
EXTRAORDINARY CONTRIBUTION ORDINANCE 2012

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EXTRAORDINARY CONTRIBUTION ORDINANCE 2012

An Ordinance to make provision for extraordinary contribution by employees, self-employed persons and pensioners

G. E. STACEY
ADMINISTRATOR

11th May 2012.

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

1. Short title, commencement and expiry

- (1) This Ordinance may be cited as the Extraordinary Contribution Ordinance 2012 and comes into force on the day after it is published in the Gazette.
- (2) Despite subsection (1), this Ordinance is to have effect as if it had come into force on 1 January 2012.
- (3) This Ordinance expires on 31 December 2013.

2. Interpretation

- (1) In this Ordinance—
 - “the ACTO” means the Assessment and Collection of Taxes Ordinance 2003(a);
 - “authorised service organisation” has the meaning given in paragraph 1(b) of Part 1 of Annex B to the Treaty of Establishment;
 - “business” has the same meaning as in section 2 of the ITO;
 - “the Commissioner” has the same meaning as in section 2 of the ITO;
 - “the Crown” means Her Majesty in right of Her Government in the United Kingdom and in right of Her Administration in the Areas;
 - “emoluments” has the meaning given in section 3;
 - “employment” means employment under a contract of employment, a contract of apprenticeship or a contract personally to do work;

“extraordinary contribution” means a contribution payable in accordance with the provisions of this Ordinance;

“the ITO” means the Income Tax Ordinance 2003**(b)**;

“pension” means a pension arising from a contract of employment, legislative provision or any administrative arrangement, and includes a pension paid to a person in respect of a deceased person;

“resident in the Areas” has the same meaning as in section 2 of the ITO**(c)**.

- (2) A reference to “employer” or “employee” is to be read by reference to the definition of employment.
- (3) For the purpose of this Ordinance, a person holding personal or private office is an employee and the person responsible for paying that person is an employer.
- (4) A reference to a “pensioner” is to be read by reference to the definition of pension.

3. Meaning of emoluments

- (1) In this Ordinance “emoluments” means the following gross emoluments—
 - (a) remuneration, including but not limited to salary, cost of living allowance, other regular allowances, variable allowances and overtime arising from employment;
 - (b) profits or other benefits from the business of a self-employed person;
 - (c) a pension.
- (2) Emoluments do not include—
 - (a) a retirement gratuity or lump sum;
 - (b) a payment from a provident fund or welfare fund approved by the Commissioner;
 - (c) allowances paid to an employee to reimburse business expenses.

4. Application

- (1) Subject to subsection (2), extraordinary contribution is payable on the emoluments of—
 - (a) an employee or pensioner arising from employment in the Areas; and
 - (b) a self-employed person resident in the Areas arising from a business inside or outside the Areas, which are not less than the amount on which contributions are payable in accordance with the Social Insurance (Contribution) Regulations 1980**(d)**, (which are defined by reference to regulations made under the Republic’s Social Insurance Law 2010**(e)**).
- (2) The following emoluments are exempt from extraordinary contribution—
 - (a) the emoluments payable by the Crown—
 - (i) to a member of Her Majesty’s Forces;
 - (ii) in respect of the employment of a person enjoying the rights and facilities of a member of Her Majesty’s Forces by virtue of paragraph 3 of section 9 of Part II of Annex B to the Treaty of Establishment;
 - (iii) in respect of the employment of a person who is a member of the civilian component, as defined in paragraph 1(b) of section 1 of Annex C to the Treaty of Establishment;
 - (iv) in respect of the employment of a person who is a dependent, as defined in paragraph 1(d) of section 1 of Annex C to the Treaty of Establishment; and
 - (v) in respect of the employment of a person occupying the post of a public official as so classified by the Commissioner pursuant to section 8(a) of the ITO; and
 - (b) the emoluments payable by an authorised service organisation, in respect of the employment of a person referred to in paragraphs (a)(iii) and (a)(iv).

5. Amount of extraordinary contribution: general

- (1) Except where section 6 applies, the monthly amount of extraordinary contribution is determined by reference to the monthly gross emoluments of a person using the table of rates in this section.
- (2) The rates at which the amount of extraordinary contribution is determined are as follows—

<i>Monthly gross emoluments</i>	<i>Rate of extraordinary contribution</i>
Proportion of emoluments up to €2,500	Nil
Proportion of emoluments over €2,500 and up to €3,500	2.5%, subject to a minimum of €10
Proportion of emoluments over €3,500 and up to €4,500	3%
All emoluments over €4,500	3.5%

- (3) The rate of extraordinary contribution on the emoluments of a person who is paid other than on a monthly basis is determined by reference to the total of emoluments attributable to each month.
- (4) Where extraordinary contribution is payable on the emoluments of an employee or a pensioner arising from employment, 50% of the amount of extraordinary contribution is payable by the employer or former employer.

6. Amount of extraordinary contribution: Crown and authorised service organisations employees' and pensioners'

- (1) This section applies to emoluments of an employee or pensioner arising from employment by the Crown or an authorised service organisation.
- (2) The monthly amount of extraordinary contribution is determined by reference to the monthly gross emoluments of a person using the table of rates in this section.
- (3) The rates at which the amount of extraordinary contribution is determined are as follows—

<i>Monthly gross emoluments</i>	<i>Rate of extraordinary contribution</i>
Proportion of emoluments up to €2,500	Nil
Proportion of emoluments over €2,500 and up to €3,500	1.25%
Proportion of emoluments over €3,500 and up to €4,500	1.5%
All emoluments over €4,500	1.75%

7. Taxable income

For the purpose of the ITO, the amount payable by a person as extraordinary contribution is exempt from income tax.

8. Assessment, payment and enforcement of extraordinary contribution

- (1) For the purpose of assessment, payment and enforcement of extraordinary contribution, the ACTO and the ITO have effect as if the references to income tax were references to extraordinary contribution.
- (2) The penalties and criminal offences in the ACTO and the ITO have effect as if they were penalties and criminal offences under this Ordinance.
- (3) Except where subsection (4) applies, in giving effect to ACTO and ITO the Commissioner is to have regard to circulars published by the Ministry of Finance of the Republic in relation to the Republic's Extraordinary Contribution of Employees, Pensioners and Self-employed Persons in the Private Sector Law 2011(f), as if the references to Republican Laws were references to the corresponding Ordinances of the Areas.

- (4) Where extraordinary contribution is payable on the emoluments of an employee or pensioner arising from employment by the Crown, the Commissioner is to publish by circular procedures for the determination of the amount of extraordinary contribution payable.

9. Delegation of functions to the Republic

The functions placed on the Commissioner in sections 3(2)(b) and 8(3) are general delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007(g);

10. Power to make regulations

The Administrator may make regulations for the more effective application of this Ordinance.

11. Criminal offences

Proceedings for an offence under this Ordinance may be instituted only by, or with the consent of, the Attorney General and Legal Adviser.

12. Application to the Crown

- (1) Subject to this subsection (2), this Ordinance binds the Crown.
- (2) Proceedings for a criminal offence may not be brought against—
- (a) the Crown;
 - (b) an employee of the Crown acting in the course of employment of the Crown;
 - (c) a member of Her Majesty's Forces acting in the course of service of the Crown.

Notes

- (a) Ordinance 30/03.
(b) Ordinance 29/03; amended by Ordinance 19/11.
(c) The definition of "resident in the Areas" was amended by section 4(1) of the Income Tax (Amendment) Ordinance 2011 (Ordinance 19/11).
(d) P.I. 67/80; regulation 17 was amended by regulation 5 of the Social Insurance (Contributions) Amendment Regulations 2006 (P.I.51/06) to define the minimum weekly amount of insurable earnings by reference to Republican law.
(e) Law 59(I)/2010, Republic of Cyprus.
(f) Law 202 (I) 2011, Republic of Cyprus.
(g) Ordinance 17/07.

EXPLANATORY NOTE

(This note is not part of the Ordinance)

Introduction

1. This explanatory note relates to the Extraordinary Contribution Ordinance 2012, It has been prepared by the Office of the Attorney General and Legal Adviser in order to assist the reader of the Ordinance. It does not form part of the Ordinance.

2. This note should be read in conjunction with the Ordinance. It is not, and is not meant to be, a comprehensive description of the Ordinance. So, when a section or part of a section does not seem to require any explanation or comment, none is given.

Particular points

3. The purpose of the Ordinance is to replicate in the Areas the effect of the Extraordinary Contribution of Employees, Pensioners and Self-employed Persons in the Private Sector Law 2011 (Law 202 (I) 2011).

4. The Ordinance has effect for 2 years commencing on 1 January 2012.

5. Section 4 provides that extraordinary contribution is to be paid on the income of employees and pensioners arising from employment in the Areas and on the income arising from a business inside or outside the Areas of self-employed persons resident in the Areas. Emoluments paid by the Crown to service personnel and members of the civilian component (U.K. civil servants) are exempt. Also exempt are the emoluments paid by the Crown to dependents of service personnel and the civilian component who are employed in the Areas.

6. The amount of extraordinary contribution is based on gross monthly emoluments and calculated according to the rates set out in section 5. No contribution is payable for the first €2,500 of income; a contribution of 2.5% for income between €2,501 and €3,500; 3% for income between €3,501 and €4,500 and 3.5% on all income above €4,500. There is no ceiling on contribution. In the case of employees and pensioners (where the pension arises from employment), 50% of the contribution is payable by the employer, or former employer in the case of a pensioner.

7. Section 6 sets out the rate of extraordinary contribution for the emolument of persons employed by the Crown or an authorised service organisation. The full amount is payable by an employee or pensioner, but for each income band they are 50% of the rates for set out in section 5.

8. Section 8 applies provisions in the Income Tax Ordinance 2003 (“the ITO”) and the Assessment and Collection of Taxes Ordinance 2003 (“the ACTO”). The effect of these provisions is that extraordinary contribution is to be assessed and paid in the same way as income tax and liable to the same penalties and offences. Except in relation to Crown employees’ and pensioners’, in giving effect to the ITO and the ACTO, the Commissioner is to have regard to circulars published by the Republic’s Ministry of Finance in respect of the assessment and collection under the Extraordinary Contribution of Employees, Pensioners and Self-employed Persons in the Private Sector Law 2011. The Commissioner is to publish a separate circular in respect of procedures for the determination of the contribution for Crown employees’ and pensioners’.

9. Section 9 delegates some the functions of the Commissioner (defined as the Fiscal Officer in section 2 of the Income Tax Ordinance 2003) of assessing and collecting extraordinary contribution to the Republic, under the Delegation of Functions to the Republic Ordinance 2007.

10. Sections 10, 11 and 12 make provisions for a power for the Administrator to make regulations, in relation to criminal offences, and application to the Crown.

