



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
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LEGISLATION

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CAPITAL GAINS TAX (AMENDMENT) ORDINANCE 2014

An Ordinance to amend the Capital Gains Tax Ordinance 2006

R. J. CRIPWELL
ADMINISTRATOR

14th February 2014.

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 Capital Gains Tax (Amendment) Ordinance 2014.

2. Commencement

This Ordinance comes into force on the day after it is published in the Gazette.

3. Capital Gains Tax Ordinance 2006 amended

The Capital Gains Tax Ordinance 2006(a) is amended in accordance with sections 4 to 11.

4. Section 2 amended (interpretation)

Section 2 is amended by omitting the definition of “property” and substituting the following definition—

““property” means immovable property situated in the Areas, shares in a company whose assets include immovable property situated in the Areas and rights derived from a contract of sale or exchange of immovable property situated in the Areas;”.

5. Section 6 repealed and substituted

(1) Section 6 is repealed and the following section substituted—

“6. Determining gains

(1) For the purpose of determining a gain, the following must be deducted—

- (a) subject to the following sub-paragraphs, the value of the property on 1 January 1980, as determined in accordance with sections 66, 67, 69, 70, 71 or 72 of the Immovable Property (Tenure, Registration and Valuation) Ordinance^(b) (or with any other relevant provision of, or instrument made under, that Ordinance), together with any subsequent increase in the value of the property due to inflation—
 - (i) where the property was subject to a tenancy or other similar agreement on 1 January 1980, the value of the property on 1 January 1980 is its market value as determined by the Chief Officer;
 - (ii) where the value of the property has not been determined in accordance with sections 66, 67, 69, 70, 71 or 72 of the Immovable Property (Tenure, Registration and Valuation) Ordinance (or with any other relevant provision of, or instrument made under, that Ordinance), the value of the property on 1 January 1980 is its market value as determined by the Chief Officer;
 - (iii) where during the general valuation of property improvements or other changes to the property after 1 January 1980 are taken into account, the value of the property on 1 January 1980 is its market value before any such improvements or other changes as determined by the Chief Officer;
 - (iv) where the property disposed of was created following a division into building plots and no new property title has been issued, the value of the property on 1 January 1980 is the market value of the corresponding part of the original property before that property's division as determined by the Chief Officer;
 - (v) where part or the whole of the value of the property is allowed as a deduction under any Ordinance relating to income tax, that amount must not be deducted under this paragraph;
 - (vi) where the owner so chooses, the market value of the property as at 14 July 1974 may be deducted instead;
- (b) any expenditure incurred on the property after 1 January 1980 relating wholly and exclusively to the production of the gain that is not deductible under any Ordinance in force in relation to income tax, readjusted to take account of inflation.

- (2) For the purposes of this section, inflation must be calculated on the basis of the retail prices index issued from time to time by the Department of Statistics and Research of the Ministry of Finance of the Republic.”

6. Section 10 amended (disposal of property)

Section 10 is amended by omitting “disposal of property includes a sale, an agreement to sell or exchange” and substituting “a disposal of property includes a sale, a sale by or on behalf of the Chief Officer at public auction, a contract of sale or exchange, the assignment of rights derived from such a contract, a lease registered under the Immovable Property (Tenure, Registration and Valuation) Ordinance”.

7. Section 12 amended (notification of intention to dispose of property)

Section 12 is amended by adding the following subsections—

- “(3) Where immovable property is sold by or on behalf of the Chief Officer at public auction, for the purposes of this Ordinance, the person disposing of the property is to be treated as the Chief Officer.

- (4) Where immovable property is sold by or on behalf of the Chief Officer at public auction, notification for the purposes of subsection (1) must be given within 1 month of the receipt of the proceeds of sale, and the tax must be paid out of the proceeds of sale.”

8. Section 15 amended (objections and appeals)

- (1) Section 15 is amended by renumbering it as subsection (1).
- (2) Section 15 is amended by adding the following subsection after the proviso that follows renumbered subsection (1)—
 - “(2) In the case of a sale by or on behalf of the Chief Officer at public auction, the owner of the property may submit an objection or appeal for the purpose of claiming any expenses or reliefs to which the owner is entitled at any time before the end of the month following the month in which the owner receives notice of the assessment by letter sent by registered post to the owner’s last known address.”

9. Section 17 amended (manner of payment of tax)

- (1) Section 17 is amended by repealing the proviso that follows subsection (2).
- (2) Section 17 is amended by inserting the following subsections after subsection (2)—
 - “(2A) Except in the case of a sale by or on behalf of the Chief Officer at public auction, unless the Fiscal Officer orders that payment of the tax be held over,—
 - (a) the property may not be transferred unless the tax that has been assessed is paid; and
 - (b) the property is charged with payment of the tax until payment is made.
 - (2B) In the case of a sale by or on behalf of the Chief Officer at public auction, the tax assessed must be deducted from the proceeds of sale as a charge on the property and paid to the Fiscal Officer.”

10. Section 18 amended (interest on unpaid tax)

- (1) Section 18 is amended by renumbering it as subsection (1).
- (2) Section 18 is amended by adding the following subsection after the proviso that follows renumbered subsection (1)—
 - “(2) No interest is payable in the case of a sale by or on behalf of the Chief Officer at public auction.”

11. Section 29A amended (delegation of functions to Republic)

Section 29A(c) is amended by adding the following subsection—

- “(3) The functions placed on the Chief Officer by section 6 of this Ordinance are general delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007(d).”

12. Capital Gains Tax (Amendment) Ordinance 2008 repealed

The Capital Gains Tax (Amendment) Ordinance 2008(e) is repealed.

Notes

- (a) Ordinance 2/06, amended by Ordinances 1/09 and 18/11.
- (b) Cap. 224, Laws of Cyprus, 1959 ed. Legislation of the former colony of Cyprus has effect in the Areas by virtue of article 5 of the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960. Schedule 2 to the Interpretation Ordinance 2012 provides for the interpretation of such legislation. Section 66 is amended by Ordinance 11/84; section 69, by Ordinance 1/85; section 70, by Ordinance 12/85; section 71, by Ordinance 13/93; and section 72, by Ordinance 11/84.
- (c) Section 29A was inserted by Ordinance 18/11.
- (d) Ordinance 17/07.
- (e) Ordinance 13/08.

EXPLANATORY NOTE

(This note does not form part of the Ordinance)

1. This explanatory note relates to the Capital Gains Tax (Amendment) Ordinance 2014 (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 and should be read in conjunction with it.
2. The Capital Gains Tax Ordinance 2006 (the “principal Ordinance”) provides for capital gains tax of 20% to be charged on a gain accruing on the disposal of property (as defined). The Ordinance amends the principal Ordinance in a number of respects, the main effect of which is set out in this note.
3. The definition of “property” is amended to include rights derived from a contract of sale of immovable property (see amended section 2 of the principal Ordinance). Further, a “disposal” now includes the assignment of rights derived from such a contract (see amended section 10 of the principal Ordinance). The effect is to make clear that the assignment of rights derived from a contract of sale of immovable property may be subject to capital gains tax.
4. Gains are generally calculated by reference to the value of the property on 1 January 1980. The amendments made provide that the value is to be determined in accordance not only with the general valuation of property carried out under section 69 of the Immovable Property (Tenure, Registration and Valuation) Ordinance but also with other relevant provisions of that Ordinance (see new section 6 of the principal Ordinance). Further, provision is made for the Chief Officer to determine property values in certain cases, including where the property disposed of was created following a division into building plots to which no property title has been issued. The functions of the Chief Officer (which, under the Capital Gains Tax Law of the Republic, are carried out by the Director of the Lands and Surveys Department of the Republic) are delegated in accordance with the Delegation of Functions to the Republic Ordinance 2007 (see amended section 29A of the principal Ordinance).
5. Provision is made for when property is sold at public auction by or on behalf of the Chief Officer. In such cases—
 - notification of the disposal must be given within one month of the receipt of the proceeds of sale (see new section 12(4) of the principal Ordinance);
 - the owner of the property is given additional time to submit an objection or appeal for the purpose of claiming expenses or reliefs, calculated from the date on which the owner receives notice of the assessment by registered post (see new section 15(2) of the principal Ordinance);
 - tax must be paid from the proceeds of sale (but title to the property may be transferred before tax is paid) (see new section 17(2A) and (2B) of the principal Ordinance);
 - no interest on tax is payable (see new section 18(2) of the principal Ordinance).
6. The amendments reflect amendments made by Law 119(I) of 2013 and Law 120(I) of 2013 to the Capital Gains Tax Law of the Republic.
7. The Ordinance repeals the Capital Gains Tax (Amendment) Ordinance 2008.

(SBA/AG/2/TA/119)