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## VALUE ADDED TAX LAW 5736-1975

### CHAPTER ONE: DEFINITIONS

#### Definitions

1. In this Law –

**"area"** – each of the following: Judaea, Samaria and the Gaza Region, except for the Gaza and Jericho territories;

**"Gaza and Jericho territories"** – the areas included in the territorial jurisdiction of the Palestine Authority, according to the Agreement on the Gaza Strip and the Jericho Area, which was signed in Cairo between Israel and the Palestine Liberation Organization on May 4, 1994;

**"hotel"** includes a boarding-house, rest-house, guest-house or the like in which overnight accommodation is generally provided for consideration for at least five persons;

**"District Court"** – the District Court in whose area of jurisdiction the principal place of business or the registered office of the appellant is located;

**"Director"** – the Director of Customs and Value Added Tax;

**"the tax"** – value added tax, wage tax or wage-and-profit tax;

**"body of persons"** – within its meaning in the Income Tax Ordinance;

**"person liable to tax"** – a dealer, a non-profit organization or a financial institution;

**"invoice"** – a transaction invoice or a tax invoice;

**"tax invoice"** – an invoice issued under section 47;

**"transaction invoice"** – an invoice that must be issued under section 45;

**"goods"** include –

- (1) trees, saplings, flowers, crops and the like sold separately from land;
- (2) rights, benefits and other intangible asset and, inter alia, know-how, but exclusive of rights in real estate or in bodies corporate, and exclusive of securities or negotiable documents or rights therein;

**"insurer"** – an insurer within the meaning of the Insurance Business (Control) Law 5711-1961, other than a benefit fund exempt from income tax under section 9(2) of the Income Tax Ordinance;

**"financial institution"** –

- (1) a company or cooperative society that receives money on current account in order to make therefrom payments on demand by check;
- (2) a company which lawfully uses the word "bank" as part of its name, other than a company the name of which mentions a company or cooperative society to which paragraph (1) applies;
- (3) a financial institution, within the meaning of the Bank of Israel Law

5714-1954, to which the liquidity provisions under the said Law apply;

- (4) an insurer;
- (5) a category of persons designated by the Minister of Finance;

**"non-profit organization"** –

- (1) the State, a local authority or an association of towns;
- (2) an incorporated or unincorporated body of persons, which does not carry on business for profit and which is not a financial institution;
- (3) a body corporate established by virtue of Law and not registered as a company, cooperative society or partnership;
- (4) a benefit fund exempt from income tax under section 9(2) of the Income Tax Ordinance;

**"turnover of a dealer"** – the total price, within its meaning in section 7, of transactions in the preceding tax year, and if the amount is not known or if he carried on business only during part of that year – the amount likely to be received in the current tax year, calculated in accordance with directives prescribed by the Minister of Finance; however, if – on any day during the current tax year – it becomes clear to the Director or to the dealer that the said total price of transactions during the current tax year exceeds or will exceed the total price of transactions in the preceding year or the total in the current year, calculated as aforesaid, then – from that day until the end of the tax year – the greater amount shall be deemed the dealer's turnover; for this purpose, **"transactions"** – exclusive of sales of equipment;

**"sale"** – in relation to any asset, includes its letting or hire-purchase, the grant of a right to use it for consideration, the grant of a right therein, its use for personal requirements, and it includes its expropriation, forfeiture or confiscation for consideration, as well as its bestowal as a gift, including as a gift to an employee, and in respect of real estate – including a real estate association act, within its meaning in the Land Appreciation Tax Law 5723-1963, and registration on an exchange of securities issued by a real estate association, as said in section 8 of the said Law, but exclusive of transactions in a security traded on an exchange;

**"input tax"** – the value added tax imposed on a sale of assets to a dealer, on the importation of assets by a dealer or on the performance of services for a dealer, when those are for the purposes of his business or for use in it;

**"real estate"** – including real estate rights and real estate association rights within their meaning in the Land Appreciation Tax Law 5723-1963;

**"securities"** – as defined in the Securities Law 5728-1968, including securities issued by the Government or under a special Law, as well as shares not issued in series;

**"asset"** – goods or real estate;

**"dealer"** – a person, other than a non-profit organization or a financial institution, who sells any asset or renders any service in the course of his business, and also a person who effects an occasional transaction;

**"authorized dealer"** – a dealer registered under section 52 or under section 58, who is not an exempt dealer, and also a person who belongs to a category of dealers, in respect of whom the Minister of Finance prescribed that they be registered as authorized dealers;

**"exempt dealer"** – a dealer, whose transaction turnover from all his businesses does not exceed NS 65,721 per year, or a larger amount set by the Minister of Finance; *(last adjusted in YP 5768, p. 3700)*

**"transaction"** – any of the following:

- (1) the sale of an asset or the performance of a service by a dealer in the course of his business, including the sale of equipment;
- (2) the sale of any asset, if the input tax imposed on its sale to the seller or on its importation by the seller was deducted;
- (3) an occasional transaction;

**"occasional transaction"** –

- (1) the occasional sale of goods or performance of a service, the sale or service being of a commercial character;
- (2) the sale of real estate to a dealer by a person whose business is not the sale of real estate, as well as an aforesaid sale of real estate – other than the sale of a residential dwelling – to a non-profit organization or to a financial institution;

**"business"** includes a profession and a vocation;

**"equipment"** – an asset which is used, was used or is intended to be used by a dealer in his business, its sale not being part of the dealer's business;

**"purchaser"** includes the recipient of a service;

**"profit"** – chargeable income, within its meaning in the Income Tax Ordinance, before the set-off of losses from tax years that preceded the tax year in which the income was received and after deduction of the tax on wages under section 4(b), exclusive of income from a dividend received from a financial institution and exclusive of income created in consequence of structural changes that meet the conditions of Part Five "B" of the Income Tax Ordinance, but inclusive of income from interest or dividend or from the sale or redemption of a unit or from a profit distribution to unit holders, on which exemption from income tax was granted under any statute; for this purpose, **"unit"** – within its meaning in the Joint Investment Trusts Law 5754-1994;

**"use for personal requirements"** –

- (1) use of any asset of a business otherwise than for the purposes of that business by a person who has a share in the ownership or management of the business or is employed in it;
- (2) use of an asset, of a kind and on conditions prescribed by the Minister of Finance, for the purposes of the business;

**"service"** – the performance of anything for another for consideration,

other than a sale, including a credit transaction and a deposit of money, and in respect of a body of persons – also an aforesaid performance for its members, even without consideration or against a membership fee; an employee's work does not constitute service to his employer;

**"wage"** – work income within its meaning in the Income Tax Ordinance, including pensions paid by employers to their former employees;

**"tax year"** – within its meaning in the Income Tax Ordinance, including a special assessment period for that tax year;

**"foreign resident"** –

- (1) in respect of an individual – an individual who permanently lives outside of Israel;
- (2) in respect of a body of persons – a body of persons registered or incorporated only outside Israel;

**"tourist"** – an individual who stays in Israel under a visa and permit for transit residence or for residence during a visit, under paragraphs (1) and (2) of section 2(a) of the Entry into Israel Law 5712-1952, or a person to whom the provisions of that Law do not apply by virtue of section 17 of that Law, except for a person who stays in Israel under a visitor's permit in order to work in Israel temporarily for pay.

#### **Applicability of this Law to an area and to Gaza and Jericho territories**

- 1A. (a) In respect of the sale of goods, the transfer of goods and the performance of services –
  - (1) the transfer of goods to an area, from Israel to the Gaza and Jericho territories and from the Gaza and Jericho territories to Israel shall not be deemed import or export;
  - (2) the sale of an asset to an area resident, to a resident of the Gaza and Jericho territories or to a person who travels to an area or to the Gaza and Jericho territories shall not be deemed a sale to a foreign resident or to a person who leaves Israel;
  - (3) the performance of a service for an area resident or for a resident of the Gaza and Jericho territories shall not be deemed the performance of a service for a foreign resident, and the performance of a service in an area or in the Gaza and Jericho territories shall not be deemed its performance abroad;
  - (4) an area resident or a resident of the Gaza and Jericho territories shall not be deemed a tourist;
  - (5) travel to an area or to the Gaza and Jericho territories shall not be deemed travel abroad, and the transport of goods from Israel to an area or to the Gaza and Jericho territories and from an area or from the Gaza and Jericho territories to Israel shall not be deemed import or export;
  - (6) for the purpose of section 60, business or activities in an

area or in the Gaza and Jericho territories shall not be deemed business or activity abroad.

- (b) This Law shall also apply to the following:
- (1) transactions performed by an Israel resident in an area or in the Gaza and Jericho territories;
  - (2) activity in an area or in the Gaza and Jericho territories by an Israel citizen financial institution or non-profit organization;

for purposes of this subsection –

**"Israel citizen"** – any of the following:

- (1) an Israel citizen, within its meaning in the Citizenship Law 5712-1952;
- (2) an Israel resident;
- (3) a person entitled to immigrate to Israel under the Law of Return 5710-1950;
- (4) a body of persons, of which an Israel citizen, within the meaning of paragraphs (1) to (3), is a controlling member; for this purpose, **"controlling member"** – as defined in section 32(9) of the Income Tax Ordinance;

**"Israel resident"** –

- (1) in respect of an individual – an individual who resides in Israel and is not absent from it, except temporarily;
  - (2) in respect of a body of persons –
    - (a) a body of persons registered in Israel, most of its business and activity being in Israel;
    - (b) a body of persons, the control and management of which are exercised in Israel.
- (c) Subsection (c) shall not apply to –
- (1) transactions of a business that is permanently and continuously in the Gaza and Jericho territories or in an area, on condition that it is registered there under the Law which applies there and corresponds to this Law;
  - (2) permanent and continuous activity of a financial institution or non-profit organization in the Gaza and Jericho territories or in an area, on condition that it is registered there under the statute which applies there and corresponds to this Law.

## **CHAPTER TWO: IMPOSITION AND RATE OF TAX**

### **Imposition and rate of value added tax**

2. Value added tax shall be imposed on transactions in Israel and on the importation of goods, at a single proportion of the price of the transaction or of the goods, as prescribed by the Minister of Finance by order after consultation with the Knesset Finance Committee.

### **Application of the Customs and Excise Duties (Variation of Tariff) Law**

3. The provisions of the Customs and Excise Duties (Variation of Tariff) Law 5709-1949 shall apply to orders under section 2, as if they were orders under section 1 of the said Law, mutatis mutandis as the case may be and with the following changes: that "two months" be replaced by "two weeks", that the time between Knesset sessions be taken into account, that "Knesset Finance Committee" be replaced by "the Knesset", and that the provisions of sections 2(a)(2) and (3) not apply.

### **Imposition and rate of tax on non-profit organizations and financial institutions**

4. (a) A wage tax shall be imposed on the activity in Israel of a non-profit organization, at a percentage of the wages paid by it, as prescribed by the Minister of Finance by order with approval by the Knesset.
- (b) A wage-and-profit tax shall be imposed on the activity in Israel of a financial institution, at a percentage of wages paid and profit earned by it, as prescribed by the Minister of Finance with approval by the Knesset; a loss sustained by the financial institution in any tax year may be set off against the wages paid by it in that tax year; in this subsection, "**wages**" – wages, including grants for severance pay and in case of death, less said grants paid by a benefit fund or paid out of funds deposited with a benefit fund and returned to the employer for the payment, as well as any amount paid by the employer to a training fund or to a benefit fund, even if – under the provisions of section 3 of the Income Tax Ordinance – it is not deemed work income when it is paid into the training fund or the benefit fund, and the amount of insurance payments paid by the employer for his employee under the National Insurance Law [Consolidated Version] 5755-1995, less the insurance payments that the employer deducted from his employees' wage under the provisions of section 342(c) of the said Law.

### **Value added tax on art objects and used assets**

5. (a) The Minister of Finance may designate categories of art objects and used assets – other than dwelling units – when they are sold by a person whose business is the sale of such assets, on which

tax shall not be on their full price, but on the difference between their price at the time of sale and their price at the time of acquisition; when the Minister of Finance has prescribed as aforesaid, then input tax imposed on their sale to or importation by a dealer shall not be deducted.

- (b) When a dwelling unit is sold by a real estate dealer, who acquired it from a person who is not a non-profit organization, a financial institution or a dealer, then the tax on it shall not be on its full price, but on the difference between its price at the time of sale and its price at the time of acquisition; for this purpose, "**dealer**" – exclusive of a dealer who was not lawfully entitled to deduct input tax in respect of the acquisition of a dwelling unit.

#### **Collection of tax from purchaser**

- 6. If tax was imposed on a transaction, or if the rate of the tax thereon was increased after the transaction was agreed upon, then the dealer may require the purchaser to pay him the amount of tax or of additional tax to which the dealer has become liable, unless otherwise provided by agreement or by any statute that deals with price control.

### **CHAPTER THREE: PRICE**

#### **For a transaction**

- 7. The price of a transaction is the consideration agreed upon, including –
  - (1) every tax, levy, fee or other compulsory payment imposed on the transaction otherwise than under this Law, unless it is lawfully imposed on the purchaser, but exclusive of tax on capital gains under the Income Tax Ordinance and tax under the Land Appreciation Tax Law 5723-1963;
  - (2) every other expenditure incurred in carrying out the transaction which the purchaser is required to refund under the agreement, including fees or interest because of installment payments, interest or any other payment for delay in payment and compensation for any violation of the agreement that does not entail cancellation of the transaction, and including the price of packaging.

#### **For a combined sale and service**

- 8. If a transaction involves both an asset and a service, then the aggregate price of all shall be the price of the transaction.

#### **For transactions to which section 19 applies**

- 9. (a) The price of a transaction said in section 19(a) is the commission or other consideration received by the person who renders the

service, received from the person who supplies the sold asset to him.

- (b) The price of transactions, which under section 19(b) are deemed the performance of service, is the difference between the total acquisition price of the securities, documents or foreign currency, which are the subjects of transactions in a given return period, and between their total sale price in that reporting period; for this purpose, the repayment or redemption price of documents shall be deemed their sale price.

#### **For a service for which a fee is payable**

- 9A. The price of a service transaction, in respect of which a fee or some other consideration is payable under any statute, is that fee or other consideration.

#### **For transaction that is a registration on an exchange**

- 9B. The price of a transaction, which is the registration on a stock exchange of securities issued by a real estate association, is the value set for that transaction for purposes of the Land Appreciation Tax Law 5723-1963, and the date for the payment of appreciation tax under the said Law is the payment date.

#### **In special cases**

- 10. If the price of a transaction is affected by a special relationship between the parties, if no price has been set for it, or if all or part of the consideration is in kind, then its price shall be the price which would have been payable under ordinary circumstances; if the price cannot be determined in this manner, then the price shall be the cost of the asset or service, plus profit customary in that branch of the economy.

#### **Imported goods**

- 11. (a) The price of imported goods, other than goods to which subsection (b) applies, is their value as said in sections 129 to 134A, as the case may be, of the Customs Ordinance, on the date on which the tax is paid, plus customs duty and every other tax or levy that applies to the import.
- (b) The price of goods said in section 26(b) is the new shekel consideration for the foreign currency, at its purchase rate when the currency is acquired for payment of the consideration or at the time of its transfer abroad for payment, whichever was the earlier; if no foreign currency was acquired or transferred as aforesaid, then the price of the goods shall be the price said in section 7.
- (c) If goods exported from Israel are repaired, renovated or improved while they are abroad and are reimported to Israel, then their price on reimportation is the value of the repair, renovation or improvement, with the addition of the payments said in subsection (a).



### **Price of sale prior to customs clearance**

11A. If a transaction consists of the sale of imported goods before they are cleared through Customs, the entry for consumption in Israel having been made out in the purchaser's name, then its price is the agreed consideration, less the price of the goods for import tax purposes.

### **Provision on donations, assistance and the like**

12. (a) Donations, assistance or other aid (hereafter: receipts) received by a dealer shall be deemed part of the price of his transactions; this provision shall not apply to categories of receipts or of dealers designated by the Minister of Finance.
- (b) The Minister of Finance may prescribe how receipts shall be dealt with in respect of invoices, deductions, entry in the dealer's account books, and the like.

### **Rules for calculation of price**

13. The Minister of Finance may prescribe rules on –
- (1) calculation of the price under section 10;
  - (2) calculation of the price of packaging;
  - (3) the circumstances and conditions under which a sum paid as deposit or surety is to be deemed part of the price of the transaction, in the course of which it was paid.

## **CHAPTER FOUR: PLACE OF TRANSACTION**

### **Place of sale**

14. An asset shall be deemed to have been sold in Israel, if the asset was in Israel at the time of its delivery to the purchaser or if it was exported from Israel, and in respect of an intangible asset – if the seller is an Israel resident.

### **Place of service or activity**

15. (a) A service shall be deemed to have been rendered in Israel, if one of the following applies to it:
- (1) a person whose business is in Israel rendered it; if a person has an agent or branch in Israel, then – for this purpose – he shall be deemed a person whose business is in Israel;
  - (2) it was rendered to an Israel resident, to a partnership most of the rights in which vest in partners resident in Israel or to a company which is deemed an Israel resident for purposes of the Income Tax Ordinance;
  - (3) it was rendered in relation to assets located in Israel.
- (b) An activity shall be deemed to be conducted in Israel if one of the following applies to it:

- (1) it was wholly or mostly conducted in Israel;
  - (2) it was conducted by a person whose principal activity is in Israel and it is within the scope of his activity;
  - (3) it is that part of an activity mostly conducted abroad, which is conducted in Israel.
- (c) The Minister of Finance may prescribe – generally or in respect of a particular service or activity said in subsection (a)(1) or (2) and in subsection (b)(1) or (2) – that only the part of the service or activity rendered or conducted in Israel be deemed to have been rendered or conducted there.

## **CHAPTER FIVE: PERSONS OBLIGATED TO PAY THE TAX**

### **Persons obligated to pay the tax**

16. The following are obligated to pay the tax:
- (1) in respect of a sale – the seller;
  - (2) in respect of a service – the person who renders it;
  - (3) in respect of imports, including the importation of intangibles – the owner of the goods, within its meaning in the Customs Ordinance;
  - (4) in respect of the activity of a non-profit organization or a financial institution – the non-profit organization or the institution.

### **Agent**

17. (a) If a dealer sells an asset or renders a service to a purchaser through an agent who acts in the dealer's name, then the dealer shall be deemed the person who sells the asset or renders the service to the purchaser, and the agent shall be deemed a person who renders a service to the dealer, if the fact of the agency and the dealer's name as the principal are stated in the documents issued by the agent to the purchaser; if they are not so stated, then the asset or service shall be deemed to have been sold or rendered twice: once by the dealer to the agent and once by the agent to the purchaser.
- (b) If a dealer sells in his own name an asset that belongs to a person who contracted with him for this purpose, then the dealer shall be deemed to have sold the asset to the purchaser, and the said person to have sold the asset to the dealer.
- (c) If a dealer buys an asset or receives a service for another dealer, then he shall state the fact of the agency and the name of the other dealer as the principal on documents issued by him in the ordinary course of his business to the seller or performer of the service; if he does not do so, then he shall be deemed to be the purchaser for himself.

### **Appointee's responsibility for payment of tax**

18. (a) In this section, "**appointee**" – a person lawfully appointed to the position of executor, liquidator, receiver, guardian, estate manager or trustee, or the holder of any other position whom the Court appointed in order to deal with a dealer=s assets.
- (b) If, by virtue of his position, an appointee sells an asset or provides a service in a dealer=s name, then the following provisions shall apply to him in respect of tax liability:
- (1) he must pay tax as does the dealer, in the dealer=s place;
- (2) he shall be deemed to provide a service to the business.
- (c) If the appointee received any consideration in respect of a transaction said in subsection (b), then the tax on the transaction shall be paid out of the consideration received for it before it is transferred to any other purpose, and the tax shall not be deemed part of the consideration.
- (d) If the appointee reported the transaction and paid the tax on it under the provisions of this Law, then the dealer shall be deemed the one who reported the transaction and paid the tax on it.
- (e) The Director may prescribe rules on the manner in which invoices shall be issued by the appointee, and on how he shall report.

### **Seller of stamps, telephone tokens, promissory notes, securities, etc.**

19. (a) If a dealer's business is the sale of postage stamps, telephone tokens, revenue stamps, stamped promissory note forms and the like, at the price stated on them, then he shall be deemed to be rendering a service to the person who supplies them to him for sale.
- (b) If a dealer's business is the sale of securities or other negotiable instruments, including the acquisition of aforesaid securities and instruments in order to collect their redemption or retirement price, or if his business is the sale of foreign currency, then that sale or collection of redemption or retirement shall be deemed a brokerage service rendered by the dealer, between the person who sold them to him and the person who bought them from him or redeemed them or retired them.

### **Permission to pay tax in place of person liable thereto**

20. A person not liable for payment of the tax may, with the Director's consent and on conditions prescribed by him, take the payment upon himself, and after the date of that consent he shall be treated as the person liable for its payment.

### **Imposition of liability on purchaser**

21. The Minister of Finance may prescribe, in respect of categories of dealers or categories of transactions, that the purchaser be liable for payment of all or of part of the tax, or that certain categories of

purchasers be liable to pay all or part of the tax, and he may prescribe conditions for imposition of the liability on the purchaser, and he may also prescribe that other obligations under the provisions of this Law and of regulations thereunder that apply to particular categories of persons liable to the tax shall apply to the purchaser; if obligations were imposed on the purchaser as aforesaid, then the seller or performer of the service shall be exempt of them, unless the Minister of Finance prescribed otherwise and on the conditions prescribed by him.

## **CHAPTER SIX: DATE OF TAX LIABILITY**

### **Upon sale of goods**

22. Upon a sale of goods, liability to tax accrues at their delivery to the purchaser; if the goods are delivered in installments, then liability to tax accrues on each part delivered; for this purpose, "**delivery**" – within its meaning in section 8 of the Sale Law 5727-1968.

### **Goods on consignment**

23. If an asset is delivered by one person to another so that he shall sell it, and if it is agreed in writing that not more than 10% of the consideration – or a higher percentage prescribed by the Minister of Finance for particular categories of dealers or transactions – shall be paid before the other sells the asset, and that he may return it if he does not sell it, then liability to tax on the sale of the asset by the one person to the other shall accrue when the other sells it; the same applies to an aforesaid sale in respect of which the agreement was oral, if it is proved to the Director's satisfaction that it belongs to a category of sales, which according to commercial usage are made on the said conditions without a written agreement.

### **Service**

24. In the case of a service, liability to tax accrues when the service is rendered; if the service is rendered in installments, liability to tax on each installment accrues when it is rendered, and if the service is rendered over a prolonged period and is not separable into parts, liability accrues when its performance has been completed.

### **Use for one's own requirements**

25. In the case of use for one's own requirements, liability to tax accrues –
- (1) in relation to goods – when they are taken into use as aforesaid;
  - (2) in relation to real estate – when possession thereof is taken for use as aforesaid, when the use begins or upon registration in the Land Register, whichever is the earliest.

### **Imports**

26. (a) In the case of imported goods, except goods said in subsection (b), liability to tax accrues when they are cleared through Customs.
- (b) In the importation of intangibles and in the importation of newspapers, periodicals or other printed matter imported by post, liability to tax accrues when foreign currency to pay for the acquisition is acquired from a financial institution, or when the foreign currency is transferred to the seller, whichever is earlier, and if no foreign currency is acquired or transferred as aforesaid – when the consideration is given.
- (c) The Minister of Finance may make regulations for purposes of subsection (b), including regulations on the collection of tax by the financial institution, on when and how it shall transmit the tax, and also on the payment of interest if the tax is not transmitted at the prescribed time.
- (d) repealed

### **Upon expropriation**

27. In the case of expropriation, forfeiture or confiscation, liability to tax accrues when the compensation or the consideration is paid.

### **Real estate transaction**

28. (a) In the case of a real estate transaction, liability to tax accrues when the real estate is placed at the purchaser's disposal or made available for his use, or when it is registered in the purchaser's name in a register kept under Law, whichever is earliest.
- (b) In the case of building operations, liability to tax accrues when the work is completed or when the real estate on which the work was performed is placed at the purchaser's disposal or made available for his use, whichever is earliest; if part of the real estate is placed at the purchaser's disposal, then liability in respect of that part accrues at that time.
- (c) In this section, "**building operations**" include excavation, demolition, sewerage and drainage work, the laying of pipes, road and highway construction, land preparation and the like.

### **Special cases**

29. Notwithstanding the provisions of this Chapter –
- (1) in the case of a service rendered over a lengthy period, which cannot be separated into parts, in the case of a transaction to which section 28 applies, and in other categories of transactions designated by the Minister of Finance – if any amounts are paid on account of the consideration before the accrual date under this Chapter, then tax liability accrues in respect of each amount so paid when it is paid;

- (2) the Minister of Finance may designate categories of transactions, including transactions said in paragraph (1), in which liability to tax accrues upon receipt of the consideration and on the amount received, and he may also prescribe when a payment not paid in cash shall be deemed to have been paid.

## **CHAPTER SEVEN: NIL RATE AND EXEMPTIONS**

### **Tax at the nil rate**

30. (a) The tax on the following transactions shall be at the nil rate:
  - (1) the sale of goods – other than goods said in section 33 – if an export entry or some other document approved for this purpose by the Director has been passed for them;
  - (2) the sale of an intangible asset to a foreign resident;
  - (3) the sale of goods to the owner of a licensed warehouse, within its meaning in the Customs Ordinance, approved for this purpose by the Director (hereafter in this section: licensed warehouse), for transfer to the warehouse, if the goods have been so transferred;
  - (4) the sale of goods at a licensed warehouse to persons leaving Israel, as well as the sale at a licensed warehouse of supplies approved by the Director – on a form prescribed by him – to a vessel or aircraft used for the transport of passengers or cargo on international routes;
  - (5) the rendering of a service to a foreign resident, other than a service designated by the Minister of Finance for this purpose; a service shall not be deemed to have been rendered to a foreign resident if the subject matter of the agreement is the actual rendering of the service, in addition to a foreign resident, also to an Israel resident in Israel, to a partnership most of the rights of which vest in Israel resident partners, or to a company, which – for the purposes of the Income Tax Ordinance – is deemed an Israel resident, unless it is a service the consideration for which forms part of the value of the goods determined as said in sections 129 to 133I of the Customs Ordinance, as the case may;
  - (6) a service in connection with the entry or departure of aircraft or vessels into or from Israel or in connection with the handling of goods –
    - (a) rendered by the Airports Authority or the Ports Authority to a vessel or aircraft or to a passenger on them in connection with his entry to or departure from Israel;

- (b) rendered to the owners of cargoes, the consideration therefor being part of the customary price within the meaning of sections 129 to 133l of the Customs Ordinance, as the case may be;
- (7) the rendering of a service abroad by a dealer whose principal place of business is in Israel;
- (8) (a) overnight accommodation of a tourist in a hotel and additional services, designated by the Minister of Finance with approval by the Knesset Finance Committee, rendered incidentally to the aforesaid overnight accommodation;
- (b) (1) rental of a private motor vehicle to a tourist to drive himself;
- (2) transportation of a tourist on a sightseeing trip in a private motor vehicle or in a bus, as well as the supply of meals to a tourist by the transporter incidentally to said bus transportation, whether he supplies them directly or indirectly;
- all on condition that a license or a permit was granted to the said vehicles for the said rental or transportation under the Commodities and Services (Control) Law 5718-1957;
- (b1) rendering a service to a tourist by a person who, whether for consideration or not, regularly provides one of the services provided by a tourist agency, within its definition in the Tourism Services Law 5736-1976;
- (b2) (1) rendering a service to an international organization, in order to hold a conference in Israel with the participation of at least fifty tourists;
- (2) sale to a tourist of the right to participate in an international conference with the participation of at least fifty tourists;
- (c) repealed
- (d) repealed
- (e) transportation of a tourist by aircraft from one place in Israel to another place in Israel;
- (f) repealed
- (g) hospitalization of a tourist in a hospital registered under the Public Health Ordinance 1940, and additional services rendered incidentally to the aforesaid hospitalization;
- (9) the sale of goods to a person entitled – because of his entry into Israel – to acquire them fully exempt of purchase tax;
- (10) a transaction that is the sale of a right to foreign travel; for

this purpose, "**right to foreign travel**" – the right to travel in an aircraft or a vessel from Israel to a place abroad, or from a place abroad to another place abroad, or from a place abroad to Israel, and if the place abroad is a state with which Israel has a common land border and which was designated for this purpose by order (hereafter in this section: bordering country) – also a right to travel by means of transportation other than aircraft or vessels;

- (11) transportation of cargoes by air or by sea from and to Israel;
- (11A) transportation of cargoes from Israel to an adjacent country or from an adjacent country to Israel;
- (12) (a) the sale of aircraft to a dealer whose business is the rendering of regular aviation service on fixed routes, for the transportation of passengers or cargo for consideration;
- (b) the sale of vessels to a dealer whose business is the transportation of passengers or cargo, for consideration, between Israel ports and ports abroad;
- (c) the importation of aircraft or vessels by a dealer said in subparagraphs (a) or (b);
- (13) the sale of fruit and vegetables of kinds designated by the Minister of Finance, which have not undergone any processing; for this purpose, cleaning, sorting, packing, ripening, storage and refrigeration shall not be deemed processing;
- (14) the sale of assets – including equipment – from the business of a dealer or of dealers to a company, only against shares in that company, if – immediately after that sale – the dealer or dealers hold at least 90% of the voting rights in that company; however, the sale of those assets by the company, after it acquired them under the said circumstances, shall be liable to tax even if the company is not deemed a dealer on the day of the sale;
- (15) the sale of all assets – including equipment – of its business by a dealer who is a body of persons in the course of being wound up, to holders of rights in the body of persons, if a share of the assets proportional to his share in the wound up body of persons is sold without consideration to each of the owners of rights who is a dealer; however, the sale by the dealer of those assets which were acquired under aforesaid circumstances shall be liable to tax, even if on the day of the sale the owner of the rights is not liable to tax for any reason whatsoever;
- (16) the sale of real estate by a financial institution or by a non-profit organization to a financial institution or to a non-profit organization, carried out within the framework of structural



- changes that meet the conditions of Part Five "B" of the Income Tax Ordinance;
- (17) the grant, to a foreign resident, of permission to use exhibition space and related services provided by the person who gives the said permission in connection with an exhibition, and that also if the foreign resident is in Israel as a tourist for purposes of the exhibition;
  - (18) the provision of services to a foreign resident by an Israel production company, for the production of a motion picture in Israel that is not an Israeli motion picture.
- (b) A person to whom the nil rate applies shall, for the purpose of this Law and regulations thereunder, be treated like a person liable to tax, and in respect of subsection (a)(18) – also when he is in Israel for the production of a motion picture.
  - (c) In this section –
    - "foreign resident"** – a foreign resident, as defined in section 1, while he is abroad and has no business or activity in Israel;
    - "production of a motion picture"** or **"Israel production company"** – as defined in the Encouragement of the Production of Motion Pictures in Israel Law (Ad Hoc Provisions and Law Amendments) 5769-2008;
    - "motion picture"** and **"Israel motion picture"** – as defined in the Motion Picture Law 5759-1999.

### **Exemption of certain transactions**

31. The following transactions are exempt of tax:

- (1) rentals for residential purposes for a period of not more than 25 years, other than rentals of accommodations in a hotel;
- (1A) the sale of that part of a building which was approved as a rental building under the Encouragement of Capital Investments Law 5719-1959, that part having been let during at least five years, on condition that the application for the aforesaid approval was submitted in or after 1979, and that the conditions set in or under the said Law have been met;
- (2) giving possession of real estate against key-money, as defined in the Tenant Protection Law (Consolidated Version) 5732-1972, real estate rentals to which that Law applies and the sale of real estate rented out as aforesaid;
- (3) transactions of an exempt dealer, other than transactions that are sales of real estate or transactions that are sales of equipment which is not real estate, in respect of which input tax paid on it was deducted at the time of its acquisition;
- (4) the sale of an asset, on which input tax in respect of its acquisition or importation could not be deducted lawfully at the time of its acquisition or importation; however, if it was determined that part of the input tax could be deducted, then part of the tax shall be

- paid in the proportion of the deductible part of the input tax to all the input tax;
- (5) deposits of money by a dealer with a financial institution or extension of a loan by a dealer to a financial institution.

#### **Clearance and construction areas – special provisions**

- 31A. (a) The terms used in this section shall have the meaning they have in part Five AD@ of the real Estate Taxation (Appreciation, Sale and Acquisition) Law 5723-1963 (in this section: the Real Estate Taxation Law).
- (b) When a right in an exchanged dwelling unit is sold by an entrepreneur, and also when construction services are provided in an area by an entrepreneur as consideration for his acquisition of rights in a dwelling unit in the area, carried out in accordance with the provisions of section 49V of the Real Estate Taxation Law, then that part of their price that does not exceed the ceiling value shall be exempt of tax.
- (c) The provisions of this section shall also apply to the sale and provision of construction services as said in subsection (b), in an urban renewal area, as defined in section 49DD.
- (d) The Minister of Finance may, with approval by the Knesset Finance committee, prescribe rules and provisions for the purposes of this section.
- (e) The provisions of section 49CC of the Real Estate Taxation Law shall apply for the purposes of this section, mutatis mutandis.

#### **Provision of building services under the reinforcement scheme – special provisions**

- 31B. (a) The terms that appear in this section shall have the meaning they have in Chapter Five "A" of the Real Estate Taxation (Appreciation and Sale) Law 5723-1963 (in this section: the Real Estate Taxation Law).
- (b) The provision of building services under the reinforcement scheme in consideration for the sale of the sold right that is exempt of tax under the provisions of section 49GG of the Real Estate Taxation Law shall be exempt of tax.
- (c) The Minister of Finance may, with approval by the Knesset Finance Committee, prescribe rules and provisions for the purposes of this section.

#### **Exemption of imports**

32. Importation of the following goods is exempt of tax:
- (1) goods imported by a person who, because of his entry into Israel, is fully exempt from customs on them;
- (2) goods that were exported from Israel and then returned, and which – while abroad – were not repaired, renovated or improved,

- or which were repaired, renovated or improved within the scope of the supplier's responsibility and for no consideration;
- (3) gift parcels, the importation of which is fully exempt from customs;
  - (4) original works of art, the importation of which is fully exempt from customs, which are imported for and for use by a museum or educational institution, or are imported for a local authority or for a public institution designated by the Minister for this purpose, in order to be placed permanently in a public place.

### **Exemption of precious stones**

33. The importation and export of unset diamonds, other than synthetic diamonds, of unset precious and semiprecious stones of a kind fully exempt from customs duty, and any transaction in them with a dealer whose business, in the course of which the transaction is carried out, is solely concerned with them, are exempt from tax.

### **Power to exempt or to apply nil rate**

34. (a) The Minister of Finance may exempt the importation of the following goods from all or from part of the tax:
- (1) goods to be exempted from indirect taxes, or from part thereof, under an international convention to which Israel is party;
  - (2) goods imported otherwise than permanently;
  - (3) goods the importation of which is fully exempt from customs.
- (b) The Minister of Finance may exempt from tax the importation of goods by persons specified in the Schedule to the Customs, Excise and Purchase Tax (Abolition of Special Exemption) Law 5717-1957, or the sale of goods or the rendering of services to aforesaid persons, and he may also apply the nil rate to aforesaid transactions.

### **Exemption of certain non-profit organizations**

35. (a) If a non-profit organization does not pay its employees an aggregate annual wage total in excess of NS 361,000, or of a greater amount prescribed by the Minister of Finance, then it is exempt of the tax under section 4(a).
- (b) The Foundation, within its meaning in the Binational Science Foundation Law 5737-1977, the Foundation within its meaning in the Binational Industrial Research and Development Foundation Law 5738-1978, the Fund, within its meaning in the United States – Israel Agricultural Research and Development Fund Law 5740-1980, and the Fund, within its meaning in the Germany – Israel Scientific Research and Development Fund Law 5754-1994 are exempt of the tax under section 4(a).

### **Power to exempt person registered in an area**

- 35A. The Minister of Finance may, with approval by the Knesset Finance Committee, prescribe in regulations exemption from tax of transactions or activity in Israel – which are not continuous and not permanent – by a dealer, financial institution or non-profit organization registered under the statute that corresponds to this Law in an area or in the Gaza and Jericho territories.

### **Power to set nil rate for contributions**

- 35B. The Minister of Finance may set the nil rate on the sale of goods to

bodies that contribute to the Palestine Authority, as will be defined in regulations, if the goods are intended for development projects or noncommercial humanitarian objectives in the Gaza and Jericho territories or in an area and if they will actually be used for those purposes.

**Power to make exemption and nil rate conditional**

36. The Minister of Finance may subject any exemption or application of the nil rate to conditions he deems appropriate.

**Inapplicability of exemption under other statute**

37. The provisions of any statute that exempts from an indirect taxes shall not apply to the tax under this Law, unless the Knesset prescribed otherwise by resolution.

**CHAPTER EIGHT: DEDUCTION OF INPUT TAX, OTHER DEDUCTIONS AND TAX REFUND**

**Deduction of tax paid on inputs**

38. (a) A dealer is entitled to deduct from the tax to which he is liable the input tax included in a tax invoice lawfully issued to him or in an import entry or other document approved by the Director for this purpose, on condition that the import entry or other document name the dealer as owner of the goods and that the deduction be made within six months after the invoice, the entry or the document was issued.
- (b) The Minister of Finance may prescribe provisions different from those of subsection (a), including provisions prescribing that input tax paid by performers of services whose income is mainly from salary, benefit or pension shall not be deductible, if the Minister of Finance, under section 21, imposed payment of the tax due on services rendered by them on the recipients of those services.
- (c) (1) A dealer is entitled to deduct from the tax to which he is liable the tax included in a tax invoice lawfully issued by a dealer registered in an area or in the Gaza and Jericho territories, on condition that the invoice is in the form prescribed by the Director, that it includes the particulars prescribed by him and that the deduction be made within six months after the invoice was issued; the Minister may prescribe that the Director's certification that the goods were brought into Israel from an area and from the Gaza and Jericho territories in accordance with the provisions of section 129A;
- (2) tax deducted as said in paragraph (1) shall be treated like

input tax included in a tax invoice under this Law, on condition that the dealer who applies for a said deduction submitted to the Director, together with the periodic return required under section 67, a return required under section 72 about the acquisition of assets or the receipt of services from dealers registered by the Palestine Authority.

### **Refund**

39. (a) If, during a particular return period under section 67, input tax exceeds the value added tax to which the dealer is liable in respect of his transactions in that period, then the excess shall be refunded to him within 30 days after receipt of the return, or at a later date prescribed by the Minister of Finance; however –
- (1) if the Director ordered the dealer's books to be examined, in order to determine whether he is entitled to a refund, then the excess shall be refunded within 90 days after receipt of the return;
  - (2) if a person so empowered by the Director or the Israel Police began to investigate a suspected violation of this Law by the dealer, then the excess shall be refunded within 180 days after receipt of the return;
  - (3) if, during the period said in paragraph (2), an indictment was filed against the dealer in respect of a said violation, or if monetary composition was accepted from the dealer as said in section 121, then the Director may subtract from the amount of excess, including linkage differentials and interest due on it under section 105, any amount owed by the dealer, and the balance shall be refunded to the dealer within 30 days after the day on which the final judgment was issued or after the day on which monetary composition was accepted, as the case may be.
- (b) Notwithstanding the provisions of subsection (a), the Director may refrain from refunding the excess to any person who does not keep books or who keeps them in substantial digression from the provisions of this Law or of the regulations under it, and the Director may also refrain from refunding the excess to any person who failed, until the date on which the return that includes the said excess was submitted, to submit a return which he was under obligation to submit under this Law, and that as long as he has not submitted that return.
- (c) A decision by the Director under subsection (b) not to refund the excess shall, for purposes of objection and appeal, be treated like a refusal by the Director to accept a return, and the provisions of section 74 shall apply to it, *mutatis mutandis*.
- (d) For purposes of this section, the date on which a return in which not all particulars are correctly stated is received or submitted, as

the case may be, shall be the date on which those particulars are corrected or completed.

**Input tax before registration**

40. Input tax included in tax invoices, import entries or other documents approved by the Director under section 38(a), which were issued to a dealer before he registered under section 52, is not deductible.

**Input tax of business in process of establishment**

- 40A. Notwithstanding the provisions of sections 38 and 40, input tax paid by a dealer before he is lawfully registered shall be deductible, on condition that it is proved to the Director's satisfaction that the inputs were acquired while the business was being established and were used for its establishment, and that even if the tax invoice, the import entry or the other document approved by the Director under section 38(a) was not issued in the dealer's name.

**Input used for tax exempt transaction**

41. Input tax shall not be deducted, unless the input is to be used in a transaction liable to tax.
42. Repealed

**Reduction by reason of cancellation or change**

43. If a transaction is canceled after the purchaser has deducted the tax on it as input tax, or if its conditions are changed in a manner that reduces the tax, then the purchaser shall reduce the input tax in his next periodic return by the amount of difference, or pay the difference as the Minister of Finance may prescribe.

**Deduction upon the sale of real estate**

- 43A.(a) When real estate is sold by an exempt dealer or when real estate is sold in an occasional transaction, the person liable to tax is entitled to deduct from the tax to which he is liable that tax which he paid in respect of the acquisition of the real estate and its improvement (in this section: the acquisition), if he has a tax invoice or other document approved by the Director in respect of that acquisition to attest payment of the tax, and if the tax has not been deducted.
- (b) The provisions of subsection (a) shall not apply to a sale of real estate said in section 30(a)(16), but a financial institution or a financial institution that is a merged company in a merger, or a new company in a split, as the case may be, shall be entitled to deduct from the tax to which it will be liable – when it sells the real estate – the tax paid in respect of the acquisition of the real estate by the merged company or the split company, as the case may be, if it has an invoice for the tax paid and if the tax was not deducted.

- (c) The total deduction from tax under subsections (a) or (b) shall not exceed the tax to which the person liable to tax is liable in respect of the real estate sale.
- (d) In this section –
  - "the tax paid"** – the amount of tax included in the tax invoice or in the other document, as the case may be, multiplied by the index last published before the day on which real estate was sold and divided by the index last published before the day on which the tax was paid, less amounts of tax that may be deducted as depreciation under section 21 of the Income Tax Ordinance and under any other statute;
  - "improvement"** – all expenditures incurred by the seller from the day of acquisition until the day of the sale for improvement of the real estate, which are not deductible under the Income Tax Ordinance;
  - "index"** – as defined in section 93.

#### **Tax refund to tourists**

- 43B. (a) When a tourist leaves Israel, he is entitled to the refund of tax he paid when he acquired goods in stores approved for this purpose under the provisions of subsection (c), on condition that, when he leaves Israel, the tourist proved the following to the Director's satisfaction:
- (1) he leaves Israel with the goods;
  - (2) he has a lawfully issued tax invoice, as well as another document with particulars connected to the sale of the goods, as the Minister of Finance will prescribe.
- (b) The Minister of Finance may prescribe conditions in addition to those specified in subsection (a) for tax refunds to tourists, including a payment by the tourist to the person, through whom the Director refunds the tax to the tourist.
  - (c) The Minister of Tourism may, in consultation with the Director, approve businesses for the purposes of this section, in accordance with rules he shall prescribe; once a year the Minister of Tourism shall publish the list of businesses who were approved in that year and also the list of businesses whose approval for this purpose was cancelled during that year.
  - (d) For the purposes of this section, crossing into an area or into the Gaza and Jericho territories shall not be deemed departure from Israel.

#### **Regulations on the deduction of input tax**

44. The Minister of Finance may, generally or for particular categories of dealers or of transactions, prescribe provisions on –
- (1) assets and services, in respect of which input tax paid on transactions or imports shall not be deductible, or in respect of



- which the right to deduct is restricted, as he may prescribe;
- (2) rules for the deduction of input tax when the assets or services, on the importation or transaction with which the tax was paid, are used both in transactions on which the tax is deductible and in those, on which it is not deductible;
  - (3) the manner in which a balance of input tax in excess of the value added tax shall be refunded, including crediting it to the dealer's account;
  - (4) rules and conditions for the deduction of tax paid under the Law that corresponds to this Law in an area or in the Gaza and Jericho territories.

## **CHAPTER NINE: INVOICES**

### **Must issue transaction invoice**

45. A dealer must issue a transaction invoice to a purchaser for each transaction or part thereof, even if they are exempt of tax.

### **Time for issue of invoice**

46. (a) An invoice shall be issued within 14 days after the time when tax liability arises, but – in cases to which section 29 applies – the invoice for the paid amount said in that section shall be issued not later than seven days after the day on which the amount was received.
- (b) If a transaction is tax exempt, then an invoice shall be issued when it would have to be issued under subregulation (a), had the transaction been liable to tax.

### **Right to issue tax invoice**

47. (a) For a transaction liable to tax, an authorized dealer may issue a tax invoice instead of a transaction invoice, and he must do so at the purchaser's request.
- (b) (1) A tax invoice shall include particulars prescribed by the Minister of Finance, on condition that the tax is stated in it separately; however, the Director may, in general or in respect of categories of dealers or of transactions, permit use of the words "including tax", instead of a separate statement of the tax.
- (2) A tax issued to be issued by an authorized dealer to a dealer, to a financial institution or to a non-profit organization registered by the Palestinian Authority shall be in the form prescribed by the Director, shall include the particulars prescribed by him and shall be printed in a printing press approved by the Director.

- (c) If a tax invoice relates both to transactions liable to tax and to transactions exempt of tax, or if it relates to transactions liable to tax and transactions liable at the nil rate, then the invoice shall state the particulars of the account in respect of each category separately.

#### **Obligation of dealer at time of an acquisition**

47A. If a purchaser is liable to tax and if he acquired assets or services for the needs or use in his business or for his activity, then he must do as follows:

- (a) if the value of the goods or services exceeds NS 249, but does not amount to NS 20,000, then he must demand a tax invoice from the seller who is an approved dealer, or else pay by bank transfer, by credit card or by a check on which he signs as drawer and which states that payment is to the seller only;
- (b) if the value of the goods or services amounts to or exceeds NS 20,000, then he must demand a tax invoice from the seller who is an approved dealer, and he shall not pay him with banknotes and if he paid him with an endorsed check, then he shall write his name, signature and Vat registration number on its reverse;
- (c) whoever claims that he complied with the conditions of this section shall bear the burden of proof.

#### **Overstatement and understatement**

48. If an invoice was issued, either overstating or understating the price of the transaction or the part thereof payable at that time, or the value added tax, then the following provisions shall apply:

- (1) in the case of an overstatement, tax shall be paid according to the stated price or the stated amount of tax, whichever is higher, as long as the invoice has not been corrected in the manner prescribed by the Minister of Finance;
- (2) in the case of an understatement, the dealer shall issue a supplementary invoice.

#### **Transaction not carried out or canceled**

49. If an invoice was issued in respect of a transaction liable to tax and if the transaction or part thereof was not carried out or was canceled or the invoice was in error, then tax shall be paid according to the invoice, as long as it has not been canceled or corrected as prescribed by the Minister of Finance.

#### **Tax invoice issued unlawfully**

50. (a) If a person, who is not authorized under section 47 to issue a tax invoice, issues a tax invoice or issues a document that purports to be a tax invoice – even if it lacks particulars required for purposes of a tax invoice – then he shall pay double the amount of tax

- specified in the invoice or implied by it.
- (a1) If a dealer deducts input tax included in an unlawfully issued tax invoice, then the director may impose on him double the tax stated or implicit in the invoice, unless he proves to the Director's satisfaction that he did not know that the invoice was issued unlawfully.
  - (b) A demand to pay double the amount of tax under subsections (a) or (a1) may be appealed to the District Court; filing the appeal shall not stay payment of double the tax, unless the Court directed otherwise.

### **Regulations on invoices**

51. The Minister of Finance may prescribe supplementary provisions for the implementation of this Chapter in respect of categories of dealers or of transactions, including, inter alia –
- (1) the form of the invoice, the particulars to be entered on it and making of copies of it;
  - (2) provisions on safekeeping the invoice and its copies;
  - (3) exemptions for dealers, categories of dealers or categories of transactions from the obligation to issue invoices, or from conditions of keeping records or issuing documents instead of invoices.

## **CHAPTER TEN: REGISTRATION**

### **Obligation to register**

52. (a) Dealers, non-profit organizations and financial institutions must register at the time and in the manner prescribed.
- (b) If a person proves to the Director's satisfaction that he establishes a business, then he may register as a dealer and when he has registered, then he shall for all intents and purposes be treated like a dealer.
- (c) The Director may refrain from registering a dealer, a non-profit organization and a financial institution, if he has reasonable grounds to suspect that they will engage in illegal activity.
- (d) The Director may demand surety that satisfies him from a person who asks to be registered as a dealer, non-profit organization or financial institution, as the case may be, as a condition for his said registration, if – during the five years before he submits the application for registration – that person was convicted by a final judgment of an offense under sections 117(a)(3), (5) or (6) and did not pay the tax debt that was the subject of the indictment, or if he was convicted by a final judgment of an offense under

sections 117(b); for the purposes of this subsection –  
"person" includes a body of persons with an active manager, substantial shareholder or partner who was convicted of a said offense;  
"substantial shareholder" – as defined in the Companies Law 5759-1999.

#### **Authorized dealer's certificate; confirmation of registration**

53. (a) A dealer, other than an exempt dealer, shall receive an authorized dealer's certificate upon his registration under section 52.  
(b) A person other than an authorized dealer shall, upon registration, receive confirmation of his registration and of his classification.

#### **Registration by Director**

54. If a person is liable to registration and has not registered, then the Director may register him provisionally; this registration does not release from the obligation to register under section 52.

#### **Registration of several businesses of a dealer**

55. If a person has several businesses or if his business consists of several business units, then he shall be registered as one dealer in respect of all of them; however, he may be registered separately in respect of each business or each unit of his business; the Minister of Finance may prescribe conditions for such registration.

#### **Joint registration of several dealers**

56. If several dealers, who are Israel citizens as defined in section 1A(b) and whose continuous and permanent places of business are in Israel, apply to be registered jointly, then the Director may so register them, and when so registered, they shall be deemed partners for the purposes of this Law; the Minister of Finance may prescribe conditions for the joint registration of dealers.

57. Repealed

#### **Reclassification**

58. The Director may – on application by a person who belongs to a particular category of persons liable to tax or at his own initiative – register him as belonging to a different category, either in respect of all or of some of his business or activities, if he concludes that they are essentially closer to the other category.

#### **Registration of authorized dealer as exempt dealer**

59. (a) If the turnover of an authorized dealer decreased and during two consecutive years was below the amount that requires registration as an authorized dealer, then the Director shall – at his initiative or

on application by the dealer – register him as an exempt dealer; this provision shall not apply to a person in respect of whom it is prescribed that he shall be an authorized dealer even if his turnover is below the said amount.

- (b) If the business turnover of an authorized dealer in the first year of his activity was lower than the amount that requires his registration as an authorized dealer, then the Director may – at his initiative – register him as an exempt dealer.

#### **Foreign resident with business or activity in Israel**

- 60. (a) A person liable to tax, whose businesses or activity is mainly abroad and who has business or activity also in Israel shall – within thirty days after he began to carry on business or activity in Israel – appoint a representative whose permanent place of residence is in Israel, and he shall so inform the Director, attaching the representative's written consent.
- (b) A representative appointed under this section shall, for purposes of this Law, be treated like the person liable to tax.
- (c) When a representative ceased to represent the person liable to tax, then the person liable to tax or the representative shall inform the Director in writing of that fact not later than 14 days after the representation ended; the person liable to tax shall, within the same period, appoint a new representative in the manner specified in subsection (a), and he shall inform of the name of the new representative and attach his written consent to the notification.
- (d) As long as the representative has not notified the Director that he ceased to represent, the obligations under subsection (b) shall continue to apply to him; and if he gave advance notice of the end of the representation, then the said obligations shall apply to him until the date on which the representation ends.
- (e) In this section, "**foreign resident**" – as defined in section 1, including –
  - (1) in respect of an individual – an individual who stays in Israel under a visa or permit for residence that is not permanent residence, as the Director shall order;
  - (2) in respect of a body of persons – if one of the following holds true:
    - (a) it is a body corporate, over which control and management are carried out from abroad;
    - (b) it is a company registered in Israel as a foreign company; for this purpose, "**foreign company**" – as defined in section 1 of the Companies Law 5759-1999.

#### **Non-registration of resident of an area or of the Gaza and Jericho territories**

60A. The Director may refrain from registering dealers, non-profit organizations or financial institutions, which are residents of an area or of the Gaza and Jericho territories and are not Israel citizens as defined in section 1A(b), or which are registered under an statute that corresponds to this Law in an area or in the Gaza and Jericho territories, all if they do not have continuous and permanent businesses or carry on continuous and permanent activity in Israel.

### **Change or cancellation of registration**

61. (a) If the Director finds that a person is registered, even though he is not one of those liable to registration, or that his registration in a particular category of persons liable to registration is not in accordance with Law, then he may cancel or correct the registration.
- (b) A registration made on any person's application under sections 55 or 56 or a registration under section 58 may be canceled or changed, if the Director concludes that the circumstances so justify.
- (c) If the person liable to tax did not appoint a representative under the provisions of section 60 or did not inform the Director of the appointment of a new representative under the provisions of that section, then the Director may cancel the registration of the person liable to tax.
- (a) The Director may demand of a person registered under sections 52, 55, 56 or 58, who was convicted by a final judgment of an offense under section 117(b), surety to his satisfaction to secure payment of the tax to which that person will become liable after the demand to produce the surety; if that person did not produce the said sureties, then the Director may cancel his registration; for the purposes of this subsection –  
"person" – as defined in section 52(d);  
"substantial shareholder" – as defined in the Companies Law 5759-1999.

### **Opportunity to be heard**

62. If the Director proposes to act under sections 52(c) or (d), 54, 58, 59, 61, 77B(a) or (b) or 106B(a) otherwise than on application by the person concerned, then he shall give him an opportunity to state his arguments before him.

### **Effect**

63. A cancellation or change under section 61, as well as a classification under section 58, shall come into effect 30 days after the month in which notification under section 64 was made, or at another time prescribed by the Director.

### **Appeal against acts of Director**

64. (a) When the Director acts under section 52(b) to (d), 54, 55, 56, 57, 58, 59, 61 or 106B(a), he shall so inform the person concerned, and any person who deems himself aggrieved may appeal to the District Court within thirty days after the notification was served on him.
- (b) If application was made to the Director that he act under any of the sections said in subsection (a), and if he did not respond to the application within 90 days, then he shall – for the purposes of subsection (a) – be deemed to have rejected the application.
- (c) Filing an appeal shall stay implementation of the Director's decision, unless the Court decides otherwise.

### **Regulations on registration**

65. The Minister of Finance may prescribe complementary provisions for the implementation of this Chapter, including provisions on the obligations of a person whose registration was cancelled or changed and on the ways of deducting input tax which he has not yet deducted, as well as provisions on the exemption of categories of dealers from the obligation to register.

## **CHAPTER ELEVEN: BOOKS AND RETURNS**

### **Keeping books and records**

66. A person liable to tax shall keep books and records in the form and manner prescribed by the Minister of Finance, either in general or for categories of dealers or of persons liable to tax.

### **Periodic return**

67. (a) A person liable to tax shall submit to the Director, in a manner prescribed by the Minister of Finance, a return for every period designated by the Minister of Finance as a return period for persons liable to tax in general or in respect of categories (hereafter: periodic return), but a financial institution shall file separate returns of the wages paid and of the profit earned, and the return period in respect of profit shall be the tax year.
- (a1) If a non-profit organization acquired goods or received services from a dealer registered by the Palestine Authority, then it shall submit a special report thereof to the Director when it submits the periodic return, as the Minister of Finance prescribed by regulations.
- (b) A periodic return shall be filed within 15 days after the return period to which it relates, even if no business or activity requiring

payment of tax was carried on in that period, unless business or activity has ceased altogether and the person liable to tax so informed the Director in the manner prescribed by the Minister of Finance.

- (b1) The last date for the for the submission of a periodic return shall be postponed, if there were at least three days of rest during the five days that preceded the said date, and it shall be on the fourth working day after the end of the consecutive days of rest; for this purpose, "**days of rest**" – the days of rest prescribed in the State of Israel within their meaning in section 18A(a) of the Law and Administration Ordinance 5708-1948, as well as interim festival days.
- (c) The Director may temporarily exempt a person liable to tax from filing a return, for a period and on conditions which he may prescribe.
- (d) The Minister of Finance may exempt categories of dealers, whose business consists exclusively of tax exempt transactions or of transactions liable to tax at the nil rate, from filing periodic returns.
- (e) The Minister of Finance may, with approval by the Knesset Finance Committee, designate acts that shall be deemed tax planning that must be reported; acts designates as aforesaid shall be specified in periodic reports.

#### **Provisional return**

- 68. (a) If a person liable to tax does not know the data which he must specify in the return, then he may instead file a provisional return, in which he shall state as estimates the data not known to him.
- (b) A provisional return shall not be filed, if at least two provisional returns were filed during the year that preceded the beginning of the period in question, but the Director may approve the filing of provisional returns by categories of dealers or by a particular dealer, either generally or for specific return periods, and he may set the date or dates on which they shall be filed and he may set conditions for his approval.
- (c) When a provisional return has been filed, the periodic return shall be filed within 30 days thereafter.

#### **Particulars of a dealer's return**

- 69. (a) A dealer's periodic return shall include the total amount of transactions, for which the issue dates of invoices were in the return period, even if the dealer was exempted from issuing invoices, as well as the total amount of transactions for which tax invoices were issued, even if the date for their issue had not yet arrived, on condition that they were not included in a previous periodic return.
- (b) If a dealer carried out transactions liable to tax and transactions chargeable at the nil rate or exempt from tax, then he shall specify



separately the total amount of transactions in each category and the tax thereon.

- (c) A periodic return shall indicate separately the total amount of the dealer's acquisitions, including imports, and the total amount of services received by him, the amount of deductible input tax included in the documents said in section 38 validly issued to him before the end of the return period, and any other particular prescribed by the Minister of Finance.

#### **Returns by non-profit organizations and financial institutions**

70. A periodic return by a non-profit organization shall include the total amount of wages paid by it in the return period, and the periodic returns of a financial institution shall include, first – the total amount of wages paid by it and second – the aggregate amount of profit which it earned.

#### **Supplementary return**

71. If any data required to be included in a periodic return were omitted from it, then the person liable to tax shall file a supplementary return for the period in question and he shall not add those data to another return.

#### **Demand for additional particulars, additional returns and auditor's certification**

72. (a) The Director may – generally, specifically or in respect of categories – demand that returns in addition to the periodic returns be filed for periods and at times prescribed by him, and also a summary annual return and a return of stock on hand.
- (b) The Director may demand from an authorized dealer that is a body of persons – generally, specifically or in respect of categories – that it file balance sheets and tax adjustment accounts; he may also demand of an aforesaid body of persons that the summary annual return, any periodic return in which a tax refund is requested under section 39, and a return of any other category designated by the Minister of Finance, be certified and adjusted for tax purposes by an auditor.
- (c) In the case of a body of persons, which is a cooperative society affiliated with an audit union, an official of the audit union, who is duly registered with the Registrar of Cooperative Societies, may take the place of the auditor said in subsection (b).
- (d) The Director may require a person who certified a return under subsections (b) or (c) to provide information on the extent and findings of the audit which he carried out.

#### **Deferment of date for filing return**

73. The Director may defer the dates for the filing of returns – generally, specifically or in respect of categories – but deferment in respect of a

particular person liable to tax shall only be made for special reasons which shall be recorded; if a date for filing a periodic return has been deferred, then the person liable to tax may file a provisional return and section 68 shall apply, mutatis mutandis.

#### **Refusal to accept return**

74. (a) If a person liable to tax failed to keep account books during any period or if he kept them in deviation from the provisions of this Law or of the regulations thereunder, which was substantive for the determination of his business turnover or of the tax, or if the documents on which the books are based have not been kept in accordance with the provisions, then the Director may refuse to accept any return that relates to the tax year which includes the return period in respect of which the said faults appeared; if the Director refused to accept a return, then the person liable to tax shall, for purposes of section 76, be treated as if he had not filed a return.
- (b) The Director shall inform the person liable to tax of the refusal, specifying the reasons therefor.
- (c) The person liable to tax may appeal against a refusal to the District Court, or he may object to it before the Books Acceptability Committee established under section 172 (hereafter: Books Acceptability Committee) within 15 days after he received the notification under subsection (b); however, in respect of a refusal for reasons enumerated in subsection (a) on the unlawful issue of tax invoices or the deduction of input tax included in unlawfully issued tax invoices the person liable to tax may appeal only to the District Court .
- (d) When an appeal or objection has been filed, the Director shall treat the return as validly filed, as long as the Court or the Committee did not decide otherwise.
- (e) The submission of an appeal or objection under this section shall not take the place of a contestation under section 82; if the appeal or objection was rejected, then the account books shall be deemed unacceptable for purposes of the appeal against the assessment.
- (f) If a person liable to tax did not submit an appeal or objection under this section, then he may appeal against the refusal together with the appeal under section 83.

#### **Preservation of books and documents**

75. Account books of a person liable to tax that are required to be kept under this Law, the documents on which they are based and his purchase invoices shall be kept by him for seven years, and for a shorter period prescribed – either generally or for categories – after the date of the last entry in the book or after the date on which the

purchase invoice was issued, whichever was later.

## **CHAPTER TWELVE: TAX DETERMINATION, ASSESSMENT, CONTESTATION AND APPEAL**

### **Tax determination**

76. (a) If a person liable to tax did not file a periodic return, then the tax payable by him shall be determined, having regard to the extent of his transactions or activity or, in the absence of data, by estimate (hereafter: tax determination).
- (b) A tax determination shall not be open to contestation or appeal, and it shall be canceled automatically when the periodic return is filed; however, in respect of a person who argues that he is not liable to tax the determination shall – for purposes of contestation or appeal – be deemed an assessment.

### **Assessment to best of judgment**

77. (a) If a person liable to tax filed a periodic return, and if the Director believes that it is not complete or not correct, or if it is not supported by documents or account books as prescribed, then the Director may assess the tax due or the input tax of the person liable to tax to the best of his judgment (hereafter: assessment).
- (b) The assessment shall be made within five years after the return was filed or – if the person liable to tax has been convicted or composition was made for an offense of giving false information in the said return or for any other act designed to evade payment of the tax due for the period of the said return – within ten years after the return was filed.
- (c) Notification of the assessment shall specify the reasons for the assessment.

### **Failure to record intake or to keep cash record**

- 77A. (a) If a dealer records his receipts on a cash register tape, on receipts, on invoices, in a daily sales book or in some other documentation which he is bound to keep under provisions by virtue of section 66, and if he failed to record there some intake which he was bound to record under those provisions, then his books shall be deemed unacceptable in that tax year, unless the Director is convinced that there was sufficient reason for his failure to record.
- (b) If a dealer records the issue of goods in delivery notes, in invoices or in some other documentation which he must keep under provisions by virtue of section 66, and if he failed to record there the issue of goods which he was obligated to record under those provisions, then his books shall be deemed unacceptable in that tax year, unless the Director is convinced that there was sufficient

- reason for his failure to record.
- (c) If a dealer, twice in one tax year or in 12 consecutive months in two tax years, failed to record a receipt or the issue of goods, as said in subsections (a) and (b), and if at least one of those times was after the Director warned him in writing, then it is assumed that his books were also unacceptable in the two tax years that preceded the tax year in which he twice failed to record an aforesaid receipt or issue, or also in the tax year that preceded the first year of the 12 month period in which he twice failed to record an aforesaid receipt or issue, as the case may be, even if his returns were accepted and assessments were drawn up accordingly, unless the Director was satisfied that there was sufficient reason for his failure to record.
  - (d) A decision by the Director under subsections (a) to (c) may be appealed – within 60 days after the day on which notification was delivered – under section 83, as if it were a decision on a contestation.
  - (e) If a dealer was under obligation – under this Law or under regulations under it – to keep a cash register tape, and if he failed to do so, then his books shall be deemed to be unacceptable.

**Unlawful issue of a tax invoice and unlawful deduction of input tax**

- 77B. (a) If a dealer issued a tax invoice unlawfully, then his account books shall be deemed unacceptable in that tax year.
- (b) If deducted input tax included in an unlawfully issued tax invoice, then his account books shall be deemed unacceptable in that tax year, unless – when he presented his arguments under section 62 – he proved to the Director=s satisfaction that he did not know that the invoice had been issued unlawfully.
  - (c) Within sixty days after a decision by the Director under subsections (a) and (b) , it may be appealed under section 83, as if it were an decision on a contestation.

**Determination and assessment for several periods**

78. Tax determination or assessment may also be made for several return periods, even if they are not consecutive.

**Amendment of assessment or of tax determination**

79. (a) When the Director concludes that a tax determination or an assessment is not correct, then he may – on his own initiative or on the assessee's application – amend it within five years after the day on which it was made.
- (b) A determination or assessment shall not be amended as said in subsection (a) if seven years passed since the return was filed, unless the person liable to tax was convicted of an act committed with intent to evade payment of tax due for the said period or if he made composition for such an offense.

- (c) An amended determination shall be treated like a tax determination, and an amended assessment shall, for purposes of contestation and appeal, be treated like an assessment.

#### **Service of notification**

80. Notification of a tax determination, of an assessment or of an amendment shall be served on the person liable to tax, either by hand or by registered mail.

#### **Saving of responsibility**

81. A tax determination or an assessment does not derogate from the obligations or criminal responsibility of the person liable to tax.

#### **Determination of turnover**

- 81A. If the Director decided that the total price of a dealer's transactions in the current tax year will exceed the total price of his transactions in the preceding tax year, then his decision shall – for purposes of contestation and appeal – be deemed an assessment.

#### **Contestation**

82. (a) If a person disputes an assessment, he may submit a reasoned written contestation to the Director within 30 days after the notice of assessment was served on him, or within a longer period allowed by the Director for special reasons.
- (b) If the person liable to tax and the Director reached agreement on the tax due, then the assessment shall be amended accordingly; if no agreement is reached, then the Director shall decide on the contestation, and he may confirm, increase or reduce the assessment.
- (c) Notification of the Director's agreement or decision on the contestation and of his reasons for it shall be served on the person liable to tax.
- (d) If, within one year after the date on which the contestation was filed, the Director made no decision, such as is said in subsection (b), the contestation shall be deemed to have been allowed.
- (e) The person who drew up an assessment shall not decide a contestation against it.
- (f) Submitting a contestation shall not derogate from the Director's powers under other provisions of this Law.

#### **Appeal**

83. (a) If a person considers himself aggrieved by the Director's decision on a contestation, then he may appeal against it before the District Court.
- (b) The appeal shall be heard by a single judge, who may appoint advisers for himself from a list of advisers compiled by the Minister of Justice in consultation with the Minister of Finance; an

adviser shall assist the judge in clarifying the appeal when it is heard, but shall not participate in the judgment.

- (c) The appeal shall be heard in camera, unless the Court decides otherwise on the appellant's application.
- (d) If the return is not supported by lawfully kept account books, then the burden of proof shall be on the appellant.
- (e) The Court shall confirm, reduce, increase or set aside the assessment, or make any other decision, as it sees fit.

#### **Law procedure regulations**

84. The Minister of Justice may make regulations on the manner of filing appeal and on the procedure on it, and also on fees, costs, loss of working time allowance for witnesses and the remuneration of advisers.

#### **Payment of tax not in dispute**

85. There shall be no contestation or appeal under this Chapter, unless the tax not in dispute has been paid.

#### **Dispute as to tax on import**

86. If a person disputes liability to tax on the importation of goods, then the provisions of section 154(a) and (b) of the Customs Ordinance shall apply, mutatis mutandis.

#### **Refund of excess tax**

87. (a) When proceedings under this Chapter lead to the conclusion that tax was paid in excess, then the excess shall be refunded within 30 days after the proceedings are concluded, in so far as it has not been deducted as input tax; however, if the Director ordered the books of the person liable to tax to be examined, an investigation was begun or an indictment was filed against him, then the provisions of section 39 shall apply to the excess, as the case may be, as if the excess tax were excess input tax.

### **CHAPTER THIRTEEN: DATE FOR PAYMENT**

#### **Payment according to return**

88. (a) A person liable to tax shall, when filing a return, pay the tax due in respect of the return period, whether according to the periodic or the provisional return.

(b) If the amount of tax paid under a provisional return exceeded the amount of tax due under the subsequently filed periodic return, then the excess shall be refunded within 30 days after the date on which the periodic return is filed; however, if the Director ordered

the books of the person liable to tax to be examined, an investigation was begun or an indictment was filed against him, then the provisions of section 39 shall apply to the excess, as the case may be, as if the excess tax were excess input tax.

**Payment in case of imports**

89. The tax on the importation of goods shall be paid when the import entry is released for consumption in Israel.

**Payment in case of determination or assessment**

90. The tax due according to a tax determination, an assessment or an amendment thereof shall be paid within one month after the day on which notification of them was served on the person liable to tax; the same shall apply to the balance of tax in consequence of a decision on a contestation or of a judgment.

**Payment in case of contestation or appeal**

91. (a) If a contestation or appeal was filed, then the contestor or appellant may refrain from paying the tax in dispute and the Director may refrain from refunding the excess tax or excess input tax in dispute and he may also retain any amount due to the contestor or appellant, as the case may be, under the provisions of this Law, as specified below:

- (1) when a contestation was submitted – up to half the amount in dispute;
- (2) when an appeal was submitted – up to the amount in dispute, unless the Appeal Court rules differently.

(b) Money retained as said in this section shall be retained until it becomes possible to collect the tax debt under the Taxes (Collection) Ordinance, but in the case of retention under subsection (a)(1), if no decision was made on the contestation within 90 days after the money was retained, then the retention shall be canceled.

**Advance payments**

92. The Minister of Finance may prescribe the obligation to pay advances on account of the tax to which a financial institution is liable on its profits.

**CHAPTER FOURTEEN: COLLECTION, FINES AND INTEREST**

**Definitions**

93. In this Chapter –  
"linkage differentials and interest" – the amount added to a given amount, which is equal to that amount multiplied by the index increase

during the given period, plus interest on the given amount, after the said linkage differentials were added to it, at the rate of 4% per annum or at another rate prescribed by the Minister of Finance with approval by the Knesset Finance Committee; for this purpose –

**"index"** – the consumer price index published by the Central Bureau of Statistics;

**"index increase"**, for any period – the difference between the index last published before the end of the period and the index last published before its beginning (hereafter: basic index), divided by the basic index.

#### **Fine for delay in filing return**

94.. If a person liable to tax did not file a periodic return when it must be filed under this Law, then he shall be liable to an arrears fine of NS 193 (*as of July 1, 2008, under Value Added Tax Notice (Increase of Amount of Fines) 5768-2008, KT 5768, p. 1132 – Tr.*) in respect of every two weeks or part thereof.

#### **Fine for not keeping books**

95. (a) If a person liable to tax did not keep account books or records as prescribed, or if he kept them in substantive deviation from the provisions of this Law or of the regulations thereunder, then the Director may impose a fine equal to 1% of the total price of his transactions or of the total amount of his wages and profits, as the case may be, for the tax year in which books or records were not kept as prescribed, but the fine shall not be less than NS 283 (*as of July 1, 2008, under Value Added Tax Notice (Increase of Amount of Fines) 5768-2008, KT 5768, p. 1132 – Tr.*) per month.
- (b) The person liable to tax may, within 30 days after the day on which he was given notification of the Director's decision under subsection (a), appeal against it before the District Court or object to it before the Books Acceptability Committee established under section 127; however, if the said decision was made because account books or records were kept in substantive deviation by issuing a tax invoice unlawfully or by deducting input tax included in an unlawfully issued tax invoice, under section 77B(a) or (b), as the case may be, then the person liable to tax may bring the appeal during the said period only before the District Court.
- (c) Filing an appeal or objection shall not stay payment of the fine, unless the Court or the Committee decided otherwise.
- (d) Filing an objection or appeal under this section shall not take the place of filing a contestation under section 82; if the objection or appeal were rejected, then the account books shall be deemed unacceptable, for purposes of the appeal against the assessment.
- (e) If a person liable to tax did not file an objection or appeal under subsection (b), then he may appeal against the Director's decision under this section together with his appeal under section 83.



### **Fine for failure to pay on time**

96. If tax was not paid at the prescribed time, then – in addition to linkage differentials and interest under section 97 – an arrears fine of 0.25% of the overdue amount shall be added to it in respect of every week or part thereof in a period of delay of up to six months, and of 0.5% in respect of every week or fraction thereof in the period of delay after six months.

### **Shortfall fine**

96A. If a final assessment, which no longer is subject to appeal, includes the determination that an act, which under section 67(e) was designated as tax planning that must be reported, shall be ignored under the provisions of section 138, then a fine at the rate of 30% of the shortfall caused by the said tax planning shall be imposed; for this purpose, "**shortfall**" – the amount by which the tax that person owes under the said assessment exceeds the tax he owes under the returns submitted under Chapter Eleven.

### **Linkage differentials and interest and interest**

97. If tax or double the tax was not paid at the prescribed time, or if the Director deferred its payment, then linkage differentials and interest shall be added to it in respect of the period of delay or deferment, from the end of the time for payment.

### **Adjustment of linkage differentials and interest**

97A. Linkage differentials and interest and fines for the late payment of tax, which were not paid at the time the tax was paid, shall – for purposes of collection and of the addition to them of linkage differentials and interest – be deemed a tax debt, the time for the payment of which was the day on which the tax was paid.

### **Excessively refunded input tax**

97B. For purposes of collection and for purposes of the addition of linkage differentials and interest or fine for failure to pay on time, input tax excessively refunded to a dealer shall be deemed tax due from the dealer from the day on which the excess refund was made.

### **Linkage differentials and interest in special cases**

98. (a) Linkage differentials and interest, as said in section 97, shall be added to tax due under a periodic return that was filed as said in section 68(c), beginning fifteen days after the end of the return period.
- (b) If tax is due under the circumstances said in section 90, then a fine and linkage differentials and interest as said in sections 96 and 97 shall be added to it, from the end of the time for filing the

periodic return to which the tax relates.

#### **Liability for costs of collection**

99. If collection proceedings are taken, then the costs incidental to the demand for payment, its collection, the attachment and safekeeping of goods and the like shall be added to the debt, all in amounts prescribed by the Minister of Finance.

#### **Waiver of fine, interest or costs**

100. The Director may, for special reasons that shall be recorded, waive or reduce any double tax, fine, linkage differentials and interest and costs, and he may commute a fine under sections 96 and 98(b) to linkage differentials and interest as said in section 97.

#### **Time for payment**

101. A fine, linkage differentials and interest, double tax or costs under this Chapter shall be paid within one month after notice of liability to them has been served.

#### **Ways of collection**

102. The Taxes (Collection) Ordinance shall apply to the collection of debts to the State Treasury under this Law, and they may also be collected by way of civil action.

#### **Crediting payment against prior debt**

103. (a) If a person liable to tax pays any amount on account of various amounts owed by him under this Law, or under the Taxes Law (Fine for Late Payment) 5741-1981, and if he does not specify which of his various said debts the amount paid is meant to settle, then the payment shall be credited to the various categories of debt in the following order, and within each category of debt the payment shall be credited in the order of its creation:

- (1) tax;
- (2) fine or double tax under this Law, or fines under the Taxes Law (Fine for Late Payment) 5741-1981;
- (3) linkage differentials and interest, including such as were adjusted under section 97A.

(b) For purposes of subsection (a), a refund of excess input tax and any other tax refund which was set off against any debt under this Law or under the Taxes Set-Off Law 5740-1980, and any amount collected under the Taxes (Collection) Ordinance or in any other manner, shall be treated like an amount that was paid.

#### **Saving of criminal responsibility**

104. The provisions of this Chapter shall not derogate from the criminal responsibility of a person liable to tax.

### **Interest on delayed refund**

105. (a) If a person is entitled to the refund of a balance under the opening passage of section 39(a) and it is not refunded within 30 days as specified hereafter, or within a longer period prescribed as said there, then he shall be paid linkage differentials and interest as said in section 97 from the day on which he filed the return:
- (1) if the return was filed within the time set therefor, 30 days are counted from the day on which it was filed;
  - (2) if the return was filed late, between the first and the 16th of the month, 30 days are counted from the day on which it was filed;
  - (3) in any other case 30 days are counted from the first of the month after the day on which the return was filed.
- (b) (1) If a person is entitled to the refund of an excess amount under section 39(a)(1), (2) or (3) and it was not refunded during the period there prescribed therefor, then he shall be paid linkage differentials and interest as said in section 97 from the 31st day after the day on which the return was filed;
- (2) if, 30 days after the day on which the return was filed, the Director orders that a withheld excess be refunded, then linkage differentials and interest shall be paid from the aforesaid 31st day; if the Director so ordered before 30 days passed, then the provisions of subsection (a) shall be complied with.
- (c) (1) If any amount whatsoever paid for purposes of this Law is to be refunded, and if the provisions of subsections (a) and (b) do not apply to it – including tax as said in sections 87 or 88(b) – then linkage differentials and interest shall be added to that amount from the day on which it was paid, if it is refunded later than 30 days after it was paid;
- (2) a claim for the refund of an amount said in paragraph (1) may be submitted to the Director in writing, within two years after it was paid.
- (d) If linkage differentials and interest payable under subsections (a) or (b) were not paid within 30 days after the excess was repaid, then they shall be deemed an excess amount on which linkage differentials and interest as said in section 97A are due from the end of the said period.

### **Collecting a debt from a third party**

106. (a) In this section –
- Acontrolling member@ - as defined in section 119A of the Income Tax Ordinance;
- "relative" – as defined in section 105K of the Income Tax Ordinance;

**"final debt"** – a debt under this Law, which may be collected under the provisions of the Taxes (Collection) Ordinance;

**"special relationship"** – a relationship said in paragraphs (1) to (3) of the definition of "special relationship" in section 129 of the Customs Ordinance, which applies to parties to a transfer said in this section, but for the purposes of paragraph (2) of the said definition a minority shareholder in a company shall not be deemed a controlling party only because he has a veto right in the company, the purpose of which is to protect his minority rights in the company;

**"asset"** – including rights in a body corporate, securities, negotiable instruments and rights to them;

**"value of asset"** – the price that would have been obtained for it in a sale by a willing seller to a willing buyer.

- (b) If the person liable to tax has a final debt and he transfers his assets without consideration or transfers them to a person with whom he has a special relationship for no consideration or for partial consideration, without having any assets left in Israel for payment of the debt (hereafter: the transferor), then the final debt may be collected –
- (1) if the transferor is a body of persons – from whoever received the assets from that body of persons under the said circumstances;
  - (2) if the transferor is an individual – from whoever received the assets from that individual under the said circumstances, as long as three years have not passed since the end of the year in which the assets were transferred as aforesaid, or since the year in which the debt became final, whichever is later.
- (b1) If a body of person has a final debt and it transfers its activity for no consideration or for partial consideration, to a body of persons which has – directly or indirectly – the same controlling members or their relatives (in this section: the other body), without having any assets left in Israel for payment of the debt, then the debt which the body owes can be collected from the other body.
- (b2) Without derogating from the provisions of subsections (b)(1) or (b1), if the body of persons has a final debt and it is liquidated or stops its activity without having paid the said debt, then the assets that belonged to the body shall be deemed to have been transferred for no consideration to the controlling members and the debt may be collected from them, unless proven differently to the Director's satisfaction.
- (c) No more shall be collected from a person who received the assets or the activity, as said in subsections (b), (b1) or (b2), than the value of the assets or activity he received for no consideration or the differential between the value of the asset and activity and the

partial consideration, which he paid, and if he paid tax in connection with the transfer of the said assets and activity, then no more than the said differential, less the amount of tax which he paid.

- (d) The Taxes (Collection) Ordinance shall apply to the collection of a debt from a person who received an asset as said in this section (hereafter: transferee).
- (e) If the Director decided to take action according to this section, then he shall so inform the transferor and the transferee and give them an opportunity to present their arguments.
- (f) The Director's decision under this section may be appealed before the District Court within 30 days after the decision was delivered; if an application for liquidation or an application for receivership, as the case may be, was brought against the transferor or the transferee, then the Court before which that application was brought shall hear the appeal.
- (g) If an asset was transferred as said in this section and for that transfer an obligation was cleared or an obligation was transferred, then the Court may declare – on application by the Director – that clearing or transferring the obligation does not constitute a consideration.

#### **Collection after dealer's death**

106A. Upon the death of a dealer who, if not for his death, would have been liable in respect of any return period – that death having occurred within three years after that return period – his legal representative shall be under obligation to pay the tax which that dealer would have had to pay, if not for his death, and he shall also be responsible for the performance of any act for which the deceased would have been responsible under this Law, if not for his death; however, the amount of tax to which he shall be liable under this section shall not exceed the value of the estate of the deceased, after those debts of the deceased which have preference over the tax have been deducted; for this purpose –

**"legal representative"** – estate manager, the heirs or another person who takes the place of the deceased;

**"value"** – as defined in section 106.

#### **Collecting the tax under special circumstances**

106B. (a) If a body of persons performed one of the acts specified in section 117(a)(3), (6) or (b) and an assessment, tax determination or demand to pay double tax was consequently issued to it, and if the appeal against it was rejected by the Court, then the Director may determine that an officer of the body of persons (in this section: officer) shall also have to pay the tax or double tax, as the case may be; however, in respect of the acts specified in section

- 117(a)(3) or (6) the officer shall only be obligated to pay if he was convicted by a final judgment.
- (a) If the Director determined that the officer must pay the tax or the double tax, as the case may be, under the provisions of subsection (a), then that officer shall pay it within 30 days after notice of the obligation was served on him.
  - (b) In this section, "**officer**" – the person who, when the act said in subsection (a) was performed, was an active manager, partner or controlling member of that body of persons, if the Director has a priori evidence to prove that the act was performed with the officer=s knowledge, unless that officer proves that he took all reasonable steps to prevent the act; for this purpose, "**controlling member**" – as defined in section 119A of the Income Tax Ordinance.
  - (c) The provisions of this section shall also apply to an assessment, determination or notice of double tax, which were not contested or appealed at the time prescribed therefor in this Law.

## **CHAPTER FIFTEEN: POWERS OF IMPLEMENTATION**

### **Tax administration and delegation of powers**

107. (a) The tax shall be administered by the Director, and he may delegate his powers, other than the powers under sections 30, 109, 112(a)(b) and 140.
- (b) The Minister of Finance may charge the Income Tax Commissioner with the administration of the tax in respect of financial institutions and non-profit organizations, and when he has done so the Commissioner shall in that respect have the powers of the Director, other than the powers under section 58 and 61.
- (c) A delegation of powers under sections 61, 77, 79, 82, 91, 95, 108(b), 112(a)(2), 113, 114, or 115 shall require publication in Reshumot.

### **Demand for documents, samples and information**

108. (a) In order to assure the implementation of this Law or of regulations thereunder, the Director may –
- (1) require any person to deliver to him relevant information and to enable him to examine and to photograph relevant documents and samples;
  - (2) require a person liable to tax to deliver to him relevant books, documents, samples and information, including identification marks given to him by the Director, on condition that anything delivered as aforesaid be returned

- within three months after the date of its receipt, if no complaint of a violation of this Law was brought before then.
- (b) If the photograph of an aforesaid document or a sample bears certification by the Director and by the person liable to tax or by his authorized agent that it conforms to the original, shall for all intents and purposes be treated like the original.

#### **Obtaining information from the National Insurance Institute**

- 108A. (a) Notwithstanding the provisions of any statute, the Director may obtain from the National Insurance Institute all the information determined under subsection (b), which reached the National Insurance Institute in the course of its work, and which the Director needs for the performance of his task under any statute.
- (b) The Minister of Finance shall – in consultation with the Minister of Welfare, with the consent of the Minister of Justice and with approval by the Knesset Finance Committee – determine the categories of information which the Director may obtain under the provisions of subsection (a).

#### **Powers of search and seizure**

109. (a) In order to assure the implementation of this Law or of regulations thereunder, a person so authorized by the Director may –
- (1) enter any place which is not only a dwelling and, for purposes of a real estate transaction, also a dwelling which is the subject of the transaction, on condition that – if the dwelling is inhabited – he enter it only with the Director's written approval and after 24 hours' advance notice has been given, but entry to an installation which the Minister of Defense designated as a defense installation requires approval by the Minister of Defense or by a person authorized by him;
  - (2) seize goods from a dealer (hereafter in this Chapter: including their means of transport, books and other documents) if it is suspected that an offense was committed with them or in their respect, or that they are likely to serve as evidence of its commission; however, a vehicle used for the transportation of aforesaid goods shall not be seized, unless the owner of the vehicle or the person by whom the vehicle is regularly used is suspected of having committed the offense or of having had advance knowledge of its commission;
  - (3) interrogate any person;
  - (4) require a person to appear before him in person or by his representative, to deliver to him all the particulars required for purposes of the tax to which he is liable or of its assessment, and to submit for examination books and

documents which the person who makes the request deems necessary.

- (b) A person authorized for purposes of subsection (a) shall have the powers of a police officer for the prevention or detection of offenses and the powers of a commissioned officer of police of the rank of inspector, under section 2 of the Criminal Procedure (Evidence) Ordinance, and section 3 of the said Ordinance shall apply to a statement taken by him.

### **Restriction on the interrogation of relatives**

110. Notwithstanding the provisions of section 109(a)(3) and without derogating from the provisions of any statute on privileged evidence, the Director or the person empowered by him shall not, on his own initiative, interrogate the spouse, children or parents of the person liable to tax.

### **How to deal with seized goods**

111. (a) When goods have been seized under section 109, the Director may transfer them to any place he may prescribe or, with the consent of the person who has them in his possession, detain them in the possession of the person who holds them, either against surety to the Director's satisfaction or without surety.
- (b) When goods have been detained in the possession of the person who holds them, as said in subsection (a), then he shall produce them on the Director's demand; if he does not do so or if he produces them in damaged condition, he shall be charged with an offense under this Law, unless he proved that the goods disappeared or were damaged due to causes over which he had no control.
  - (c) When goods, which are animals or a perishable commodity, have been seized, the Magistrate's Court may – on the Director's application – order them to be sold by public auction or at their current market price, and the proceeds of the sale shall, for purposes of the other provisions of this section, be deemed to be the goods seized.
  - (d) When goods have been seized and the Director does not know who owns them or the address of the person from whom they were seized, then the Director shall publish notice to that effect in Reshumot, and if nobody claims them within three months after publication of the notice they shall be confiscated.
  - (e) If goods were seized under section 109 and if – within six months after the date of seizure – no complaint was filed for an offense against this Law for which they were seized, and if no composition was made for the offense, then they shall be returned to the person from whom they were seized; the Magistrate's Court may – on the Director's application – extend the period by another six months.



- (f) If composition was made for a person's offense in respect of goods seized under section 109, then the Director may confiscate them.
- (g) If a person is convicted of the offense for which the goods were seized, then the goods shall be confiscated, unless the Court directs otherwise; if the person was acquitted, then the goods shall be returned to the person from whom they were seized or to another person, as the Court may direct, but the Court may direct that the goods be confiscated notwithstanding the acquittal.
- (h) If goods were confiscated, then the Director may return them – to the person from whom they were seized or to their owner – against payment of their value.
- (i) If a document or book was seized and is needed by the person from whom it was seized or by some other person for the fulfillment of a lawful obligation, then they may inspect or photocopy them, and the Director may – on their application – return them to them and he may make the return conditional upon delivery of photocopies of them to the Director; the provisions of section 108(b) shall apply to the photocopies.

#### **Administrative means of compulsion**

112. (a) If the Director concludes that a dealer does not make a proper return of all his transactions, that he has not paid the tax due under a return filed by him, that he failed to file more than two returns under section 67 during the past year, or that he committed an offense with intent to evade the payment of tax, then he may –
- (1) demand that the dealer provide surety to the Director's satisfaction for the payment of any debt and for compliance with the provisions of this Law and, if he does not provide surety by the time set by the Director, then he may prohibit him from continuing in business until the surety has been provided;
  - (2) prohibit him to transfer goods or to render services in the course of his business before the Director has marked the invoice, the delivery note or other document, as the Director may prescribe.
- (b) An aforesaid decision by the Director to prohibit the continuation of business, the transfer of goods or the rendering of services shall go into effect 15 days after the day on which it was served on the dealer.
  - (c) An aforesaid decision by the Director may be appealed before the District Court; filing the appeal shall stay implementation of the decision, as long as the Court has not decided otherwise.

#### **Tax collection in special cases**

- 112A.(a) If the Director has reason to suspect that the tax on transactions or the improperly deducted input tax will not be paid, because the dealer plans to leave Israel or because of some other reason, then he may –
- (1) if an assessment under section 77 was made for the dealer – demand by written notice that the dealer immediately provide surety to the Director's satisfaction for payment of the tax stated in the assessment, including the linkage differentials and interest stated in it;
  - (2) if no assessment was made for the dealer – assess the tax which the Director believes that the dealer owes, in an amount that appears reasonable to him, also including in it linkage differentials, interest and fines owed by him.
- (b) When an assessment has been made under subsection (a)(2), the Director shall give written notice thereof, and any amount said there shall be paid immediately after the notice was served.
  - (c) If the said amount was not paid or no surety provided, as the case may be, then the Magistrate's Court may, on the Director's application, make an order even in the dealer's absence –
    - (1) to prevent his leaving Israel;
    - (2) to attach his property.
  - (d) After an aforesaid amount has been paid or after surety has been provided, the dealer may contest it or appeal against it, in the manner of a contestation or appeal against an assessment under section 77.
  - (e) The provisions of this section shall also apply to double tax, as said in section 50 and to a tax determination, as said in section 76, mutatis mutandis.

**Prohibition on issue of tax invoice**

113. (a) If a person does not keep account books or records as prescribed, or if he keeps them in substantive deviation from the provisions of this Law and of the regulations under it, then the Director shall warn him, specifying the defect in his warning; if the defect is not corrected within one month after the day on which the warning was served, then the Director may prohibit him from issuing tax invoices.
- (b) The person liable to tax may, at his option, appeal to the District Court or object before the Books Acceptability Committee against the Director's warning or against the decision to prohibit the issue of tax invoices.
  - (c) The appeal or objection shall be submitted within 30 days after the day on which the warning or notice of the prohibition was served, and its submission shall not stay the implementation of the Director's decision, unless the Court or Committee decided

- otherwise.
- (d) Submission of an objection or appeal under subsection (b) shall not take the place of a contestation under section 82; if the objection or appeal were rejected, then the account books shall be deemed unacceptable, for purposes of the appeal against the assessment.
  - (e) If a person liable to tax did not submit an appeal or objection under subsection (b), then he may appeal against the Director's warning or decision under this section together with his appeal under section 83.

### **Detention of goods under control of Customs**

114. The Director may delay the removal of any goods of a person liable to tax from the control of Customs until any debt due from him under this Law has been paid or until the returns he is required to make have been submitted.

### **Preventing departure from Israel**

115. (a) If a person liable to tax was required to pay the tax due from him, to give surety for its payment or to file a return which he was under obligation to file, and if he did not do so, then the Magistrate's Court at his place of residence or place of business may – on the Director's application – make an order, even in his absence, to prevent him from leaving Israel or to attach his property until he has fulfilled the conditions set by it.
- (b) If the person liable to tax is a small company, as said in section 76 of the Income Tax Ordinance, then an order under subsection (a) to prevent departure from Israel may be issued against every active director of the company, or business manager, or member who holds shares that confer on him at least 26% of the voting power in the company or at least 26% of its capital upon winding up.
  - (c) If a person liable to tax, which is a body of persons, was required to pay the tax due from it, and if the Director reasonably suspects that the tax will not be paid, then the Court said in subsection (a) may – on application by the Director – issue an order that the active manager, chairman of the board of directors or business manager of that body of persons not leave the country, for purposes of his interrogation or for the acts required to assure that the tax will be paid, on condition that the Court is satisfied that his departure from Israel would be liable to interfere with the said interrogation or acts and that it is not possible to impose a suitable surety to ascertain that they will be carried out.

### **Deferment of dates**

116. (a) The Director may extend every time prescribed by this Law or by

regulations thereunder for any act, other than the time for filing an appeal or objection, and he may prescribe that a debt be paid in installments; if he has so permitted and the person liable to tax failed to pay an installment at the prescribed time, then the Director may demand that the balance of the debt be paid immediately.

- (a1) Notwithstanding the provisions of subsection (a), the Director may extend the time for the deduction of input tax stated in section 38(a) (hereafter: the original time) for a period of not more than eighteen months after the original time, but if the Director is concludes that non-deduction of input tax at the original time was not due to the dealer=s negligence, then he may – for special reasons that shall be recorded – extend the time for deduction of input tax for a period of not more than five years after the original time.
- (d) The Director may make the extension of time under subsection (a) conditional upon the provision of surety to his satisfaction for the payment of any debt and for the performance of any act, the time for which has been deferred.

## **CHAPTER SIXTEEN: PENALTIES**

### **Offenses**

117. (a) If a person violated any provision of this Law or of the regulations thereunder, as specified below, then he shall be liable to one year imprisonment:
- (1) he refused or abstained from delivering any notice, document, book or sample which he must deliver, after he was required to do so;
  - (2) he refused or abstained from appearing for an interrogation after he was required to do so;
  - (3) he gave an incorrect or inaccurate information without reasonable explanation, or delivered a return or other document that includes said information;
  - (4) he did not do what he was supposed to do for purposes of his registration;
  - (5) he issued a tax invoice without being entitled to do so or after he was forbidden from doing so;
  - (6) he did not submit on time a return that must be submitted under this Law or regulations thereunder, including a return he must submit in accordance with the Director=s demand;
  - (6a) in his periodic report he did not specify an act that – under the provisions of section 67(e) – is designated tax planning that must be reported, in violation of the provisions of that

- section;
- (7) he did not keep account books or other records which he was obligated to keep, or a final determination was made under sections 74, 95 or 113 that he kept them in substantive digression from the provisions; for this purpose: "**final determination**" – a determination under the said sections against which no appeal was brought or the appeal or objection that were submitted were rejected;
  - (8) he kept identification marks, which he did not receive from the Director, or used them after he was forbidden to use them;
  - (9) while he was a dealer, he unlawfully gave another person goods, the import or sale of which is exempt, on condition that he alone use them;
  - (10) he transported goods in violation of section 129;
  - (11) he had possession of goods with which he deals, and their acquisition was not entered in the account books, as required;
  - (12) he records his intake on a cash register tape, on receipts, on invoices, in a daily intake book or on other documentation under provisions by virtue of section 66, and did not record an intake which he was obligated to record under those provisions;
  - (13) he did not issue a tax invoice, even though he was obligated to issue it;
  - (14) he issued a tax invoice and did not pay the tax included in it on time;
  - (15) he did not demand a tax invoice, which he was obligated to demand;
  - (16) he interfered with a person in the performance of his duty by virtue of this Law, or prevented him from doing so.
- (a1) If an acquisition or an amount received, as said in subsection (a)(11) or (12), was not recorded by a dealer's employee or by a dealer's agent who is not an employee, then that employee or agent shall be accused of the violation, and the dealer shall also be accused of it unless he proves that the violation was committed without his knowledge and that he took all reasonable steps to prevent the violation.
- (b) If a person committed any of the offenses specified below with the intent to dodge or to evade payment of tax, then he shall be liable to five years imprisonment or to double the penalty prescribed in section 61(a)(4) of the Penal Law 5737-1977 (hereafter: Penal Law):
- (1) he gave false information or delivered a return or other document that includes said information;
  - (2) he continued to conduct transactions after he was prohibited

- from doing so or before he fulfilled the conditions for continuing his business;
- (3) he issued a tax invoice or a document that appears to be a tax invoice, without having effected or having undertaken to effect the transaction in respect of which he issued the said invoice or document;
  - (4) he issued a credit note or a document that appears to be a credit note without being entitled to do so;
  - (5) he deducted input tax without having a document in respect thereof, as said in section 38;
  - (6) he prepared, kept or allowed another to prepare or to keep false account books or other false records;
  - (7) he falsified, concealed, destroyed or altered any book or other document which he was required to keep or to deliver, or he allowed another or didn't prevent another from doing as aforesaid;
  - (8) he used any deceit or trick or allowed another to use them or committed any other act in order to dodge or to evade the tax.
- (b1) If a person acted with the purpose of causing another person to dodge or to evade payment of tax, to which that person is liable, then he shall be liable to five years imprisonment.
- (b2) If an offense under subsections (b) or (b1) was committed under aggravating circumstances, then the person who committed it shall be liable to seven years imprisonment or to a fine five times the fine prescribed in section 61(a)(4) of the Penal Law; in this section, "**aggravating circumstances**" – one of the following:
- (1) the offender was convicted of an offense under subsections (b) or (b1), and three years have not yet passed since he was found guilty;
  - (2) more than six indictments were brought against the offender during a three year period for offenses under subsections (b) or (b1);
  - (3) by his action the offender caused the dodging or evasion of the payment of tax in an amount greater than double the amount of the fine prescribed in section 61(a)(4) of the Penal Law.
- (c) If a person was convicted of an offense under subsection (b) within three years after he was convicted of a said offense, then the Court may – in addition to any other penalty – prohibit him from continuing his business for a period which it may prescribe.

### **Transfer of assets with intent to prevent payment of tax**

- 117A.(a) If a person transferred his assets to another without transferring control over them, with the intent to prevent the collection of tax to which he was liable or was likely to become liable in the future,

and – when the transferor is a body of persons – he is the person who caused such a transfer, then he shall be liable to two years imprisonment.

- (b) If a person distributed assets of a company among its members with the intent to prevent the collection of tax to which it was or was likely to become liable in the future – then he shall be liable to two years imprisonment; however, if a fine is imposed, then that fine shall not exceed the amount of the debt.

### **Offense for which no penalty is prescribed**

118. If a person violated any provision of this Law, and if no penalty is set for that offense, or if he violated a provision of a regulation thereunder, that violation being defined in the regulations to be an offense, then he shall be liable to three months imprisonment or to a fine of NS 5,000.

### **Offense by body of persons**

119. If an offense under this Law or under regulations thereunder was committed by an incorporated or unincorporated body of persons, then every person who at the time of its commission was an active director, secretary, trustee, authorized representative, active partner, accountant, bookkeeper or otherwise a responsible official of it, shall also be guilty, unless he proves that the offense was committed without his knowledge or that he took all appropriate steps to ensure compliance with the provisions of the Law.

### **Responsibility for acts of employee**

120. If an offense under this Law or under any regulation thereunder was committed – in the course of the business or activity of a person liable to tax – by a clerk, worker or agent, then the person liable to tax shall also be accused of the offense unless he proves that the offense was committed without his knowledge or that he took all appropriate steps to ensure compliance with the provisions of the Law.

### **Monetary composition**

- 121. (a) If a person committed or is suspected of an offense under this Law or under the regulations thereunder, then the Director may – with that person's consent – accept from him monetary composition in an amount no greater than the largest fine which can be imposed for that offense, and when he has done so every legal proceeding in respect of the offense shall be discontinued; however, if an indictment has been filed, then monetary composition shall be accepted only with the consent of the Attorney General or of a person empowered by him for that purpose.
- (b) The Director may make a monetary composition conditional upon an undertaking to refrain from committing an offense for a period

- of not more than three years prescribed by him; the undertaking shall be a surety in an amount that does not exceed the largest fine which could be imposed for the offense, with or without the guaranty of a third party, as the Director may prescribe.
- (c) When a person has been convicted of an offense from which he has undertaken to refrain under subsection (b), then the surety shall be collected as a debt under this Law.

122. Repealed

#### **Conviction does not release from obligations**

123. If a person was convicted or if he paid composition or an administrative fine, that shall not release him from his obligations under this Law and under the regulations thereunder.

#### **Forfeiture in addition to other penalties**

124. Confiscation under this Law shall be in addition to and not in lieu of any penalty, fine or composition.

### **CHAPTER SEVENTEEN: MISCELLANEOUS PROVISIONS**

#### **Power to change amounts**

125. The Minister of Finance may change the amounts stated in sections 94 and 95.

#### **Linkage**

126. (a) The amounts prescribed in section 1, in the definition of "exempt dealer", and in section 35 or thereunder, shall be adjusted on January 1 of every year according to the increase of the consumer price index published on behalf of the Central Bureau of Statistics (hereafter in this section: index) on the preceding December 15; the amounts adjusted as aforesaid shall be rounded off to the nearest new shekel.
- (b) The amount prescribed in section 47A shall be adjusted on January 1 and July 1 of each year according to the increase of the index published on the 15th of the preceding month.
- (c) If the Minister of Finance exercised his power under subsection (a) within the six months before January 1 of a particular year, then the adjustment said in subsection (a) shall not be made for that year.

#### **Books Acceptability Committee**

127. (a) The Minister of Finance shall, in consultation with the Minister of Justice, appoint persons from whom the Director shall form



- committees on the acceptability of account books.
- (b) Every aforesaid committee shall consist of three members: its chairman shall be a public personality and an expert in accountancy, and the two other members shall be auditors, on condition that not more than one of them is a state employee or employee of a state institution.
  - (c) Notice of aforesaid appointments shall be published in Reshumot.
  - (d) When it hears an objection, the committee may –
    - (1) determine that the person liable to tax does not keep books or keeps them in substantive deviation from the provisions of this Law and of the regulations thereunder;
    - (2) determine that the person liable to tax keeps books or that the deviation in them is not substantive.
  - (e) A committee's decision on an objection shall be final, but it may refer a legal question to the District Court for its opinion.
  - (f) The committee is competent to gather evidence for the exercise of its powers under this Law.
  - (g) The committee may adjudge the costs of objection proceedings, including remuneration of the representative of the person liable to tax, and traveling expenses and loss of working time allowance for witnesses.
  - (h) The Minister of Justice may make regulations on –
    - (1) procedures for convening the committees;
    - (2) procedure before committees;
    - (3) fees payable in respect of proceedings before committees;
    - (4) remuneration of committee members.

### **Partnership and joint transaction**

128. (a) If a transaction was carried out by a partner in a registered partnership or by persons deemed partners under section 56 in the course of the partners' business, then it shall be deemed to have been carried out by the partnership, unless the contrary is proven to the Director's satisfaction.
- (b) If a transaction was carried out by an unregistered partnership or by a partnership formed for the performance of a particular transaction, or if a transaction was carried out jointly by several dealers, then the transaction shall not be deemed that of a partnership, but that of each partner or dealer separately in accordance with his share, unless the partners applied to be registered as one dealer; having so applied, they shall be deemed jointly and severally responsible for every obligation, debt, act or omission connected to that matter.
  - (c) The Minister of Finance may prescribe provisions on registration, the filing of returns, excess tax refunds, excess input tax and the responsibility of partners, deductions and the issue of invoices in transactions said in subsections (a) and (b), even in deviation

- from the provisions of this Law.
- (d) If the Director did not accept any evidence submitted to him for purposes of subsection (a), then the partner or partnership may appeal to the District Court.

#### **Delivery note**

129. (a) A person's goods for use in his business shall not be transported in a vehicle without an invoice or a delivery note, unless that person was exempted from this obligation by regulations or by direction of the Director, subject to conditions prescribed by him.
- (b) For purposes of this section, "**invoice or delivery note**" – any one of the following:
- (1) an invoice or delivery note lawfully issued by a dealer registered under this Law;
  - (2) an invoice lawfully issued in an area or in the Gaza and Jericho territories by a dealer registered under the statute that corresponds to this Law, on condition that it include particulars prescribed by the Director.

#### **Supervision over the movement of goods into and out of an area of the Gaza and Jericho territories**

129A. For supervision of the implementation of the provisions under this Law the Minister of Finance may, in consultation with the Minister of Defense, prescribe places where the movement of goods into and out of areas and the Gaza and Jericho territories shall be permitted and he may designate the days and hours when said movement shall be permitted, and also order that certification shall be required from the Director, in the manner he shall prescribe, that the goods were moved in or out according to the said provisions; provisions under this section may be general or for categories of goods.

#### **Identification marks**

130. The Minister of Finance may make it an obligation to mark goods of particular categories with identification marks that he will prescribe, and he may prescribe the manner of using those marks, and he may exempt a dealer from the obligation to mark goods in the course of his business.

#### **Display of price to include information on tax**

131. When a dealer publicly displays or in any manner publicizes the price of an asset or service, to which the Commodities and Services (Control) Law 5718-1957 does not apply, then he shall state whether the price does or does not include tax.

#### **Evidence**

132. If a person claims that he has paid tax or filed a return or that tax was

deducted on the basis of a tax invoice, then he shall bear the burden of proof.

#### **Presumption of sale**

133. If a dealer delivered any property of his business to another in the course of his business, other than for sale on consignment, then he shall be deemed to have sold it, unless the contrary is proven; for this purpose, "**delivery**" – within its meaning in section 8 of the Sale Law 5728-1968.

#### **Exemption from requirement of signature**

134. Any notification, demand, tax determination, assessment or other document issued under this Law, on which the name or title of the person who issued it is stated, does not require his signature.

#### **Defect does not invalidate act**

135. The validity of any act under this Law shall not be impaired by any want of form, error or omission therein, unless that affects its substance or is liable to mislead.

#### **Registration in Land Register**

136. The Director may require that a sale of real estate, which requires registration in the Land Register, or a category of aforesaid sales shall not be registered, unless the purchaser holds a tax invoice in respect of that sale, or unless a certificate from the Director is produced that the tax due on the sale was paid or that he was given surety for its payment on time.

#### **Notification of changes**

137. Persons liable to tax shall notify the Director, in the manner and at the times prescribed, of every change that occurred in the ownership of the business or institution, in its business and activity and in any other particular prescribed by the Minister.

#### **Business assets after cessation of activity**

- 137A.(a) If it is proven to the Director's satisfaction that a dealer has completely ceased his business activity or that he has transferred ownership of his business to another, and that he has retained an asset, then – two years after the date of the cessation or transfer – that asset shall be treated like an asset used for personal purposes.
- (b) The provisions of subsection (a) shall not apply to business assets, the total price of which is smaller than the amount set in respect of an exempt dealer.
  - (c) If an asset that is real estate remains in the possession of a dealer as said in subsection (a), then the Director may – on

application by the dealer and notwithstanding the provisions of that subsection – postpone the date on which tax falls due to the day on which the real estate asset will be transferred to another or to some other date prescribed by him and on conditions he shall prescribe; if the Director postponed the date on which tax falls due as aforesaid, then the tax shall be paid even if the said dealer is not liable to tax at the time of the sale.

### **Business assets when dealer's registration is changed to non-profit organization or financial institution**

137B. When an asset is acquired by a dealer and he deducted input tax on its acquisition or import, and if the dealer's registration was thereafter changed to that of a non-profit organization or financial institution and the asset remained in its possession, then it shall be treated like an asset used for personal purposes at the time of the change of registration.

### **Artificial or fictitious transaction**

138. (a) The Director may disregard a transaction or act, if he believes that it is artificial or fictitious or that one of its principal purposes was the improper avoidance or reduction of tax.
- (b) The Director's decision under subsection (a) may be appealed before the District Court.

### **Rounding off of amounts**

139. Any amount stated in a return under this Law shall be rounded off to the nearest whole new shekel, and an amount of half a new shekel shall be rounded off upwards.

### **Forms**

140. The Director may prescribe the forms necessary for the implementation of this Law and the form of account books and other records required to be kept by a person liable to tax, and he may direct that aforesaid forms, books or records shall be used.

### **Service of documents**

141. (a) Without derogating from the provisions of section 80, documents for purposes of this Law shall be served in the manner prescribed by regulations.
- (b) When a document is sent by mail, it shall be deemed to have been served on the addressee on the fifth day after its dispatch, even if the addressee refused to accept it.
- (c) If a document intended for a partnership, other than a partnership said in section 128(b), was served on one of the partners, then it shall be deemed to have been served on all the partners.

### **Confidentiality**

142. (a) No person shall disclose any information that reached him in the implementation of this Law, unless –
- (1) the Minister of Finance permitted him to disclose it;
  - (2) he is required to disclose it in legal proceedings under this Law or under a tax law, within its meaning in the Tax Law Amendment (Exchange of Information Between Tax Authorities) Law 5727-1967;
  - (3) the information is required by the National Insurance Institute for the performance of its responsibilities, as said in section 384A of the National Insurance Law [Consolidated Version] 5755-1995/
- (a1) For the purposes of subsection (a)(1) the Minister of Finance may also give permission to disclose categories of information, on condition that said permission be given to officials specified in it for the lawful performance of their duties and for reasons that shall be recorded.
- (b) If information reached a person under subsection (a), then he shall be deemed to have received it in the implementation of this Law.
- (c) If a person unlawfully discloses any information that reached him in the implementation of this Law, then he shall be liable to one year imprisonment or to a fine of NS 20,000 (*under section 61(a)(2) of the Penal Law 5737-1977 the maximum amount of this fine now stands at NS 26,100 – Tr.*)

#### **Applicability of provisions of the Income Tax Ordinance**

143. The provisions of sections 117, 119, 143, 144 and 235A to 235D of the Income Tax Ordinance shall apply, mutatis mutandis, for purposes of the tax.

#### **Right to represent person liable to tax**

- 143A.(a) Any person entitled to represent an assessee as said in section 236 of the Income Tax Ordinance is entitled to represent a person liable to tax under this Law, except for representation in connection with the provisions in Chapter Sixteen, other than for purposes of the provisions of section 121.
- (b) The provisions of the Regulation of Representation by Tax Consultants Law 5765-2005 shall apply to the representation of a person liable to tax.

#### **Application of provisions of Customs Ordinance**

144. The provisions of sections 39(b), 63, 64, 81 to 89, 92, 93, 104, 122, 128, 140 to 145, 149, 150, 152, 156, 162 to 162 B, 170, 171, 198, 204 and 231C of the Customs Ordinance shall apply for purposes of the tax on the importation of goods, and the provisions of section 156 of the Customs Ordinance shall apply to the importation of goods exported by

a person who is not a dealer.

144A. Repealed

### **The State**

144B. The provisions of this Law shall also apply to the State.

### **Implementation and regulations**

145. (a) The Minister of Finance is charged with the implementation of this Law and he may make regulations on anything related to its implementation.
- (b) The Minister of Finance may prescribe that the provisions of the Income Tax Ordinance on assessment, contestation, objection, collection, interest and fines – or on some of these matters – shall apply to the collection of the tax, the administration of which was entrusted to the Income Tax Commissioner under section 107.
- (c) Regulations by the Minister of Finance, other than regulations under sections 2, 4, 48, 49, 127 and 142, require approval by the Knesset Finance Committee, and regulations under section 140 shall be brought to its knowledge.

### **Procedural regulations**

146. The Minister of Justice may make law procedure regulations for proceedings under this Law, as well as regulations on fees, costs and loss of working time allowances for witnesses in such proceedings.

## **CHAPTER EIGHTEEN: EFFECT AND TRANSITIONAL PROVISIONS**

### **Effect**

147. (a) This Law shall go into effect on a day to be set by the Minister of Finance, and he may set different times – not later than one year after the publication of this Law in Reshumot – for different categories of persons liable to tax; in respect of persons liable to tax for whom the Minister of Finance did not set a date on which the tax goes into effect, that date shall be one year after the publication of this Law in Reshumot. (*Date of publication: January 6, 1976 – Tr.*)
- (b) Notwithstanding the provisions of subsection (a), the provisions on the registration of persons liable to tax and of their representatives shall go into effect on the day of this Law's publication.

### **Transitional provisions on the sale of goods**

148. The following provisions shall apply to a sale of goods, which was agreed upon before this Law went into effect:
- (1) if the goods were delivered to the purchaser before this Law went into effect, they shall be exempt of tax;
  - (2) if the goods were not delivered to the purchaser before this Law went into effect, the obligation to pay tax, the obligation to issue an invoice and all the other obligations shall apply.

**Transitional provisions on the sale of real estate and the rendering of services**

149. (a) If a transaction in real estate or the rendering of any service was begun, but not completed before this Law went into effect, then every part of the consideration which is paid after this Law goes into effect shall be liable to tax, but a residential dwelling shall be charged at the nil rate, if the following two conditions are met:
- (1) the sale agreement was signed before June 1, 1975, and duly stamped within thirty days after it was signed;
  - (2) not less than 15% of the price stated in the agreement when it was signed was paid before June 1, 1975.
- (b) For purposes of subsection (a), a real estate transaction which is a rental that was signed before this Law went into effect and also continues thereafter, shall be deemed a transaction that has not yet been completed.

**Transitional provisions on imports**

150. If goods were imported before this Law went into effect, and if the entry for them for domestic consumption has not yet been passed, then they shall be charged with tax as if they had been imported after this Law went into effect.

**Regulations on refund of purchase tax**

151. If purchase tax was canceled or reduced, in whole or in part, in consequence of the introduction of the value added tax, then the Minister of Finance may make provision, by regulations, on the refund of all or part of the purchase tax paid before this Law went into effect.