



**SEYCHELLES PETROLEUM (TAXATION)  
(AMENDMENT) ACT, 2013**

*(Act 6 of 2013)*

*I assent*

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

J. A. Michel  
President

*10th August, 2013*



**AN ACT to amend the Seychelles Petroleum (Taxation)  
Act, 2008.**

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

**1. This Act may be cited as the Seychelles Petroleum**      **Short title**  
**(Taxation) (Amendment) Act, 2013.**

Amendment  
of Act 23 of  
2008

2. The Seychelles Petroleum (Taxation) Act, 2008 is hereby amended as follows —

- (a) in section 3 by inserting between the definition of “Minister” and “party to a petroleum agreement” the following —

“operator” means a person designated by the parties to a petroleum agreement to be responsible for the conduct of the operations under the petroleum agreement;

“operating agreement” means an agreement between all parties to a petroleum agreement providing for carrying out of the operations under a petroleum agreement;

- (b) by inserting after section 5 the following new sections —

“Petroleum  
income tax

5A.(1) Where a person has an interest in more than one petroleum agreement, the petroleum income tax shall be charged separately for each of the petroleum agreement.

(2) The provisions relating to assessable income, taxable income and allowable loss, allowable deductions and special provisions in relation to assignments and sales shall apply to each of the petroleum agreement referred to in subsection (1).

Petroleum  
income tax  
in lieu of  
business tax

5B. The petroleum income tax charged under this Act shall be payable in lieu of Business Tax payable under the Business Tax Act 2009.”;

(c) in section 7 by repealing paragraph (d) (i) and (ii) in subsection (1) and renumbering paragraph (e) as paragraph (d);

(d) in section 8 —

(i) in subsection (2) by inserting after the word “work” where it appears the first and third time the words “related to exploration activity”;

(ii) by adding after subsection (5) the following new subsections —

“(6) Subsection (1)(a) shall apply to —

(a) a direct assignment of rights in a petroleum agreement by a person holding an interest in a petroleum agreement; or

(b) an indirect assignment of rights in a petroleum agreement leading to a substantial change in control of a person holding an interest in a petroleum agreement.

(7) A person seeking to effect a direct or indirect assignment in the manner referred to in subsection (6) shall for each assignment obtain prior written approval of the Minister.

(8) An amount or value of consideration in any assignment referred to in subsection (6) shall not be allocated as a sale of petroleum information under subsection (1)(b).

(9) For the purposes of this section, "substantial change in control" means the disposal of 10 per cent or more of the ownership or the voting rights, directly or indirectly, unless otherwise provided under a petroleum agreement.";

- (e) in section 10, by adding after subsection (3) the following new subsections —

"(4) The operator of a petroleum agreement shall provide a consolidated financial statement in respect of the petroleum agreement to the Controller and to each of the parties to the operating agreement within one month after the end of each tax year.

(5) The consolidated financial statement submitted under subsection (4) shall contain details of all operating expenditure, exploration expenditure, capital expenditure and any other expenditure incurred by the operator on behalf of the parties to the petroleum agreement during the relevant tax year.

(6) Each party to a petroleum agreement shall furnish a reconciliation statement reconciling the individual tax return and the consolidated financial statement referred to in subsection (4) when lodging the tax return for the tax year.";



(f) in section 14 —

- (i) by repealing in subsection (1) the brackets and words “(including expenditure of a capital nature)” and substituting therefor the brackets and words “(excluding expenditure of a capital nature as defined in the petroleum agreement)”;
- (ii) by repealing in subsection (1) (d) the words “that is prescribed, in relation to a person employed by the person for the purpose of carrying on such petroleum operations” and substituting therefor the words “for decommissioning as provided for under the petroleum agreement”;
- (iii) by repealing in subsection (2) the words “under the authority of a petroleum agreement” and substituting therefor the words “under a petroleum agreement and subject to the limitations set out in subsection (2A)”;
- (iv) by inserting after subsection (2) the following new subsection —

“(2A) Any interest incurred, provided that the loan or credit corresponds to the financing of allowable development capital expenditure under the petroleum agreement, up to a proportion of 75 per cent of the capital expenditure and the rate of interest does not exceed the market interest that would be payable under similar arm's length transactions, shall be deductible.”;

- (v) by adding after subsection (3) the following new subsections—

“(4) Pursuant to subsection (1)(a), an allowable exploration expenditure shall be deductible in the year it is incurred in respect of the petroleum agreement.

(5) The unsuccessful allowable exploration expenditure incurred by the person in respect of a petroleum agreement in Seychelles not deductible for petroleum income tax under that petroleum agreement, shall be deductible from the taxable income of a producing petroleum agreement, where the—

- (a) deduction is provided under the producing petroleum agreement, and
- (b) the concerned area is relinquished.

(6) For the purpose of this section “allowable exploration expenditure” means the exploration expenditures as defined in the petroleum agreement.”;

- (g) by inserting after section 14 the following new section—

“Depreciation  
of allowable  
capital  
expenditure

14A.(1) (a) Any allowable capital expenditure, except on buildings and transmission pipelines, shall be depreciated using a 5 year straight line method.

- (v) by adding after subsection (3) the following new subsections —

“(4) Pursuant to subsection (1)(a), an allowable exploration expenditure shall be deductible in the year it is incurred in respect of the petroleum agreement.

(5) The unsuccessful allowable exploration expenditure incurred by the person in respect of a petroleum agreement in Seychelles not deductible for petroleum income tax under that petroleum agreement, shall be deductible from the taxable income of a producing petroleum agreement, where the —

(a) deduction is provided under the producing petroleum agreement, and

(b) the concerned area is relinquished.

(6) For the purpose of this section “allowable exploration expenditure” means the exploration expenditures as defined in the petroleum agreement.”;

- (g) by inserting after section 14 the following new section —

“Depreciation  
of allowable  
capital  
expenditure

14A.(1) (a) Any allowable capital expenditure, except on buildings and transmission pipelines, shall be depreciated using a 5 year straight line method.

(b) Any allowable capital expenditure on transmission pipelines shall be depreciated using a 10 year straight line method.

(c) Any allowable capital expenditure on buildings shall be depreciated as prescribed under the Business Tax Act 2009.

(2) (a) The depreciation under this section shall commence from the date the capital expenditure incurred or from the date of the commencement of the commercial production from the field to which the capital expenditure relates, whichever is the latter in time.

(b) The depreciation in the first and last year shall be pro rata in correlation to the number of months the assets to which the capital expenditure relates was used for the commercial production during the tax year.”;

(h) in section 19—

(i) by repealing in subsection (1) the words and bracket “and (3)” and the words “of the person for the tax year” and substituting therefor the words “to be depreciated using a 10 year straight line method”;

(ii) by repealing subsection (2) and paragraphs (a), (b) and (c) thereof and substituting therefor the following subsection—



“(2) The deductions shall not be allowed under subsection (1) unless the Controller is satisfied that the amount or value of the consideration in money or money's worth for the assignment or sale has been brought to account in a tax year as assessable income accruing to the assignor or the seller concerned where petroleum income tax has been paid by the assignor or seller in respect of that assignment.”;

(iii) by repealing subsection (3);

(i) in section 20 by adding after subsection (2) the following new subsection —

“(3) Subject to section 5A, subsections (1) and (2) shall apply in respect of a specific petroleum agreement.”;

(j) by repealing Division 5 (sections 21, 22 and 23) - “Special Provisions in relation to assignments and sales.”

(k) by inserting after section 25 the following new section —

“Petroleum  
additional  
profits tax in  
respect of  
petroleum  
field

25A: The petroleum additional profits tax shall be assessed in respect of a petroleum field in accordance with the relevant petroleum agreement.”;

(l) by repealing section 27 and substituting therefor the following section —

"Tax return  
relating to  
petroleum  
income tax

27. Every assessable person in respect of a tax year shall furnish a tax return relating to petroleum income tax in respect of a petroleum agreement in the prescribed form to the Controller within 3 months after the end of the tax year.";

- (m) by inserting after section 27 the following new section —

"Separate  
tax returns

27A. A separate tax return shall be submitted by the person who has interest in more than one petroleum agreement for each of the petroleum agreement.";

- (n) by repealing section 28 and substituting therefor the following section —

"Tax return  
relating to  
petroleum  
additional  
profits tax

28. One or more persons having interest in the petroleum agreement shall jointly and severally furnish to the Controller a tax return relating to petroleum additional profits tax in the prescribed form within 3 months after the end of the tax year for each petroleum field under a petroleum agreement.";

- (o) by inserting after section 28 the following new section —

"Petroleum  
additional  
profits tax  
return by  
operator

28A.(1) The petroleum additional profits tax return shall be submitted by the operator of the operating agreement on behalf of all persons having an interest in the relevant petroleum field.

- (2) Where a petroleum agreement relates to more than one petroleum field, separate tax return shall be submitted in respect of each field.”;
- (p) in section 29 by repealing in subsections (2), and (3) the words “Seychelles Rupees” wherever they appear and substituting therefor the words “United States dollars”;
- (q) by repealing sections 30 to 40 and substituting therefor the following sections —

“Tax return  
by assignor

30.(1) Subject to the provision of this Act, where any direct assignment or indirect assignment leading to substantial change in control, the assignor shall submit a tax return within 30 days from the completion of the transaction determining the taxable income resulting from the assignment.

(2) When determining the taxable income of an assignment, the assignor shall deduct from the consideration, the un-depreciated allowable capital expenditure in respect of the interest so assigned and any costs or charges directly incurred for the assignment.

(3) The petroleum income tax shall be payable when submitting the tax return under subsection (1).

(4) Where the assignor assigns the entire interest, any loss incurred by the assignor from the activity under a petroleum agreement may be deductible from the taxable income under subsection (1).

Instalment  
payment

31.(1) A person shall pay the instalments of petroleum income tax and petroleum additional profits tax for tax year on the 21<sup>st</sup> day of April, July, October of the tax year and January of the following year.

(2) Any instalment referred to in subsection (1) shall be one fourth of the amount of petroleum income tax and petroleum additional profits tax estimated by the person payable for the tax year, at the date of payment.

(3) (a) A provisional tax return setting out the estimate shall be furnished not later than 21st day of the month in which the payment by instalment is required.

(b) An estimate referred to in paragraph (a) shall remain in force for the remainder of the tax year until a revised estimate is furnished to the Controller.

(4) (a) A revised estimate shall apply to the calculation of instalments of petroleum income tax and petroleum additional profits tax for a year.

(b) Any underpayment of instalment made prior to the revised estimates shall be paid by the person together with the first instalment due after the revised estimate is furnished.

(c) Any overpaid instalment shall be off set against future instalments of petroleum income tax or



petroleum additional profits tax, as the case may be.

(5) Each instalment of petroleum income tax or petroleum additional profits tax paid during a tax year is allowable as a tax credit against the petroleum income tax or petroleum additional profits tax, as the case may be, due for the tax year, where the amount of credit exceeds the petroleum income tax or petroleum additional profits tax, as the case may be, due for the tax year, the excess amount shall be refunded.

(6) Where the estimate or revised estimate furnished to the Controller is less than 90 per cent of the petroleum income tax or the petroleum additional profits tax payable for the year, a person shall be liable to a penalty equal to 10 per cent of the difference between an estimate or revised estimate and the petroleum income tax or petroleum additional profits tax payable for the year.

(7) Nothing in this section shall operate to prevent discharge of an obligation to pay any petroleum additional profits tax, by the delivery of petroleum where the Minister directs in writing under this subsection that payment shall be made in the manner provided for in the petroleum agreement.”;

- (r) by repealing sections 43 to 50 and substituting therefor the following section —

“Application of  
Revenue  
Administration  
Act

43. The Revenue Administration Act, 2009 shall apply to procedures relating to the administration of the petroleum income tax and the petroleum additional profits tax.”;

- (s) in section 53 by renumbering that section as subsection (1) of that section and by adding after subsection (1) so renumbered the following new subsections —

“(2) The Seychelles Petroleum (Taxation) (Amendment) Act, 2013 shall not apply to persons holding interest in the petroleum agreement prior to the commencement of that Act.

(3) The provisions of the Act referred to in subsection (2) may apply where a person holding an interest in the petroleum agreement notifies the Minister of his or her consent.”;

- (t) by adding after Part V the following new Part —

## PART VI - OTHER TAX PROVISIONS RELATED TO PETROLEUM OPERATIONS

### Division 1 – Exemptions

“Withholding  
tax

54. The withholding tax shall not be levied on the gross amount of dividends derived by a non-resident person holding an interest in a petroleum agreement.

Withholding  
tax not  
applicable to  
interest

55. Subject to section 14(2) and (2A), the withholding tax shall not be levied on the gross amount of interest derived by a non- resident on loans made to a person holding an interest in a petroleum agreement.

Exemption of  
Duties

56. Where a petroleum agreement so provides, any importation or exportation for carrying out petroleum operations shall be exempt from customs duties.

#### Division 2 – Taxation on non- resident contractors and subcontractors

Withholding  
tax payable  
due to a non-  
resident  
contractor or  
sub  
contractor

57.(1) A person liable to make payment due to a non-resident contractor or subcontractor in connection with petroleum operations related to a petroleum agreement shall retain a withholding tax of 7 per cent on the gross amount of fees payable in respect of services performed in Seychelles or overseas.

(2) The withholding tax referred to in subsection (1) shall be remitted to the Controller by the person paying the fees.

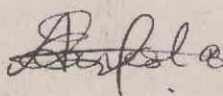
(3) Where the person referred to in subsection (2) fails to remit the withholding tax on behalf of the non-resident contractor or subcontractor within 21 days after the end of the month in which the payment is made, the person shall be—

- (a) personally liable to pay the withholding tax;

- (b) liable for additional tax and interest for the failure to pay the withholding tax on the due date;
- (c) disallowed any deductions for the expenditure to which the failure relates;
- (d) liable for any legal action.

(4) Where the withholding tax has been paid under subsection (1), the non-resident contractor or sub-contractor shall not be liable for any other withholding tax or business tax in Seychelles.”.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 30th July, 2013.



Azarel Ernesta  
Clerk to the National Assembly