ST HELENA

REVISED EDITION OF THE LAWS, 2017

PUBLIC FINANCE & REVENUE

INCOME TAX ORDINANCE, 2012[1]

Ordinance 6 of 2012
In force 1 April 2012

Amended by Ordinances 7 of 2015, 8 of 2017, 5 of 2019, 9 of 2021

Subsidiary legislation:
INCOME TAX REGULATIONS, 2012 *[Page 42]*
Legal Notice 23 of 2012
Amended by L.N. 5/2014, L.N. 14/2016, L.N. 3/2019, L.N. 7/2021, L.N. 20/2026

EXTRA-STATUTORY CONCESSION (APPROVED PENSION SCHEMES), 2012 *[Page 55]*
Gazette Notice 115 of 28 August 2012

EXTRA-STATUTORY CONCESSION (CHARITIES), 2014 *[Page 55]*
Gazette Notice 35 of 1 April 2014

EXTRA-STATUTORY CONCESSION (FOOD PRODUCTION), 2014
Gazette Notice 36 of 1 April 2014
Omitted as spent

Included is subsidiary legislation made under the Income Tax Ordinance, 2009, and saved by section 84 of this Ordinance:
EXTRA-STATUTORY CONCESSION (CHARITIES), 2011 *[Page 56]*
Gazette Notice No. 27 of 1 April 2011

EXTRA-STATUTORY CONCESSION (CHILD SAVINGS BONDS), 2011 *[Page 56]*
Gazette Notice No. 28 of 1 April 2011

EXTRA-STATUTORY CONCESSION (FOOD PRODUCTION), 2011
Gazette Notice No. 29 of 1 April 2011

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[1] *Under section 10 of the Revised Edition of the Laws Ordinance, 1999 this text is authoritative and is the sole authentic edition in respect of the law contained in it as at 1 October 2021.*

Omitted as spent

EXTRA-STATUTORY CONCESSION (GRATUITIES), 2011 *[Page 57]*
Gazette Notice No. 102 of 5 October 2011

INCOME TAX ORDINANCE, 2012

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CHAPTER I
PRELIMINARY

PART 1
INTERPRETATION

Citation and commencement

1. This Ordinance may be cited as the Income Tax Ordinance, 2012, and comes into force on 1st April 2012.

Interpretation

2. In this Ordinance, unless the context otherwise requires—

"approved superannuation and pension fund" means a fund approved by the Commissioner, which has been established and is administered under a deed of trust and where the Commissioner is satisfied that—

(a) the rights of the beneficiaries to receive the benefits, pensions or retiring allowances have been fully secured;

(b) the contributions to the fund by the employer, self employed person and employees are

reasonable;

(c) the eligibility and withdrawal provisions and the retirement ages specified are reasonable;

(d) the benefits, pensions or retiring allowances payable from the fund to employees are reasonable;

(e) the powers of investment of the money in the fund are reasonable;

(f) the provisions for variation of the terms of the trust are reasonable and any such variation is subject to the prior approval of the Commissioner;

"assessment" means the determination of the amount of chargeable income and the amount of tax payable thereon, if any, and includes a self assessment;

"body of persons" means any body politic, corporate or collegiate and any company, fraternity, fellowship, or society of persons, whether corporate or not corporate, but does not include a partnership of persons;

"capital gains or losses" means income or losses of the type described in Chapter V;

"chargeable income" has the meaning given in section 7;

"Commissioner" means the Commissioner of Income Tax appointed under section 3;

"Court" means the St Helena Magistrates' Court;

"depreciable asset"[2] means any tangible movable property or structural improvement to immovable property that—

(a) has a useful life exceeding one year and cost £1,000 or more;

(b) is likely to lose value as a result of normal wear and tear, or obsolescence; and

(c) is owned by the person and used wholly or partly by that person in deriving taxable income;

"dividend" means—

(a) any distribution of profits by a company to a shareholder;

(b) any amount returned to a shareholder in respect of a share on a partial reduction in capital to the extent that the amount returned exceeds the amount by which the paid up capital of the share was reduced;

(c) any amount distributed to a shareholder on redemption or cancellation of a share (including in liquidation) to the extent the amount distributed exceeds the paid up capital of the share;

(d) any expenditure that is not an allowable deduction under this Ordinance, the benefit of which is enjoyed by a shareholder or relative of a shareholder or spouse of a shareholder (the spouse not being a shareholder); or

(e) any moneys lent or advanced by a company to or for the benefit of any of its shareholders, if in the opinion of the Commissioner the making of the loan or advance was not a bona fide loan or investment by the company, to the extent that the loan or advance has not been repaid on the last day of the tax year of the company in which the loan or advance was made; provided that where such a loan or advance is deemed to be a dividend and in a subsequent tax year the loan or advance is reduced or set off by a dividend payable to the shareholder, the dividend to the extent that it reduces the loan or advance is deemed not to be a dividend;

"employee" means an individual person deriving income from employment (but excludes a person who is self-employed, either alone or in partnership);

"employer" means the person who engages, remunerates or makes payment to an employee;

"incapacitated person" means any person who lacks legal capacity to manage his or her own affairs;

"income earned, accrued or derived in or from St Helena" includes, without limiting the meaning of the term—

(a) income received by a resident from services rendered in any part of the world on any vessel registered in St Helena or owned, hired, or chartered by or on behalf of

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[2] *Definition of "depreciable asset" amended by Ord. 5 of 2019*

St Helena Line Limited or the Government of St Helena;

(b) income from employment exercised in St Helena, whether the actual payment is made in St Helena or elsewhere (including income received while the employee is absent from St Helena for purposes connected with the employment exercised in St Helena);

(c) income from self-employment, trade or business attributable to an activity carried on in St Helena by a resident, non-resident or a permanent establishment of a non-resident;

(d) income from property where the amount of income is—

(i) paid by a resident;

(ii) a deductible expense of a permanent establishment of a non-resident person in St Helena; or

(iii) derived from property situated in St Helena;

"income from employment" means income of the type described in Part 1 of Chapter III;

"income from property" means income of the type described in Part 2 of Chapter IV;

"income from self-employment, trade or business" means income of the type described in Part 1 of Chapter IV;

"income tax" includes withholding tax, PAYE tax and any penalty imposed by this Ordinance;

"**permanent establishment**" means a fixed place of business through which the business of a person is wholly or partly carried on, and includes—

(a) a place of management, branch, office, factory, warehouse, workshop, building or other form of structural improvement on land;

(b) a mine, oil or gas well, quarry, or other place of extraction of natural resources;

(c) a building site, or a construction, assembly or installation project, or supervisory activities connected with such site or project;

(d) the furnishing of services, including consultancy services, by any person through employees or other personnel engaged by the person for such purpose;

"person" includes a body of persons;

"resident" (when used as a noun) means a person who is resident in St Helena; and **"non-resident"** is to be construed accordingly;

"resident in St Helena" when applied in relation to any tax year to—

(a) an individual, means a person who—

(i) has a normal place of abode in St Helena and was present in St Helena for more than 90 days of that tax year;

(ii) was present in St Helena for a period or periods exceeding in aggregate 183 days in that tax year; or

(iii) was present in St Helena in that tax year in fulfilment of a contract of employment exercised in St Helena which is specified to be of not less than 183 days' duration:

Provided that, where the question whether a person is or is not resident in St Helena depends upon the number of days in any year when the person was in St Helena, the Commissioner may disregard a period (not exceeding one tenth of the relevant number of days) if the Commissioner is satisfied that the person would not have been present but for the infrequency of opportunities to travel to and from St Helena:

Provided further that if an individual who is so resident for a current tax year—

(aa) was not resident for the preceding tax year, he or she is to be treated as resident in the current tax year only for the period commencing on the day on which the individual was first present in St Helena; or

(bb) is not resident for the following tax year, he or she is to be treated as a resident individual in the current tax year only for the period ending on the last day on which the individual was present in St Helena;

(b) a body of persons, means—

(i) a company incorporated in St Helena; or

(ii) a body the control and management of the affairs of which was exercised in

St Helena in that tax year;
"return" means the annual income tax return required by section 37;
"self assessment" means the assessment made by a person under section 41(1);
"self-employed person" means an individual deriving income of the type described in Parts 1 or 2 of Chapter IV;
"substituted accounting period" means a period approved under section 53;
"tax" means income tax imposed by this Ordinance;
"taxable income" has the meaning given that term in section 8;
"tax year" means the period of 12 months commencing on 1st April in any year;
"withholding income" means payments of the type described in section 25;
"withholding income payer" means a person referred to in section 25;
"year" means any period of 12 months.

Currency

2A.[3] Income wherever derived, and expenses and losses, wherever incurred, must be expressed in terms of the currency of St Helena and where a sum is expressed using a currency of a jurisdiction other than the currency of St Helena, the sum must be converted to the currency of St Helena using the exchange rate in force on the date that the sum is due to be paid to the Commissioner.

PART 2
COMMISSIONER, OFFICERS AND CONFIDENTIALITY

Appointment of Commissioner and officers

3. **(1)** The Governor must, by notice in the *Gazette*, appoint some fit and proper person to be the Commissioner of Income Tax and the person so appointed is to be charged with the due administration of this Ordinance.

(2) The Governor may, by notice in the *Gazette*, appoint a Deputy Commissioner and such number of Assistant Commissioners of Income Tax as appear to the Governor to be necessary or expedient for the due administration of this Ordinance.

(3) The Commissioner may, with the concurrence of the Governor as to numbers, appoint such officers as are necessary to facilitate the due administration of this Ordinance.

(4) The Commissioner may delegate in writing, to officers appointed under subsections (2) and (3), all or any of the powers and functions of the Commissioner, except—
(a) this power of delegation; and
(b) the power to commence prosecution action in accordance with any provision of this Ordinance.

(5) If the Commissioner has delegated any of his or her powers in accordance with subsection (4), any notices issued by a person or persons to whom the powers have been delegated are deemed to have been issued by the Commissioner.

Confidential information

4. **(1)** Every person, having any official duty under or being employed in the administration of this Ordinance, must regard and deal with all documents and information

[3] *Section 2A inserted by Ord. 9 of 2021*

relating to the income or items of the income of any person as confidential and must make and subscribe a declaration to that effect in the prescribed form before a Commissioner for Oaths.

(2) A person, having possession of or control over any such documents (or copies thereof) or information, who at any time communicates or attempts to communicate such information or anything contained in any such documents or copies to any person, otherwise than for the purposes of this Ordinance, commits an offence.
Penalty: As provided in section 71.

(3) No person appointed under or employed in carrying out the provisions of this Ordinance is required to produce in any court or other judicial tribunal any return, document or assessment, or to divulge or communicate to any such court or tribunal any matter or thing coming under the person's notice in the performance of his or her duties under this Ordinance, except—

(a) as ~~may be~~ necessary for the purpose of carrying into effect the provisions of this Ordinance; ~~or~~
(b) in order to institute a prosecution under this Ordinance; ~~or~~
(c) in the cause of a prosecution for any offence committed in relation to income tax; or
(d) when ordered to do so by order of a competent Court.

(4) Notwithstanding anything contained in this section, the Commissioner may, to persons prescribed by regulations, and subject to appropriate conditions, allow access to any records or documents necessary for the performance of the official duties of the persons so prescribed; and any person to whom access is so allowed is deemed for the purpose of this section to be a person employed in carrying out this Ordinance.

CHAPTER II
LIABILITY TO INCOME TAX

Income tax

5. **(1)** There is to be charged, levied and collected, in accordance with this Ordinance, a tax to be known as Income Tax.

(2) Income Tax must, subject to this Ordinance, be charged for every tax year on the chargeable income and withholding income of a person for that tax year.

Rates of tax

6. Income tax is charged at the rates set out in Schedule 1, or such other rates as are approved from time to time by resolution of the Legislative Council; and any such rates approved by Legislative Council must be incorporated in Schedule 1 as soon as possible after the resolution is made.

Chargeable income

7. **(1)** Subject to subsection (3), the chargeable income of a person in any tax year is the taxable income of the person less amounts deducted in the following sequence:

(a) any taxable income treated as withholding income in accordance with Part 4 Chapter IV;
(b) the deductions to which the person is entitled under Part 3 of Chapter IV; and

(c) any allowances to which the person is entitled under section 10(3).

(2) The amount of allowances to be deducted under subsection (1)*(c)* must—

(a) be deducted first from the taxable income of the person which constitutes income other than dividends and capital gains;

(b) to the extent that the allowances exceed the amount of such income under paragraph *(a)*, be deducted from the amount of any dividends; and

(c) to the extent that the allowances exceed the amount of such income under paragraphs *(a)* and *(b)*, be deducted from the amount of any capital gains,

and the total amount of such allowances must not exceed the amount of taxable income remaining after deducting the amounts under subsection (1)*(a)* and *(b)*.

(3) The chargeable income of any person in any tax year must not be an amount less than Nil.

Taxable income

8. Subject to section 9, the taxable income of a person for any tax year is the total amount earned, accrued or derived by that person during that tax year in or from St Helena—

(a) from employment as determined in Part 1 of Chapter III;

(b) from self-employment, trade or business as determined in Part 1 of Chapter IV;

(c) in the form of income from property as determined in Part 2 of Chapter IV;

(ca) in the form of dividends; and

(d) in the form of capital gains as determined in Chapter V.

Exempt income

9. Notwithstanding anything in this Ordinance to the contrary, there is to be excluded from the taxable income of a person under section 8 any income received by the person of a type or from a source prescribed by regulations.

Annual allowances

10. (1) A personal allowance in the amount of £7,000 (or such other amount as is approved from time to time by resolution of the Legislative Council) must be granted in each tax year to every individual; and any such other amount approved by Legislative Council must be incorporated in this section as soon as possible after such resolution is made.

(2) A superannuation and pension allowance must be granted in a tax year to an individual who pays contributions to an approved superannuation and pension fund during that year, which must be an amount equal to so much of the total of all sums paid by the individual (by deduction or otherwise) in respect of those contributions as does not during that year exceed the lesser of £20,000 and an amount determined in accordance with the formula:

$A = B - C$

where—

A represents the amount to be determined;

B represents an amount equal to 30% of the individual's income derived from employment (including any allowance referred to in section 14*(e)*) in that tax year; and

C represents the amount of any contribution made by the employer on behalf of the

employee as referred to in section 22*(g)*.

(3) The amount of the allowances referred to in subsections (1) and (2) which a person is entitled to deduct under section 7(1)*(c)* is—

(a) 1/12 of such allowance for every month in which the person was resident in St Helena; or

(b) in the case of a non-resident person in receipt of income from employment derived in St Helena - 1/12 of such allowance for every month in which the person was in receipt of the income from such employment.

Investment tax credit

11.[4] **(1)** Subject to subsection (1A), there must be allowed as a credit against any tax chargeable under section 5 during any tax year on a person's income to which section 17 or 21 applies, an amount equal to 15 % of the total cost incurred by the person during that year to—

(a) acquire and import into St Helena any depreciable asset; or

(b) acquire or construct any new depreciable asset which did not previously exist, which will be used by the person in carrying on the self-employment, trade or business from which the income is derived.

(1A) The amount of the credit allowable under subsection (1) during any year is limited to £30,000 and any excess of the credit not so allowed during that year is allowable as a credit under subsection (1) in the immediately succeeding tax year or years, subject to the limit allowable under this subsection in each such succeeding year.

(2) If a tax credit was granted to a person in respect of an asset under subsection (1) or (1A) and the person disposes of the asset—

(a) in the case of a building or other thing permanently affixed to land - within a period of 5 years from the date of importation or completion of construction thereof; or

(b) in the case of any other depreciable asset - within a period of 3 years from the date of importation or completion of construction of it,

the amount of the tax credit so allowed is deemed to be an amount of tax chargeable in respect of the taxable income of the person in the tax year during which the asset is so disposed of.

(3) The tax credit under this section applies in addition to any deduction to which the person may be entitled in respect of the same asset under section 22*(i)*.

(4) This section does not apply to any asset of a person—

(a) if a benefit has been or will be granted in respect of the asset as part of an Approved Investment under the Economic Development Ordinance, 2007; or

(b) if the asset was exempt from customs duty by virtue of any regulations issued under section 5 of the Customs and Excise Ordinance, 1999, prescribing the tariffs or rates of duty and exemptions; or

(c) to any depreciable asset acquired or constructed on or after 1 April 2019.

Gift aid

11A.[5] **(1)** For purposes of this section—

"donation" means any gratuitous payment made to an organisation which—

(a) is actually paid;

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[4] *Section 11 amended by Ord. 5 of 2019*

[5] *Section 11A inserted by Ord. 5 of 2019*

(b) is not subject to any condition as to repayment;

(c) is not conditional on, associated with or part of an arrangement involving, the acquisition of any property by the organisation from the donor or person connected to the donor; and

(d) has no benefits associated with the gift, or if any benefit is associated with the gift, it is of negligible value;

"eligible donation" means a cumulative donation over £500 made by an individual (whether as a single or separate donations) during the relevant tax year to any single eligible organisation;

"eligible organisation" means any organisation which is exempt from income tax under regulation 3*(c)* of the Income Tax Regulations, 2012, and is registered with the Commissioner for gift aid under subsection (4).

(2) An eligible organisation is entitled to claim payment from the Commissioner of an amount (to be known as "gift aid) equal to 25% of each eligible donation made to that organisation during the relevant tax year, subject to the limit in subsection (3).

(3) The amount of gift aid claimed by an organisation under subsection (2) in respect of any eligible donation made by an individual during a tax year, must be limited to the lesser of £5,000 or the amount of tax payable by that individual during the relevant year (after taking into account any credit under subsection (5)).

(4) An organisation wishing to claim gift aid under subsection (2), must register with the Commissioner for purposes of this section before the end of the relevant tax year and must submit in respect of any such eligible donation a gift aid declaration by the donor in the form approved by the Commissioner.

(5) Subject to subsections (6) and (7), there must be allowed as a credit against any tax chargeable under section 5(2) on an individual's income in respect of a tax year, an amount equal to 10% of any eligible donations made by that individual during the relevant tax year, but such tax credit must be limited to the lesser of £2,000 or the amount of the tax so chargeable.

(6) An individual who wishes to claim the credit under subsection (5) must submit a declaration in the form approved by the Commissioner with in his or her tax return for the relevant tax year.

(7) If an individual claims a tax credit under subsection (5) in respect of any donation made during the relevant tax year, that individual may not claim a deduction under section 22*(f)* in respect of the same donation.

(8) Any payment of gift aid made to an eligible organisation under subsection (2) must be charged on and paid out of the Consolidated Fund.

CHAPTER III
EMPLOYMENT INCOME

PART 1
INCOME FROM EMPLOYMENT

Income from employment

12. Income from employment taxable under this Chapter means a person's gross gains or receipts from—

(a) any employment, including any monetary allowances granted in respect of employment, provided that any taxable income arising under this paragraph which is paid after the 1st April in any tax year in respect of the immediately preceding tax year is deemed to be taxable income accruing in that preceding tax year;

(b) the payment of any amount received on termination of employment, whether paid voluntarily or under an agreement, including any compensation for redundancy, loss of employment or golden handshake payments;

(c) the payment of any pension, charge or annuity;

(d) the payment of any benefit from an approved superannuation and pension fund, excluding any lump sum payment that is converted into a taxable pension or annuity within 28 days of payment;

(e) the payment of any amount in respect of—

(i) a directorship or other office in the management of a company or body of persons;

(ii) a position entitling the holder to a fixed or ascertainable remuneration; or

(iii) holding or acting in any public office;

(f) any contract for labour or personal services if the Commissioner is of the opinion that—

(i) the nature of the engagement between the 2 parties to the contract is substantially similar to a contract for employment; and

(ii) at least 90% of the total payment under the contract is a payment for direct labour charges of that person.

Benefits in kind

13. If, during any tax year, a person derives income from employment and in addition to any amounts that would be taxable income under section 12—

(a) there is allowed or paid any benefit which, apart from this paragraph, would not be liable to income tax; or

(b) there is provided to that person or to family members of that person, any benefit to which a monetary value can be applied,

all or any of such benefits must be evaluated in cash terms and are deemed to be taxable income of an amount equal to the value of the benefits received.

Allowances and benefits excluded

14.[6] Notwithstanding sections 12 and 13, if any reasonable allowance is paid or benefit provided in respect of employment, no amount of the allowance or benefit is to be included in taxable income if it is paid or allowed—

(a) to provide uniforms or protective clothing;

(b) for the purpose of transport to and from work including relocation to St Helena for the purpose of employment and departure from St Helena after the completion of a term of employment, except where it is provided by way of the use of a car or motorcycle which the employee may also use for his private purposes;

(c) to compensate a resident for the additional costs of accommodation and meals incurred—

(i) while the resident is living away from the resident's normal place of abode in

[6] *Section 14 amended by Ord. 9 of 2021*

St Helena; and

(ii) while the resident is on business outside of St Helena;

(d) to provide one annual sea passage and air fare to and from St Helena for a person, and the person's spouse, life partner and dependent children under the age of 18 for purposes of—

(i) recreation, if the persons are resident in St Helena; or

(ii) reunion, if the person's spouse, life partner and dependent children under the age of 18 are not resident in St Helena;

(e) as a contribution to an approved superannuation and pension fund to the extent that the contribution does not during that year exceed the lesser of £20,000 and 30% of the total income from employment (excluding the allowances and benefits referred to in paragraphs *(a)* to *(d)*) derived during the relevant tax year.

PART 2
PAYE SCHEME

Deduction of PAYE

15. **(1)** Every employer, on making payment of income from employment, must, without any fee or reward, deduct income tax from each payment and pay the amount over to the Commissioner in accordance with a PAYE Scheme as prescribed by regulations.

(2) Every employer who has deducted tax from income from employment must provide to every employee to whom income from employment has been paid a certificate, in the form and within the period prescribed by the regulations mentioned in subsection (1).

PAYE income tax

16. **(1)** Income tax deducted by an employer in accordance with section 15 is a final tax if an annual return is not filed pursuant to section 38.

(2) If subsection (1) applies, the ascertainment of the amount of the income tax deducted in accordance with section 15 is deemed to be an assessment for all purposes of this Ordinance and—

(a) the income must not be included in the taxable income in computing the chargeable income of the person who derives it for any tax year; and

(b) there must be no refund of tax withheld.

CHAPTER IV
TRADE, SELF-EMPLOYMENT, BUSINESS AND PROPERTY INCOME

PART 1
INCOME FROM SELF-EMPLOYMENT, TRADE OR BUSINESS

Income or gains from self-employment, trade or business

17. The income from self-employment, trade or business taxable under this Chapter comprises a person's gross income or gains, whether of a revenue or capital nature, from any self-employment, trade, business, profession or vocation which may have been carried on or exercised, including—

(a) the gross proceeds from the sale of trading stock;

(b) the net gain on disposal of a business capital asset (other than a capital asset in respect of which Chapter V or item *(e)* of this section applies) calculated on the basis of the excess of the consideration received on disposal less the cost of the capital asset;

(c) the net gain on satisfaction or cancellation of a debt;
(d) the amount of an expense, loss, or bad debt previously allowed as a deduction that has been reimbursed or recovered;
(e) any amount of excess depreciation required to be added back in accordance with regulations made for the calculation of any depreciation deduction under section 22*(i)*.

Consideration received

18. (1) For the purposes of section 17*(b)*, the consideration received by a person on disposal of a capital asset is—

(a) the total amount received by the person, or which the person is entitled to receive, for the capital asset, including the fair market value of any consideration received in kind determined at the time of disposal;
(b) if a capital asset has been lost or destroyed by the person, any compensation, indemnity or damages received by the person as a result of the loss or destruction, including amounts received as a consequence of—
(i) an insurance policy, indemnity or other agreement;
(ii) a settlement; or
(iii) a judicial decision;

(2) For purposes of this section, where 2 or more capital assets are disposed of by a person in a single transaction and the consideration received for each capital asset is not specified, the total consideration received by the person must be apportioned among the capital assets so disposed of in proportion to their respective fair market values determined at the time of the transaction.

Cost

19. (1) For the purposes of section 17*(b)*, the cost of a capital asset is the sum of the following amounts:

(a) if the capital asset—
(i) was purchased - the total consideration given by the person for the capital asset, including the fair market value of any consideration in kind determined at the time the capital asset is acquired; or
(ii) was produced or constructed - the total of the costs incurred by the person in producing or constructing the capital asset;
(b) any incidental expenditure incurred by the person in acquiring or disposing of the capital asset; and
(c) any expenditure incurred by the person to alter or improve the capital asset.

(2) No amount is to be included in the cost of a capital asset under subsection (1*)* to the extent to which it has been or will be allowed as a deduction or as a depreciation deduction under another provision of this Ordinance.

Long term contracts

20. (1) In this section—

"long-term contract" means a contract for manufacture, installation or construction, or, in relation to each, the performance of related services, which is not completed within the tax year in which work under the contract commenced (other than a contract estimated to be completed within 6 months of the date on which work under the contract commenced); and

"percentage of completion method" means the generally accepted accounting principle under which income and expenditure arising under a long-term contract are recognised by

reference to the stage of completion of the contract, as modified by subsection (3).

(2) A person accounting for income tax under this Chapter must calculate the gains and profits arising under a long-term contract under the percentage of completion method.

(3) The percentage of completion of a long-term contract in a tax year must be determined by comparing the total costs allocated to the contract and incurred before the end of the tax year with the estimated total contract costs as determined at the commencement of the contract.

(4) Where there is a final year loss in the tax year in which a long-term contract is completed, the Commissioner may allow the loss to be carried back to the preceding tax years and applied against the amount included as profits or gains in those tax years commencing with the tax year in which the contract was completed.

(5) For purposes of subsection (4), a person has a final year loss under a long-term contract if—

(a) the total gains and profits estimated to be made under the contract for the purposes of the percentage of completion method exceeds the total actual gains and profits (if any) under the contract; and

(b) the amount of the excess under paragraph *(a)* exceeds the amount otherwise included in gross income under subsection (2) for the tax year in which the contract was completed,

and the amount of the excess under paragraph *(b)* is the amount of the final year loss.

PART 2
PROPERTY INCOME

Property income

21. The property income of a person taxable under this Chapter comprises the person's income derived from—

(a) interest;

(b) rent, royalties, premiums and other payments relating to the use of real property (other than Crown land).

PART 3
ALLOWABLE DEDUCTIONS

Allowable expenses and costs

22.[7] For the purpose of determining the chargeable income of any person who derives income to which section 17 or section 21*(b)* applies, there must be deducted from the income all outgoings and expenses to the extent that they are wholly and exclusively incurred during the relevant tax year by the person in the production of taxable income, including—

(a) sums payable by way of interest upon any money borrowed, ~~provided~~ if the Commissioner is satisfied that the interest was payable on capital employed in acquiring the income;

(b) rent paid by any tenant of land or buildings occupied for the purpose of acquiring the income;

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[7] *Section 22 amended by Ord. 5 of 2019*

(c) any sum expended for—
(i) repair of premises, plant or machinery;
(ii) the renewal, repair or alteration of any implement, utensil or article; or
(iii) the acquisition of any implement, utensil or article costing less than £1,000 and having a useful life of less than one year,
if the premises, plant, machinery, implements, utensils or articles are employed in acquiring the income;

*(c*A*)* any sum expended for the acquisition of any tangible movable property or structural improvement to immovable property which—
(i) costs less than £1,000;
(ii) has a useful life of more than one year;
(iii) is owned by the person and used wholly or partly by that person in deriving taxable income; and
(iv) is likely to lose value as a result of normal wear and tear, or obsolescence;

(d) a bad debt written off in a tax year if the amount of the debt was either previously included in the taxable income of the person or is money lent by a bank or financial institution in the normal course of business for the purposes of deriving taxable income, and—
(i) the debt or part of the debt for which a deduction is allowed is actually written off in the accounts of the person in that tax year; and
(ii) there are reasonable grounds for believing that the debt is irrecoverable;

(e) the cost of trading stock disposed of during the tax year where—
(i) the cost of trading stock disposed of is calculated in accordance with the formula:
(A + B) – C
where—
A is the cost of the trading stock on hand at the beginning of the tax year;
B is the cost of trading stock acquired in the tax year less the value of any trading stock applied for non-business or personal consumption; and
C is the cost of trading stock on hand at the end of the tax year;
(ii) the cost of trading stock on hand at the end of the tax year is—
(aa) calculated under the absorption-cost method including any goods in transit from a place outside St Helena where the cost of those goods is an allowable deduction in accordance with this Part; or
(bb) the net realisable value;
(iii) the cost of trading stock on hand at the commencement of a tax year is the cost of inventory on hand at the end of the previous tax year;
(iv) if particular items of trading stock are not readily identifiable, the cost of inventory on hand at the end of a tax year must be accounted for on the first-in-first-out method;
(v) the meanings of **"absorption cost"** and **"first in first out method"** are in accordance with generally accepted accounting principles;

(f) any amount donated to a charitable organisation registered under section 7 of the Charities Ordinance, 2005, provided that the total amount allowable must not exceed 1% of the total taxable income of the donor, as referred to in section 8, which is derived during the tax year from self-employment, trade or business and income from property;

(g) any contribution to an approved superannuation and pension fund for or on behalf of the benefit of a self-employed person or an employee, provided that in the case of a self-employed person, the total amount allowable during that tax year must not exceed £20,000;

(h) the net loss on disposal of a business capital asset (other than a capital asset in respect of which Chapter V or paragraph *(i)* applies), calculated on the basis of the excess of

the cost of the asset less any consideration received on disposal;

(i) the amount by which the value of the person's depreciable assets has declined during a tax year by reason of wear and tear from use in deriving taxable income (referred to as a "depreciation deduction") as determined in the manner prescribed by regulations;

(j) any loss incurred in a previous tax year which has been carried forward from the preceding year under section 24(2)*(b)*; and

(k) any other deductions prescribed by regulations made by the Governor in Council.

Non-permissible deductions

23. For the purpose of determining the taxable income of any person, no deduction is to be allowed in respect of—

(a) domestic or private expenses;

(b) any disbursements or expenses to the extent that they are not wholly and exclusively laid out or expended for the purpose of acquiring the income;

(c) any capital withdrawn, any capital expenditure or any sum employed or intended to be employed as capital;

(d) any capital expended on improvements;

(e) any sum expended which has been recovered under insurance or contract of indemnity;

(f) rent for, or the cost of repairs to, any premises or part of premises not paid or incurred for the purpose of producing the income;

(g) any amount that would have otherwise been allowable under this Part, if a person—

(i) is required to deduct tax from that amount as provided for under section 15 or section 26 and the correct amount of tax has not been deducted and paid to the Commissioner; or

(ii) fails to obtain a tax invoice pursuant to section 52(2).

Trade losses

24. **(1)** If a person deriving taxable income to which section 17 applies incurs a loss in any tax year calculated in accordance with this Ordinance, that loss—

(a) must be set off against other chargeable income (excluding employment income) of the person for the same tax year, prior to the deduction of the allowances under section 7(1)*(c)*; and

(b) to the extent that the loss is not wholly set off in the same tax year, must carried forward to the following tax year and is deemed to be an expense wholly and exclusively incurred during that following tax year in the production of income to which section 17 applies.

(2) If any loss to which subsection (1) applies is incurred in relation to taxable income—

(a) derived from sources outside St Helena - the loss must only be set off against income derived from sources outside St Helena; or

(b) that is not chargeable to tax - no deduction is to be allowed under this section in respect of the loss.

(3) If—

(a) a loss has been incurred which is attributable to any business from which a person derives income referred to in section 17;

(b) the person disposes of the business as a going concern; and

(c) at the time of the disposal, the loss so incurred has not been wholly set off under subsection (1),

the person acquiring the business as part of a going concern is not entitled to require the loss to be set off against any future income of the person.

(4) The person disposing of the business referred to in subsection (3) may set off the unutilised loss referred to in subsection (3)*(c)* against income derived from any other business acquired by the person which is of the same nature, if that person holds—

(a) in the case where the person is a company - at least 75% of the interest in the newly acquired business; or

(b) in any other case, 100% of the interest in the newly acquired business.

PART 4
WITHHOLDING TAX ON CERTAIN PROPERTY INCOME

Application of Part

25. This Part applies in respect of the payment to any person of amounts (hereinafter referred to as **"withholding income"**) that are in the nature of interest derived from moneys deposited with a financial institution and which are paid to the person by any—

(a) body of persons;

(b) Government Department, Government Agency or statutory corporation;

(c) person deriving income from self employment, trade or business; or

(d) permanent establishment of a non resident,

(hereinafter referred to as the **"withholding income payer"**).

Deduction and payment of withholding tax

26. **(1)** Every withholding income payer must, upon making any payment of withholding income to any person, without fee or reward, deduct from the payment withholding tax at the rate prescribed in section 6*(b)*.

(2) Withholding tax deducted in accordance with subsection (1) must be remitted to the Commissioner no later than 15 days after end of the month in which the deduction was made.

(3) The withholding tax payer must comply with any administrative requirements relating to the withholding tax prescribed by regulations.

Final tax

27. **(1)** Withholding tax is a final tax if it has been correctly deducted and paid to the Commissioner under section 26.

(2) The ascertainment of the amount of the withholding tax deduction is deemed to be an assessment and, subject to any explicit provision to the contrary in this or any other Ordinance,—

(a) the income must not be included in the taxable income in computing the chargeable income of the person who derives it for any tax year;

(b) no deduction is allowable under this Ordinance for any expenditure incurred in deriving the income;

(c) the income must not be reduced by any loss;

(d) the tax withheld must not be reduced by any tax credits allowed under this Ordinance; and

(e) there is to be no refund of the tax withheld:

but provision may be made by Extra-Statutory Concession under section 81 whereby, in the circumstances specified in the concession, withholding tax deducted from any such payment may

be refunded to the person whose withholding income the payment of interest was.

CHAPTER V
CAPITAL GAINS AND LOSSES

Interpretation

28. For the purposes of this Chapter—

"acquisition" in relation to a capital asset means obtaining ownership of the whole or part of that capital asset;

"acquisition value" means the acquisition value determined in accordance with section 32;

"adjusted acquisition value" means the adjusted acquisition value determined in accordance with section 33;

"asset" means—

(a) any land and interest in land;

(b) any buildings and other things permanently affixed to land; and

(c) any stake or interest in a business,

which was held by a person for a period of at least 3 years;

"date of acquisition" in relation to any asset means—

(a) if transfer of title is evidenced by a contract in writing, and the contract is performed - the date upon which that contract became binding on the parties;

(b) if there is no written evidence of a contract - the day on which title to, or property in, the asset passes to the new owner; or

(c) if ownership passes by reason of death, gift, or by any other manner - the day upon which title to or an interest in the asset passes to the new owner;

"date of disposal" has a meaning corresponding to and consistent with the meaning given to "date of acquisition";

"disposal" means—

(a) any change in the ownership of the whole or part of an asset; or

(b) the loss or destruction of the whole or part of an asset;

"dwelling" includes any land and buildings adjacent to the dwelling, the use and enjoyment of which is incidental to the use and enjoyment of the dwelling, but excludes any adjacent land and buildings or part for which a separate title is or may be held;

"family" and **"family members"** in relation to any person, means that person's spouse, life partner, father, mother, grandfather, grandmother, stepfather, stepmother, child, grandchild, stepchild, brother or sister;

"foreign currency" means the legal currency of any country other than St Helena or the United Kingdom;

"inputs" in relation to any asset means the sum of the following:

(a) the amount of the incidental costs incurred by the owner in the acquisition of the asset;

(b) the amount of any expenditure of a capital nature incurred by the owner to the extent that it was incurred for the purpose of enhancing the value of the asset and is reflected in the state or nature of that asset from time to time;

(c) the amount of any expenditure of a capital nature incurred by the owner to the extent that it was incurred in establishing preserving or defending the owners title to or a right over the asset; and

(d) the amount of the incidental costs incurred by the owner in the disposal of the asset.

"outtakes" with respect to an asset means the sum of the following:

(a) all depreciation deductions which the owner has claimed, or is entitled to claim under Part 3 of Chapter IV in respect to that asset; ~~and~~

(b) the amount of any input for which a deduction has been or will be allowed under any other provision of this Ordinance; and

(c) the amount of any input which has been recovered or recouped or is no longer required to be paid;

"owner" includes a person who has any legal or beneficial right or title in any asset and in the case of a trust includes a trustee who holds the same or any part of the asset in respect of any contingent or unascertained beneficiaries, but excludes a mortgagee or any other person who holds right or title by way of security only; and **"ownership"** has a corresponding meaning.

Application of Chapter

29. **(1)** This Chapter does not apply to—

(a) any dwelling which is owned by an individual (or by 2 individuals who are spouses or life partners) to the extent it is regarded by the owner or owners as his or her or their principal place of residence in St Helena: but—

(i) a person may not claim more than one such property at any one time; and

(ii) the exemption may be claimed even if the property is or has been physically occupied by someone other than the owner during periods when the owner (while still bona fide regarding the property as his or her principal place of residence in St Helena) was temporarily absent from it (whether or not still in St Helena);

(b) the disposal by the executor or administrator of the estate of a deceased person in any case where such disposal would not have been subject to the application of this Chapter had it been made by the deceased taxpayer immediately prior to his or her death;

(c) gains or profits that are included as taxable income under Chapter III or IV.

(2) Regulations made under section 81 may prescribe—

(a) types of transactions or events which are not to be regarded as acquisitions or disposals for the purposes of this Chapter (and may make provision for ascertaining liability for tax on the happening of the next event, after such a transaction or event, which constitutes a disposal or an acquisition);

(b) circumstances in which a dwelling may or may not be regarded as a principal place of residence for the purposes of subsection (1)*(a)*.

Taxable income from gains

30. **(1)** Subject to subsection (2), the taxable income under this Chapter comprises a person's gains arising from the disposal of any asset.

(2) In the case of an individual, an amount of £2,000 (or any other amount approved from time to time by resolution of the Legislative Council) of any gains derived during a tax year is exempt and must not be included as taxable income under section 8*(d)* for that year. Any amount approved by Legislative Council must be incorporated in this section as soon as possible after such resolution is made.

Calculation of gain or loss

31. **(1)** Subject to subsection (2), if a person disposes of an asset to which this Chapter applies—

(a) a gain arises if the disposal price exceeds the acquisition value or the adjusted acquisition value (as the case may be) at the date of disposal;

(b) a loss arises if the acquisition value or the adjusted acquisition value (as the case may be) at the date of disposition exceeds the disposal price;

(c) a loss must be deducted from a capital gain that arises in the same tax year;

(d) if the loss cannot be fully deducted from a gain that arises in the same tax year, so much of the loss as was not so deducted must be carried forward to the following year and is deemed to be a capital loss that was incurred in that following year; and

(e) a loss calculated in accordance with this Chapter must not be deducted from any other

taxable income to which Chapter III or IV applies.

(2) For the purpose of calculating any gain or loss in accordance with subsection (1)*(a)* or *(b)* in respect of an asset acquired before 1st April 2010—

(a) the acquisition value of the asset is be an amount that, in the opinion of the Commissioner, represents a fair market value of the asset at 1st April 2010; or

(b) if where the original acquisition value is known and the gain or loss can be calculated based on that original acquisition value, the person who disposed of the asset may elect that the gain or loss is to be adjusted by a factor calculated in accordance with the formula:

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

where:

A is the period of ownership in months after 1st April 2010; and

B is the total period of ownership in months.

(3) If an asset to which this section applies at any time during the period of ownership of the seller constituted a dwelling as referred to in section 29(1)*(a)*, the gain or loss calculated under subsection (1)*(a)* or *(b)* (and adjusted under subsection (2) if applicable) must be adjusted further by a factor calculated in accordance with the formula:

$$\frac{C}{D}$$

where:

C is the period of ownership in months that the dwelling was owned by the seller after 1st April 2010 otherwise than as the seller's primary residence; and

D is the total period of ownership in months after 1st April 2010.

Disposal price and acquisition value

32. (1) If a person disposes of any asset, the consideration received or receivable (including any insurance recovery for loss or destruction) is—

(a) the disposal price for the person from whom ownership or the asset passes; and

(b) the acquisition value for the person acquiring the asset.

(2) Other than when the disposal arises through the loss or destruction of an asset, if there is no consideration received or receivable, or the Commissioner is of the opinion that the consideration does not reflect a fair market value between persons dealing with each other at arm's length, the disposal and acquisition price for the purpose of this paragraph must be determined by the Commissioner.

(3) If ownership of an asset arises otherwise than by the disposal by another person, or if section 35 applies, the acquisition value is the net cost and expense incurred by that person (including the cost of labour and materials) in bringing the asset into existence.

(4) If the acquisition value of an asset is denominated in one currency (whether legal currency of St Helena or any foreign currency) and the disposal price of the asset is denominated in a different currency, the amount of the acquisition value or disposal price, whichever is denominated in any foreign currency, must be translated to the legal currency of St Helena at the exchange rate applicable at the time that the asset was so acquired or disposed of in foreign currency, as the case may be.

(5) For purposes of subsection (4), the exchange rate must be determined with reference to such source as is decided by the Commissioner.

Calculation of adjusted acquisition value

33. The adjusted acquisition value must be determined on the date of disposal of an asset by—

(a) adding the inputs incurred from the date of acquisition to the date of disposal to the acquisition value; and

(b) deducting all the outtakes from the date of acquisition to the date of disposal.

Bankruptcy

34. **(1)** If an asset owned by any person is vested in—

(a) the official receiver in bankruptcy or the holder of a similar office in a foreign country as a result of the bankruptcy of that person;

(b) a trustee for the benefit of creditors of that person pursuant to any deed of settlement; or

(c) a liquidator of a person being a corporation,

this Chapter applies as if the asset continued to be owned by that person and any act done in relation to the asset by the person in whom it is vested were the act of the owner before vesting.

(2) Any tax payable by virtue of this Chapter upon the disposal of an asset by the person in whom it became vested is a debt provable in the bankruptcy or liquidation of that person, and if the Commissioner is a party to any deed of settlement for the benefit of the creditors, is a debt provable under that deed, unless the deed otherwise provides.

Roll over relief

35. **(1)** If an asset owned by any person is—

(a) vested in a beneficiary of a deceased estate because of the death of that person; or

(b) transferred to a spouse or life partner,

for the purpose of calculating liability to tax and the amount of a capital gain or loss of any person referred to in paragraph *(a)* and *(b)*, this Chapter applies as if the asset continued to be owned by the person who owned the asset immediately before the vesting or transfer and any act done in relation to the asset by the beneficiary, spouse or life partner were the act of the owner before vesting.

(2) If a person disposes of an asset during any tax year and reinvests the proceeds from the disposal in a similar asset or assets within a period of 2 years after the disposal—

(a) no gain or loss is to be determined during that year with respect to the disposal for purposes of section 31(1)*(a)* or *(b)*; and

(b) the new asset or assets so acquired are deemed to have been acquired—

(i) for a cost equal to the acquisition value or the adjusted acquisition value as at the date of disposal (as the case may be) of the original asset; and

(ii) on the same date that the original asset was acquired.

No further roll over relief is to be provided under this subsection if the similar asset or assets are disposed of for purposes of reinvestment in another similar asset.

CHAPTER VI
REGISTRATION, RETURNS AND ASSESSMENT

PART 1
REGISTRATION

Registration

36. **(1)** Every person who derives or is likely to derive income from—

(a) self-employment, trade or business;

(b) an activity carried on by the person that is similar in nature to one carried on as self-employment, trade or business; or

(c) property,

must register with the Commissioner the particulars in a manner and within a period prescribed by regulations; but this section does not apply in relation to any activity which produces gross annual income (before deducting the costs of producing the income) of less than £20,000 per annum.

(2) A person who fails to register as required by this section commits an offence.
Penalty: As provided by section 71.

(3) A person convicted of an offence under subsection (2) is also liable to pay an administrative penalty of £100, plus £10 for each month or part of a month during which the person fails to register.

PART 2
RETURNS AND ASSESSMENTS

Annual income tax returns

37. **(1)** Subject to section 38, every person deriving income from employment, income from self-employment, trade or business, income from property or capital gains or losses, must provide to the Commissioner an annual income tax return for each tax year in the prescribed form, setting out a complete statement of—

(a) taxable income derived by the person during that tax year;

(b) the deductions to which the person is entitled;

(c) the allowances to which the person is entitled;

(d) the income tax payable; and

(e) any other particulars prescribed.

(2) The Commissioner may, by notice in writing, require any person or a person's representative to furnish an annual income tax return by the date specified in the notice for a period of 12 months or less if—

(a) a person has died and had earned taxable income during the period up to the date of death;

(b) a person has ceased to carry on a business in St Helena;

(c) a person has become bankrupt or gone into liquidation;

(d) the tax deducted from income from employment in accordance with section 15 is less than the amount that should have been deducted; or

(e) the Commissioner considers it appropriate to request a return.

(3) Any person who—

(a) is about to leave St Helena permanently; or

(b) will not be returning before the due date for filing of the annual income tax return, if the Commissioner is not satisfied that arrangements have been made for filing the return by the due date,

must provide an annual income tax return in accordance with subsection (1) for any tax year or part of a tax year not less than 14 days before departure.

(4) A person who fails to provide an annual income tax return as required by this section and within the time allowed in subsection (3) or section 39 commits an offence.
Penalty: As provided by section 66.

(5) The Commissioner may approve arrangements for the filing of returns by electronic means, including (without limiting this power) fax, e-mail, or via the internet.

Annual income tax returns not required

38. A person does not need to provide an annual income tax return in accordance with section 37 if the only taxable income derived by that person is income from employment and the tax deducted in accordance with section 15 has been correctly deducted and paid to the Commissioner.

Date for furnishing an annual income tax return

39. **(1)** The annual income tax return required by or under section 37 must be provided—

(a) within 3 months of receipt of the certificate issued in accordance with section 15(2), if an annual income tax return is filed by a person solely because the tax deducted in accordance with section 15 is greater than the tax that should have been deducted;

(b) within 3 months of the end of the tax year or the substituted accounting period in respect of any other person; or

(c) within the time specified in a notice issued in accordance with section 37(3)**.**

(2) Any person who does not provide an annual income tax return by the date required by subsection (1)*(a)* has no further right to file a return and the tax deducted from income from employment is deemed to be the correct amount of income tax deduction.

(3) Any person who is unable to provide an annual income tax return by the date required by subsection (1)*(b)*, may, before the due date for filing the return, submit a request to the Commissioner in writing for an extension of the period to provide the return, setting out a full statement of reasons for the failure to provide by the required date, and the Commissioner may extend the time if it is reasonable to do so.

Returns deemed to be furnished by due authority

40. A return, statement or form purporting to be provided under this Ordinance by or on behalf of any person is for all purposes be deemed to have been provided by that person or by that person's authority, as the case may be, unless the contrary is proved, and any person signing any such return, statement or form is deemed to be aware of all matters in it.

Self assessment and assessments

41. **(1)** If a person provides an annual income tax return under section 37 for a tax year or a substituted accounting period, that person is to be regarded as having made a self-assessment of the chargeable income and income tax payable on it or of the business loss.

(2) An annual income tax return provided under section 37 must be treated as a notice of the assessment served on the person by the Commissioner on the day the return was lodged by the taxpayer.

(3) If a person fails to—

(a) provide an annual income tax return under section 37; or

(b) deduct the correct amount of withholding tax in accordance with section 26,

the Commissioner may, based on any available information and the best of his or her judgment, make an assessment of the person's chargeable income and income tax payable on it, or of the

business loss.

(4) As soon as possible after making an assessment under subsection (3), the Commissioner must serve the person with a notice of the assessment stating—

(a) the amount of chargeable income or business loss of the person;
(b) the amount of any income tax, if any, due;
(c) the amount of tax paid, if any;
(d) the amount of any penalty payable in respect of the tax due;
(e) the rights under section 63 to object against the assessment; and
(f) the due date for payment.

Amendment of assessments

42. (1) If it appears to the Commissioner that a person's assessment made under section 41 is for an amount that is more or less than that which it should have been, the Commissioner may amend the assessment by making any alterations or additions to the assessment that are considered necessary to ensure that the person is liable for the correct amount of income tax for the tax year to which the assessment relates.

(2) If an assessment has been made for an amount that is more than the amount that should have been paid, an amendment under subsection (1) to reduce the tax payable must be made within a period of 2 years after the expiration of the end of the tax year, except where the amendment is necessary to give effect to a decision made in accordance with subsection 65(5).

(3) If an assessment has been made for an amount that is less than the amount that should have been paid, an amendment under subsection (1) to increase the tax payable must be made within a period of 6 years after the expiration of the end of the tax year.

(4) As soon as possible after making an amended assessment under this section, the Commissioner must serve the person with notice of the amended assessment stating—

(a) the amount of the amended chargeable income or loss;
(b) the amount of any income tax, if any, due;
(c) the amount of tax paid, if any;
(d) the amount of any penalty and interest payable in respect of the tax due;
(e) the rights under section 63 to object against the amended assessment; and
(f) the due date for payment.

(5) An amended income tax assessment must be treated in all respects as an income tax assessment for the purposes of this Ordinance.

CHAPTER VII
PAYMENT AND COLLECTION OF INCOME TAX

Due date for payment of income tax

43. (1) Subject to sections ~~45,~~ 15, 26 and 45, income tax for any tax year or substituted accounting period is due and payable 3 months after the date on which the annual return for that tax year or substituted accounting period is required under section 39(1).

(2) If the Commissioner has extended the date for providing an annual income tax

return in accordance with section 39(3), that subsection does not affect the due date for payment of income tax and the income tax is due and payable 3 months after the date the return was originally required, before the application of section 39(3).

Credits for tax deductions

44. If any tax has been—

(a) paid by way of instalments deducted in the tax year in accordance with section 45;

(b) deducted in accordance with section 15 and section 16(1) does not apply; or

(c) calculated in accordance with section 50,

the amount of income tax so paid, deducted or calculated must be credited against the person's income tax liability on chargeable income derived during that same tax year, and if the amount credited is in excess of the income tax liability, the excess must be dealt with in accordance with section 51.

Instalments of income tax

45. (1) Subject to subsection (2), every person deriving taxable income from self-employment, trade or business or income from property (other than interest) must make pre-payments of that income tax during the tax year in which the taxable income is so derived by way of instalments in a manner and within periods prescribed by regulation.

(2) This section does not apply to a person whose total taxable income from sources described in subsection (1) was, in the previous tax year, less than £50,000.

Arrangement to pay income tax

46. (1) If any person is unable to make payment of income tax or an instalment of income tax by any of the due dates specified under section 43 or 45, the Commissioner may enter into an arrangement with the person to make payment of the tax unpaid, subject to any conditions that the Commissioner considers are reasonable.

(2) Any arrangement for payment entered into under subsection (1) does not affect the due date for payment for the purpose of calculating any additional tax under section 67.

Collection deferred by an objection or appeal

47. (1) If notice of objection or appeal given in accordance with section 63 or 65 has not been determined by the Commissioner or the Court, as the case may be, payment of that portion of the income tax for the tax year that relates to the matter under dispute remains in abeyance until the objection or appeal has been determined.

(2) The Commissioner may enforce payment of that portion of the income tax for the tax year that is not subject to dispute.

Enforcement of payment

48. Provisions as to the enforcement of payment of income tax are as prescribed by regulations.

Tax to be payable notwithstanding proceedings

49. The institution of proceedings for an offence against this Ordinance, or the imposition of a penalty, fine or term of imprisonment relating to that offence, does not relieve any person from a liability to pay any income tax charged under this Ordinance.

Foreign tax credits

50. (1) Subject to subsection (4), if any resident is liable to income tax on taxable income derived from a source outside St Helena and has paid income tax on that income in the country in which it was derived (hereinafter referred to as **"foreign tax"**), a credit must be allowed for that amount of tax, against the income tax payable in St Helena in accordance with the regulations.

(2) No credit for foreign tax is to be allowed unless, within 4 years after the end of the tax year in which the taxpayer derived the income in respect of which the credit is claimed, or within a further period, not exceeding 2 years, the Commissioner allows, the taxpayer claiming the credit—

(a) makes a written application to the Commissioner; and

(b) provides to the Commissioner all information, including information in relation to any amount to which the taxpayer is entitled in respect of any relief or repayment of the foreign tax, necessary for determining the amount of the credit.

(3) If a credit for foreign tax is allowable in respect of any income, the amount of the credit must not exceed the amount of income tax otherwise payable in St Helena in respect of that income.

(4) If—

(a) a credit for foreign tax has been allowed against income tax payable by the taxpayer in respect of the same income;

(b) the credit has not taken into account any refund or repayment of the foreign tax received by the taxpayer, whether before or after the credit was allowed; and

(c) the amount of the credit was in excess of the amount that would have been allowed if the amount of the foreign tax refunded or repaid to the taxpayer had been taken into account in calculating the credit,

the amount of that excess is deemed to be income tax due and payable to the Commissioner on the 30th day after the date of the notice of determination of the credit or the date of the receipt by the taxpayer of that refund or repayment, whichever is later.

Repayment of tax

51. If the Commissioner is satisfied that any person has paid income tax by deduction or otherwise for a tax year that is in excess of the amount of income tax correctly chargeable in accordance with this Ordinance, the excess tax must be refunded or may be set off against other amounts that are due for payment under this Ordinance.

CHAPTER VIII
INFORMATION, BOOKS AND DOCUMENTS

Books of account and tax invoices

52. **(1)** Subject to subsection (2), every person required to provide an annual income tax return in accordance with this Ordinance must keep books or accounts as prescribed by regulations, or that the opinion of the Commissioner, are adequate for the purposes of enabling that person's taxable income, exempt income, and allowable deductions to be readily ascertained.

(2) Every person required to be registered in accordance with section 36 who acquires goods or services for the purpose of deriving income from self-employment, trade or business, must obtain a tax invoice containing the particulars specified in subsection (3) from every supplier of those goods and services who is, or which constitutes, a resident or a permanent establishment of a non-resident.

(3) A tax invoice must contain all the following particulars:
(a) the words "tax invoice" in a prominent place;
(b) the name and tax registration number of the supplier;
(c) the name and address of the recipient;
(d) the date on which the goods or services were supplied;
(e) a description of the goods or services supplied;
(f) the quantity or volume of the goods or services supplied; and
(g) the total amount charged for the goods and services.

(4) If the Commissioner is satisfied that it would be impractical to require a tax invoice as required by subsection (2), the Commissioner may decide that, subject to any conditions considered necessary—
(a) any one or more of the particulars specified in subsection (3) need not be contained on a tax invoice; or
(b) a tax invoice is not required to be issued.

(5) Subject to subsection (7), books or accounts required in accordance with subsections (1) and (2) must be retained for a period of 7 years after the end of the tax year in which the transactions, acts, or operations to which they relate were completed or, if there is an undetermined appeal in relation to those transactions, until determination of that appeal, whichever is the longer.

(6) Upon the dissolution, winding up, de-registration, or other termination of the existence of a body of persons, the receiver, liquidator, or other person or persons responsible for administering the termination must (subject to subsection (7)) cause the records which the body of persons would otherwise be required to preserve under subsection (5) to be preserved for the period required by that subsection.

(7) Subsections (5) and (6) do not apply to the retention of any records in respect of which the Commissioner has issued written notice that their retention is no longer required.

(8) A person who fails to comply with the requirements of this section commits an offence.
Penalty: *(a)* A fine of £250 plus £10 for each month during which the non-compliance continues; or
(b) imprisonment for 3 months.

Substituted accounting periods

53. **(1)** Any person who is required to keep books or accounts in accordance with section 52 and who prepares annual accounts for an accounting period of 12 months ending on some day other than 31st March, may apply to the Commissioner for approval to file an annual income tax return for a year ending with the annual balance sheet date of the accounts.

(2) The Commissioner may approve an application under subsection (1) subject to any adjustments and conditions that are appropriate and in such cases, the income derived during that year is, for the purposes of this Ordinance, deemed to have been derived during the tax year ending with 31st March nearest to that balance sheet date.

(3) For the purposes of this Ordinance, the 30th September in any year is deemed to be nearer to the last preceding 31st March than to the next succeeding 31st March.

Information to be furnished to Commissioner

54. **(1)** Every person must, when required by notice in writing by the Commissioner, within 28 days (or any longer period the Commissioner allows) and without fee or reward—

(a) provide in writing any information and produce any books and documents (including any in electronic format) that are in the knowledge, possession or control of that person and that the Commissioner considers necessary or relevant for any purpose relating to the administration or enforcement of this Ordinance;

(b) attend at a time and place specified in the notice, for the purpose of being interviewed in respect of that person's income or the income of any other person or any transactions or matters that in the Commissioner's opinion appear to be relevant to such income.

(2) This section has effect despite any contractual duty of confidentiality.

(3) Any person who fails to comply with a notice issued under this section commits an offence.
Penalty: A fine of £500 or imprisonment for 6 months, or both.

Power of Commissioner to access books and documents

55. **(1)** For the purposes of administering this Ordinance, the Commissioner—

(a) has, during normal business hours and without notice, reasonable, full and free access to any premises, place, property, book, record, or data storage device;

(b) may make an extract or copy of any books, accounts, documents, records or information on a data storage device to which access is obtained under paragraph *(a)*;

(c) may seize any books, accounts, documents or records that, in the opinion of the Commissioner, afford evidence that might be material in determining the liability of a person under this Ordinance;

(d) may retain any books, accounts, documents or records seized under paragraph *(c)* for as long as they are required for determining a person's liability, or for any proceeding, under this Ordinance;

(e) may, if a hard copy or copy on a data storage medium of information stored on a data storage device is not provided, seize and remove the device from the premises and retain the device for as long as is necessary to copy the information required; and

(f) may require a police officer to be present for the purposes of exercising any of the powers under this subsection.

(2) The Commissioner may in writing authorise any officer to exercise any of the powers in subsection (1) and the officer is not permitted 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 Commissioner's written authorisation.

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

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

(5) The Commissioner or authorised officer must issue a receipt for all books, accounts, documents, records or data storage devices removed and retained under this section and return them to the owner within 14 days of the conclusion of the investigation into the person's tax affairs and any related proceedings.

(6) If any book, accounts, document, record or data storage device removed and retained under subsection (1) is lost or destroyed while in the possession of the Commissioner, the Commissioner must appropriately compensate the owner for the loss or destruction.

(7) This section has effect notwithstanding any contractual duty of confidentiality.

(8) Any person who fails to comply with, or in any way hinders, the Commissioner in the exercise of the powers conferred by this section commits an offence.
Penalty: A fine of £500 or imprisonment for 6 months, or both.

CHAPTER IX
TRUSTS, PARTNERSHIPS AND REPRESENTATIVE TAXPAYERS

Trusts and trustees

56. (1) Taxable income derived in a tax year by any person in the person's capacity as trustee, executor or administrator is deemed to be—

(a) to the extent that it accrues to the credit of a beneficiary of the trust or estate, as the case may be - taxable income of the beneficiary for that tax year; or

(b) to the extent that it does not so accrue - income of the trustee, executor or administrator, as the case may be,

and this Ordinance applies on the basis that the income was derived by a person other than an individual person.

(2) Any deductions allowable under this Ordinance that have been incurred by the trustee, executor or administrator in relation to taxable income referred to in subsection (1) *(a)* and *(b)* must be apportioned in the same proportion as the taxable income to which they apply.

Chargeability of trustees

57. Every receiver, trustee, guardian, curator, committee or other person having the direction, control, or management of any property or concern on behalf of any incapacitated person is assessable to income tax in accordance with this Ordinance in the name of the incapacitated person in the same manner as would have applied had the person not been incapacitated.

Acts to be done by trustees

58. The person who is assessable in respect of an incapacitated person is answerable for all matters required to be done by virtue of this Ordinance for the assessment of the taxable income of that incapacitated person and for payment of the income tax on that income.

Manager of bodies of persons

59. The manager or other principal officer of every body of persons is answerable for doing all the acts, matters and things that are required to be done by virtue of this Ordinance for the assessment of the body and payment of the tax.

Indemnification of representative

60. Every person answerable under this Ordinance for the payment of tax on behalf of another person may retain out of any money due to, or held on behalf of that other person, so much of the money as will be sufficient to pay the tax and is to be and is hereby indemnified against any person whatsoever for all payments made by the person pursuant to or by virtue of this Ordinance.

Deceased persons

61. **(1)** If any person dies during a tax year, the liability to pay tax on income derived up to the date of death is not prejudiced or affected by that death.

(2) The personal representative of every deceased person is -

(a) liable to and charged with the payment (out of the capital assets of the estate) of any tax which the deceased person would have been liable to pay; and

(b) answerable for doing all acts, matters and things under this Ordinance that the person would have been required to do, if still alive.

Partnerships

62. If a trade, business, profession or vocation is carried on by 2 or more persons jointly—

(a) the taxable income of any partner from the partnership, in any period of time, is deemed to be the share to which that partner was entitled during that period from the income of the partnership and must be included in the return of income to be made by that partner under this Ordinance;

(b) any deductions that have been incurred in relation to that taxable income that are allowable under this Ordinance must be apportioned in the same proportion as the partner's share of the taxable income of the partnership;

(c) the partners are jointly and severally responsible for making, when so required by

the Commissioner, a return of the income of the partnership, such income being ascertained in accordance with this Ordinance;

(d) the provisions of this Ordinance with respect to failure to deliver returns or particulars in accordance with a notice from the Commissioner apply to any return required under this section.

CHAPTER X
OBJECTIONS AND APPEALS

Objections

63. **(1)** Subject to subsection (2), if a person considers that an assessment made under section 41 or 42 or a decision made under this Ordinance is incorrect in any regard, the person may object to that assessment or decision by delivering or posting to the Commissioner a written notice of objection.

(2) If the Commissioner has made an assessment under section 41(3), any notice of objection against that assessment is not valid unless it is accompanied by an annual income tax return.

(3) Every notice of objection must state precisely the grounds of the objections to the assessment or decision and must be made within 90 days from the date of the service of the notice of assessment or written advice of the decision.

(4) If the Commissioner is satisfied that a person on whom an assessment has been made was prevented from giving the notice within the period provided for in subsection (3) because of absence from St Helena, illness or other reasonable cause, the period may be extended by an additional time the Commissioner considers reasonable in the circumstances.

(5) The Commissioner must consider the objection and make a determination to either allow it or disallow it wholly or in part.

(6) Following the determination of the objection, the Commissioner must give written notice of the decision to the person and, if appropriate, amend the assessment to conform with the determination.

Errors in assessments and notices

64. **(1)** No objection may be taken to any assessment, warrant or other proceeding made or purporting to be made in accordance with this Ordinance for want of form or by reason of any mistake, defect or omission in the assessment, warrant or other proceeding if it is in substance and effect in conformity with or according to the intent and meaning of this Ordinance, and if the person assessed or intended to be assessed or affected by it is designated in it according to common intent and understanding.

(2) An assessment is not to be impeached or affected by reason of a mistake in it as to—

(a) the name or surname of any person;

(b) the description of any income; or

(c) the amount of tax charged.

Appeals

65. **(1)** Any person who is dissatisfied with the Commissioner's determination of an objection made in accordance with section 63(5) may appeal against that determination to the Court by giving notice in writing to the Commissioner within 90 days from the date on which written notice of decision was given.

(2) Every person appealing must attend before the Court in person on the day and at the time fixed for the hearing of the appeal.

(3) Unless rules made under this Ordinance otherwise provide, 7 clear days' notice of the date fixed for the hearing of the appeal must be given to the Commissioner and to the appellant.

(4) On the hearing and determination of the objection by the Court, the objector is limited to the ground stated in the objection and the onus of proving that the Commissioner's determination is erroneous is on the appellant.

(5) If the Court is satisfied that the Commissioner's decision on the objection is in error, the Court must order that the assessment or decision subject to objection be amended in the manner (either by way of reduction or increase) necessary to bring the assessment or decision into conformity with this Ordinance.

(6) Notice of the amount of tax payable under the assessment as determined by the Court must be served by the Commissioner upon the appellant.

(7) All appeals must be heard *in camera*, unless the Court, on application of the appellant, otherwise directs.

(8) The costs of the appeal are in the discretion of the Court hearing the appeal.

CHAPTER XI
PENALTIES AND OFFENCES

PART 1
PENALTIES

Penalty for failing to file annual income tax return

66. A person who fails to provide—

(a) an annual income tax return as required by section 37within the time allowed by section 39; or

(b) employer statements as required under a PAYE scheme as prescribed by regulations under section 15,

is liable to pay an administrative penalty of £100 plus £10 for each complete month that the return or statement remains outstanding.

Penalty for non-payment of tax

67. **(1)** If any amount of income tax payable under this Ordinance is not paid by the due dates prescribed under any of sections 15(1), 26(2), 43 or 45, a penalty must be added to the amount of income tax, calculated on the basis of—

(a) 10% of the amount of tax outstanding at the due date, and

(b) 1% per month of the amount of tax that remains outstanding after the expiration of one month from the due date.

(2) Penalties under subsection (1) are due and payable without formal assessment or demand; but no proceedings may be commenced in any Court in respect of the alleged failure to pay such a penalty unless the Commissioner has first made a written demand for payment and allowed a period of at least 21 days for the payment to be made.

(3) If a penalty remains unpaid after the time allowed for payment in a written demand issued under subsection (2), section 48 applies to the recovery of the penalty as it applies to the recovery of the unpaid tax.

(4) The Commissioner may, if satisfied that a person's failure to pay tax was due to a cause beyond the person's control or because it is considered reasonable to do so, remit part or all of the penalty imposed under this section.

Penalty for false or misleading statements

68. **(1)** This section applies if a person—

(a) makes a statement to the Commissioner that is false or misleading in a material particular; or

(b) omits from a statement made to the Commissioner any matter or thing without which the statement is false or misleading in a material particular; and

the tax liability of the person computed on the basis of the statement is less than it would have been if the statement had not been false or misleading (the difference being referred to as the **"tax shortfall"**).

(2) Subject to subsections (3) and (4), a person to whom this section applies is liable—

(a) if the statement or omission was made knowingly or recklessly - to a penalty equal to 75% of the tax shortfall;

(b) in any other case - to a penalty equal to 20% of the tax shortfall.

(3) The rate of penalty imposed under subsection (2) is—

(a) increased by 10 percentage points if this is the second or a subsequent application of this section to the taxpayer; and

(b) reduced by 20 percentage points if the taxpayer voluntarily disclosed the statement to which the section applies prior to the earlier of discovery by the Commissioner or the commencement of an audit of the taxpayer's tax affairs.

(4) No penalty is payable under subsection (2)*(b)* if—

(a) the person who made the statement did not know and could not reasonably be expected to know that the statement was false or misleading in a material particular; or

(b) the tax shortfall arose as a result of a self-assessment taxpayer taking a reasonably arguable position on the application of the Ordinance to that person's circumstances.

(5) For the purposes of this section, a statement made to the Commissioner includes a statement made, in writing or orally—

(a) in an application, certificate, declaration, notification, return, objection, or other document provided under this Ordinance;

(b) in any information required to be provided under this Ordinance;

(c) in a document provided to the Commissioner otherwise than under this Ordinance;

(d) in answer to a question asked of a person by the Commissioner or an officer appointed under section 3; or

(e) to another person with the knowledge or reasonable expectation that the statement would be passed on to the Commissioner.

(6) The penalty added in accordance with this section is charged in addition to any penalty added in accordance with section 67.

Penalty for failure to deduct tax

69. A person who fails to deduct tax in accordance with section 15 and section 26 is, in addition to any other liability imposed by or under this Ordinance, liable to pay an additional amount calculated in accordance with section 67 on the basis that the failure to deduct was a statement or omission and the amount of tax not deducted was a tax shortfall.

PART 2
OFFENCES

False statements and returns

70. It is an offence for a person—

(a) for the purpose of obtaining any deduction, allowance, rebate, reduction or repayment in respect of tax for that person or for any other person, in any return, account or particulars made or furnished with reference to tax, knowingly to make any false or misleading statement or false representations; or

(b) to aid, abet, assist, counsel, incite or induce another person to—

(i) make or deliver any false or misleading return or statement under this Ordinance; or

(ii) make or prepare any false or misleading accounts or particulars concerning any income on which tax is payable under this Ordinance.

Penalty: A fine of £500 or imprisonment for 12 months, or to both.

Other offences

71. Any person who commits an offence under this Ordinance for which no other penalty is prescribed is liable on conviction to a fine of £500 or to imprisonment for 6 months, or both.

Offences by corporate bodies

72. If any offence against this Ordinance has been committed by a corporate body, every person who at the time of the commission of the offence was a director, general manager, secretary, or other similar officer of the corporate body, or was acting or purporting to act in any

such capacity, also commits the offence unless the person proves—

(a) that the offence was committed without that person's consent or knowledge; and

(b) that the person exercised due diligence to prevent the commission of the offence, having regard to the nature of the person's functions and responsibility within the corporate body.

Laying of charges

73. **(1)** A charge in respect of any offence under this Ordinance may be laid before the Court -

(a) in the name of the Commissioner; and

(b) at any time within 6 years after the end of the tax year in which the offence was committed.

(2) Any charges laid and any penalty to which a person is liable on conviction may be heard and determined by the Court irrespective of the amount of income tax (if any) and penalty in respect of which the charge is brought.

Evidence of failure to provide a return

74. In any proceedings against a person for refusing or failing to provide any return or information as and when required by this Ordinance or by the Commissioner, a certificate in writing signed by the Commissioner certifying that the return or information so required has not been received from that person at the place where or by the person to whom the return or information should have been provided is, in the absence of proof to the contrary, sufficient evidence that the defendant has refused or failed to provide the return or information.

Saving for criminal proceedings

75. This Ordinance does not affect any criminal proceedings under any other Ordinance.

CHAPTER XII
GENERAL

Signature of notices

76. Every notice to be given by the Commissioner under this Ordinance -

(a) must be signed by the Commissioner or by some person or persons appointed by the Commissioner for that purpose; and

(b) is valid if the signature of the Commissioner or of such person or persons is duly printed, written or electronically inserted on it.

Service of notices

77. Notices under this Ordinance may be served upon a person either personally or by being sent by delivery to the person's last known business or private address, and is in the latter case deemed to have been served on the second day after the day on which the notice was sent by the Commissioner. In proving such service it is sufficient to prove that the letter containing the notice was properly addressed and posted.

Associated persons

78. **(1)** The Commissioner may, in respect of any transaction between persons who are associates, distribute, apportion, or allocate income, deductions, or tax credits between the persons as is necessary to reflect the income tax that the persons would have been liable for in an arm's length transaction.

(2) For purposes of this section, **"associate"**, in relation to a person, means any other person, including a spouse, child or other person related by birth, who acts or may act in accordance with the directions, requests, suggestions, or wishes of the first-mentioned person and the first person is also an associate in relation to the second person.

Tax avoidance schemes

79. **(1)** In this section, **"tax avoidance scheme"** means any transaction or arrangement where one of the main purposes of the transaction or arrangement is the avoidance or reduction or deferral of the person's liability to tax under this Ordinance.

(2) For the purposes of determining the income tax payable by any person under this Ordinance, the Commissioner may—

(a) determine the character of a transaction or an element of a transaction that was entered into as part of a tax avoidance scheme;

(b) disregard a transaction or an element of a transaction that does not have substantial economic effect;

(c) determine the character of a transaction if the form of the transaction does not reflect the substance.

Write off of tax

80. The Governor in Council may—

(a) write off, either wholly or in part, any amount of tax payable in accordance with this Ordinance by any person where it is just and equitable to do so; or

(b) delegate the powers under subsection *(a)* to the Commissioner, either generally or subject to specific conditions or in specified circumstances.

Regulations

81. **(1)** The Governor in Council may from time to time make regulations generally for carrying out the provisions of this Ordinance and may, in particular, provide—

(a) for the forms to be used for the purposes of this Ordinance;

(b) for any matters which are authorised by this Ordinance to be prescribed;

(c) any matter for which regulations are necessary or desirable for the purpose of giving effect to section 15, including the registration of employers and the manner or form in which instructions are to be or may be given to such employers concerning the deductions to be made under that section;

(d) that every person, (including a body of persons whether incorporated or not) that engages in any trade, business, profession or vocation from which any taxable income is derived or is likely to be derived, must register prescribed particulars of that trade, business, profession or vocation with the Commissioner and notify the

Commissioner of any subsequent changes in the registered particular;

(e) for the method, consistent with this Ordinance, by which any profit, loss, gain, expense, allowance, or other amount relevant to a person's liability to pay tax, is to be calculated, ascertained, proved, or assessed;

(f) for income which may be exempt from tax;

(g) for requirements relating to the withholding of tax under section 26(3);

(h) for the manner and periods for payment of instalments of tax under section 45; and

(i) for enforcement of payment of income tax. .

(2) The Governor in Council may authorise the Commissioner—

(a) to make and publish arrangements (to be known as an **"Extra-Statutory Concession"**) whereby any tax payable, or any taxable income will be treated as not taxable or otherwise whereby the liability to tax created by this Ordinance will be reduced or extinguished in circumstances to be specified in the arrangements; or

(b) to revoke or vary any Extra-Statutory Concession.

(3) A person who fails to comply with or contravenes the provisions of a regulation made under this Ordinance commits an offence.
Penalty: As provided by section 71.

Repeal and transitional provisions

82. (1) The Income Tax Ordinance, 2009 (in this section referred to as **"the old Ordinance"**) is repealed.

(2) Notwithstanding the repeal of the old Ordinance, but subject to the following provisions of this section, tax payable under that Ordinance in relation to any tax year prior to the commencement of this Ordinance (in this section referred to as **"old tax"**) may be assessed and levied, and is payable, as if the old Ordinance had not been repealed.

(3) For the purposes of enforcement of payment (including the application of penalties) old tax is to be treated as tax due and lawfully assessed under this Ordinance and is payable—

(a) in the case of tax assessed before the commencement of this Ordinance, on the date of commencement of this Ordinance; and

(b) otherwise, on the 30th day after the issue by the Commissioner of an assessment in relation to the tax.

(4) On and after the commencement of this Ordinance, all subsidiary legislation (including Extra-Statutory Concessions and resolutions of the Legislative Council concerning the rates of tax and allowances) having effect under the old Ordinance remain in force (with any modifications necessary for consistency with the provisions of this Ordinance) as if made under section 81 of this Ordinance.

SCHEDULE 1[8]

(Section 6)

RATES OF INCOME TAX

1. (1) The rates of tax payable by a taxpayer in each tax year are—

(a) in respect of the taxpayer's chargeable income (to the extent it represents income

[8] *Schedule 1 amended by Ord. 5 of 2019*

other than dividends, capital gains or income to which item *(e)* applies)—

(i) in the case of a company - 25%;

(ii) in the case of a person other than a company—

(aa) 26% on the first £18,000 of such chargeable income; and

(bb) 31% on the remainder of such chargeable income;

(b) in respect of the taxpayer's chargeable income to the extent it represents dividends—

(i) in the case of a person other than a company - 8% on the amount of such dividends as determined in accordance with paragraph (2); and

(ii) 0% on any dividends to the extent that sub-item (i) does not apply;

(c) 10 % of the taxpayer's chargeable income to the extent it represents capital gains;

(d) 10 % of the amount of the taxpayer's withholding income for such year; and

(e) in respect of the taxpayer's chargeable income attributable to self-employment, trade or business income taxable under Chapter IV and which is derived from the primary production by the taxpayer of goods or services in the course of carrying on—

(i) exportation of goods and services;

(ii) fishing and fish processing;

(iii) cultivation of honey;

(iv) growing and roasting of local coffee;

(v) farming and butchering of meat;

(vi) farming of vegetables, legumes, nuts or fruit or the processing of locally grown produce;

(vii) distilling or brewing of liquor, wine or beer;

(viii) production of traditional craftwork, or jewellery using predominantly locally sourced inputs (recycled, grown, or mined in St Helena);

(ix) production of upholstery or clothing,

in the case of—

(aa) a company, 15%; or

(bb) a person other than a company—

(A) 21% on the first £18,000 of such chargeable income; and

(B) 26% on the remainder of such chargeable income;.

(2) If the total chargeable income (excluding capital gains) of a person exceeds £18,000 in a tax year, the amount of any dividends received by or accrued to such person during that year to which paragraph (1)*(b)*(i) applies is so much of such dividends as does not exceed an amount determined in accordance with the formula:

A = (B – C) – £18,000

where—

A represents the amount to be determined;

B represents the total chargeable income of the txpayer; and

C represents the amount of such chargeable income which represents capital gains.

(3) If a taxpayer derives taxable income from sources to which both the rates in items *(a)* and *(e)* of sub-paragraph (1), respectively, apply—

(a) any allowable deductions under Part 3 of Chapter IV which are attributable to both sources of income must, in calculating the chargeable income from these

respective sources, be apportioned in the same ratio as the respective sources of income bear to the total taxable income from both sources;

(b) the amount of the allowances to be deducted from the taxable income under section 7(2)*(a)* must be deducted first from the taxable income to which the rates in sub-paragraph (1)*(a)* apply;

(c) where the total chargeable income from both sources exceeds £18,000, the amount of £18,000 in sub-paragraph (1)*(a)*(ii)*(aa)* must be reduced by an amount equal to the income to which sub-paragraph (1)*(e)* applies.

INCOME TAX ORDINANCE, 2012

INCOME TAX REGULATIONS, 2012

(Section 81(1))

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PART 1
PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Income Tax Regulations, 2012, and come into force on publication.

Interpretation

2. In these Regulations, unless the context indicates otherwise, any word or phrase to which a meaning has been ascribed in the Income Tax Ordinance, 2012, bears the meaning so ascribed.

PART 2
EXEMPTIONS

Exempt income

3.[9] The following are exempt from income tax under section 9 of the Ordinance—

(a) the official emoluments received by the Officer Administering the Government;

(b) the income of any statutory or registered friendly or co-operative society;

(c) the income of an organisation registered as a charity under the Charities Ordinance, 2005, or any other organisation which (though not so registered) is accepted by the Commissioner as having a purpose which is charitable within the meaning of section 3 of that Ordinance;

(d) the emoluments payable to members of the permanent consular services of foreign countries in respect of their offices or in respect of services rendered by them in their official capacity;

(e) the emoluments payable by Her Majesty's Government to persons seconded to work for Her Majesty's Government or the St Helena Government;

(f) wound and disability pensions granted to members of Her Majesty's Forces;

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[9] *Regulation 3 amended by L.N. 7 of 2021*

(g) income arising from a scholarship (including any exhibition, bursary, or other similar educational endowment) held by a person receiving full-time instruction at a university, college, school, or other educational establishment; but this paragraph does not exempt in the hands of the recipients any dividends, interests, bonuses, salaries or wages paid wholly or in part out of income so exempted;

(h) any lump sum payment received by way of gratuity in respect of employment under a contract of service if the payment—

(i) is made under the Pensions Ordinance, 2012, to a pensionable officer retiring under the terms of that Ordinance; or

(ii) is paid into an approved superannuation fund within 12 months; or

(iii) is made upon the person attaining the retiring age of at least 60 years (or at least at least 55 years in the case of redundancy or ill-health) and such payment is calculated in a manner similar to the gratuities applicable to non-pensionable employees of the St Helena Government and is not paid from an approved superannuation and pension fund;

(ha) any lump sum payment received by a person from an approved superannuation fund that does not exceed 25% of the person's accumulated savings in such fund, provided that—

(i) the person is at least 60 years of age; or

(ii) the payment is made upon retirement of the person before age 60 due to ill health;

(i) income derived by any person from personal, professional, consultancy or contractual services performed for the St Helena Government pursuant to an arrangement for assistance entered into by the St Helena Government with the Government of any other country or international organisation, to the extent such arrangement provides that income so derived is to be exempt from income tax;

(j) the income of an approved superannuation and pension fund;

(ja) any allowance received by a person diagnosed with a disability from the St Helena Government to assist the person with any additional costs associated with the person's disability;

(jb) Child Benefit payments received by a person from the St Helena Government in accordance with the Child Benefit Policy and Operational Guidelines;[10]

(k) income derived in St Helena by a non-resident person (other than a body of persons) during a visit to St Helena, if—

(i) the visit does not exceed a total period of 30 days in any tax year;

(ii) the services are performed for or on behalf of a non-resident; and

(iii) the income is paid by a person who is a non-resident;

(l) so much of any amount received by a person from his or her employer on termination of his or her employment as does not exceed £8,400, and which is paid as a result of the relinquishment, termination, loss or cancellation of the person's employment due to—

(i) the employer having ceased to carry on or intending to cease carrying on the trade in respect of which the person is or was employed; or

(ii) the person having become redundant in consequence of a general reduction in personnel or a reduction in personnel of a particular class by such employer:

but the exemption under this paragraph does not apply to any amounts to which the employee would be entitled on termination under his or her contract of employment.".

PART 3

[10] *(jb) inserted by L.N. 20/2026. In force 1 November 2026*

EMPLOYMENT INCOME

Registration of employers

4. **(1)** Every person who pays or becomes liable to pay any income from employment to any employee as referred to in section 15 of the Ordinance must register with the Commissioner by completing and filing the appropriate form within 30 days from the last day of the month in which the payment or liability to make payment occurred.

(2) Every employer who changes a registered business address or ceases to be an employer must notify such change of address or cessation to the Commissioner within 30 days of such change of address or ceasing to be an employer.

PAYE Tables

5. For the purpose of ascertaining and determining the amount of income tax to be deducted by the employers under section 15 of the Ordinance, the Commissioner must make available to each registered employer Tax Tables, hereinafter referred to as **"PAYE Tax Tables"**.

Deduction of tax by employers

6. **(1)** Every employer must deduct, from the income from employment paid by the employer, an amount of tax in accordance with the PAYE Tax Tables issued by the Commissioner.

(2) **If**, during any tax year, an employee receives income from employment from more than one employer, the tax to be deducted in respect of each such employment is such amount as the Commissioner directs.

(3) Every person must, on ceasing to be an employee or on the commencement of employment, provide a declaration to the Commissioner in a form provided for the purpose by the Commissioner.

(4) Every employee, who is not ordinarily resident or is temporarily resident in St Helena, must provide the Commissioner with a declaration of the expected duration of the employee's residence in St Helena.

(5) The PAYE Tax Tables must be in such form as to enable an employer to ascertain the amount of tax to be deducted from any payments of income from employment.

(6) The Commissioner must from time to time issue such instructions as are necessary as to the mode and manner of the use of the PAYE Tax Tables.

Power to vary tax deductions

7. **(1)** Every employer, at the written request of any employee and with the approval of the Commissioner, may deduct from the income from employment payable to the employee, tax greater than the tax deduction under the PAYE Tax Tables.

(2) If, in relation to a tax year, any employee is of the opinion that the amount of tax required to be deducted by his or her employer under the PAYE Tax Tables during that tax year will be substantially greater than the amount properly payable by the employee in that tax year, the employee may apply to the Commissioner for a variation of the rate of tax deduction.

(3) If the Commissioner is satisfied that the tax to be deducted under the PAYE Tax Tables will exceed the amount of tax that will be payable for that tax year, a notice of variation will be issued to the employer relating to the deductions to be made from such employee.

(4) A request made by an employee under sub-regulation (1) or a direction under subparagraph (3) may be withdrawn by notice in writing to the employer and upon such withdrawal the employer must make tax deductions in accordance with the PAYE Tax Tables.

Tax deducted to be remitted to Commissioner

8. All tax deducted by an employer from the income from employment of employees must be remitted to the Commissioner not later than the 15th day of the month immediately following the month in which such deductions were made.

"Tax free" payments

9. (1) Any agreement by an employer to pay any income from employment to an employee free of tax is null and void.

(2) If sub-regulation (1) applies, tax is deemed to have been deducted and the payment received by the employee is deemed to be a net payment after the deduction of income tax and the provisions of the Ordinance apply accordingly.

Certificate of tax deducted

10. (1) Every employer who has deducted tax from income from employment must provide to every employee to whom income from employment has been paid, within the time specified in sub-regulation (3), a certificate, in the form provided for that purpose by the Commissioner.

(2) The certificate referred to in sub-regulation (1) must show—

(a) the period of employment;

(b) the total income from employment paid to the employee; and

(c) the total tax deducted from such income from employment.

(3) The certificate referred to in sub-regulation (1) must specify the period of employment to which it relates and must be provided to the employee or former employee—

(a) if the employer has not ceased to be an employer in relation to that employee - within one month after the end of that tax year;

(b) if the employer has ceased to be an employer in relation to other employees - on the date of cessation of the employment of that person; or

(c) if the employer has ceased to be an employer in relation to all employees - within one month after the date of cessation to be an employer.

(4) Any employee who has not received a certificate within the time specified in sub-

regulation (3) may apply to the employer forthwith for such certificate to be provided and in the event of such certificate not being provided within a further period of 15 days, must notify the Commissioner of the failure by the employer to provide the certificate.

(5) The certificate to be provided under this regulation by an employer to an employee may be delivered—

(a) by hand to the employee or the employer's authorised agent;

(b) by recorded letter addressed to the employee at his or her usual or last known postal address; or

(c) if the taxable income of the employee is not chargeable to tax in his or her name, by hand addressed to the person chargeable.

(6) If it is not possible to deliver a certificate in the manner prescribed by sub-regulation (1), the employer must retain the certificate and forward it to the Commissioner with the reconciliation statement required by paragraph 14.

(7) In addition to the annual certificate referred to in sub-regulation (1), on every occasion upon which a payment of income from employment is made to an employee from which tax is deducted under these Regulations, the employer must provide to the employee particulars of the total income from employment payable for the pay period and of the amount of tax deducted from the income.

Employer's personal liability

11. (1) Any employer who fails to deduct any tax under regulation 6 is, in addition to any liability for a penalty, personally liable to pay to the Commissioner within the time specified in regulation 8, the amount which has not been deducted.

(2) If an employer pays to the Commissioner the amount of tax which has not been deducted, the amount is deemed to have been deducted under these Regulations.

(3) This regulation does not prevent the employer recovering from the employee any amount paid to the Commissioner under sub-regulation (2).

(4) If in relation to any payment of income from employment, an employer has failed to deduct tax under regulation 6, and the Commissioner is satisfied that the tax deducted under these Regulations from earlier or later payments of income from employment is sufficient to meet the amount of tax which has not been deducted, the Commissioner may absolve the employer from liability under sub-regulation (1).

(5) In cases where the Commissioner is of the opinion that any amount of tax which has been included on a certificate under regulation 10 has not been deducted by the employer—

(a) both the employer and the employee are jointly and severally liable to pay to the Commissioner the amount which has not been deducted and that amount is recoverable under the Ordinance; or

(b) if the Commissioner is satisfied that the employee alone was responsible for the incorrect amount being shown on the certificate, the employee alone is liable to pay to the Commissioner the amount which has not been deducted.

(6) If it is proved to the satisfaction of the Commissioner that any amount of tax has

been deducted from the income from employment of any employee, even though the employer has failed to pay the amount to the Commissioner, no action is to be taken by the Commissioner for the recovery of the tax from that employee.

Employers to keep records

12. Every employer must, in respect of each employee, maintain a record showing in relation to each tax year, the amounts of:

(a) the income from employment accrued to that employee; and

(b) tax deducted from such income from employment,

and the records must be retained for a period of 7 years from the end of the tax year to which they relate.

Monthly employer statements

13. Every employer must provide, within 15 days of the end of every month, a statement showing the gross amount of income from employment paid during the preceding month, the amount of tax deducted and the amount of tax remitted to the Commissioner.

Annual employer statement

14. **(1)** Every employer must, in respect of each tax year—

(a) within one month after the end of the tax year;

(b) if employment ceased during that tax year, within 15 days after such cessation; or

(c) within any further time the Commissioner allows,

provide to the Commissioner a statement showing the gross amount of income paid to each person employed during the preceding tax year, the amount of tax deducted, and the total payments of such tax made to the Commissioner.

(2) In the event of there being any deficiency between the total amount of tax deducted and total payments of such tax made to the Commissioner, the employer must account to the Commissioner for the deficiency.

Simplification for employers with small PAYE liabilities

15. **(1)** This regulation applies to any employer—

(a) who is required to be registered in accordance with this Part; and

(b) whose annual liability to pay tax deducted to the Commissioner is less than £300.

(2) Subject to sub-regulation (3), where this paragraph applies—

(a) the payments required in accordance with regulation 8 must be made not later than the 15th day after the end of the 3rd, 6th, 9th and 12th month of the tax year;

(b) the monthly employer statements required in accordance with regulation 13 must be provided not later than the 15th day after the end of the 3rd, 6th, 9th and 12th month of the tax year.

(3) Where this paragraph applies to a person whose annual liability to pay PAYE tax is Nil, the person may apply for approval to provide only the statement required in accordance with regulation 14, and if the Commissioner approves the application, regulations 8 and 13 do not apply.

Offences

16. **A** person who fails to comply with an obligation imposed under this Part commits an offence.
Penalty: A fine of £500 or 6 months, or both.

PART 4
SELF-EMPLOYMENT, TRADE AND BUSINESS INCOME

Depreciation of assets

17. **(1)** In this Regulation—
"consideration received" has the same meaning as Part 1 of Chapter IV of the Ordinance;
"cost" includes all the expenses relating to acquisition, construction transportation and installation, including freight, transportation insurance, import duties and import charges and labour charges but excludes the cost of land;
"depreciable asset"[11] …
"structural improvement", in relation to immovable property, includes any building, road, driveway, car park, pipeline, bridge, tunnel, airport runway, canal, dock, wharf, retaining wall, fence, power lines, water or sewerage pipes, drainage, landscaping, or dam;
"written down value" means the cost of the depreciable asset less the depreciation deduction that has been allowed.

(2) Every person is allowed a deduction (referred to as a **"depreciation deduction"**) for the amount by which the value of the person's depreciable assets has declined during a tax year by reason of wear and tear from use in deriving taxable income.

(3) The depreciation deduction allowed under sub-regulation (2) is on a straight line method, calculated by applying the rate specified in sub-regulation (4) to the cost of the asset.

(4) The rate to be used in calculating the depreciation deduction is—
(a) in relation to a structural improvement used wholly or partly in deriving taxable income of the type shown in Part 1 of Chapter IV of the Ordinance - 5% per annum;
(b) in relation to a structural improvement used wholly or partly in deriving taxable income of the type shown in Part 2 of Chapter IV of the Ordinance - 2% per annum;
(c) in relation to any other depreciable asset, unless item *(d)* applies - 20% in the first year and 20% per annum in the 4 succeeding tax years;
(d) in relation to a depreciable asset where the Commissioner is satisfied that the effective life of the depreciable asset is 3 years or less, 33 1/3% in the first year and 33 1/3% per annum in the 2 succeeding tax years: ~~Provided that~~ but a person may elect to increase the depreciation deduction allowable in the first year under sub-regulation *(c)* or *(d)* by 20% with a corresponding reduced deduction in the last tax year.

(5) If a depreciable asset is—
(a) partly used in a tax year in deriving taxable income and partly for another purpose; or
(b) not used for the whole of the tax year in deriving taxable income,
the depreciation deduction allowed for that tax year is the percentage that the period of use or

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[11] *Definition of "depreciable asset" deleted by LN 3 of 2019*

proportion of use bears to the full tax year or full usage.

(6) If a depreciable asset is disposed of, lost, destroyed or written off in a tax year, there is to be no depreciation deduction for that tax year and—

(a) if the consideration received exceeds the written down value of the asset at the beginning of the tax year - the excess is to be regarded as a business profit for the purposes of Part 1 of Chapter IV of the Ordinance and included as taxable income of the person for that tax year; or

(b) if the consideration received is less than the written down value at the beginning of the tax year - the difference is to be allowed as an additional depreciation deduction in calculating the chargeable income of the person for that tax year.

PART 5
WITHHOLDING TAX

Payee certificate

18. (1) Every person who deducts withholding tax from a payment of withholding income in accordance with section 26(1) of the Ordinance must provide the person to whom the payment is made (in this regulation referred to as **"the payee"**) with a certificate in the manner and form approved by the Commissioner setting out—

(a) the name, address and tax registration number of the person making the payment;

(b) the date, amount and nature of the payment;

(c) the amount of tax deducted; and

(d) the name and address of the payee.

(2) The certificate referred to in this paragraph must be provided at the time payment is made.

Administration of withholding tax scheme

19. Regulations 11, 13, 14, 15 and 16 apply in a like manner to the deduction of withholding tax as if a reference in those regulations to an employer, income from employment and an employee were a reference to a resident or permanent establishment of a non resident, withholding payment and the recipient of the withholding payment.

PART 6
REGISTRATION, RETURNS AND ASSESSMENT

Registration

20. (1) Every person required to register in accordance with section 36 of the Ordinance must—

(a) register the particulars referred to in sub-regulation (2) prior to the commencement of the activity; and

(b) inform the Commissioner of any change in particulars within one month from the date on which those particulars change.

(2) The particulars required to be registered with the Commissioner are—

(a) if the person is a company—

(i) the registered company name;

(ii) the registration number; and

(iii) the place of incorporation of the company;

(b) in relation to any other person, the full name of each individual person carrying on the activity; and

(c) the nature of the activity, including—

(i) the date from which the activity has been carried on;

(ii) the place or places at which the activity is carried on; and

(iii) the address used for correspondence in relation to the activity.

(3) If an activity is carried on jointly by more than one person, each person is separately liable for registration of that person's prescribed particulars and, if applicable, any change in particulars.

(4) The Commissioner -

(a) must issue a certificate for each person registered in accordance with this regulation, showing the prescribed particulars and the tax registration number; and

(b) in any case where the Commissioner is informed of any change in prescribed particulars, must issue a new certificate showing the new prescribed particulars.

Instalments of income tax

21. (1) Every person who is required to make payments of instalments under section 45 of the Ordinance must pay such instalments within 15 days after the end of the 3rd, 6th, 9th and 12th months of the tax year or substituted accounting period.

(2) The amount of each instalment payable for the tax year is equal to one quarter of the amount of income tax payable on the chargeable income of the previous tax year less any income tax deducted from taxable income during the tax year under section 26 of the Ordinance.

(3) If the amount of income tax payable in accordance with sub-regulation (2) is not known by the due date of the first instalment, the instalment of income tax payable is to be based on—

(a) most recent tax year for which there has been an assessment; or

(b) an estimate of the income tax payable on the chargeable income of the previous tax year.

(4) If any person considers that the pre-payment of income tax calculated in accordance with subparagraphs (2) and (3) is in excess of the actual amount of income tax that will be payable for that tax year—

(a) that person may estimate the income tax payable on the chargeable income for the tax year and file an application to vary the amount of the instalment based on that estimate, which may be filed at any time up to the due date for payment of the third instalment; and

(b) the Commissioner may approve the application and adjust the remaining instalments of income tax to reflect the estimated amount of income tax payable shown in the application.

(5) If a person files an estimate of the amount of income tax payable in accordance with sub-regulation (4) and that estimate is less than the actual income tax payable on assessment, that person will be liable to pay additional tax if the estimated tax is less than 75% of the actual tax.

(6) The additional tax payable in accordance with sub-regulation (5) is an amount calculated on the basis that the difference between the estimated income tax and the actual income tax was a "tax shortfall" for the purposes of section 68.

PART 7
ENFORCEMENT OF INCOME TAX COLLECTION

Deduction of income tax from payment due to defaulters

22. **(1)** In this regulation—
"defaulter" means any person who has made default in the payment of any income tax; and
"debtor" means any person who has an amount held to the credit of, payable to or becoming payable to the defaulter other than in respect of alimony or child maintenance.

(2) For the purpose of collecting any income tax due by a defaulter, the Commissioner may, by notice in writing, require any debtor to deduct any sum specified in the notice from an amount held to the credit of, payable to or becoming payable to the defaulter by the debtor, and to pay such sum to the Commissioner to the credit of the defaulter within a time specified in the notice.

(3) The sum deducted from any amount pursuant to a notice under this regulation is deemed to be held in trust for the Government and, without prejudice to any other remedies against the debtor or any other person, is recoverable in the same manner in all respects as if it were income tax payable by the debtor.

(4) Any notice under this paragraph will remain in force for the period specified in the notice or may be revoked by the Commissioner at any time by a subsequent notice to the debtor if the Commissioner is satisfied that all the amounts of income tax due and payable by the defaulter have been paid.

(5) A copy of every notice given under this regulation and of the revocation of any such notice must be given to the defaulter by the Commissioner.

(6) It is an offence for a debtor to -
(a) fail to make any deduction required by a notice under this regulation; or
(b) fail, after making any such deduction to pay the sum deducted to the Commissioner within the time specified for the purpose in the notice.
Penalty: A fine of £500.

(7) A person convicted under sub-regulation (6) remains personally liable to pay to the Commissioner the amount that was not deducted, or deducted but not paid as the case may be, and the provisions of these Regulations relating to the collection of tax apply in every respect.

Suit for tax by Commissioner

23. **(1)** Income tax and any penalty payable under this Ordinance may be

recovered, as a civil debt due to the Government, by suit taken before the Court in the name of the Commissioner.

(2) Any suit for the recovery of income tax and any penalty payable under this Ordinance may be heard and determined by the Court irrespective of the amount of income tax and penalty for which the suit is brought.

(3) If a person summoned fails to appear in answer to the summons and it is proved by evidence on oath that the summons was duly served a reasonable time before the time appointed for the hearing, the Court may either—

(a) proceed to hear the complaint in the person's absence; or

(b) issue a warrant for the person's arrest.

(4) A warrant for the arrest of a person under this regulation must require the person, when arrested, to be brought as soon as possible before a Justice of the Peace, who may either bind the person over to appear before the Court at a future time, or commit the person to custody until the complaint can be heard.

Recovery of tax from persons leaving St Helena

24. If the Commissioner has reason to believe that any person may leave St Helena without having paid all the income tax to which that person is, or would be, liable to pay under this Ordinance, the Commissioner may, by notice in writing—

(a) demand payment of income tax within a time specified in the notice, even if the due date for payment has not expired, and if such tax is not subsequently paid, proceed to recover the income tax in accordance with the Ordinance;

(b) require the person to obtain a tax clearance from the Commissioner prior to embarking from St Helena; and

(c) require an immigration officer to deny permission for the person on whom a notice has been served under paragraph *(a)* to leave St Helena unless the person can produce a tax clearance certificate from the Commissioner.

Liability of company directors

25. (1) If any company makes default in the payment of any tax due and payable by it, all of the persons who were directors of that company when the default first occurred are jointly and severally liable for the payment of that tax as if they had been personally assessed in respect of it.

(2) Nothing in this regulation in any way affects the liability of the defaulting company for payment of the tax, and any penalty in respect of it, or the rights of the directors to recover from the defaulting company any tax paid by them in meeting any obligation imposed by this regulation.

Warrant of distress

26. (1) If the Commissioner has filed suit for tax in accordance with regulation 23, the payment of that sum may be enforced by distress and the sale of goods and chattels under warrant issued by the Court.

(2) A warrant issued under this regulation—

(a) may be directed to the Commissioner and to such other persons as the Court thinks fit;

(b) must authorise the person to whom it is directed to levy the amount which the person against whom the warrant is issued is liable to pay by distress and sale of the person's goods and chattels;

(c) may include an order that such sum for the costs and charges incurred in obtaining the warrant and attending the distress is to be levied under the warrant.

Abatement of proceedings on payment of tax

27. If any proceedings have been commenced under these Regulations against a person to enforce payment of any tax and any person pays to the Commissioner the sum sought to be recovered (together with all costs and charges incurred in the proceedings up to that time) -

(a) the payment must be accepted; and

(b) the Commissioner may decide to take no further proceedings for any offence committed in relation to that sum.

Directions to Registrar of Lands

28. If the Commissioner is of the opinion that the collection of tax under Chapter V of the Ordinance may be at risk, the Commissioner may by notice in writing require the Registrar of Lands, either specifically in relation to a person or generally in relation to a class of persons, to deny registration of any land transfer until ~~such time as~~ the Commissioner has granted clearance to do so.

PART 8
ACCESS TO INFORMATION

Access to confidential information

29. **(1)** The Commissioner may allow the following persons to have access to any records or documents necessary for the performance of their official duties:

(a) the Chief Auditor appointed under section 110 of the Constitution;

(b) the Collector of Customs and Excise as defined by the term "Collector"' in the Customs and Excise Ordinance, 1999;

(c) the Employment and Benefits Administration Officer;

(d) the Statistics Commissioner and Statistics Officers appointed under section 3 of the Statistics Ordinance, 2000;

(e) the Regulatory Authority as defined in section 2 of the Money Laundering Ordinance, 2008;

(f) the Regulatory Authority as defined in section 2 of the Financial Services Ordinance, 2008; and

(g) the Head of Systems and Executive Support.

INCOME TAX ORDINANCE, 2012
(Section 81)

EXTRA-STATUTORY CONCESSION (APPROVED PENSION SCHEMES), 2012

In exercise of the powers conferred by section 81(2)*(a)* of the Income Tax Ordinance, 2012, and having been authorised to do so by the Governor in Council, I hereby make and publish the following Extra-Statutory Concession:

1. With effect from 1st April 2012, interest paid by the Bank of St Helena in respect of monies deposited with it in an account of an approved pension scheme are not to be subject to a deduction of withholding tax.
2. In paragraph 1, "approved pension scheme" relates to Misaint Pension Scheme and the SHG Defined Contribution Scheme.

The Extra-Statutory Concession published in Government Notice No. 96 of 11th July 2012 is withdrawn.

Made this 28th day of August 2012

Dax L. Richards
Acting Commissioner of Income Tax

INCOME TAX ORDINANCE, 2012
(Section 81)

EXTRA-STATUTORY CONCESSION (CHARITIES), 2014

In exercise of the powers conferred by section 81(2)(a) of the Income Tax Ordinance, 2012, and having been authorised to do so by the Governor in Council, I hereby make and publish the following Extra-Statutory Concession:

1. With effect from 1st April 2013, interest paid by the Bank of St Helena in respect of monies deposited with it in an account of a registered Charity is not to be subject to a deduction of withholding tax.
2. In paragraph 1, **"registered Charity"** means a Charity registered under the Charities Ordinance, 2005.

The Extra-Statutory Concession published in Government Notice No. 27 of 1st April 2011 is withdrawn.

Made this 31st day of March 2014

David C Owen
Commissioner of Income Tax

INCOME TAX ORDINANCE, 2012
(Sections 81 and 82(4))

EXTRA-STATUTORY CONCESSION (CHARITIES), 2011

In exercise of the powers conferred by section 58(1)(b) of the Income Tax Ordinance, 2009, and having been authorised to do so by the Governor in Council, I hereby make and publish the following Extra-Statutory Concession:

1. Where withholding tax is deducted from any interest which is payable to a Charity, the Charity may claim a refund of the tax by producing to the Commissioner the relevant Payee Certificate issued to it under paragraph 5 in Schedule VII to the Ordinance[12].
2. In paragraph 1 **"Charity"** means a charity which is registered as such under the Charities Ordinance, 2005, and includes any other body which (though not so registered) the Commissioner is satisfied is eligible to be so registered.

Made this 1st day of April, 2011

Paul Blessington
Commissioner of Income Tax

INCOME TAX ORDINANCE, 2012
(Sections 81 and 82(4))

EXTRA-STATUTORY CONCESSION (CHILD SAVINGS BONDS), 2011

In exercise of the powers conferred by section 58(1)(b) of the Income Tax Ordinance, 2009, and having been authorised to do so by the Governor in Council, I hereby make and publish the following Extra-Statutory Concession:

1. Interest paid by the Bank of St. Helena in respect of moneys deposited with it in an account of the type currently known as a 'Child Savings Bond' must not be the subject of a deduction of Withholding Tax; nor is it to be treated as taxable income of the child for whose benefit the account exists.
2. Paragraph 1 also applies to any account of a different name but which the Commissioner is satisfied is substantially similar in its terms and conditions to a Child Savings Bond.

Made this 1st day of April, 2011

Paul Blessington
Commissioner of Income Tax

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[12] *Now regulation 18 of the Income Tax Regulations, 2012*

INCOME TAX ORDINANCE, 2012
(Sections 81 and 82(4))

EXTRA-STATUTORY CONCESSION (GRATUITIES), 2011

In exercise of the power conferred upon me by section 58(1)(b) of the Income Tax Ordinance, 2009, and with the approval of the Governor in Council, I hereby make the following concession:

> Any sum paid before 31st March, 2012, under the Pensions Ordinance, Cap 150[13], by way of a gratuity in respect of a contract of service with the Government of St. Helena is to be treated as exempt from Income Tax.

Dated this 5th day of October, 2011

A T P Kilner
Deputy Commissioner of Income Tax

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[13] *Now the Pensions Ordinance, 2012*