



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
No. 922 of 10th January, 1991.
LEGISLATION

ORDINANCE 1 OF 1991.

AN ORDINANCE

TO AMEND THE CAPITAL GAINS TAX ORDINANCE.

A.F.C. HUNTER
ADMINISTRATOR

4th January, 1991.

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 (Amendment) Ordinance, 1991 and shall be read as one with the Capital Gains Tax Ordinance, 1980 as amended by the Capital Gains Tax (Amendment) Ordinance, 1981 (hereinafter referred to as “the principal Ordinance”).

Short title.

Ordinances
18/80 and 3/81

2. Section 2 of the principal Ordinance is hereby amended as follows :—

Section 2 of the
principal Ordinance
amended.

(a) by inserting in the appropriate alphabetical order the following definition:—

“readjusted value of property” means the sum equal to the market value of the property at the time when such property was acquired, reduced by the sum equal to any capital gain which may have accrued in the past and on which in accordance with the provisions of this Ordinance, no tax has been paid.”

(b) by deleting the definition of “public company” thereof and substituting therefor the following definition:—

“public company” has the meaning assigned to it in the Income Tax Ordinance:

Cap. 323 – Laws of
Cyprus and
Ordinances 16/61
and 11/66.

Provided that companies which were deemed to be public companies before the date of effect of this Ordinance, shall be deemed to be public companies for a period of three years as from the date of effect of this Ordinance, notwithstanding the fact that they may not comply in all respects with the definition in this Ordinance.”

(c) by deleting the definition of the term "property" therein and substituting therefor the following new definition:-

“(a) In relation to a person who is a resident of the Areas or the Republic, any immovable property wherever situate, including shares in companies the property of which also consists of immovable property.

(b) In relation to a person who is not a resident of the Areas or the Republic, any immovable property situated in the Areas including shares in companies the property of which also consists of immovable property, provided that such immovable property and shares were not acquired following the purchase and importation of foreign currency between the period from 1 August, 1980 to the date of promulgation of this amending Ordinance in the Gazette.”.

Section 5 of the principal Ordinance amended.

3. Section 5 of the principal Ordinance is hereby amended as follows:-

(a) by deleting the words "five" and "eight" appearing in the third and fifth lines respectively of subsection (1) thereof and substituting therefor the words "ten" and "fifteen”;

(b) by deleting subsection (2) thereof and substituting therefor the following new subsection:-

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

Provided that:

(i) Where the gain accruing from such disposal exceeds the sum of fifty thousand pounds, a tax shall be charged on any sum in excess of fifty thousand pounds;

(ii) where the dwelling house is situated on land exceeding one and a half decares, a tax shall be charged on the proportion of the gain derived from the disposal of that part of the land exceeding one and a half decares;

(iii) where an owner of property wishes to dispose of a dwelling house for a second or subsequent time, he shall be required to use it exclusively for a total period of at least ten years to obtain relief under this Section;

(iv) where a dwelling house is disposed of more than a year after it has ceased to be used exclusively by the owner, no exemption shall be granted;

(v) no person shall be entitled both to the exemption provided under this subsection and to that contained

in subsection (1) but instead shall be entitled only to one, whichever is the greater.”.

4. The principal Ordinance is hereby amended by repealing Section 6 thereof and substituting therefor the following new Section:—

Section 6 of the principal Ordinance repealed and replaced.

“Determining gains. **6.** In determining gains, there shall be deducted from the proceeds of the disposal:—

- (a) The value of the property as at 1 January, 1980, as arrived at by virtue of the general valuation carried out under Section 69 of the Immovable Property (Tenure, Registration and Valuation) Ordinance, together with any subsequent increase in the value of the property due to inflation as defined in subsection (c) of this Section:

Cap. 224 – Laws of Cyprus – Ordinances 12/66, 11/84, 12/85, 5/87, 18/87, 21/88, 8/90 and 14/90.

Provided that –

- (i) where the property was not unencumbered on 1 January, 1980, the value of the property shall be deemed instead to be its market value at that time;
- (ii) where during the general valuation referred to above, any improvements made after 1 January, 1980 were taken into account, the value of such property shall be deemed instead to be its market value as at 1 January, 1980;
- (iii) where part of or the full value of the property was allowed as a deduction under any Ordinance in force relating to income tax, such part of the value shall not be allowed as a deduction;
- (iv) where the owner wishes so to opt, the market value of the property as at 14 July, 1974, may be deducted instead;
- (v) where the property is situated in an area occupied by Turkish forces, no gain shall be deemed to have accrued.
- (b) Any expenditure incurred after the 1st January, 1980 wholly and exclusively in relation to the acquisition of such gains not being deductible under the laws in force relating to income tax readjusted due to inflation.
- (c) For the purposes of this Section, inflation shall be computed on the basis of the retail price index which is issued from time to time by the Department of Statistics and Research of the Ministry of Finance of the Republic of Cyprus.”.

Section 9 of the
principal Ordinance
amended.

5. Section 9 of the principal Ordinance is hereby amended by deleting subsection (1) thereof and substituting therefor the following new subsection:—

“(1) The proceeds from the disposal of property shall be the sum which the contracting parties shall declare:

Provided that where there are reasons to doubt such declaration, the Fiscal Officer may, within a period of six months from the date of the making of the declaration, proceed to investigate the matter and if it is proved that the declaration was false, he shall be entitled to demand the payment of tax on the difference between the sum declared and that which was proved as having been realised from the disposal of property plus interest at 9 per centum, commencing from the date when tax had been paid based on the declaration of the contracting parties:

Provided further that where shares in a company the property of which also includes immovable property are disposed of, the computation of the proceeds of the disposal shall be based exclusively on the immovable property.”.

Section 10 of the
principal Ordinance
amended.

6. Section 10 of the principal Ordinance is hereby amended as follows:—

(a) by inserting immediately after paragraph (a) thereof the following proviso:

“Provided that in any such case the value of the property shall be deemed to be its original value at the time when it was acquired by the deceased or its readjusted value at the time of such acquisition or its value as at 1 January, 1980, whichever of the three is subsequent:

Provided further that where the property was acquired by the deceased prior to 14 July, 1974, the person disposing of such property, may elect the value of the property to be the value thereof as at 14 July, 1974.”.

(b) (i) by deleting the words “of the first and second degree” appearing in the second line of paragraph (b) thereof and substituting therefor the words “not exceeding the third degree” and

(ii) by deleting the phrase “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” appearing in the second, third, fourth, fifth and sixth lines thereof.

(c) by inserting immediately after the word “value” appearing in the second line of the first proviso to paragraph (b) thereof the following words “or the readjusted value at the time of acquisition, whichever of the two is the smaller.”.

(d) by deleting the date “27th June, 1978” appearing in the fourth line of the first proviso to paragraph (b) thereof and substituting therefor the date “1st January, 1980”.

- (e) by inserting immediately after paragraph (b) thereof, the following paragraphs (c), (d) and (e), the existing paragraphs being re-lettered (f) and (g):-

“(c) an exchange in relation to properties which shall come into the hands of the parties who shall carry out the exchange:

Provided that-

- (i) where the value at the time of acquiring the property or the readjusted value at acquiring the property, whichever of the two is the smaller, or the value as at the 1st January, 1980 whichever of these dates is subsequent, is equal or greater than the value of the other property with which such property is exchanged, at the time of exchange, tax shall be payable on the full amount of the gain which accrues from such disposal.
 - (ii) where the value at the time of acquiring the property or the readjusted value at the time of such acquisition whichever is the smaller, or the value as at 1 January, 1980 whichever of these dates is subsequent, is smaller than the value of the property with which such property is exchanged at the time of exchange, tax shall be payable only on that part of the gain which was not used for acquiring the other property. In such a case the value of the other property so acquired shall be deemed to be reduced by the amount of that part of the gain on which tax was not paid.
 - (iii) where the property was acquired by the previous owner before the 14th July, 1974, the new owner may elect the value of the property to be the value thereof as at 14 July, 1974.
- (d) A donation to a limited company whose shareholders are members of the family of the person disposing of property and who continue to be so after five years following such donation:

Provided that in such a case, the value of the property shall be deemed to be the value thereof at the time of acquisition by the donor or the readjusted value at the time of such acquisition whichever is the smaller, or the value thereof as at 1 January, 1980 whichever of these dates is subsequent:

Provided further that where the property was acquired by the donor before the 14th July, 1974, the donee may elect the value of the property to be the value thereof as at the 14th July, 1974.

- (e) A donation made by a limited company whose shareholders are all members of the same family, to a shareholder:

Provided that in such a case the value of the property shall be deemed to be the value thereof at the time of acquisition by the donor or the readjusted value at the time of such acquisition whichever is the smaller, or the value of such property as at the 1st January, 1980 whichever of these dates is subsequent:

Provided further that where the property was acquired by the donor before the 14th July, 1974 the donee may elect the value of the property to be the value thereof as at the 14th July, 1974:

Provided still further that, in the case of a donation made by the company to a shareholder, the exemption provided in Section 5 of the Ordinance shall not be granted when the donee disposes of such property within three years of the transfer of such property to his name.”.

- (f) by deleting paragraph (f) thereof as re-lettered and substituting therefor the following paragraph (f):—

“(f) Any donation to the Crown and any donation for educational, training or other philanthropic purposes made to a local community or to any other philanthropic institution in the Areas or the Republic which shall be approved by the Administrator.”.

Section 11 of the principal Ordinance amended.

7. Section 11 of the principal Ordinance is hereby amended by re-numbering the existing subsection as (1) and by inserting immediately thereafter the following new subsection to be numbered (2):—

“(2) Any tax paid by any person under the Ordinance in force relating to estate duty, such tax being proportionate to the disposable property, shall be deductible from the tax which shall be charged by virtue of the provisions of this Ordinance:

Provided that the deduction shall not exceed the amount of tax which was paid under the provisions of this Ordinance.”.

Section 12 of the principal Ordinance amended.

8. Section 12 of the principal Ordinance is hereby amended as follows:—

- (a) by inserting immediately after the word “month” appearing in the second line of subsection (1) thereof the phrase “and in any case before the transfer of the property”;
- (b) by deleting the full stop appearing at the end of subsection (1) thereof and by adding thereto the phrase “and pay such tax as has been assessed by the Fiscal Officer.”.

Section 13 of the principal Ordinance amended.

9. Section 13 of the principal Ordinance is hereby amended by deleting the phrase “whether a declaration of property disposed of has been made or not”, appearing in the first and second lines thereof and substituting therefor the phrase “if the declaration of property disposed of, had not been made”.

Section 14 of the principal Ordinance amended.

10. Section 14 of the principal Ordinance is hereby amended—

- (a) by deleting the words “six years” appearing in the fourth line thereof and substituting therefor the words “three months”; and

- (b) by deleting the words "original assessment" appearing in the fourth line thereof and substituting therefor the phrase "self assessment and payment of tax,".

11. The principal Ordinance is hereby amended by repealing Sections 15, 16, 17, 18 and 19 thereof and substituting therefor the following new Section 15 the existing Sections 20 to 35 being renumbered 16 to 31:-

Sections 15, 16 17, 18 and 19 repealed and replaced.

"Objections and appeals.

15. The provisions of any Ordinance in force relating to the assessment and collection of taxes, regarding objections and appeals, shall apply mutatis mutandis:

Provided that the Fiscal Officer shall come to a decision regarding the objections submitted to him for consideration within two years from the date of submission."

12. Section 17 of the principal Ordinance as renumbered, is hereby amended by inserting immediately after the word "appeal" appearing in the second line of subsection (2) thereof, the following phrase "and in any case before the transfer of the property".

Section 17 of the principal Ordinance amended.

13. Section 18 of the principal Ordinance as renumbered, is hereby amended by deleting the words "three months" appearing in the second and third lines thereof and substituting therefor the words "one month".

Section 18 of the principal Ordinance amended.

14. Section 19 of the principal Ordinance as renumbered, is hereby amended by inserting immediately thereafter the following proviso:-

Section 19 of the principal Ordinance amended.

"Provided that, where interest was paid on any sum which was in excess of the sum representing tax, such interest shall be refunded."

15. Section 22 of the principal Ordinance as renumbered, is hereby amended by inserting immediately after paragraph (e) thereof, the following new paragraph to be lettered (f):-

Section 22 of the principal Ordinance amended.

"(f) makes any false declaration in relation to the proceeds derived from the disposal of property,".

16. This Ordinance shall be applied in connection with any disposal of property effected on or after the 1st January, 1989 except for Sections 12 and 14 which shall have retrospective effect as from the 1st August, 1980.

Application of the provisions of the Ordinance.

7th January, 1991.

A.J.H. ADAMS,
Chief Officer.

(104/15)

