsection does not apply to any person who is not a citizen of the Republic and whose income is chargeable to tax at a reduced rate.

(4) The returns and statements required under this section shall be in a form approved by the Commissioner.

**6. - (1)** An employer shall submit to the Commissioner, before 30th April of each year, a statement in relation to each person employed by him, including any person employed part-time or on contract, showing, with respect to the immediately preceding tax year – Statements by employers and other persons.

- (a) the person's name, identity card number (or, if the person has no identity number, his passport number) and home address; and
- (b) the remuneration payable to that person in respect of his employment with that employer:

Provided that the employer shall not be liable to any penalty for omitting from such statement the name or address of any person employed by him during the year in question and who had no other employment, if the Commissioner is satisfied, after inquiry, that such person has no liability to tax for that year.

(2) Notwithstanding the provisions of subsection (1) the Commissioner may at any time require any employer to prepare and deliver to the Commissioner, within such period as he may specify in a notice served on the employer, a statement containing, in respect of any tax year, the particulars set out in paragraphs (a)

and (b) of subsection (1) in respect of all persons employed by the employer in the year in question:

Provided that the Commissioner may not require such particulars in respect of a tax year, if a period of at least five years has elapsed since that tax year.

(3) The expression “remuneration” in subsection (1) includes moneys paid or payable by way of salary, wages, overtime, bonus, allowance, share of profits, perquisite, fee, commission or pension and the annual value (determined, if it was not provided in money, at the market rates prevailing at the time it was provided) of any residence, quarter, lodging, board or other perquisite or allowance provided in respect of employment.

(4) Where an employer is a body of persons, the manager or other person exercising the powers of a manager shall be deemed to be the employer for the purposes of this section and in the case of a company, any director or person engaged in the management of the company shall be deemed to be a person employed.

(5) A person who deducts tax from any remuneration payable to a contractor shall submit to the Commissioner, before 30th April of the year following each tax year, a statement containing the name, the identity card number (or, if the contractor does not have an identity card, such other unique reference number applicable to the contractor as the Commissioner may direct) and the address of the contractor from whose remuneration tax was deducted, and the gross amount of remuneration payable and the amount of tax deducted.

(6) Where a person who is required to deliver a tax return (“the taxpayer”) fails to do so by the due date or where there are reasonable grounds to suspect that any tax return delivered by the taxpayer is inaccurate, the Commissioner may require any other person carrying on a trade, business, profession or vocation, who in the ordinary course of such trade, business, profession or vocation receives or retains money in such circumstances that interest becomes payable to the taxpayer, to prepare and submit to the Commissioner a statement of all interest paid or credited in favour of the taxpayer in respect of the tax year specified by the Commissioner.

(7) The Commissioner may require any person to furnish him with a statement giving full particulars of any amount paid or payable by him to any other person in any year, which might be income of the person receiving that amount.

(8) Any statement required under this section shall be in such form as the Commissioner shall approve.

7. - (1) Where two or more persons carry on a trade, business, profession or vocation in partnership -

(a) the portion of the income of the partnership to which any partner is entitled shall form part of that partner’s income for the tax year in which he became entitled to that portion and he shall include that portion in his tax return for that tax year; and

(b) the precedent partner, that is to say, the partner who, of the partners resident in the Areas -

- (i) has his name mentioned first in any written partnership agreement; or
- (ii) if there is no written partnership agreement, is named first (or solely) in the usual name of the firm or is named with precedence to the other partners on the form of registration of the partnership; or
- (iii) is the precedent partner, determined in accordance with subparagraph (i) or (ii) above, if a partner who would be the precedent partner under either of those subparagraphs is not an active partner in the partnership,

shall, when required to do so by the Commissioner, make and deliver a return relating to the property of the partnership which may give rise to a liability to a charge to tax on the partnership or any partner in the tax year to which the requirement relates, and shall declare in the return the names and addresses of all the partners in the firm together with the amount of their respective shares in the property of the partnership in the period to which the return relates and whether any two of the partners are married to each other.

(2) Any return required under the provisions of this section where no partner is resident in the Areas shall be made and delivered by the attorney, agent, manager or factor of the partnership resident in the Areas.

**8.** A receiver, trustee, executor of a will, administrator of an estate, guardian, curator or committee having the direction, control or management of any property or of the affairs of any other person, shall be responsible for doing all matters and things required to be done under this Ordinance for the purpose of assessment and payment of tax chargeable in respect of the property or affairs under his direction, control or management, and in particular shall, when required by the Commissioner, make and deliver a return for any specified tax year.

Returns by trustees  
etc.

**9.** - (1) Any of the following persons acting in a representative capacity, that is to say a trustee, guardian, curator or committee or any attorney, factor, agent, receiver, manager or custodian of a person not resident in the Areas (a "non-resident") whether or not such representative receives any property in respect of which tax is chargeable, shall be responsible for doing all matters and things required to be done under this Ordinance for the purpose of the assessment and payment of tax chargeable in respect of the property of the non-resident and in particular shall, when required to do so by the Commissioner, make and deliver a return for any specified tax year.

Returns by non-  
residents.

(2) Where a non-resident carries on business with a person residing or carrying on business in the Areas and it appears to the Commissioner that, because of the close connection between the person residing or carrying on business in the Areas and the non-resident and because of the substantial degree of control exercised by the latter over the former, the course of business between those persons could be so arranged and was so arranged that either nothing was produced, or less was produced than that ordinarily to be



expected to be produced from that business, upon which tax would become chargeable, the person residing or carrying on business in the Areas shall, if required to do so by the Commissioner, make and deliver to the Commissioner a return of the property of the non-resident upon which tax is or may be chargeable for any specified tax year as if the person residing or carrying on business in the Areas were an agent of the non-resident.

(3) Where it appears to the Commissioner that the true amount of the property by reference to which tax is chargeable on a non-resident who trades with a person residing or carrying on business in the Areas cannot be readily ascertained, the Commissioner may by notice require the person residing or carrying on business in the Areas to furnish him, within such period as is specified in the notice, with statements or particulars of the business done by the non-resident through or with the person residing or carrying on business in the Areas for any specified tax year, and may estimate the amount of the property by reference to which tax is chargeable on the non-resident, on a fair and reasonable basis by reference to the turnover of the business so done and having regard to the nature of the business.

(4) Where under any Ordinance charging tax a non-resident is assessable to tax in the name of any attorney, factor, agent, receiver, manager or custodian in respect of any gains or profits arising from the sale of goods or produce manufactured or produced outside of the Areas by the non-resident, the person in whose name the non-resident is so assessable may apply to the Commissioner to have the assessment to tax in respect of those gains or profits made or amended on the basis of the profits which might reasonably be expected to have been made by a merchant or, where the goods are sold by way of retail by or on behalf of the manufacturer or producer, on the basis of the profits which might reasonably be expected to be made by a retailer of the goods who had bought the goods directly from their manufacturer or producer, and on proof to the satisfaction of the Commissioner of the amount of such profits, the assessment shall be made or amended accordingly.

Liability of person acting in representative capacity.

**10.** Any person who, under any other Ordinance charging any tax, acts on behalf of an incapacitated person or a non-resident, shall be liable to comply with all things and acts required to be done under this Ordinance for the assessment of the tax by the person for whom he acts and shall be liable for payment of the tax in question.

Receiving chargeable property belonging to another.

**11.** Any person who, in whatever capacity, receives any property belonging to another person who is either a non-resident or incapacitated, being property in respect of which tax is chargeable on the non-resident or incapacitated person concerned, shall, whenever required to do so by notice given by the Commissioner, prepare and deliver to the Commissioner within the time-limit specified in the notice, a list in a form approved by the Commissioner and signed by the person required to prepare the list, containing –

- (a) a true and accurate statement of property for any specified year; and
- (b) the name and address of the person to whom the property belongs.

Managers of bodies of persons.

**12.** The manager or other person managing a body of persons shall be liable to furnish any return and to do all such other acts,



matters and things required to be done under this Ordinance for the assessment and payment of the tax imposed on such body of persons.

### **PART III ASSESSMENTS**

**13.** - (1) The Commissioner shall assess any person liable to tax as soon as possible after the expiration of the period within which that person is required to furnish his return for the tax year in question:

Commissioner to make assessments.

Provided that in the case of a body of persons chargeable with tax, the body of persons shall submit its accounts and a calculation of its tax liability for each tax year and pay the tax so calculated, by no later than 1st of August of the year following the tax year. Where the accounts are submitted after that date, the tax shall be paid on the date of the submission of the accounts in accordance with the provisions of section 39.

(2) Where a person has delivered a return to the Commissioner, the Commissioner may –

- (a) accept the return as true and complete and make an assessment accordingly; or
- (b) reject the return as being true and complete and, to the best of his judgement, assess the tax properly due from that person.

(3) Where a person has not delivered a return by the time that he is required under this or any other ordinance to do so, and the Commissioner is of the opinion that that person is liable to tax, the Commissioner may, to the best of his judgement, assess the amount of tax due from that person:

Provided that such an assessment shall not affect any other liability to which the person concerned may be subject by reason of his refusal, failure, or neglect to deliver a return.

**14.** - (1) An assessment of tax in relation to an incapacitated person or a non-resident person shall be made in the name of his trustee, guardian, curator, committee, attorney, factor, agent, receiver, manager or custodian.

Agents, etc. of incapacitated and non-resident persons to be assessed.

(2) Any resident, agent, trustee, mortgagor or other person who transmits or pays directly or indirectly to any non-resident, any property in respect of which tax may be chargeable, shall be deemed to be the agent of that non-resident person and may be assessed and required to pay the tax at the rate provided in the Ordinance charging the tax on any body of persons:

Provided that upon an objection being filed to such an assessment, if the non-resident thereafter delivers a return of all his property in the Areas in respect of which tax may be chargeable, the assessment shall be amended and the tax payable calculated at the rate applicable to individuals under the Ordinance charging the tax.

**15.** Where a person dies, his personal representative shall be liable to do all such acts, matters or other things as the deceased was required to do under this Ordinance before his death:

Deceased persons.

Provided that if a personal representative distributes a deceased person's estate before the end of the tax year in which the deceased died, the personal representative shall be personally liable for payment of the tax which was payable under the Ordinance charging the tax.

Indemnification of agent.

**16.** Any person liable under this Ordinance for the payment of tax on behalf of another person may retain out of any money coming into his hands on behalf of that other person, such amount as is sufficient for him to pay such tax and he shall be and is hereby indemnified in respect of all payments made by him in accordance with this Ordinance.

Deductions and reliefs.

**17.** The Commissioner shall, in determining any property in respect of which tax is chargeable or in assessing the amount of tax due from any person for any tax year, grant such exemptions from tax and allow such deductions and other reliefs as are provided for under this Ordinance or any other Ordinance charging tax.

Assessment lists.

**18. - (1)** The Commissioner shall prepare lists (in this Ordinance referred to as "assessment lists") of all persons who have been assessed to tax.

(2) Assessment lists shall contain in respect of each person who has been assessed to tax, his name and address, the property of his in respect of which he was assessed, the amount of tax payable by him, and such other particulars as the Commissioner may deem necessary for the due and proper administration of this Ordinance.

Notice to be served on persons assessed.

**19.** The Commissioner shall serve or cause to be served on each person whose name appears on the assessment lists, a notice addressed to him at his usual place of abode or business stating the property in respect of which tax was charged and the amount of tax payable by him and informing him of his rights under section 20. A notice under this section must be served on the addressee either personally or by registered post.

Objections to assessments.

**20. - (1)** Any person who disputes an assessment made upon him ("the objector") may, by notice in writing, apply to the Commissioner for the assessment to be reviewed and amended: but a person who makes such an application and who has not already submitted a return for the tax year to which the assessment relates, must at the same time as he makes his application, send to the Commissioner a return for that tax year and pay the tax (if any) due from him according to his own calculation. Such application shall state precisely the grounds of the objection to the assessment and shall, unless otherwise provided in any other Ordinance, be given not later than the end of the month following that in which the notice referred to in section 19 was given to the objector:

Provided that if the Commissioner is satisfied that owing to the absence from the Areas, sickness or any other reasonable cause, the objector was prevented from giving a notice of objection within the period mentioned above, the Commissioner shall grant such extension of that period as may be reasonable in all the circumstances of the case.

(2) The grounds of objection to an assessment under subsection (1) above may, unless the contrary intention is expressed in the Ordinance charging the tax, include any alleged wrongful exercise of any discretionary power conferred by that Ordinance on the officer who made the assessment.

(3) On receipt of a notice of objection such as is referred to in subsection (1) above, the Commissioner may –

- (a) require the objector to furnish or produce within such period as may be specified, such particulars as the Commissioner may deem necessary with respect to the property in relation to which the tax is charged, such as –
  - (i) accounts prepared to the satisfaction of the Commissioner and audited by an independent practising accountant approved by the Commissioner for such purpose under section 29;
  - (ii) books of account, documents and other vouchers, extracts from bank and other accounts relating to the property in respect of which the tax is charged on that person or on his spouse or on any of his dependants where they have no chargeable income;
  - (iii) statements showing as at a specified date full details of all the business or private assets and liabilities, whether in the Areas or elsewhere, of the objector or of his spouse or of any of his dependants where they have no chargeable income, and any other supplementary evidence or particulars as the Commissioner may deem necessary;
- (b) summon the objector to attend before the Commissioner for the purpose of examining the objector concerning his objection;
- (c) summon any other person capable of giving information relevant to the tax to which the assessment relates, other than the spouse, a relative of the first degree, or a secretary, servant or other person employed in a confidential capacity by the objector, or any person providing the person objecting with confidential services, to attend before him and furnish him with such information and particulars and to produce such accounts, books or other documents as the Commissioner might deem necessary for ascertaining the amount of the tax properly due from the objector.

(4) If agreement is reached between the Commissioner and an objector as to the amount of tax to which the objector is liable to be assessed, the assessment shall be amended accordingly and notice of the tax payable shall be served on the objector.

(5) If agreement cannot be reached between the Commissioner and an objector as to the amount of tax to which the objector is liable to be assessed, the Commissioner shall proceed to determine the amount of the tax due from the objector on the basis of the evidence available to the Commissioner and shall notify that amount to the objector accordingly:

Provided that nothing in this Ordinance shall be construed as preventing the Commissioner from determining the amount of tax due from an objector as being for an amount which is greater than the amount stated in the assessment objected to, if after examination of the objection, such greater amount appears to be the true liability of the objector.

Appeal against assessment.

**21.** - (1) Any objector who does not agree with an assessment made after he has applied for it to be reviewed and amended in accordance with section 20, may appeal the matter to the Senior Judge's Court.

(2) The onus of proving that the assessment complained of is excessive shall be on the appellant.

(3) If in consequence of a decision on an appeal it becomes necessary to make a new assessment in order to give effect to the decision of the Senior Judge's Court or to comply with any directions of that Court, such new assessment may be made within six months from the date of the Court's decision.

Assessments etc. not void by reason only of formal errors.

**22.** - (1) No assessment, warrant or other proceeding purporting to be made in accordance with the provisions of this Ordinance shall be quashed or deemed to be void or voidable for want of form, or be affected by reason of a mistake, defect or omission if it is in substance and effect in conformity with or according to the intent and meaning of this Ordinance and if the person assessed, or intended to be assessed or affected thereby is described therein according to common intent and understanding.

(2) An assessment shall not be impeached or affected –

(a) by reason of a mistake in it as to the forename or surname of a person liable, the description of property upon which tax is charged or the amount of the tax assessed;

(b) by reason of any variance between the assessment and the notice of the assessment:

Provided that the notice of assessment is duly served on the person intended to be assessed and such notice contains in substance and effect the particulars on which the assessment has been made.

Assessments for omissions and undercharges.

**23.** - (1) Where it appears to the Commissioner that any person on whom has been imposed any tax under any Ordinance, whenever enacted, has not been assessed for the tax or has been assessed for a lesser amount than that for which he ought to have been assessed, the Commissioner may, within the tax year or within six years of the expiration thereof, assess that person for such amount of tax as had not been assessed and collected under the provisions of the Ordinance charging the tax, and this Ordinance shall apply to such an assessment and to the tax assessed thereunder:

Provided that in making any such assessment the Commissioner shall allow such deductions as were applicable in the tax year concerned and the tax payable on any such assessment shall be at the rates chargeable in the that tax year.

(2) Where any person has been guilty of fraud or wilful default, the time-limit of six years mentioned in subsection (1) above shall be increased to twelve years.

#### **PART IV TEMPORARY ASSESSMENTS**

Taxpayer's temporary assessment.

**24.** Notwithstanding any other provision of this Ordinance, for the purpose of the collection of the tax payable by a person (a "taxpayer") who derives income other than from emoluments

during the tax year in respect of which tax is charged, a taxpayer shall, before 1st August of each tax year, submit his own temporary assessment of his property upon which tax will be chargeable and of the amount of tax which is payable by him. The amount of the tax which is payable shall be the amount estimated by the taxpayer, and shall be paid on the prescribed dates:

Provided that a taxpayer may, at any time before the 31st December of the same tax year, submit to the Commissioner a revised temporary assessment:

Provided further that in the case of such a revision, the provisions of paragraph (c) of section 38(1) and of section 39(1) shall apply.

**25.** Where a person who is required to submit a temporary assessment in accordance with section 24 refuses, fails or neglects to submit such an assessment, the Commissioner may make a temporary assessment based on the taxpayer's income for the most recent previous tax year for which the taxpayer was liable to the tax.

Commissioner's temporary assessment.

**26. - (1)** Where for any tax year the property upon which tax is provisionally paid is less than three quarters of the value of the property as finally ascertained, the taxpayer shall, in addition to the proper amount of tax, be liable to pay also an amount equal to one-tenth of the difference between the proper amount of tax and the amount of tax provisionally paid:

Additional payments and repayments in certain cases.

Provided that the provisions of this Part shall not apply where a person challenges an assessment before a Court on a point of law not yet decided.

(2) Where a person proves that for any tax year the amount of tax he has provisionally paid exceeds the amount of tax properly due from him, he shall be entitled to be repaid the amount of the excess with interest at 9% per year from 1st January of the year following the tax year in which the provisional payment was made.

## **PART V GENERAL POWERS OF THE COMMISSIONER**

**27.** The Commissioner may, by notice in writing, require any person to furnish him with such particulars as the Commissioner may require for the purposes of this Ordinance with respect to the property of that person upon which the tax may be chargeable for any tax year, or to attend before the Commissioner and give evidence with respect to such property and to produce any accounts, books or other documents in his custody or under his control relating to such property.

Power of Commissioner to require particulars to be furnished.

**28. - (1)** The Commissioner may require any public officer to furnish him with such particulars as may be required for the purposes of this Ordinance and which may be in the possession of such officer.

Public officers to assist Commissioner.

(2) Any public officer having in his custody any registers, books, records, papers or other documents the inspection of which may tend to secure any tax or to prove or lead to the discovery of any fraud or omission in relation to any tax, shall, at all reasonable times, permit any person duly authorised in writing by the Commissioner to inspect for such purpose such registers, books, records, papers or

other documents and to take such notes and copies as he may deem necessary without payment of any fee or charge.

(3) No public officer shall, by virtue of this section, be required to disclose any information or particulars which he is statutorily required to hold in secrecy.

Accounts prepared and certified by practising accountants.

**29.** Any accounts and calculations relating to property upon which tax is charged and which are produced to the Commissioner or which accompany any return submitted to the Commissioner, may, at the Commissioner's discretion, be disregarded if they have not been prepared and certified by an independent accountant practising in the Island of Cyprus and recognised as such by the Commissioner.

Books to be kept.

**30.** A person shall keep such books of accounts and records and shall issue such receipts relating to his income as may be prescribed by regulations:

Provided that where the Commissioner is satisfied that the tax liability of any person may be satisfactorily ascertained without the need for that person to keep all such books of accounts and records as are prescribed by regulations, the Commissioner may allow that person to keep such other books and records as may be agreed between them and any books and records which a person agrees to keep pursuant to such an agreement shall be treated as if they were books and records required to be kept under the regulations.

Powers of the Commissioner during stock-taking.

**31.** Without prejudice to any other power conferred upon him by this Ordinance, the Commissioner may, where he has reasonable grounds to suspect that the correct quantities and prices of the goods of any business are not being entered into the books of account and records of the business, have those books and records audited and he may appoint an agent to be present during a stock-taking of such goods.

Searches.

**32.** - (1) Where a Judge is satisfied upon information given on oath by a person authorised by the Commissioner to act for the purposes of this section –

- (a) that there is reasonable cause to believe that an offence contrary to section 46 has been or is being committed and that admissible evidence regarding the commission of the offence is to be found at such premises as may be specified in the information; or
- (b) that any documents and other particulars which ought to have been produced in accordance with the provisions of this Ordinance and which had not been produced, are to be found at any premises,

the Judge may issue a search warrant authorising any police officer together with any other persons named in the warrant and any other police officers to enter the premises specified in the warrant, not being premises occupied by a person who is required by law to observe professional secrecy in relation to the documents or other particulars, at any time during the day but within one month from the date of issue of the warrant and search the premises.

(2) A person executing a warrant issued under subsection (1) above, may search any part of the premises concerned and any person found there or whom there is reasonable cause to believe has just



left the premises or is about to enter them, and he may seize any object found at the premises in respect of which there is reasonable cause to believe that it constitutes evidence of the commission of any offence in contravention of this Ordinance or any documents and other particulars which there is reasonable cause to believe ought to have been produced to the Commissioner:

Provided that no woman shall be searched by virtue of a search warrant issued under this section except by another woman.

(3) Where, under this section, any person has power to enter any premises, he may use such reasonable force as may be necessary for the purpose of exercising such power.

(4) Any documents and other particulars which come into the possession of the Commissioner under this section may be kept for a period of three months, or if during that period judicial proceedings are instituted in relation to any offence for which the said documents and particulars may be required as evidence, until the conclusion of such proceedings.

**33.** - (1) Where the Commissioner is of the opinion that in respect of any tax year the property upon which tax of any person is chargeable, is reduced by any transaction which in the Commissioner's opinion was artificial or fictitious, he may disregard any such transaction and assess the person concerned by reference to the property without regard to the reduction.

Certain transactions to be disregarded.

(2) Where by virtue or in consequence of any disposition made during the life of the person making the disposition, other than a disposition for valuable and sufficient consideration, any property upon which tax is chargeable is disposed of to or for the benefit of any person who at the beginning of the tax year in which the disposition was made is under the age of eighteen years and unmarried, the property shall be treated for the purposes of this Ordinance as property belonging to the person who made the disposition.

(3) In this section "disposition" includes any disposition made under a trust and any gift or agreement or arrangement for the transfer of property upon which tax is chargeable, by the beneficial owner of the property to another person and any transfer of assets by their owner to any other person.

## **PART VI COMPANY DIVIDENDS**

**34.** Any tax deducted from any dividend paid to an individual by a body of persons whose principal place of business is situated in the Island of Cyprus shall be set off against the tax liability of that individual for the tax year in which the dividend was paid to him.

Company dividends.

## **PART VII REPAYMENT OF TAX**

**35.** - (1) If it is proved to the satisfaction of the Commissioner that a person has paid for any tax year an amount by way of tax, whether by any deduction or otherwise, in excess of the amount of tax for which he is liable, the person concerned shall be entitled to have the amount so paid in excess repaid together with interest at 9% per year from 1st January of the year following the tax year in which he paid the excess amount:

Repayment of tax.



Provided that where the person concerned has not submitted his income tax return within the period required under this or any other Ordinance, interest shall start being payable three months after the date on which the relevant income tax return is submitted.

(2) Where a person proves that for any tax year he has paid an amount by way of tax which was not tax due from him and has in addition paid interest on that amount, he shall be entitled to repayment of that amount and that interest and in addition he shall be entitled to interest on that amount (but not on the interest) at 9% per year from the date on which he paid that amount.

(3) Any claim for a repayment and for interest under this section shall be made within six years from the end of the tax year to which the claim relates and, if accepted by him, the Commissioner shall issue a certificate certifying the amount to be repaid and the amount of interest to be paid and on his receiving such a certificate the Accountant to the Administration shall make the repayment and payment so certified.

(4) Where a person is entitled to a repayment or payment under this section and authorises, by a duly certified notice in writing addressed to the Commissioner, some other person resident in the Island of Cyprus to receive such repayment or payment on his behalf, such notice shall be exempt from any stamp duty payable under any Ordinance relating to stamp duties.

(5) Any interest payable under this section is payable in respect of whole months only.

### **PART VIII DOUBLE TAXATION RELIEF**

Double taxation relief.

**36.** - (1) Where under an Ordinance charging tax, an agreement has been made with the Government of any country or territory allowing relief from double taxation by way of a credit being given for the whole or part of a corresponding tax paid in that country or territory, any claim for such relief shall be made no later than six years after the end of the relevant tax year and in the event of any dispute as to the amount of tax credit allowable, the claim shall be subject to an application for its review and amendment and to appeal in the same manner as for an assessment.

(2) Where the amount of any credit given under the agreement is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either in the Areas or elsewhere, nothing in this Ordinance limiting the time for the making of assessments or claims for relief shall apply to any assessment or claim to which the adjustment gives rise, being an assessment or claim made not later than six years from the time when all such assessments, adjustments and other determinations have been made, whether in the Areas or elsewhere, as are material in determining whether credit ought to be given.

(3) Where under an Ordinance charging tax a claim for relief in respect of tax paid or payable in a reciprocating country could be made, such claim shall be made no later than the later of –

(a) six years after the end of the tax year to which the claim relates; and

- (b) six months after the date on which the relevant amount of tax in the reciprocating country has been ascertained.

(4) For the purposes of this Ordinance, “reciprocating country” means any country or territory which provides for the grant of relief in respect of tax paid or payable in the Areas in respect of a tax of the Areas which corresponds to a tax chargeable in the reciprocating country or territory.

## PART IX COLLECTION OF TAX

**37.** - (1) The Commissioner shall, from time to time, prepare certified extracts from the assessment lists containing the names and addresses of all persons assessed, together with the amount of the tax payable by each such person, and forward such lists to the tax collector in charge of the tax collection area responsible for collecting the tax due from the persons concerned.

Extracts from lists to be sent to tax collector.

(2) Where an appeal has been made to the Senior Judge’s Court, collection of the tax in respect of which the appeal has been made shall be suspended until the appeal has been determined, unless the Court should otherwise order under section 38(3):

Provided that the collection of any amount of tax which is not disputed shall not be suspended.

**38.** - (1) Unless otherwise provided in this or any other Ordinance, tax shall be payable as follows –

Time-limits for payment of tax.

- (a) on any assessment made in any tax year in respect of that particular tax year, by 1st August of the year following the tax year to which the assessment relates:

Provided that where accounts have been submitted in a case where the last date for rendering a return of the property on which the tax is chargeable is 31st December of the year following the tax year, tax shall be payable by 1st August of the year following the tax year;

- (b) on any assessment made in any year in respect of a previous tax year, on the last day of the month following that in which the notice referred to in section 19 is given;
- (c) on any temporary assessment made under Part IV, by three equal instalments made during the tax year to which the temporary assessment relates, the first such instalment being payable on 1st August, the second on 30th September and the third on 31st October.

(2) Where an objection has been made in relation to an assessment, any tax referred to in the assessment which is not disputed shall be payable without any further notice, as provided by subsection (1) above. Any balance of tax found to be due shall be payable at the end of the month following that in which the objection is determined or agreed.

(3) Where an appeal has been made to the Senior Judge’s Court, the Court may make an order postponing or regulating payment of the tax in dispute or any part thereof in such manner and on such conditions as the Court may determine.

Additional sum and interest for non-payment of tax on time.

**39.** - (1) If any tax is not paid by the due date as provided by section 38, it shall be collected together with an additional sum equal to –

- (a) 5% per year on the amount of tax payable if the tax is paid within six months of the due date; or
- (b) 9% per year on the amount of tax payable in any other case.

(2) Where any delay in making an assessment is due to the taxpayer's default, interest at the rate of 9% per year shall be payable also on a sum equal to 5% of the amount of the tax due as from 1st August of the year following the year to which the assessment relates, irrespective of the year in which such assessment was actually made.

(3) The Court shall also have power, where on any appeal it determines that a particular amount of tax is due, to adjudge as payable an additional sum equal to 5% of the amount of tax due and interest on that additional sum at the rate of 9% per year from the date on which such tax became payable.

(4) The provisions of this Ordinance relating to the collection of tax shall apply also to the collection of any additional sums and interest such as are mentioned in subsections (1) and (2) above.

(5) Any interest payable under this section is payable only in respect of whole months during which the amount upon which the interest is calculated is in arrears.

Payment of tax by instalments.

**40.** Notwithstanding the provisions of sections 38 and 39, the Commissioner may determine that tax, together with any additional sum and interest, shall be payable by instalments on dates other than those specified by those sections.

Institution of proceedings by the Commissioner for the recovery of tax.

**41.** The Commissioner may institute proceedings for the recovery of tax against any person who has been assessed for such tax and the Commissioner may collect that tax and such legal costs as may be recoverable as a debt due to the Administration.

Anticipation of default in payment.

**42.** - (1) Notwithstanding any other provision of this or any other Ordinance relating to the collection of taxes, if in any particular case the Commissioner has reason to believe that tax assessed upon any person may not be paid when it is due, the Commissioner may, by notice in writing to the person concerned, require payment of the tax within the time-limit specified in such notice. Such tax shall thereupon become payable at the expiration of the time so specified, irrespective of whether any notice of objection to the assessment has been given and shall, in default of payment, unless security for the payment thereof is given to the satisfaction of the Commissioner, become recoverable forthwith in any manner provided for by this Ordinance.

(2) If in any particular case the Commissioner has reason to believe that the tax chargeable in respect of any property for any tax year may not be paid when it is due, he may at any time –

- (a) by notice in writing require any person to render a return and to furnish particulars of that property forthwith or within such time-limit as may be specified in the notice; and

- (b) make an assessment upon such person on the basis of the property declared in such return, or if a return is not rendered or if the Commissioner is not satisfied that such a return is accurate, on the basis of such property as the Commissioner thinks reasonable in all the circumstances of the case; and
- (c) by notice in writing to the person assessed require that he gives security to the satisfaction of the Commissioner for the payment of the tax assessed.

(3) If in any particular case the Commissioner has reason to believe that tax which would, under the provisions of the Ordinance charging the tax, become chargeable in respect of any property in any future tax year may not be paid when it becomes due, he may at any time –

- (a) by notice in writing to the person by whom the tax would be payable, determine a period for which tax will become chargeable and require such person to render within the time-limit specified in the notice, a return and particulars of the property for that period; and
- (b) make an assessment on such person on the basis of the property declared in such return, or if a return is not rendered or if the Commissioner is not satisfied that such a return is accurate, on the basis of such property as the Commissioner thinks reasonable in all the circumstances of the case. Such an assessment shall charge tax at the rate and in accordance with the provisions of the Ordinance for the tax year to which the assessment relates.

(4) Any notice of assessment made in accordance with subsection (2) or (3) above shall be served upon the person assessed and any tax so assessed shall be payable on the written demand of the Commissioner and, if payment is not made or if security for payment of the tax satisfactory to the Commissioner is not given, shall be recoverable forthwith in any manner provided for in this Ordinance, irrespective of whether or not any notice of objection to the assessment has been given.

## **PART X TAX DEDUCTED FROM EMOLUMENTS**

**43.** For the purposes of this Part, the term “emoluments” means all income derived by an individual from gains or profits from any office or employment, including any pension and the estimated annual value, determined at the prevailing market rates, of any quarters, board or residence or any other perquisite or allowance granted in respect of services rendered whether in money or otherwise, on which tax is chargeable and from which tax deductions should have been made by the employer in accordance with the Ordinance imposing the tax.

Meaning of “emoluments”.

**44.** - (1) An employer who has deducted tax from the emoluments of persons in his employment shall, not later than 30th April of the year following the tax year in which the deductions were made, furnish to the Commissioner a statement showing the names and addresses of the employees from whose emoluments tax has been deducted and the amount deducted from each employee’s emoluments.

Tax deducted from emoluments.

(2) If tax from emoluments which has been deducted by an employer has not been paid by him to the Commissioner, it shall be

collected together with interest at the rate of 9% per year, calculated from one month after the end of the month in which the deduction was made, with an additional charge of 1% for each month that that payment remains unpaid:

Provided that the total amount of the additional charge may not exceed 11% of the amount due.

(3) Where an employer fails to comply with the provisions of an Ordinance concerning the deduction of tax and payment of the tax deducted, the Commissioner may assess the amount of tax which had been or ought to have been deducted, to the best of his judgement and shall collect such tax together with interest at 9% per year, calculated from one month after the end of the month in which the tax was or ought to have been deducted, with an additional charge of 1% for each month that the payment remains unpaid:

Provided that the total amount of the additional charge may not exceed 11% of the amount due.

(4) The Commissioner may in addition take action against the employer with the aim of recovering the amount of tax due together with the additional charges as a debt due to the Administration.

(5) For the purposes of this section, annual interest shall be calculated on the basis of completed months during which payment of the tax is in arrear.

**45.** Where tax has been deducted from emoluments under the provisions of the Ordinance charging the tax –

(a) there shall be included among the debts which under section 38 of the Bankruptcy Ordinance are to be paid in priority to all other debts in the distribution of the property of a bankrupt or a person dying insolvent,

any amounts of tax deducted by an employer from the emoluments of an employee which have not been paid to the Commissioner during the twelve-month period immediately preceding the date of the receiving order;

(b) there shall be included among the debts which under section 300 of the Companies Ordinance are to be paid in priority to all other debts in the winding up of a company, any amounts deducted as tax by an employer from the emoluments of an employee which have not been paid to the Commissioner during the twelve-month period immediately preceding the relevant date as defined in that section;

(c) where a receiver is appointed on behalf of the holders of any debentures of a company secured by a floating charge, or possession is taken by or on behalf of those debenture holders of any property comprised in or subject to such charge, there shall be included among the debts, which under section 89 of the Companies Ordinance are to be paid in priority to any claim for principal or interest in respect of the debentures, any amounts deducted as tax by the employer from the emoluments of an employee which have not been paid to the Commissioner during the twelve-month period immediately preceding the date on which the receiver was appointed or such possession was taken, as the case may be.

Tax deducted is a preferential debt.

Cap.5 (Laws of Cyprus) as amended by Ordinances 9/85 and 8/87.

Cap.113 (Laws of Cyprus) as amended by Ordinances 11/68, 10/87, 9/90 and 7/95.

**PART XI  
TAX WITHHELD AT SOURCE**

**46.** - (1) If any tax withheld from the remuneration of a contractor or from dividends is not paid to the Commissioner in accordance with the Ordinance imposing the tax, by the end of the month following the month in which the withholding took place, it shall be recoverable together with interest at 9% per year calculated from the final date by which payment should have been made and with an additional charge of 1% for each month during which payment of the tax is in arrears:

Recovery of withheld tax which is not paid to the Commissioner.

Provided that the total amount of the additional charge shall not exceed 11% of the amount due.

(2) Where a person who is required to withhold tax from the remuneration of a contractor or from dividends fails to comply with the provisions of the Ordinance imposing the tax, the Commissioner may determine to the best of his judgement, the amount of tax which was withheld or which ought to have been withheld and shall collect that amount together with interest at 9% per year, calculated from the expiration of a month after the end of the month during which the tax was withheld or ought to have been withheld and with an additional charge of 1% for each month during which the payment of the tax is in arrear:

Provided that the total amount of the additional charge shall not exceed 11% of the amount due.

(3) The Commissioner may institute proceedings against any person who is required to withhold tax from the remuneration of a contractor or from dividends, for the recovery of the amount of the tax due together with the additional charges, as debts due to the Administration.

(4) For the purposes of this section, annual interest shall be calculated on the basis of the completed months during which payment of any tax is in arrears.

**PART XII  
MISCELLANEOUS**

**47.** Any notice purporting to be given by the Commissioner under this Ordinance shall be deemed to have been validly given if it purports to be given under his hand or under the hand of any other authorised officer and it bears the signature (or a copy of the signature) of the Commissioner or such other officer, unless it is proved that the notice was not given by the Commissioner or such other officer:

Validity of notices.

Provided that any notice requiring any person to furnish particulars or to attend before the Commissioner or any other officer shall be signed personally by the Commissioner or such other officer.

**48.** A notice may be served on a person either personally or by being sent by registered post to his last known place of business or private address and shall, in the latter case, be deemed to have been served, in the case of a person resident in the Island of Cyprus not later than the seventh day following the day on which the notice was posted, and in the case of persons not resident in the Island

Service of notices.



of Cyprus, not later than the thirtieth day following the day on which the notice was posted, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.

False statements,  
etc.

**49.** - (1) Any person who fraudulently or wilfully –

- (a) makes any incorrect statement or return in respect of his income; or
- (b) makes any incorrect statement or return in connection with any claim for any allowance, deduction or relief; or
- (c) submits to the Commissioner any incorrect accounts; or
- (d) furnishes, gives, produces or sends any incorrect information, certificate, documents, records, list or declaration,

in connection with the determination of his liability to tax, shall be guilty of an offence.

(2) Any person who aids, abets, assists, counsels, incites or induces another person –

- (a) to make, deliver or furnish under this Ordinance any return, statement, claim, list, accounts or particulars which is or are false in any material particular; or
- (b) to keep or prepare any account or document which is false in any material particular concerning any property upon which tax is chargeable,

shall be guilty of an offence.

(3) Any person who commits any offence described in subsection (1) or (2) shall be liable on conviction to a fine not exceeding one thousand pounds or to imprisonment for a term not exceeding three years or to both such fine and imprisonment, and if he is convicted of an offence specified in subsection (1) shall, in addition –

- (a) pay the amount of tax lost as a result of his fraudulent or wilful act; and
- (b) be chargeable by the Court with a further sum not exceeding double the additional amount of tax properly chargeable for the tax year concerned,

and such additional sums shall be collected in the manner provided by this Ordinance.

(4) For the purposes of subsection (2) a return, statement, claim, list, account, document or particulars shall be deemed to be false in a material particular if any information or amount which should properly be included therein is wilfully omitted.

Other offences.

**50.** - (1) Any person who refuses, fails or neglects to give any notice or to render any returns or lists or to furnish any particulars or to perform any other duty imposed on him under this Ordinance and any person who otherwise contravenes any provision of this Ordinance, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five pounds for each day for which the refusal, failure or neglect continues, or to imprisonment for a term not exceeding six months or to both such fine and imprisonment unless some other penalty is specifically provided for such offence.



(2) The Court may in addition direct the person convicted to give such notice, return, list or particulars as may have been required of him by the notice sent to him for such purpose.

(3) Any person who without lawful excuse omits any property chargeable to tax from his tax return, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred pounds and he shall in addition –

- (a) pay the amount of tax lost as a result of his omission; and
- (b) be chargeable by the Court with a further sum not exceeding double the difference between the tax properly chargeable and the tax which would have been chargeable had the assessment been based on the return rendered by him.

**51.** The Commissioner may compound any offence committed contrary to this Ordinance and may, before judgment, stay any proceedings under this Ordinance on such terms and conditions as he, in his discretion, thinks proper, with power to accept from the person liable payment of an amount not exceeding the maximum monetary penalty which could be imposed for the compounded offence.

Compounding of offences and staying of proceedings.

**52.** Proceedings against any person under this Ordinance for an offence shall be without prejudice to any prosecution which may be instituted under any other Ordinance in connection with the same conduct.

Prosecution under other Ordinances unaffected.

**53.** No prosecution for any offence under this Ordinance shall be instituted otherwise than with the consent of the Attorney General and Legal Adviser.

Consent of Attorney General for prosecution.

**54.** The Administrator may remit the whole or any part of the tax payable by any person if he is satisfied that it would be just and equitable so to do by reason of the poverty of such person.

Administrator's power to remit tax.

**55.** - (1) The Administrator may make regulations generally for the more effective application of the provisions of this Ordinance and for such other matters as this Ordinance provides may be prescribed and may include in such regulations such incidental or supplementary matters as may be necessary or expedient.

Regulations.

(2) Any person who fails to comply with or who contravenes the provisions of any regulation made under this section shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding two hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

**56.** This Ordinance shall come into force on 1st January 2004.

Commencement.

*7th July 2003*

(104)

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W. M. Jessett

Chief Officer.

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Marginal Notes

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