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## **BUSINESS TAX ACT 2009**

*(Act 28 of 2009)*

I assent

A handwritten signature in dark ink, appearing to read "Michel".

J. A. Michel  
President



*30 th December, 2009*

**AN ACT to consolidate, simplify and revise the taxation of business income.**

**ENACTED** by the President and the National Assembly

### **PART I - PRELIMINARY PROVISIONS**

**1.** This Act may be cited as the Business Tax Act 2009, and comes into operation on 1 January 2010.

Short title and  
commencement

## Interpretation

2.(1) In this Act, unless the context requires otherwise –

“Associate” has the meaning as in section 3;

“Business” includes a commercial or profit making venture, a profession, trade, vocation, or calling exercised by, or any leasing of property or premises or any venture in the nature of trade carried on by, a person but does not include an occupation as an employee;

“Business asset” means –

- (a) trading stock or any other asset of a revenue nature used, available for use, or held in carrying on a business;
- (b) a depreciable asset; or
- (c) an intangible;

“Business building” means any building or other structural improvement to land used or held wholly or partly to derive taxable business income, other than residential premises;

“Business tax” means tax imposed under Division I of Part II;

“Commencement date” means the date that the Act comes into operation as determined under section 1;

“Consideration received”, in relation to a business asset, has the meaning in section 51;

“Cost”, in relation to a business asset, has the meaning in section 49;

“Depreciable asset” means –

- (a) any tangible movable property that –
  - (i) is used, available for use, or held wholly or partly to derive taxable business income;
  - (ii) has a useful life exceeding one year;

and is likely to lose value as a result of wear and tear, exploitation, or obsolescence;

(b) a business building; or

(c) a beast of burden or working beast;

“Disposal”, in relation to a business asset, has the meaning in section 48;

“Dividend” includes –

(a) a distribution of profits by an entity to a member of the entity;

(b) an amount returned by an entity to a member of the entity in respect of a membership interest in the entity on a partial reduction in capital to the extent that the amount returned exceeds the amount by which the nominal value of the membership interest was reduced; or

(c) any amount distributed by an entity to a member of the entity on redemption or cancellation of a membership interest in the entity (including in liquidation or dissolution of the entity) to the extent the amount distributed exceeds the nominal value of the membership interest;

“domicile” means in relation to an individual a person who is a long term resident of or is a citizen of Seychelles, unless the Revenue Commissioner is satisfied that the person is not domiciled in Seychelles.

“Entity” means –

(a) a body or association of persons corporate or unincorporate whether incorporated, created, or formed under the law of Seychelles or elsewhere, including a limited partnership and unit trust; or

(b) a foreign association of persons that the Revenue Commissioner has declared to be an entity for the purposes of this Act,

but does not include an individual, partnership, or trust;

“effective management and control” means in respect of a Company or a corporate body carrying on business in Seychelles, that the Company or Corporate body is managed or controlled by Seychelles residents irrespective of its place of incorporation.

“Exempt income” has the meaning as in section 12 ;

“Fair market value” has the meaning as in section 4;

“Finance lease” means any lease that is treated under international financial reporting standards as a finance lease and is so accounted for by the lessor in its financial accounts;

“Government

- (a) the Government of Seychelles, including a department, division, or agency of the Government;
- (b) a local government authority, council, or similar body in Seychelles; or
- (c) a foreign government or political subdivision of a foreign government;

“Intangible” means –

- (a) any patent, invention, design or model, secret formula or process, trademark, copyright, or other like property or right;
- (b) contractual rights with a benefit for a period of more than one year; or
- (c) any expenditure that provides an advantage or benefit for a period of more than one year, other than expenditure incurred to acquire any tangible movable or immovable property;

“Interest” means –

- (a) an amount, described as interest, discount, premium, or otherwise, whether periodical or a lump sum, as consideration for the use of money or being given time to pay;
- (b) an amount that is functionally equivalent to an amount referred to in paragraph (a);
- (c) any amount treated as interest under section 31; or
- (d) a commitment, guarantee, service, or similar fee payable in respect of a debt or other instrument or agreement giving rise to interest under paragraphs (a), (b), or (c);

“Limited partnership” means a partnership in which the liability of at least one partner is limited;

“Livestock” does not include animals used as beasts of burden or working beasts;

“Member”, in relation to an entity, means a shareholder in a company, partner in a limited partnership, unit holder in a unit trust, or any other person with a membership interest in the entity;

“Membership interest”, in relation to an entity, means a share in a company, the interest of a partner in a limited partnership, a unit in a unit trust, and any other ownership interest in the entity;

“Natural resource amount” means –

- (a) an amount (including a premium or like amount) as consideration for the right to take minerals or a living or non-living resource from land or sea; or
- (b) an amount calculated in whole or part by reference to the quantity or value of minerals or a living or non-living resource taken from land or sea;

“Net loss” has the meaning in section 25;

“Non-business use”, in relation to a depreciable asset or intangible, means a use other than in deriving taxable business income;

“Non-resident person” means a person who is not a resident person;

“Partnership” means two or more persons carrying on business jointly for common profit, but does not include a limited partnership;

“Permanent establishment”, in relation to a person, means a fixed place of business through which the business of the person is wholly or partly carried on and, without limiting the generality of the foregoing, includes –

- (a) a place of management, branch, office (other than a liaison office), factory, warehouse, or workshop of the person;
- (b) a mine, oil or gas well, quarry, or other place of extraction of natural resources of the person;
- (c) a building site, or a construction, assembly or installation project of the person, or supervisory activities conducted by the person in connection with such site or project, but only if the site, project or activities continue for more than ninety days;
- (d) the furnishing of services by the person, including consultancy services, through employees or other personnel engaged by the person for such purpose, but only if activities of that nature continue for the same or a connected project for a period or periods aggregating more than ninety days within any twelve-month period;
- (e) an agent of the person (other than an agent of independent status), if the agent –
  - (i) has and habitually exercises an authority to conclude contracts on behalf of the person; or
  - (ii) habitually maintains a stock of goods or other merchandise from which the agent regularly delivers goods or merchandise on behalf of the person; or

- (f) any substantial equipment used by the person, but does not include a place of business maintained by the person solely for the purposes of purchasing goods or merchandise;

“resides” means normally resides in Seychelles or who has resided in Seychelles for at least 183 days in a tax year or is domiciled in Seychelles.

“Person” includes –

- (a) an individual, partnership, entity or trust; or
- (b) Government body;

“Prescribed” means prescribed in regulations;

“Rent” means any consideration for the use or occupation of, or the right to use or occupy any land or building, including any premium, fine, or like amount;

“Resident person” means –

- (a) an individual –
  - (i) who resides in Seychelles;
  - (ii) whose domicile is in Seychelles unless the person has a permanent place of abode outside Seychelles; or
  - (iii) who is present in Seychelles for a period of, or periods amounting in aggregate to, one hundred eighty-three days or more in any twelve month period that commences or ends during a tax year;
- (b) an entity –
  - (i) incorporated, formed, organised, or otherwise established in Seychelles; or
  - (ii) managed and controlled in Seychelles;

- (c) a trust –
  - (i) settled or established in Seychelles; or
  - (ii) in respect of which a trustee of the trust is a resident person;
- (d) a body within paragraph (a) or (b) of the definition of Government body; or
- (e) a partnership in which one of the partners is a resident person;

“Revenue law” has the meaning provided under the Revenue Administration Act 2009;

“Royalty” means an amount, however described or computed, whether periodical or a lump sum, as consideration for –

- (a) the use of, or right to use any patent, invention, design or model, secret formula or process, trademark, or other like property or right;
- (b) the use of, or right to use any copyright of a literary, artistic, or scientific work (including films or video tapes for use in connection with television or tapes in connection with radio broadcasting);
- (c) the receipt of, or right to receive, any visual images or sounds, or both, transmitted by satellite, cable, optic fibre, or similar technology in connection with television, radio, or internet broadcasting;
- (d) the supply of any technical, industrial, commercial, or scientific knowledge, experience, or skill;
- (e) the use of or right to use any industrial, commercial, or scientific equipment; or
- (f) the supply of any assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the application or enjoyment of, any property or right referred to in paragraphs (a) through (e).

“Small business” derives its meaning from the Revenue Administration Act 2009;

“Tax year” means the period of twelve months beginning on the 1st January in any year and ending on the 31st December in that year, and includes a substituted tax year and a transitional tax year as applicable under section 26;

“Taxable business income” means amounts included in the assessable income of a business;

“Technical services fee” means an amount, however described or computed, whether periodical or lump sum, as consideration for the rendering of any managerial, technical, or consultancy services, including the services of technical or other personnel, but does not include salary or wages;

“Trading stock” includes anything produced, manufactured, acquired, or purchased for purposes of manufacture, sale or exchange, and includes any materials or supplies to be consumed in the production or manufacturing process, and livestock;

“Trust” means a trust established under the laws of equity and includes a testamentary estate, but does not include a unit trust;

“Trustee” includes the executor of a testamentary estate;

“Unit trust” means a trust in which all the beneficiaries (referred to as “unit holders”) have a fixed entitlement to a share of the income or capital of the trust; and

“Valid tax invoice” has the meaning provided under the Revenue Administration Act 2009.

3.(1) Subject to subsection (2), two persons are associates if the relationship between them is such that one may reasonably be expected to act in accordance with the intentions of the other, or both persons may reasonably be expected to act in accordance with the intentions of a third person.

Associate

(2) Two persons are not associates solely by reason of the fact that one person is an employee of the other or both persons are employees of a third person.

(3) Without limiting the generality of subsection (1), the following are treated as associates –

- (a) an individual and a relative of the individual, except if the Revenue Commissioner is satisfied that neither person may reasonably be expected to act in accordance with the intentions of the other;
- (b) a partner in a partnership and the partnership, if the partner, either alone or together with an associate or associates under another application of this section, controls fifty per cent or more of the rights to income or capital of the partnership;
- (c) a trust and a person who benefits or may benefit under the trust whether through the exercise of a power of appointment or otherwise;
- (d) a member in an entity and the entity, if the member, either alone or together with an associate or associates under another application of this section, controls either directly or through one or more interposed persons –
  - (i) fifty per cent or more of the voting power in the entity;
  - (ii) fifty per cent or more of the rights to a distribution of profits; or
  - (iii) fifty per cent or more of the rights to a return of capital, or
- (e) two entities, if a person, either alone or together with an associate or associates under another application of this section, controls either directly or through one or more interposed persons –
  - (i) fifty per cent or more of the voting power in both entities;
  - (ii) fifty per cent or more of the rights to a distribution of profits in both entities; or

- (iii) fifty per cent or more of the rights to a return of capital in both entities.

(4) In applying subsection (3)(d) or (e) holdings that are attributable to a person from an associate are not reattributed to another associate.

(5) In this section, "relative" in relation to an individual, means related by blood, marriage, or adoption;

4.(1) The fair market value of an asset, property, service, or benefit at a particular time is the ordinary open market value of the asset, property, service, or benefit at that time.

Fair Market  
Value

(2) If it is not possible to determine the fair market value of an asset, property, service, or benefit at a particular time under subsection (1), the fair market value is the consideration a similar asset, property, service, or benefit would ordinarily fetch in the open market at that time, adjusted to take account of the differences between the similar asset, property, service, or benefit and the actual asset, property, service, or benefit.

(3) If the fair market value of an asset, property, service, or benefit cannot be determined under subsection (1) or (2), the fair market value is the amount determined by the Revenue Commissioner.

5.(1) An amount derived by a resident person in carrying on a business is derived from sources in Seychelles except to the extent that it is attributable to a business carried on through a permanent establishment of the person outside Seychelles.

Source of  
Income

(2) An amount derived by a non-resident person in carrying on a business is derived from sources in Seychelles to the extent that it is attributable to a business carried on through a permanent establishment of the person in Seychelles.

(3) Notwithstanding subsections (1) and (2), the following amounts are derived from sources in Seychelles –

- (a) a fee for services performed in Seychelles;
- (b) rent from the lease of real property in Seychelles;
- (c) a dividend paid by a resident entity;

- (d) interest, a royalty, or a technical services fee –
  - (i) paid by a resident person, other than as an expense of a business carried on through a permanent establishment of the person outside Seychelles; or
  - (ii) paid by a non-resident person as an expense of a business carried on through a permanent establishment of the person in Seychelles;
- (e) a natural resource amount in respect of a natural resource taken in Seychelles; or
- (f) an insurance premium in respect of the insurance of a risk in Seychelles.

## PART II – BUSINESS TAX

### Division I -Imposition of Tax

Imposition  
and  
Liability for  
Business  
Tax

6.(1) Subject to this Act, business tax at the rates declared in the First Schedule is levied for each tax year upon the taxable income of a business for the year and is payable by the owner of the business in accordance with this Act.

(2) For the purposes of this Act, when two or more businesses are solely owned by one person, the businesses are deemed to constitute a single business in the sole ownership of that person.

Imposition of  
Liability for  
Business Tax  
on  
International  
Transportation  
Income of a  
Non-resident  
Person

7.(1) Business tax at the rate declared in the First Schedule is levied on the gross amount derived by a non-resident person operating a ship or aircraft for the carriage of passengers, livestock, mail, merchandise, or goods embarked in Seychelles and is payable by the non-resident person.

(2) The tax liability arising under this section is discharged if the tax has been paid in accordance with section 60 or 61, as the case may be.

Imposition of  
Business Tax  
on Certain  
Payments to  
Non-resident  
Persons

8.(1) Business tax at the rate declared in the First Schedule is levied on the gross amount of a dividend, interest, royalty, natural resource amount, insurance premium, or technical services fee derived by a non-resident person from sources in Seychelles and is payable by the non-resident person.

(2) Subsection (1) does not apply to –

- (a) an amount that is exempt income; or
- (b) an amount that is attributable to business carried on by the non-resident person through a permanent establishment of the person in Seychelles and, in that case, the amount is taxable under section 60.

(3) The tax payable under subsection (1) is discharged if the tax has been paid in accordance with this Act.

9. Subject to this Act, the tax imposed under sections 7 and 8 on a person is a final tax on the income in respect of which it is levied and –

- (a) the income is not included in assessable income in computing the taxable income of the person for any tax year;
- (b) no deduction is allowable under this Act for any loss or outgoing incurred in deriving the income;
- (c) the amount on which tax is levied shall not be reduced by any loss; and
- (d) the tax payable by the person is not reduced by any tax credits allowed under this Act.

General  
Provisions  
Relating to  
Tax  
Imposed  
under  
Sections 7  
and 8

### Division II -Taxable Income

10. The taxable income of a business for a tax year is the amount remaining after deducting from the assessable income of the business for the year all allowable deductions.

Computation  
of Taxable  
Income

### Division III -Assessable Income

11.(1) Subject to subsection (2), the assessable income of a business for a tax year is the sum of the following amounts derived by the business during the year from sources in Seychelles –

Assessable  
Income

- (a) the gross receipts from the carrying on of the business, including the consideration received from the disposal of trading stock and the gross fees for the provision of services;
- (b) the gross receipts from the employment of the capital of the business, including dividends, interest, royalties, rent, and natural resource amounts;

- (c) the amount of any bounty or subsidy derived in relation to the carrying on of the business;
- (d) the amount of an expense, loss, or bad debt previously allowed as a deduction that has been reimbursed or recovered by the business, including by way of insurance, compensation, damages, or an indemnity;
- (e) an amount derived by way of an indemnity, compensation, or damages for the non-performance by the lessee of an obligation to carry out repairs to property of a business;
- (f) the net gain on disposal of a business asset referred to in paragraph (a) of the definition of “business asset” (other than trading stock); and
- (g) an amount included in assessable income under another provision of this Act.

(2) An amount that is exempt income is not included in assessable income.

(3) For the purposes of subsection (1) (f), the net gain on disposal of an asset is the consideration received on disposal of the asset less the cost of the asset at the time of disposal.

Exempt  
Income

**12.(1)** Exempt income of a business for a tax year shall include –

- (a) an amount specified in the Second Schedule; and
- (b) a dividend received by a resident entity that is paid by a resident corporation.

(2) The Minister may, by order published in the Gazette, treat as exempt income –

- (a) the income derived by a class or category of person; or
- (b) interest payable under a loan, if the Minister is of the opinion that the business carried on by the class or category of person, or loan funds, has assisted or will assist in the economic development of Seychelles.

13.(1) If income is exempt income, the exemption is limited to the specified or original business receiving the income and does not extend to a business receiving payment from the specified or original business although the payment may be made wholly or in part out of that income.

Limitation  
Income

(2) The exemption of any income from tax does not exempt a person from furnishing any return or information that is required by the Revenue Commissioner, or from including in the person's return such information as is prescribed, or as is required by the Revenue Commissioner.

(3) A provision in another law providing an exemption from tax imposed under this Act does not have legal effect unless also provided for in this Act:

Provided that an exemption from tax provided under any written law in force at the commencement of this Act shall continue to have effect.

#### Division IV – Allowable Deductions

14. (1) Subject to this Act, the total amount of deductions allowed to a business for a tax year is the sum of –

Allowable  
Deductions

- (a) losses or outgoings to the extent incurred during the year in deriving taxable business income;
- (b) the cost of trading stock acquired during the year for the purposes of deriving taxable business income;
- (c) the net loss on disposal of a business asset referred to in paragraph (a) of the definition of “business asset” (other than trading stock) during the year; and
- (d) an amount allowed as a deduction under another provision of this Act.

(2) For the purposes of subsection (1)(c), the net loss on disposal of an asset is the cost of the asset at the time of disposal less the consideration received on disposal of the asset.

15.(1) An amount is not allowed as a deduction if the amount is –

Non  
deductible  
items

- (a) a loss or outgoing of a capital nature, other than as allowed under this Act;

- (b) a loss or outgoing of a private or domestic nature;
  - (c) dividends paid by an entity or capital withdrawn from a business;
  - (d) subject to this Act, an amount carried to a reserve fund, a provision for expected expenses or losses, or an amount capitalised in any way;
  - (e) a loss or outgoing to the extent recoverable under a policy of insurance or contract of indemnity;
  - (f) interest payable to an associate other than if the interest is included in the assessable income of a business carried on by the associate or is taxable under a withholding provision under this Act;
  - (g) business tax, including any additional tax or interest payable in respect of business tax payable;
  - (h) fine or penalty imposed for violation of any law, rule, or regulation;
  - (i) a bribe or similar amount; or
  - (j) expenditure incurred relating to deriving exempt income.
- (2) If –
- (a) a person is required to withhold tax under this Act or any other revenue law, from an amount payable by the person; and
  - (b) the amount from which tax is required to be withheld would, apart from this subsection, be allowed as a deduction in the computation of the taxable income of a business of the person,

the deduction is not allowed until the person has withheld and paid the tax to the Revenue Commissioner.

business declined during a tax year through use in deriving taxable business income.

(2) The depreciation deduction allowed to a business for a tax year in respect of a depreciable asset is computed by applying the rate specified in the Third Schedule against the cost of the asset.

(3) The total deductions allowed, or that would be allowed but for subsection (4), to a business under this section in respect of a depreciable asset for the current tax year and all previous tax years shall not exceed the cost of the asset.

(4) If, in a tax year, a depreciable asset is used partly to derive taxable business income and partly for another purpose, the amount of depreciation allowed as a deduction for the year is reduced by the proportion of the non-business use.

(5) If a depreciable asset is not used, available for use, or held for the whole of the tax year in deriving taxable business income, the depreciation deduction for the year is computed according to the following formula –

$$A \times \frac{B}{C}$$

where –

**A** = is the depreciation deduction computed under subsection (2), after taking account of subsection (4);

**B** = is the number of days in the tax year the asset is used, available for use, or held in deriving taxable business income; and

**C** = is the total number of days in the tax year –

(a) subject to subsection (7), if a business disposes of a depreciable asset in a tax year, there is no depreciation deduction allowed for that year; and

(b) if the consideration received on disposal exceeds the written down value of the asset at the time of disposal, the excess is included in the assessable income of the business for that year; or

- (c) if the consideration received on disposal is less than the written down value of the asset at the time of disposal, the difference is allowed as a deduction for that year;
- (d) if a depreciable asset has been used partly to derive taxable business income and partly for another purpose, the amount included in assessable income under subsection (6)(a) or allowed as a deduction under subsection (6)(b) is reduced by the proportion of the non-business use;
- (e) the written down value of an asset at the time of disposal of the asset is the cost of the asset reduced by the total depreciation deductions allowed under this section or that would have been allowed but for subsection (4).

## Intangibles

**17.(1)** A business is allowed a deduction (referred to as an “amortisation deduction”) for the decline in value of an intangible of the business wholly or partly used in a tax year in deriving taxable business income.

(2) Subject to this section, the amortisation deduction of a business for a tax year is computed according to the following formula –

$$\frac{A}{B}$$

where –

**A =** is the cost of the intangible; and

**B =** is the useful life of the intangible in whole years.

(3) An intangible is treated as having a useful life of ten years if –

- (a) its actual useful life is more than ten years; or
- (b) it does not have an ascertainable useful life.

(4) The total amortisation deductions allowed, or that would be allowed but for subsection (5), to a business under this section in respect of an intangible for the current tax year and all previous tax years shall not exceed the cost of the intangible.

(5) If, in a tax year, an intangible is used partly to derive taxable business income and partly for another purpose, the amount of amortisation allowed as a deduction for the year is reduced by the proportion of the non-business use.

(6) If an intangible is not used, available for use, or held for the whole of the tax year in deriving taxable business income, the amortisation deduction for the year is computed according to the following formula –

$$A \times \frac{B}{C}$$

where –

**A =** is the amortisation deduction computed under subsection (2) after taking into account subsection (5);

**B =** is the number of days in the tax year the asset is used or available for use in deriving taxable business income; and

**C =** is the total number of days in the tax year.

(7) If a business disposes of an intangible in a tax year, there is no amortisation deduction allowed for that year and –

(a) if the consideration received on disposal exceeds the written down value of the intangible at the time of disposal, the excess is included in the assessable income of the business for that year; or

(b) if the consideration received on disposal is less than the written down value of the intangible at the time of disposal, the difference is allowed as a deduction for that year.

(8) If an intangible has been used partly to derive taxable business income and partly for another purpose, the amount included in assessable income under subsection (7)(a) or allowed as a deduction under subsection (7)(b) is reduced by the proportion of the non-business use.

(9) The written down value of an intangible at the time of disposal of the intangible is the cost of the intangible reduced by the total amortisation deductions allowed under this section or that would have been allowed but for subsection (5).

(10) In this section, cost means –

- (a) in relation to an intangible referred to in paragraph (a) or (b) of the definition of “intangible” in section 2, the total expenditure incurred in acquiring, creating, improving, or renewing the intangible; or
- (b) in relation to an intangible referred to in paragraph (c) of the definition of “intangible” in section 2, the amount of the expenditure.

Preliminary  
Expenditure

18.(1) A business is allowed a deduction for preliminary expenditure incurred in relation to the establishment of the business.

(2) The deduction under subsection (1) is allowed in the tax year in which the business commenced.

(3) In this section, “preliminary expenditure” means any expenditure incurred before the commencement of a business if the income to be derived by the business will be wholly and exclusively taxable business income, including the cost of feasibility studies, construction of prototypes, and trial production activities, but not including expenditure incurred in acquiring land, a depreciable asset to which section 16 applies, or an intangible to which section 17 applies.

Interest

(2) A business is allowed a deduction for interest incurred by the business in a tax year to the extent to which the business has used the funds or benefit of the debt or other instrument or agreement giving rise to the interest to derive taxable business income.

(2) Interest incurred on the amount of debt that exceeds the prescribed debt-to-equity ratio is treated as a dividend for all purposes of this Act.

Bad Debts

20.(1) A business is allowed a deduction for a bad debt written off in a tax year if the following conditions are satisfied –

(a) the amount of the debt –

- (i) was previously included in the assessable income of the business; or
- (ii) is money lent by the business in the normal course of business for the purposes of deriving taxable business income;

- (b) the debt or part of the debt is written off in the accounts of the business in the tax year; and
- (c) there are reasonable grounds for believing that the debt is irrecoverable.

(2) The amount of the deduction allowed under this section for a tax year shall not exceed the amount of the debt written off in the accounts of the business for that year.

**21.(1)** A contribution paid by an employer in a tax year to the Seychelles Pension Fund in respect of a worker employed in the employer's business, other than by way of deduction from wages is, to the extent prescribed as per the Seychelles Pension Fund Act, 2005, an allowable deduction to the business.

Contribution  
to the  
Seychelles  
Pension

(2) A contribution paid by a self-employed person in a tax year as a member of the Seychelles Pension Fund to the Fund for their benefit is, to the extent prescribed as per the Seychelles Pension Fund Act, 2005, an allowable deduction of the person's business.

(3) In this section –

- (a) the terms “contribution”, “employer”, “self-employed person” and “worker” have the same meaning as under the Seychelles Pension Fund Act, 2005;
- (b) “Seychelles Pension Fund” means the Seychelles Pension Fund established by section 3 of the Seychelles Pension Fund Act, 2005; and
- (c) “Prescribed” in this section means the amount of mandatory deduction prescribed under the Seychelles Pension Fund Act, 2005.

**22.** An amount that is not otherwise deductible under this Act that is paid by a business in a tax year as a pension, gratuity, or retiring allowance to a person who is or has been an employee, or a dependant of an employee of the business is an allowable deduction to the extent that, in the opinion of the Revenue Commissioner, the amount is paid in good faith in consideration of the past services of the employee in the operations carried on by the business for the purpose of deriving taxable business income.

Payments to  
employees

Gifts

**23.(1)** A business is allowed a deduction for a gift (not being a testamentary gift) of the value of twenty rupees or more of money or property made by a business in the tax year to a public fund, body, or institution as listed in the Fifth Schedule.

(2) Subject to subsection (3), the amount that a business is allowed as a deduction for a tax year under subsection (1) for a gift to a public fund, body, or institution shall not exceed the maximum amount for the year for that public fund, body or institution as specified in the Fifth Schedule.

(3) The Minister may, by order in the Gazette, allow an amount in excess of the amount or value of the gift as may be specified in the order as an allowable deduction under this section.

Tax related  
expenditure

**24.** A business is allowed a deduction for an amount incurred in the year for the purpose of managing its business tax affairs.

Loss Carry  
Forward

**25.(1)** If the total amount of deductions allowed to a business for a tax year exceeds the total assessable income of the business for the year, the amount of the excess is the net loss of the business for the year.

(2) If a business has a net loss for a tax year, the amount of the loss is carried forward to the following tax year and allowed as a deduction in computing the taxable income of the business for that following year.

(3) If a net loss is not wholly deducted under subsection (2), the amount not deducted is carried forward to the next following tax year and applied as specified in subsection (2) in that year, and so on until the loss is fully deducted, but no loss can be carried forward for more than five tax years after the year in which the loss was incurred.

(4) If a business has a net loss carried forward under this section for more than one tax year, the loss of the earliest year is deducted first.

(5) If a person carries on more than one business, this section applies separately to each business.

### **Division V -Tax Accounting**

#### **Sub-division I -General Principles of Tax Accounting**

Substituted  
Tax Year

**26.(1)** A business may, with the approval of the Revenue Commissioner, adopt a period of twelve months ending on a date other than 31st December as the

tax year of the business (referred to as the “substituted tax year”) and that period will be the tax year for the business for each succeeding year, unless with the approval of the Revenue Commissioner, another period of twelve months is adopted as the tax year of the business.

(2) If the tax year of a business changes as a result of subsection (1), the period between the last full tax year prior to the change and the date on which the changed tax year commences is treated as a separate tax year referred to as the “transitional tax year”.

(3) The law under this Act applicable to a substituted tax year or a transitional tax year is the law applicable for the tax year in which the substituted tax year or transitional tax year commenced.

27.(1) Subject to this Act, the taxable income of a business is computed in accordance with generally accepted accounting principles as modified by this Act.

Method  
of Tax  
Accounting

(2) Subject to this Act, a business conducted –

- (a) by a person other than an entity, can account for business tax on a cash or accrual basis; or
- (b) by an entity, shall account for business tax on an accrual basis.

(3) The Revenue Commissioner may specify that any class of business shall account for business tax on a cash or accrual basis.

(4) A business using the cash or accrual method of accounting for a tax year shall continue to use the same method for each succeeding tax year unless the business has been granted permission to use a different method in accordance with subsection (5).

(5) A business may apply, in writing, for a change in the method of accounting of the business and the Revenue Commissioner may, by notice in writing, approve the application but only if satisfied that the change is necessary to properly compute the taxable income of the business.

(6) If the method of accounting of a business changes in accordance with subsection (5), the business shall make adjustments in the tax year of change to items of income, deduction, or credit, or to any other items affected by the change so that no item is omitted and no item is taken into account more than once.

Cash basis  
Accounting

**28.** A business accounting for business tax on a cash basis derives an amount when it is received and incurs expenditure when it is paid.

Accrual-basis  
Accounting

**29.(1)** A business accounting for business tax purposes on an accrual basis derives an amount when it is due and incurs expenditure when it is payable.

(2) For the purposes of subsection (1) –

- (a) an amount is due when the business is entitled to receive it even if the time for discharge of the entitlement is postponed or the amount is payable by instalments; and
- (b) an amount is payable when all the events that determine liability have occurred and the amount of the liability can be determined with reasonable accuracy, but not before economic performance occurs.

(3) For the purposes of subsection (2), economic performance occurs –

- (a) in the case of the acquisition of services or assets, at the time the services are provided or assets delivered;
- (b) in the case of the use of assets, at the time the assets are used; and
- (c) in any other case, at the time payment is made in full satisfaction of the liability.

Long-term  
Contracts

**30.(1)** A business accounting for taxable income on an accrual basis shall compute the assessable income and allowable deductions arising under a long-term contract during a tax year under the percentage of completion method.

(2) In this section –

“long-term contract” means a contract for manufacture, installation, or construction, or, in relation to each, the performance of related services, that is not completed within the tax year in which work under the contract commenced, other than a contract estimated to be completed within six months of the date on which work under the contract commenced; and

“percentage of completion method” means the generally accepted accounting principle under which revenues and expenditures

arising under a long-term contract are recognised by reference to the stage of completion of the contract.

**31.(1)** If a business has entered into a finance lease, the assessable income and allowable deductions of the business are computed on the basis that –

Finance  
Leases

- (a) the lessee is the owner of the leased asset;
- (b) the lessee acquired the asset at the commencement of the lease, except in cases when the lessee already was the owner of the asset; and
- (c) the lessor has made a blended loan to the lessee at the commencement of the lease and each lease payment is in part repayment of principal and in part payment of interest under that loan.

(2) The cost of an asset treated as owned by the lessee under subsection (1)(a) is –

- (a) if the lessor and lessee are not associates and an amount is stated as the cost or value of the asset in the lease agreement, that amount; or
- (b) in any other case, the fair market value of the asset at the commencement of the lease.

(3) The amount of the loan referred to in subsection (1)(c) is the amount determined under subsection (2) as the cost of the asset.

(4) The interest part of each payment made under the loan is computed by reference to the interest rate implicit in the lease agreement.

(5) In this section, “blended loan” means a loan under which payments by the borrower represent in part a payment of interest and in part a repayment of principal when the interest part is calculated on the principal outstanding at the time of each payment.

### **Sub-division II -Trading Stock**

**32.(1)** If the closing value of trading stock for a tax year of a business exceeds the opening value of trading stock for that year, the assessable income of the business for the year includes the amount of the excess.

Trading  
Stock  
Taken into  
Account

(2) If the opening value of trading stock for a tax year of a business exceeds the closing value of trading stock for that year, the business is allowed a deduction for the year for an amount equal to the excess.

(3) The opening value of trading stock of a business for a tax year is —

(a) the closing value of the trading stock for the previous tax year; or

(b) if the business was commenced during the year, the cost of trading stock (if any) acquired by the owner of the business prior to the commencement of the business.

(4) The closing value of trading stock for a tax year is the lower of cost or fair market value of the trading stock on hand at the end of the year.

(5) A business accounting for business tax on a cash basis may compute the cost of trading stock of the business under the prime-cost method or absorption-cost method, and a business accounting for business tax on an accrual basis shall compute the cost of trading stock of the business under the absorption-cost method.

(6) If particular items of trading stock are not readily identifiable, a business may account for that trading stock under the first-in-first-out method or the average-cost method but, once chosen, a stock valuation method may be changed only with the written permission of the Revenue Commissioner and in accordance with any conditions that the Revenue Commissioner may impose.

(7) In this section -

“absorption-cost method” means the generally accepted accounting principle under which the cost of an item of trading stock is the sum of direct material costs, direct labour costs, and factory overhead costs;

“average-cost method” means the generally accepted accounting principle under which the valuation of trading stock is based on a weighted average cost of items of trading stock on hand;

“direct labour costs” means labour costs directly related to the manufacture or production of trading stock;

“direct material costs” means the cost of materials that become an integral part of the trading stock manufactured or produced, or which are consumed in the manufacturing or production process;

“factory overhead costs” means the total costs of manufacturing or producing trading stock, other than direct labour and direct material costs;

“first-in-first-out method” means the generally accepted accounting principle under which the valuation of trading stock is based on the assumption that trading stock is sold in the order of its acquisition;

“prime-cost method” means the generally accepted accounting principle under which the cost of trading stock is the sum of direct material costs, direct labour costs, and variable factory overhead costs; and

“variable factory overhead costs” means those factory overhead costs that vary directly with changes in the volume of trading stock manufactured or produced.

**33.** The cost of an animal held by a business as livestock that was acquired by natural increase is the actual cost of the animal unless the business elects for the cost to be the cost for that class of animal.

Cost of  
Natural  
increase

- 34.** If—
- (a) a business disposes of trading stock by sale, gift, or otherwise;
  - (b) the trading stock constitutes or constituted the whole or part of the assets of the business, and
  - (c) the disposal was not in the ordinary course of carrying on the business,

Disposal of  
Trading  
Stock  
Outside the  
Ordinary  
Course of  
Business

the fair market value of that trading stock is included in the assessable income of the business and the person acquiring that property is deemed to have purchased it at a cost equal to that value.

**Sub-division III - Tax Accounting for Small Businesses**

Simplified  
Tax  
Accounting  
for Small  
Business

**35.** The taxable income of a small business for a tax year is computed in accordance with this Act and subject to the following modifications –

- (a) the assessable income and allowable deductions of the business for the year are accounted for on a cash basis in accordance with section 28;
- (b) the depreciation rate for computers, data handling equipment, and software is computed according to the rate specified in respect of this paragraph in the Third Schedule if the cost of acquisition does not exceed the prescribed amount in the Third Schedule;
- (c) a deduction is allowed for the cost of trading stock acquired during the year and section 32 does not apply; and
- (d) an intangible that is a prepayment is deductible in the tax year in which it is paid.

Change in  
Tax  
Accounting  
Method

**36.(1)** If a business that is a small business ceases to be a small business or a business that is not a small business becomes a small business, the business shall apply, in writing, to the Revenue Commissioner for a change in the method of accounting used by the business in computing the taxable income of the business and the Revenue Commissioner may, by notice in writing, approve the application.

(2) If the method of accounting used by a business in computing the taxable income of a business changes, adjustments shall be made in the tax year of change to items of assessable income, deduction, or credit, or to any other items affected by the change so that no item is omitted and no item is taken into account more than once.

**Division VII – Entities**

Entities

**37.(1)** An entity is liable for tax separately from its members.

(2) A member of an entity is liable to tax on a dividend received from the entity in accordance with this Act.

(3) If there is a change of fifty per cent or more in the underlying ownership of an entity, any net loss incurred for a tax year in relation to the

business carried on by the entity before the change is not allowed as a deduction in a tax year after the change, unless the entity in that tax year –

- (a) carries on the same business after the change as it carried on before the change; and
- (b) does not engage in any new business or investment after the change if the principal purpose of the entity or the owners of the entity is to utilise the loss so as to reduce the business tax payable on the income arising from the new business or investment.

(4) In this section, “underlying ownership” in relation to an entity, means a membership interest in the entity held, directly or indirectly through an interposed entity or entities, by an individual or by a person not ultimately owned by individuals.

**38.** No deduction is allowed for so much of a sum paid or credited by an entity to a member or director of the entity, or to an associate of a member or director, as –

Payments to  
Members or  
Directors

- (a) remuneration for services rendered by that person; or
- (b) an allowance, gratuity, or compensation in consequence of the retirement of that person from an office or employment held by the person in that entity, or upon the termination of any such office or employment,

as exceeds an amount that, in the opinion of the Revenue Commissioner, is reasonable.

**39.(1)** The partners in a partnership and not the partnership are taxed on the income of the partnership.

Partnerships

(2) The assessable income of a partner for a tax year includes the partner's share of partnership income for the year.

(3) The allowable deductions of a partner for a tax year include the partner's share of a partnership loss for the year.

(4) Subject to subsection (5), a partner's share of partnership income or loss is equal to the partner's percentage interest in the income of the partnership as set out in the partnership agreement.

(5) If the allocation of income in the partnership agreement does not reflect the contribution of the partners to the partnership's operations, a partner's share of partnership income or loss is equal to the partner's percentage interest in the capital of the partnership.

(6) The partnership income of a partnership for a tax year is the assessable income of the partnership computed as if it were an entity liable for tax under this Act less allowable deductions.

(7) If the amount computed under subsection (6) for a tax year is negative, the amount is the partnership loss for the year.

(8) For the avoidance of doubt it is stated that a partnership is not entitled to a tax threshold regardless of its computed income for any given tax year.

#### Trusts

40.(1) Income derived by the trustee of a trust during a tax year in carrying on a business is taxed, in that year, either to the trustee or the beneficiary of the trust in accordance with this section.

(2) An amount derived by a trustee of a trust in carrying on a business is treated as derived by a beneficiary of the trust if the beneficiary has a vested right to the amount.

(3) A beneficiary is allowed a deduction in accordance with this Act for any expenditure incurred by the trustee in deriving an amount referred to in subsection (2) that is included in the assessable income of the beneficiary.

(4) Income to which subsection (2) applies -

- (a) retains its character and geographic source in the hands of the beneficiary; and
- (b) is treated as derived by the beneficiary at the time the amount was derived by the trustee.

(5) The trustee of a trust is liable for tax for a tax year on the accumulated taxable income of the trust for the year taxable at the rate specified in the First Schedule.

(6) In this section, "accumulated taxable income", in relation to a trust, means the assessable income of the trust for the year computed as if it were

an entity liable for tax under this Act reduced by the sum of the following amounts -

- (a) any part of that amount to which subsection (2) applies for the year; and
- (b) the total deductions allowed to the trust for the year under this Act, other than in relation to expenditure to which subsection (3) applies.

(7) For the avoidance of doubt it is stated that a trustee is not entitled to a tax threshold.

### **Division VIII -Special Industries**

**41.(1)** A business engaged in primary production in Seychelles is allowed a deduction for expenditure incurred in a tax year for -

Business  
of Primary  
Production

- (a) the eradication and extermination of animal or vegetable pests from the land;
- (b) the destruction and removal of timber, scrub, or undergrowth indigenous to the land;
- (c) the destruction of weed or plant growth detrimental to the land;
- (d) the preparation of the land for agriculture;
- (e) ploughing and grassing the land for grazing purposes;
- (f) the draining of swamps or low-lying lands where that operation improved the agriculture or grazing value of the land;
- (g) preventing or combating soil erosion on the land, otherwise than by the erection of fences;
- (h) the erection of fences on the land to exclude livestock from areas affected by soil erosion, where the purpose of excluding the livestock is to prevent or limit any extension or aggravation of soil erosion in those areas and to assist in the reclamation of those areas;

- (i) the erection of fences on the land to subdivide the land for the purposes of carrying on primary production on the land, other than boundary fences, fences enclosing yards, or fences along public roads, public stock routes or the public rights of way;
- (j) the construction of -
  - (i) structural improvements for the purposes of conserving water for use in carrying on primary production on the land (including dams, earth tanks, enclosing yards or fences along public roads, tanks); or
  - (ii) irrigation channels or similar improvements for the purpose of conveying water for such use,including the sinking of bores or wells for water for such use;
- (k) the construction on the land of levee banks or semi-improvements having like uses;
- (l) the purchase of pipes for the purpose of conveying water for use in carrying on primary production on the land;
- (m) the placing of pipes underground for the purpose referred to in paragraph (l); or
- (n) the construction on the land of buildings or other structural improvements for the purpose of the storage of animal feed in the course of carrying on primary production on the land.

(2) In this section -

“primary production” means -

- (a) the cultivation of land; or
- (b) the maintenance of animals for the purpose of selling them or their bodily produce, including natural increase,

and includes the manufacture of dairy produce by a business that has also produced the raw material used in that manufacture.

**42.(1)** The assessable income of an entity carrying on a short-term insurance business in a tax year includes the following amounts –

Taxation  
of Certain  
Insurance  
Companies

- (a) the total amount of premiums derived by the entity for the year for the insurance of any risk in Seychelles in carrying on such business, including premiums on reinsurance but excluding premiums returned to the insured;
- (b) the total amount of any income derived in the year by the entity from sources in Seychelles in carrying on such business, including commission or expense allowance derived from the reinsurance of any risk in Seychelles and any income derived from investments; and
- (c) the amount of the company's reserve for unexpired risks deducted in the previous tax year under paragraph (c) of subsection (2).

**(2)** The deductions allowed to an entity carrying on a short-term insurance business in Seychelles includes the following amounts –

- (a) the amount of the claims admitted by the entity in the year in respect of insured risks in Seychelles less any amount recovered or recoverable under any contract of re-insurance, guarantee, security, or indemnity;
- (b) the amount of agency expenses incurred by the entity in Seychelles in the year;
- (c) the balance of the entity's reserve for unexpired risks in Seychelles at the percentage adopted by the company as at the end of the year; and
- (d) the total amount of any other expenditure incurred by the entity in the year in carrying on the business and allowable as a deduction in accordance with this Act.

**(3)** In this section, "short-term insurance" means any insurance other than life insurance.

Life  
Insurance  
Companies

**43.(1)** Subject to subsection (2), in the case of an entity carrying on a life insurance business either exclusively or in addition to a short-term insurance business, the gains or profits from the life insurance business are the investment income less the management expenses including commission.

(2) If an entity received premiums outside Seychelles, the gains or profits are the same proportion of the total investment income of the company as the premiums received in Seychelles bore to the total premiums, or the income of the entity from investments in Seychelles, whichever is the greater, after deducting from the amount so arrived at the agency expenses in Seychelles and a fair proportion of the expenses of the head office of the company if it is situated outside Seychelles.

Casinos

**44.(1)** For the purposes of this section, the gross gaming revenue of the business of a casino is deemed to be the taxable income derived by the business in Seychelles.

(2) Notwithstanding that the gross gaming revenue of the business of a casino is assessable income in terms of any other provisions of this Act, business tax at the rates specified in the First Schedule is in addition levied on the gross gaming revenue of the business of a casino under this section.

(3) In this section, “gross gaming revenue”, in relation to the business of a casino, means all losing stakes and commission from gaming in the casino less –

- (a) payouts from the bank or gaming machines to winning players; and
- (b) credit allowed to players, which has not been collected, whether in Seychelles or elsewhere.

### **PART III -COMMON RULES FOR BUSINESS TAX**

#### **Division I –Income**

Income of  
joint  
owners

**45.(1)** For the purposes of this Act, if a business is jointly owned by two or more persons, any income, or losses or outgoings relating to the business are apportioned among the owners according to their respective interests in the property of the business.

(2) If the interests of the owners of a jointly owned business cannot be ascertained, the owners of the business are treated as having an equal interest in the business.

46. If –

Cessation  
of source  
of income

- (a) any amount is derived by a person in a tax year from any business that had ceased before the amount was derived; and
- (b) had the amount been derived before the business ceased it would have been included in the assessable income of the business,

this Act applies to the amount on the basis that the business had not ceased at the time the amount was derived.

47.(1) An amount taken into account under this Act shall be expressed in Seychelles rupees.

Currency  
Translation.

(2) Subject to subsection (3), if an amount is in a currency other than Seychelles rupees, the amount shall be translated to Seychelles rupees at the Central Bank of Seychelles published mid-exchange rate applying between the foreign currency and Seychelles rupees on the date the amount is taken into account for the purposes of this Act.

(3) With the prior written permission of the Revenue Commissioner, amounts taken into account in computing the taxable income of a business for a tax year may be translated to Seychelles rupees at the average Central Bank of Seychelles published mid-exchange rate for the tax year between the foreign currency and rupees.

### **Division II - Business Assets**

48.(1) Except as otherwise provided in this Act, this section establishes when a business asset is disposed of or acquired for the purposes of this Act.

Disposal  
and  
Acquisition  
of Assets

(2) A business is treated as having made a disposal of an asset at the time the business parts with the ownership of the asset, including when the asset is –

- (a) sold, exchanged, transferred, distributed, scrapped, or given away; or
- (b) cancelled, redeemed, relinquished, destroyed, lost, expired, or surrendered.

(3) A disposal includes the disposal of a part of an asset.

(4) The transmission of an asset by succession or under a will is treated as a disposal of the asset by the deceased at the time the asset is transmitted.

(5) The application of a business asset to personal or domestic use is treated as a disposal of the asset by the owner at the time the asset is so applied.

(6) A business acquires an asset at the time the person begins to own the asset, including, in the case of an asset that is a right, the time the person is granted any right.

(7) The application of a personal asset to business use is treated as an acquisition of the asset by the owner at the time the asset is so used.

(8) In this section, “personal asset” means an asset held wholly for personal or domestic use.

Cost

49.(1) Except as otherwise provided in this Act, this section establishes the cost of a business asset for the purposes of this Act.

(2) Subject to this section, the cost of an asset is the sum of the following amounts –

- (a) the total consideration given for the asset, including the fair market value of any consideration in kind determined at the time the asset is acquired, and, if the asset is constructed or developed, the cost of construction or development;
- (b) any incidental expenditure incurred in acquiring or disposing of the asset; and
- (c) any expenditure incurred to install, alter, renew, reconstruct, or improve the asset.

(3) If a person disposes of a part of an asset, the cost of the asset is apportioned between the part of the asset retained and the part disposed of in accordance with their respective fair market values determined at the time the person acquired the asset.

(4) The cost of an asset does not include the amount of any grant, subsidy, rebate, commission, or other assistance received or receivable by a

person in respect of the acquisition of the asset, except to the extent to which the amount is included in the assessable income of a person.

(5) The reference to “other assistance” in subsection (5) does not include a loan repayable with or without interest.

**50.(1)** The cost of an asset treated as acquired under section 48(7) is the fair market value of the asset determined at the date it is applied to business use.

Determination  
of Cost in  
Special Cases

(2) If the acquisition of an asset by a person is the derivation of an amount included in assessable income, the cost of the asset is the amount included plus any amount paid by the person for the asset.

(3) If the acquisition of an asset by a person is the derivation of exempt income, the cost of the asset is the exempt amount plus any amount paid by the person for the asset.

**51.(1)** Except as otherwise provided in this Act, this section establishes the amount of consideration received on disposal of a business asset for the purposes of this Act.

Consideration  
Received

(2) The consideration received by a person on disposal of an asset is the total amount received by the person for the asset, including the fair market value of any consideration received in kind determined at the time of disposal.

(3) If an asset has been lost or destroyed by a person, the consideration received for the asset includes any compensation, indemnity, or damages received by the person as a result of the loss or destruction, including amounts received as a consequence of –

- (a) an insurance policy, indemnity, or other agreement;
- (b) a settlement; or
- (c) a judicial decision.

(4) The consideration received for an asset treated as disposed of under section 48(3) is the fair market value of the asset determined at the time it is applied to personal or domestic use.

(5) If two or more assets are disposed of by a person in a single transaction and the consideration received for each asset is not specified, the total consideration received by the person is apportioned among the assets disposed of

in proportion to their respective fair market values determined at the time of the transaction.

Non-arm's  
Length  
Transactions

**52.** For the purposes of this Act, if a business asset is disposed of in a non-arm's length transaction –

- (a) the person disposing of the asset is treated as having received consideration equal to the fair market value of the asset determined at the time the asset is disposed of; and
- (b) the person acquiring the asset is treated as having a cost equal to the amount determined under paragraph (a).

Gain or  
Loss not  
recognised

**53.(1)** For the purposes of this Act and subject to subsection (2), no gain or loss is taken to arise on the disposal of a business asset –

- (a) between spouses as part of a divorce settlement or under an agreement to live apart;
- (b) by reason of the transmission of the asset on the death of a person to an executor or beneficiary; or
- (c) by reason of the compulsory acquisition of the asset under any law if the consideration received for the disposal is reinvested by the recipient in an asset of a like kind (referred to as a “replacement asset”) within one year of the disposal.

(2) Subsection (1) does not apply if the person acquiring the asset (including a replacement asset) is a non-resident person at the time of the acquisition.

(3) If subsection (1)(a) or (b) applies, the person acquiring the asset is treated as acquiring an asset of the same character as the person disposing of the asset and –

- (a) in the case of a depreciable asset or intangible, acquiring the asset or intangible for a cost equal to the written down value of the asset at the time of the disposal as determined under section 16 and 17; or

- (b) in any other case, acquiring the asset for a cost equal to the cost of the asset for the person disposing of the asset at the time of the disposal.

(4) A person's cost of a replacement asset or intangible referred to in subsection (1)(c) is –

- (a) if the asset compulsorily acquired is a depreciable asset or intangible, the written down value of the asset or intangible at the time it is compulsorily acquired as determined under section 16 and 17; or
- (b) in any other case, the cost of the asset or intangible at the time it is compulsorily acquired,

plus the amount by which any consideration given by the person for the replacement asset exceeds the consideration received by the person for the asset or intangible compulsorily acquired.

### **Division III -Anti-avoidance**

**54.(1)** The Revenue Commissioner may, in respect of –

- (a) a transaction between businesses carried on by persons who are associates; or
- (b) a transaction between businesses carried on by the same person,

distribute, apportion, or allocate income or gain and expenses between the businesses as is necessary to reflect the outcome that would have arisen in a transaction between independent persons dealing with each other at arm's length.

(2) In applying subsection (1), the Revenue Commissioner may be guided by international standards, case law, and guidelines on transfer pricing issued by international organisations concerned with taxation.

**55.(1)** For the purposes of determining the business tax liability of a business under this Act, the Revenue Commissioner may –

Transfer  
Pricing

General  
Anti-  
avoidance  
Rule

- (a) determine the character of a transaction or an element of a transaction that was entered into as part of a tax avoidance scheme;
- (b) disregard a transaction that does not have substantial economic effect;
- (c) determine the character of a transaction if the form of the transaction does not reflect the substance; or
- (d) treat separate businesses carried on by the same person as a single business if business activity has been fragmented under a tax avoidance scheme.

(2) In this section, “tax avoidance scheme” means any transaction or arrangement if one of the main purposes of a person in entering into the transaction or arrangement is the avoidance or reduction of the tax liability of a business under this Act.

t-income  
splitting

**56.(1)** If a taxpayer attempts to split income with an associate, whether –

- (a) by assignment of property subject to a condition;
- (b) by assignment of the right to receive income;
- (c) by the use of a partnership or trust; or
- (d) by any other means,

the Revenue Commissioner may adjust the taxable income of the taxpayer and the other party to prevent the income splitting.

(2) In determining whether the taxpayer is seeking to split income through a partnership or trust, the Revenue Commissioner shall consider the value given by the other party to the partnership or trust.

## PART IV -TAX PROCEDURE

### Division I -Business Tax Returns, Assessments, and Payment of Business Tax

business  
tax  
returns

**57.(1)** A business liable for business tax under section 6 shall furnish a business tax return for each tax year within three months after the end of the tax year.

(2) A tax return shall be in the prescribed form and furnished in the prescribed manner.

(3) For the avoidance of doubt, a business tax return is required irrespective of any tax liability or loss.

(4) A business shall keep such records as may be prescribed.

58. A business that files a business tax return for a tax year is treated as having made a self-assessment of –

Self-assessment of Business

- (a) if the business has a taxable income for the year, the amount of the taxable income of the business and the business tax payable thereon as specified in the return; or
- (b) if the business has made a net loss for the year, the amount of the net loss of the business as specified in the return.

59. The business tax payable by a person for a tax year in respect of a business carried on by the person is payable by the date that the business tax return of the business for the year is due.

Payments of Business Tax

60.(1) Subject to subsection (3), before the departure of a ship owned or chartered by a non-resident person from a port in Seychelles –

Collection of Tax from Non-resident Ship Owners or Charterers

- (a) the master of the ship or agent of the non-resident in Seychelles shall file with the Revenue Commissioner a return showing the gross revenue derived from the carriage by the ship of passengers, livestock, mail, merchandise, or goods embarked in Seychelles; and
- (b) the Revenue Commissioner shall determine the amount of tax due under section 7 in respect of the ship and, as soon as is practicable, notify the master, in writing, of the amount due.

(2) The return required under subsection (1)(a) shall be in the prescribed form and furnished in the prescribed manner.

(3) The master of a ship or agent is liable for the tax notified under subsection (1)(b).

(4) If the Revenue Commissioner is satisfied that the return required under subsection (1)(a) cannot be furnished before the departure of the ship from

Seychelles, the Revenue Commissioner may allow the return to be furnished within 30 days after departure of the ship provided the non-resident owner or charterer has made satisfactory arrangements for the payment of the tax due under section 7 in respect of the ship.

(5) The Comptroller of Customs shall not grant a port clearance for a ship owned or chartered by a non-resident person until satisfied that any tax due under section 7 in respect of the ship has been paid or that arrangements for its payment have been made to the satisfaction of the Revenue Commissioner.

(6) This section does not relieve the owner or charterer of the ship from liability to pay any amount due under section 7 that is not paid by the master or agent.

Collection  
of Tax from  
Non-  
resident  
Aircraft  
Owners or  
Charterers

61.(1) The owner or charterer of an aircraft liable for tax under section 7 shall furnish a return with the Revenue Commissioner for each quarter within fifteen days after end of the quarter.

(2) The return required under subsection (1) shall be in the prescribed form and furnished in the prescribed manner.

(3) A person that furnishes a return under subsection (1) is treated as having made a self-assessment of the gross revenue derived for the carriage by the aircraft of passengers, livestock, mail, merchandise, or goods embarked in Seychelles during the quarter and the tax payable thereon under section 7 as specified in the return.

(4) The tax payable by the non-resident person under section 7 is collected quarterly and is due on the due date for filing the return for each quarter.

(5) If the tax payable for a quarter is not paid within three months of the due date, the Revenue Commissioner may issue to the Seychelles Civil Aviation Authority a certificate specifying the name of the non-resident person and the amount of tax due and the Civil Aviation Authority shall refuse clearance from any airport in Seychelles to any aircraft owned or chartered by the person until the tax due has been paid.

## Division II - Withholding Tax

Withholding  
of Tax from  
Dividends  
Paid to a  
Resident  
Person

62. A resident entity paying a dividend to a resident person, shall withhold tax from the gross amount of the dividend paid at the rate specified in the First Schedule.

63.(1) A resident entity or permanent establishment in Seychelles of a non-resident entity paying interest to a resident person shall withhold tax from the gross amount of the interest paid at the rate specified in the First Schedule.

Withholding  
of Tax from  
Interest paid to  
a Resident  
Person

(2) Subsection (1) does not apply to interest paid to a bank, finance company, insurance company, or an entity whose principal business consists of the lending of money.

(3) An entity shall withhold tax under this section even if the entity does not carry on a business.

64.(1) A person making payment to a specified business shall withhold tax from the gross payment at the rate specified in the First Schedule.

Withholding  
of Tax from  
Payments to a  
Specified  
Business

(2) For the purpose of this section, specified business means a business listed in the Fourth Schedule.

(3) A person is not required to withhold tax under subsection (1) where the specified business provides a certificate in accordance with subsection 77(11).

65. A person (purchaser of goods or services) making payment to another person (supplier of goods or services) shall withhold tax at the rate specified in the First Schedule where the supplier of goods or services does not provide a valid tax invoice as required under the Revenue Administration Act 2009.

Withholding  
of Tax from  
Payments  
where Valid  
Tax Invoice is  
not provided

66.(1) A person paying a dividend, interest, royalty, natural resource amount, insurance premium, or technical services fee subject to tax under section 8 shall withhold tax from the gross amount paid at the rate of tax applicable to the income under section 8.

Withholding  
of Tax from  
dividend etc.

(2) A promoter, agent, or similar person –

(a) paying remuneration to a non-resident entertainer or sports person in respect of a performance or sporting event in Seychelles; or

(b) responsible for collecting the gross receipts from a performance or sporting event in Seychelles by a theatrical, musical, or other group of non-resident entertainers or sports persons,

shall withhold tax from the gross amount of the remuneration or receipts at the rate specified in the First Schedule.

No  
Withholding  
from Exempt  
Income

**67.** A person shall not withhold tax from an amount that is exempt income of the recipient.

Time of  
Withholding

**68.** A person required to withhold tax under this Division from an amount paid by the person shall withhold the tax at the earlier of –

(a) the time the amount is credited to the account of the recipient; or

(b) the time the amount is actually paid.

Payment of  
Tax  
Withheld

**69.** Tax required to be withheld by a person under this Division shall be paid to the Revenue Commissioner within 21 days after the end of the month in which the person was required to withhold the tax.

Failure to  
Pay Tax  
Withheld

**70.(1)** If a person –

(a) fails to withhold tax as required under this Division; or

(b) having withheld tax fails to pay the tax to the Revenue Commissioner as required under section 69,

the person is personally liable to pay the amount of tax to the Revenue Commissioner.

(2) The amount that a person is personally liable for under subsection (1) is treated as “revenue” for the purposes of Part V of the Revenue Administration Act 2009.

(3) A person personally liable for an amount of tax under subsection (1) as a result of failing to withhold the tax is entitled to recover the tax from the recipient of the payment.

Recovery of  
Unpaid  
Withholding  
Tax

**71.(1)** If a person fails to withhold tax as required under this Division, the Revenue Commissioner may recover the tax from the recipient of the payment provided the total amount recovered does not exceed the tax that should have been withheld.

(2) Notwithstanding the recovery of any tax under subsection (1), the person who failed to withhold the tax continues to be liable for –

- (a) any other legal action in relation to the failure;
- (b) the imposition of interest and penalty for the failure; and
- (c) the disallowing of a deduction for the expenditure to which the failure relates under section 15(2).

72.(1) A person withholding tax under this Division shall give the recipient of the payment a tax withholding certificate as prescribed.

Tax  
Withholding  
Certificates

(2) A person required to lodge a business tax return for a tax year shall attach to the return any tax withholding certificate as prescribed.

73.(1) A person withholding tax under this Division shall, within two months after the end of the tax year or within such further time as the Revenue Commissioner may allow by notice in writing, lodge with the Revenue Commissioner a withholding tax statement as prescribed.

Withholding  
Tax  
Statements

(2) In addition to the annual withholding tax statement required to be lodged under subsection (1), a person withholding tax may be required to furnish statements on a monthly, quarterly, or six monthly basis as may be prescribed.

(3) In this section, “tax year” means the twelve months ending on 31st of December.

74.(1) Tax withheld by a person from a payment under this Division –

Priority of  
Tax Withheld

- (a) is held by the person in trust for the Government; and
- (b) is not subject to attachment in respect of any debt or liability of the person.

(2) In the event of the liquidation or bankruptcy of a person who has withheld tax under this Division, any amount withheld does not form part of the estate of the person in liquidation or bankruptcy and the Revenue Commissioner has first claim for that amount before any distribution of property is made.

(3) An amount that a person is required to withhold from a payment under this Division is –

- (a) a first charge on the payment; and
- (b) deducted prior to any other amount that the person may be required to deduct from the payment by virtue of an order of any Court or under any other law.

Indemnity

**75.** A person who has withheld tax from a payment under this Division and remitted the tax to the Revenue Commissioner is indemnified against any claim by the recipient for payment of the withheld amount.

Credit for  
Tax  
Withheld

**76.(1)** For the purposes of this Act, if tax has been withheld under this Division from income derived by a person, the amount of income included in the assessable income of that person is the amount derived before the withholding of the tax.

(2) Subject to subsections (3) and (4), if tax has been withheld under this Division from income derived by a person, the person is allowed a tax credit for that tax against the tax due by the person on the taxable income of the person for the tax year in which the tax was withheld.

(3) No tax credit is allowed if the tax withheld is a final tax on the income under section 9;

(4) If the amount of the credit allowed under subsection (2) for a tax year exceeds the business tax due by a person for the year, the amount of the excess shall be refunded to the person.

### **Division III - Instalments of Tax**

ment of  
instalments  
business

**77.(1)** A business shall pay instalments of business tax for a tax year on the twenty-first day after the end of each month.

(2) The amount of each instalment is one twelfth of the amount of business tax estimated by the Revenue Commissioner to be payable for the tax year.

(3) Notwithstanding subsection (2), an estimate of business tax payable by the business for a tax year may be furnished to the Revenue Commissioner.

(4) If accepted by the Revenue Commissioner, an estimate furnished under subsection (3) remains in force for the remainder of the tax year unless a

revised estimate is furnished to the Revenue Commissioner in accordance with subsection (5).

(5) A revised estimate applies to the calculation of instalments of business tax for a tax year due both before and after the date the revised estimate was furnished and –

- (a) the amount of any underpayment of instalments made prior to furnishing the revised estimate shall be paid by the business together with the first instalment due after the revised estimate is furnished; or
- (b) the amount of any overpaid instalments is applied against future business tax instalments due.

(6) Each instalment of business tax paid during a tax year is allowed as a tax credit against the tax due on the taxable income of the business for the tax year.

(7) If the amount of the credit under subsection (6) for a tax year exceeds the business tax due for the year, the amount of the excess shall be refunded.

(8) If the estimate made under subsections (3) or (5) of business tax payable by a business for a tax year is less than ninety percent (90%) of the actual business tax liability of the business for the year (the difference is referred to as the “instalment shortfall”), the business is liable for a penalty equal to ten percent of the instalment shortfall.

(9) No penalty is imposed under subsection (8) if the Revenue Commissioner is satisfied that the reason for the instalment shortfall was due to valid circumstances beyond the control of the business.

(10) Any person paying instalments under subsection (1) but is also liable to withholding under section 64, may apply to the Revenue Commissioner requesting that withholding under section 64 not apply.

(11) If approval is granted under subsection (10), the Revenue Commissioner will issue a certificate detailing that the business is not liable to withholding under section 64 for an approved period.

(12) Tax required to be withheld by a person under this Division shall be paid to the Revenue Commissioner within 21 days after the end of the month in which the person was required to withhold the tax

## PART V - FINAL PROVISIONS

Special  
provisions  
relating to  
specified  
entities

**78.(1)** Notwithstanding anything else provided in this Act, businesses listed in the Seventh Schedule are liable to business tax in accordance with the rates identified in that Schedule.

(2) For the avoidance of doubts, if a category of business specified in the Seventh Schedule is liable to tax on the basis of its assessable income, such category of business is not entitled to claim deductions provided by section 14 or any other provision of this Act.

(3) Specified categories of business other than those subject to tax pursuant to the terms of subsection (2) are liable to tax in accordance with the methodology and rates specified in the Seventh Schedule.

Taxation  
Agreements  
with the  
Government  
of a Foreign  
Country

**79.(1)** The Minister may, for and on behalf of Seychelles, enter into an agreement with the Government of a foreign country in relation to taxation matters imposed by the laws of that country and for tax compliance purposes of the agreement shall have effect, subject to subsection (4), in relation to tax imposed under this Act.

(2) The Minister may delegate the functions conferred under subsection (1) to any Government official.

(3) For the avoidance of doubts it is stated that the terms of any taxation agreement entered into pursuant to subsection (1), take precedence over the provisions of this Act.

(4) Where a taxation agreement has been entered into under subsection (1) the Minister shall, by regulation, declare that the agreement specified in the regulation has been entered into and the agreement shall have effect in relation to the tax imposed under this Act.

(5) Taxation agreements are listed in the Sixth Schedule to this Act.

Regulations

**80.(1)** The Minister may make regulations –

(a) prescribing matters as required under this Act, or

(b) for the proper and efficient administration of this Act.

(2) Without limiting the general effect of subsection (1), regulations made under that subsection may –

(a) contain provisions of a saving or transitional nature consequent on the making of this Act, or

(b) prescribe penalties for the contravention of the regulations.

(3) If regulations made under this section are of a transitional nature and are made within six months after the commencement of this Act, the regulations may provide that they take effect from the date on which the Act comes into force.

**81.** The Minister may make Regulations –

(a) prescribing all matters which by this Act required to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act; and

(b) amending the Schedules.

Amendment  
of  
Schedules  
and  
Monetary  
Amounts

**82.** The Business Tax Act 1987 (Act 10 of 1987) and subsidiary legislation made thereunder are hereby repealed.

Repeal

**83. (1)** The repealed legislation continues to apply to tax years prior to the tax year in which this Act comes into operation.

Transitional

(2) A reference in this Act to a previous tax year includes, when the context requires, a reference to a tax year under the repealed legislation.

(3) Sections 16, 17, and 18 do not apply to an asset acquired or expenditure incurred before the commencement date.

(4) Sections 45-52 of the Business Tax Act 1987 continue to apply to property acquired before the commencement date.

**SCHEDULES**  
**FIRST SCHEDULE**  
**RATES OF TAX**

1. The rates of business tax payable by the owner of a business in respect of the taxable income of a business under section 6 are -
  - (a) In the case of an entity, government body, or a trustee under section 40(5) -
    - (i) 25% on the first SR 1,000,000 of taxable income, and
    - (ii) 33% on the remainder.
  - (b) In the case of any other person other than an entity or government body -
    - (i) 0% on the first SR 100,000 of taxable income, and
    - (ii) 18.75% between SR100,001 and SR1,000,000 of taxable income, and
    - (iii) 33% on the remainder.
2. Irrespective of paragraph (1) - the rate of tax payable -
  - (a) on commission paid to sellers of lottery and games of chance tickets is 10%;
  - (b) in respect of interest paid to holders of 2007 Bonds issued by the Republic of Seychelles is 0%.
3. The rate of business tax payable by a non-resident person under section 7 is 3%.
4. The rate of business tax payable by a non-resident person under section 8 -
  - (a) in the case of a dividend, royalty, interest, natural resource amount, or technical services fee, is 15%; or
  - (b) in the case of an insurance premium, is 5%.

(b) for the proper and efficient administration of this Act.

(2) Without limiting the general effect of subsection (1), regulations made under that subsection may –

(a) contain provisions of a saving or transitional nature consequent on the making of this Act, or

(b) prescribe penalties for the contravention of the regulations.

(3) If regulations made under this section are of a transitional nature and are made within six months after the commencement of this Act, the regulations may provide that they take effect from the date on which the Act comes into force.

**81.** The Minister may make Regulations –

(a) prescribing all matters which by this Act required to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act; and

(b) amending the Schedules.

Amendment  
of  
Schedule  
and  
Monetary  
Amounts

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**SCHEDULES**  
**FIRST SCHEDULE**  
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    - (ii) 33% on the remainder.
  - (b) In the case of any other person other than an entity or government body –
    - (i) 0% on the first SR 100,000 of taxable income, and
    - (ii) 18.75% between SR100,001 and SR1,000,000 of taxable income, and
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  - (a) on commission paid to sellers of lottery and games of chance tickets is 10%;
  - (b) in respect of interest paid to holders of 2007 Bonds issued by the Republic of Seychelles is 0%.
3. The rate of business tax payable by a non-resident person under section 7 is 3%.
4. The rate of business tax payable by a non-resident person under section 8 –
  - (a) in the case of a dividend, royalty, interest, natural resource amount, or technical services fee, is 15%; or
  - (b) in the case of an insurance premium, is 5%.

5. The rate of tax payable by the owner of a business of a casino under Section 44 is 0%.
6. The rate of withholding tax under sections 62 and 63 is 15%.
7. The rate of withholding tax under section 64 made to specified businesses listed in Fourth Schedule is 5%.
8. The rate of withholding for not providing a valid tax invoice under section 65 is the rate specified under subparagraph (1)(a)(ii).
9. The rate of withholding tax under section 66 is –
  - (a) in the case of a dividend, interest, royalty, natural resource amount, or technical services fee, is 15%; or
  - (b) in the case of an insurance premium, is 5%.

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## SECOND SCHEDULE

### EXEMPTIONS

1. The income of a business of a religious, scientific, charitable or public educational institution.
2. The income of a business of a society or club which is not carried on for the purposes of profit or gain to its individual members and is –
  - (a) A friendly society;
  - (b) A society, association or club established for musical purposes or for the encouragement of music, art, science or literature; or
  - (c) A society, association or club for the encouragement or promotion of games or sports,
3. The income of a trade union registered under the Industrial Relations Act, 1993.
4. Interest exempt under section 12(2)(b).
5. The income of the Social Security Fund.

6. Income from the farming activities of a person being an individual carrying on the business of a farmer who is approved for the purpose by the Ministry responsible for Agriculture.
7. Income from the fishing activities of a person being an individual carrying on the business of a fisherman who is registered for this purpose by the Seychelles Fishing Authority. Fishing activities means activities relating directly to the taking or catching of fish, sea cucumber, crustacean, or shellfish, and includes oyster farming.
8. The income of the Central Bank of Seychelles established under the Central Bank of Seychelles Act, 1982.
9. The income of the Seychelles Pension Fund established under the Seychelles Pension Act, 2005.
10. The income of the Seychelles Fishing Authority established under the Seychelles Fishing Authority (Establishment) Act, 1984.
11. The income of the National Sports Council established under the National Sports Council Act, 1982.
12. The income derived by the owner of a taxi who holds a licence under the Licences Act, 1986 from the operation of the taxi.
14. The residential rental income derived by an individual in a tax year where rental income is from one single unit of property or dwelling (source) only.
15. The income of the reinsurance business of a registered insurer solely carrying on reinsurance business under the Insurance Act 2008.
16. The income of the insurance business of a registered insurer solely carrying on insurance business relating to offshore policies under the Insurance Act 2008.
17. The income of an international trust declared and registered under the International Trusts Act, 1994.
18. The income payable by Policy owners Protection Fund in terms of the Insurance Act 2008 on the investment made by the Fund.

19. The income of the Development Bank of Seychelles established under the Development Bank of Seychelles Decree.
20. The income of Seychelles National Oil Company on or after 1.1.94.
21. The income of the Department of Legal Affairs from the provision of legal services to public bodies under Section 13(1) of the Legal Practitioner's Act.
22. The income, on or after 1st January 1995, of the Public Utilities Corporation established under the Public Utilities Corporation Act.
23. The income of the Praslin Development Fund established by the Praslin Development Fund Order 1997.
24. The income of the La Digue Development Fund established by the La Digue Development Fund Order 1997.
25. The income of the Plaine Saint Andre Eco-museum Trust Fund established.
26. The income of Air Seychelles Limited, a company incorporated under the Companies Act 1972.
27. The income of Centre Mont Royal established under the Misuse of Drugs (Centre Mont Royal) Regulations 2001.
28. The income of Seychelles Tourism Board established under the Seychelles Tourism Board Act, 2005.
29. The income of Seychelles Institute of Management established under the Seychelles Institute of Management Act, 2006.
30. The income of National Human Resources Development Council established under the National Human Resources Development Council Act, 2006.
31. The income of Seychelles Centre for Marine Research and Technology – Marine Parks Authority.
32. The income of sellers of lottery and game of chance tickets.

### THIRD SCHEDULE DEPRECIATION

**I.** For the purpose of this schedule -

“approved environmental machinery” includes the capital expenditure incurred by a business on;

- (a) the conservation of energy for own consumption;
- (b) waste recycling activities;
- (c) the use of renewable energy resources; and
- (d) machinery listed in the table 1 below.

*Table 1 – Depreciation allowances*

|                                           | <b>Machinery:</b>          | <b>Minimum Standards:</b> |
|-------------------------------------------|----------------------------|---------------------------|
| 1                                         | Solar photovoltaic modules | IEC 61215                 |
| 2                                         | Wind turbine generators    | IEC 61400                 |
| 3                                         | Wave energy plant          | IEC Standards             |
| International Electrotechnical Commission |                            |                           |

“hotel” means an establishment licensed as a hotel, guesthouse, or self-catering establishment under the Licence Act, 1986.

“research and development expenditure” means capital expenditure incurred by way of a systematic or intensive study carried out in the field of science or technology with the object of using the results of the study for the production or improvement of material, devices, products, produce or processes but does not include -

- (a) Quality control of products or routine testing of materials, devices, products or produce;
- (b) Research in the social sciences or humanities;
- (c) Routine data collection;
- (d) Efficiency surveys or management studies;
- (e) Market research or sales promotions.

2. The depreciation rates specified for section 16 are as follows –
- (a) depreciable assets costing SR10,000 or less – 100%
  - (b) computers, research and development expenditure, data handling equipment, and approved environmental machinery - 40%
  - (c) hotels - 20% in the first tax year and 10% in each subsequent tax year
  - (d) business buildings, ships, and aircraft – 4%
  - (e) other – 20%.
3. The rate of depreciation specified for paragraph 35(1)(b) is 100% for acquisitions up to the value of SR50,000.
- 

#### FOURTH SCHEDULE

#### PAYING WITHHOLDING FOR SPECIFIED BUSINESSES

##### Specified business

- (1) Blaster or Driller
- (2) Cabinet Maker
- (3) Carpenter
- (4) Electrician or Wireman
- (5) Mason
- (6) Labour Contractor
- (7) Building contractor
- (8) Cleaning Contractor
- (9) Maintenance Contractor
- (10) Mechanic (motor vehicle, marine or refrigeration)
- (11) Hirer or operator of plant, equipment including sea vessels, motor vehicle used for the transportation of goods and for towing

- (12) Contractor providing the service of repairing or installing electrical appliances including air conditioners and heaters
  - (13) Contractor providing the service of constructing, repairing or maintaining fibreglass products
  - (14) Welder
- 

### **FIFTH SCHEDULE**

#### **APPROVED GIFTS AND DONATIONS**

1. A gift or donations shall qualify for deductible from assessable income, to the following extent –
    - (a) a gift or donations to a charities – 100% of the gift or donation;
    - (b) a gift or donation to a Non Government Organisations (NGOs) – 100% of the gift or donation.
  2. For the purpose of this Schedule –
  3. “charity” means an entity registered with the Ministry of Finance as a charity and issued with a certificate confirming its status as a charity; and
    - (a) “Non Government Organisations” means an entity registered with the Ministry of Finance as a Non Government Organisations and issued with a certificate confirming its status as a Non Government Organisations.
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**SIXTH SCHEDULE****RATIFIED INTERNATIONAL TAXATION AGREEMENTS**

The following International Taxation Agreements are ratified:

**Table 1 -International Taxation Agreements**

|   | <b>Country</b>      | <b>Signed on</b>  | <b>Gazette reference</b>           | <b>Date of Entry into force</b> | <b>1<sup>st</sup> taxable year of effect</b> | <b>Non-Revocation Period</b> |
|---|---------------------|-------------------|------------------------------------|---------------------------------|----------------------------------------------|------------------------------|
| 1 | <b>China</b>        | 26 August 1999    | Gazetted on 04/10/99 (SI 50 of 99) | 17 Jan 2000                     | 1 January 2001                               | 5 years                      |
| 2 | <b>South Africa</b> | 26 August 1998    | Gazetted on 30/11/98 (SI 73 of 98) | 3 July 2002                     | 1 January 2003                               | 5 years                      |
| 3 | <b>Indonesia</b>    | 27 September 1999 | Gazetted on 10/04/00 (SI 17 of 00) | 16 May 2000                     | 1 January 2001                               | 10 years                     |
| 4 | <b>Oman</b>         | 13 September 2003 | Gazetted on 19/01/04 (SI 1 of 04)  | 20 January 2004                 | 1 January 2005                               | 5 years                      |
| 5 | <b>Botswana</b>     | 26 August 2004    | Gazetted on 06/12/04 (SI 37 of 04) | 22 June 2005                    | 1 Jan 06 (Sey) - 1 July 06                   | 5 years                      |
| 6 | <b>Mauritius</b>    | 11 March 2005     | Gazetted on 30/05/05 (SI 25 of 05) | 22 June 2005                    | 1 Jan 06 (Sey) - 1 July 06                   | 5 years                      |
| 7 | <b>Thailand</b>     | 26 April 2001     | Gazetted on 06/12/04 (SI 36 of 04) | 14 April 2006                   | 1 January 2007                               | 10 years                     |
| 8 | <b>Malaysia</b>     | 3 December 2003   | Gazetted on 29/11/04 (SI 34 of 04) | 10 July 2006                    | 1 January 2007                               | 5 years                      |
| 9 | <b>Vietnam</b>      | 4 October 2005    | Gazetted on 12/12/05 (SI 54 of 05) | 7 July 2006                     | 1 January 2007                               | 5 years                      |

|    | Country  | Signed on         | Gazette reference                  | Date of Entry into force | 1 <sup>st</sup> taxable year of effect | Non-Revocation Period |
|----|----------|-------------------|------------------------------------|--------------------------|----------------------------------------|-----------------------|
| 10 | Cyprus   | 28 June 2006      | Gazetted on 14/08/06 (SI 32 of 06) | 2 November 2006          | 1 January 2007                         | 5 years               |
| 11 | UAE      | 18 September 2006 | Gazetted on 11/12/06 (SI 46 of 06) | 23 April 2007            | 1 January 2008                         | 10 years              |
| 12 | Barbados | 19 October 2007   | Gazetted on 24/12/07 (SI 40 of 07) | 28 February 2008         | 1 January 2009                         | 5 years               |

## SEVENTH SCHEDULE

### SPECIAL PROVISIONS RELATING TO SPECIFIED ENTITIES

#### 1. Businesses subject to special treatment

The following businesses are subject to tax at the rate specified in this Schedule and in accordance with the methodology specified in this Schedule.

##### Exclusive Shop

The rate payable by a person issued with a licence as an importer/retailer operating an Exclusive Shop or an Exclusive Shop Outlet as authorised by the Government is 12% on total turnover.

##### Duty Free Shop

The rate payable by a person issued with a licence as an Importer/retailer operating as a Duty Free Shop as authorised by the Government is 12% on total turnover.

#### 4. International Corporate Service Providers

The rate payable by an International Corporate Service Provider registered under the International Corporate Service Providers Act 2003 in respect of its income shall be the aggregate of the following amounts paid to a licensee in respect of specified entities –

- (a) 15% of fees in respect of incorporation or registration;
- (b) 7.5% of fees in respect of annual renewal of license; and
- (c) 5% of all other fees.

#### 5. Companies (Special Licenses)

- (1) The rate payable by Companies (Special Licenses) registered under the Companies (Special Licenses) Act 2003 in respect of its global taxable income is 1.5%.
- (2) The rates of withholding tax under this Act on payments made by a company referred to in sub-paragraph (1) are as follows –
  - (a) In respect of dividend paid to a resident – 0%
  - (b) In respect of dividend paid to a non-resident – 0%
  - (c) In respect of interest paid to a resident – 0%
  - (d) In respect of interest paid to a non-resident – 0%
  - (e) In respect of royalty paid to a non resident for the use of, or the right to use, any copyright, patent, design or model or plan or trademark – 0%
  - (f) In respect of royalty paid to a non-resident for the use of, or the right to use, any secret formula, process or know-how whether the know how is technical, managerial or otherwise and any other intellectual property or right - 0%
  - (g) In respect of royalty paid to a non-resident for the use of, or the right to use, any industrial, commercial or scientific equipment – 0%

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 18th December, 2009.

A handwritten signature in black ink, consisting of a large 'V' followed by a stylized 'B' and a small flourish.

Veronique Bresson  
Clerk to the National Assembly