



SUPPLEMENT No. 2
T O
THE SOVEREIGN BASE AREAS GAZETTE
No. 576 of 15th December, 1980.
L E G I S L A T I O N

ORDINANCE 18 OF 1980.

AN ORDINANCE

TO PROVIDE FOR THE IMPOSITION AND COLLECTION OF A
CAPITAL GAINS TAX IN THE SOVEREIGN BASE AREAS.

R. L. DAVIS,
ADMINISTRATOR

12th December, 1980.

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

1. This Ordinance may be cited as the Capital Gains Tax Ordinance, 1980. Short title.
2. In this Ordinance, unless the context otherwise requires— Interpretation.

“body of persons” means any body corporate and any company, fraternity or other society of persons whether corporate or unincorporate ;

“child” means a lawful child but includes a step child or a child adopted under any legislation of any country whose status as an adopted child is recognized in the Republic or the Areas, or an illegitimate child ;

“company” means any company of limited liability incorporated or registered under any enactment in force either in the Areas or the Republic and any company which, though incorporated or registered outside the Areas or the Republic, carries on business or has an office or place of business in the Island of Cyprus ;

“Cypriot” means a citizen of the Republic ;

“expatriate” means :—

- (a) a person who is not a citizen of the Republic ; or
- (b) a person who is a citizen of the Republic solely by reason of his birth in the Island of Cyprus before the 16th of August, 1960 and is also a citizen of one or more other countries ;

“gains” means the gains accruing to any person after the date of coming into operation of this Ordinance on the disposal of his property, provided they are not gains which fall within the provisions of any legislation in force relating to income tax ;

“person” includes a body of persons ;

“property” means :—

- (a) in relation to a person resident in the Areas or the Republic any immovable property wherever situate, and includes shares in any company the sole or principal business of which consists in dealing in or, owning or in any way carrying out functions in connection with immovable property ;
- (b) in relation to a person not resident in the Areas or the Republic any immovable property situated in the Areas which has not been acquired following the importation of foreign exchange for the purpose of such acquisition ;

“public company” means a company which has issued a prospectus to the public to subscribe for shares and —

- (a) the number of shareholders is not less than two hundred ;
- (b) no shareholder possesses directly or indirectly individually or with his wife and infant children shares carrying a right to vote in excess of forty per centum of the issued and paid up capital ; and
- (c) the share capital issued and paid up does not exceed one hundred thousand pounds ;

“relations of the first or second degree” have the same meaning as shown in the Table set out in the Second Schedule to the Wills and Succession Ordinance, but includes in each respective degree the female equivalents to the male kindred set out in the said Table ;

“tax” means capital gains tax imposed under this Ordinance.

Cap. 195 (Laws
of Cyprus).

Fiscal Officer.

3. The Fiscal Officer shall be responsible for the due administration of this Ordinance and shall do all such acts as he may deem necessary or expedient for the purpose of carrying into effect the provisions of this Ordinance.

Imposition
of tax.

4. Subject to the provisions of this Ordinance and the exceptions therein provided, there shall be levied on any gains accruing to a person on the disposal of property a tax at the rate of twenty per centum on such gains.

5.—(1) No tax shall be payable whenever the total gains accruing from the disposal of property by any individual person do not exceed five thousand pounds or in the case of agricultural land by an individual person whose main occupation is farming they do not exceed eight thousand pounds whether such gains were obtained in the course of the same year or any other year. Exceptions.

(2) No tax shall be payable on any gain upon the disposal of a dwelling house used by the owner for his own occupation for a period of at least five years if it is situated upon land in the possession of such owner not exceeding one donum and such gain is not in excess of ten thousand pounds :

Provided that —

- (i) where the gain accruing from such disposal is in excess of ten thousand pounds a tax shall be charged on any sum exceeding ten thousand pounds ;
- (ii) no exemption shall apply where the disposal of the dwelling house has taken place after a period of one year since the owner ceased to live in such house ;
- (iii) no person shall be entitled to this exception together with that referred to in subsection (1) of this Section of the Ordinance but only to one such exception whichever of the two is the greater.

(3) No tax shall be payable on any gain accruing from the disposal of property outside the Areas or the Republic —

- (a) by an expatriate resident in the Areas or the Republic ; or
- (b) by a Cypriot who acquired such property while he was permanently resident outside the Island of Cyprus ;
- (c) by a company the shares of which exclusively belong directly or indirectly to expatriates and which company derives its income from places outside the Island of Cyprus.

(4) No tax shall be payable on such gains accruing from the disposal of shares of public companies as the Administrator may by notice in the Gazette determine subject to any terms and restrictions which may be included in such notice.

6. In determining gains —

Determination
of gains.

- (a) any appreciation in the value of property before 27th June, 1978 or upon the owner's option before 14th July, 1974 shall not be taken into account ;
- (b) allowance shall be made for all expenditure wholly and exclusively incurred after the 27th June, 1978 in relation to the acquisition of such gains, provided that such expenditure is not already allowed under the laws in force relating to income tax.

7.—(1) Any loss accruing upon a disposal of property shall be computed in the same way as the amount of a gain accruing on a disposal is computed.

Losses.

(2) Where the amount of a loss which arises out of the disposal of property is such that it cannot be set off against a gain accruing from the simultaneous disposal of other property, the amount of such loss to the extent that it cannot be so set off shall be carried forward and be set off against gains arising out of a subsequent disposal of property until such loss is extinguished.

Time of acquisition of gain or loss.

8. A gain or loss accruing from the disposal of property shall be deemed to have been incurred at the time of disposal of such property.

Proceeds from disposal of property.

9.—(1) The proceeds from the disposal of any property shall be the amount which in the opinion of the Fiscal Officer such property might be expected to realise if sold in the open market at the time of such disposal.

(2) If no sale has taken place, the amount which is deemed to have been paid or collected as the case may be, shall be an amount equal to the sum for which, in the opinion of the Fiscal Officer, such property, if sold, in the manner described in subsection (1) of this Section, could be expected to realise.

Disposal of property.

10. For the purposes of this Ordinance, disposal of property includes a sale, an agreement of sale or exchange and the donation of property as well as the abandonment, use or enjoyment of any relevant right but it does not include —

- (a) a transfer in consequence of death ;
- (b) a donation from a parent to a child, between a husband and wife, or relations of the first and second degree or to a limited company whose shareholders are members of the family of the person making the donation and they continue to be so after five years following such donation :

Provided that in any such case the value of the property shall be deemed to be the original value at the time when it was acquired by the donor or its value on the 27th June, 1978 whichever of the two is subsequent :

Provided further that where the property has been acquired by the donor before the 14th July, 1974, the donee may elect the value of the property as on 14th July, 1974 to be the value thereof ;

- (c) a donation to the Crown or the Republic or any charitable institution approved as such by the Administrator or the appropriate authorities of the Republic ;
- (d) exchange or sale in the Republic under the Agricultural Land (Consolidation) Law, 1969 of the Republic in force for the time being.

Law No. 24/69.

Tax to be credited as payment of estate duty.

11. Any tax paid under the provisions of this Ordinance on account of the donation of property by any person shall be credited to the estate as part of the whole of any estate duty payable on such property under the provisions of any enactment in force relating to estate duty :

Provided that in no case shall such credit exceed the amount payable as estate duty.

12.—(1) Any person disposing of property shall declare such disposal to the Fiscal Officer within one month including any other information which may be required for the purposes of this Ordinance.

Declaration of disposal of property.

(2) The declaration required under subsection (1) of this Section shall be made in a form to be prescribed by the Fiscal Officer.

13. The Fiscal Officer may, at any time, whether a declaration of property disposed of has been made or not, assess the tax payable with regard to the disposal of such property and shall send to the person concerned a notice of such assessment.

Fiscal Officer to assess tax.

14. Where it appears to the Fiscal Officer that the amount which any person is liable to pay as tax has been assessed at less than the proper amount, the Fiscal Officer may at any time within six years of the notice of the original assessment make an additional assessment of the amount which such person is, in his opinion, liable to pay :

Additional assessments.

Provided that where the under-assessment is due to fraud or wilful evasion, such additional assessment may be made at any time.

15. Any person who desires to object shall not later than the end of the month following the month during which the notice of assessment was given, deliver to the Fiscal Officer a written notice of objection which shall set out specifically the several grounds upon which it is contended that the assessment is erroneous :

Notice of objection.

Provided that the Fiscal Officer upon being satisfied that owing to absence from the Island of Cyprus, sickness or other reasonable cause, the person disputing the assessment was prevented from filling the objection within the period prescribed shall extend the period as may be reasonable in the circumstances.

16. The Fiscal Officer may summon the person giving the notice of objection or any other person connected with the disposal of the property to appear before him and produce evidence in support of the grounds set out in the objection.

Production of evidence.

17. In the event of the person giving the notice of objection agreeing with the Fiscal Officer as to the amount of the tax payable, the assessment shall be amended accordingly and a notice to pay the tax agreed shall be served on such person.

Amendment of assessment by consent.

18. In the event of the person giving the notice of objection failing to agree with the Fiscal Officer as to the amount of the tax payable, the Fiscal Officer shall proceed with the determination of the objection and serve upon such person a notice to pay the tax in accordance with the determination by the Fiscal Officer of the objection.

Determination of the objection.

19. Any person aggrieved by the determination of his objection under Section 18 of this Ordinance, may appeal to the Judge's Court under the same conditions as are set out as if this was an appeal against an assessment of income tax under the provisions of Section 43 of the Income Tax Ordinance and

Appeal to the Judge's Court.

Cap. 323 (Laws of Cyprus).

the provisions of that Section shall apply to this Section accordingly substituting (in subsections (1) and (2)) Section 18 of this Ordinance for Section 42 of the Income Tax Ordinance and in subsection (11) of that Section substituting the words "notwithstanding anything contained in this Ordinance" for the words "notwithstanding anything contained in Section 57".

Obligation to pay tax.

20. The person disposing of property shall be liable to pay the tax at the time when such property was disposed of :

Provided that in the case of an agreement of sale which provides that the payment of the agreed price of the property is to be carried out by instalments the tax shall be paid with interest thereon in proportion to such instalments.

Manner of payment of tax.

21.—(1) The tax shall be paid in the manner directed in a notice of assessment on or before the date specified in such notice.

(2) The tax shall be paid notwithstanding any notice of objection or appeal unless the Fiscal Officer orders that payment of the tax or any part thereof be held over to a date specified in such order.

(3) Any tax not paid on or before the date specified in the notice of assessment or in any order made under subsection (2) of this Section of the Ordinance shall be deemed to be in default.

Interest on tax unpaid.

22. Simple interest at the rate of nine per centum per annum shall be paid upon all tax from and after the expiration of three months of the date of the disposal of the property to the date of payment and shall be recovered as though it formed part of the tax in default :

Provided that where the tax payable has not been assessed the person liable to pay the tax may pay to the Fiscal Officer any sum on account of the tax thereafter to be assessed ; and any sum so paid shall, on assessment, be appropriated against the tax due from such person.

Allocation of payments.

23. Where under this Ordinance any sum is payable by any person by way of interest and tax, any payment made by such person shall be appropriated first to interest and then to the tax.

Penalty for failure to deliver declaration.

24. Every person who fails to deliver a declaration of the disposal of any property within the period provided in Section 12 of this Ordinance, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred pounds.

Penalty for failure to furnish information.

25. Every person who fails to comply with a notice issued under Section 16 of this Ordinance, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred pounds.

Penal provisions relating to fraud, etc.

26. Any person who wilfully with intent to evade or to assist any other person to evade payment of the tax —

- (a) signs any declaration, statement or return furnished under this Ordinance without reasonable grounds for believing the same to be true ;

- (b) gives any false answer whether verbally or in writing to any question or request for information asked or made in accordance with the provisions of this Ordinance ;
- (c) prepares or maintains or authorizes the preparation or maintenance of any false book of account or other document ;
- (d) makes use of or authorizes the use of any fraudulent devise, or contrivance ;
- (e) makes any incorrect statement in connection with a claim for relief on account of expenditure,

shall be guilty of an offence and shall for each such offence be liable, on conviction, to a fine not exceeding the total of one thousand pounds and treble the amount of the tax for which he or the person whom he has assisted is liable to pay, or to imprisonment for any term not exceeding twelve months or to both such fine and imprisonment.

27. The Fiscal Officer may at any time before a prosecution has been commenced compound any offence under this Ordinance:

Power of Fiscal Officer to compound offences.

Provided that where a prosecution has been commenced against any person for any offence under this Ordinance the Fiscal Officer may, with the consent of the Legal Adviser, compound such offence at any time before judgment and may, with such consent, withdraw such prosecution.

28. The prosecution of any person for an offence under this Ordinance, the conviction of any person of any such offence, imprisonment under this Ordinance, shall not affect the liability or the imposition on any person of any penalty, fine, or of any person to be assessed for tax or to pay such tax.

Tax to be payable notwithstanding proceedings for penalties.

29. No prosecution in respect of any offence under this Ordinance shall be instituted except at the instance of or with the written sanction of the Legal Adviser.

Prosecution not to be instituted except with sanction of the Legal Adviser.

30. The secretary, manager, chairman, or other principal officer of every company or body of persons shall be liable for failing to do any act, as is required to be done under the provisions of this Ordinance by such company or body of persons :

Principal officer to act on behalf of a company or body of persons.

Provided that any person to whom a notice has been given under the provisions of this Ordinance as representing a company or body of persons shall be deemed to be the principal officer thereof unless he proves that he has no connection with such company or body of persons, or that some other person resident in the Areas or the Republic is the principal officer thereof.

31.—(1) The Administrator may make Regulations for the purpose of carrying out or giving effect to the objects and purposes of this Ordinance.

Regulations.

(2) Such Regulations may prescribe penalties for any contravention thereof or failure to comply therewith not exceeding in each case a sum of twenty-five pounds; and any person who contravenes or fails to comply with any Regulation for the contravention of or failure to comply with which a penalty is so prescribed shall be guilty of an offence which may be summarily tried by the Judge's Court.

Existing
agreements
to be produced
to Fiscal Officer.

32. No agreement in respect of a sale of property entered into before the coming into operation of this Ordinance may for the purpose of this Ordinance, be taken into account unless such agreement is produced and a copy thereof is lodged with the Fiscal Officer within two months of the coming into effect of this Ordinance.

Ordinance not
to bind the
Crown or
Authorized
Service
Organizations.

33. This Ordinance shall not apply to Crown in any capacity or to any authorized service organization as defined in the Treaty of Establishment.

12th December, 1980.

(104/15)

M. D. TIDY,
Chief Officer.