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BUSINESS TAX ACT 1987

(Act 10 of 1987)

AN ACT to enable the levy, assessment and payment of a business tax in respect of the income of a business; to repeal the Income Tax Assessment Decree, 1978 and the Income Tax (Rates) Decree, 1978, and for connected purposes.

ENACTED by the President and the People's Assembly.

PART I - PRELIMINARY

Short title **1.** This Act may be cited as the Business Tax Act, 1987.

Interpretation **2.** - (1) In this Act, unless the context otherwise requires -

"Agent" includes -

(a) Every person who in Seychelles, for or on behalf of any person out of Seychelles, holds or has the control, receipt or disposal of any money belonging to the person out of Seychelles; and

(b) Every person declared by the Commissioner to be an agent or the sole agent of any person for any of the purposes of this Act;

"Agent's certificate" means a certificate under section 92;

"Allowable deduction" means a deduction allowable under this Act;

"Assessable income" means all the amounts, which under the provisions of this Act are included in the assessable income;

"Assessment" means the ascertainment of the amount of taxable income and of the tax payable thereon;

"Business" means any commercial or profit making venture entered into by a person and includes any 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 tax" or "tax" means the business tax payable under this Act;

"Capital reserve" shall have the same meaning ascribed to it by section 55 of the Companies Act 1972;

"Company" includes all bodies or associations corporate or non-corporate, but does not include a partnership;

"Commissioner" means the Commissioner of Taxes appointed pursuant to section 5 and, in relation to the exercise or performance of any function under this Act, includes any officer appointed pursuant to section 6 exercising or performing the functions of the Commissioner pursuant to section 7;

"Director of Social Security" means the of Social Security appointed under the Social Security Act 1987;

"Dividend" includes -

(a) Any distribution made by a company to any of its shareholders whether in money or other property;

(b) Any amount credited by a company to any of its shareholders as shareholders; and

(c) The paid-up value of shares issued by a company to any of its shareholders to the extent to which the paid-up value represents a capitalization of profits,

But does not include -

(d) Moneys paid or credited by a company to a shareholder or any other property distributed by a company to shareholders (not being moneys or other property to which this paragraph, by reason of subsection (5), does not apply) when the amount of the moneys paid or credited or the amount of the value of the property is debited against the capital reserve of the company;

(e) Moneys paid or credited, or property distributed by a company by way of repayment of moneys paid-up on a share except to the extent that -

(i) If the share is cancelled or redeemed, the amount of those moneys or the value of that property, as the case may be, is greater than the amount to which the share was paid-up immediately before the cancellation or redemption; or

(ii) In any other case, the amount of those moneys or the value of that property, as the case may be, is greater than the amount to which the share was paid-up immediately before the repayment exceeds the amount to which the share is paid-up after the repayment; or

(f) A reversionary bonus on a policy of life assurance;

Act 11 of 1987

"Employee" means a person who is in the employment of another person and is liable to pay contribution in respect of the emolument received by him in respect of that employment under the Social Security Act, 1987, whether or not he or the emolument is exempted under that Act;

"Exempt income" means income, which is exempt from tax and includes income, which is not assessable income;

"Fishing operations" means operations relating directly to the taking or catching of fish, turtles, crustacean or shellfish and includes oyster farming;

"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;

Provided that credit deducted under paragraph (b) shall be included in the gross gaming revenue for the tax year in which it is collected, whether in Seychelles or elsewhere;

"Liquidator" means the person who, whether or not appointed as liquidator, is the person required by a written law to carry out the winding-up of a company;

"Livestock" does not include animals used as beasts of burden or working beasts in a business other than a business of primary production;

"Mortgage" includes any charge, lien or encumbrance to secure the repayment of money;

"Non-resident" means a person who is not a resident of Seychelles;

"Paid", in relation to dividends, includes credited or distributed;

"partnership" means an association of persons carrying on business as partners or in receipt of assessable income jointly but does not include a company;

"Permanent establishment", in relation to a person, means a place at or through which the person carries on any business, and, without limiting the generality of the foregoing, includes –

(a) A place where the person is carrying on business through an agent;

(b) A place where the person is using or is installing substantial equipment or substantial machinery;

(c) A place where the person is engaged in a construction project; and

(d) Where the person is engaged in selling goods manufactured, assembled, processed, packed or distributed by another person for, or at or to the order of, the first-mentioned person and either of those persons participates in the management, control or capital of the other person or another person participates in the management, control or capital of both of those persons, the place where the goods are manufactured, assembled, processed, packed or distributed,

but does not include -

(e) A place where the person is engaged in business dealings through a bona fide commission agent or broker who, in relation to those dealings, acts in the ordinary course of his business as a commission agent or broker and does not receive remuneration otherwise than at a rate customary in relation to dealings of that kind, not being a place where the person otherwise carries on business;

(f) A place where the person is carrying on business through an agent -

(i) Who does not have, or does not habitually exercise, a general authority to negotiate and conclude contracts on behalf of the person; or

(ii) Whose authority extends to filling orders on behalf of the person from a stock of goods or merchandise situated in the country where the place is located, but who does not regularly exercise that authority,

Not being a place where the person otherwise carries on business; or

(e) A place of business maintained by the person solely for the purpose of purchasing goods or merchandise;

"Person" includes a company, partnership or any owner of a business;

"previous Act" means the Income Tax Assessment Decree 1978 repealed by this Act, and when considered in relation to any time means that Act or, if it has been amended, that Act as amended, as in force at that time;

"Primary production" means production resulting directly from -

(a) The cultivation of land;

(b) The maintenance of animals or poultry for the purpose of selling them or their bodily produce, including natural increase; or

(c) Fishing operations,

And includes the manufacture of dairy produce by the person who produced the raw material used in that manufacture;

"Provisional income" means the amount of assessable income it is estimated that a business will derive in a tax year;

"Provisional tax" means the amount of tax the owner of a business is liable to pay under Division 2 of Part VII;

"Provisional tax year" means the relevant year in which installments of provisional tax become due and payable;

"Relative", in relation to any person, means any of the following -

(a) The parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of that person or the spouse of that person; and

(b) The spouse of that person or of any other person specified in paragraph (a) of this definition;

"Resident" or "resident of Seychelles" means -

(a) A person (other than a company or partnership) who resides in Seychelles and includes a person-

(i) Whose domicile is in Seychelles, unless the Commissioner is satisfied that his permanent place of abode is outside Seychelles; or

(ii) Who has actually been in Seychelles, continuously or intermittently, during more than one-half of the tax year, unless the Commissioner is satisfied that his usual place of abode is outside Seychelles and that he does not intend to take up residence in Seychelles;

(b) A company which is incorporated in Seychelles, or which, not being incorporated in Seychelles, carries on business in Seychelles, and has either its central management and control in Seychelles, or its voting power controlled by shareholders who are residents of Seychelles; and

(c) A company which is unincorporated but which has its central management and control in Seychelles;

(d) A partnership, wherever constituted, which carries on business in Seychelles, and -

(i) Has either its principal place of business or central management and control in Seychelles, or

(ii) One of the partners in the firm is resident in Seychelles;

"Royalty" or "royalties" includes any payment, whether periodical or not, and however described or computed, to the extent to which it is paid as consideration for -

(a) The use of, or the right to use, any copyright, patent, design or model, plan, secret formula, process or know-how, whether the know-how is technical, managerial or otherwise, trade mark, or any other intellectual property or right;

(b) The use of, or the right to use, any industrial, commercial or scientific equipment;

(c) The supply of scientific, technical, industrial or commercial knowledge, information or services;

(d) 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, equipment, knowledge, information or services referred to in this definition; and

includes royalties or other amounts paid in respect of the operation of mines or removal of natural resources but, notwithstanding the preceding provisions of this definition, does not include any payment made as consideration for services performed by a non-resident travel agency for a resident travel agency;

"Shareholder" includes member or stockholder;

"Shares", in relation to a company, means shares in the capital of the company, and includes stock;

"Social Security Section" means the public body for the time being responsible for social security;

"Specified business" means the business specified in the Sixth Schedule;

"Taxable income" means the amount remaining after deducting from the assessable income all allowable deductions;

"Tax year" means a period of twelve months beginning on the 1st January in any year and ending on the 31st December in that year;

"Trading stock" includes anything produced, manufactured, acquired or purchased for purposes of manufacture, sale or exchange, and also includes livestock;

"Trustee" in addition to every person appointed or constituted trustee by act of parties, by order, or declaration of a court, or by operation of law, includes -

(a) An executor or administrator, guardian, committee, receiver or liquidator;

(b) Every person having or taking upon himself the administration or control of income affected by any express or implied trust, or acting in any judiciary capacity, or having the possession, control or management of the income of a person under any legal or other disability;

(c) The Curator of Vacant Estates; and

(d) a fiduciary appointed in accordance with the Civil Code;

"Withholding tax" means business tax payable in accordance with Part IV of this Act.

(2) Except where it is otherwise specifically provided, where under this Act -

(a) A business is liable to tax or to pay any sum, fine or penalty -

(i) In the case where the business is owned by a person other than a partnership, the person who was the owner of the business at the time when the liability arose shall be liable to pay the tax, sum, fine or penalty, or

(ii) In the case where the business is owned by a partnership, the partners in the partnership at the time when the liability arose shall be jointly and severally liable to pay the tax, sum, fine or penalty;

(b) A business is required to perform any act or discharge any obligation -

(i) In the case where the business is owned by a person other than a partnership, the person who was the owner of the business at the time when the business was required to perform the act or discharge the obligation shall be liable to perform the act or discharge the obligation,

(ii) In the case where the business is owned by a partnership, the partners in the partnership at the time when the business was required to perform the act or discharge the obligation shall be jointly and severally liable to perform the act or discharge the liability.

(3) Where under this Act any return, statement, notice or other document is required to be signed by a business, the return, statement, notice or document shall be signed -

(a) In the case where the business is owned by a company, by the public officer of the company;

(b) In the case where the business is owned by a partnership, by a partner in the partnership,

(c) In any other case, by the owner of the business or the person duly authorized by the owner of the business.

(4) Unless the contrary intention appears, any reference in this Act to a tax year commencing or ending on a specific date shall be deemed to include, in relation to which a business which had adopted or which is deemed to have adopted under this Act, an accounting period instead of that tax year, a reference to that accounting period.

(5) Subject to subsection (6), where, in pursuance of or as part of an agreement or an arrangement, whether oral or in writing, being an agreement or an arrangement made after the commencement of this Act -

(a) A company issues shares at a premium, being a premium which is carried to the credit of the company's capital reserve; and

(b) The company pays or credits any moneys, or distributes any other property, to shareholders in the company and the amount of the moneys so paid or credited or the amount of the value of the property so distributed is debited against the company's capital reserve,

Paragraph (d) of the definition "dividend" in subsection (1) does not apply to the moneys so paid or credited or to the property so distributed.

(6) Where moneys so credited are, in pursuance of or as part of the agreement or arrangement, applied or to be applied in paying up an amount on a share issued or to be issued by the company, the credit shall be disregarded for the purposes of subsection (5) unless, in pursuance of or as part of the agreement or arrangement, the company by means of the redemption or cancellation, or of a reduction in the paid-value, of that share or any other share in the company, is to pay or to transfer to, or pay, transfer or apply on

behalf of or at the discretion of, the holder of the share, any money or other property other than shares in the company.

(7) Unless the context otherwise requires, the express reference in this Act to companies does not imply that reference to persons does not include reference to companies.

(8) Where a place is, by virtue of paragraph (d) of the definition of "permanent establishment", the permanent establishment of a person, the person shall, for the purposes of this Act, be deemed to be carrying on at or through the permanent establishment the business of selling the goods manufactured, assembled, processed, packed or distributed by the other person at the place that is that permanent establishment.

(9) Where a non-resident person carries on business in Seychelles through a branch, the branch shall be deemed, for the purposes of this Act, to be a company incorporated, and carrying on business, in Seychelles.

Income attributable to dividends

3. (1) For the purposes of this Act, an amount of income derived by a person, not being a dividend paid by a company to the person as a shareholder in the company, shall be deemed to be attributable to a dividend -

(a) If the person derived the amount of income by reason of being the beneficial owner of the share in respect of which the dividend was paid; or

(b) If the person derived the amount of income as a beneficiary in a trust estate and the amount of income can be attributed, directly or indirectly, to the dividend or to an amount that is deemed, by any application or successive applications of this subsection, to be an amount of income attributable to the dividend.

(2) Where a beneficiary in a trust estate is presently entitled to income of the trust estate, that income shall, for the purposes of this section, be deemed to be an amount of income derived by the person.

Royalty paid to non-resident

4. (1) This section applies to income that is derived on or after the commencement of this Act by a non-resident and consists of royalty that -

(a) Is paid to the non-resident by the Government or a public body or by a person who is, or by persons at least one of whom is, a resident, and is not an outgoing wholly incurred by the Government or the public body or that person or those persons in carrying on business in a country outside Seychelles at or through a permanent establishment of the Government, the public body or that person or those persons in that country; or

(b) Is paid to the non-resident by a person who is, or by persons each of whom is, a non-resident and is, or is in part, an outgoing incurred by that person or those persons in carrying on business in Seychelles at or through a permanent establishment of that person or those persons in Seychelles.

(2) For the purposes of sections 21 and 172 but subject to subsections (3) and (4), income to which this section applies shall be deemed to have been derived from a source in Seychelles.

(3) Where -

(a) income to which this section applies is paid to the non-resident by whom it is derived by the Government, by a public body or by a person who is, or by persons at least one of whom is, a resident; and

(b) the royalty of which the income consists is, in part, an outgoing incurred by the Government, the public body or that person or those persons in carrying on business in a country outside Seychelles at or through a permanent establishment of the Government, the public body or that person or those persons in that country,

subsection (2) has effect in relation to so much only of the income as is attributable to so much of the royalty as is not an outgoing so incurred.

(4) Where -

(a) income to which this section applies is paid to the non-resident by whom it is derived by a person who, or by persons each of whom, is a non-resident; and

(b) the royalty of which the income consists is, in part only, an outgoing incurred by the person or persons by whom it is paid in carrying on business in Seychelles at or through a permanent establishment of that person or those persons in Seychelles,

subsection (2) has effect in relation to so much only of the income as is attributable to so much of the royalty as is an outgoing so incurred.

PART II. - ADMINISTRATION

Commissioner of Taxes

5. - (1) There shall be appointed a Commissioner of Taxes.

(2) The Commissioner shall be responsible for the management and collection of the tax.

Appointment of officers

6. There shall be appointed such officers, including assessors and investigators, as may be necessary for the administration of this Act.

Exercise of powers

7. (1) The Commissioner may, subject to such limitations as he may think fit to impose, authorise any person or officer under his control to exercise and perform any of the functions of the Commissioner under this Act.

(2) For the purposes of subsection (1) any person whose services are provided by a Government or an agency to assist with the administration of this Act shall be deemed to be under the control of the Commissioner.

Officers to observe secrecy

8. (1) For the purposes of this section and section 9, "officer means a person who is or has been appointed or employed by the Government or whose services are provided by another Government or an agency to assist with the administration of this Act, and who by reason of that appointment or employment or by reason of so assisting, or in the course of that employment or of so assisting, may acquire or has acquired information respecting the affairs of any other persons, disclosed or obtained under the provisions of this Act or the previous Act.

(2) Subject to this section, an officer shall not, either directly or indirectly, except in the performance of any duty as an officer, and either while he is, or after he ceases to be, an officer, make a record of, or divulge or communicate to any person (including a Minister) any such information so acquired by him.

(3) An officer shall not be required to produce in court any return, assessment or notice of assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties as an officer, except when it is necessary to do so for the purposes of carrying into effect the provisions of this Act or the previous Act.

(4) Nothing in this section shall prevent -

(a) any officer or person from revealing any document or information relating to the income of any person or any confidential instructions in respect of the administration of this Act to any other such officer or person, so employed, in the course of his duties or to any court or person for the purposes of this Act;

(b) any officer from revealing any document or information referred to in paragraph (a) solely for revenue or statistical purposes to any person in the service of the Government in a revenue or statistical division where such document or information is needed for the purposes of the official duties of the person in that service and when the person in that service has made and subscribed a declaration of secrecy in relation to any information coming to his knowledge in the course of his official duties;

(c) any officer from revealing any document or information referred to in paragraph (a) to the Director of Audit or to any authorised member of his division or to an internal auditor in the Department of Finance, where such document or information is needed for the performance of his official duties, or

(d) any officer from revealing any document or information referred to in paragraph (a) to the Director of Social Security or to any person of the Social Security Section authorised by the Director, where the document or

information is needed for the performance of official duties of the Director or the person authorised by the Director.

(5) Any person to whom information is communicated under subsection (4), and any person under his control, shall in respect of that information be subject to the same rights, privileges, obligations and liabilities under subsection (2) or (3) as if he were an officer.

(6) An officer shall, if and when required by the Commissioner to do so, make an oath in the manner and form prescribed, to maintain secrecy in accordance with this section.

(7) Nothing in this section shall operate so as to prevent the disclosure of information in pursuance of a requirement under any other law to do so, or for the purposes of any other law.

Offences in relation to officers

9. Any officer or any other person employed in carrying out the provisions of this Act who -

(a) directly or indirectly asks for, or takes, in connection with any of his duties any payment or reward, whether pecuniary or otherwise, or any promise or security for any such payments or reward, not being a payment or reward which he is lawfully entitled to receive;

(b) enters into or acquiesces in any agreement to do, abstain from doing, to permit, to conceal, or to connive at, any act or thing whereby the tax revenue is or may be defrauded, or which is contrary to this Act or to the proper performance of his duty under this Act, or

(c) in contravention of section 8, and without lawful excuse, reveals to any person any document or information which has come into his possession or to his knowledge in the course of his official duties, or permits any other person to have access to any document in the possession or custody of the Commissioner in his official capacity,

shall be guilty of an offence and liable on conviction to a fine of ten thousand rupees and to imprisonment for three years.

Free postage

10. Any return, additional information or resulting correspondence, or payment of tax under this Act may be sent free of postage in an envelope addressed to the Commissioner and marked "Business Tax".

PART III - LIABILITY TO TAXATION

DIVISION I - GENERAL

Levy of business tax

11. (1) Subject to this Act, business tax at the rates declared in the First Schedule is levied, for the tax year that commences on the 1st January 1988, and for each succeeding tax year upon the taxable income of a business derived in the tax year and shall be paid by the owner of the business in accordance with this Act.

(2) Where the owner of a business is a partnership, the partners in the partnership shall be jointly and severally liable to pay the tax in respect of the taxable income of the business of the partnership.

Ownership of more than one business

12. (1) For the purposes of this Act where two or more businesses are solely owned by one person the businesses shall, subject to subsection (3), be deemed to constitute one business in the sole ownership of that person.

(2) Notwithstanding any other provision of this Act, where one or more business is owned by a partnership, the individual interest of a partner in the loss of the business of the partnership shall not be an allowable deduction against the assessable income of any other business of the partner and nor shall any outgoing or expenditure incurred individually by a partner in connection with the business be an allowable deduction against any other assessable income of a business owned by the partner.

(3) Subsection (1) shall not apply where any one or more of two or more businesses solely owned by a person is a specified business and -

(a) for the purposes of section 135A, each such specified business shall constitute a separate business solely owned by that person; and

(b) for other purposes of the Act, all the businesses solely owned by that person shall constitute one business in the sole ownership of that person.

Cessation of ownership of business

13. (1) Subject to this section, where there is a change in the ownership of a business, the business is deemed to have been permanently discontinued at the date of change and a new business to have been set up and commenced on that date.

(2) Where a business is owned solely by an individual and the owner of the business dies, subsection (1) applies on the subsequent passing of the business to his heir.

(3) Where the executor or a representative of the estate of the deceased referred to in subsection (2) continues to carry on the business before the passing of the business to the heirs, the business shall be deemed not to have discontinued under subsection (1) and the executor or representative shall be deemed, for the purposes of this Act, to be the owner of the business.

(4) Where a business is owned -

(a) by one person and the owner of the business takes another person into partnership with him;

(b) by a partnership and there is a change of partners in the partnership -

(i) on the death of a partner,
(ii) on the retirement of a partner, or
(iii) on the admission of a new partner in the partnership, or

(c) by a partnership and the partnership is dissolved and the business is transferred to a person who was a partner in the partnership immediately before its dissolution,

the business shall not be treated as having changed ownership for the purposes of calculating the taxable income of the business and all the persons who are or have been at any one time during the tax year an owner of the business, either as a sole owner of the business or as a partner in the partnership which owns the business, shall, subject to

subsection (5), be jointly and severally liable to pay tax on the assessable income of the business derived in the tax year.

(5) For the purposes of subsection (4) and notwithstanding any agreement to the contrary, a person who has ceased to be a partner in a partnership shall only be liable to tax up to an amount which he would have been liable to pay if the business had ceased at the time when he ceased to be a partner, provided he notifies the Commissioner that he has ceased to be a partner within 14 days thereof.

(6) Notwithstanding anything in the subsection (1), where there is a change in ownership of a business the person who owned the business immediately before the change (referred to in this section as the "old owner") and the person who becomes the owner of the business immediately after the change (referred to in this section as the "new owner") may, by notice signed by them and sent to the Commissioner within three months from the date of change, elect that subsection (1) shall not apply.

(7) The Commissioner shall, within one month after receiving a notice of election under subsection (6), notify the persons who have signed the notice whether he accepts the election.

(8) Where the Commissioner has accepted an election under subsection (7) -

(a) the business shall be treated as if it had not discontinued and a new business set up and commenced as provided in subsection (1), and

(b) the new owner of the business shall be treated for all purposes of this Act as if he had owned the business continuously before the change of ownership of the business, except with regard to the liability to tax of the old owner which arose in a tax year preceding the tax year in which the change of ownership occurred.

Accounting Period

14. A person may, with the leave of the Commissioner, adopt an accounting period, being the twelve months ending on a date other than 31st December and, in any such case, the accounting period of the business in each succeeding year shall end on the corresponding date of that year, unless with the leave of the Commissioner some other date is adopted.

Money credited or otherwise dealt with to be income

15. Income shall be deemed to have been derived by a business although it is not actually brought to account of the business but is reinvested, accumulated, capitalized, carried to any reserve, sinking fund or insurance fund, however the reserve or fund be designated, or otherwise dealt with on behalf of the business or as directed by the owner of the business.

Income to be expressed in Seychelles currency

16. For the purposes of this Act, income wherever derived and expenses wherever incurred shall be expressed in the currency of Seychelles.

Where consideration not in cash

17. Where, upon any transaction, any consideration is paid or given otherwise than in cash, the money value of that consideration shall, for the purposes of this Act, be deemed to have been paid or given.

Income arising from past transaction

18. Where any income is received in the tax year as a result of a transaction entered into prior to the commencement of this Act and that income would have been assessable income under the previous Act if that Act had continued in force and had applied to the assessment of the income derived in the tax year that income shall be assessed under this Act notwithstanding that that transaction was entered into prior to the commencement of this Act.

Exemption

19. (1) The income specified in the Second Schedule shall be exempt from tax to the extent specified.

(2) The Minister may, by order published in the Gazette, exempt from tax to the extent specified in the Order, the interest payable on any loan.

(3) The Minister may issue a certificate exempting either in whole or in part, from business tax, the income of a business carried on in Seychelles where the business is owned by a non-resident and the Minister is of the opinion that any activities of the business have assisted or will assist in the economic development of Seychelles.

Limitation of exemption

20. (1) Where any income is exempt from tax, the exemption shall be limited to the specified or original business receiving the income and shall 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.

(2) The exemption of any income from tax shall not exempt a person from furnishing any return or information which is required by the Commissioner, or from including in his return such information as is prescribed, or as is required by the Commissioner.

DIVISION 2 - INCOME

SUB DIVISION A - ASSESSABLE INCOME GENERALLY

Assessable income

21. (1) Subject to this Act, the assessable income of a business includes the gross income derived, or deemed to be derived, from a source in Seychelles by the business, whether directly or indirectly, which is not exempt income.

(2) For the purposes of this Act, income shall be deemed to be derived by a business from a source in Seychelles where it is derived by the business in respect of -

(a) a contract made by a person in Seychelles for the sale of goods, whether the goods have been, or are to be, delivered in or outside Seychelles;

(b) anything done by a person in Seychelles, whether the payment therefore is made by a resident of Seychelles or a non-resident and wherever payment is made;

(c) anything done by a person who is a resident as owner or charterer of any vessel, wherever the ship or aircraft may be operated;

(d) any activities carried on by, or any investment made by, a financial institution, as defined in the Financial Institutions Act, 1984, in the course of the operation of the financial institution in Seychelles;

(e) its activities as a casino on the gross gaming revenue of the casino, notwithstanding that the gross gaming revenue of the casino is in addition taxed under any other provision of this Act.

Other items of assessable income

22. (1) Subject to section 87, the assessable income of a business also includes -

(a) any amount received as or by way of royalty;

(b) any bounty or subsidy received in or in relation to the business;

(c) the amount of any fee or commission received for processing a loan of money or the sale of property;

(d) any amount received as or by way of insurance or indemnity for or in respect of any loss -

(i) of trading stock which would have been taken into account in computing taxable income, or

(ii) of profit or income which would have been assessable income,

if the loss had not occurred, and any amount so received for in respect of loss or outgoing which is an allowable deduction;

(e) any amount received by way of insurance, indemnity, recoupment, recovery or reimbursement in respect of the whole or part of a loss that has been allowed or is allowable as an allowable deduction;

(f) any amount received by way of contribution towards, or refund of, an amount paid by the business which has been allowed or is allowable as an allowable deduction or in respect of which a rebate of tax has been allowed or is allowable in an assessment for tax under this Act or the previous Act;

(g) any profit arising from the sale of an option on land or the sale of any property acquired for the purpose of profit-making by sale, or from the carrying on or carrying out of any profit-making undertaking or scheme;

(h) any premium received relating to the grant, assignment or surrender of a lease of property;

(i) any amount received by way of indemnity, compensation or damages for the non-performance by a lessee of an obligation to carry out repairs to property of the business;

(j) any amount distributed to a partner as the partner's share in the partnership profit, and

(k) any amount distributed to a beneficiary as his share of the income of a trust estate.

(2) For the purposes of this section -

"option" includes any agreement in the nature of an option, whether or not it is legally enforceable;

"premium" includes any consideration in the nature of a premium, fine or forfeit payable in connection with the grant, assignment or surrender of a lease;

"property" includes an interest in property.

SUB DIVISION B - TRADING STOCK

Trading stock taken into account

23. (1) For the purpose of ascertaining the taxable income of a business the value of all trading stock on hand at the beginning of the tax year and all trading stock on hand at the end of the tax year shall be taken into account.

(2) Where all the trading stock on hand at the end of a tax year exceeds the value of all trading stock on hand at the beginning of the tax year, the assessable income of the business shall include the amount of the excess.

(3) Where all the trading stock on hand at the beginning of a tax year exceeds the value of all trading stock on hand at the end of the tax year, the amount of excess shall be an allowable deduction.

Value at the beginning of tax year

24. The value of livestock and of each article of other trading stock to be taken into account at the beginning of a tax year shall be its value as ascertained under this Act or the previous Act at the end of the year immediately preceding the tax year.

Value at end of tax year

25. (1) Subject to this section, the value of each article of trading stock, not being livestock, to be taken into account at the end of the tax year shall be, at the option a business, its cost price or market selling value or the price at which it can be replaced.

(2) Where the Commissioner is satisfied, in relation to any trading stock of a business that, by reason of the obsolescence of, or any other special circumstances relating to, the trading stock, the value of the trading stock to be taken into account at the end of the tax year should be an amount, being less than the amount that is the lowest value that could

be applicable under subsection (1), determined by the Commissioner to be fair and reasonable value of the trading stock having regard to-

(a) the quantity of trading stock on hand at the end of the tax year;

(b) the quantity of the trading stock sold, exchanged or used in manufacture by the business after the end of the tax year and the prospects of sale, exchange or use in manufacture of further quantities of that trading stock;

(c) the quantity of trading stock of that same kind sold, exchanged or used in manufacture by the business during the tax year and preceding tax years, and

(d) such other matters as the Commissioner considers relevant,

the value of the trading stock to be taken into account shall, notwithstanding any exercise of the option under subsection (1), be the value determined by the Commissioner.

Value of live stock at end of tax year

26. (1) Subject to subsection (2), the value of livestock to be taken into account at the end of the tax year shall be, at the option of a business, its cost price or market selling value, and where the business does not exercise the option within the time and in the manner prescribed, the value so to be taken into account shall be the cost price.

(2) Where the business, referred to in subsection (1), satisfies the Commissioner that there are circumstances which justify the adoption by the business of some value other than cost price or market selling value for the whole or part of his livestock, the business may, with the leave of the Commissioner, adopt that other value.

Change in basis of valuation of livestock

27. A business shall not, except with the leave of the Commissioner, adopt a basis of valuation its livestock taken into account at the end of the tax year different from the basis on which the valuation of this livestock was made when it was last taken into account at the end of a previous year, whether under this Act or the previous Act.

Cost price of natural increase

28. (1) The cost price per head of natural increase of any class of livestock of a business shall be -

(a) where the cost of natural increase of that class has been previously taken into account under this Act by the business, the cost per head at which natural increase of that class was taken into account unless, with the leave of the Commissioner, the business selects another cost price, and

(b) where the cost price of natural increase of that class has not been previously taken into account under this Act by the owner of the business, the cost price selected by him, not being less than the minimum cost price prescribed in respect of live stock of that class.

(2) Where a business does not so select the cost price referred to in subsection (1) within the time and in the manner prescribed, it shall be deemed to have selected, as the cost price, the prescribed minimum cost price.

Disposal of trading stock

29. (1) Where -

(a) a business disposes by sale, gift, or otherwise of property being trading stock;

(b) that property constitutes or constituted the whole or part of the assets of that business, and

(c) the disposal was not in the ordinary course of carrying on the business,

the value of that property shall be included in the assessable income of the business and the person acquiring that property shall be deemed to have purchased it at a price equal to that value.

(2) For the purposes of this section, the value of any property or livestock shall be-

(a) the market value of the property or live stock on the day of the disposal; or

(b) if, in the opinion of the Commissioner, there is insufficient evidence of the market value on that day, the value which in his opinion is fair and reasonable.

Devolution

30. (1) Where the assets of a business owned by an individual devolve by reason on death of the death of the individual and those assets include any property being trading stock, the value of that property shall, subject to this Act, be included in the assessable income derived by the business up to the date of the death of the individual and the person on whom the property devolves shall be deemed to have purchased it at that value.

(2) For the purposes of this section, and subject to subsection (3), the value of the property is the amount which, under section 29, would have been included in respect of that property in the assessable income of the business if the owner of the business had not died but had disposed of the property, otherwise than in the ordinary course of his business, on the day of his death.

(3) If the trustee of the estate of the deceased and the beneficiaries (if any) unanimously agree and give notice of their agreement to the Commissioner at the time and in the manner prescribed, that value shall be the value, if any, at which the property would have been taken into account at the date of the death of the deceased person if he had not died, but an assessment had been made in respect of the income of the business to which the property belonged on the date of his death.

(4) This section does not apply where a business is deemed to be continued under section 13(3).

SUB DIVISION C - BUSINESS CARRIED ON PARTLY IN AND PARTLY OUT OF SEYCHELLES

Sales by manufacturers

31. Where goods manufactured out of Seychelles are imported into Seychelles and the goods are, either before or after importation, sold in Seychelles by the business which manufactured the goods, the profit deemed to be derived in Seychelles from the sale shall be ascertained by deducting from the sale price of the goods the amount for which, at the date the goods were shipped to Seychelles, goods of the same nature and quality could be purchased by a wholesale buyer in the country of manufacture, and the expenses incurred in transporting them to and selling them in Seychelles.

Sales by merchants

32. Where goods which are imported into Seychelles are either before or after importation, sold in Seychelles other than by the business which manufactured the goods, the profit deemed to be derived in Seychelles from the sale shall be ascertained by deducting from the sale price of the goods their purchase price and the expenses incurred in transporting them to and selling them in Seychelles.

Determination by Commissioner

33. Where the profit cannot be ascertained under section 31 or section 32 to the satisfaction of the Commissioner, it shall be deemed to be such amount as the Commissioner determines.

Goods deemed to be sold in Seychelles

34. (1) Where a person sells goods by means of anything done by himself when in Seychelles, or by means of an agent or representative in Seychelles, and those goods are in Seychelles or are to be brought into Seychelles for the purpose, or in pursuance or in consequence, of such sale, he shall be deemed to have sold them in Seychelles.

(2) For the purposes of this section, a sale is deemed to be made by means of a person or of something done when such person or thing done is instrumental in bringing about the sale.

Ex-Seychelles profits

35. In any case, not specified in sections 31, 32, 33 and 34, where -

(a) by reason of the manufacture, production, or purchase of goods in one country and their sale in another;

(b) by reason of successive steps of production or manufacture in different countries; or

(c) by reason of the making of contracts in one country and their performance in another,

or for any other reason whatever, a question arises whether the whole or any part (and, if a part, what part) of any profit is derived by a business from sources in Seychelles, the question shall be determined in accordance with the regulations, or if there are no regulation applying to the case, shall be determined by the Commissioner.

Assessable income to include certain profits

36. (1) The assessable income of a business shall include any profit derived by the business in the tax year which, under this subdivision, is derived or deemed to be derived in Seychelles and the proceeds of any sale to which this subdivision applies shall not otherwise be included in the assessable income of the business.

(2) No amount taken into account in ascertaining any such profit, and no expenditure incurred directly or indirectly in or in relation to any such sale, shall be an allowable deduction.

SUB DIVISION D - DIVIDENDS

Dividends

37. (1) Subject to this Division and section 87, the assessable income of a business includes dividends paid by a company, whether the company is a resident or a non-resident, to the extent to which the dividends are paid out of profits derived by the company from sources in Seychelles.

(2) Where -

(a) the amount of the money or the value of other property of which the dividend paid by a company consists is debited against the capital reserve of the company, or

(b) a dividend paid by a company is a repayment by the company of money paid upon a share,

the dividend shall, for the purposes of this section, be deemed to have been paid by the company out of profits derived by it.

(3) The assessable income of a business shall not include dividends paid by a company wholly and exclusively out of profits arising from the sale or revaluation of assets not acquired for the purpose of resale at a profit if the dividends paid from such profits are satisfied by the issue of shares, other than redeemable shares, of the company declaring the dividends.

(4) For the purposes of subsection (3), a share issued by a company shall be deemed to be redeemable share if -

(a) the share is, or at the option of the company is to be, liable to be redeemed, or

(b) the share was issued in pursuance of, or as part of, an agreement or arrangement whether oral or in writing and whether entered into before or after the commencement of this Act, that had the purpose, or purposes that include the purpose, of enabling the company, by means of the redemption, purchase, or cancellation, or of a reduction in the paid-up share value, of that share or of any other share in the company, to pay, transfer or apply to, on behalf of or at the direction of the person to whom the share was issued or any other person, whether upon the exercise of an option by the company or by any other person or not, any money or other property other than shares in the company.

Amendment of assessment for purpose section 37

38. Notwithstanding any other provision of this Act, the Commissioner may amend an assessment for the purpose of giving effect to section 37(4) if the assessment is made within three years after the date upon which the tax became due and payable under the assessment.

Distribution by liquidator

39. (1) Distributions to shareholders of a company by a liquidator in the course of winding-up the company, to the extent to which they represent income by the company, whether before or during the liquidation, other than income which has been properly applied to replace a loss of paid up capital, shall for the purposes of this Act be deemed to be dividends paid to the shareholders by the company out of profits derived by it.

(2) Those distributions shall, to the extent to which they are made out of any profits or income, be deemed to have been paid wholly and exclusively out of those profits or that income.

(3) Where -

(a) the business of a company has been, or is in the course of being discontinued otherwise than in the course of a winding-up of the company under any law relating to companies;

(b) in connection with the discontinuance, any moneys of the company have been or other property of the company has been distributed, otherwise than by the company, to shareholders of the company; and

(c) the moneys or other property so distributed are not, for the purposes of this Act, dividends,

the distribution shall, subject to subsection (4), be deemed to be, for the purposes of this section, a distribution to the shareholders by a liquidator in the course of winding-up the company.

(4) Where -

(a) subsection (3) would, but for this subsection, apply in relation to any moneys or other property of a company distributed to a shareholder of the company; and

(b) the company is not dissolved within a period of three years after the distribution, or within such further period as the Commissioner allows,

subsection (3) shall not apply, and shall be deemed never to have applied, in relation to those moneys or that other property, and those moneys or that other property so distributed shall, for the purposes of this Act, be deemed to be dividends paid by the company to the shareholders out of profits derived by it.

(5) For the purposes of this section, "paid-up capital" does not include the paid-up value of shares which have been issued by the company in satisfaction of dividends or which have been paid out of profits arising from the revaluation of assets not acquired for the purposes of resale at a profit but includes capital which has been paid-up in money or by other valuable consideration and which has been cancelled and has not been repaid by the company to the shareholders.

DIVISION 3 - DEDUCTIONS

Allowable deductions Act 23 of 1994

40. In calculating the taxable income of a business, the total assessable income derived by the business during the tax year shall be taken as a basis, and from it there shall be deducted all allowable deductions of the business and such other sum as may be prescribed.

Losses and outgoings

41. (1) Subject to this section, all losses and outgoings to the extent to which they are incurred in gaining or producing the assessable income, or are necessarily incurred in carrying on a business for the purpose of gaining or producing such income, shall be allowable deductions except to the extent to which they are losses or outgoings of capital, or of a capital, private or domestic nature, or are incurred in relation to the gaining or production of exempt income or are excluded by any other provisions of this Act.

(2) No amount claimed by a business by way of emolument, or as contribution, in terms of the Social Security Act, 1987, is allowable as a deduction unless the Commissioner is satisfied that social security contribution under that Act has been paid in respect of that amount.

(3) Tax paid under section 71 in respect of the gaming income of the business of a casino shall not be an allowable deduction.

(4) No amount claimed by a business in connection with services rendered to the business by a specified business is allowable as a deduction unless the Commissioner is satisfied that provisional tax has been deducted and remitted to the Commissioner in accordance with section 136.

(5) No amount claimed by a business in respect of goods and services tax under the Goods and Services Tax Act is allowable as a deduction unless the Commissioner is satisfied that the amount has been paid as goods and services tax.

(6) Notwithstanding subsections (1) and (2) where -

(a) a business is in the sole ownership of a person, not being a company or a partnership, any wage or emolument paid to or received by that person for the purposes of carrying on of that business;

(b) a business is owned by a partnership, any wage or emolument paid or received by a partner for the purpose of carrying on of that business,

shall not be an allowable deduction.

(7) The Minister may by regulations specify the maximum amount that may be an allowable deduction under this section as an outgoing.

No deductions unless tax paid

42. No deductions shall be allowed in respect of royalties, interest or amount paid to a person to which Part IV of this Act applies unless and until withholding tax thereon has been paid.

Repairs

43. (1) Expenditure incurred by a business in the tax year for repairs, not being expenditure of a capital nature, to any premises, or part of premises, plant, machinery, implements, utensil, rolling stock, or articles held, occupied or used by the business for the purpose of producing assessable income or in carrying on any activities of the business for the purpose of producing assessable income, shall be an allowable deduction.

(2) No deduction is allowable under this section if -

(a) the expenditure is incurred upon repairs to any premises or part of premises, plant, machinery, utensil, rolling stock or articles which are not held, occupied or used for the purpose of producing assessable income, or in carrying on any activities of the business for the purpose of producing assessable income, or

(b) the expenditure incurred upon repairs to any premises or part of premises, plant, machinery, utensils, rolling stock or articles is not occasioned by use of such premises or part of premises, plant, machinery, implements, utensils, rolling stock or articles in deriving assessable income, or in carrying on any activities of the business for the purpose of producing assessable income.

Loss on property acquired for profit-making

44. Any loss incurred by a business in the tax year upon the sale of any property or from the carrying on or carrying out of any undertaking or scheme, the profit (if any) from which sale, undertaking or scheme would have been included in the assessable income of the business, shall be an allowable deduction;

Provided that, in respect of property acquired by the a business after the commencement of this Act, no deduction shall be allowable under this section (except where the Commissioner, being satisfied that the property was acquired by the business, for the purpose of profit-making by sale or for the carrying on or carrying out of any profit-making, undertaking or scheme, otherwise directs) unless the business, not later than three months after the acquisition of the property, notifies the Commissioner that the property has been acquired by the business for the purpose of profit-making by sale or for the carrying on or carrying out of any profit-making undertaking or scheme.

Depreciation

45. (1) Depreciation during the tax year of any property, being property referred to in section 47 or the Third Schedule, shall, subject to this Act, be an allowable deduction..

(2) In this Division and in the Third Schedule, the property of, or property owned by, a business includes the property of, or property owned by, the owner of the business and which is used by the business for the purpose of producing assessable income of the business.

Calculation of depreciation

46. (1) The depreciation allowable under this Act in respect of property to which section 47 applies shall be ascertained in accordance with that section.

(2) The depreciation allowable under this Act in respect of property to which the Third Schedule applies shall be ascertained, subject to subsection (3), in accordance with that Schedule.

(3) Where a unit of property to which the Third Schedule applies is used or installed ready for use during part only of the year of income for the purpose of producing assessable income the depreciation otherwise allowable, except where the Third Schedule otherwise provides, is proportional to the period so used or installed.

Depreciation in respect of property acquired before commencement

47. (1) This section applies to units of property acquired before the commencement of this Act.

(2) In the case of a unit of property to which this section applies, the depreciation allowable under this Act, shall be the depreciation which would, if this Act had not been made, be allowable under the previous Act in respect of that unit of property in relation to the tax year concerned.

Disposal, loss or destruction of depreciated property

48. (1) Subject to subsection (3), where any property of a business, in respect of which depreciation has been allowed or is allowable under this Act or the previous Act, is disposed of, lost or destroyed at any time in the tax year, the depreciated value of the property at that time, less the amount of any consideration receivable in respect of the disposal, loss or destruction, shall be an allowable deduction.

(2) If the consideration referred to in subsection (1) exceeds that depreciated value, the excess, to the extent of the sum of the amount allowed and allowable in assessments for income tax under this Act or the previous Act shall, subject to this section, be included in the assessable income of the business of that year.

(3) Where, in a case where the property of a business is disposed of by way of sale to another person -

(a) the Commissioner is satisfied that, having regard to any connection between the owner of the business or the person acting for or on behalf of the business and that other person and to any other relevant circumstances, the owner of the business or the person acting for or on behalf of the business and that other person were not dealing with each other at arm's length in relation to the disposal; and

(b) the amount receivable by the business in respect of the disposal was less than the market value of the property immediately before the time of disposal,

the consideration receivable by a business in respect of the disposal of the property shall be deemed to be the market value of the property immediately before the time of disposal.

(4) For the purposes of the application of subsection (3), in relation to property disposed of by a business, reference to the market value of the property at a particular time shall be read, if there is insufficient evidence of the market value at that time, as a reference to such amount as in the opinion of the Commissioner, is fair and reasonable.

(5) Where, during a tax year not later than the second tax year after the tax year in which a unit of property of a business is disposed of, lost or destroyed, the business acquires, to replace that unit, a unit of property which, at the end of the tax year, is used wholly for the purpose of producing assessable income of the business or has been installed ready for used wholly for that purpose and is held in reserve, the Commissioner shall, if the business so requests in writing not later than the date of lodgment of the return of income of the business of the first-mentioned year or within such further time as the Commissioner allows -

(a) exclude from the assessable income of the tax year in which the property was disposed of, lost or destroyed so much of the amount that would otherwise be included in that assessable income under subsection (2) by reason of the disposal, loss or destruction as does not exceed the cost of the unit of property so acquired; and

(b) reduce by an amount equal to the amount so excluded the cost, for the purpose of calculating depreciation allowable under this Act, of the unit of property so acquired.

(6) An amount by which the cost or depreciated value of a unit of property has been reduced in pursuance of subsection (5) shall, for all purposes of this Act, be deemed to be depreciation which has been allowed in respect of that unit in the assessment in which the reduction was made.

(7) The consideration receivable in respect of the disposal, loss or destruction means -

(a) in the case of a sale of the property to which paragraph (c) does not apply, the sale price less the expenses of the sale of the property;

(b) in the case of the loss or destruction of the property, the amount or value received or receivable under a policy of insurance or otherwise in respect of the loss or destruction;

(c) in the case where the property is sold with other assets and no separate value is allocated to the property, the amount determined by the Commissioner; or

(d) in the case where property is disposed of otherwise than by sale, the value, if any, of the property at the date of disposal.

Transfer of depreciated property

49. (1) Notwithstanding anything contained in this Act and subject to the approval of the Commissioner, where the parties to a disposal by way of sale to which section 48 (3) applies agree and the other person referred to in that subsection is a business, the business which purchased the property may elect, in the manner provided in subsection (3), that the business be assessed on any depreciation recouped on the subsequent sale of the property.

(2) For the purpose of calculating the depreciation recouped under subsection (1) -

(a) the business which purchased the property shall be treated as though it had owned the property before the purchase and had been allowed depreciation thereon in place of the person from whom the property was purchased; and

(b) the cost price of the property shall be deemed to be the cost of the property to the person from whom the business bought the property.

(3) The election referred to in subsection (1) -

(a) shall be in writing;

(b) shall give details of the property purchased;

(c) shall show in respect of each unit of property -

(i) the cost price;

(ii) the depreciation allowed up to the date of purchase;

(iii) the depreciated value at the date of purchase;

(d) shall be signed by all parties to the disposal,

and a copy of the election shall be submitted with the business tax return of each of the businesses involved in the disposal for the year of income in which the election was made.

(4) For the purpose of calculating future depreciation in respect of the property in respect of which an election under subsection (1) has been made, the value of the property shall be the depreciated value of the property at the date of purchase.

Acquisition of depreciated property

50. (1) Where either before or after the commencement of this Act a business has acquired any property in respect of which depreciation has been allowed or is allowable under this Act or the previous Act, the business shall not be entitled to any greater deduction for depreciation than that which would have been allowed to the person from whom the property was acquired if that person had retained it;

Provided that, where under section 48 an amount is included in the assessable income of the business selling the property, the business acquiring the property shall be allowed depreciation calculated on the sum of that amount and the depreciated value of the property under this Act immediately prior to the time of the sale.

(2) This section shall not apply where the Commissioner is of the opinion that the circumstances are such that depreciation based on the actual consideration given should be allowed.

Property used partly for producing assessable income

51. Where the use of any property by a business has been only partly used for the purpose of producing assessable income, only such part of the deduction otherwise allowable under this Act in respect of that property as in the opinion of the Commissioner is proper shall be an allowable deduction.

Definition of "depreciated value"

52. (1) In this Division, "depreciated value" of any unit of property at any time means the cost of the unit to the business which owns or owned the property at that time less the total amount of depreciation (if any) allowed or allowable in respect of that unit in assessments of the income of that business for any period prior to that time, under this Act or the previous Act.

(2) For the purposes of subsection (1), in any case in which section 50, or the corresponding provision of the previous Act, applied or applies in relation to any unit of property, the business which purchased the unit shall be deemed to have purchased it at cost equal to the depreciated value of the unit immediately prior to the time of the purchase, or, if the case is one in which the proviso to subsection (1) of that section applied or applies, the sum of that depreciated value and the amount required to be added to that depreciated value for the purpose of that proviso.

Bad debts

53. (1) Subject to this Division, debts which are bad debts and are written off as such during the tax year, and -

(a) have been brought to account by the business as assessable income of any year, or

(b) are in respect of money lent in the ordinary course of the business of the lending of money by the business;

shall be allowable deductions if the Commissioner is satisfied that every effort has been taken by the business to recover the debts.

(2) If a debtor, after incurring a debt so brought to account or in respect of money so lent, becomes a bankrupt, or executes a deed of assignment or arrangement for the benefit of his creditors, the debt (where in the opinion of the Commissioner, no amount will be paid on account of the debt) or the amount by which, in his opinion, the amount which will be received on account of the debt will be less than the debt, shall be deemed to be a bad debt.

(3) Where in the tax year a business receives an amount in respect of a debt for which a deduction has been allowed to the business under this Act or the previous Act, the assessable income of the business shall include that amount.

Payments to shareholders and directors etc

54. (1) So much of a sum paid or credited by a company to a person who is or has been a shareholder or director of the company or a relative of a shareholder or director being or purporting to be -

(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 him in that company, or upon the termination of any such office or employment,

as exceeds an amount which, in the opinion of the Commissioner, is reasonable, shall not be an allowable deduction.

(2) So much of a sum paid or credited by a person to himself or to any other person by way of interest to which section 82 of this Act applies as exceeds an amount which in the opinion of the Commissioner is reasonable, shall not be an allowable deduction.

Payments to associated persons and relatives

55. (1) Subject to this section, the amount, or a part of the amount, of any payment made or liability incurred in the tax year by a business to an associated person that would, but for this subsection, be an allowable deduction of the business is allowable as a deduction only to the extent to which, in the opinion of the Commissioner, it is reasonable.

(2) Subject to subsection (3), where, by virtue of subsection (1), any amount is not an allowable deduction, the amount shall, for the purposes of this Act, be deemed not to be income of the associated person.

(3) A reference in subsection (1) or subsection (2) to an associated person shall be read as a reference -

(a) in the application of this section to a business owned by an individual, to -

(i) a relative of the owner of the business, or

(ii) a partnership a partner in which is a relative of the owner of the business, and

(b) in the application of this section to a business owned by a partnership for the purpose of calculating the taxable income of a partnership to -

(i) a relative, not being a partner in the partnership, of a partner in the partnership,

(ii) another partnership a partner in which is a relative of a partner in the partnership which owns the business, or

(iii) a person, not being a partner in the partnership, who is, or is a relative of, a beneficiary in a trust estate the trustee of which is, in his capacity as trustee of the trust estate, a partner in the partnership.

(4) Nothing in any other provision of this Act prevents the amendment of an assessment at any time for the purpose of giving effect to subsection (2).

(5) Where there is allowed as a deduction an amount that, in pursuance of subsection (1), was not previously allowed as a deduction, nothing in any provision of this Act prevents the amendment of any assessment at any time to give effect to the inclusion in the income of the business of an amount that, in pursuance of subsection (2), was treated, by virtue of the disallowance of the deduction, as not being so included for the purposes of the assessment.

Subscriptions to associations

56. Where the carrying on of a business is conditional upon membership of an association, any periodical subscription paid by the business in the tax year in respect of that membership shall be an allowable deduction:

Provided that the total deduction allowable in respect of subscription to any one association in that year shall not exceed one thousand rupees.

Expenses of borrowing

57. (1) Subject to this section, so much of the expenditure incurred by a business in borrowing money used by the business for the purpose of producing assessable income of the business as bears to the whole of that expenditure the same proportion as part of the period for which the money was borrowed in the tax year bears to the whole of that period shall be an allowable deduction.

(2) Where the period for which money was borrowed is not fixed, or exceeds five years, the period of five years from the date on which the money was borrowed shall, for the purposes of subsection (1), be deemed to be the period for which the money was borrowed.

(3) Where the total expenditure incurred in the tax year by a business in borrowing money used by the business for the purpose of producing assessable income of the business does not exceed one thousand rupees, the whole of that expenditure shall be an allowable deduction in that tax year.

(4) Notwithstanding subsections (1) to (3), the maximum amount allowable as deduction in respect of interest on any loan provided to the business by a person other than a person who carries on the business of lending money, in the course of that business, shall be an amount equal to the minimum rate of interest on deposits prescribed by the Central Bank which prevailed on the date when the loan was made less two per centum.

Expenses of discharge of mortgage

58. Where a business incurs expenditure (not including payments of principal or interest) in the tax year in connection with the discharge of a mortgage given by the business as a security for the repayment of money borrowed by the business or the payment by the business of the whole or a part of the purchase price of property purchased by the business -

(a) if the money or property was used by the business wholly for the purpose of producing assessable income of the business, the whole of the expenditure; or

(b) if the money or property was used by the business only partly for that purpose, such part of the expenditure as the Commissioner determines,

shall be an allowable deduction.

Expenses relating to lease documents

59. Expenditure incurred by a business in the tax year for the preparation, registration and stamping of a lease, or of an assignment or surrender of a lease, of property that is to be, or has been, held by the business for the purpose of producing assessable income of the business shall be an allowable deduction.

Contributions to the Seychelles Pension Scheme

60. (1) Any contribution paid by a business in a tax year to the Seychelles Pension Scheme established by section 3 of the Seychelles Pension Scheme Act, 1990 in respect of a worker employed in the business, other than by way of deduction from his wages, shall, to the extent prescribed, be an allowable deduction.

(2) Any contribution paid by an owner of a business in a tax year as a member of the Seychelles Pension Scheme established by section 3 of the Seychelles Pension Scheme Act, 1990 to that Scheme shall, to the extent prescribed, be an allowable deduction of the business.

(3) In this section the expressions "contribution", "member" and "worker" have the same meaning as in the Seychelles Pension Scheme Act, 1990.

Certain expenditure on land used for primary production

61. Expenditure incurred in the tax year by a business which is a business engaged in primary production in Seychelles in -

(a) the eradication and extermination of animal or vegetable pests from the land;

(b) the destruction and removal of timber, scrub or under growth 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 building or other structural improvements for the purpose of the storage of animal feed in the course of carrying on primary production on the land,

shall be an allowable deduction.

Gifts

62. A gift (not being a testamentary gift) of the value of twenty rupees and upwards of money or of property made by a business in the tax year to any public fund, body or institution approved by the Minister shall be an allowable deduction.

Sums not otherwise allowable deduction

63. Sums which are not otherwise allowable deductions and are paid by a business during the tax year as pensions, gratuities or retiring allowances to persons who are or have been employees or dependants of employees of the business to the extent to which, in the opinion of the Commissioner, those sums are paid in good faith in consideration of the past services of the employees in any operations carried on by the business for the purpose of gaining or producing assessable income of the business shall be an allowable deduction.

Losses of previous years

64. (1) For the purposes of this section, a loss shall be deemed to be incurred in any year when the allowable deductions other than the deductions allowable under this section or section 62 from the assessable income of that year exceed the assessable income of that year.

Act 23 of 1994

(2) So much of the losses incurred by a business in any of the five years next preceding the tax year as has not been allowed as a deduction from the income of the business of any of those years shall be an allowable deduction.

(3) Where a deduction is allowable under this section in respect of two or more losses, the losses shall be taken in the order in which they were incurred.

(4) Where a deduction was, at the commencement of this Act, allowable under the previous Act, but not recovered, that deduction shall be deemed for the purposes of this Act, to be a loss incurred in the tax year 1988.

(5) Depreciation allowable as a deduction under section 45 in any tax year subsequent to 31st December, 1993 not allowed as a deduction in the tax year, shall, notwithstanding subsection (2), be an allowable deduction in any subsequent tax year.

Double deductions

65. Where in respect of any amount, a deduction would but for this section be allowable under more than one provision of this Act, and whether it would be so allowable from the assessable income of the same or different years, the deduction shall be allowable only under that provision which in the opinion of the Commissioner is most appropriate.

Double deductions where net profit is included in assessable income

66. (1) Where the profit arising from the sale of any property is included in the assessable income of any business, or where the loss arising from the sale is an allowable deduction, and any expenditure incurred by the business in connexion with that property has been allowed or is allowable as a deduction under this Act or has been allowed or is allowable as a deduction, in assessments under the previous Act, that expenditure shall not be deducted in ascertaining the amount of the profit or loss.

(2) The reference in subsection (1) to expenditure incurred by a business in connexion with property shall be read as not including a reference to expenditure that has been allowed or is allowable as a deduction under section 61 or in assessments under the previous Act by virtue of a provision of that Act corresponding with section 61.

(3) Where expenditure incurred by a business in connexion with property has been allowed or is allowable as a deduction from the assessable income of the business under or by virtue of this Act or the previous Act referred to in subsection (2) of this section, that expenditure may be deducted in ascertaining the amount of any profit or loss arising from the sale of the property only to the extent that the deduction of the expenditure does not result in the tax payable by the owner of the business in respect of the taxable income of the business for the tax year or tax years in relation to which the deduction is made being reduced by an amount that is greater than the difference between -

(a) the amount of that expenditure; and

(b) the amount, or the sum of the amounts, by which tax payable by the owner of the business for the tax year and previous tax years will be or has been reduced by reason of the first mentioned deduction or deductions.

Allowable deduction in excess of expenditure Act 23 of 1994

66A. Where the Minister is of the opinion that any prescribed expenditure of any prescribed class or category of business allowed as an allowable deduction under this Division has assisted in the economic development of Seychelles and it is expedient in the public interest to make an order under this section, the Minister may by order published in the Gazette allow such sum in excess of the prescribed expenditure as may be specified in the order to be an allowable deduction of the prescribed class or category of business specified in the order.

DIVISION 4 - SPECIAL CASES

Taxation of certain insurance companies

67. (1) For the purposes of this Act, income in respect of the insurance business, other than the life insurance business, of a resident insurance company, whether mutual or non-mutual means an amount ascertained -

(a) by taking the total of the gross premiums and interest and other income received or receivable in Seychelles, (less any premiums returned to any persons and premiums-paid on re-insurances and less any dividends which have borne tax in accordance with the provisions of this Act) during the year preceding the tax year;

(b) by deducting from such total the reserve for unexpired risks at the percentage rate adopted by the company in relation to its operations as a whole for such risks at the end of such year and adding thereto a reserve similarly calculated for unexpired risks outstanding at the commencement of such year; and

(c) by deducting from the balance calculated in accordance with paragraphs (a) and (b) the following amounts -

(i) the actual claims paid or outstanding (less the amount recovered in respect thereof);

(ii) the agency expenses in Seychelles; and

(iii) a fair proportion of the expenses of the head office of the company.

(2) For the purposes of this section, the portion of the life insurance premiums received or receivable in respect of accident, disability and similar benefits contained in combined life and accident insurance policies and premiums received or receivable in respect of accident, disability and similar insurance policies shall be deemed to be in respect of business other than life insurance business and shall be liable to tax calculated in accordance with subsection (1).

Life insurance companies

68. In the case of a company doing life insurance business either exclusively or in addition to general insurance business the gains or profits from the life insurance business shall be the investment income less the management expenses including commission :

Provided that where such a company received premiums outside Seychelles, the gains or profits shall be 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 company 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.

Taxable income of ship-owner or charterer, etc

69. (1) Where a vessel belonging to or chartered by a person whose principal place of business is out of Seychelles carries passengers, livestock, mails or goods loaded in Seychelles, five per centum of the amount paid or payable to him in respect of such carriage, whether that amount is payable in or out of Seychelles, shall be deemed to be taxable income derived by him in Seychelles.

(2) The master of a ship, or the agent or other representative in Seychelles of the owner or charterer of a vessel, shall, when called upon by the Commissioner by notice served on him or by any other notice to him, make a return of the amounts so paid or payable.

(3) If such return is not made, or if the Commissioner is not satisfied with the return, he may determine the amount so paid or payable.

(4) The master, agent or representative referred to in subsection (2), as agent for the owner or charterer of a vessel, may be assessed upon the taxable income and shall be liable to pay the tax assessed.

(5) Where the assessment is made on the master, agent or representative referred to in subsection (2), as agent or representative of the owner of a vessel, and the tax is not paid forthwith upon receipt of notice of the assessment, the master, agent or representative shall be liable to pay the tax.

(6) This section shall not, so long as any tax for which the master of a ship become liable under this section remains unpaid, relieve any other person to whom notice of assessment has been given in respect of that tax, from liability to pay the tax remaining unpaid.

(7) Where any person is liable to pay tax under this section, the Commissioner shall give notice to him of the assessment, and he shall forthwith pay the tax.

(8) Where, for the purposes of subsection (2), the Commissioner is satisfied that a notice cannot be effectively served on any person in any other way, the notice may be served by way of publication the Gazette.

Clearance of ship, etc

70. The person responsible for doing so may refuse to grant clearance to a vessel until he is satisfied that tax which has been or may be assessed under section 69 has been paid, or that arrangements for its payment have been made to the satisfaction of the Commissioner.

Casino

71. (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) The tax for which the business of a casino is liable under subsection (2) shall be due at the end of each month and shall be payable to the Commissioner before the 28th day of the month next following the month at the end of which it becomes due.

(4) The business of a Casino shall, when paying the tax under subsection (3), submit to the Commissioner, a true and accurate monthly return of the gross gaming revenue of the business for the month in respect of which the tax is being paid.

DIVISION 5 - INSURANCE WITH NON-RESIDENTS

Interpretation

72. In this Division -

"insurance contract" means a contract or guarantee whereby liability is undertaken, contingent upon the happening of any specified event, to pay any money or make good any loss or damage, but does not include a contract of life assurance;

"insured event" means an event upon the happening of which the liability under an insurance contract arises;

"insured person" means a person with whom any insurance contract is entered into by an insurer;

"insured property" means the property the subject of an insurance contract made or given by an insurer;

"insurer" means any non-resident who undertakes liability under an insurance contract.

Income derived by non-resident insurer

73. (1) Where an insured person, whether a resident or non-resident, has entered into an insurance contract with an insurer, and the insured property at the time of the making of the contract is situated in Seychelles, or the insured event is one which can happen only in Seychelles, the premium paid or payable under the contract shall be included in the assessable income of the insurer, and shall be deemed to be derived by him from sources in Seychelles, and, unless the contract was made by a principal office or branch established by the insurer in Seychelles, this Division shall apply to that premium.

(2) Where an insured person who is a resident has entered into an insurance contract with an insurer, and an agent or representative in Seychelles of the insurer was in any way instrumental in inducing the entry of the insured person into that contract any premium paid or payable under the contract shall, wherever the insured property is situate, or the insured event may happen, be included in the assessable income of the insurer and shall be deemed to be derived by him from sources in Seychelles, and, unless the contract was made by a principal office or branch established by the insurer in Seychelles, this Division shall apply to that premium.

Taxable income of non-resident insurer

74. The insurer shall be deemed to have derived in any year, in respect of the premiums paid or payable in that year under such contracts, a taxable income equal to fifteen per centum of the total amount of such premiums :

Provided that, where the actual profit or loss derived or made by the insurer in respect of such premiums is established to the satisfaction of the Commissioner, the

taxable income of the insurer in respect thereof, or the amount of the loss so made by him shall, subject to this Act, be calculated by reference to receipts and expenditure taken into account in calculating that profit or loss.

Liability of payments of insurer

75. Any person in Seychelles acting on behalf of the insurer or in the absence of such persons, the insured person shall be the agents of the insurer, and shall be jointly and severally liable as such for all purposes of this Act, and if either of those persons pays or credits to the insurer any amount in respect of the insurance contract before arrangements have been made to the satisfaction of the Commissioner for the payment of any business tax which has been or may be assessed under this Division in respect of that amount, that person shall be personally liable to pay that tax.

Deduction of premiums

76. Notwithstanding any other provision of this Act, no such premium shall be an allowable deduction to the insured person unless arrangements have been made to the satisfaction of the Commissioner for the payment of any business tax which has been or may be assessed in respect of that premium.

Exporter to furnish information Act 19 of 1985

77. Every person who exports any goods from Seychelles shall furnish to the Commissioner of Taxes appointed under the Trades Tax Act, 1985 for transmission to the Commissioner a copy of the customs entry for such goods, and shall show thereon such information as is prescribed regarding the insurance of such goods.

Rate in special circumstances

78. Where the insurer satisfies the Commissioner that, on account of special circumstances, it is necessary that the rate of tax payable by him under this Division should be ascertained at the time when premiums are paid to him, the Commissioner may direct that the tax so payable in respect of premiums paid during any tax year shall be calculated at the rate of tax which would have been paid in respect of those premiums at the date when they were paid.

Re-insurance with non-residents

79. (1) Notwithstanding anything contained in this Act, but subject to this section, where a business of insurance which is operating in Seychelles reinsures out of Seychelles the whole or part of any risk with a non-resident -

(a) the premiums paid or credited in respect of reinsurance shall not be -

(i) an allowable deduction to the business of insurance; or

(ii) included in the assessable income of the non-resident; and

(b) the income of the business of insurance shall not include sums recovered from that non-resident in respect of a loss on any risk so reinsured.

(2) A business of insurance operating in Seychelles which reinsures out of Seychelles the whole or part of any risk with a non-resident may elect, in accordance with this section, that the provisions of subsection (1) shall not be applied in arriving at its taxable income, and thereupon –

(a) those provisions shall not apply in arriving at its taxable income of a tax year to which the election applies; and

(b) the business of insurance shall be liable to furnish returns, and to pay tax, in accordance with the succeeding provisions of this section, as agent for all non-residents with whom it so reinsures.

(3) Where a business of insurance which is operating in Seychelles makes an election under subsection (2), it shall, subject to subsection (5), be assessed and liable to pay tax as agent, on an amount equal to fifteen per centum of the sum of the gross amounts of the premiums paid or credited by it in the tax year (being a tax year to which the election applies) to non-residents in respect of all such reinsurances, as if that amount were the taxable income of a non-resident company not carrying on business in Seychelles by means either of a principal office or a branch.

(4) A business of insurance operating in Seychelles which has made an election under this section shall, as agent, furnish to the Commissioner, within the prescribed time, or within such further time as the Commissioner allows, in respect of every tax year to which the election applies -

(a) a return showing the gross amounts of the premiums paid or credited by it to non-residents in respect of all such reinsurances; or

(b) two returns, of which -

(i) one shall show the gross amounts of such premiums paid or credited by it to non-residents which are companies; and

(ii) the other shall show the gross amounts of such premiums paid or credited by it to non-residents who are not companies.

(5) Where returns are furnished by a business of insurance operating in Seychelles in accordance with paragraph (b) of subsection (4), there shall be excluded from the amount on which that business shall be assessed and liable to pay tax as agent in pursuance of subsection (3) an amount equal to fifteen per centum of the sum of the gross premiums properly shown in the return specified in sub-paragraph (ii) of that paragraph, and that business shall, in addition to any other tax which he is liable under this section to pay as agent, be assessed and liable to pay tax as agent on the amount so excluded as if it were the taxable income of a non-resident company not carrying on business in Seychelles by means either of a principal office or a branch.

(6) An election for the purposes of this section shall -

(a) be made in writing;

(b) be signed by a person authorised under this Act to sign on behalf of a business;

(c) be delivered to the Commissioner on or before the last day for the furnishing of the return of income of the business for the tax year in respect of which the election is first to apply, or within such further time as the Commissioner allows;

(d) first apply in respect of a tax year which shall be specified in the election; and

(e) apply in respect of all subsequent tax years.

(7) An assessment for the purposes of subsection (3) or subsection (5) shall be made and notified separately from any other assessment.

(8) Where a business of insurance is liable, in pursuance of an assessment for the purposes of this section, to pay tax, in respect of any premiums, as agent for more than one non-resident, the amount which it shall be liable to pay as agent for any one of those non-residents shall be so much of the tax so payable as bears to the whole of that tax the same proportion as the total amount of such of those premiums as were paid to that non-resident bears to the total amount of those premiums.

Liability of agent in respect of premium

80. Where a business is or may become liable under this section to pay tax as agent for a non-resident in respect of any premium paid or credited by it to that non-resident -

(a) it shall, for the purposes of section 173, be deemed to have received the premium in its representative capacity immediately before it was so paid or credited; and

(b) if it pays or credits the premium before arrangements have been made to the satisfaction of the Commissioner for the payment of any tax which may be assessed in respect of that premium, it shall be liable to pay that tax.

PART IV - WITHHOLDING TAX

Interpretation

81. (1) In this Part, unless the context otherwise requires -

"dividend" includes -

(a) a part of a dividend;

(b) in relation to a company that is being wound up or liquidated, any distribution to shareholders except to the extent that such distribution represents a return of paid up capital subscribed for cash consideration; and

(c) any advances made by a company either directly or indirectly to or for the benefit of any of its shareholders, or the relatives of shareholders if, in the opinion of Commissioner, the making of the advance was not a bona fide investment by the company,

but does not include -

(d) money paid or credited by a company to a shareholder or any other property distributed by a company to shareholders, where the amount of the moneys paid or credited or the amount of the value of the property, is debited against any amount standing to the credit of a share premium account of the company;

(e) money paid or credited by a company to a shareholder or any other property distributed by a company to shareholders to the extent that it is paid,

credited or distributed as a result of the revaluation of property not used for the purpose of producing assessable income;

"interest" includes an amount in the nature of interest;

"person" also includes the Government, a public body not otherwise covered in the definition of person in section 2 (1) or an agent or trustee.

(2) For the purposes of this Part, interest shall be deemed to have been paid by a person to another person although it is not actually paid over to the other person but is reinvested, accumulated, capitalised or carried to any reserve, sinking fund or insurance fund however designated, or otherwise dealt with on behalf of the other person or as the other person directs.

(3) An amount referred to in section 22 (1)(j) or section 22 (1)(k) shall be deemed to have been distributed to a partner or a beneficiary although it is not actually paid over to the partner or beneficiary but is reinvested, accumulated or transferred to any reserve or fund or otherwise dealt with on behalf of the partner or beneficiary or as the partner or beneficiary directs.

Liability to withholding tax

82. Subject to this Part, this Part applies to income which consists of -

(a) a dividend that is paid by a company;

(b) a royalty that is paid by any person to a non-resident;

(c) interest that is paid by any person;

(d) amount distributed to a partner as the partner's share in the partnership profit;

(e) amount distributed to a beneficiary as his share of the income of a trust estate;

(f) notwithstanding any other provision of this Act, amount paid by the Government or a public body to a non-resident by way of remuneration, fee or allowance under a contract approved by the President; or

Limitation on application

83. Section 82 does not apply in the case of income that consists of interest which is paid to a bank, a finance company, an insurance company or a person whose principal business consists of the lending of money, or to income which is exempt income.

Rates of tax

84. A person who derives income to which this Part applies is liable to pay tax upon that income at the rates declared in the First Schedule.

Deduction of tax

85. (1) Subject to this section, the person who is liable to pay income to which this Part applies shall deduct before or at the time the income is paid an amount of withholding tax therefrom, determined in accordance with the First Schedule.

(2) When a person has made a deduction pursuant to subsection (1) -

(a) that person shall, within fourteen days after the end of the month in which the deduction was made, pay to the Commissioner an amount equal to the deduction; and

(b) that person shall, before the expiration of two months after the end of the tax year in which the deduction was made or within such further time as the Commissioner allows, furnish to the Commissioner a statement with respect to the deduction, in a form authorised by the Commissioner, signed by or on behalf of the person who made the deduction.

(3) Withholding tax, when it becomes due and payable as provided in this section, is a debt due to the Government and payable to the Commissioner by the person required under this section to deduct the amount of tax and pay it to the Commissioner.

(4) Subject to subsection (5), if any withholding tax remains unpaid at the expiration of fourteen days after the time when it became payable as provided in this section, additional tax is payable at the rate of twenty per centum per annum on the amount unpaid, computed from the expiration of that period.

(5) The Commissioner may, in any case for reasons that he thinks sufficient, remit the additional tax or any part of the additional tax.

(6) Any unpaid withholding tax, and any unpaid additional tax payable under this section, may be sued for and recovered in a court of competent jurisdiction by the Commissioner suing in his official name or by the Attorney General suing on behalf of the Government.

(7) The Minister may, for the purpose of meeting the special circumstances of a case or of the cases included in a class of cases, by notice in writing to a person -

(a) exempt a person from an obligation imposed on him by subsection (1); or

(b) vary the amount to be deducted under that subsection by that person from income to which this Part applies or from income included in a class of income to which this Part applies.

(8) A person, other than the Government or a public body, who fails to comply with subsection (2) (a) is guilty of an offence against this Act and liable on conviction to a fine of not less than one thousand rupees and not more than five thousand rupees.

(9) A conviction, or the liability to be convicted, for an offence under subsection (8) does not affect the liability of a person to pay withholding tax and the court before which proceedings are taken against the person for such an offence may order the person to pay the amount of the withholding tax, and any additional tax, to the Commissioner.

Assessment of withholding tax

86. (1) The ascertainment by the person making payment of income to which this Part applies of the amount of withholding tax payable in respect of the income shall be deemed to be an assessment under this Act and the statement submitted by that person under section 85(2) (b) shall be deemed to be a notice of assessment, and the date on which the return is received by the Commissioner to be the date of the notice, under this Act.

(2) Where withholding tax is payable but has not been deducted in accordance with section 85, the Commissioner may, from any information in his possession, make an assessment of the amount of withholding tax payable by the person and shall serve on the person a notice in which shall be specified -

(a) the amount of withholding tax that the Commissioner has ascertained is payable by that person, and

(b) the date on which the tax become payable, and

the assessment shall be deemed to be an assessment, and the notice to be a notice, under this Act.

(3) The production of a notice referred to in this section, or of a document under the hand of the Commissioner or any person authorised by the Commissioner purporting to be such a notice is evidence that the amount of withholding tax specified in the notice has been paid by the person named in the notice or that the amount of withholding tax specified in the notice became due and payable by the person on whom the notice was served on the date so specified, as the case may be.

Certain income not included in assessable income, etc

87. (1) Income upon which withholding tax is payable shall not be included in the assessable income of a business which, or person who, has received or deemed to have received that income.

(2) Where a person has made a deduction under section 85 from income to which this Part relates, the person is, by force of this section, discharged from all liability to pay or account for the deduction to any person other than the Commissioner.

PART V - RETURNS AND ASSESSMENTS

Annual returns

88. A business shall furnish the Commissioner by the 31st March of each year, beginning on the 31st March 1989, or such extended time as the Commissioner may allow, a return signed by a person authorised under this Act to sign on behalf of a business setting forth a full and complete statement of the assessable income, other than income upon which withholding tax is payable, derived by the business during the tax year, and of any deductions claimed by the business together with a statement containing the particulars specified in the Fourth Schedule.

Further returns and other matters

89. (1) A business shall, if required by the Commissioner, whether before or after the expiration of the tax year furnish to the Commissioner, in the manner and within the time required by him, a return, or a further or fuller return, of the income or any part of the income derived by the business in any year, whether a return has or has not previously been furnished by the business for the same period.

(2) If no income has been derived by a business required to furnish a return under subsection (1), the business shall nevertheless furnish a return stating that fact.

Special returns, etc

90. Every business and every person, whether the owner of a business or not, if required by the Commissioner, shall in the manner and within the time required by him, furnish any return or information, including bank statements, profit and loss statements or statements of assets and liabilities, required by the Commissioner for the purposes of this Act.

Returns deemed to be duly made

91. Every return purporting to be made or signed by or on behalf of a business or person shall be deemed to have been duly made by the business or the person or with the authority of the owner of the business or person until the contrary is proved.

Certificate of sources of information

92. (1) Any person who charges directly or indirectly any fee for preparing or assisting in the preparation of a return required under this Act shall sign a certificate in the prescribed form to be endorsed on or annexed to the return setting out such information as to the sources available for the compilation of the return as is prescribed.

(2) The agent's certificate shall, for the purposes of this Act, be deemed to be duly signed, in the case of a partnership or a company which is registered as a tax agent in pursuance of Part IX, if it is signed in the name of the partnership or company, as the case may be, by a person who is registered as a nominee of that partnership or company for the purposes of that Part, and that person's name is also appended, and not otherwise.

(3) A business which does not furnish with its return an agent's certificate shall furnish such information as to the sources available for the completion of the return.

Assessment

93. (1) From the returns, and from any other information in his possession, or from any one or more of those sources, the Commissioner shall make an assessment of the amount of the taxable income of any business, and of the tax payable thereon by the owner of the business.

Adjustment sheet

(2) Where the Commissioner has made any adjustment to the return submitted by a business, he shall notify the business of any adjustments made.

Default assessment

94. If -

(a) any business makes default in furnishing a return; or
(b) the Commissioner is not satisfied with the return furnished by any business; or
(c) the Commissioner has reason to believe that any business which has not furnished a return has derived taxable income,

the Commissioner may make an assessment of the amount upon which in his judgement business tax ought to be levied, and that amount shall be the taxable income of that business for the purposes of section 93.

Special assessment

95. (1) The Commissioner may at any time during any year, or after its expiration, make an assessment of the taxable income derived in that year or any part of it by any business and of the tax payable thereon.

(2) Where the income, in respect of which such an assessment is made, is derived in a period less than a year, the assessment shall be made as if the beginning and end of that period were the beginning and end respectively of the tax year.

Assessment on all persons liable to tax

96. Where under this Act tax is leviable in respect of the taxable income of any business the Commissioner may make an assessment of the amount of such tax.

Amendment of assessment

97. (1) Subject to this section, the Commissioner may at any time amend an assessment by making such alterations therein or additions thereto as he thinks necessary, notwithstanding that tax may have been paid in respect of the assessment.

(2) Where a business has not made to the Commissioner a full and true disclosure of all material facts necessary for his assessment, and there had been an avoidance of tax, the Commissioner may -

(a) where he is of the opinion that the avoidance of tax is due to fraud or evasion, at any time; or

(b) in any other case, within six years from the date when the notice of assessment is issued in accordance with section 101,

amend the assessment by making such alterations therein or additions thereto as he thinks necessary to correct an error in calculation or a mistake of fact or to prevent avoidance of tax, as the case may be.

(3) Where a business has made to the Commissioner a full and true disclosure of all the material facts necessary for his assessment, and an assessment is made after that disclosure, no amendment of the assessment increasing the liability of the owner of the business in any particular shall be made except to correct an error in calculation or a mistake of fact, and no such amendment shall be made after the expiration of three years from the end of the tax year in which the assessment was made.

(4) No amendment effecting a reduction in the liability of the owner of a business under an assessment shall be made except to correct an error in calculation or a mistake of fact, and no such amendment shall be made after the expiration of three years from the end of the tax year in which the assessment was made.

(5) Where an assessment has, under this section, been amended in any particular, the Commissioner may, within three years from the end of the tax year in which the amended assessment was made, make in or in respect of that particular, such further amendment in the assessment as, in his opinion, is necessary to effect such reduction in the liability of the owner of a business under the assessment as is just.

(6) Where an application for an amendment in his assessment is made by the owner of a business within three years from the end of the tax year in which the assessment was made, and the owner of the business has supplied to the Commissioner within that period all information needed by the Commissioner for the purpose of deciding the application, the Commissioner may amend the assessment when he decides that application notwithstanding that that period has elapsed.

(7) Nothing contained in this section shall prevent the amendment of any assessment in order to give effect to the decision upon any appeal, or its amendment by way of reduction in any particular in pursuance of an objection made by the owner of a business or pending any appeal.

(8) Where -

(a) any provision of this Act is expressly made to depend in any particular upon a determination, opinion or judgement of the Commissioner; and

(b) any assessment is affected in any particular by that determination, opinion or judgement,

then if, after the making of the assessment it appears to the Commissioner that the determination, opinion or judgement was erroneous, he may correct it and amend the assessment accordingly in the same circumstances as he could under this section amend any assessment by reason of a mistake of fact.

(9) Notwithstanding anything contained in this section, when the assessment of the taxable income of any year includes an estimated amount of income derived by a business in that year from an operation or series of operations the profit or loss on which was not ascertainable at the end of that year owing to the fact that the operation or series of operations extended over more than one or parts of more than one year, the Commissioner may at any time within three years after ascertaining the total profit or loss actually derived or arising from the operation or series of operations, amend the assessment so as to ensure its completeness and accuracy on the basis of the profit or loss so ascertained.

(10) Nothing in this section prevents the amendment, at any time, of an assessment for the purpose of giving effect to the provisions of section 39(3) or section 48(5).

(11) Nothing in this section prevents the amendment of an assessment for the purpose of giving effect to section 2 (6) if the amendment is made within three years after the end of the tax year in which the assessment was made.

(12) Notwithstanding anything in this Act, the Commissioner may amend an assessment for the purpose of giving effect to section 66 if the amendment is made within six years after the end of the tax year in which the assessment was made.

(13) Except as otherwise provided, every amended assessment shall be an assessment for the purpose of this Act.

Power to amend assessment not to limit other such powers

98. Where a provision of this Act authorizes the Commissioner to amend an assessment, that provision does not limit the power of the Commissioner to amend an assessment in accordance with any other provision of this Act.

Elimination of cents in assessment

99. For the purposes of the making of an assessment, where the taxable income or other amount in respect of which tax would, but for this section, be payable is an amount of rupees and cents, the cents shall be disregarded.

Application of overpaid tax

100. (1) Where, by reason of any amendment, the liability of the owner of a business is reduced, the amount of tax overpaid shall first be credited in payment successively of -

(a) any business tax or additional tax owed or payable by the owner of the business, including tax owed or payable by the owner of the business as a partner in a partnership which owns a business;

(b) any withholding tax owed or payable by the owner of the business, and

(c) any other tax owed or payable by the owner of the business to the Commissioner or the Commissioner of Taxes under the Trades Tax Act, 1985,

and the Commissioner shall, subject to subsection (2), refund the owner of the business so much of the excess as is not so credited.

(2) The Commissioner shall not refund any excess of tax under subsection (1) unless the amount of excess tax exceeds ten rupees.

Notice of assessment

101. Where a person is liable to pay tax, as soon as may be convenient after any assessment is made, the Commissioner shall serve the person liable to pay the tax by post or otherwise with written notice thereof.

Validity of assessment

102. The validity of an assessment shall not be affected by reason that any of the provisions of this Act have not been complied with.

Evidence

103. (1) The production of a notice of assessment, or of a document under the hand of the Commissioner, purporting to be a copy of a notice of assessment, shall be conclusive evidence of the due making of the assessment and (except in proceedings on appeal against the assessment) that the amount and all the particulars of the assessment are correct.

(2) The production of a document under the hand of the Commissioner, purporting to be a copy of a document issued by the Commissioner, shall be conclusive evidence that the document was so issued.

(3) The production of a document under the hand of the Commissioner, purporting to be a copy of or extract from any return or notice of assessment shall be evidence of the matter therein set forth to the same extent as the original would be if it were produced.

Objections

104. (1) Subject to subsection (3), the owner of a business dissatisfied with an assessment under this Act may, within sixty days after service of the notice of assessment, serve on the Commissioner an objection in writing against the assessment stating fully and in detail the grounds for his objection.

(2) A separate objection shall be served in respect of each assessment objected against.

(3) Where the Commissioner has amended an assessment under this Act, the owner of a business shall have no further right of objection than he would have had if the amendment had not been made, except to the extent to which by reason of the amendment a fresh liability in respect of any particular is imposed on him or an existing liability in respect of any particular is increased.

Decision of Commissioner

105. The Commissioner shall consider the objection served under section 104 and may either disallow it, or allow it either wholly or in part, and shall serve the owner of the business with written notice of his decision.

Application for appeal

106. The owner of the business dissatisfied with the decision of the Commissioner made under section 105 may, within sixty days after the date of service of the written notice of the decision, request the Commissioner, in writing, to treat his objection served under section 104 as an appeal and forward it to the Supreme Court.

Fee for appeal

107. (1) A request made under section 106 shall be accompanied by the fee specified in the Fifth Schedule in respect of each separate assessment.

(2) The fee shall be refunded to the owner of the business if -

(a) the assessment is reduced either by amendment or as a result of the decision of the Supreme Court or the Court of Appeal;

(b) the owner of the business withdraws the appeal to the Supreme Court at any time before the Controller refers the objection of the owner of the business to the Supreme Court under section 106, or

(c) the request made by the owner of a business under section 106 lapses under section 109(3).

Reference to Court of objection as an appeal

108. (1) Subject to section 109, the Commissioner shall within ninety days after receiving the request of owner of the business made under section 106 -

(a) deliver to the Supreme Court -

(i) a copy certified by him of the objection of the owner of the business; and

(ii) a submission setting out his reasons both on fact and on law in support of his decision made under section 105;

(b) forthwith serve a copy of the submission on the owner of the business or his authorised agent.

(2) The owner of the business shall within sixty days after receiving a copy of the Commissioner's submission deliver to the Supreme Court a written defence of his objection and shall forthwith serve a copy of the defence on the Commissioner.

(3) The Commissioner may, within thirty days after receiving a copy of the defence of the owner of the business deliver to the Supreme Court a written reply to the defence of the owner of the business and shall forthwith serve a copy of the written reply on the owner of the business or his authorised agent.

Request for particulars

109. (1) The Commissioner may within sixty days after the receipt of a request made under section 106 require the owner of a business in writing, within such time as may be specified by the Commissioner, to attend for interview or to furnish any information relating to the decision of the Commissioner or the objection of the owner of the business.

(2) Where the Commissioner requires the owner of a business to comply with subsection (1), the Commissioner shall not be bound to forward, pursuant to section 108, the objection to the Supreme Court until the expiration of ninety days after the receipt of information obtained pursuant to the enquiries made in subsection (1) or of the receipt of any other information required as a result of those enquiries.

(3) Where the owner of a business fails to comply with subsection (1), the request made by him under section 106 shall lapse and the decision of the Commissioner given under section 105 shall be final.

Grounds of objection and burden of proof

110. On any appeal to the Supreme Court under section 106 -

(a) the owner of a business shall be limited to the grounds stated in his objection served under section 104, and

(b) the burden of proving that the assessment is excessive shall lie upon the owner of a business.

Reduced assessment

111. If the assessment has been reduced by the Commissioner after considering the objection served by the owner of a business under section 104, the reduced assessment shall be the assessment to be dealt with on appeal.

Consideration of appeal

112. (1) The Supreme Court shall consider the appeal made to it under section 106 and may require the parties to the appeal to appear before it to be examined in relation to matters pertaining to the appeal.

(2) In any case where questions of fact need to be ascertained to properly decide the appeal, the Supreme Court may refer such question to a Commissioner appointed by the Court and the provisions of sections 312 to 318 of the Seychelles Code of Civil Procedure shall, mutatis mutandis, apply to the Commissioner appointed under this subsection in the same way as they apply to a Commissioner appointed under section 311 of that Code.

Order of Court

113. The Supreme Court may make such order as it thinks fit in relation to the appeal and by such order may confirm, reduce, increase or vary the assessment and may make such order as to costs as it thinks fit.

Appeal to Court of Appeal

114. The Commissioner or the owner of a business may, with leave of the Court of Appeal, appeal to the Court of Appeal against an order made under section 113.

Court order on appeal

115. The Court of Appeal may on an appeal under section 114, make such order as it thinks fit, and may by such order confirm, reduce, increase or vary the assessment and may make such order as to costs as it thinks fit.

Failure to observe time limits

116. Where the Commissioner or the owner of a business fails to observe the time limits prescribed in section 108 (1) and (2)-

(a) on failure by the Commissioner, the appeal shall be deemed to have been determined in favour of the owner of a business; or

(b) on failure by the owner of a business, the appeal shall be deemed to have been withdrawn and the Supreme Court may determine the appeal accordingly.

Pending objection or appeal not to delay payment of tax

117. The fact that an objection under section 104 or appeal under section 106 or section 114 is pending shall not interfere with, or affect the assessment which is subject of such objection or appeal and business tax may be recovered on the assessment as if no such objection or appeal were pending.

Adjustment of tax after appeal

118. (1) Where the assessment is altered on appeal a due adjustment shall be made, for which purpose amounts paid in excess shall first be credited in payment of the successive taxes set out in section 100 and the Commissioner shall, subject to subsection (2), refund any excess as is not so credited and amounts short paid shall be recoverable as arrears.

(2) The Commissioner shall not refund any excess of tax under subsection (1) unless the amount of excess exceeds ten rupees.

Exception

119. (1) Where an objection served under section 104 in respect of which a request for reference is made by the owner of a business under section 106 contains grounds similar to the grounds in any appeal pending before the Supreme Court or the Court of Appeal and the Commissioner has notified the owner of a business in writing that such an appeal is pending, the owner of a business may, within such time as the Commissioner may allow, request the Commissioner to defer the forwarding of his objection to the Supreme Court and the provisions of section 108 shall be suspended until the pending appeal is determined but will then operate from the date the judgement in the appeal is handed down as if no deferment, as authorised by this section, has taken place and as if the date of judgement was the date the request made under section 106 was received by the Commissioner.

PART VII - COLLECTION AND RECOVERY OF TAX

DIVISION 1 - GENERAL

When tax payable
S.I. 1 of 1988

120. Subject to this Part, any business tax assessed shall be due on the date on which the assessment is made and shall be payable by the person liable to pay the tax on the date specified in the notice of assessment as the date upon which tax is payable (not being less than thirty days after the service of the notice) or, if no date is so specified, on the thirtieth day after the service of the notice.

Taxpayer leaving Seychelles

121. (1) Where the Commissioner has reason to believe that a person liable to pay tax may leave Seychelles before the date on which the tax is due and payable the tax shall be due and payable on such date as the Commissioner notifies to that person.

(2) Where the Commissioner is of the opinion that any person is about to or likely to leave Seychelles without paying all tax to which he is liable, the Commissioner may make an application to the Supreme Court together with an affidavit for an order preventing the person from so leaving Seychelles.

(3) An order of the Supreme Court on an application made under subsection (2) shall be sufficient authority for the Director General of Immigration to prevent the person from so leaving Seychelles.

(4) Where the Supreme Court is satisfied that a person in respect of whom an order has been made under subsection (2) has paid the tax and any surcharges or furnished sufficient security for the payment thereof, the Supreme Court may vacate the order.

(5) The Chie fJustice may make rules of the Supreme Court in respect of an application under subsection (2).

(6) Every air company or shipping company or the agents thereof, shall, if so required by the Commissioner furnish him with a list of all passengers due to leave Seychelles by air, or by sea, as the case may be.

Extension of time and payment by instalments

122. (1) The Commissioner of Taxes may, in any case grant such extension of time for payment, or permit payment to be made by such instalments and within such time as he considers the circumstances warrant and in such case the tax shall be due and payable accordingly.

(2) Where a person fails to pay any instalment under subsection (1) when it becomes due and payable all outstanding tax shall thereupon become due and payable, together with any interest which has then accrued.

Penalty for unpaid tax

123. (1) If any tax remains unpaid after the time when it becomes payable, additional tax shall be payable at the rate of twenty per centum per annum or part thereof on the amount unpaid, computed from that time or, where an extension of time has been granted under section 122, from such date as the Commissioner determines, not being a date prior to the date on which the tax was originally payable :

Provided that the Commissioner may in any case, for reasons which he thinks sufficient, remit the additional tax or any part thereof.

(2) Notwithstanding anything contained in this section, the Commissioner may sue for recovery of any tax unpaid immediately after the expiry of the time when it becomes payable.

Tax a debt due to the Government S.I. 1 of 1988

124. Business tax when it becomes payable shall be a debt due to the Government, and shall be paid to the Commissioner in the manner and at the place prescribed.

Recovery of tax Attorney-

125. (1) Any tax unpaid may be sued for and recovered in any court of competent jurisdiction at any time by the Commissioner suing in his official name, or by the

General suing on behalf of the Government.

(2) In an action for the recovery of tax a copy of the notice of assessment shall be received as evidence that the tax is due and payable and the court before which proceedings are brought shall not entertain any plea that the tax assessed is not properly assessed or that the assessment is the subject of an objection, appeal or reference.

Temporary business

126. (1) Where the Commissioner has reason to believe that any person establishing or carrying on business in Seychelles intends to carry on that business for a limited period only, or where the Commissioner for any other reason thinks it proper so to do, he may at any time and from time to time require that person to give security by bond or deposit or otherwise to the satisfaction of the Commissioner for the due return of, and payment of tax on, the income derived by the business of that person.

(2) A person who fails to give security when required to do so under this section shall be guilty of an offence and liable on conviction to a fine of not less than one thousand rupees and not more than five thousand rupees.

(3) The court before which a person referred to in subsection (2) is convicted of an offence under that subsection may, in addition to the imposition of a fine, order the person to give security for the purposes of that subsection in such terms as the court orders.

Service

127. (1) If a person liable to tax -

(a) is absent from Seychelles and has not, to the knowledge of the Commissioner after reasonable inquiry in that behalf, any attorney or agent in Seychelles on whom service of process can be effected; or

(b) cannot after reasonable inquiry be found,

service of any process in proceedings against him for recovery of tax may, without leave of the court, be effected on him by posting the same or a sealed copy thereof in a letter addressed to him at his last known place of business or abode in Seychelles and service shall be deemed to have been effected on the date on which the process would in the normal cause of event, be delivered.

(2) Section 50 of the Interpretation and General Provisions Act 1976 applies to and with respect to the service or giving of any notice or instrument required or permitted to be served or given under this Act.

Tax due from agent of non-resident in respect of insurance and reinsurance

128. Where a person is or may become liable to pay tax as agent for a non-resident in respect of any premium paid or credited by him to that non-resident in respect of insurance or reinsurance -

(a) he shall for all purposes of this Act, be deemed to have received the premium in his representative capacity immediately before it was so paid or credited; and

(b) if he pays or credits the premium before arrangements have been made to the satisfaction of the Commissioner for the payment of any tax which may be assessed in respect of that premium he shall be personally liable to pay that tax.

Trustees, etc., to obtain certificate before distribution

129. Trustees in bankruptcy, assignees, administrators, executors and other like persons before distributing any assets under their control shall obtain a certificate from the Commissioner certifying that his requirements relating to tax and interest and penalties properly chargeable against the person, property, business or estate, as the case may be, have been satisfied.

Liquidators, etc

130. (1) Every person (in this section called "the trustee") who is -

(a) a trustee in bankruptcy, assignee or other like person of a person or business;

(b) a liquidator of any person or business;

(c) a receiver or manager appointed in respect of any assets of a person or business;

(d) an agent who has been required by an owner of a business to wind up the business or realise the assets of the owner,

shall within fourteen days after he has become trustee, or after he has taken possession of assets, or after he has been so required by his principal, give notice thereof to the Commissioner.

(2) The Commissioner shall, as soon as practicable thereafter, notify to the trustee the amount which appears to the Commissioner to be sufficient to provide for any tax which then is or will thereafter become payable by the company or principal, as the case may be.

(3) The trustee -

(a) shall not without the leave of the Commissioner part with any of the assets of the company or principal until he has been so notified;

(b) shall set aside out of the assets assets to the value of the amount so notified, or the whole of the assets so available if they are of less than that value; and

(c) shall, to the extent of the value of the assets which he is so required to set aside, be liable as trustee to pay the tax.

(4) If the trustee fails to comply with this section or fails as trustee duly to pay the tax for which he is liable under subsection (3) he shall, to the extent of the value of the assets of which he has taken possession and which were available at any time for the payment of tax, be personally liable to pay the tax, and shall be guilty of an offence and liable on conviction to a fine of not less than one thousand rupees and not more than five thousand rupees.

(5) Where more than one person is the trustee, the obligations and liabilities attaching to the trustee under this section shall attach to those persons jointly.

(6) Where the assets of a company which is being wound up are insufficient to pay the costs, charges and expenses incurred by the trustee and the creditors of the company whose debts rank in priority to the costs, charges and expenses also agree, the Commissioner may permit the costs, charges and expenses which in the opinion of the Commissioner have been reasonably incurred by the trustee, including a reasonable amount as remuneration of the trustee, to be paid before the payment of any amount due as tax and additional tax by the company.

Deceased persons

131. (1) Where any person dies during the tax year and that person would, but for this death, have been liable to tax in respect of that tax year, or when any person dies within two years after the expiration of the tax year and no assessment or an inadequate assessment has been made upon the business of which he was the owner for that year, any one of the persons mentioned in subsection (2) shall be liable to pay the tax which the deceased would have been liable, and shall be answerable for doing all such acts, matters and things as the deceased, if he were alive, would be liable to do under this Act :

Provided that, if the estate of the deceased has been distributed before any assessment is made, any of the persons mentioned in subsection (2) shall pay the tax at the rate in force at the date of the distribution of the estate, if the rate of tax or the tax year has not been fixed at that date.

(2) The persons liable and answerable under subsection (1) are -

(a) any heir accepting the succession simply or under benefit of inventory;

(b) the surviving spouse (conjoint survivant);

(c) the universal legatee;

(d) the testamentary executors having the seisin, including any person who takes possession, of the property of the deceased;

(e) legatees or donees where there is no person falling under any of the above categories;

(f) the Curator of Vacant Estates in charge of a vacant succession.

(3) Any one of the persons mentioned in subsection (2) who refuses or neglects to effect payment or to do any other matter or thing as required by subsection (1) may be proceeded against in like manner as any other defaulter :

Provided that the liability of any such person for the payment of the tax due by a deceased person shall not exceed the total value of the net assets of the deceased's estate held by such a person.

Commissioner may collect tax from person owing money to person liable to pay tax

132. (1) The Commissioner may at any time, or from time to time, by notice in writing (a copy of which shall be forwarded to the persons liable to tax at his last place of address known to the Commissioner), require -

(a) any person by whom any money is due or accruing or may become due to a person liable to tax;

(b) any person who holds or may subsequently hold money for or on account of a person liable to tax;

(c) any person who holds or may subsequently hold money on account of some other person for payment to a person liable to tax; or

(d) any person having authority from some other person to pay money to a person liable to tax,

to pay to the Commissioner, either forthwith upon the money becoming due or being held, or at or within a time specified in the notice (not being a time before the money becomes due or is held) -

(e) so much of the money as is sufficient to pay the amount due by the person liable to tax in respect of any tax, penalty and additional tax, or the whole of the money when it is equal to or less than that amount; or

(f) such amount as is specified in the notice out of each of any payments which the person so notified becomes liable from time to time to make to the person liable to tax until the amount due by the person liable to tax in respect of any tax, penalty and additional tax is satisfied,

and may at any time, or from time to time, amend or revoke any such notice, or extend the time for making any payment in pursuance of the notice.

(2) Where the person served with a notice under subsection (1) fails to comply with the notice in accordance with paragraph (e) or paragraph (f) of that subsection, he is, in addition to any penalty for which he may be liable under this Act, also liable for the amount which he has failed to pay to the Commissioner.

(3) The Commissioner shall apply any amount recovered under subsection (2) in or towards payment of the tax, penalty and additional tax payable by the person liable to pay tax.

(4) Any person who fails to comply with the requirement of any notice under this section is guilty of an offence and in addition to any penalty for which he may be liable under this section, is liable on conviction to a fine of not less than one thousand rupees and not more than five thousand rupees.

(5) Any person making any payment to the Commissioner in pursuance of subsection (1) shall be deemed to have been acting under the authority of the person liable to tax and of all other persons concerned and is hereby indemnified in respect of such payment.

(6) Any notice to be given under this section to the Government may be served upon the head of the Ministry or Department involved and any notice so served shall be deemed to have been served upon the Government.

(7) In this section -

"tax" includes any judgment debt and costs in respect of tax;

"person" includes Government or a public body.

Consolidated tax

133. Where several persons are in receipt of income for or on behalf of a person liable to tax and who is a non-resident or absent from Seychelles, the Commissioner, if it appears to him to be expedient to do so, may consolidate all or any of the tax to which the person is liable, and declare any one of such persons in receipt of income to be the agent of the person liable to tax in respect of the consolidated tax, and require the person declared to be agent to pay the tax, and thereupon the person so declared to be agent shall be liable to pay the tax :

Provided that the liability to pay the tax shall not exceed the amount held by the agent.

DIVISION 2 - COLLECTION OF TAX BY INSTALMENT

Interpretation

134. (1) In sections 122, 123, 124, 125, 127, 132, 173, 174, 177 and 178, but not in any other section of this Act, "business tax" or "tax" includes an instalment of provisional tax due and payable under and in accordance with this Division.

(2) In sections 124, 125, 127, 132, 173, 174, 177 and 178, but not in any other section of this Act, "business tax" or "tax" includes additional tax due and payable under and in accordance with this Division.

(3) The ascertainment of the amount of provisional income, the amount of provisional tax, or the amount of any instalment of tax, under and in accordance with this Division is not and shall not be construed as an assessment within the meaning of any provision of this Act.

(4) All amounts of provisional tax or instalment of provisional tax shall be calculated to the nearest rupee.

Liability to pay instalment of tax

135. (1) The owner of a business, other than the owner of a business to which section 136 applies, liable to pay tax under section 11 in respect of the taxable income of the business derived by the business during the tax year that commences on the 1st January 1988, and during each succeeding tax year, shall, subject to and in accordance with this Division and the regulations made under this Division, pay the tax during the relevant tax year by instalment.

(2) The rates of tax to be applied in calculating provisional tax in a provisional tax year are the rates declared in the First Schedule as the rates to be applied in calculating business tax for the tax year which corresponds to the provisional tax year.

(3) The Minister shall, by regulations made under section 185, prescribe all matters which are required, necessary or convenient to be prescribed in connection with the assessment, charging, collection, payment, and recovery of instalments of provisional tax.

Deduction of tax at source

136. (1) This section applies to a specified business and shall come into operation on such day as the Minister may by Notice in the Gazette appoint.

(2) Where the Government, a public body or a business pays a specified business for or in connection with services rendered by the specified business, the Government, public body or business shall deduct provisional tax on the gross amount paid to the specified business at the rates specified under this section and shall remit the provisional tax to the Commissioner in the manner and within the time specified under this section.

(3) The Minister may, by regulations, prescribe all matters which are required, necessary or convenient to be prescribed in connection with the deduction, remittance, collection and recovery of provisional tax under this section.

Tax deducted to be held on trust

137. Notwithstanding any other written law, provisional tax deducted by a public body or a business under section 136 shall be held on account by the public body or business for and on behalf of the Government and shall not be subject to attachment in respect of any debt or liability of the public body or business and in the event of a liquidation, assignment or bankruptcy of the public body or business the provisional tax shall not form part of the estate in liquidation, assignment or bankruptcy but shall be paid in full to the Commissioner before any distribution of the property is made.

PART VIII - PENAL PROVISIONS AND PROSECUTIONS

Taxation proceeding

138. In this Part "taxation proceeding" means a proceeding by the Government for the recovery of a pecuniary penalty under this Act.

Failure to furnish returns or information, etc.

139. (1) Any person who fails to duly furnish any return or information or comply with any requirement of the Commissioner as and when required by or under this Act or by the Commissioner shall be guilty of an offence and liable on conviction to a fine of not less than one thousand rupees and not more than five thousand rupees.

(2) A prosecution for an offence under this section may be commenced at any time.

Refusal to give evidence

140. Any person who refuses or neglects to attend and give evidence when required by the Commissioner or any officer duly authorised by him, or to truly and fully answer any question put to him by, or to produce any book or paper required of him by the Commissioner or any such officer, shall, unless just cause or excuse for the refusal or neglect is shown by him, be guilty of an offence and liable on conviction to a fine of not less than one thousand rupees and not more that five thousand rupees.

Order to comply with requirement

141. Upon the conviction of any person for an offence under this Act the Court may order him within a time specified in the order to do the act which he has failed or refused or neglected to do, and any person who does not duly comply with such an order shall be guilty of an offence and liable on conviction to a fine of not less that two thousand rupees and not more than ten thousand rupees and to imprisonment for twelve months.

Making of order under section 141

142. An order under section 141 may be made orally by the Court to the defendant, or may be served in the manner prescribed.

Additional tax in certain cases

143 (1) Notwithstanding anything contained in sections 139, 140 and 141 any owner of a business who fails to furnish as and when required by or under this Act or by the Commissioner, any return or any information in relation to any matter affecting either his liability to tax or the amount of the tax, shall be liable to pay as additional tax an amount equal to the tax assessable to him or the amount of two thousand rupees whichever is greater.

(2) Any owner of a business from whose return any assessable income is omitted or in whose return is included as deduction for expenditure incurred by the business an amount in excess of the expenditure actually incurred by the business shall be liable to pay as additional tax an amount equal to double the difference between the tax properly payable by the owner of the business and the tax that would be payable if it were assessed upon the basis of the return furnished by the business or the amount of one thousand rupees, whichever is greater.

(3) The Commissioner may in any case, for reasons which he thinks sufficient, and either before or after making any assessment, remit the additional tax or any part thereof.

(4) If in any case in which the owner of a business is liable to pay additional tax under this section a taxation proceeding is instituted in respect of the same subject-matter, the additional tax shall not be payable unless and until the proceeding is withdrawn.

False returns or statements

144. (1) Any person who, or any business which, makes or delivers a return which is false in any particular, or any person who makes a false answer whether oral or in writing to any question duly put to him by the Commissioner or any officer authorised by him, shall be guilty of an offence and liable on conviction to a fine of not less than one thousand rupees and not more than five thousand rupees, and, in addition, the court may order the person or business, as the case may be, to pay to the Commissioner a sum not exceeding double the amount of tax that would have been avoided if the return or answer had been accepted as correct.

(2) In any prosecution for an offence under this section of a person who has not previously been convicted of an offence under this Act, or under any written law relating to business tax, it shall be a defence if the defendant proves -

(a) that the return or answer to which the prosecution relates was prepared or made by him personally; and

(b) that the false return or false answer was made through ignorance or inadvertence.

(3) A prosecution for an offence under this section may be commenced at any time.

Failure to sign or false certificate

145. (1) Any person required by this Act to sign an agent's certificate who fails to do so or who signs an agent's certificate which is false in any particular shall be guilty of an offence and liable on conviction to a fine of not less that one thousand rupees and not more than five thousand rupees.

(2) A prosecution for an offence under this section may be commenced at any time within six years after the commission of the offence.

False declarations

146. Any person who, in any declaration made under, or authorised or prescribed by or under this Act, knowingly and willfully declares to any matter or thing which is false or untrue, is guilty of an offence, and liable to a fine of not less that one thousand rupees and not more than five thousand rupees.

Understating income

147. (1) Any person who, in any return knowingly and willfully -

(a) understates the amount of any income derived by a business, or

(b) makes any misstatement affecting the liability of any person to tax or the amount of tax payable in respect of the income of a business,

is guilty of an offence and liable on conviction to a fine of not less than one thousand rupees and not more than five thousand rupees, and in addition, the court may order the

business referred to in paragraph (a) or paragraph (b) to pay to the Commissioner a sum not exceeding double the amount of tax that would have been avoided if, the statement in the return had been accepted as correct.

(2) A prosecution for an offence against this section may be commenced at any time within six years after the commission of the offence.

Fraudulent avoidance of tax

148. Any person who, by any willful act, default or neglect, or by any fraud, act or contrivance whatever, avoids or attempts to avoid assessment of taxation of the income of a business is guilty of an offence and liable on conviction to a fine of not less than two thousand rupees and not more than ten thousand rupees, and, in addition, the court may order the business to pay the Commissioner a sum not exceeding double the amount of tax that has been avoided or attempted to be avoided.

Obstructing officers

149. Any person who obstructs or hinders any officer acting in the discharge of his duty under this Act shall be guilty of an offence and liable on conviction to a fine of not less than one thousand rupees and not more than five thousand rupees.

Taxation proceedings etc

150. (1) A taxation proceeding may be instituted in the name of the Commissioner by action in the Supreme Court.

(2) In any taxation proceeding in the court, an appeal shall lie from any judgement or order to the Court of Appeal in such manner as provided by any written law for appeals from conviction or orders of dismissal.

Prosecution in accordance with practice rules

151. Every taxation proceeding in the Supreme Court may be commenced, prosecuted and proceeded with in accordance with any rules of practice established by the Court for Government suits in revenue matters or in accordance with the usual practice and procedure of the Court in civil cases or in accordance with the directions of the Court.

No objection to informality

152. (1) An objection shall not be taken or allowed to any information or summons for any alleged defect therein in substance or in form or for any variance between the information or summons and the evidence adduced at the hearing in support thereof, and the Court shall at all times make amendment necessary to determine the real question in dispute or which may appear desirable.

(2) If any such defect or variance appears to the Court to be such that the defendant has been thereby deceived or misled, it shall be lawful for the Court, upon such terms as it thinks just, to adjourn the hearing of the case to some future day.

Conviction not to be quashed

153. A conviction, warrant of commitment or other proceeding, matter or thing done or transacted in relation to the execution or carrying out of this Act shall not be held void, quashed or set aside by reason of any defect therein or want of form, and no party shall be entitled to be discharged out of custody on account of such defect.

Averment of plaintiff sufficient

154. (1) In any taxation proceeding, every averment of the plaintiff contained in the information, or complaint, shall be evidence of the matter averred.

(2) This section shall apply to any matter so averred although -

(a) evidence in support or rebuttal of the matter averred or of any other matter is given; or

(b) the matter averred is a mixed question of law and fact, but in that case the averment shall be evidence of the fact only.

(3) Any evidence given in support or rebuttal of a matter so averred shall be considered on its merits, and the credibility and probative value of such evidence shall be neither increased nor diminished by reason of this section.

(4) This section shall not apply to an averment of the defendant.

(5) This section shall not lessen or affect any onus of proof otherwise falling on the defendant.

Evidence of authority to institute proceeding

155. Where any taxation proceeding has been instituted by an officer in the name of the Commissioner the proceeding shall, unless the contrary is proved, be deemed to have been instituted by the authority of the Commissioner.

Appearance by Commissioner

156. In any action, taxation proceeding or other proceeding in any Court by the Commissioner, he may appear either personally or by a legal practitioner, or by some officer in the public service.

Appearance by officer in public service

157. The appearance of any such officer in the public service, and his statement that he appears by authority of the Commissioner shall be sufficient evidence of such authority.

Enforcement of orders for payment

158. (1) Where an order for the payment of a sum of money by any person or business to the Commissioner is made under this Part by a court a certificate of such order in the prescribed form and containing the prescribed particulars (which certificate the clerk or other proper officer of the court is hereby required to grant) may, in the prescribed manner and subject to the prescribed conditions, be registered in any court having jurisdiction to entertain civil proceedings to the amount of the order.

(2) From the date of registration the certificate shall be a record of the court in which it is registered and shall have the same force and effect in all respects as a judgement of that court and, subject to the prescribed conditions the like proceedings (including proceedings in bankruptcy) may be taken upon the certificate as if the order had been a judgement of that court in favour of the Commissioner.

(3) The Commissioner's costs of registration of the certificate and other proceedings under this section shall, subject to the prescribed conditions, be deemed to be payable under the certificate.

Costs

159. In any taxation proceeding the court may award costs against any party, and all the provisions of this Act relating to the recovery of penalties, except commitment to goal, shall extend to the recovery of any costs adjudged to be paid.

Penalties not to relieve from tax

160. The adjudgement or payment of a penalty under this Act shall not relieve any person from liability to assessment and payment of any tax for which he would otherwise be liable.

PART IX - REGISTRATION OF TAX AGENTS

Interpretation

161. In this part, unless the context otherwise requires -

"Board" means the Tax Agents Board constituted under section 162;

"registered tax agent" means a person who is registered as a tax agent in pursuance of this Part.

Constitution of Tax Agents Board

162. (1) There shall be a Tax Agents Board which shall consist of -

(a) the Financial Controller in the Department of Finance or the person for the time being performing his functions who shall be chairman of the Board;

(b) any two persons appointed by the Minister.

(2) A vacancy in the office of a member shall not invalidate the proceedings of the Board.

Meetings of Board

163. At meetings of the Board -

(a) the chairman, or in his absence, the officer for the time being performing his functions shall preside; and

(b) all questions shall be decided by a majority of the members.

Board not to be sued

164. No action or suit shall be brought or maintained against a person who is or has been a member of the Board for any nonfeasance or misfeasance in connection with his duties.

Summoning of witnesses, etc

165. The Board or a member of the Board shall have such powers as are prescribed with respect to the taking of evidence, the administration of oaths or affirmations, the summoning of witnesses and the production of documents.

Registration of tax agent

166. (1) A person desiring to be registered as a tax agent may make application to the Board through the Commissioner.

(2) Every application under this section shall be accompanied by a fee of five hundred rupees.

(3) If the applicant satisfies the Board that -

(a) in the case of an individual, the applicant;

(b) in the case of a partnership, a member of the partnership specified in the application;

(c) in the case of a company, a person, specified in the application, employed by the company,

is a fit and proper person to prepare business tax returns and transact business on behalf of persons liable to pay tax in business tax matters and that -

(d) in the case of a partnership, every member of the partnership; or

(e) in the case of a company, every director, and every manager or administrative officer, of the company,

is not under a legal disability at the date on which the application is made, and is of good fame, integrity and character, the Board may, subject to such conditions as the Board may impose, register the applicant as a tax agent.

(4) Where a partnership or company is registered as a tax agent, the member or person referred to in paragraph (b) or paragraph (c) of subsection (3) shall be registered by the Board as a nominee of the tax agent for the purposes of this Part.

(5) A partnership or company may, either in an application for registration as a tax agent or, if it is already so registered, in an application made for the purpose, request the Board through the Commissioner to register as additional or substituted nominees of the partnership or company for the purposes of this Part any other member of the partnership or persons employed by the company, and shall pay to the Commissioner, in respect of each such proposed nominee a fee of five hundred rupees.

(6) If the Board is satisfied that any person in respect of whom a request is made under subsection (5) is a fit and proper person to prepare business tax returns and transact tax business on behalf of persons liable to pay tax, it may register that person as an additional or substitute nominee of the tax agent for the purposes of this Part.

(7) Every partnership which is registered as a tax agent shall notify the Board through the Commissioner of any change in the constitution of the partnership within thirty days of the change, and every company which is registered as a tax agent shall within thirty days notify the Board through the Commissioner if any person who is a nominee of the company for the purposes of this Part ceases to be employed by the company or if a person becomes a director, or a manager or other administrative officer, within fourteen days of the cessation or, as the case may be, of the person becoming a director, manager or such an officer, of the company.

(8) Where a partnership or company fails or neglects to comply with the requirement of subsection (7) the partnership or the company, as the case may be, is guilty of an offence and liable on conviction to a fine of not less than one thousand rupees and not more than five thousand rupees.

(9) A person shall cease to be a nominee of a partnership or company -

(a) in the case of a partnership, if he ceases to be a member of the partnership;

(b) in the case of a company, if he ceases to be employed by the company;

(c) upon notification by the partnership or company to the Board through the Commissioner that it no longer desires the person to be its nominee; or

(d) if the Board serves upon the partnership or company a notice that in its opinion that person is no longer a fit and proper person to be a nominee of the partnership or company, as the case may be.

(10) Notwithstanding any other provision of this Part, where any written law requires a person to be in possession of a licence before he can provide services as a tax agent a person registered as a tax agent under this section shall not be able to act as a tax agent for the purposes of this Act unless he is in possession of the licence.

Annual notice by tax agent

167. When a registered tax agent desires that the registration shall continue in force, the tax agent shall, not later than one month after the anniversary in each year of the date on which he was registered, in a form approved by the Board, notify the Board through the Commissioner that he desires to continue to be registered, and furnish to the Board such particulars as are specified in the form.

Cancellation of registration of tax agent

168. (1) Registration as a tax agent shall remain in force until cancelled in accordance with this Act.

(2) The Board may cancel the registration of a tax agent upon being satisfied that -

(a) any return which has been prepared by or on behalf of the tax agent is false in any material particular, unless the tax agent establishes to the satisfaction of the Board that he had no knowledge of the falsity or that the falsity was due to his inadvertence;

(b) the tax agent -

(i) has neglected the business of a principal;

(ii) has been guilty of misconduct as a tax agent; or

(iii) is not a fit and proper person to remain registered ; or

(c) in the case of a partnership or company, a nominee of the tax agent is not a fit and proper person to be such a nominee, or that a person who has become a member of the partnership, or a director, or manager or other administrative officer, of the company is under a legal disability or is not of good fame, integrity and character.

(3) The Board may cancel the registration of a tax agent who fails to give notice under and in accordance with section 167, in any year.

(4) The Board shall cancel the registration of an individual as a tax agent upon his death or bankruptcy, or his permanently ceasing to carry on business as a tax agent.

(5) The Board shall cancel the registration of a tax agent which is a partnership or a company -

(a) if there is no nominee registered in respect of the tax agent;

(b) in the case of a company, if the company goes into liquidation or, in the case of a partnership, if any partner becomes bankrupt; or

(c) if it permanently ceases to carry on business as a tax agent.

(6) Where the registration of a tax agent is cancelled an appeal shall lie to the Supreme Court, and the decision of the Supreme Court shall be final and conclusive.

(7) The regulations may prescribe the practice and procedure with respect to appeals under subsection (6).

Unregistered tax agents not to charge fees

169. (1) Subject to this section, a person shall not demand or receive any fee or reward in relation to the preparation of any tax return or objection, or for, or in relation to, the transaction of any business on behalf of a person liable to pay tax in tax matters, unless he is a registered tax agent and he holds a licence to provide services as a tax agent under the written law requiring such a licence, and any person who does so is guilty of an offence and liable on conviction to a fine of not less than one thousand and not more than five thousand rupees.

(2) Subsection (1) shall not apply to any legal practitioner acting in the course of his profession in the preparation of any objection or in any litigation or proceedings before the Board.

(3) A person shall not be liable to sue for, recover or set-off any fee which he is prohibited by this section from demanding.

(4) A prosecution for an offence under this section may be commenced at any time within six years after the commission of the offence.

Negligence of registered tax agents, etc

170. (1) If, through the negligence of a registered tax agent, a person liable to tax becomes liable to pay a fine or other penalty or any additional tax, the registered tax agent shall be liable to pay to the person the amount of that fine or other penalty or additional tax, and that amount may be sued for and recovered by the person in any court of competent jurisdiction and the fine, penalty or additional tax shall not be allowable deduction of the tax agent's business.

(2) Nothing in this section shall excuse the person liable to tax from his liability.

Advertising by person other than registered tax agent
S.I. 1 of 1988

171. (1) A person, not being a registered tax agent, shall not, directly or indirectly-

(a) describe himself as, or represent himself to be, a tax agent;

(b) advertise in any manner that business tax returns will be prepared by him or that any other matter in connection with business tax will be attended to by him,

and any person who does so is guilty of an offence and liable on conviction to a fine of five thousand rupees.

(2) For the purpose of subsection (1) the production by the Commissioner of evidence that a person, who is not a registered tax agent, has prepared tax return or objection in respect of more than ten different businesses in any tax year is prima facie evidence that the person is practising as an unregistered tax agent.

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PART X - MISCELLANEOUS

Public officer of company

172. (1) Every company carrying on business in Seychelles, or deriving income in Seychelles, shall at all times, unless exempted by the Commissioner, be represented for the purposes of this Act by a public officer being a person residing in Seychelles and duly appointed by the company or by its duly authorized agent or attorney.

(2) With respect to every such company and public officer the following provisions shall apply -

(a) the company shall appoint a public officer within three months after the commencement of this Act or after the company commences to carry on business or derive income in Seychelles;

(b) the company shall keep the office of the public officer constantly filled;

(c) no appointment of a public officer shall be deemed to be made until after notice thereof in writing, specifying the name of the officer and an address for service upon him has been given to the Commissioner;

(d) if the company fails to duly appoint a public officer when and as often as such appointment becomes necessary, it shall be guilty of an offence and liable to a fine of not less than one thousand rupees and not more than five thousand rupees and, in addition, to a fine of one hundred rupees for every day during which the failure continues;

(e) service of any document at the address for service, or on the public officer of the company, shall be sufficient service upon the company for all the purposes of this Act and if at any time there is no public officer then service upon any person acting or appearing to act in the business of the company shall be sufficient;

(f) the public officer shall be answerable for the doing of all such things as are required to be done by the company under this Act and in case of default, shall be liable to the same penalties;

(g) everything done by the public officer which he is required to do in his representative capacity shall be deemed to have been done by the company and the absence or non-appointment of a public officer shall not excuse the company from the necessity of complying with any of the provisions of this Act or from any penalty for failure to comply therewith, but the company shall be liable under this Act as if there were no requirement to appoint a public officer;

(h) any notice given to or requisition made upon the public officer shall be deemed to be given to or made upon the company;

(i) any proceedings under this Act taken against the public officer shall be deemed to have been taken against the company, and the company shall be liable jointly with the public officer for any penalty imposed upon him; and

(j) notwithstanding anything contained in this section, and without in any way limiting, altering or transferring the liability of the public officer of a company, every notice, process or proceedings which under this Act may be given to, served upon or taken against the company or its public officer may, if the Commissioner thinks fit, be given to, served upon or taken against any director, secretary or other officer of the company or any attorney or agent of the company and that director, secretary, officer, attorney or agent shall have the same liability in respect of that notice, process or proceeding as the company or public officer would have had if it had been given to, served upon, or taken against the company or public officer.

Agents and trustees

173. With respect to every agent and with respect to every trustee, the following provisions shall apply -

(a) he shall be answerable for the doing of all such things as are required to be done by virtue of this Act by the business or the owner of a business, as the case may be, in respect of the income derived by him in his representative capacity, or derived by the principal by virtue of his agency, and for the payment of tax thereon;

(b) when a return is required under this Act he shall, in respect of that income, make the return and be assessed thereon, but in his representative capacity only, and each return and assessment shall, except as otherwise provided by this Act, be separate and distinct from any other;

(c) if he is a trustee of the estate of a deceased person, the returns shall be the same as far as practicable as the deceased person, if living, would have been liable to make;

(d) he is hereby authorized and required to retain from time to time out of any money which comes to him in his representative capacity so much as is sufficient to pay the tax which is or will become due in respect of the income;

(e) he is hereby made personally liable for the tax payable in respect of the income to the extent of any amount that he had retained, or should have retained, under paragraph (d), but he shall not be otherwise personally liable for the tax;

(f) he is hereby indemnified for all payments which he makes in pursuance of this Act or of any requirement of the Commissioner;

(g) where as one of two or more joint agents or trustees he pays an amount for which they are jointly liable, the other or others shall be liable to pay him each his equal share of the amount so paid; and

(h) for the purpose of ensuring the payment of tax the Commissioner shall have the same remedies against attachable property of any kind vested in or under the control or management or in the possession of any agent or trustee, as he would have against the property of any other business or owner of a business in respect of tax.

Person in receipt or control of money for non-resident

174. (1) With respect to every person having the receipt, control or disposal of money belonging to a non-resident, who derives income from a source in Seychelles or who is a shareholder, debenture holder, or depositor in a company deriving income from a source in Seychelles, the following provisions shall, subject to this Act, apply -

(a) he shall when required by the Commissioner pay the tax due and payable by the non-resident;

(b) he is hereby authorized and required to retain from time to time out of any money which comes to him on behalf of the non-resident so much as is sufficient to pay the tax which is or will become due by the non-resident;

(c) he is hereby made personally liable for the tax payable by him on behalf of the non-resident to the extent of any amount that he has retained, should have retained, under paragraph (b), but he shall not be otherwise personally liable for the tax; and

(d) he is hereby indemnified for all payments which he makes in pursuance of this Act or of any requirement of the Commissioner.

(2) Every person who is liable to pay money to a non-resident shall be deemed to be a person having the control of money belonging to the non-resident, and all money due by him to the non-resident shall be deemed to be money which comes to him on behalf of the non-resident.

(3) Where the Government or an authority of the Government has the receipt, control or disposal of money belonging to a non-resident, this section (other than subsection (1) (c) applies to and in relation to the Government or the authority, as the case may be, in the same manner as it applies to and in relation to any other person.

Person paying royalty to a non-resident taxpayer

175. (1) Every person (including the Government or an authority of the Government) who is liable to pay money as or by way of royalty to a non-resident shall, before making any payment to or on behalf of the non-resident, furnish to the Commissioner a statement of the amount of royalty due to the non-resident, whether such royalty became due either before or after the passing of this Act and, ascertain from the Commissioner the amount, if any, to be retained in respect of tax due, or which may become due, by the non-resident.

(2) Section 174 shall apply in respect of payments of royalty referred to in this section and, where a person liable to pay money as or by way of royalty to a non-resident has, under subsection (1), ascertained from the Commissioner the amount to be retained in respect of tax which is due, or may become due, by the non-resident, subsection (1) (b) of that section has effect as if it authorized and required the person to retain from the money the amount so ascertained.

Payment of tax by banker

176. Where any income of any person out of Seychelles is paid into the account of that person with a bank or banker in Seychelles, the Commissioner may by notice in writing to the manager of the bank or the banker, appoint the manager or the banker to be the person's agent in respect of the money so paid so long as the bank or the banker is indebted in respect thereof, and thereupon the manager or the banker shall accordingly be that person's agent.

Recovery of tax paid on behalf of another person

177. Every person, who, in pursuance of this Act, pays any tax for or on behalf of any other person may recover the same from that other person as a debt, together with the costs of recovery, in any court of competent jurisdiction, or may retain or deduct the same out of any money in his hands belonging or payable to that other person.

Contribution from joint taxpayers

178. Where two or more persons are jointly liable to tax any of them who has paid the tax in respect of any of the taxable income -

(a) shall be entitled to receive by way of contribution from any other such persons an amount equal to the share of the tax which the other such persons would be liable to pay under any agreement between them if the tax had not been paid, and

(b) may recover that amount from the other such persons in any Court of competent jurisdiction, or may retain or deduct the sum out of any money in his hands belonging or payable to the other such persons.

Contracts to evade tax void

179. Every contract, agreement, or arrangement made or entered into, orally or in writing, whether before or after the commencement of this Act, shall, so far as it has or purports to have the purpose or effect of in any way, directly or indirectly -

(a) altering the incidence of any business tax;

(b) relieving any person from liability to pay any business tax or make any return;

(c) defeating any duty or liability imposed on any person by this Act; or

(d) preventing the operation of this Act in any respect,

be void, as against the Commissioner, or in regard to any proceeding under this Act, but without prejudice to such validity as it may have in any other respect or for any other purpose.

Periodical payments in the nature of income

180. Where under any contract, agreement or arrangement made or entered into orally or in writing, either before or after the commencement of this Act, any property of a business is assigned, conveyed, transferred or disposed of on terms and conditions which include the payment for the assignment, conveyance, transfer or disposal of the property by periodical payments which in the opinion of the Commissioner, are either wholly or in part in the nature of income of a business such of those payments as are derived in the tax year shall, to the extent to which they are in that opinion in the nature of income, be included in this assessable income of the business.

Business to keep records

181. (1) Subject to subsection (2), a business shall keep sufficient records in the English or the French language of the income and expenditure of the business to enable the assessable income and allowable deductions of the business to be readily ascertained and shall retain such records for a period of at least seven years after the completion of the transactions, acts or operation to which they relate, and any business which fails to do so shall be guilty of an offence and liable on conviction to a fine of not less than one thousand rupees and not more than five thousand rupees.

(2) This section shall not require the preservation of any records -

(a) in respect of which the Commissioner has notified a person liable to tax or a business that their preservation is not required, or

(b) of a company which has gone into liquidation and which has been finally dissolved.

(3) Without prejudice to the obligation contained in subsection (1), the Commissioner may require a business, public body or person liable to tax, or required to deduct withholding or provisional tax, under this Act to keep such records in such manner and for such time as the Commissioner may specify and the business, public body or person shall comply with such requirement and any business, public body or person who fails to comply with such requirement is guilty of an offence and liable to a fine of not less than one thousand rupees and not more than five thousand rupees.

Access to books, etc

182. (1) The Commissioner, or any officer authorized by him in that behalf, shall at all times have full and free access to all buildings, places, books, documents and other papers, computer data bank or disc, tapes or other devices on which information is recorded or taped for any of the purposes of this Act, and for that purpose may impound or make extracts from or copies of any such books, documents or papers or may require any person to display in readable form any information recorded or stored in the data bank or on the disc, tape or other devices

and make or require any person to make and deliver to him copies of any such information.

(2) Any person who has in his possession or control any books, documents and papers referred to in subsection (1) shall, if requested by the Commissioner or any person authorised by the Commissioner, deliver or produce the books, documents, papers to the Commissioner or to the person authorised by the Commissioner.

Requirement to give information

183. (1) The Commissioner may, by notice in writing, require any person, whether or not he is liable to pay tax, including any officer employed in or in connection with any division of the Government or by any public authority -

(a) to furnish him with such information as he may require; and

(b) to attend and give evidence before him or before any officer authorized by him in that behalf concerning the income or assessment of any business, and may require him to produce all books, documents and other papers whatever in his custody or under his control relating thereto.

(2) The Commissioner may require the information or evidence to be given on oath and either orally or in writing, and for that purpose he or the officer so authorized by him may administer an oath.

Release of taxpayer in case of hardship

184. (1) In any case where it is shown to the satisfaction of the Minister that -

(a) a person liable to tax has suffered such loss or is in such circumstances; or

(b) owing to the death of a person, who, if he had lived, would have been liable to pay tax, the dependants of that person are in such circumstances,

that the exaction of the full amount of tax will entail serious hardship, he may release the person or the trustee of the estate of the deceased person, as the case may be, wholly or in part from his liability.

(2) In any case where the amount of the liability does not exceed five hundred rupees, the powers conferred by subsection (1) on the Minister specified in that subsection may be exercised by the Commissioner.

(3) The Minister shall cause to be kept a register in which shall be recorded particulars of any release granted under subsection (1).

Regulations, etc.

185. The Minister may make regulations -

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

(b) amending the Schedules.

Examination by the Director of Audit

186. (1) The accounts of the receipt of revenue under this Act shall be examined by the Director of Audit in order to ascertain if adequate regulations, rules and procedures have been framed to secure an effective check on the assessment, collection and proper allocation of revenue, and the Director of Audit shall satisfy himself that any such regulations, rules and procedures are duly carried out.

(2) The Director of Audit shall make such examinations as he thinks fit with respect to the corrections of the sums brought to account in respect of the revenue referred to in subsection (1).

Double Taxation Agreements

187. (1) The Minister may, for and on behalf of the Republic, enter into an agreement with a Government of a territory outside Seychelles to afford relief from double taxation in relation to tax on income or profit or tax of a similar character imposed by the laws of that territory and the agreement shall, notwithstanding anything in this Act, have effect, subject to subsection (4), in relation to tax imposed under this Act.

(2) The Minister may delegate the functions conferred on the Minister under subsection (1) to an officer of the Ministry.

(3) Where any double taxation agreement has effect under subsection (1), the obligation to observe secrecy imposed by section 8 shall not prevent the divulging or communicating to any officer of the Government with which the agreement has been entered into of such information as is required to be divulged or communicated under the agreement.

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

Agreements:

1. Government of the Republic of Seychelles and the Government of the Republic of South Africa.

2. Government of the Republic of Seychelles and the Government of the Republic of Indonesia.

3. China

4. Oman

5. Zimbabwe

6. Government of the Republic of Mauritius

Gazetted as S.I. 25 of 2005.

7. Government of the Socialist Republic of Vietnam

Gazetted as S.I. 54 of 2005.

FIRST SCHEDULE

(Sections 11,71,84)

RATES OF TAX

S.I. 51 of 2006 1. The rates of the tax payable by the owner of a business in respect of the taxable income of a business are:-

(a) 0% on the first R250,000 of taxable income
(b) 40% on the remainder

S.I. 93 of 1994 2. The rate of tax payable by the owner of a business of a casino under Section 71 is - Nil.

SI. Of 2005 2A. The rate of tax payable by a person issued with a license as an importer/retailer operating an Exclusive Shop or an Exclusive Shop Outlet as authorized by the Government is - nil

2B. The rate of tax payable by a person issued with a license as an importer/retailer operating an SITZ Import Zone business as authorized by the Government is - nil

S.I. 93 of 1994 3. The rates of withholding tax under part IV are as follows:-

(a) in respect of dividend paid to a resident - Nil

S.I. 57 of 1998 (b) in respect of dividend paid to a non-resident - 15 per centum

S.I. 29 of 1998 (bA) in respect of the interest paid to the bearer of a bearer security at the time of the redemption or surrender of the security - 40 per centum

S.I. 83 of 1996 (c) in respect of interest not being interest referred to in subparagraph (bA) paid to a resident on a loan provided to a business where the resident is not a person who carries on the business of lending money – NIL

S.I. 20 of 2000 (d) in respect of –

(i) interest not being interest referred to in subparagraph (bA) paid to a non-resident by a financial institution licenced under the Financial Institutions Act – NIL

(ii) interest, not being interest referred to in sub-sub paragraph (i) or sub-paragraph (bA), paid to a non-resident who is not a person carrying on the business of lending money – 10 per centum

S.I. 41 of 2001 (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 trademark or plan – 15 per centum

Act 11 of 1987 (f) in respect of royalty paid to a non-resident in respect of the supply of scientific, technical, industrial or commercial knowledge, information or services the extent to which such payments have been subjected to payment of Social Security Contribution under the Social Security Act 1987 – Nil

Act 11 of 1987 (g) in respect of royalty paid to a non-resident in respect of the supply of scientific, technical, industrial or commercial knowledge, information or services the extent to which such payments have not been subjected to payment of Social Security Contribution under the Social Security Act 1987 - 15 per centum

S.I. 14 of 1996 (h) in respect of royalty paid to a non-resident for the use of or the right to use, any secret formula, process or knowhow whether the knowhow is technical, managerial or otherwise and any other intellectual property or right - 15 per centum

S.I. 14 of 1996 (i) in respect of royalty paid to a non-resident for the use or the right to use any industrial, commercial or scientific equipment or the operation of mines or removal of natural resources - Nil

(j) in respect of amount distributed to a non-resident as his share in the partnership profit - Nil

(k) in respect of amount distributed to a resident as his share in the partnership profit - Nil

(l) in respect of amount distributed to a resident as his share in the income of a trust estate – Nil

(m) in respect of an amount distributed to a non-resident as his share in the income of a trust estate - Nil

(n) in respect of the amount referred in section 82(f) paid to a non-resident by the Government or a public body - 5 per centum

(o) in respect of the commission paid by Interlotto Ltd to sellers of Interlotto tickets – 10 per centum

S.I. 38 of 2006 (p) in respect of interest paid to holders of 2006 Bonds issued by the Republic of Seychelles- Nil

S.I. 29 of 1998 4. In paragraph 3, "bearer security" means an instrument issued by a Financial Institution in Seychelles by way of security for any loan to or deposit made with the financial institution which at the time of issue is made payable to bearer or which is transferable by delivery.

SECOND SCHEDULE

Section 19

EXEMPTIONS

Dec 30 of 1977	1.	The income of the Seychelles Public Transport Corporation established under the Seychelles Public Transport Corporation Decree 1977.
Act 28 of 1980	2.	The income of the Seychelles Housing Development Corporation established under the Seychelles Housing Development Corporation Act, 1980.
S.I. 49 of 2005	2A.	The rate of tax payable by a person issued with a license as an importer/retailer operating an Exclusive Shop as authorised by the Government is – nil.
	3.	The income of a business of a religious, scientific, charitable or public educational institution.
	4.	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 - (i) a friendly society (ii) a society, association or club established for musical purposes or for the encouragement of music, art, science or literature, or (iii) a society, association or club for the encouragement or promotion of games or sports,
Act 7 of 1993	5.	The income of a trade union registered under the Industrial Relations Act, 1993.
	6.	Interest exempt under section 19(2).
	7.	The income of the National Provident Fund and Social Security Fund.
	8.	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.
	9.	Income from the fishing activities of a person being an individual carrying on the business of a fisherman who is registered as such by the Seychelles Fishing Authority.
Act 24 of 1982	10.	The income of the Central Bank of Seychelles established under the Central Bank of Seychelles Act, 1982.
Act 15 of 1990	11.	The income of the Seychelles Pension Scheme established under the Seychelles Pension Scheme Act, 1990.
Act 10 of 1984	12.	The income of the Seychelles Fishing Authority established under the Seychelles Fishing Authority (Establishment) Act, 1984.
Act 2 of 1982	13.	The income of the National Sports Council established under the National Sports Council Act, 1982.
Act 3 of 1986	14.	The income derived by the owner of a taxi who holds a licence under the Licences Act, 1986 from the operation of the taxi.

	15.	The income derived by a person in a tax year from the renting of a building or part of a building for use exclusively as a dwelling.
Act 13 of 1992 S.I. 31 of 1994	16.	The income of a ship registered under Part III of the Merchant Shipping Act, 1992.
	17.	The income, by way of interest, and by redemption of Depreciation Bonds, derived during any tax year commencing with the tax year 1995 by a person who subscribes to those Bonds during a period starting on the 1st January, 1995.
	18.	The income, by way of interest and by way of redemption of any Central Bank of Seychelles bonds of the Series FXM.
Act 15 of 1987	19.	The income of the Seychelles Credit Union established under the Cooperatives Act, 1987.
S.I. 34 of 1995	20.	The income of the reinsurance business of a registered insurer solely carrying on reinsurance business under the Insurance Act, 1994.
S.I. 34 of 1995	21.	The income of the insurance business of a registered insurer solely carrying on insurance business relating to offshore policies under the Insurance Act, 1994
S.I. 34 of 1995	22.	The income of an international trust declared and registered under the International Trusts Act, 1994.
S.I. 34 of 1995	23.	The income of the Seychelles Marketing Board established under the Seychelles Marketing Board Act.
S.I. 34 of 1995	24.	The taxable income not exceeding R.96,000 per tax year of the handicraftsmanship activities of a person, being an individual carrying on the business of a handicraftsman who is approved for the purpose by the Ministry responsible for industry.
S.I. 80 of 1995	25.	The income payable as interest on any Central Bank of Seychelles Bonds of the series FEX
	26.	The income payable by Policy owners Protection Fund in terms of the Insurance Act, 1994 on the investment made by the Fund.
S.I. 41 of 1996	27.	The income of the Development Bank of Seychelles established under the Development Bank of Seychelles Decree.
S.I. 5 of 1997	28.	The income of Seychelles National Oil Company on or after 1.1.94.
S.I. 5 of 1997	29.	The income of the holder of a licence under the Licenses (Non-Domestic Gaming) Regulations, 1996 from the activities conducted under the Licence.
S.I. 5 of 1997	30.	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.
S.I. 34 of 1997	31.	The income, on or after 1st January 1995, of the Public Utilities Corporation established under the Public Utilities Corporation Act.

S.I. 59 of 1997	32.	The income of the Praslin Development Fund established by the Praslin Development Fund Order 1997
S.I. 59 of 1997	33.	The income of the La Digue Development Fund established by the La Digue Development Fund Order 1997
S.I. 59 of 1997	34.	The income of the Plaine Saint Andre Ecomuseum Trust Fund established
S.I. 11 of 2000	35.	The income of Seychelles International Business Authority (SIBA) established under the Seychelles International Business Authority Act, 1994
	36.	The interest from the 8% Seychelles Stock 2009 (from 1.1.99)
	37.	The income received by a person in respect of services performed as a Musician or Performing Artist, being a person registered as such with the National Arts Council

THIRD SCHEDULE

(Sections 45 and 46)

DEPRECIATION

Depreciation in respect of plant and other properties

1. (1) This Schedule applies to -

(a) plant or articles owned by a business and used by the business during the tax year for the purpose of producing assessable income of the business;

(b) plant or articles owned by a business which have been installed ready for use by the business for the purpose of producing assessable income and which, during the tax year, is held in reserve; and

(c) a building referred to in paragraphs 4, 5, or 6.

(2) In this paragraph "plant" includes -

(a) animals used as beasts of burden or working beasts, horses used in connection with a business in which horses are hired out, and machinery, implements, utensils and rolling stocks; and

(b) fences, dams and other structural improvements on land which is used for the purposes of agricultural or pastoral pursuits, other than structural improvements used for domestic or residential purposes or as an office or a showroom except where the improvements are provided for the accommodation of employees engaged in or in connection with those pursuits.

Depreciation in in respect of plant other than plant in paragraph 3

2. (1) Subject to this Act and more particularly to paragraphs 3 and 8, depreciation is allowable in a tax year in respect of property referred to in paragraph 1 (1)(a) and (b) and shall be ascertained in accordance with this paragraph.

(2) In the first calculation of the depreciation to be allowed in respect of a unit of property under this paragraph, the Commissioner shall make an estimate of the effective life of the unit, assuming that it is maintained in reasonable order and condition, and shall fix the annual per percentage depreciation; but the Commissioner may alter the estimate and the depreciation if, in his opinion circumstances occur requiring such alteration.

(3) Depreciation allowable under this paragraph in respect of a unit of property shall not exceed the depreciated value of the unit of property.

Depreciation in respect of plant used for manufacturing purposes etc Act 3 of 1986

3. Subject to this Act and more particularly to paragraph 8, depreciation is allowable in a tax year in respect of a new plant, other than a vehicle, purchased on or after the 1st January, 1988 and used for manufacturing purposes in a business which is licensed under the Licences Act, 1986 or in a business of primary production and the depreciation, in respect of a unit of property, is

(a) in relation to the tax year in which the plant is first used to produce assessable income or installed ready for use for that purpose, twenty per cent of the cost of the unit; and

(b) in relation to each of the five tax years beginning with the tax year in which the plant is first used or installed as provided in sub-subparagraph (a), twenty per cent of the cost of the unit.

Depreciation in respect of building used for manufacturing purposes
Act 3 of 1986

4. (1) Subject to this Act and more particularly to paragraph 8, depreciation is allowable in a tax year in respect of a building completed on or after the 1st January 1988 and used, or partly used, for manufacturing purposes in a business which is licensed under the Licences Act, 1986.

(2) Depreciation under this paragraph is four per cent of the cost of the building (including additions).

(3) Where a building under this paragraph is only partly used for manufacturing purposes, only such part of the depreciation which would be allowable if the building had been wholly used for these purposes, as in the opinion of the Commissioner is proper, shall be allowable.

(4) The part of a building which shall be treated as not being used for manufacturing purposes under this paragraph shall include any part of the building used as an office, or a showroom or for storage where the part of the building used as an office or a showroom or for storage in the aggregate exceeds 33 per centum of the total floor area of the building.

Depreciation in respect of hotels

5. (1) Subject to this Act and more particularly paragraph 8, depreciation is allowable in a tax year in accordance with this paragraph in respect of an hotel -

(a) constructed after the commencement of this Act;

(b) purchased after the commencement of this Act;

(c) to which any addition is made after the commencement of this Act.

(2) Depreciation under this paragraph is -

(a) in the case of a hotel constructed or purchased after the commencement of this Act -

(i) in relation to the tax year in which the construction of the hotel is completed or the hotel is purchased, twenty per cent of the cost of the hotel; and

(ii) in relation to each one of the next eight succeeding tax years after the tax year referred to in this sub-subparagraph (a) (i), ten per cent of the cost of the hotel;

(b) in the case of an addition made to a hotel after the commencement of this Act -

(i) in relation to the tax year in which the addition is made, twenty per cent of the cost of the addition; and

(ii) In relation to each one of the eight succeeding tax years after the tax year referred to in this sub subparagraph (b) (i), ten per cent of the cost of the addition.

Act 3 of 1986

(3) For the purpose of this paragraph, "hotel" means an establishment licensed as a hotel, guesthouse or self-catering establishment under the Licence Act, 1986.

Depreciation in respect of office building
S I 13 of 1993

6. (1) Subject to this Act and more particularly paragraph 8, depreciation is allowable in a tax year in accordance with this paragraph in respect of a building the construction of which the Commissioner is satisfied was commenced on or after the 1st January, 1992 and which is used, or part of which is used, exclusively as an office or other business premises.

(2) Depreciation under this paragraph is -

(a) in relation to the tax year in which the construction of the building or part of the building is completed, fifty per cent of the cost of construction; and

(b) in relation to each one of the next two succeeding tax years after the tax year referred to in sub-subparagraph (a), twenty-five per cent of the cost of construction.

S I 13 of 1993

(3) Where part only of a building under this paragraph is used as an office or other business premises, only such part of the depreciation which would be allowable if the building had been wholly used as an office or other business premises, as in the opinion of the Commissioner is proper, shall be allowable.

(4) A building or part of a building shall be treated as not being used as an office under this paragraph if it is used as a shop, showroom or for storage.

S I 13 of 1993

(5) In this paragraph, "other business premises" means a business premises which is not less than 50 square metres in size.

Expenditure in respect of land
Act 4 of 1975

7. For the purpose of paragraphs 4, 5 and 6, expenditure upon the purchase of land, other than stamp duty under the Stamp Duty Act, 1975, and registration fee under the Land Registration Act or transcription fee under the Mortgage and Registration Act paid in connection with such purchase, shall be excluded.

Power of Minister in relation to depreciation

8. (1) Where the Minister is satisfied that a unit of property referred to in paragraph 1 is being used or will be used in a manner conducive to the economic development of Seychelles, he may, by order in writing, direct the Commissioner to calculate the depreciation in relation to the unit in the manner specified in the order.

(2) For so long as an order under subparagraph (1) is in force, the depreciation allowable in a tax year in respect of property in respect of which the order is made shall, notwithstanding paragraph 4, 5, or 6, as the case may be, but otherwise subject to this Act, be the amount calculated in accordance with the order.

(3) The Minister may revoke an order made under subparagraph (1) at any time.

S.I. 83 of 1996

9. (1) In relation to all building, plant and articles owned by a business, other than a hotel or building referred to in paragraph 5 and 6, acquired or installed ready for use or the construction of which commenced on or after January 1, 1995 the following rates of depreciation shall apply subject to sub-paragraphs (2) (3) (4) and (5).

	Tax.Yr1	Tax Yr2	Tax Yr3	Tax Yr4	Tax Yr5
Normal Depreciation					
Building	4%	4%	4%	4%	4%
	and @ 4% for each of the subsequent 20 years				
Plant & Machinery	20%	20%	20%	20%	20%
Office Equipment	20%	20%	20%	20%	20%
Vehicles	20%	20%	20%	20%	20%
Computers	34%	33%	33%	0%	0%
Furniture & Fittings	10%	10%	10%	10%	10%
	and @ 10% for each of the subsequent 5 years.				
Accelerated Depreciation					
Building	20%	10%	10%	10%	10%
	and @ 10% for each of the subsequent 3 years and 5% ninth and tenth year respectively.				
Plant & Machinery	30%	25%	20%	20%	5%
Office Equipment	30%	25%	20%	20%	5%
Vehicles	30%	25%	20%	20%	5%
Computers	50%	50%			
Furniture & Fittings	30%	25%	20%	20%	5%

(2) For the purposes of claiming depreciation on vehicles other than those belonging to car-hire operators licensed to be used as hired vehicles, the maximum value of a passenger salon car shall be limited to the lower of the actual cost of R100,000 in case of a vehicle on which Trades Tax is not applicable or not paid and R300,000 in case of a vehicle on which Trades Tax is paid.

(3) For the purposes of the above any capital expenditure other than on building of less than R5,000, shall be allowed to be depreciated @ 100% in the tax year in which it is incurred.

(4) A business may elect in writing to have the accelerated Depreciation rates applied for a particular category of assets for which the depreciation is claimed during the tax year, which election -

(a) shall be made on or before the last day of the furnishing of the return of income of the business for the tax year in which the election is made or within such further time as the Commissioner may allow, and

(b) cannot be revoked during the period of ownership of that category of assets

(5) Except in the cases where a particular category of assets is acquired after 30th June in any tax year, Section 46(3) of the Act shall not apply to depreciation calculated under this paragraph.

FOURTH SCHEDULE

(Section 88)

STATEMENT OF PARTICULARS

PART I

A. Particulars to be given where a business is solely owned by an individual:

1. Traders

Trading Account

Profit and Loss Account

Balance Sheet

Schedule -

a. Depreciation schedule

b. Schedule of goods taken for own use

c. Schedule of salary, allowances or benefits paid to owner or associated person

d. Schedule of interest paid and name and address of payee

e. Schedule of royalties paid and name and address of payee

f. Schedule of any other amounts taken or given to the owner or an associated person.

2. Others

Total income derived -

if amount derived from more than one source, the source and the amount derived from each separate source should be stated

Less

Expenses incurred -

all expenses must be listed

Statements

a. Depreciation Schedule

b. Statement of value of goods taken for own use

c. Statement of salary, allowances or benefits paid to the owner or an associated person

d. Statement of interest paid and name and address of payee

e. Statement of royalties paid and name and address of payee

f. Statement of any other amounts taken by or given to the owner or an associated person

PART II

B. Particulars to be given where a business is solely owned by a Company:

1. Audited Accounts -

Trading Account

Profit and Loss Account

Balance Sheet

Appropriation Account

Shareholders/Directors Loan Accounts

Directors report

Auditors report

2. Schedules

a. Depreciation Schedule

b. Schedule of allowances or benefits taken by or given to a shareholder or director

c. Schedule of interest paid and name and address of payee

d. Schedule of royalties paid and name and address of payee

e. Schedule of dividends paid and name and address of payee

f. Schedule of shareholders and their holdings

g. Schedule of directors and their remuneration

PART III

C. Particulars to be given where a business is solely owned by a partnership or trust

1. Accounts

Trading Account

Profit and Loss Account

Balance Sheet

Partners Loan Accounts

2. Schedules -

a. Depreciation Schedule

b. Schedule showing value of goods taken or supplied for use by the owner or other persons

c. Schedule of Salary, allowances or benefits paid to each partner, trustee or beneficiary

d. Schedule of interest paid and name and address of payee

e. Schedule of royalties paid and name and address of payee

f. Schedule of amounts distributed to a partner, trustee, beneficiary and name and address of payee

g. Schedule of allowances or benefits taken by or given to each partner, trustee or beneficiary.

a. "Quick Lodgment" form

Notwithstanding the requirements of the other parts of this schedule, the Commissioner may use his discretion as to when the Statement of Particulars

MINISTRY OF FINANCE OFFICE OF TAX	**Schedule for Partnerships** **P/T 2006** **Declaration of Gross Income & Taxable Income** *Business Tax Act (as amended) and Associated Regulations* **1 January 2006 to 31 December 2006** TAXATION ID: □-□□□□□-□□

COMPLETE THIS SCHEDULE IF YOUR GROSS INCOME / GROSS TURNOVER IS LESS THAN R. 500,000 AND YOUR TAXABLE INCOME / PROFIT IS LESS THAN R. 48,000.

PLEASE TICK

I DECLARE THAT THE GROSS INCOME / GROSS TURNOVER OF MY BUSINESS FOR THE YEAR WAS:

R. 250,001 – R. 500,000 □

Less than R. 250,000 □

I DECLARE THAT THE TAXABLE INCOME / PROFIT OF MY BUSINESS FOR THE YEAR WAS:

Less than R. 48,000 □

I understand that:

i) **the Commissioner of Taxes may at a later date request my business to submit a complete Profit & Loss and set of accounts in accordance with the FOURTH SCHEDULE of the BUSINESS TAX ACT 1987 (AS AMENDED); and**

ii) **in accordance with section 181 of the BUSINESS TAX ACT 1987 (AS AMENDED) sufficient records of the income and expenditure of my business must be kept for a period of at least seven years.**

IMPORTANT
The tax law imposes penalties for giving false or misleading information.

DATE □□ □□ □□□□

	Day	Month	Year

SIGNATURE OF SENIOR PARTNER OR AUTHORISED PERSON

(OFFICIAL USE ONLY)				AUDIT REFERRAL
PRIOR YEARS	2005	2004	2003	
GROSS INCOME:	R.	R.	R.	☐
TAXABLE INCOME:	R.	R.	R.	☐

Attach this schedule to page 3 of your Partnership/Trust business tax return for 2006.

MINISTRY OF FINANCE OFFICE OF TAX	**Schedule for Sole Traders** **ST 2006** **Declaration of Gross Income & Taxable Income** *Business Tax Act (as amended) and Associated Regulations* **1 January 2006 to 31 December 2006** N I N: ☐☐☐☐☐☐☐☐☐☐☐

COMPLETE THIS SCHEDULE IF YOUR GROSS INCOME / GROSS TURNOVER IS LESS THAN R. 500,000 AND YOUR TAXABLE INCOME / PROFIT IS LESS THAN R. 48,000.

	PLEASE TICK
I DECLARE THAT THE GROSS INCOME / GROSS TURNOVER OF MY BUSINESS FOR THE YEAR WAS:	R. 250,001 – R. 500,000 ☐
	Less than R. 250,000 ☐
I DECLARE THAT THE TAXABLE INCOME / PROFIT OF MY BUSINESS FOR THE YEAR WAS:	Less than R. 48,000 ☐

I understand that:

iii) the Commissioner of Taxes may at a later date request my business to submit a complete Profit & Loss and set of accounts in accordance with the FOURTH SCHEDULE of the BUSINESS TAX ACT 1987 (AS AMENDED); and

iv) in accordance with section 181 of the BUSINESS TAX ACT 1987 (AS AMENDED) sufficient records of the income and expenditure of my business must be kept for a period of at least seven years.

IMPORTANT
The tax law imposes penalties for giving false or misleading information.

DATE

Day Month Year

SIGNATURE OF OWNER / AUTHORISED PERSON

(OFFICIAL USE ONLY)				AUDIT REFERRAL
PRIOR YEARS	2005	2004	2003	
GROSS INCOME:	R.	R.	R.	
TAXABLE INCOME:	R.	R.	R.	

Attach this schedule to page 3 of your sole trader business tax return for 2006.

FIFTH SCHEDULE

(Section 107)

MISCELLANEOUS FEES

1.	The fee referred to in section 105 (1) shall be	R.500

SIXTH SCHEDULE (Section 2(1))

SPECIFIED BUSINESS

1.	Blaster or Driller	5%
2.	Blockmaker or Pillar Maker	5%
3.	Cabinet Maker	5%
4.	Carpenter or Upholsterer	5%
5.	Electrician or Wireman	5%
6.	Decorator, Sign Writer or Public Scribe	5%
7.	Mason	5%
8.	Painter, including a Spray Painter	5%
9.	Plumber	5%
10.	Roof Tiler	5%
11.	Floor or Wall Tiler	5%
12.	Labour Contractor	5%
13.	Building contractor -	5%
14.	Contractor providing cleaning services, including cleaning of buildings and offices	5%
15.	Contractor providing services of clearing or improving land and landscaping	5%
16.	Grass Cutter	5%
17.	Maintenance contractor including those constructing or maintaining roads, bridges, or pathways	5%
18.	Mechanic (motor vehicle, marine or refrigeration)	5%
19.	Hirer or operator of plant, equipment or sea vessels	5%
20.	Hirer or Operator of motor vehicle used for the Transportation of goods	5%
21.	Hirer or operator of equipment used for towing	5%
22.	Contractor providing the service of repairing or Installing electrical appliances including Air conditioners and heaters	5%
23.	Contractor providing the service of constructing, Repairing or maintaining fibreglass products	5%

SEVENTH SCHEDULE

(Section 40, 41(7),66A)

SPECIAL DEDUCTIONS

The following expenditure of a business, as the case maybe, shall be deductible from assessable income, to the extent as specified below:-

Nature of expenditure			Amount qualifying for the deduction	Effective date of expenditure	Allowable Deduction as a % of actual or qualifying expenditure
Payments made to					
S.I. 93 of 1994 S.I.41 of 2001	i	Tourism Marketing Fund	Unlimited Unlimited	01-Jan-95 01-Jan-02	200% 100%
S.I. 93 of 1994 S.I.41 of 2001	ii	Funds certified by the Secretary of the Training Fund for the purposes of training	Unlimited Unlimited	01-Jan-95 01-Jan-02	200% 100%
S.I. 93 of 1994 S.I.41 of 2001	iii	Agricultural Development Fund	Unlimited Unlimited	01-Jan-95 01-Jan-02	200% 100%
S.I. 93 of 1994 S.I.41 of 2001	iv	Children's Special Fund	Unlimited Unlimited	01-Jan-95 01-Jan-02	200% 100%
S.I. 93 of 1994 S.I.41 of 2001	v	Environment Trust Fund	Unlimited Unlimited	01-Jan-95 01-Jan-02	200% 100%
S.I. 93 of 1994 S.I.41 of 2001	vi	To Seychelles Pension Scheme as employers contribution	Above Statutory limits	01-Jan-95 01-Jan-02	200% 100%
S.I. 93 of 1994 S.I.41 of 2001	vii	Health insurance premiums for employees	Unlimited Unlimited	01-Jan-95 01-Jan-02	200% 100%
S.I. 93 of 1994 S.I.41 of 2001	viii	Red Cross Society	Unlimited Unlimited	01-Jan-95 01-Jan-02	200% 100%
S.I. 93 of 1994 S.I.41 of 2001	ix	Seychelles Island Foundation	Unlimited Unlimited	01-Jan-95 01-Jan-02	200% 100%

S.I. 77 of 1998	x	Sports Federation registered with	Unlimited	01-Jan-95	200%
S.I.41 of 2001		the National Sports Council	Unlimited	01-Jan-02	100%
S.I. 93 of 1994	xi	Foreign Exchange Bonds of	Unlimited	01-Jan-95	100%
S.I.41 of 2001		Central Bank	Unlimited	01-Jan-02	100%
S.I. 93 of 1994	xii	Indian Ocean Games	Unlimited	01-Jan-93	150%
?		Contributions	Unlimited	01-Jan-97	200%
S.I.41 of 2001			Unlimited	01-Jan-02	100%
S.I. 5 of 1997	xiii	National Council for children	Unlimited	01-Jan-97	200%
S.I.41 of 2001			Unlimited	01-Jan-02	100%
S.I. 5 of 1997	xiv	Government Hospitals and	Unlimited	01-Jan-97	200%
S.I.41 of 2001		Dispensaries	Unlimited	01-Jan-02	100%
S.I. 5 of 1997	xv	National Council for the	Unlimited	01-Jan-97	200%
S.I.41 of 2001		Disabled Persons	Unlimited	01-Jan-02	100%
S.I. 5 of 1997	xvi	Committee for Awareness,	Unlimited	01-Jan-97	200%
S.I.41 of 2001		Resilience and Education (CARE)	Unlimited	01-Jan-02	100%
S.I. 15 of 1998	xvii	Praslin Development Fund	Unlimited	01-Jan-98	200%
S.I.41 of 2001			Unlimited	01-Jan-02	100%
S.I. 15 of 1998	xviii	La Digue Development Fund	Unlimited	01-Jan-98	200%
S.I.41 of 2001			Unlimited	01-Jan-02	100%
S.I. 22 of 1998	xix	National Arts Council	Unlimited	01-Jan-97	200%
S.I.41 of 2001			Unlimited	01-Jan-02	100%
S.I. 69 of 1998	xx	Council for the Elderly	Unlimited	01-Jan-98	200%
S.I.41 of 2001			Unlimited	01-Jan-02	100%
S.I. 77 of 1998	xxi	National Sports Council	Unlimited	01-Jan-98	200%
S.I.41 of 2001			Unlimited	01-Jan-02	100%
S.I 11 of 2000	xxii	Festival De La Mer	Unlimited	01-Jan-00	200%
S.I.41 of 2001			Unlimited	01-Jan-02	100%
S.I 12 of 2000	xxiii	Creole Festival and Youth	Unlimited	01-Jan-99	200%
S.I 41 of 2001		Festival	Unlimited	01-Jan-02	100%
S.I. 23 of 2001	Xxiv	Any employee under section	Unlimited	02-Nov-99	200%
S.I. 41 of 2001		62A of the Employment Act, 1995			
S.I. 7 of 2002	Xxv	National Aids Trust Fund	Unlimited	01-Jan-02	100%
S.I. 22 of 2002	Xxv	Nature Seychelles	Unlimited	01-Jul-02	100%

S.I. 4 of 2005	Xxvi	National Emergency Disaster Fund	Unlimited	28-Dec-05	100%
S.I. 11 of 2005	Xxvii	Seychelles Society for the Prevention of Cruelty to Animals	Unlimited	01-Jan-05	100%