



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
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LEGISLATION

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INCOME TAX (AMENDMENT) ORDINANCE 2013

An Ordinance to amend the Income Tax Ordinance 2003

R. J. CRIPWELL
ADMINISTRATOR

17th October 2013.

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

1. Short title

This Ordinance may be cited as the Income Tax (Amendment) Ordinance 2013.

2. Commencement

- (1) This Ordinance comes into force on the day after its publication in the Gazette.
- (2) The amendments made by sections 4 to 7 are deemed to have come into force on 1 January 2012.
- (3) The amendment made by section 8 is deemed to have come into force on 1 January 2013.

3. Income Tax Ordinance 2003 amended

The Income Tax Ordinance 2003(a) is amended in accordance with sections 4 to 8.

4. Section 9 amended (deductions allowed)

Section 9(1) is amended by omitting paragraph (e) and the 2 provisos immediately following it and substituting the following paragraph—

- “(e) any expenditure on acquiring or developing intellectual property rights incurred in the course of a business; and—
- (i) deductions in respect of any expenditure of a capital nature must be allocated equally between the tax year in which the expenditure was incurred and the following 4 tax years;
 - (ii) the proceeds of sale of intellectual property rights must be treated as income for the purposes of section 5;

- (iii) 80% of the profit of any intellectual property rights (including profit from the occasional use of such rights and the proceeds of sale of such rights) may be deducted; and
- (iv) “profit” for the purposes of this paragraph must be calculated by deducting from the income derived from the use or sale of intellectual property rights the expenses incurred in producing the income;”.

5. Section 10 amended (reductions and additions on account of fixed assets)

- (1) Section 10 is amended by omitting the 2 provisos immediately following subsection (2).
- (2) Section 10 is amended by inserting the following subsection after subsection (2)—
 - “(2A) In calculating depreciation for the purposes of subsection (2)—
 - (a) the total of any deductions must not exceed the capital expenditure incurred in acquiring the fixed asset;
 - (b) a person (P) providing paid services is not entitled to a deduction in respect of a fixed asset owned by P if P is not required under the terms under which P provides services to use the asset in the performance of P’s duties or if any compensation or allowance for such use is payable to P;
 - (c) if a fixed asset is used partly for business purposes and partly for private purposes, the Commissioner may specify the proportion of the capital expenditure in acquiring the asset to be attributable to its private use, and a deduction is to be allowed only in respect of that proportion of the capital expenditure that is attributable to the use of the asset in the business;
 - (d) the useful life of a building is to be taken as 33 years or, in the case of an industrial building, 25 years; and where a building is transferred (whether by way of sale or otherwise), the transferee is entitled to claim deductions by reference to the original cost of the building for the remainder of its useful life;
 - (e) a deduction of 20% is to be allowed in respect of plant and machinery acquired in the tax years 2012, 2013 or 2014 (except where a greater deduction is allowed under regulations made under this Ordinance);
 - (f) a deduction of 7% is to be allowed in respect of industrial and hotel buildings acquired in the tax years 2012, 2013 or 2014.”

6. Section 11 amended (deductions not allowed)

- Section 11 is amended by inserting the following subsection after subsection (1)—
- “(1A) Where a company (the “parent”) acquires all the shares in another company (the “subsidiary”) on or after 1 January 2012—
 - (a) if all the subsidiary’s assets are used in the course of the parent’s business, subsection (1)(o) does not apply to interest on a loan for the purpose of acquiring the shares;
 - (b) if only some of the subsidiary’s assets are used in the course of the parent’s business, subsection (1)(o) does not apply to that proportion of the interest on such a loan represented by the proportion of the subsidiary’s assets so used.”

7. Section 13 amended (allowance of trade losses)

- (1) Section 13 is amended by omitting the proviso immediately following subsection (1).
- (2) Section 13 is amended by inserting the following subsections after subsection (1)—
 - “(1A) Despite any contrary provision of this Ordinance, if a person who is required under the Assessment and Collection of Taxes Ordinance

2003**(b)** to keep books of account and records, to prepare audited accounts and to deliver a tax return for a tax year suffers a loss in that tax year, the loss may not be set off against the income of any tax year following the expiry of 5 years from the end of the tax year in which the loss occurred.

(1B) If—

- (a) during any 3-year period there is a change in ownership of the shares of a company and a substantial change in the nature of its business; or
- (b) at any time after the scale of the business activities of a company substantially declines or becomes negligible and before any revival of the business, there is a change in ownership of the shares of the company,

no loss that occurred in any tax year before the change in ownership may be set off against the income of any subsequent tax year.”

(3) Section 13 is amended by inserting the following subsection after subsection (5)—

“(5A) For the purposes of this section, a subsidiary company that is formed by its parent during the course of a tax year and remains part of the same group as its parent during the remaining part of the tax year must be treated as being a member of that group during the whole of the tax year.”

8. Schedule 2 amended (rates of tax)

Paragraph 2 of Schedule 2 is amended by omitting “10%” and substituting “12.5%”.

Notes

- (a) Ordinance 29/03, amended by Ordinance 19/11 and Ordinance 13/12.
- (b) Ordinance 30/03, amended by Ordinance 25/12.

EXPLANATORY NOTE

(This note does not form part of the Ordinance)

1. This explanatory note relates to the Income Tax (Amendment) Ordinance 2013 (the “Ordinance”). It has been prepared by the Office of the Attorney-General and Legal Adviser in order to assist the reader of the Ordinance.
2. The Ordinance amends the Income Tax Ordinance 2003 (the “principal Ordinance”). The amendments reflect amendments made to the corresponding law of the Republic of Cyprus by Laws 102(I) of 2012, 188(I) of 2012 and 27(I) of 2013.
3. The main effect of the amendments is as follows—
 - In calculating taxable income, deductions in respect of capital expenditure on intellectual property rights are to be allocated equally between the tax year in which the expense was incurred and the 4 subsequent tax years, and 80% of income from intellectual property rights may be deducted (see new section 9(1)(e) of the principal Ordinance).
 - Annual deductions of 20% are to be allowed in respect of depreciation in the value of plant and machinery, and of 7% in respect of depreciation in the value of industrial and hotel buildings, acquired in the tax years 2012, 2013 and 2014 (see new section 10(2A)(e) and (f) of the principal Ordinance).
 - Where a parent company acquires all the shares in a subsidiary on or after 1 January 2012, interest on a loan to acquire the shares is a deductible expense to the extent that the subsidiary’s assets are used in the course of the parent’s business (see new section 11(1A) of the principal Ordinance).
 - A person who is required under the Assessment and Collection of Taxes Ordinance 2003 to keep books of account and records, etc. may carry forward losses only for the next 5 tax years (see new section 13(1A) of the principal Ordinance).
 - Losses may be set off within a group of companies for a tax year even in the case of a member of the group that was formed during the course of the tax year (see new section 13(5A) of the principal Ordinance).
 - The rate of income tax for companies is increased from 10% to 12.5% for the 2013 and subsequent tax years (see amended Schedule 2 to the principal Ordinance).