



S.I. 87 of 1987

## BUSINESS TAX (INSTALMENT OF TAX) REGULATIONS

[1st January, 1988]

## ARRANGEMENT OF REGULATIONS

## Regulations

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| Citation   | <p><b>1.</b> These regulations may be cited as the Business Tax (Instalment of Tax) Regulations, 1987.</p>   |
| Assessment of provisional income   | <p><b>2.</b> (1) The Commissioner shall, from information in returns of income lodged by a business or person under this or the previous Act or from any other information in his possession, make an assessment of the provisional income of a business.</p> <p>(2) For the purpose of assisting the Commissioner in the making of an assessment under subregulation (1), a business which commences on or after the 1st January, 1988 shall, within 14 days after the date on which the business commences, furnish the Commissioner with a statement containing the following particulars -</p> <ul style="list-style-type: none"> <li>(a) the name of the business;</li> <li>(b) the date the business commenced;</li> <li>(c) the name and address of the owner of the business and where the owner is a partnership, the name and address of each of the partners in the partnership;</li> <li>(d) the nature of the activities of the business;</li> <li>(e) an estimate of the net income the business is expected to derive in the first tax year of its operation, and</li> <li>(f) such other information as may be prescribed or as the Commissioner may require.</li> </ul> |
| Assessment of provisional tax  | <p><b>3.</b> (1) The Commissioner shall, after making an assessment of the provisional income of a business under regulation 2 -</p> <ul style="list-style-type: none"> <li>(a) make an assessment of the amount of provisional tax payable by the owner of the business in respect of the provisional income, and</li> <li>(b) serve a notice of the assessment of the provisional income and provisional tax on the owner of the business.</li> </ul> <p>(2) The notice referred to in subregulation (1) (b) shall specify the amounts of the instalment of provisional tax payable by the owner of the business each month.</p>   |
| Amount of instalment of provisional tax and the time it is due and payable | <p><b>4.</b> (1) Subject to regulations 5 and 9, the amount payable by the owner of a business in a month as instalment of provisional tax is an amount equal to one-twelfth of the amount of provisional tax assessed under regulation 3.</p> <p>(2) Subject to regulations 5 and 9, an instalment of provisional tax shall be due at the end of each month and the owner of the business shall pay the instalment by the 15th day of the month following the month on which it becomes due, commencing on the 15th February, 1988.</p>   |
| Business with provisional income of less than R3000                        | <p><b>5.</b> Where the provisional income of a business assessed under regulation 2 is not more than R3000, the Commissioner may -</p> <ul style="list-style-type: none"> <li>(a) exempt the owner of the business from the requirement to pay instalment of provisional tax, or</li> </ul>  |

- (b) notwithstanding regulation 4, require the owner of the business to pay instalment of provisional tax in such a manner and at such time as the Commissioner may decide: Provided that the number of instalments of provisional tax which the Commissioner may require the owner of a business to pay for a provisional tax year shall not be less than 4.

Application for variation of provisional tax

6. (1) Subject to regulation 7, the owner of a business may, at any time, apply to the Commissioner for a variation of the tax assessed under regulation 3.

(2) An application under subregulation (1) shall be in writing and shall show -

- (a) the amount of provisional income (referred to in this regulation and regulation 8 as the "adjusted provisional income") the owner of the business estimates the business will derive during the provisional tax year;
- (b) the amount of provisional tax (referred to in this regulation and regulation 8 as the "adjusted provisional tax") due and payable on the adjusted provisional income; and
- (c) the basis on which the adjusted provisional income and the adjusted provisional tax have been calculated and arrived at.

(3) Where an application has been made under subregulation (1) the Commissioner-

- (a) may accept or reject the application, and
- (b) shall notify the owner of the business accordingly.

(4) A notice that an application has been accepted under subregulation (3) shall specify the amounts of instalment of provisional tax, calculated on the basis of the adjusted provisional income shown in the application under subregulation (1), payable by the owner of the business.

(5) The owner of the business shall pay the instalment of provisional tax referred to in subregulation (4) in accordance with regulation 4 (2).

Only one application for variation in a provisional tax year

7. The owner of the business may apply for a variation of provisional tax under regulation 6 only once in a provisional tax year.

Penalty for under - estimating provisional tax

8. (1) Where the Commissioner has accepted an application under regulation 6 (1) and the amount of adjusted provisional tax is less than the business tax assessed under Part V of the Act and payable by the owner of the business in respect of the period which corresponds to the period covered by the adjusted provisional tax, additional tax amounting to 20 per centum of the difference between the business tax and the adjusted provisional tax is payable by the owner of the business.

(2) Notwithstanding subregulation (1), the Commissioner may, for reasons which he thinks fit, remit the additional tax or any part thereof.

Commissioner may adjust instalment of provisional tax at any time

**9.** (1) The Commissioner may, having regard to information in returns of income lodged by a business or any other information in his possession, at any time where he has reason to believe that the amount of business tax that will be payable by the owner of the business in respect of the taxable income of the business derived by the business in a tax year is greater than the provisional tax, estimate the amount that, in his opinion, should have been the provisional income of the business and he shall, on the basis of the estimate, determine -

- (a) the amount of provisional tax payable by the owner of the business, and
- (b) the amount of the instalment of provisional tax payable by the owner of the business.

(2) Where the Commissioner has made a determination under subregulation (1), he shall notify the owner of the business in writing specifying the amounts of instalment of provisional tax payable by the owner of the business and the first instalment of provisional tax shall be payable on the 15th day of the month which immediately succeeds the month on which the notice was served on the owner of the business, unless the Commissioner allows otherwise.

Penalty for late payment of instalment of provisional tax

**10.** If an instalment of provisional tax remains unpaid after the time it becomes payable under these Regulations a penalty of 10 per centum of the unpaid instalment of provisional tax is payable and, in addition, additional tax shall be payable at the rate of 20 per centum per annum or part thereof on the amount of the instalment of provisional tax unpaid, computed from the date when the unpaid instalment becomes payable: Provided that the Commissioner may, in any particular case, for reasons that he considers sufficient, remit the penalty or additional tax or any part of the penalty or additional tax.

Application of instalment of provisional tax

**11.** In any assessment made in a tax year under Part V of the Act in respect of the taxable income of a business credit shall be allowed for the instalments of provisional tax paid in respect of that year and any excess of instalments of provisional tax paid shall be dealt with in the manner set out in section 100.

Certificate of Commissioner prima facie evidence

**12.** (1) A certificate under the hand of the Commissioner specifying -

- (a) the amount of provisional tax or instalment of provisional tax payable by the owner of a business;
- (b) the date on which the instalments of provisional tax is payable,
- (c) the fact that an instalment of provisional tax has been paid or is still owing, or
- (d) any other particulars relating to provisional tax or instalments of provisional tax,

is prima facie evidence of the contents of the certificate for any purpose under the Act or these Regulations.

(2) In this regulation, a reference to an instalment of provisional tax includes a reference to additional tax and penalty in terms of Part VII, Division 2 of the Act or these Regulations.

Offences  
S.I. 22 of 1990

**13.** A person who fails to comply with any regulation is guilty of an offence and liable to a fine of not less than R.1000 and not more than R.5000.

S.I.1 of 1990

BUSINESS TAX (DEDUCTION OF PROVISIONAL TAX AT SOURCE) REGULATIONS, 1990

[1st January, 1990]

ARRANGEMENT OF REGULATIONS

Regulations

1. Citation
2. Provisional tax to be deducted on payment for service
3. Provisional tax free payment
4. Liability to deduct provisional tax not abated by other right or obligation
5. Provisional tax deducted to be paid within prescribed time
6. Penalty for late payment of provisional tax
7. Personal liability to pay provisional tax
8. Credit for provisional tax deducted
9. Business to furnish commissioner with return
10. Registration of specified business
11. Certificate of Commissioner is prima facie evidence
12. Offence

Schedule

Citation  
and  
interpretation

**1.** (1) These Regulations may be cited as the Business Tax (Deduction of Provisional Tax at Source) Regulations.

(2) In these Regulations -

"Provisional Tax Deduction Book" means the book of certificates provided by the Commissioner to a specified business for the purposes of these Regulations;

"business" includes the Government and a public body;

"service" includes any type of work or service.

Provisional  
tax to be  
deducted on  
payment for  
service

**2.** (1) A business which pays a specified business for or in connection with services rendered by the specified business shall, subject to subregulation (2), deduct provisional tax on the gross amount paid to the specified business at the rate specified in the Schedule.

(2) The Commissioner may, in any particular case, -

(a) exempt a business from the obligation to deduct provisional tax under these Regulations;

(b) reduce the rate of provisional tax under these Regulations in respect of the gross amount paid to a specified business; or

(c) authorise a business -

(i) to record the deduction of; or

(ii) to remit,

provisional tax in a manner other than that specified in these Regulations.

Provisional  
tax free  
payment

**3.** (1) An agreement between a business liable to deduct provisional tax under these Regulations and a specified business whereby the business agrees to pay the specified business an amount expressed to be free of provisional tax shall be deemed to be an agreement providing for payment to the specified business of such an amount as, after deduction of provisional tax, would leave an amount equal to the amount paid to the specified business.

(2) Where subregulation (1) applies -

(a) the business liable to deduct provisional tax shall be deemed to have deducted provisional tax of an amount equal to the provisional tax which the business should have deducted on the amount which the business is deemed to have paid to the specified business under the subregulation, and

(b) the specified business shall be deemed to have received the amount which is deemed to have been paid to it under the subregulation.



- Liability to deduct provisional tax not abated by other right or obligation
- 4.** (1) The liability of a business liable to deduct provisional tax under these Regulations shall not be abated or extinguished by reason of -
- (a) the fact that the business has a right or is under another obligation to deduct any other amount from the amount to be paid, or deemed to be paid, to the specified business, or
  - (b) any written law which provides that the amount due to a specified business shall not be reduced or be subject to attachment or any deduction.
- (2) Where there is a right or obligation referred to in subregulation 1, the right or obligation shall, notwithstanding any other written law, only apply to the balance remaining after provisional tax has been deducted.
- Provisional tax deducted to be paid within prescribed time
- 5.** Provisional tax deducted under these Regulations shall -
- (a) be due when it is deducted and be payable to the Commissioner within 15 days after the date on which it was deducted or deemed to be deducted, and
  - (b) when it becomes due, be a debt due to the Government.
- Penalty for late payment of provisional tax
- 6.** (1) Subject to subregulation (2), if provisional tax deducted under these Regulations is not paid within the time prescribed in regulation 5 there is payable, in addition to any other penalty under the Act, -
- (a) a penalty of 10 per centum of the unpaid provisional tax, and
  - (b) additional tax at the rate of 20 per centum per annum or part thereof on the unpaid provisional tax, computed from the date when the provisional tax becomes payable.
- (2) The Commissioner may, in any particular case, remit the penalty or additional tax, or any part of the penalty or additional tax.
- Personal liability to pay provisional tax
- 7.** (1) Where a business which is liable to deduct provisional tax under these Regulations fails to deduct provisional tax, the business shall, in addition to any other penalty to which it may be liable, be liable to pay to the Commissioner, within the time prescribed for the payment of the provisional tax, the amount which it has failed to deduct.
- (2) Where a business which is liable to deduct provisional tax under these Regulations pays to the Commissioner the amount of provisional tax which it failed to deduct, the amount shall be deemed to have been deducted under these Regulations and the business may recover from the specified business the amount paid to the Commissioner.
- Credit for provisional tax deducted
- 8.** In any assessment made in a tax year under Part V of the Act in respect of the taxable income of a specified business credit shall be allowed for provisional tax deducted, or deemed to have been deducted, under these Regulations and if the amount of credit allowed exceeds the amount of tax payable by the owner of the business under the assessment the amount in excess shall be dealt with in the manner set out in section 100 of the Act.

Business to  
furnish  
commissioner  
with return

**9.** (1) A business shall, each time it is required to make a deduction of provisional tax under these Regulations -

- (a) require the specified business in respect of which the deduction is being made to provide it with its Provisional Tax Deduction Book and with the particulars necessary to complete the certificate referred to in paragraph (b);
- (b) complete, in the manner specified by the Commissioner, and sign, in quadruplicate, a certificate in the Provisional Tax Deduction Book of the specified business;
- (c) subject to regulation 10(7), detach the original and duplicate copy of the completed certificate from the Provisional Tax Deduction Book;
- (d) retain the original copy of the certificate for itself; and
- (e) when making payment of the provisional tax deducted to the commissioner, lodge with the payment the duplicate certificate.

(2) A specified business shall, on or before providing services to a business which is liable to deduct provisional tax under these Regulations -

- (a) complete, in the manner required by the Commissioner, the appropriate certificate of its Provisional Tax Deduction Book;
- (b) produce the Provisional Tax Deduction Book to the business, and
- (c) provide the business with any other particulars which it is required to provide to the business under these Regulations.

(3) Where a specified business fails to comply with subregulation (2), the business liable to deduct provisional tax shall report the failure to the Commissioner within three days after the specified business has provided the service.

Registration  
of specified  
business

**10.** (1) A specified business shall register with the Commissioner within 14 days of the date of the coming into force of these Regulations or, in the case of a specified business which commences business after the date of the coming into force of these Regulations, within 14 days of the date the specified business commences business.

(2) The Commissioner may refuse to register a business as a specified business under subregulation (1) where he is not satisfied that the business is a specified business.

(3) Where the Commissioner is of the opinion that a specified business which has been registered under subregulation (1) is no longer operating as a specified business, he may cancel the registration of the specified business and shall serve a notice of the cancellation on the specified business.

(4) Subject to subregulations (5), (6) and (7) a specified business shall, when all the certificates of its Provisional Tax Deduction Book for a tax year have been used, remove and retain the triplicate copy of the used certificates and deliver the book to the Commissioner.

(5) Subject to subregulation (7), a specified business which ceases to carry on business or the registration of which has been cancelled under this regulation shall, within 14 days of the date of cessation of business or the receipt of the notice of cancellation, as the case may be, remove and retain the triplicate copy of the used certificates of its Provisional Tax Deduction Book for the tax year and deliver the Book with the remaining unused and cancelled certificates therein to the Commissioner.

(6) Subject to subregulation (7), where, at 31st December of any year, a specified business has a Provisional Tax Deduction Book relating to a preceding tax year in its possession, the specified business shall remove and retain the triplicate copy of the used certificates and deliver the Provisional Tax Deduction Book with any remaining unused and cancelled certificates therein to the Commissioner by the 15th January next.

(7) A person or business shall not detach from a Provisional Tax Deduction Book any unused or cancelled certificate or any copy thereof or any quadruplicate copy of a certificate.

Certificate of  
Commissioner  
is prima facie  
evidence

**11.** A certificate under the hand of the Commissioner specifying any matter relating to the deduction, payment, collection, or recovery of provisional tax under these Regulations is *prima facie* evidence of the contents of the certificate for any purpose under the Act or these Regulations.

Offence

**12.** A business which fails to furnish any information or return under, or comply with any requirement of, these Regulations is guilty of an offence and liable to a fine of not less than R.1000 and not more than R.5000.

## SCHEDULE

(Reg.2)



**MINISTRY OF FINANCE  
BUSINESS TAX DIVISION  
IMPORTANT NOTICE TO ALL BUSINESS TAXPAYERS**

The Commissioner of Taxes wishes to inform all Business Taxpayers and the public in general of the changes which have taken place in the Business Tax Act 1987 (as amended). These changes relate specifically to the Business Tax (Deduction of Provisional Tax at Source) Regulations. Effective the 21<sup>st</sup> June 1999 the Sixth Schedule of the Business Tax Act has been amended and the new list is as follows:

<b>Specified business</b>	<b>Rates of Provisional Tax</b>
1. Blaster or Driller	10%
2. Blockmaker or Pillar Maker	10%
3. Cabinet Maker	10%
4. Carpenter or Upholsterer	10%
5. Electrician or Wireman	10%
6. Decorator, Sign Writer or Public Scribe	10%
7. Mason	10%
8. Painter, including a Spray Painter	10%
9. Plumber	10%
10. Roof Tiler	10%
11. Floor or Wall Tiler	10%
12. Labour Contractor	15%
13. Building contractor -	
(a) in relation to a building contract with the Seychelles Housing Development Corporation	2%
(b) in relation to any other contract	5%
14. Contractor providing cleaning services, including cleaning of buildings and offices	10%
15. Contractor providing services of clearing or improving land and landscaping	10%
16. Grass Cutter	10%
17. Maintenance contractor including those constructing or maintaining roads, bridges, or pathways	10%
18. Mechanic (motor vehicle, marine or refrigeration)	10%
19. Hirer or operator of plant, equipment or sea vessels	10%
20. Hirer or Operator of motor vehicle used for the transportation of goods	10%
21. Hirer or operator of equipment used for towing	10%
22. Contractor providing the service of repairing or installing electrical appliances including air conditioners and heaters	10%
23. Contractor providing the service of constructing, repairing or maintaining fibreglass products	10%
24. Performing artist, including disc jockey, but excluding a musician as defined in Section 2	

of the Act

10%

All specified Businesses who have not yet registered or who have not yet obtained a Provisional Tax (Deduction at Source) Certificate Book are required to do so immediately. Businesses which have been added to the list above and who are currently paying Provisional Tax by way of monthly instalments may wish to maintain such payments and request a certificate varying the rate of Provisional Tax (Deduction at Source) to a lower rate (or to Nil).

Provisional Tax Deducted at Source not paid within 15 days after the date on which it was deducted or deemed to be deducted is subject to a penalty of 10% of the unpaid amount + additional tax at the rate of 20% per annum on the unpaid amount computed from the date when the amount becomes payable.

**Commissioner of Taxes**