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REVENUE ADMINISTRATION ACT, 2009

(Act 27 of 2009)

I assent



Handwritten signature of J. A. Michel.

J. A. Michel
President

30 th December, 2009

AN ACT to revise and harmonise the rules relating to the administration of the tax laws of Seychelles and to ensure the efficient collection of taxes.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY PROVISIONS

1. This Act may be cited as the Revenue Administration Act 2009, and shall come into operation on 1st January 2010.

Short title and commencement

Interpretation

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

“Alternative dispute resolution procedure” means a procedure for the resolution of an application for a review of a reviewable decision including conferencing or mediation, but does not include a hearing under section 75 or court procedures;

“Assessment” means an assessment of revenue made under a revenue law, including a self-assessment, an amended assessment, or an advance assessment;

“Business tax” means business tax imposed under the Business Tax Act, 2009;

“Business Tax Act” means the Business Tax Act 2009;

“Commencement date” means the date specified in section 1;

“Commission” means the Seychelles Revenue Commission established under the Seychelles Revenue Commission Act, 2009;

“Customs Agent” means a person registered as a Customs Agent under section 84;

“Customs legislation” means the Trades Tax Act and any successor legislation dealing with customs;

“Deputy Commissioner” means the Deputy Commissioner appointed under section 4 of the Seychelles Revenue Commission Act, 2009;

“Entity” has the same meaning as in the Business Tax Act;

“GST” means the goods and services tax imposed under the Goods and Services Tax Act (Act 10 of 2001);

“Instalment of tax” means an instalment of tax under Division III of Part V of the Business Tax Act;

“Large business” has the same meaning as in the First Schedule;

“Medium business” has the same meaning as in the First Schedule;

“Minister” means the Minister responsible for finance;

“Objection decision” has the same meaning as in section 15(4);

“Person” means an individual, entity, partnership, trust, estate, government, political subdivision of a government, or public international organisation;

“Prescribed” means prescribed by regulations made under this Act;

“Price” means –

- (a) the amount of money without any discount for the amount of GST (if any) payable on the supply; and
- (b) if no amount of money is specified or payable, the GST-inclusive market value of that supply;

“Purchaser created tax invoice” means a document that complies with the requirement of section 98(3);

“Public officer” has the same meaning as in section 39;

“Representative” has the same meaning as in section 38(1);

“Return” means –

- (a) a return required to be furnished under a revenue law; or
- (b) a statement required to be furnished under the Business Tax Act, 2009 in respect of withholding tax;

“Revenue” means any tax, withholding tax, duty, contribution, fee, levy, charge, additional tax, interest, and other monies liable or payable under a revenue law;

“Revenue Commissioner” means the Revenue Commissioner appointed under section 4 of the Seychelles Revenue Commission Act, 2009;

“Revenue decision” means –

- (a) an assessment; or
- (b) in relation to this Act, the Business Tax Act, Exercise Tax Act or the Goods and Services Tax Act, a decision on any matter left to the discretion, judgement, direction, opinion, approval, consent, satisfaction, or determination of the Revenue Commissioner, other than made in relation to the making of an assessment;

“Revenue law” means –

- (a) this Act;
- (b) an Act listed in the Schedule to the Seychelles Revenue Commission Act, 2009;
- (c) any other Act under which a tax, duty, fee, levy, or charge is imposed if responsibility for the general administration of the tax, duty, fee, levy, or charge is on the Revenue Commissioner; and
- (d) any regulations or other subsidiary legislation made under an Act referred to in paragraphs (a) to (c);

“Revenue officer” means the Revenue Commissioner, Deputy Commissioner, and any officer of the Commission appointed under the Seychelles Revenue Commission Act to perform duties under a revenue law;

“Revenue period”, means –

- (a) in the case of the business tax –
 - (i) for the purposes of withholding tax, the period to which the withholding relates; or

- (ii) for the purposes of instalments of tax, the period to which the payment of provisional tax relates; or
 - (iii) for any other purposes, the tax year;
- (b) in the case of GST, the calendar month; or
- (c) in any other case, the period for which the revenue is reported;

“Revenue proceeding” means a proceeding under this Act;

“Revenue Tribunal” means the Revenue Tribunal established under section 70;

“Reviewable decision” means –

- (a) an objection decision;
- (b) a decision relating to the amount or rate of trades tax on any goods or as to the liability of goods to trades tax;
- (c) a decision relating to the registration or cancellation of the registration of a Tax or Customs Agent, or the imposing of a sanction under section 87; or
- (d) a decision made under the Customs legislation relating to the issue, suspension, or cancellation of a licence;

“Self-assessment” means an assessment treated as having been made under section 7(1)(a);

“Self-assessment return” means a return declared in the Second Schedule to be a self-assessment return;

“Self-assessment taxpayer” means a person required to furnish a self-assessment return;

“Seychelles Business Number” means the Seychelles Business Number as defined in the Seychelles Business Number Act, 2009;

“Seychelles Revenue Commission’s web site” means the official web site of the Seychelles Revenue Commission at www.src.gov.sc;

“Seychelles Revenue Commission Act” means the Seychelles Revenue Commission Act, 2009;

“Small business” has the same meaning as in the First Schedule;

“Tax Agent” means a person registered as a Tax Agent under section 83;

“Tax and Customs Agents Board” means the Tax and Customs Agents Board established under section 80;

“Taxpayer” means –

- (a) a person liable for revenue under a revenue law; or
- (b) a person liable to deduct withholding tax from a payment made by the person;

“Trades tax” means trades tax imposed under the Trades Tax Act;

“Trades Tax Act” means the Trades Tax Act 1992 (Act 10 of 1992); and

“Withholding tax” means an amount required to be withheld from a payment under Division II of Part V of the Business Tax Act;

(2) When this Act applies for the purposes of a revenue law, any term not defined in this Act has the meaning that it has under that law.

PART II -RETURNS

Furnishing of Returns

3.(1) If a taxpayer has failed to furnish a return as required under a revenue law, the Revenue Commissioner may, by notice in writing, require the taxpayer to furnish the return by the date set out in the notice.

(2) The Revenue Commissioner may, by notice in writing, require a taxpayer who has furnished a return (other than a self-assessment return) under a revenue law to furnish a further or fuller return by the date set out in the notice.

(3) A notice issued under this section does not change the original due date for furnishing a return.

4.(1) A Tax Agent who charges directly or indirectly any fee for preparing or assisting in the preparation of a return required under a revenue law shall sign a certificate in the prescribed form –

Tax Agent's
Certification

- (a) stating the sources available to the Tax Agent for the preparation of the return; and
- (b) certifying that the Tax Agent has examined the books, accounts, records, and other relevant documentation of the taxpayer, and that, to the best of the Tax Agent's knowledge, the return and the accompanying documentation correctly reflect the data and transactions to which they relate.

(2) A certificate provided to a taxpayer under subsection (1) shall be endorsed or annexed to the return.

(3) A Tax Agent who refuses to provide a certificate referred to in subsection (1) shall provide the taxpayer with a statement in writing of the reasons for such refusal and the taxpayer shall include that statement with the return.

(4) When –

- (a) a Tax Agent who has prepared a return has refused to provide the certificate referred to in subsection (1); or
- (b) a taxpayer has not used a Tax Agent to prepare a return,

the taxpayer shall include with the return a declaration in the approved form setting out such information as to the sources available for the preparation of the return as is required by the form.

5.(1) A taxpayer required to furnish a return under a revenue law may apply, in writing, to the Revenue Commissioner for an extension of time to furnish the return and the Revenue Commissioner may allow or reject the application.

Extension
of Time to
Furnish
Return

(2) The Revenue Commissioner shall serve the taxpayer with notice of the decision on an application made under subsection (1) as soon as is practicable after the making of the decision.

(3) An extension of time granted under this section does not change the date for payment of any revenue due as specified in the revenue law under which the return has been made.

Return Duly
Made

6. A return purporting to be furnished by or on behalf of a taxpayer is treated as having been furnished by the taxpayer or with the taxpayer's authority unless the contrary is proved.

PART III - ASSESSMENTS

Self-assessments

7. For the purposes of this Act –

- (a) a self-assessment taxpayer who has furnished a self-assessment return is treated as having made an assessment of the amount of revenue payable for the revenue period to which the return relates being that amount as set out in the return; and
- (b) a self-assessment return furnished by a self-assessment taxpayer is treated as a notice of the assessment served by the Revenue Commissioner on the taxpayer on the date that the return was furnished.

Notice of
Assessment

8. When a taxpayer has furnished a return (other than a self-assessment return), the Revenue Commissioner shall make an assessment of the revenue liability of the taxpayer under the return and, as soon as is convenient after making the assessment, serve the taxpayer with notice of the assessment stating –

- (a) the amount of revenue payable;
- (b) the amount of interest or additional tax (if any) payable in respect of the revenue payable;
- (c) the revenue period covered by the notice;
- (d) the date of issue of the notice; and

- (e) the due date for payment of the revenue payable under the notice.

9.(1) If a revenue liability is required to be assessed under a revenue law and a taxpayer has failed to furnish a return as required under the law or has furnished a false or incomplete return (other than a self-assessment return), the Revenue Commissioner may make an assessment of the revenue payable (including interest and additional tax if applicable) by the taxpayer.

Default
Assessments

(2) The Revenue Commissioner shall serve a taxpayer assessed under subsection (1) with notice, in writing, of the assessment as soon as is practicable after making the assessment, and such notice shall set out the matters specified in section 8.

(3) The service of a notice of an assessment under this section does not extend the time for payment of the revenue due under the assessment as determined under the revenue law imposing the revenue.

10.(1) If the revenue liability of a taxpayer is required to be assessed under a revenue law and during a revenue period –

Advance
Assessments

- (a) the taxpayer has died;
- (b) the taxpayer has been declared bankrupt, or has gone into winding up or liquidation;
- (c) the Revenue Commissioner has reason to believe that the taxpayer is about to leave Seychelles; or
- (d) the taxpayer has ceased, or the Revenue Commissioner has reason to believe that a taxpayer will cease, carrying on business in Seychelles,

the Revenue Commissioner may make an assessment of the revenue payable by the taxpayer for the period and the revenue is payable on the date set out in the notice of assessment served on the taxpayer.

(4) An assessment made under subsection (1) –

- (a) may be made before the date on which the taxpayer's return for the period is due; and

- (b) shall be made in accordance with the law in force at the date the assessment was made.

(3) The Revenue Commissioner shall serve a taxpayer assessed under subsection (1) with notice, in writing, of the assessment as soon as is convenient after making the assessment, and such notice shall set out the matters specified in section 8.

(4) An assessment made under subsection (1) may be amended under section 11 so that the taxpayer is assessed in respect of the whole of the revenue period to which an assessment made under subsection (1) relates.

Amendment
of
Assessments

11.(1) Subject to this section, the Revenue Commissioner may amend an assessment by making such alterations or additions to the assessment as the Revenue Commissioner considers necessary to ensure that a taxpayer is liable for the correct amount of revenue payable in respect of the revenue period to which the assessment relates.

(2) A self-assessment taxpayer may apply to the Revenue Commissioner within the time specified in subsection (3)(b) for the Revenue Commissioner to make an amendment under subsection (1) to a self-assessment and the Revenue Commissioner shall serve the taxpayer with notice of the decision on the application as soon as is practicable after the making of the decision.

(3) The amendment of an assessment under subsection (1) may be made –

- (a) in the case of fraud or evasion by or on behalf of the taxpayer, at any time; or
- (b) in any other case, within four years of the date the Revenue Commissioner served or is treated as having served notice of the assessment on the taxpayer.

(4) As soon as practicable after making an amended assessment under this section, the Revenue Commissioner shall serve the taxpayer with notice of the amended assessment.

(5) Subject to subsection (6), if a notice of assessment (referred to as the “original assessment”) has been amended under subsection (1), the Revenue Commissioner may further amend the original assessment within the later of –

- (a) four years after the Revenue Commissioner served or is treated as having served notice of the original assessment on the taxpayer; or
- (b) one year after the Revenue Commissioner served notice of the amended assessment on the taxpayer.

(6) If subsection (5)(b) applies, the Revenue Commissioner is limited to amending the alterations and additions made to the original assessment in the amended assessment.

(7) An amended assessment is treated in all respects as an assessment for the purposes of this Act (other than subsection (1) or (2)) and the revenue law under which the original assessment has been made.

(8) The making of an amended assessment does not preclude the liability for interest and additional tax from arising from the date that revenue was due under the original assessment.

12. The validity of a revenue decision or a notice of a revenue decision is not affected by reason that any procedural provisions of the revenue law under which it has been made have not been complied with.

Validity of
a Revenue
Decision

13.(1) The production of a notice of assessment, or a document under the hand of the Revenue Commissioner purporting to be a copy of a notice of assessment, is conclusive evidence of the due making of the assessment and (except in proceedings under Part IV) that the amount and all particulars of the assessment are correct.

Evidence

(2) The production of the original self-assessment return, or a document under the hand of the Revenue Commissioner purporting to be a copy of such return, is conclusive evidence of the contents of the return.

(3) The production of a notice of a revenue decision (other than a notice of assessment), or a document under the hand of the Revenue Commissioner purporting to be a copy of such notice of a revenue decision, is conclusive evidence of the due making of the decision and (except in proceedings under Part IV) that the decision is correct.

(4) The production of a document under the hand of the Revenue Commissioner purporting to be a copy of a document issued by the Revenue Commissioner is conclusive evidence that the document was issued.

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

Rectification
of Mistakes

14. If the Revenue Commissioner is satisfied that an order made or document issued by the Revenue Commissioner under a revenue law contains a mistake which is apparent from the record and the mistake does not involve a dispute as to the interpretation of the law or facts of the case, the Revenue Commissioner may, for the purposes of rectifying the mistake, amend the order or document any time before the expiry of four years from the date of making or issuing the order or document.

PART IV - OBJECTIONS AND APPEALS

Objections

15.(1) Subject to subsection (2), a taxpayer dissatisfied with a revenue decision may, within sixty days after service of the notice of the decision, serve on the Revenue Commissioner an objection in writing against the decision stating fully and in detail the grounds for the objection.

(2) If the Revenue Commissioner has amended an assessment under section 11, the taxpayer has no further right of objection than the taxpayer would have had if the amendment had not been made, except to the extent that by reason of the amendment a fresh liability is imposed on the taxpayer or an existing liability is increased.

(3) A taxpayer may apply, in writing, to the Revenue Commissioner for an extension of time to serve notice of an objection and the Revenue Commissioner may, if satisfied there is reasonable cause, grant an application under this subsection and shall serve notice of the decision on the taxpayer as soon as is practicable after the making of the decision.

(4) The Revenue Commissioner shall consider the objection and either allow the objection in whole or part, or disallow it, and the Revenue Commissioner's decision is referred to as an "objection decision".

(5) The Revenue Commissioner shall serve notice of the objection decision on the taxpayer as soon as is practicable after making the decision.

Appeal
to
Revenue
Tribunal

16.(1) A taxpayer dissatisfied with an objection decision may make an application to the Revenue Tribunal in accordance with section 72 for review of the decision.

(2) The Revenue Tribunal may, in reviewing an objection decision, exercise all the powers and discretions of the Revenue Commissioner under the revenue law under which the assessment to which the objection decision relates was made.

(3) If an application for review relates to an assessment, the Revenue Tribunal may make an order to –

(a) affirm, or reduce, increase, or otherwise vary the assessment to which the objection decision relates; or

(b) remit the assessment to the Revenue Commissioner for reconsideration in accordance with the directions of the Tribunal.

(4) If an application for review relates to any other revenue decision, the Revenue Tribunal may make an order to affirm, vary, or set aside the decision.

17.(1) A party to a proceeding before the Revenue Tribunal dissatisfied with the Tribunal's decision on an objection decision may lodge a notice of appeal against the decision to the Supreme Court in accordance with section 78.

Appeal to
Supreme
Court

(2) The Supreme Court shall hear and determine the appeal and may make such order as it thinks appropriate by reason of its decision, including an order affirming or setting aside the decision of the Revenue Tribunal or an order referring the case to the Tribunal or Revenue Commissioner for reconsideration in accordance with the directions of the Court.

18.(1) A party to a proceeding before the Supreme Court dissatisfied with the Court's decision may, with leave of the Court of Appeal, lodge a notice of appeal against the decision to the Court of Appeal.

Appeal to
Court of
appeal

(2) If the Court of Appeal grants leave to hear an appeal under subsection (1), the Court of Appeal may make such order as it thinks appropriate, including an order affirming or setting aside the decision of the Supreme Court or an order referring the case to the Tribunal or Revenue Commissioner for reconsideration in accordance with the directions of the Court of Appeal.

19.(1) In a proceeding under this Part –

(a) in the case of an assessment, the burden is on the taxpayer to prove that the assessment is excessive; or

General
Provisions
Relating to
Objections
and Appeals

(b) in the case of a revenue decision (other than an assessment), the burden is on the person objecting to the decision to prove that the decision should not have been made or should have been made differently.

(2) In an application for review by the Revenue Tribunal or an appeal to the Supreme Court or Court of Appeal in relation to an objection decision, the taxpayer is limited to the grounds stated in the objection to which the objection decision relates unless the Tribunal, Supreme Court or Court of Appeal grants the person leave to add new grounds.

(3) The fact that an objection under section 15, review under section 16, or appeal under section 17 or 18 is pending does not interfere with, or affect the assessment that is the subject of the objection, review, or appeal and revenue may be recovered on the assessment as if no objection or appeal were pending.

PART V - COLLECTION AND RECOVERY OF REVENUE

Division I - General Provisions for Collection and Recovery of Revenue

Revenue as
Debt Due
to the
Government

20.(1) Revenue, when it becomes payable, is a debt due to the Government and shall be paid to the Revenue Commissioner in the manner and at the place prescribed.

(2) The Revenue Commissioner may establish a running account balance for a taxpayer.

(3) The regulations shall provide for the allocation of revenue liabilities and payments to the running account balance of a taxpayer.

Recovery
of Unpaid
Revenue

21.(1) Any unpaid revenue may be sued for and recovered in any court of competent jurisdiction by the Revenue Commissioner or by the Attorney General suing on behalf of the Government.

(2) In an action for recovery of revenue, a copy of the notice of assessment shall be received by the court as evidence that the revenue is due and payable, and the court shall not entertain any plea that the revenue assessed is not recoverable because it has not been properly assessed or that the assessment under which the revenue is payable is the subject of objection and appeal.

22.(1) A taxpayer may apply, in writing, to the Revenue Commissioner for an extension of time to pay revenue due under a revenue law and the Revenue Commissioner may, having regard to the circumstances of the case –

Extension
of Time to
Pay
Revenue

- (a) grant the taxpayer an extension of time for payment of the revenue due; or
- (b) require the taxpayer to pay the revenue due in such instalments as the Revenue Commissioner may determine.

(2) The Revenue Commissioner shall serve the taxpayer with written notice of the decision on an application under subsection (1) as soon as is practicable after the making of the decision.

(3) If a taxpayer permitted to pay revenue by instalments defaults in the payment of an instalment, the whole balance of the revenue outstanding, at the time of default, is immediately payable.

(4) The grant of an extension of time or permission to pay revenue by instalments does not preclude the liability for interest arising under section 41 from the original date the revenue was payable.

23.(1) In this section,

“Trustee” means –

- (a) a trustee in bankruptcy, assignee, or other like person;
- (b) a liquidator of a company being wound up;
- (c) a receiver or manager appointed in respect of any assets of a taxpayer;
- (d) an agent who has been required by a taxpayer to wind up the taxpayer’s business or realise the taxpayer’s assets; or
- (e) an executor of a deceased estate; and
- (f) a fiduciary appointed under article 820 of the Civil Code of Seychelles Act;

Trustees
to Notify
Revenue
Commissioner
on
Appointment

“Taxpayer”, in relation to a trustee, means the person whose assets are in the possession or control of the trustee including, if the trustee is an executor, the estate of the deceased person.

(2) A trustee shall, within fourteen days after becoming a trustee in respect of a taxpayer or taking possession of a taxpayer’s assets in the capacity as trustee, give written notice thereof to the Revenue Commissioner.

(3) The Revenue Commissioner shall, as soon as practicable after receiving notice under subsection (2), notify the trustee, in writing, of the amount that appears to the Revenue Commissioner to be sufficient to provide for any revenue that is or will become payable by the taxpayer.

(4) Subject to subsection (5), a trustee –

(a) shall not, without leave of the Revenue Commissioner, dispose of any asset of the taxpayer until a notice has been served on the trustee under subsection (3);

(b) shall set aside, out of the assets available for the payment of revenue due by the taxpayer, assets to the value of the amount notified under subsection (3), or the whole of the assets if their value is less than the amount notified; and

(c) is, to the extent of the value of the assets required to be set aside, personally liable for the revenue due by the taxpayer.

(5) Nothing in subsection (4) prevents a trustee from paying –

(a) any debt that has priority over the revenue notified under subsection (3); or

(b) the expenses properly incurred by the trustee in the capacity as such, including the trustee’s remuneration, in priority to the amount notified under subsection (3).

(6) If two or more persons are trustees in respect of a taxpayer, the obligations and liabilities under this section apply jointly and severally to them but may be discharged by any of them.

(7) The amount that a trustee is personally liable for under subsection (4)(c) is treated as "revenue" for the purposes of this Part.

24.(1) In this section –

"Payer", in respect of a taxpayer, means a person who –

- (a) owes or may subsequently owe money to a taxpayer;
- (b) holds or may subsequently hold money, for or on account of, a taxpayer;
- (c) holds money on account of some other person for payment to a taxpayer; or
- (d) has authority from some other person to pay money to a taxpayer,

but does not include a person liable to pay a pension; and

"Revenue" includes a judgment debt and costs in respect of revenue.

(2) This section applies if a taxpayer is, or will become liable to pay revenue and –

- (a) the revenue has not been paid by the taxpayer by the due date for payment; or
- (b) the Revenue Commissioner has reasonable grounds to believe that the taxpayer will not pay the revenue by the due date for payment.

(3) If this section applies, the Revenue Commissioner may, by notice in writing, require a payer in respect of the taxpayer to pay the amount specified in the notice to the Revenue Commissioner, being an amount that does not exceed the amount of revenue that has not been paid or the amount that the Revenue Commissioner believes will not be paid by the due date.

(4) A payer shall pay the amount specified in a notice under subsection (3) by the date specified in the notice, being a date that is not before

Revenue
Commissioner
may Collect
Revenue from
Person Owning
Money to
Taxpayer

the date that the amount owed to the taxpayer becomes due to the taxpayer or held on the taxpayer's behalf.

(5) If a notice served under subsection (3) requires a payer to deduct amounts from salary, wages, or other remuneration payable at fixed intervals to the taxpayer, the amount required to be deducted by the payer from each payment shall not exceed 20 per cent (20%) of the amount of each payment of salary, wages, or other remuneration.

(6) If a payer served with a notice under subsection (3) is unable to comply with the notice, the payer shall notify the Revenue Commissioner, in writing within fourteen days after receipt of the notice, setting out the reasons for the payer's inability to comply.

(7) If a notice is served on the Revenue Commissioner under subsection (6), the Revenue Commissioner may, by notice in writing –

- (a) accept the notification and cancel or amend the notice issued under subsection (3); or
- (b) reject the notification.

(8) The Revenue Commissioner shall, by notice in writing to the payer, revoke or amend a notice served under subsection (3) if the taxpayer has paid the whole or part of the revenue due or has made an arrangement satisfactory to the Revenue Commissioner for payment of the revenue.

(9) A copy of a notice served on a payer under this section shall be served on the taxpayer.

(10) A payer making a payment under this section is treated as acting under the authority of the taxpayer and of all other persons concerned and is hereby indemnified in respect of the payment.

(11) A payer who, without reasonable cause, fails to comply with a notice under this section is personally liable for the amount specified in the notice and the amount is treated as "revenue" for the purposes of this Part.

25. If the Revenue Commissioner has reason to believe that a person establishing a business in Seychelles intends to carry on the business for a limited period only, or if the Revenue Commissioner for any other reason thinks it proper to do so, the Revenue Commissioner may require a person, by notice in writing,

to give security by bond, deposit, or otherwise, in such amount as the Revenue Commissioner thinks fit.

26.(1) If the Revenue Commissioner has reason to believe that a taxpayer may leave Seychelles before the date on which revenue is due and payable without making adequate arrangements for the payment of the revenue, the Revenue Commissioner may serve the taxpayer with a notice of assessment requiring immediate payment of the amount of revenue specified in the notice being the amount that the Revenue Commissioner believes the taxpayer is or will be liable to pay, and the taxpayer shall pay to the Revenue Commissioner the amount specified in the notice before the person leaves Seychelles.

Taxpayer
Leaving
Seychelles

(2) If the Revenue Commissioner is of the opinion that a person may leave Seychelles without paying revenue due or that will become due, the Revenue Commissioner may, with notice to the person apply to the Supreme Court for, and the Court may having regard to all the circumstances and any submissions made by the person issue, an order preventing the person from leaving Seychelles without paying or providing security to the Revenue Commissioner for the payment of the revenue.

(3) An application under subsection (2) may be made to a Judge in Chambers and be accompanied by an affidavit in support disclosing sufficient material to satisfy the Judge that it is necessary to make an order preventing the person named in the application from leaving Seychelles.

(4) The Commissioner of Police or the Director General of Immigration, or both, shall, on receipt of an order of the court under subsection (2), take or cause to be taken by any police or immigration officer, such measures as may be necessary to comply with the order including the use of such force as may be necessary, and the seizure, removal, or retention of any passport, certificate of identification, or other travel document relating to the person named in the order and of any other document authorising the person to leave Seychelles.

(5) The Revenue Commissioner shall serve on the person named in the order a notice of the issue of the order but the non-receipt of the notice does not invalidate any proceedings under this section.

(6) Production to an immigration officer or to a police officer in charge of a police station of a certificate signed by the Revenue Commissioner stating that the revenue has been paid or that security has been furnished for payment of the revenue is, subject to all immigration and other requirements

being satisfied, sufficient authority for allowing the person named in the order issued under subsection (2) to leave Seychelles.

(7) No civil or criminal proceedings may be instituted or maintained against the Government, the Revenue Commissioner, the Commissioner of Police, the Director-General of Immigration, or any other police or immigration officer in respect of anything lawfully done under this section.

(8) Every airline or shipping company, or their agent, shall, if requested by the Revenue Commissioner, furnish the Revenue Commissioner with a list of passengers due to leave Seychelles by air or sea, as the case may be.

Unpaid
Revenue a
Charge over
Property

27.(1) Revenue imposed under a revenue law that has not been paid by the due date is a lien and charge upon the property, real or personal, of the taxpayer.

(2) The Supreme Court may, on an application made by the Revenue Commissioner, order that a charge on real property under subsection (1) be registered by the Registrar General without fee against the title of the property charged if the Revenue Commissioner has filed with the Registrar a memorandum describing the property so charged and the amount of revenue due.

(3) A registered charge under subsection (2) shall not be removed from the register until the Revenue Commissioner advises the Registrar General that the revenue to which the charge relates has been paid.

(4) If any unpaid revenue is, by virtue of subsection (1), a charge upon the property of the taxpayer, the Revenue Commissioner may apply by petition to the Supreme Court for the enforcement of the charge and the Court may order –

- (a) the sale of the property or any part of the property; or
- (b) the appointment of a receiver of the rents, profits, or income from the property,

and, subject to subsection (5), that the proceeds of sale or the rents, profits, or income shall be used to pay the revenue due and any costs of the Revenue Commissioner in enforcing the charge.

(5) A charge over property created by this section is subject to any mortgage, charge, or encumbrance over the property existing at the time of creation of the charge.

28.(1) The Revenue Commissioner or a revenue officer authorised in writing by the Revenue Commissioner for the purposes of this section may, in accordance with an order of the Supreme Court obtained previously, issue an order, in writing, for the recovery of unpaid revenue by distress and sale of the personal property of the taxpayer.

Collection of
Revenue by
Distress and
Sale

(2) An order issued under subsection (1) shall specify –

- (a) the taxpayer against whose property the order is issued;
- (b) the amount of the unpaid revenue liability;
- (c) the location of the property; and
- (d) the revenue liability to which the order relates.

(3) For the purposes of executing distress under subsection (1), the Revenue Commissioner or authorised revenue officer –

- (a) may, at any time, enter any house or premises described in the order authorising the distress proceedings; and
- (b) may require a police officer to be present while the distress is being executed.

(4) The property upon which distress is levied under this section, other than perishable goods, shall be kept for ten days either at the premises where the distress was levied or at any other place that the Revenue Commissioner or authorised revenue officer may consider appropriate, at the cost of the taxpayer.

(5) If the taxpayer does not pay the revenue owing, together with the costs of the distress –

- (a) in the case of perishable goods, within the period that the Revenue Commissioner or authorised revenue officer considers reasonable having regard to the condition of the goods; or

- (b) in any other case, within ten days after the distress is levied,

the property distrained may be sold by public auction or in such other manner as the Revenue Commissioner or authorised revenue officer may direct.

(6) The proceeds of a disposal under subsection (5) shall be applied by the Revenue Commissioner or authorised revenue officer as follows –

- (a) first towards the cost of taking, keeping, and selling the property distrained;
- (b) then towards the payment of any revenue owing by the taxpayer; and
- (c) the remainder of the proceeds, if any, shall be paid to the taxpayer.

Refunds

29.(1) Subject to this Act, a taxpayer who has paid revenue in excess of the amount for which the taxpayer is properly chargeable under a revenue law may apply to the Revenue Commissioner for a refund of the excess.

(2) An application for a refund under subsection (1) shall be in the prescribed form and lodged in the prescribed manner within four years of the date on which the revenue was paid.

(3) Subject to section 20(2), if the Revenue Commissioner is required to pay a refund of overpaid revenue to a taxpayer under a revenue law, the Revenue Commissioner shall –

- (a) first apply the amount of the refund against any revenue owing by the taxpayer under any revenue law; and
- (b) then refund the balance (if any) to the taxpayer.

No double collection of Revenue

30.(1) In this section –

“Collection agent” means –

- (a) a person referred to in paragraph (b) of the definition of “taxpayer” in section 2;

- (b) a trustee liable for revenue under section 23;
- (c) a person who has been served with a notice under section 24;
- (d) a representative of a taxpayer; or
- (e) a person liable for the tax payable by a company under section 40; and

“Primary taxpayer” means the person liable for any revenue that may be collected by the Revenue Commissioner from a collection agent.

(2) If there is both a primary taxpayer and a collection agent in respect of the same revenue liability (referred to as the “primary revenue liability”) and any additional tax and interest in respect of the liability –

- (a) any amount recovered from the primary taxpayer is credited against the liability of the collection agent; and
- (b) any amount recovered from the collection agent is credited against the liability of the primary taxpayer,

but the Revenue Commissioner shall not recover more than the amount of the primary revenue liability, and additional tax and interest in respect of the primary revenue liability.

31. Where there are multiple withholding obligations under this Act or any other revenue law in respect of the same amount payable, only the higher of the withholding obligations applies.

Ceiling on
withholding
obligations

PART VI – RECORD-KEEPING AND INFORMATION COLLECTION

32.(1) Subject to subsection (2), every taxpayer shall, for the purposes of a revenue law –

Accounts
and Records

- (a) maintain in Seychelles in either the English, French or Creole language such accounts, documents, and records (including in electronic format) as may be required under the revenue law; and

- (b) retain such accounts, documents, and records for seven years after the end of the revenue period to which they relate.

(2) Subsection (1) does not require the retention of any accounts, documents, or records –

- (a) that the Revenue Commissioner has notified a taxpayer are not required to be retained; or
- (b) of a company that has gone into liquidation and has been finally dissolved.

Power to
enter and
search

33.(1) For the purposes of administering any revenue law, the Revenue Commissioner or a revenue officer authorised by the Revenue Commissioner, in writing, for the purposes of this section –

- (a) has the right, at all times and with or without notice, to full and free access to any premises, place, property, data storage device, accounts, documents, or records (including in electronic format);
- (b) may make an extract or copy of any accounts, documents, records, or information stored on a data storage device to which access is obtained under paragraph (a);
- (c) may seize any accounts, documents, or records that, in the opinion of the Revenue Commissioner or authorised revenue officer, afford evidence that may be material in determining the revenue liability of a taxpayer;
- (d) may retain any accounts, documents, or records seized under paragraph (c) for as long as they may be required for determining a taxpayer's revenue liability or for any proceeding under a revenue law; and
- (e) may, if a hard or electronic copy of information stored on a data storage device is not provided, seize and retain the device for as long as is necessary to copy the information required.

(2) A revenue officer is not entitled to enter or remain on any premises or place if, upon request by the owner or lawful occupier, the officer is unable to produce the Revenue Commissioner's written authorisation permitting the officer to exercise powers under subsection (1).

(3) The Revenue Commissioner or authorised revenue officer may require a police officer to be present for the purposes of exercising powers under this section.

(4) The owner or lawful occupier of the premises or place to which an exercise of power under subsection (1) relates shall provide all reasonable facilities and assistance to the Revenue Commissioner or authorised revenue officer.

(5) A person whose accounts, documents, or records have been seized under subsection (1) may examine them and make copies, at the person's expense, during office hours.

(6) A person whose data storage device has been seized under subsection (1) may have access to the device during office hours on such terms and conditions as the Revenue Commissioner or authorised revenue officer may specify.

(7) The Revenue Commissioner or authorised revenue officer shall sign for all accounts, documents, records, or data storage devices removed and retained under this section and, subject to subsection (1)(e), return them to the owner within thirty days of the conclusion of the investigation to which they relate and all related proceedings.

(8) This section has effect notwithstanding –

(a) any law relating to privilege or the public interest with respect to access to premises or places, or the production of any property, accounts, documents, or records (including in electronic format);

(b) any contractual duty of confidentiality, or

anything stated to the contrary in any other Act.

34.(1) For the purposes of administering any revenue law, by notice in writing, the Revenue Commissioner may require any person –

Revenue
Commissioner
May Require
Information or
Evidence

- (a) to furnish such information as the Revenue Commissioner may require;
 - (b) to attend and give evidence concerning that person's or any other person's revenue affairs; or
 - (c) to produce all accounts, documents, and records (including in electronic format) in the person's custody or under the person's control relating to that person's or any other person's revenue affairs.
- (2) If a notice served under subsection (1) requires the production of accounts, documents, or records (including in electronic format), it is sufficient if such accounts, documents, or records are described in the notice with reasonable certainty.
- (3) The Revenue Commissioner may require the information or evidence referred to in subsection (1) to be given on oath, verbally or in writing, and, for that purpose, the Revenue Commissioner may administer the oath.
- (4) This section has effect notwithstanding –
- (a) any law relating to privilege or the public interest with respect to the giving of information or the production of any accounts, documents, or records (including in electronic format);
 - (b) any contractual duty of confidentiality; or
 - (c) anything stated to the contrary in any other Act.

PART VII - TAXPAYER IDENTIFICATION NUMBERS

Issue of
Taxpayer
Identification
Numbers

35.(1) The Revenue Commissioner may, for the purposes of identification and cross-checking, require persons liable for revenue to apply for a Taxpayer Identification Number.

- (2) An application for a Taxpayer Identification Number shall be –
- (a) in the approved form;

(b) accompanied by documentary evidence of the person's identity as prescribed; and

(c) lodged in the prescribed manner.

(3) If a person has applied for a Taxpayer Identification Number as required under subsection (1) and the Revenue Commissioner is satisfied that the applicant's identity has been established, the Revenue Commissioner shall issue a Taxpayer Identification Number to the applicant by written notice.

(4) The Revenue Commissioner shall refuse an application under this section –

(a) if the Revenue Commissioner is not satisfied as to the applicant's true identity;

(b) if the applicant has already been issued with a Taxpayer Identification Number that is still in force; or

(c) for any other reason the Revenue Commissioner considers appropriate.

(5) The Revenue Commissioner shall serve the applicant with written notice of the decision to refuse an application under this section within fourteen days after making the decision.

(6) The Revenue Commissioner shall, without an application being made, issue a Taxpayer Identification Number to any person liable for revenue.

36.(1) A person who ceases to be a taxpayer shall apply to the Revenue Commissioner, in the approved form, for cancellation of the person's Taxpayer Identification Number within thirty days of the date on which the person ceased to be a taxpayer.

Cancellation
of Taxpayer
Identification
Number

(2) The Revenue Commissioner may, by notice in writing, cancel a Taxpayer Identification Number –

(a) if satisfied that the person has ceased to be a taxpayer;

(b) if satisfied that a Taxpayer Identification Number has been issued to the person under an identity that is not the person's true identity;

- (c) if satisfied that the person had been previously issued with a Taxpayer Identification Number that is still in force; or
- (d) for any other reason the Revenue Commissioner considers appropriate.

(3) The Revenue Commissioner may, at any time, by notice in writing, cancel the Taxpayer Identification Number issued to a person and issue the person with a new Taxpayer Identification Number.

Quotation of
a Taxpayer
Identification
Number

37. The Revenue Commissioner may require a taxpayer to state the taxpayer's Taxpayer Identification Number in any return, notice, or other document used for the purposes of a revenue law.

PART VIII - REPRESENTATIVES

Liabilities and
Obligations of
Representatives

38.(1) In this section, "representative" means –

- (a) in the case of an individual under a legal disability, the guardian or other legal representative who receives or is entitled to receive income on behalf, or for the benefit, of the individual;
- (b) in the case of a company, the public officer of the company;
- (c) in the case of a partnership (including a limited partnership), a resident partner in the partnership;
- (d) in the case of a trust (including a unit trust), a trustee of the trust;
- (e) in the case of an entity (other than a limited partnership, unit trust, or company), an individual responsible for accounting for the receipt or payment of moneys or funds on behalf of the entity;
- (f) in the case of the Government or a Government controlled agency in Seychelles, an individual responsible for accounting for the receipt or payment of moneys or funds on behalf of the Government or agency;

- (g) in the case of a foreign government, political subdivision of a foreign government, or public international organisation, an individual responsible for accounting for the receipt or payment of moneys or funds in Seychelles on behalf of the government, political subdivision of the government, or organisation;
- (h) in the case of a non-resident person, a person controlling the person's affairs in Seychelles, including a manager of any business of such person in Seychelles;
- (i) in the case of a person or deceased estate to whom section 23 applies, the trustee or fiduciary under that section in relation to the person or estate; or
- (j) in the case of any person (including a person referred to in paragraphs (a) – (i)), an agent or representative of the person as provided for under a revenue law or specified by the Revenue Commissioner, by notice in writing, to the person.

(2) Every representative of a taxpayer is responsible for performing any duties or obligations imposed by a revenue law on that taxpayer, including the payment of revenue.

(3) A representative making a payment of revenue on behalf of a taxpayer is treated as acting under the authority of the taxpayer and is hereby indemnified in respect of the payment.

(4) Subject to subsection (5), any revenue that, by virtue of subsection (2), is payable by a representative of a taxpayer is recoverable from the representative only to the extent of any assets of the taxpayer that are in the possession or under the control of the representative.

(5) Subject to subsections (6) and (7), every representative is personally liable for the payment of any revenue due by the representative in that capacity if, while the amount remains unpaid, the representative –

- (a) alienates, charges, or disposes of any moneys received or accrued in respect of which the revenue is payable; or

- (b) disposes of or parts with any moneys or funds belonging to the taxpayer that are in the possession of the representative or which come to the representative after the revenue is payable, if such revenue could legally have been paid from or out of such moneys or funds.
- (6) Subsection (5) does not apply to a representative in relation to a liability for revenue if the representative did not know and could not reasonably be expected to know of the liability.
- (7) Nothing in subsection (5) prevents a representative paying an amount on behalf of a taxpayer that has priority over the revenue payable by the taxpayer.
- (8) If there are two or more representatives of a taxpayer, the duties or obligations referred to in this section apply jointly and severally to the representatives but may be discharged by any of them.
- (9) Nothing in this section relieves a taxpayer from performing any duties or obligations imposed on the taxpayer under a revenue law that the representative of the taxpayer has failed to perform.
- (10) The amount that a representative is personally liable for under subsection (5) is treated as "revenue" for the purposes of Part V.

Public Officer

- 39.(1)** Every company carrying on business in Seychelles or deriving income from sources in Seychelles shall appoint a resident individual as its public officer for the purposes of the revenue laws.
- (2) An appointment under subsection (1) shall be made within three months after the company commences to carry on business or derive income in Seychelles.
- (3) No appointment of a public officer is made until after a notice, in writing, is served by the company on the Revenue Commissioner specifying the name of the public officer and an address for service of notices on the officer.
- (4) A company shall keep the office of public officer constantly filled.
- (5) In this section, "resident individual" means an individual who is a resident person under the Business Tax Act.

40.(1) In this section –

“Arrangement” means any contract, agreement, plan, or understanding whether express or implied and whether or not enforceable in legal proceedings;

“Associate” has the same meaning as in the Business Tax Act; and

“Controlling shareholder”, in relation to a company, means any person who beneficially holds, either alone or together with an associate or associates –

- (a) more than fifty per cent of the voting rights in the company; or
- (b) more than fifty per cent of the rights to dividends in the company; or
- (c) more than fifty per cent of the rights to capital in the company.

(2) If an arrangement has been entered into with the intention or effect of rendering a company unable to satisfy a current or future revenue liability under a revenue law, every person who was a director or controlling shareholder of the company at the time the arrangement was entered into is jointly and severally liable for the revenue liability of the company, including any interest and additional tax in respect of the liability.

(3) A director of a company is not liable under subsection (2) if the Revenue Commissioner is satisfied that the director derived no financial or other benefit from the arrangement and –

- (a) the director, on becoming aware of the arrangement, has formally recorded with the company his or her dissent and notified the Revenue Commissioner, in writing, of the arrangement; or
- (b) the director satisfies the Revenue Commissioner that, at the time the arrangement was entered into –

Liability for
Revenue
Payable by a
Company in
Financial
Difficulties

- (i) the director was not involved in the executive management of the company; and
- (ii) the director had no knowledge of, and could not reasonably have been expected to know of the arrangement.

(4) The amount that a director or controlling shareholder is personally liable for under subsection (2) is treated as "revenue" for the purposes of Part V.

PART IX - INTEREST, ADDITIONAL TAX, AND OFFENCES

Division I - Interest

Interest on
unpaid
revenue

41.(1) A taxpayer who fails to pay revenue by the due date is liable for interest on the amount unpaid computed for the period commencing on the due date for payment and ending on the date that the revenue was paid.

(2) The rate of interest for the purposes of subsection (1) is the quarterly average prime lending rate on the first day of the period specified in subsection (1) as published by the Central Bank of Seychelles increased by three percentage points.

(3) Interest paid by a taxpayer under subsection (1) shall be refunded to the taxpayer to the extent that the revenue to which the interest relates is found not to have been payable.

(4) Interest payable under this section –

- (a) is computed as simple interest; and
- (b) is in addition to any additional tax or criminal sanction imposed in respect of the same amount or omission.

(5) In this section, "revenue" does not include interest imposed under this section.

Division II - Additional Tax

Additional Tax
for Failure to
Furnish Return

42.(1) A taxpayer who fails to furnish a return as required under a revenue law is liable for an amount of additional tax equal to –

- (a) if the return relates to the conduct of a business –
- (i) in the case of a small business, SR 500 plus SR 50 for each week or part of a week that the return is not furnished;
 - (ii) in the case of a medium business, SR 1,000 plus SR 100 for each week or part of a week that the return is not furnished; or
 - (iii) in the case of a large business, SR 5,000 and SR 500 for each week or part of a week that the return is not furnished; or
- (b) in any other case, SR 500 plus SR 50 for each week or part of a week the return is not furnished.

43. A taxpayer who fails to issue a tax invoice in accordance with section 98 (1) is liable for an amount of additional tax equal to --

Additional
Tax for
Failure to
Issue Tax
Invoices

- (a) in the case of a small business, SR 500 plus SR 50 for each week or part of a week that the tax invoice is not furnished;
- (b) in the case of a medium business, SR 1,000 plus SR 100 for each week or part of a week that the tax invoice is not furnished; or
- (c) in the case of a large business, SR 5,000 and SR 500 for each week or part of a week that the tax invoice is not furnished.

44.(1) In this section, "revenue" does not include interest or additional tax.

Additional
Tax for
Failure to
Pay Revenue
by Due Date

(2) A taxpayer who fails to pay revenue by the due date or, if the Revenue Commissioner has extended the due date under section 22, the extended due date, is liable for an amount of additional tax equal to 10% of the amount of unpaid revenue.

(3) Additional tax paid by a taxpayer under this section shall be refunded to the taxpayer to the extent that the revenue to which the additional tax relates is found not to have been payable.

General
Provisions
Relating to
Additional
Tax

45.(1) A liability for additional tax is calculated separately with respect to each section in this Division.

(2) A person cannot be liable for additional tax if the person has been convicted of an offence for the same act or omission.

(3) If additional tax has been paid under this Division and the Revenue Commissioner institutes a prosecution under Division III of this Part in respect of the same act or omission, the Revenue Commissioner shall refund the amount of the additional tax paid, and no additional tax is payable unless the prosecution is withdrawn.

(4) A person is liable for additional tax only if the Revenue Commissioner –

(a) makes an assessment of the additional tax imposed under this Division; and

(b) serves notice of the assessment on the person subject to the additional tax stating the amount of additional tax payable and the due date for payment.

(5) A person liable to pay additional tax may apply in writing to the Revenue Commissioner for remission of the additional tax payable and such application shall include the reasons for the remission.

(6) The Revenue Commissioner may, upon application under subsection (5) or on the Revenue Commissioner's own motion, remit, in whole or in part, any additional tax payable by a person other than that imposed under section 44.

(7) The imposition of additional tax under this Division does not relieve the person liable from liability for the payment of the revenue to which the additional tax relates.

Division III -Offences

Offence
Failure to
Furnish
Return

46.(1) A taxpayer who, without reasonable excuse, fails –

- (a) to furnish a return by the due date, or within such further time as the Revenue Commissioner may allow under section 5; or
- (b) comply with section 3(4),

is guilty of an offence and on conviction is liable to a fine of an amount equal to three times the amount determined under section 42.

(2) For the purposes of subsection (1), a failure to comply with a notice served under section 3(3) does not constitute an offence separate from the offence constituted by the failure to furnish the return to which the section 3(3) notice relates.

47.(1) A person who –

- (a) without reasonable cause fails to –
 - (i) comply with section 23 ;
 - (ii) comply with a notice served on the person under section 24;
 - (iii) provide security as required under section 25;
 - (iv) comply with a request made under section 26(8);
 - (v) provide facilities and assistance as required by section 33(4);
 - (vi) comply with a notice under section 34; or
- (b) knowing that an order has been made under section 26(2) leaves or attempts to leave Seychelles without paying the revenue due or making an arrangement satisfactory to the Revenue Commissioner for payment; or
- (c) knowingly sells, leases, or otherwise disposes or attempts to dispose of real or personal property that is the subject of a charge under section 27,

Offence of
Failure to
Comply
with
Obligations
under this
Act

is guilty of an offence and on conviction is liable to a fine of no less than SR 50,000.

(2) A company that fails to appoint a public officer as required under section 39 is guilty of an offence and on conviction is liable to a fine of SR 10,000 and to a further fine of SR 100 for every day during which the failure continues.

(3) A person who notifies the Revenue Commissioner in writing under section 24(6) is considered to be in compliance with a notice served on the person under section 24(3) until the Revenue Commissioner serves the person with a notice under section 24(7) amending the notice served under section 24(3) or rejecting the person's notice under section 24(6).

(4) A person referred to in subsection (1)(b) may be arrested without warrant by any police or immigration officer.

Offence of
Failure to
Maintain
Records

48. A taxpayer who knowingly or recklessly fails to keep, retain, and maintain accounts, documents, or records as required under a revenue law is guilty of an offence and on conviction is liable to a fine of no less than SR 10,000 for small businesses, no less than SR 50,000 for a medium business and no less than SR 100,000 for a large business.

Offence for
Improper Use
of Taxpayer
Identification
Number

49.(1) A person who fails to apply for a Taxpayer Identification Number as required under section 35 is guilty of an offence and on conviction is liable to a fine of RS 1,000.

(2) A person who knowingly uses a false Taxpayer Identification Number on a return or document prescribed or used for the purposes of a revenue law is guilty of an offence and on conviction is liable to a fine of not less than SR 10,000 but not more than SR 1,000,000 and to imprisonment for not less than one month and not more than 12 months.

(3) A person who uses the Taxpayer Identification Number of another person is treated as having used a false Taxpayer Identification Number, unless the Taxpayer Identification Number has been used with the permission of that other person on a document relating to the revenue affairs of that other person.

(4) A person who fails to apply for cancellation of the person's Taxpayer Identification Number as required under section 36(1) is guilty of an offence and on conviction is liable to a fine of SR 1,000.

(5) A person who fraudulently obtains a Taxpayer Identification Number using false or forged documents is guilty of an offence and on conviction is liable to a fine of not less than R50,000 but not more than SR 5,000,000 or to imprisonment for not less than one month but not more than 12 months or to both such fine and imprisonment.

50. A person who with deliberate intention to defraud the Government or with intentional disregard of the revenue laws –

Offence of making false or misleading statement

- (a) makes a statement to a revenue officer that is false or misleading in a material particular; or
- (b) omits from a statement made to a revenue officer any matter or thing without which the statement is false or misleading in a material particular,

is guilty of an offence and on conviction is liable to a fine of no less than SR 50,000, or to imprisonment for not more than three months, or to both a fine and imprisonment.

51. A person who obstructs or hinders a revenue officer in the performance of duties under a revenue law is guilty of an offence and on conviction is liable to a fine of SR 100,000 or to imprisonment for not less than one month but not more than three months, or to both a fine and imprisonment.

Offence of Obstructing Revenue Officer

52. A person who aids, abets, counsels, incites, conspires with, or induces another person to commit an offence under a revenue law (referred to as the "principal offence") is guilty of an offence and on conviction is liable for the same sanction as imposed for the principal offence.

Offence of Aiding or Abetting Commission of an Offence

53.(1) If an offence under a revenue law is committed by a company, the offence is treated as having been committed by every person who, at the time the offence was committed, was –

Offences by Companies

- (a) the public officer, director, general manager, company secretary, or other similar officer of the company; or
- (b) acting or purporting to act in that capacity.

(2) Subsection (1) does not apply to a person if –

- (a) the offence was committed without the person's consent or knowledge; and
- (b) the person, having regard to the nature of the person's functions and all the circumstances, has exercised reasonable diligence to prevent the commission of the offence.

Court Order
to Comply
with
Revenue
Law

54. (1) Upon conviction of a person of an offence under this Division, the Court may, in addition to any sentence it may impose, order the convicted person to do, within the time specified in the order, the act that the person has failed, refused, or neglected to do and, if the person fails to comply with the order, the person is guilty of an offence and on conviction is liable to a fine of SR 10,000 and to a further fine of SR 1,000 for each day that the person fails to comply with the order.

(2) An order under subsection (1) may be served on the defendant in the manner prescribed.

PART X – REVENUE PROCEEDINGS

General
Provisions
Relating to
Revenue
Proceedings

55.(1) If a revenue proceeding has been instituted in the name of the Revenue Commissioner, by an officer authorised in writing by the Revenue Commissioner, the proceeding is, unless the contrary is proved, treated as having been instituted by the authority of the Revenue Commissioner.

(2) In a revenue proceeding, the Revenue Commissioner may appear either personally, by a legal practitioner, or by an officer in the public service.

(3) In the case of an appearance by an officer in the public service, a statement by the officer that he or she appears by the authority of the Revenue Commissioner is sufficient evidence of such authority.

(4) A revenue 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.

(5) In a revenue proceeding, the court may award costs against any party and the amount of the costs in favour of the Commissioner is treated as "revenue" for the purposes of Part V of this Act.

56.(1) Subject to subsection (2), no objection shall 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 any amendment necessary to determine the real question in dispute or that may appear desirable.

No
Objection to
Informality

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

57. 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 is not to be held void, quashed, or set aside by reason of any defect therein or want of form, and no party is entitled to be discharged out of custody on account of such defect.

Conviction
not to be
quashed

PART XI - RULINGS

Division I - Public Rulings

58.(1) The Revenue Commissioner may make a public ruling in accordance with section 59 setting out the Revenue Commissioner's interpretation on the application of a revenue law.

Binding
Public
Rulings

(2) A public ruling made in accordance with section 59 is binding on the Revenue Commissioner until withdrawn.

(3) A public ruling is not binding on a taxpayer.

59.(1) The Revenue Commissioner makes a public ruling by publishing a notice of the ruling on the official Seychelles Revenue Commission's web site.

Making a
Public
Ruling

(2) A public ruling shall state that it is a public ruling and have a number and subject heading by which it can be identified.

(3) A public ruling applies from the date specified in the ruling.

60.(1) The Revenue Commissioner may withdraw a public ruling, in whole or part, by publishing notice of the withdrawal on the official Seychelles Revenue Commission's web site or by such other form of public notification as the Revenue Commissioner may determine.

Withdrawal
of a Public
Ruling

(2) If legislation is passed, or the Revenue Commissioner makes a public ruling, that is inconsistent with an existing public ruling, the existing ruling is treated as withdrawn to the extent of the inconsistency.

(3) The withdrawal of a public ruling, in whole or part, has effect –

(a) if subsection (1) applies, from the date specified in the notice of withdrawal; or

(b) if subsection (2) applies, from the date of application of the inconsistent legislation or public ruling.

(4) A public ruling that has been withdrawn in whole or in part –

(a) continues to apply to a transaction commenced before the public ruling was withdrawn; and

(b) does not apply to a transaction commenced after the ruling was withdrawn to the extent that the ruling is withdrawn.

Liability in
Reliance
of a Public
Ruling

61. If a taxpayer relies on a public ruling, a liability for revenue, and interest and additional tax related thereto, cannot arise for the taxpayer that is contrary to the ruling.

Division II -Private Rulings

Binding
Private
Rulings

62.(1) Subject to section 63, the Revenue Commissioner shall, upon application in writing by a taxpayer, issue to the taxpayer a private ruling setting out the Revenue Commissioner's position regarding the application of a revenue law to a transaction entered into, or proposed to be entered into, by the taxpayer.

(2) If the taxpayer has made a full and true disclosure of all aspects of the transaction relevant to the making of a private ruling and the transaction has proceeded in all material respects as described in the taxpayer's application for the ruling, the ruling is binding on the Revenue Commissioner in relation to the taxpayer.

(3) A private ruling is not binding on the taxpayer to whom it is issued.

(4) If a private ruling is inconsistent with an existing public ruling, the private ruling has priority to the extent of the inconsistency.

63.(1) The Revenue Commissioner may refuse an application for a private ruling if –

Refusing an Application for a Private Ruling

- (a) the Revenue Commissioner has already decided the matter that is the subject of the application in an assessment;
- (b) the Revenue Commissioner is of the opinion that an existing public ruling adequately covers the matter that is the subject of the application;
- (c) the application relates to a matter that is the subject of an audit or an objection;
- (d) the application is frivolous or vexatious;
- (e) the arrangement to which the application relates has not been carried out and there are reasonable grounds to believe that it will not be carried out;
- (f) the applicant has not provided the Revenue Commissioner with sufficient information to make a private ruling; or
- (g) in the opinion of the Revenue Commissioner, it would be unreasonable to comply with the application having regard to the resources needed to comply and any other matters the Revenue Commissioner considers relevant.

(2) The Revenue Commissioner shall serve the applicant with a written notice of a decision to refuse to make a private ruling as soon as is practicable after the making of the decision.

64.(1) The Revenue Commissioner makes a private ruling by serving written notice of the ruling on the applicant.

Making a Private Ruling

(2) The Revenue Commissioner may make a private ruling on the basis of assumptions about a future event or other matter as considered appropriate.

(3) A private ruling shall set out the matter ruled on, identifying –

- (a) the taxpayer;
- (b) the revenue law relevant to the ruling;
- (c) the revenue period to which the ruling applies;
- (d) the arrangement to which the ruling relates; and
- (e) any assumptions on which the ruling is based.

(4) A private ruling is made at the time the applicant is served with notice of the ruling and remains in force for the period specified in the ruling.

(5) The making of a private ruling is not a revenue decision for the purposes of this Act.

Withdrawal
of a Private
Ruling

65.(1) The Revenue Commissioner may, for reasonable cause, withdraw a private ruling, in whole or part, by written notice served on the applicant.

(2) If legislation is passed, or the Revenue Commissioner publishes a public ruling, that is inconsistent with a private ruling, the private ruling is treated as withdrawn to the extent of the inconsistency.

(3) The withdrawal of a private ruling, in whole or part, has effect –

- (a) if subsection (1) applies, from the date of the notice of withdrawal or such later date as may be specified in the notice; or
- (b) if subsection (2) applies, from the date of publication of the inconsistent legislation or public ruling.

(4) A private ruling that has been withdrawn –

- (a) continues to apply to a transaction commenced before the ruling was withdrawn; and
- (b) does not apply to a transaction commenced after the ruling was withdrawn to the extent that the ruling is withdrawn.

66. If section 65(2) applies to a taxpayer, a liability for revenue, and interest and additional tax related thereto, cannot arise for the taxpayer that is contrary to the ruling.

Liability in
Reliance of a
Private Ruling

67. The Commissioner may publish, for educational purposes and subject to the taxpayer's consent, an edited version of a binding private ruling issued to the taxpayer.

Publishing
of Binding
Private
Rulings

Division III - General Guidance

68.(1) If a taxpayer does not provide sufficient information for the Revenue Commissioner to provide the taxpayer with a private ruling, the Revenue Commissioner may issue the taxpayer with general guidance rather than a ruling.

Provision of
General
Guidance

(2) Subject to subsection (3), general guidance provided to a taxpayer under subsection (1) is not binding on either the Revenue Commissioner or the taxpayer and, if the general advice is inaccurate, the taxpayer can be liable for revenue contrary to the general advice provided.

(3) If a taxpayer is liable for revenue contrary to general guidance provided, the taxpayer is not liable for any interest or additional tax arising in relation to that liability.

(4) Subsection (3) does not apply if the general guidance is inconsistent with an existing public ruling or private ruling provided to the taxpayer, or the Revenue Commissioner has withdrawn the general guidance by notice in writing to the taxpayer before the transaction in respect of which the liability arose was entered into.

69.(1) The Revenue Commissioner provides general guidance by serving written notice of the guidance on the applicant.

Providing
general
guidance

(2) The Revenue Commissioner may provide general guidance on the basis of assumptions about a future event or other matter as considered appropriate.

(3) General guidance shall set out the matter to which it relates, identifying –

(a) the taxpayer;

(b) the revenue law relevant to the general guidance;

- (c) the revenue period to which the general guidance applies;
- (d) the arrangement to which the general guidance relates; and
- (e) any assumptions on which the general guidance is based.

(4) General guidance is provided at the time the applicant is served with notice of the guidance and remains in force for the period specified in the guidance.

PART XII - REVENUE TRIBUNAL

Establishment
of Revenue
Tribunal

70.(1) There is established a tribunal to be called the Revenue Tribunal to hear applications for review of reviewable decisions made under a revenue law.

(2) A reviewable decision can be challenged only under this Part.

Appointment
of Members
of the Revenue
Tribunal.

71.(1) The Revenue Tribunal consists of a Chairperson and such other members (referred to as "ordinary members") as the Minister considers necessary having regard to the needs of the Revenue Tribunal.

(2) The Chairperson of the Revenue Tribunal is a Judge of the Supreme Court appointed by the Chief Justice.

(3) The ordinary members of the Revenue Tribunal are appointed by the Minister.

(4) Subject to subsections (5) and (6), a person may be appointed as an ordinary member of the Revenue Tribunal only if the person has special knowledge, experience, or skills relevant to the functions of the Revenue Tribunal.

(5) At least one ordinary member appointed to the Tribunal shall have special knowledge, experience, or skills in the field of customs.

(6) A person cannot be appointed as an ordinary member of the Revenue Tribunal if that person –

- (a) has a criminal record;
- (b) is an undischarged bankrupt; or

- (c) is concurrently employed by the Commission as a revenue officer;

(7) An ordinary member –

- (a) may be appointed as either a full-time or part-time member;
- (b) is appointed for a term of three years and is eligible for re-appointment; and
- (c) holds office on such terms and conditions, including in relation to remuneration, as the Minister determines.

(8) The Chairperson of the Revenue Tribunal holds that office until the earlier of –

- (a) ceasing to hold the office of Judge of the Supreme Court; or
- (b) resigning from the office of Chairperson by notice in writing to the Chief Justice.

(9) The Minister shall by notice in writing, terminate the office of an ordinary member, who –

- (a) acquires a criminal record;
- (b) becomes an undischarged bankrupt;
- (c) is unable to perform the duties of office due to ill health or has engaged in misconduct;
- (d) becomes employed as a revenue officer; or
- (e) resigns by notice in writing to the Minister.

(10) No member of the Revenue Tribunal is liable to any action or suit for any act done or omitted to be done in the bona fide execution of the member's duties under this Part.

Application
for Review
of
Reviewable
Decision

72.(1) A person dissatisfied with a reviewable decision may apply to the Revenue Tribunal for review of the decision.

(2) An application under subsection (1) shall –

- (a)** be in the approved form;
- (b)** include a statement of the reasons for the application;
- (c)** be lodged with the Revenue Tribunal within thirty days after the applicant has been served with notice of the reviewable decision; and
- (d)** be accompanied by the prescribed fee.

(3) The Revenue Tribunal may, on an application in writing, extend the time for making an application to the Tribunal for a review of a reviewable decision.

(4) An applicant to the Revenue Tribunal shall serve a copy of the application on the Revenue Commissioner or the Tax and Customs Agents Board, as the case may be, within five days of lodging the application with the Revenue Tribunal.

(5) The Revenue Tribunal may, in reviewing a reviewable decision, exercise all the powers and discretions of the original decision-maker under the revenue law under which the original decision was made.

Revenue
Commissioner
or Tax and
Customs
Agents Board
Required to
Lodge
Documents
with Tribunal

73.(1) The Revenue Commissioner or Tax and Customs Agents Board, as the case may be, shall, within twenty eight days of being served with a copy of an application to the Revenue Tribunal or within such further time as the Revenue Tribunal may allow, lodge with the Revenue Tribunal –

- (a)** the notice of the reviewable decision to which the application relates;
- (b)** a statement setting out the reasons for the decision if these are not set out in the notice referred to in paragraph (a); and
- (c)** any other document that the Revenue Tribunal believes may be relevant to the Tribunal's review of the decision.

(2) If the Revenue Tribunal is not satisfied with a statement lodged under subsection (1)(b), the Revenue Tribunal may, by written notice, require the Revenue Commissioner or Tax and Customs Agents Board, as the case may be, to lodge, within the time specified in the notice, a further statement.

(3) If the Revenue Tribunal is of the opinion that other documents may be relevant to the Revenue Tribunal's review of a reviewable decision, the Revenue Tribunal may, by written notice, require the Revenue Commissioner or Tax and Customs Agents Board, as the case may be, to lodge with the Revenue Tribunal, within the time specified in the notice, the documents specified in the notice.

(4) The Revenue Commissioner or Tax and Customs Agents Board, as the case may be, shall give the applicant a copy of any statement or document lodged with the Revenue Tribunal under this section within 14 days.

74.(1) The Chairperson may direct that an application for review of a reviewable decision be referred to a particular alternative dispute resolution procedure.

Alternative
Dispute
Resolution
Procedure

(2) When a direction is made under subsection (1), each party shall act in good faith in the conduct of the alternative dispute resolution procedure.

(3) The Chairperson may give directions in relation to an alternative dispute resolution procedure, including –

- (a) the type of procedure to be undertaken;
- (b) the person who is required to conduct the procedure; or
- (c) the procedure to be followed when the alternative dispute resolution procedure is completed.

(4) The Chairperson may, at any time, vary or revoke a direction given under subsection (3).

(5) If the alternative dispute resolution procedure directed by the Chairperson is mediation, the person conducting the mediation shall be a member of the Revenue Tribunal or another person properly qualified to conduct mediation.

- (6) When, in the course of an alternative dispute resolution procedure –
- (a) agreement is reached between the parties as to the terms of a decision of the Revenue Tribunal on the application the subject of the procedure;
 - (b) the terms of the agreement are reduced to writing, signed by the parties, and lodged with the Revenue Tribunal;
 - (c) seven days have passed since lodgement of the agreement and none of the parties have notified the Revenue Tribunal in writing that they wish to withdraw from the agreement; and
 - (d) the Revenue Tribunal is satisfied that a decision in the terms of the agreement is within the power of the Revenue Tribunal,

the Revenue Tribunal may, without holding a hearing, make a decision in accordance with the agreement.

(7) Evidence of anything said, or any act done, at an alternative dispute resolution procedure under this section is not admissible in any court unless the parties to the proceeding agree, in writing, to the evidence being admissible.

Proceedings
of the
Revenue
Tribunal

75.(1) The Chairperson shall assign members to hearings and, on a hearing, the Revenue Tribunal may be constituted by one member or three members at the discretion of the Chairperson.

(2) If the Revenue Tribunal is constituted by three members and the members are divided in opinion as to the decision to be made on any question, the question is decided according to the opinion of the majority.

(3) A member of the Revenue Tribunal who has a material, pecuniary, or other interest in any proceeding that could conflict with the proper performance of the member's functions shall disclose the interest and such member shall not take part in that proceeding.

(4) The times and places of the hearings of the Revenue Tribunal are to be specified by the Chairperson.

(5) The Revenue Tribunal is to be conducted with as little formality and technicality as possible, and the Revenue Tribunal is not bound by the rules of evidence but may inform itself on any matter in such manner as it thinks appropriate.

(6) The proceedings of the Revenue Tribunal shall be conducted in accordance with such rules of practice and procedure as the Chairperson may specify.

(7) The Revenue Tribunal may --

- (a) take evidence on oath or affirmation;
- (b) summon a person to appear before the Revenue Tribunal to give evidence;
- (c) proceed in the absence of a party who has had reasonable notice of the proceeding; or
- (d) adjourn the proceeding from time to time.

(8) The posting by certified or registered post of any pleading, decision, or order in respect of proceedings before the Revenue Tribunal is sufficient service of such pleading, decision, or order.

(9) The registry functions of the Revenue Tribunal shall be performed by the Registrar of the Supreme Court unless the Tribunal establishes its own registry.

(10) The Revenue Tribunal shall have such assistance in carrying out its lawful writs, processes, orders, rules, decrees, or commands as is available to a court in Seychelles.

76.(1) An applicant to the Revenue Tribunal may discontinue or withdraw the application at any time by filing a written notice of withdrawal with the Tribunal and the Tribunal shall dismiss the application.

(2) If an applicant fails to appear in person or be represented at a hearing of the proceeding, the Revenue Tribunal may dismiss the application.

(3) If an applicant fails within a reasonable time to proceed with an application or comply with a direction of the Revenue Tribunal in relation to an

Discontinuance,
Dismissal,
or
Reinstatement
of Application
to the Revenue
Tribunal

application, the Chairperson may, on behalf of the Tribunal, dismiss the application.

(4) If the Revenue Tribunal has dismissed an application under subsection (2) or (3), the applicant may, within thirty days after receiving notification that the application has been dismissed, apply to the Revenue Tribunal for reinstatement of the application.

(5) If an application has been made under subsection (4), the Revenue Tribunal may reinstate the application with directions.

Decision of
Revenue
Tribunal

77.(1) The Revenue Tribunal shall –

- (a) in the case of a review of an objection decision, make an order as set out in section 16(3) or (4); or
- (b) in the case of a review of any other reviewable decision, make an order to affirm, vary, or set aside the decision.

(2) The Revenue Tribunal shall –

- (a) make a written decision on an application for review as soon as practicable after the hearing has been completed; and
- (b) cause a copy of its decision to be served on each party to the proceeding within seven days of the making of the decision.

(3) A decision referred to in subsection (2) shall include the Revenue Tribunal's reasons for the decision and its findings on material questions of fact and reference to the evidence or other material on which those findings were based.

(4) A decision of the Revenue Tribunal comes into operation upon the giving of the decision or on such other date as may be specified by the Revenue Tribunal in the decision.

(5) Subject to subsection (6), the Revenue Tribunal shall provide for the publication of its decisions in such form and manner as may be adapted for public information and use, and such authorised publication is evidence of the

decisions of the Revenue Tribunal in all courts of Seychelles without any further proof or authentication.

(6) In publishing its decisions, the Revenue Tribunal shall ensure that –

- (a) the identity and affairs of the applicant and any other person concerned are concealed; and
- (b) trade secrets or other confidential information are not disclosed.

78.(1) A party dissatisfied with a decision of the Revenue Tribunal may appeal to the Supreme Court against the decision.

Appeal from
Decision of
the Revenue
Tribunal

(2) An appeal under subsection (1) shall –

- (a) be in the approved form;
- (b) include a statement of the reasons for the application;
- (c) be lodged with the Registrar of the Supreme Court within thirty days after the applicant has been served with notice of the decision; and
- (d) for persons other than the Revenue Commissioner, be accompanied by the prescribed fee.

(3) The party appealing to the Supreme Court shall serve a copy of the notice of appeal on the other party to the proceeding before the Revenue Tribunal.

(4) An appeal to the Supreme Court may be made on a question of law only, and the notice of appeal shall state the question or questions of law that will be raised on the appeal.

(5) The Supreme Court shall hear and determine the appeal and –

- (a) in the case of an appeal relating to an objection decision, make an order as set out in section 17; or
- (b) in the case of an appeal relating to any other reviewable decision, make such order as it thinks appropriate by

reason of its decision, including an order affirming or setting aside the decision of the Revenue Tribunal or an order remitting the case to the original decision maker for reconsideration.

(6) A party to a proceeding before the Supreme Court dissatisfied with the Court's decision on an appeal from the Revenue Tribunal may lodge a notice of appeal against the decision to the Court of Appeal.

(7) If the Court of Appeal grants leave to hear an appeal from a decision of the Supreme Court, the Court of Appeal shall determine the appeal and –

- (a) in the case of an appeal relating to an objection decision, make an order as set out in section 17; or
- (b) in the case of an appeal relating to any other reviewable decision, make such order as it thinks appropriate by reason of its decision, including an order affirming or setting aside the decision of the Revenue Tribunal or an order remitting the case to the original decision maker for reconsideration.

Offences
Relating to
the Revenue
Tribunal

79.(1) A person who –

- (a) insults a member of the Revenue Tribunal in, or in relation to, the exercise of his or her powers or functions as member;
- (b) interrupts a proceeding of the Revenue Tribunal;
- (c) creates a disturbance, or takes part in creating a disturbance, in or near a place where the Revenue Tribunal is sitting; or
- (d) does any other act or thing that would, if the Revenue Tribunal were a Court, constitute a contempt of that Court,

is guilty of an offence and on conviction is liable to a fine of not less than SR 50,000 but not more than SR 500,000.

(2) A person who –

- (a) knowingly refuses or without reasonable cause fails –
- (i) to comply with a summons to appear before the Revenue Tribunal;
 - (ii) to take an oath or affirmation before the Revenue Tribunal;
 - (iii) to answer any question asked of the person during a proceeding before the Revenue Tribunal; or
 - (iv) to produce any book, record, or document to the Revenue Tribunal that the person was required to produce by a summons served on the person, or
- (b) gives false or misleading evidence to the Revenue Tribunal,

is guilty of an offence and on conviction is liable to a fine of not less than SR 50,000 but not more than SR 500,000 and to imprisonment for not less than one month but not more than 24 months.

PART XIII – TAX AND CUSTOMS AGENTS BOARD

80.(1) There is hereby established a body to be known as the Tax and Customs Agents Board.

Establishment
of the Tax and
Customs
Agents Board

(2) The Tax and Customs Agents Board shall be the body responsible for the registration and regulation of Tax and Customs Agents.

(3) The Tax and Customs Agents Board will consist of the Customs Agents Division and the Tax Agents Division.

81.(1) The Tax and Customs Agents Board shall have a Chairperson, a Deputy Chairperson, and a Technical Advisor who shall be appointed by the Minister and they shall be known as the Executive Board.

Appointment
of Members
of the Tax
and Customs
Agents
Board

(2) The Executive Board shall, wherever feasible and with consideration to the knowledge, experience and skills relevant to the functions of

the Tax and Customs Agent Board, appoint four additional Tax and Customs Agent Board Members consisting of –

- (a) one registered Customs Agent;
- (b) one registered Tax Agent;
- (c) one Seychelles Revenue Commission Customs Officer;
and
- (d) one Seychelles Revenue Commission Taxation Officer.

(3) In addition to the Chairperson and Deputy Chairperson, each Division of the Tax and Customs Agents Board shall have a minimum of three members assigned by the Chairperson and –

- (a) in the case of the Customs Agents Division, one member shall be a registered Customs agent and one member shall be a Seychelles Revenue Commission Customs Officer.
- (b) in the case of the Tax Agents Division, one member shall be a registered Tax Agent and one member shall be a Seychelles Revenue Commission Taxation Officer.

(4) A member, other than the member who is a registered Tax Agent or a registered Customs Agent, may be assigned to different Divisions.

(5) A person shall not be appointed as a member under subsection (1) or (2) if the person –

- (a) has a criminal record; or
- (b) is an undischarged bankrupt.

(6) A member appointed under subsection (1) or (2) holds office for 3 years and is eligible for reappointment.

(7) The appointment of a member under subsection (1) or (2) terminates if the member –

- (a) acquires a criminal record;

- (b) becomes an undischarged bankrupt; or
- (c) resigns by notice in writing to the Minister.

(8) No member of the Tax and Customs Agents Boards is liable to any action or suit for any act done or omitted to be done in the *bona fide* execution of the member's duties under this Part,

82.(1) At all meetings of the Tax and Customs Agents Board (including a meeting of a Division of the Board), a quorum is three members and all questions are decided by a majority of the members attending provided that, in the event of a tie, the chairperson has the casting vote.

Proceedings
of Tax and
Customs
Agents'
Board

(2) If the Chairperson is absent, the Deputy Chairperson shall act as the Chairperson but where both the Chairperson and the Deputy Chairperson are absent from a meeting, the members making up the quorum for the meeting shall nominate a member that is present at the meeting to act as Chairperson for that meeting.

(3) A vacancy in the office of a member does not invalidate the proceedings of the Tax and Customs Agents Board or of a Division of the Board.

(4) The Tax and Customs Agents Board has the same powers as the Revenue Tribunal with respect to the taking of evidence, the administration of oaths or affirmations, the summoning of witnesses, and the production of documents.

(5) A person dissatisfied with a reviewable decision made by the Tax and Customs Agents Board may apply to the Revenue Tribunal for review of the Board's decision.

83.(1) An individual, company or partnership that holds residency status in Seychelles may apply to the Tax and Customs Agents Board for registration as a Tax Agent, and the application shall be in the approved form and be accompanied by the prescribed fee.

Registration
of Tax
Agents

(2) In the case of a company or partnership, the application shall include an application for a nominee or nominees.

(3) An application for registration as a Tax Agent shall be decided by the Tax Agents Division of the Tax and Customs Agents Board.

(4) If the applicant under subsection (1) is an individual, the Tax and Customs Agents Board may, subject to such conditions as the Board may impose, register the individual as a Tax Agent if satisfied that the individual is a fit and proper person to prepare returns and transact business on behalf of taxpayers in revenue matters.

(5) If the applicant under subsection (1) is a partnership, the Tax and Customs Agents Board may, subject to such conditions as the Board may impose, register the partnership as a Tax Agent if satisfied that –

- (a) a member of the partnership nominated in the application is a fit and proper person to prepare returns and transact business on behalf of taxpayers in revenue matters; and
- (b) no member of the partnership is under a legal disability at the date on which the application was made and every member of the partnership is of good fame, integrity, and character.

(6) If the applicant under subsection (1) is a company, the Tax and Customs Agents Board may, subject to such conditions as the Board may impose, register the company as a Tax Agent if satisfied that –

- (a) an employee of the company nominated in the application is a fit and proper person to prepare returns and transact business on behalf of taxpayers in revenue matters; and
- (b) no director, manager, or administrative officer of the company is under a legal disability at the date on which the application was made and every director, manager, and administrative officer is of good fame, integrity, and character.

(7) If a partnership or company is registered as a Tax Agent, the person referred to in subsection (5)(a) or subsection (6)(a), respectively, shall be registered by the Tax and Customs Agents Board as the nominee of the Tax Agent for the purposes of this Part.

(8) A partnership or company registered as a Tax Agent may, by application in the approved form accompanied by the prescribed fee, request the Tax and Customs Agents Board to register a partner of the partnership or an

employee of the company as an additional or substituted nominee for the purposes of this Part and the Board shall register the person as an additional or substituted nominee if satisfied that the person is a fit and proper person to prepare returns and transact business on behalf of taxpayers in relation to revenue matters.

(9) The registration of a person as a Tax Agent or as a nominee of a Tax Agent will relate generally to the revenue laws (other than the Trades Tax Act) or for a specific purpose as stated on the Tax Agent's certificate of registration.

84.(1) An individual, company or partnership that holds residency status in Seychelles may apply to the Tax and Customs Agents Board for registration as a Customs Agent, and the application shall be in the approved form and be accompanied by the prescribed fee.

Registration
of Customs
Agents

(2) In the case of a company or partnership, the application shall include an application for a nominee or nominees.

(3) An application for registration as a Customs Agent shall be decided by the Customs Agents Division of the Tax and Customs Agents Board.

(4) If the applicant under subsection (1) is an individual, the Tax and Customs Agents Board may, subject to such conditions as the Board may impose, register the individual as a Customs Agent if satisfied that the individual is a fit and proper person to transact business relating to the entry or clearance of any aircraft or ship, goods, or baggage on behalf of persons.

(5) If the applicant under subsection (1) is a partnership, the Tax and Customs Agents Board may, subject to such conditions as the Board may impose, register the partnership as a Customs Agent if satisfied that –

- (a) a member of the partnership nominated in the application is a fit and proper person to transact business relating to the entry or clearance of any aircraft or ship, goods, or baggage on behalf of persons; and
- (b) no member of the partnership is under a legal disability at the date on which the application was made and every member of the partnership is of good fame, integrity, and character.

(6) If the applicant under subsection (1) is a company, the Tax and Customs Agents Board may, subject to such conditions as the Board may impose, register the company as a Customs Agent if satisfied that –

- (a) an employee of the company nominated in the application is a fit and proper person to transact business relating to the entry or clearance of any aircraft or ship, goods, or baggage on behalf of persons; and
- (b) no director, manager, or administrative officer of the company is under a legal disability at the date on which the application was made and every director, manager, and administrative officer is of good fame, integrity, and character.

(7) If a partnership or company is registered as a Customs Agent, the person referred to in subsection (3)(a) or subsection (4)(a), respectively, shall be registered by the Tax and Customs Agents Board as the nominee of the Customs Agent for the purposes of this Part.

(8) A partnership or company registered as a Customs Agent may, by application in the approved form accompanied by the prescribed fee, request the Tax and Customs Agents Board to register a partner of the partnership or an employee of the company as an additional or substituted nominee for the purposes of this Part and the Board shall register the person as an additional or substituted nominee if satisfied that the person is a fit and proper person to transact business relating to the entry or clearance of any aircraft or ship, goods, or baggage on behalf of persons.

General
Provisions
Relating to
Registration
as a Tax or
Customs
Agent

85.(1) The Tax and Customs Agents Boards shall make a determination on any application that it receives for registration as a Tax Agent or Customs Agent, as the case may be, to satisfy itself that the person making the application is a fit and proper person to –

- (a) prepare returns and transact business on behalf of taxpayers in revenue matters; or
- (b) transact business relating to the entry or clearance of any aircraft or ship, goods, or baggage on behalf of persons, and

that the person, company or partnership holds residency status in Seychelles.

(2) In determining whether or not the Tax and Customs Agents Board is satisfied that a person making an application is a fit and proper person to prepare returns and transact business on behalf of taxpayers in revenue matters or to transact business relating to the entry or clearance of any aircraft or ship, goods, or baggage on behalf of persons, as the case may be, the Board shall have the power to establish determination guidelines and shall be required to make such guidelines public.

(3) In determining any application for registration of any person the Tax and Customs Agents Board may seek further documents or information from the applicant or any third party that it believes is relevant.

(4) The Tax and Customs Agents Board shall serve the applicant with a written notice of its decision on the application within 30 days of the application being received or within such further time as the Board may require to make such determination.

(5) If the application for registration is approved, the Tax and Customs Agents Board shall serve an applicant with written notice of the registration of the applicant as a Tax Agent or Customs Agent or the registration of a person as a nominee of a Tax Agent or Customs Agent, as the case may be.

(6) A partner in a partnership or employee of a company ceases to be registered as a nominee of a partnership or company if –

- (a) the Tax and Customs Agents Board determines that the partner or employee is no longer a fit and proper person to be a nominee of a Tax Agent or Customs Agent, as the case may be;
- (b) in the case of a partnership, the partner ceases to be a partner in the partnership or the partnership notifies the Board in writing that it no longer wants the partner registered as its nominee; or
- (c) in the case of a company, the employee ceases to be employed by the company or the company partnership notifies the Board in writing that it no longer wants the employee registered as its nominee.

(7) A Tax Agent or Customs Agent that is a partnership shall notify the Tax and Customs Agents Board, in writing, of any change in the membership of the partnership within seven days of the change occurring.

(8) A Tax Agent or Customs Agent that is a company shall notify the Tax and Customs Agents Board, in writing –

- (a) if a registered nominee ceases to be an employee of the company; or
- (b) if a person becomes a director, manager, or other administrative officer of the company.

(9) An individual, partnership, or company holds residency status in Seychelles if the individual, partnership, or company is a resident person under the Business Tax Act.

Code of
Conduct and
Sanctions

86.(1) The Tax and Customs Agents Board shall have the power to establish a Code of Conduct and Sanctions for Tax Agents and Customs Agents and shall be required to make such Code of Conduct and Sanctions guidelines public.

(2) Tax Agents and Customs Agents shall comply with the Code of Conduct.

Sanctioning
of a Tax
Agent or
Customs
Agent

87.(1) The Tax and Customs Agents Board shall have the power to review the conduct and performance of a Tax Agent or Customs Agent in line with its Code of Conduct and sanctions guidelines and where necessary to impose sanctions on the Tax Agent or Customs Agent in accordance with its guidelines.

(2) In reviewing the conduct and performance of a Tax Agent or Customs Agent the Tax and Customs Agents Board may interview and take evidence from any person that it believes is relevant.

Cancellation
of
Registration

88.(1) A Tax Agent or Customs Agent shall notify the Tax and Customs Agents Board, in writing, if –

- (a) in the case of a Tax Agent, the Tax Agent ceases to carry on business as a Tax Agent or ceases to satisfy the conditions for registration in section 83, as the case may be; or

- (b) in the case of a Customs Agent, the Customs Agent ceases to carry on business as a Customs Agent or ceases to satisfy the conditions for registration in section 84, as the case may be.

(2) Notification under subsection (1) shall be made within seven days of ceasing to carry on business as a Tax Agent or Customs Agent or ceasing to satisfy the conditions for registration.

(3) A Tax Agent or Customs Agent to whom subsection (1) does not apply may apply to the Tax and Customs Agents Board, in the approved form, for cancellation of the agent's registration if the agent no longer wishes to be registered.

(4) The Tax and Customs Agents Board shall cancel the registration of a Tax Agent or Customs Agent –

- (a) if the Tax Agent or Customs Agent has notified the Board under subsection (1);
- (b) if an application has not been made under subsection (1) but the Board is satisfied that an application should have been made;
- (c) if the Tax Agent or Customs Agent has applied for cancellation of the agent's registration under subsection (3);
- (d) if the Tax Agent or Customs Agent is convicted of a criminal offence;
- (e) in the case of a Tax Agent or Customs Agent who is an individual, if the agent dies or becomes an undischarged bankrupt;
- (f) in the case of a Tax Agent or Customs Agent that is a partnership, if there is no nominee registered in respect of the partnership, a partner in the partnership becomes an undischarged bankrupt or goes into liquidation, or the partnership is dissolved; or

- (g) in the case of a Tax Agent or Customs Agent that is a company, if there is no nominee registered in respect of the company or the company goes into liquidation.

(5) The Tax and Customs Agents Board shall serve a person whose registration is cancelled under subsection (4) with notice in writing of the cancellation as soon as practicable after the decision to cancel the registration has been made and the person's registration is cancelled from the date set out in the notice.

Unregistered
Persons not
to Charge
Fees or
Advertise as
Tax or
Customs
Agent

89.(1) Subject to subsection (3), a person shall not demand or receive a fee for, or in relation to, the preparation of a return, an objection, or the transaction of any business on behalf of a taxpayer with the Revenue Commissioner, unless the person is registered as a Tax Agent with authority to prepare the return, objection, or transact the business.

(2) Subject to subsection (3), a person shall not demand or receive a fee for, or in relation to, the transaction of any business relating to the entry or clearance of any aircraft or ship, goods, or baggage on behalf of persons.

(3) Subsections (1) and (2) do not apply to a legal practitioner acting in the course of the person's profession in the preparation of an objection, or in any proceedings before the Revenue Tribunal or a Court, or in providing advice in relation to the preparation of a return.

(4) A person, not being a Tax Agent, shall not, directly or indirectly –

- (a) describe the person as, or represent the person to be a Tax or Customs Agent; or
- (b) advertise in any manner that returns will be prepared by the person or that any other revenue matter will be attended to by the person.

Negligence
of Tax or
Customs
Agent

90. (1) Nothing in this Act limits the right of the principal to sue the Tax Agent or Customs Agent in recovering any amount of additional tax or any other penalty imposed under this Act when the Tax Agent or Customs Agent acted negligently.

(2) However, nothing in this section excuses the principal from liability for the additional tax or any other penalty imposed under this Act.

91.(1) A person who fails to comply with section 85(6) or (8) is guilty of an offence and on conviction is liable to a fine of SR 25,000.

Offences
Relating to
Tax or
Customs
Agents

(2) A person who fails to comply with section 88(1) is guilty of an offence and on conviction is liable for a fine of SR 25,000.

(3) A person who fails to comply with sections 89(1), (2) or (4) is guilty of an offence and on conviction is liable to a fine of not less than SR 25,000 but not more than SR 1,000,000 and to imprisonment for not less than one month but not more than 12 months.

PART XIV - FORMS AND NOTICES

92.(1) Subject to subsections (2) and (3), a return, notice, or other document required to be furnished under a revenue law is in the approved form if—

Approved
Form

- (a) it is in the form approved in writing by the Revenue Commissioner for that type of return, notice, or document; and
- (b) it contains the information (including any attached documents required) and is signed as required by the form.

(2) A form required to be furnished under Part XII of this Act is in the approved form if—

- (a) it is in the form approved by the Chairperson of the Revenue Tribunal; and
- (b) it contains the information (including any attached documents required) and is signed as required by the form.

(3) A form required to be furnished under Part XIII of this Act is in the approved form if—

- (a) it is in the form approved by the Tax and Customs Agents Board; and
- (b) it contains the information (including any attached documents required) and is signed as required by the form.

Forms and
Notices;
Authentication
of Documents;
Compliance
with Revenue
Law

93.(1) Subject to the Regulations under this Act, a form, notice, return, statement, table, or other document approved or published by the Revenue Commissioner for the purposes of any revenue law may be in such form as the Revenue Commissioner determines for the efficient administration of the revenue laws and its publication in the Gazette is not required.

(2) The Revenue Commissioner shall make the documents referred to in subsection (1) available to the public at the offices of the Commission and at such other locations, or by mail, by notice on the Seychelles Revenue Commission's web site, or such other means, as the Revenue Commissioner may determine.

(3) A notice or other document issued, served, or given by the Revenue Commissioner under a revenue law is sufficiently authenticated if the name or title of the Revenue Commissioner, or authorised revenue officer, is printed, stamped, or written on the document.

(4) For the purposes of a proceeding under a revenue law, the facts necessary to establish compliance by the Revenue Commissioner with the revenue law are sufficiently proved in the Revenue Tribunal or any Court by an affidavit of the Revenue Commissioner or authorised revenue officer.

(5) An affidavit referred to in subsection (4) shall have attached to it a copy of any notice to which the affidavit relates.

Manner of
Lodging
Documents

94. Subject to this Act and except as otherwise provided in a revenue law, an application, notice, or other document to be lodged with the Revenue Commissioner under a revenue law shall be delivered by personal delivery or normal post to an office of the Commission.

Free Postage

95. A return, correspondence, or payments of revenue made under a revenue law may be sent free of postage in an envelope addressed to the Revenue Commissioner or the Commission.

Service of
Documents

96.(1) In this section, "person" includes the person's representative.

(2) A taxpayer shall state in each return furnished by the taxpayer an address in Seychelles for service of notices and such address applies for the purposes of all revenue laws.

(3) Subject to this Act and except as otherwise provided in a revenue law, a notice or other document required to be served by the Revenue

Commissioner on a person for the purposes of a revenue law is treated as properly served on the person—

- (a) if served personally on the person;
- (b) if an address for service is provided as specified in subsection (2) and the notice or other document is left at, or sent by registered or normal post to, the address for service stated in the most recently furnished return of the taxpayer including an address for service; or
- (c) if no address for service is provided in a return and the notice or other document is left at, or sent by registered or normal post to, the person's usual or last known address in Seychelles.

(4) If a notice or other document is served by normal post, service is, in the absence of proof to the contrary, deemed to have been effected at the time at which the notice or other document would be delivered in the ordinary course of post, and in proving such service it is sufficient to prove that the envelope containing the notice or other document was properly addressed and was posted.

(5) If the person to whom a notice or other document has been sent by registered post is informed of the fact that there is a registered letter awaiting the person at a Post Office, and the person refuses or fails to take delivery of the letter, and the letter consists of the notice or other document, service of the notice or other document is deemed to have been effected.

(6) The validity of service of a notice under a revenue law cannot be challenged after the notice has been wholly or partly complied with.

97. If the due date for —

- (a) furnishing a return, application, notice, or other document;
- (b) the payment of revenue; or
- (c) taking any other action under a revenue law,

Due Date for
Documents
and Revenue
Payments

is a Saturday, Sunday, or public holiday, the due date is the next following business day.

PART XV - TAX INVOICESTax
Invoice

98. (1) A supplier of goods or services shall issue a tax invoice to the purchaser within 28 days of the date of the supply.

(2) Subject to subsection (3), for a tax invoice to be a valid tax invoice it shall contain –

- (a) the Seychelles Business Number of the supplier;
- (b) the name of the supplier;
- (c) the date of issue;
- (d) the price of the supply expressed in Seychelles Rupees;
- (e) sufficient information to verify the supply, including the nature, purpose and quantity of the supply; and
- (f) shall be in the approved form.

(2) The Commissioner may treat as a valid tax invoice any particular document that is not a valid tax invoice.

(3) With the written consent of the supplier and the Revenue Commissioner, the purchaser of the supply may create a valid tax invoice on behalf of the supplier.

(4) Without limiting subsection (1), a supplier is not required to issue a tax invoice if –

- (a) the supply is not to a business, or
- (b) the total price on the receipt is less than SR 1,000 (including any Goods and Services Tax, if any).

(5) Subsection (5) does not limit any other record keeping requirements under this Act.

PART XVI - FINAL PROVISIONS

Regulations

99.(1) The Minister may make regulations –

- (a) amending the Schedules;
- (b) prescribing forms, fees, or other matters as required under this Act;
- (c) for the administration of the Revenue Tribunal and Tax and Customs Agents Board;
- (d) for the proper and efficient administration of this Act; and
- (e) prescribing all matters which by this Act required to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act.

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

- (a) contain provisions of a saving or transitional nature consequent on the making of this Act; or
- (b) prescribe penalties for the contravention of the regulations.

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

100.(1) Any appeal or prosecution commenced before the commencement date is continued and disposed of as if this Act had not come into force.

Transitional
and savings

(2) If the period for any application, appeal, or prosecution had expired before the commencement date, nothing in this Act can be construed as enabling the application, appeal, or prosecution to be made under this Act by reason only of the fact that a longer period is specified in this Act.

(3) Any revenue liability that arose before the commencement date may be recovered under this Act, but without prejudice to any action already taken for the recovery of the revenue.

(4) Subject to this section, this Act overrides any equivalent provisions in a revenue law.

FIRST SCHEDULE

SMALL, MEDIUM AND LARGE BUSINESSES

For the purposes of this Act and other Acts to which this Act applies –

- (a) a business is a small business if the annual turnover is less than SR 1,000,000;
- (b) a business is a medium business if the annual turnover is between SR 1,000,000 and SR 50,000,000;
- (c) a business is a large business if the annual turnover is more than SR 50,000,000.

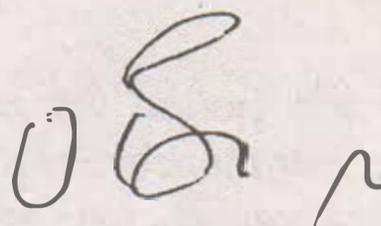
SECOND SCHEDULE

SELF-ASSESSMENT RETURNS

The following are self-assessment returns for the purposes of this Act –

- (1) a return required to be furnished under the Business Tax Act; and
- (2) a return required to be furnished under the Goods and Services Tax Act.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 16th December, 2009.



Veronique Bresson
Clerk to the National Assembly