



SUPPLEMENT No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
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LEGISLATION

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RATES OF TAX FOR 2007-2010 TAX YEARS

INCOME TAX (AMENDMENT) ORDINANCE 2011

An Ordinance to amend the Income Tax Ordinance 2003

G. E. STACEY
ADMINISTRATOR

18th November 2011.

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 2011.

2. Commencement

This Ordinance comes into force on the day after the date of its publication in the Gazette.

3. Meaning of “principal Ordinance”

In this Ordinance, “principal Ordinance” means the Income Tax Ordinance 2003(a).

4. Section 2 amended (interpretation)

- (1) Section 2 of the principal Ordinance is amended by repealing the definition of “resident in the Areas” (including the proviso that follows the definition) and replacing it with the following definition—

““resident in the Areas” means—

- (a) in relation to a company, a company the control of which is exercised from an address in the Areas;
- (b) in relation to an individual, an individual who resides in the Areas for 1 or more periods exceeding 183 days in total in the tax year; and for the purpose of calculating an individual’s residence in the Areas—
 - (i) an individual is not to be treated as residing in the Areas on the day the individual leaves the island of Cyprus;

- (ii) an individual is to be treated as residing in the Areas on the day the individual arrives in the island of Cyprus if the individual spends part of the day in the Areas;
 - (iii) if an individual begins and ends a day outside the island of Cyprus but spends part of the day in the Areas, the individual is to be treated as residing in the Areas on that day;
 - (iv) if an individual begins and ends a day within the Areas but spends part of the day outside the island of Cyprus, the individual is not to be treated as residing in the Areas on that day;”.
- (2) The definition of “titles” in section 2 of the principal Ordinance is amended by adding “, and shares and units in collective investment schemes”.
 - (3) The amendment made by subsection (1) has effect in relation to the 2011 and subsequent tax years.
 - (4) The amendment made by subsection (2) has effect in relation to the 2009 and subsequent tax years.

5. Section 5 amended (charge of tax)

- (1) Section 5(4) of the principal Ordinance is repealed and replaced with the following subsection—
 - “(4) Persons that are not resident in the Areas but have their permanent establishment in the Areas may choose to be treated in the same way as residents of the Areas are treated under this Ordinance.”
- (2) The amendment made by this section has effect from 1 January 2004.

6. Section 8 amended (exemptions)

- (1) Section 8(m) of the principal Ordinance and the proviso after it are repealed and replaced with—
 - “(m) the income of an individual from interest, except-
 - (i) interest arising from the normal carrying on of the individual’s business (including interest arising from activities closely related to the normal carrying on of the business); and
 - (ii) interest arising from a collective investment scheme;”.
- (2) Section 8(o) of the principal Ordinance is amended by repealing “£5,000” and replacing it with “€8,550”.
- (3) The amendment made by subsection (1) has effect in relation to the 2011 and subsequent tax years.
- (4) The amendment made by subsection (2) has effect in relation to the 2008 and subsequent tax years.

7. Section 9 amended (deductions allowed)

- (1) Section 9(1) of the principal Ordinance is amended by repealing “subsection (2)” and replacing it with “subsections (2) and (3)”.
- (2) Section 9(1) of the principal Ordinance is amended by repealing subparagraph (i) of the proviso after paragraph (g) and replacing it with—
 - “(i) to the extent that the expenditure exceeds-
 - (A) €598.01 per square metre in the case of a monument having an area not exceeding 100 square metres; or
 - (B) €512.58 per square metre in the case of a monument having an area exceeding 100 square metres but not exceeding 1,000 square metres; or
 - (C) €341.72 per square metre in the case of a monument having an area exceeding 1,000 square metres;”.

- (3) Section 9(1)(h) of the principal Ordinance is amended by repealing “five hundred pounds” and replacing it with “€854.30”.
- (4) Section 9 of the principal Ordinance is amended by adding the following new subsection—
 - “(3) Regulations made under section 55 of the Assessment and Collection of Taxes Ordinance 2003(b) may provide that no deduction is to be allowed unless it is supported by an invoice, receipt or other proof prescribed in those regulations.”
- (5) Section 9 of the principal Ordinance is amended by adding the following new subsection—
 - “(4) In this section, “business” includes the business of letting or leasing property.”
- (6) The amendments made by subsections (1) and (4) have effect in relation to the 2011 and subsequent tax years.
- (7) The amendments made by subsections (2), (3) and (5) have effect from 1 January 2004.

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

Section 10(6)(b) of the principal Ordinance is amended by repealing “less than the amount of the balancing addition” and replacing it with “more than the amount of the balancing addition”.

9. Section 11 amended (deductions not allowed)

- (1) Section 11 of the principal Ordinance is amended by repealing, in the proviso after paragraph (1), “half percent of the gross earnings of the business up to a maximum amount of £5,000” and replacing it with “1% of the gross earnings of the business up to a maximum amount of €17,086.01”.
- (2) Section 11 of the principal Ordinance is amended by renumbering it as subsection (1) and adding the following new subsection as subsection (2)-
 - “(2) In this section, “business” includes the business of letting or leasing property.”
- (3) The amendments made by this section have effect from 1 January 2004.

10. Section 13 amended (allowance of trade losses)

- (1) Section 13 of the principal Ordinance is amended by adding the following new subsection—
 - “(11) In this section, “business” includes the business of letting or leasing property.”
- (2) The amendment made by this section has effect from 1 January 2004.

11. Heading above section 15 repealed and replaced

The heading above section 15 of the principal Ordinance is repealed and replaced with “**Pensions from employment abroad**”.

12. Section 15 amended (pensions from employment abroad)

- (1) Section 15 of the principal Ordinance is amended—
 - (a) by repealing “two thousand pounds” and replacing it with “€3,420”; and
 - (b) by repealing “five cents per pound” and replacing it with “5%”.
- (2) The amendments made by this section have effect in relation to the 2008 and subsequent tax years.

13. Section 16 amended (income from intellectual property rights etc)

- (1) Section 16 of the principal Ordinance is amended by repealing “ten cents per pound” and replacing it with “10%”.

- (2) Section 16 of the principal Ordinance is amended by renumbering it as subsection (1) and adding the following new subsections—
- “(2) Subsection (1) does not apply to income whose beneficial owner is a company if the income is paid to the company by-
 - (a) an associated company resident in the Areas; or
 - (b) a permanent establishment in the Areas of an associated company (other than a company resident in the Areas) if the income represents a tax-deductible expense under this Ordinance for the permanent establishment.
 - (3) In subsection (2), “company” includes the permanent establishment in a member State of the European Union of a company.
 - (4) For the purposes of subsection (2), a company (“company A”) is an associated company of a second company (“company B”) if-
 - (a) company A has a direct holding of at least 25% of the share capital of company B;
 - (b) company B has a direct holding of at least 25% of the share capital of company A; or
 - (c) a third company has a direct holding of at least 25% of the share capital of both company A and company B.”
- (3) The amendments made by this section have effect from 1 May 2004.

14. Section 17 amended (income of certain classes of non-resident)

Section 17 of the principal Ordinance is amended by repealing “ten cents per pound” and replacing it with “10%”.

15. Section 18 amended (deductions for tax chargeable under sections 16 and 17)

Section 18(3) of the principal Ordinance is repealed and replaced with the following subsection—

- “(3) If any tax that has been, or ought to have been, deducted is not sent to the Commissioner in the month following the month in which it was or ought to have been deducted, interest (equal to the amount of interest chargeable on the late payment of tax) and a penalty of 5% of the tax is to be added to the tax due; and the provisions of any legislation concerning the receipt and recovery of tax apply in respect of the receipt and recovery of the interest and penalty.”

16. Section 24 amended (interpretation of Part 6)

- (1) Section 24 of the principal Ordinance is amended by inserting “partial division,” after “division,” where that word first appears.
- (2) Section 24 of the principal Ordinance is amended by inserting the following new paragraph after paragraph (b)—
 - “(ba) “partial division” means an operation whereby a company transfers, without being dissolved, 1 or more branches of activity to 1 or more existing or new companies leaving at least 1 branch of activity in the transferring company in exchange for the pro-rata issue to its shareholders of securities representing the capital of the companies receiving the assets and liabilities and, if applicable, a cash payment not exceeding 10% of the nominal value or, in the absence of a nominal value, of the accounting par value of those securities;”.
- (3) Section 24(d) of the principal Ordinance is repealed and replaced with—
 - “(d) “exchange of shares” means an operation whereby a company acquires a holding in the capital of another company such that it obtains a majority of the voting rights in that company, or, holding such a majority, acquires a further holding in exchange for the issue to shareholders of the latter company, in exchange for their securities, of securities representing the

capital of the former company, and, if applicable, a cash payment not exceeding 10% of the nominal value or, in the absence of a nominal value, of the accounting par value of the securities issued in exchange.”

- (4) The amendments made by this section have effect in relation to the 2007 and subsequent tax years.

17. Section 30 amended (other relief from double taxation)

- (1) Section 30(5) of the principal Ordinance is amended by inserting “outside the Areas” after “permanent establishment”.
- (2) Section 30 of the principal Ordinance is amended by adding the following new subsections—
 - “(6) Despite any other provision of this Ordinance, if a company (the “receiving company”) that is resident in the Areas or has a permanent establishment in the Areas receives a dividend from another company (the “paying company”) that is resident in a member State of the European Union, the receiving company is entitled to a credit against any tax payable on the dividend under this Ordinance, in the proportion that the dividend bears to the tax paid on the profits of the paying company and any subsidiary of the paying company from which the dividend is derived, of the amount of tax paid on those profits.
 - (7) Subsection (6) does not apply if the dividend is paid on the dissolution of the paying company.”
- (3) The amendments made by subsection (2) have effect in relation to the 2005 and subsequent tax years.

18. Section 32 repealed and replaced

- (1) Section 32 of the principal Ordinance is repealed and replaced with the following section—

“32. Commissioner’s power to treat company as receiving interest at fixed rate of 9%”

Where a company that is controlled by no more than 5 persons grants a loan or other monetary facility to a director or individual shareholder of the company or to a relative of the first or second degree of a director or shareholder, the Commissioner may treat the company as receiving interest on the loan or facility at the rate of 9% per year.”

- (2) The amendment made by this section has effect in relation to the 2011 and subsequent tax years.

19. Section 37 amended (regulations)

Section 37(4) of the principal Ordinance is amended by repealing “A person who fails to comply with” and replacing it with “Regulations under this section may provide that a person who fails to comply with”.

20. New sections 37A and 37 B inserted

The principal Ordinance is amended by inserting the following new sections after section 37-

“37A. Certificate of residency

- (1) The Commissioner may certify that a person is resident in the Areas for the purposes of this Ordinance.
- (2) The Administrator may by order published in the Gazette specify the fee payable in respect of an application for a certificate referred to in subsection (1).

37B. Delegation of functions to the Republic

- (1) The functions placed on the Administrator, the Chief Officer and the Commissioner by this Ordinance are general delegated functions for the purposes of the Delegation of Functions to the Republic Ordinance 2007(c).

- (2) Subsection (1) does not apply to the functions in—
 - (a) section 3;
 - (b) section 8(a);
 - (c) section 37A.”

21. Schedule 1 repealed and replaced

- (1) Schedule 1 to the principal Ordinance is repealed and replaced with the Schedule 1 set out in Schedule 1 to this Ordinance.
- (2) The amendment made by this section has effect in relation to the 2005 and subsequent tax years.

22. Schedule 2 repealed and replaced

- (1) Schedule 2 to the principal Ordinance is repealed and replaced with the Schedule 2 set out in Schedule 2 to this Ordinance.
- (2) The amendment made by this section has effect in relation to the 2011 and subsequent tax years.

23. Rates of tax for 2007 to 2010 tax years

- (1) The principal Ordinance has effect in relation to the 2007 tax year as if Schedule 2 to the principal Ordinance had been repealed and replaced with the Schedule 2 set out in Part 1 of Schedule 3 to this Ordinance.
- (2) The principal Ordinance has effect in relation to the 2008, 2009 and 2010 tax years as if Schedule 2 to the principal Ordinance had been repealed and replaced with the Schedule 2 set out in Part 2 of Schedule 3 to this Ordinance.

SCHEDULE 1

(section 21)

NEW SCHEDULE 1

“SCHEDULE 1

(section 2)

MEANING OF COMPANY

1. Companies under Belgian law known as ‘société anonyme’/’naamloze vennootschap’, ‘société en commandite par actions’/’commanditaire vennootschap op aandelen’, ‘société privée à responsabilité limitée’/’besloten vennootschap met beperkte aansprakelijkheid’, ‘société coopérative à responsabilité limitée’/’coöperatieve vennootschap met beperkte aansprakelijkheid’, ‘société coopérative à responsabilité illimitée’/’coöperatieve vennootschap met onbeperkte aansprakelijkheid’, ‘société en nom collectif’/’vennootschap onder firma’ and ‘société en commandite simple’/’gewone commanditaire vennootschap’; public undertakings which have adopted one of the aforementioned legal forms; and other companies constituted under Belgian law subject to Belgian corporate tax.
2. Companies under Danish law known as ‘aktieselskab’ and ‘anpartsselskab’; and other companies subject to tax under the Corporation Tax Act, insofar as their taxable income is calculated and taxed in accordance with the general tax legislation rules applicable to ‘aktieselskaber’.
3. Companies under German law known as ‘Aktiengesellschaft’, ‘Kommanditgesellschaft auf Aktien’, ‘Gesellschaft mit beschränkter Haftung’, ‘Versicherungsverein auf Gegenseitigkeit’, ‘Erwerbs-und Wirtschaftsgenossenschaft’ and ‘Betriebe gewerblicher Art von juristischen Personen des öffentlichen Rechts’; and other companies constituted under German law subject to German corporate tax.
4. Companies under Greek law known as ‘ανώνυμη εταιρεία’ and ‘εταιρεία περιορισμένης ευθύνης (E.Π.Ε.)’; and other companies constituted under Greek law subject to Greek corporate tax.
5. Companies under Spanish law known as: ‘sociedad anónima’, ‘sociedad comanditaria por acciones’, and ‘sociedad de responsabilidad limitada’; public law bodies which operate under private law; and other entities constituted under Spanish law subject to Spanish corporate tax (‘Impuesto sobre Sociedades’).
6. Companies under French law known as ‘société anonyme’, ‘société en commandite par actions’, ‘société à responsabilité limitée’, ‘sociétés par actions simplifiées’, ‘sociétés d’assurances mutuelles’, ‘caisses d’épargne et de prévoyance’, ‘sociétés civiles’ which are automatically subject to corporation tax, ‘coopératives’ and ‘unions de coopératives’; industrial and commercial public establishments; and undertakings, and other companies constituted under French law subject to French corporate tax.
7. Companies incorporated or existing under Irish law; bodies registered under the Industrial and Provident Societies Act; building societies incorporated under the Building Societies Acts; and trustee savings banks within the meaning of the Trustee Savings Banks Act 1989.
8. Companies under Italian law known as ‘società per azioni’, ‘società in accomandita per azioni’, ‘società a responsabilità limitata’, ‘società cooperative’, and ‘società di mutua assicurazione’; and private and public entities whose activity is wholly or principally commercial.
9. Companies under Luxembourg law known as ‘société anonyme’, ‘société en commandite par actions’, ‘société à responsabilité limitée’, ‘société coopérative’, ‘société coopérative organisée comme une société anonyme’, ‘association d’assurances mutuelles’, ‘association d’épargne-pension’, and ‘entreprise de nature commerciale, industrielle ou minière de l’Etat, des communes, des syndicats de communes, des établissements publics et des autres personnes morales de droit public’; and other companies constituted under Luxembourg law subject to Luxembourg corporate tax.
10. Companies under Dutch law known as ‘naamloze vennootschap’, ‘besloten vennootschap

met beperkte aansprakelijkheid’, ‘Open commanditaire vennootschap’, ‘Coöperatie’, ‘onderlinge waarborgmaatschappij’, ‘Fonds voor gemene rekening’, ‘vereniging op coöperatieve grondslag’ and ‘vereniging welke op onderlinge grondslag als verzekeraar of kredietinstelling optreedt’; and other companies constituted under Dutch law subject to Dutch corporate tax.

11. Companies under Austrian law known as ‘Aktiengesellschaft’, ‘Gesellschaft mit beschränkter Haftung’, ‘Versicherungsvereine auf Gegenseitigkeit’, ‘Erwerbs- und Wirtschaftsgenossenschaften’, ‘Betriebe gewerblicher Art von Körperschaften des öffentlichen Rechts’ and ‘Sparkassen’; and other companies constituted under Austrian law subject to Austrian corporate tax.

12. Commercial companies or civil law companies having a commercial form and cooperatives and public undertakings incorporated in accordance with Portuguese law.

13. Companies under Finnish law known as ‘osakeyhtiö/aktiebolag’, ‘ouuskunta/andelslag’, ‘säästöpankki/sparbank’ and ‘vakuutusyhtiö/försäkringsbolag’.

14. Companies under Swedish law known as ‘aktiebolag’, ‘försäkringsaktiebolag’, ‘ekonomiska föreningar’, ‘sparbanker’ and ‘ömsesidiga försäkringsbolag’.

15. Companies incorporated under the law of the United Kingdom.

16. Companies under Czech law known as ‘akciová společnost’, ‘společnost s ručením omezeným’ and ‘komanditní společnost’.

17. Companies under Estonian law known as ‘täisühing’, ‘usaldusühing’, ‘osaühing’, ‘aktsiaselts’ and ‘tulundusühistu’.

18. Companies under Latvian law known as ‘akciju sabiedrība’ and ‘sabiedrība ar ierobežotu atbildību’.

19. Companies under Lithuanian law known as ‘individualios (personalins) mons’, ‘tikrosios kins bendrijos’, ‘komaditins (pasitikjimo) kins bendrijos’, ‘akcins bendrovs’, ‘udariosios akcins bendrovs’, ‘investicins bendrovs’, ‘valstybs mons’, ‘sarivaldybs mons’, ‘ems kio bendrovs’ and ‘kooperatins bendrovs (kooperatyvai)’.

20. Companies under Hungarian law known as ‘közkereseti társaság’, ‘közös vállalat’, ‘korlátolt felelősségű társaság’ and ‘szövetkezet’.

21. Companies under Maltese law known as ‘Kurnpaniji ta’ Responsabilita’ Lirnitata’ and ‘Soċjetajiet in akkomandita li l-kapital tagħhom rnaqsum f’azzjonijiet’.

22. Companies under Polish law known as ‘spółka akcyjna’ and ‘spółka z ograniczoną odpowiedzialnością’.

23. Companies under Slovenian law known as ‘delniška družba’, ‘komanditna družba’ and ‘družba z omejeno odgovornostjo’.

24. Companies under Slovak law known as ‘akciová spoločnosť’, ‘spoločnosť s ručením obmedzeným’, ‘komanditná spoločnosť’ and ‘verejná obchodná spoločnosť’.

25. Companies incorporated under Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European Company (SE) and Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees; and cooperative societies incorporated under Council Regulation (EC) No 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE) and Council Directive 2003/72/EC of 22 July 2003 supplementing the Statute for a European Cooperative Society with regard to the involvement of employees. ”

SCHEDULE 2

(section 22)

NEW SCHEDULE 2

“**SCHEDULE 2**

(section 19)

RATES OF TAX

1. The tax rates for individuals are as set out in the following table-

Taxable income	Tax rate
On every euro not exceeding €19,500	Nil
On every euro exceeding €19,500 but not exceeding €28,000	20%
On every euro exceeding €28,000 but not exceeding €36,300	25%
On every euro exceeding €36,300 but not exceeding €60,000	30%
On every euro exceeding €60,000	35%

2. The tax rate for companies is 10% on each euro of taxable income.”

SCHEDULE 3

(section 23)

RATES OF TAX FOR 2007-2010 TAX YEARS

Part 1 – Rates of tax for 2007 tax year

“SCHEDULE 2

(section 19)

RATES OF TAX FOR 2007 TAX YEAR

1. The tax rates for individuals are as set out in the following table-

Taxable income	Tax rate
On every pound not exceeding £10,750	Nil
On every pound exceeding £10,750 but not exceeding £15,750	20%
On every pound exceeding £15,750 but not exceeding £20,600	25%
On every pound exceeding £20,600	30%

2. The tax rate for companies is 10% on each pound of taxable income.”

Part 2 – Rates of tax for 2008, 2009 and 2010 tax years

“SCHEDULE 2

(section 19)

RATES OF TAX FOR 2008, 2009 AND 2010 TAX YEARS

1. The tax rates for individuals are as set out in the following table—

Taxable income	Tax rate
On every euro not exceeding €19,500	Nil
On every euro exceeding €19,500 but not exceeding €28,000	20%
On every euro exceeding €28,000 but not exceeding €36,300	25%
On every euro exceeding €36,300	30%

2. The tax rate for companies is 10% on each euro of taxable income.”

(SBA/AG/2/TA/194)

Notes

- (a) Ordinance 29/03.
(b) Ordinance 30/03.
(c) Ordinance 17/07.

EXPLANATORY NOTE

(This note does not form part of the Ordinance)

1. This explanatory note relates to the Income Tax (Amendment) Ordinance 2011 (the “Ordinance”). The note 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 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.

2. The Ordinance amends the Income Tax Ordinance 2003 (the “principal Ordinance”). The amendments largely reflect amendments made to the income tax legislation of the Republic of Cyprus. Some of the amendments have retrospective effect. The principal changes are as follows:

- interest from a collective investment scheme is no longer exempt from income tax (see new section 8(m) of the principal Ordinance);
- 50% of a company’s income from interest is no longer exempt from income tax (see section 6(1) of the Ordinance, which repeals existing section 8(m) of the principal Ordinance);
- there are new limits on deductions in respect of expenditure on ancient monuments (see amended section 9(1) of the principal Ordinance) and in respect of business entertainment (see amended section 11(1)(l) of the principal Ordinance);
- provision is made for regulations to provide that deductions of outgoings and expenses must be supported by invoices or receipts prescribed in the regulations (see new section 9(3) of the principal Ordinance);
- income from intellectual property rights paid by companies to associated companies in member States of the European Union is exempt from income tax (see new section 16(2) to (4) of the principal Ordinance);
- provision is made for a 5% penalty is to be charged on tax that is not deducted and sent to the Commissioner in accordance with section 18 (see new section 18(3) of the principal Ordinance);
- companies that receive dividends from companies in member States of the European Union are entitled to a tax credit in respect of tax already paid (see new section 30(6) and (7) of the principal Ordinance);
- the Commissioner’s power to treat a company controlled by no more than 5 person as receiving interest at 9% per year on loans to shareholders is restricted to the case of loans to individuals (see new section 32 of the principal Ordinance);
- the failure to comply with regulations made under section 37 of the principal Ordinance will no longer automatically be an offence (see amended section 37(4) of the principal Ordinance);
- provision is made for the issue of certificates of residency in the Areas for tax purposes (see new section 37A of the principal Ordinance);
- new rates of income tax apply (see new Schedule 2 of the principal Ordinance).

3. The fact that various functions under the principal Ordinance are delegated to the authorities of the Republic of Cyprus is made clear on the face of the principal Ordinance in accordance with current drafting practice (see new section 37B of the principal Ordinance). In addition, a number of amendments correct typographical errors or update references in consequence of the change from the pound to the euro.

