

**INCOME TAX ORDINANCE, CAP A7**

AN ORDINANCE TO PROVIDE FOR THE ADMINISTRATION, LEVYING AND  
COLLECTION OF INCOME TAX.

*Amended by Ord 10/2011*

**Commencement**

[12 December, 2001]

**Citation**

1. This Ordinance may be cited as the Income Tax Ordinance, Cap A7.

**PART I - Preliminary****Interpretation**

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

“**body of persons**” means any body politic, corporate or collegiate and any company, fraternity, fellowship, or society of persons whether corporate or not corporate;

“**chargeable income**” has the meaning given in section 7;

“**Commissioner**” means the Commissioner appointed under section 3, and includes an Assistant Commissioner and any other officer appointed under that section;

“**company**” means any company incorporated or registered under any law in force in Ascension; and any company which, though incorporated or registered outside Ascension, carries on business, or has an office or place of business therein;

“**the Court**” means the Ascension Magistrates’ Court;

“**incapacitated person**” means any person who lacks legal capacity to manage his own affairs;

“**income arising in or derived from Ascension**” has the meaning given in section 6;

“**married woman**” includes a common law wife where it is proved to the satisfaction of the Commissioner that the relationship is not merely a temporary liaison;

“**person**” (except in Schedule II) includes a body of persons;

“**public body**” means any statutory corporation;

“**return**” has the meaning given in section 16(3);

“**ship**” means any British ship registered in Ascension and any other ship owned, hired, or chartered by or on behalf of the company holding the contract for the management of the R.M.S. St. Helena, St. Helena Line Limited or the Government of Ascension or St. Helena;

“**tax**” means income tax imposed by this Ordinance;

“**taxable income**” has the meaning given in section 6;

“**year of assessment**” means the period of 12 months commencing on the first day of April in any year. Provided that the first year of assessment under this Ordinance shall commence on the 1 April 2002.

### **Appointment of Commissioner and other officers**

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

(2) The Governor may, by notice in the Gazette, appoint such number of Assistant Commissioners of Income Tax as appear to him 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 may be necessary to facilitate the due administration of this Ordinance.

### **Confidential information**

4. (1) Every person having any official duty under or being employed in the administration of this Ordinance shall regard and deal with all documents and information relating to the income or items of the income of any person, as confidential, and shall make and subscribe a declaration to that effect in the prescribed form before a Commissioner for Oaths.

(2) Every 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—

(a) other than a person to whom he is authorised by the Governor to communicate it; or

(b) otherwise than for the purposes of this Ordinance,

shall be guilty of an offence against this Ordinance.

(3) No person appointed under or employed in carrying out the provisions of this Ordinance shall be 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 his notice in the performance of his duties under this Ordinance, except as may be necessary for the purpose of carrying into effect the provisions of this Ordinance, or in order to institute a prosecution, or in the cause of a prosecution for any offence committed in relation to income tax.

(4) Notwithstanding anything contained in this section the Commissioner may permit the Auditor or any officer duly authorized in that behalf by him to have such access to any records or documents as may be necessary for the performance of his official duties; but the Auditor or any such officer shall thereupon be deemed (for the purpose of this section) to be a person employed in carrying out the provisions of this Ordinance.

(5) Where, under any law in force in any part of Her Majesty's Dominions or in any place under Her Majesty's protection, provision is made for the allowance of relief from income tax in respect of income tax paid in Ascension, the obligation as to secrecy imposed by this section shall not prevent the disclosure to the authorised officers of the Government in that part of Her Majesty's Dominions or in that place under Her Majesty's protection of such facts as may be necessary to enable the proper relief to be given.

### **Income Tax**

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

(2) Income Tax shall, subject to the provisions of this Ordinance, be payable in every year of assessment upon the chargeable income of any person for that year.

(3) Tax shall be charged at the rate or rates from time to time approved by the Governor by notice published in the Gazette.

## PART II - Taxable Income and Chargeable Income

### **Taxable Income**

6. (1) The taxable income of a person in any year of assessment shall be the total amount of his income arising in or derived from Ascension from the following sources—

- (a) Any office or employment;
- (b) Any pension;
- (c) In that year of assessment from or in respect of the sources mentioned in Part A of Schedule I;
- (d) In the previous year of assessment from any of the sources mentioned in Part B of Schedule I.

(2) For the purposes of this section income is derived from Ascension if such income, from whatever source or wherever paid, relates to any office or employment on Ascension; and employment includes any work performed or services rendered under a contract for services.

(3) The Provisions of Schedule I shall have effect for describing the several types and sources of income which are taxable under this Ordinance, and for prescribing the rules to be applied in calculating the amount of such income.

### **Chargeable Income**

7. (1) The chargeable income of any person in any year of assessment shall be the amount of his taxable income less the allowances (if any) which he claims and to which he is found to be entitled.

(2) Schedule II shall have effect for the purpose of prescribing the allowances which may be deducted from a person's taxable income in order to calculate his chargeable income, and for prescribing the circumstances in which such allowances may be made.

(3) The rates or amounts of the said allowances shall, except where they are stated in Schedule II, be such rates or amounts as may be approved from time to time by resolution made by the Governor.

### **Exempt income**

8. Notwithstanding anything herein contained to the contrary, there shall be excluded from the taxable income of any person, any income received by him of a type or from a source described in Schedule III.

**Transfer of allowances**

9. (1) Where married or common law partners are a part of the same household, any unused personal allowances, or parts thereof, of one partner may be claimed by the other partner.

(2) A dependant child allowance is claimable firstly by a child's mother, but where such allowance, or part thereof, is not claimed by the child's mother, it, or such part thereof as the case may be, may be claimed by any person or persons upon whom such child is dependent.

**PART III - Trustees, Agents, Partnerships, Etc****Chargeability of trustees, etc.**

10. 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 shall be assessable to tax in the name of such incapacitated person in like manner and to the like amount as such person would be assessable if he were not an incapacitated person.

**Acts, etc., to be done by trustees, etc.**

11. The person who is assessable in respect of an incapacitated person shall be answerable for all matters required to be done by virtue of this Ordinance for the assessment of the income of any person for whom he acts, and for paying the tax assessable thereon.

**Manager of bodies of persons**

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

**Indemnification of representative**

13. Every person answerable under this Ordinance for the payment of tax on behalf of another person may retain out of any money coming to his hands on behalf of such other person so much thereof as shall be sufficient to pay such tax; and shall be and is hereby indemnified against any person whatsoever for all payments made by him in pursuance or by virtue of this Ordinance.

**Deceased persons**

**14.** The liability of any person to pay tax shall not be prejudiced or affected by his death; and the personal representative of every deceased person shall be liable to and charged with the payment (out of the assets of the estate) of any tax which such deceased person would have been liable to pay if he had not died, and shall be answerable for doing such acts, matters and things as such person if he were alive would be liable to do under this Ordinance.

**Partnerships**

**15.** Where a trade, business, profession or vocation is carried on by two or more persons jointly—

- (a) the income of any partner from the partnership, in any period of time, shall be deemed to be the share to which he was entitled during such period from the income of the partnership and shall be included in the return of income to be made by such partner under the provisions of this Ordinance;
- (b) the partners shall be 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 the provisions of this Ordinance;
- (c) the provisions of this Ordinance with respect to failure to deliver returns or particulars in accordance with a notice from the Commissioner shall apply to any return required under this section.

**PART IV - Administration & Collection****Notices of chargeability and returns**

**16. (1)** The Commissioner may, by notice in writing require any person to supply to the Commissioner, within such reasonable time as may be specified in the notice, such particulars as that person may possess concerning matters of which the Commissioner needs to be aware for the purposes of the due administration of this Ordinance.

**(2)** Without prejudice to the generality of subsection (1), the matters about which the Commissioner may require information to be supplied to him under that subsection include—

- (a) the income of the person to whom the notice is addressed, or of any person in respect of whose income such first mentioned person is or may be assessable under any of the provisions of this Ordinance;

- (b) any fact or circumstance affecting the entitlement of any person to any of the allowances mentioned in Schedule II; and
- (c) any sums paid or to be paid by the person to whom such notice is addressed, being sums which are or may be liable to tax in the hands of the recipient thereof, together with the name and address of each recipient of any such sum.

(3) Information supplied to the Commissioner in accordance with a requirement made by him under this section shall be known as a 'Return', which expression shall include all information so supplied, irrespective of the form in which (or the manner by which) it is given to the Commissioner.

(4) Every person liable to pay tax in any year of assessment, who has not been required (under subsection (1)) within three months after the end of such year of assessment to make a return of his income for that year, shall, within 14 days after the expiration of that period, give notice to the Commissioner that he is so liable

(5) The Commissioner may give notice in writing to any person when and as often as he thinks necessary requiring him to furnish, within a reasonable time specified in such notice, fuller or further returns respecting any matter as to which a return is required or prescribed by this Ordinance.

(6) Any person who fails or neglects to give such notice or to furnish such return or particulars shall be guilty of an offence against this Ordinance.

#### **Power of Commissioner to call for returns, etc.**

17. (1) For the purpose of obtaining fuller information in respect of any person's income, the Commissioner may give notice to such person (or any person liable under any of the provisions of this Ordinance to be assessed in respect of that person's income) requiring him within such reasonable time as may be specified in such notice to attend personally before the Commissioner and to produce for examination any books, documents, accounts or other records which the Commissioner may deem necessary.

(2) Any person who without reasonable excuse fails or neglects to comply with a notice under subsection (1) shall be guilty of an offence under this Ordinance.

#### **Returns to be deemed to be furnished by due authority**

18. A return, statement or form purporting to be furnished under this Ordinance by or on behalf of any person shall for all purposes be deemed to have been furnished by that person or by his authority, as the case may be, unless the contrary is proved, and any person signing any such return, statement or form shall be deemed to be cognizant of all matters therein.

**Books of account**

**19. (1)** If a person liable to pay tax fails or refuses to keep books or accounts which, in the opinion of the Commissioner are adequate for the purposes of the tax, the Commissioner may by notice in writing require him to keep such records, books and accounts.

**(2)** Any person who wilfully fails to comply with a notice issued under this section within three months of the service of the notice shall be guilty of an offence, and liable on summary conviction—

- (a) to a fine not exceeding £250 plus £10 for each day during which such non-compliance continues; or
- (b) to imprisonment for a term not exceeding three months.

**Official information and official secrecy**

**20.** The Commissioner may require any officer in the employment of the Government or any other public body to supply such particulars as may be required for the purposes of this Ordinance and which may be in the possession of such officer; provided that no such officer shall by virtue of this section be obliged to disclose any particulars as to which he is under any statutory obligation to observe secrecy (but nothing in this proviso or in section 13 of the St. Helena Savings Bank Ordinance, shall prevent the manager of the Savings Bank or any person acting under his authority from complying with a requirement made under this section provided that the requirement is in connection with interest payments only).

**Signature of notices**

**21.** Every notice to be given by the Commissioner under this Ordinance shall be signed by the Commissioner or by some person or persons from time to time appointed by him for that purpose, and every such notice shall be valid if the signature of the Commissioner or of such person or persons is duly printed or written thereon.

**Service of notices**

**22.** Notices under this Ordinance may be served upon a person either personally or by being sent by registered post to his last known business or private address, and shall in the latter case be deemed to have been served on the second day after the day on which the notice would have been received in the ordinary course by post, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.



**Commissioner to make assessments**

**23. (1)** The Commissioner shall proceed to assess every person liable to pay tax as soon as may be after the expiration of the time allowed to such person for the delivery of his return.

**(2)** Where a person has delivered a return the Commissioner may—

- (a) accept the return and make an assessment accordingly; or
- (b) refuse to accept the return and to the best of his judgement, determine the amount of the chargeable income of the person and assess him accordingly.

**(3)** Where a person has not delivered a return and the Commissioner is of the opinion that such person is liable to pay tax, the Commissioner may, according to the best of his judgement, determine the amount of the chargeable income of such person and assess him accordingly, but such assessment shall not affect any liability otherwise incurred by such person by reason of his failure or neglect to deliver a return.

**Additional assessments**

**24.** Where it appears to the Commissioner that any person liable to pay tax has not been assessed or has been assessed at a less amount than that which ought to have been charged, the Commissioner may (within the year of assessment in which such liability occurs, or within six years after the expiration thereof) assess such person at such amount or additional amount as, according to his judgement, ought to have been charged and the provisions of this Ordinance as to notice of assessment, appeal and other proceedings under this Ordinance shall apply to such assessment or additional assessment and to the tax charged thereunder.

**Notices of assessment**

**25.** The Commissioner shall cause to be served on each person who is assessed to pay tax a notice stating the amount of his chargeable income and the amount of tax payable by him, and informing him of his rights under section 26.

**Revised assessments**

**26. (1)** If any person disputes an assessment made upon him he may apply to the Commissioner, by notice of objection in writing, to review the assessment made upon him.

**(2)** Every notice of objection shall state precisely the grounds of the objections to the assessment and shall be made within 15 days from the date of

the service of the notice of assessment; provided that the Commissioner, upon being satisfied that, owing to absence from Ascension, sickness, or other reasonable cause, the person disputing the assessment was prevented from giving the notice within such period, shall extend such period by such additional time as may be reasonable in the circumstances.

(3) On receipt of a notice of objection, the Commissioner may require the person giving the notice of objection to furnish such particulars as the Commissioner may deem necessary with respect to the income of the person assessed and to produce all books or other documents in his custody or under his control relating to such income; and may summon any person who has or whom he believes to have knowledge of any such matter to attend before him and may examine such person on oath or otherwise.

(4) In the event of any person assessed, who has objected to an assessment made upon him, agreeing with the Commissioner as to the amount at which he is liable to be assessed, the assessment shall be amended accordingly, and notice of the tax payable shall be served upon such person.

#### **Errors, etc., in assessments and notices**

27. (1) No objection shall be taken to any assessment, warrant or other proceeding made or purporting to be made in accordance with the provisions of this Ordinance for want of form or by reason of any mistake, defect or omission therein, if the same 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 thereby is designated therein accordingly to common intent and understanding.

(2) An assessment shall not be impeached or affected by reason of a mistake therein as to—

- (a) the name or surname of any person; or
- (b) the description of any income; or
- (c) the amount of tax charged.

#### **Time within which payment is to be made**

28. Subject to section 29, tax shall be payable within 30 days after the service of a notice of assessment under section 25 (or a notice under section 26(4) or 38(6)); provided that the Commissioner may in his discretion and subject to such conditions as he may think fit to impose, extend the time within which payment is to be made.

**P.A.Y.E. Scheme**

**29. (1)** Notwithstanding anything herein contained to the contrary, every employer, on making payment of emoluments taxable under part A of Schedule I, shall deduct income tax from each such payment in accordance with the provisions of this Ordinance and any Rules made hereunder.

**(2)** Any person aggrieved by a determination and levy of tax under the foregoing provisions of this section, may appeal in conformity with the provisions of this Ordinance relating to appeals, and such appeals shall be conducted as if they were appeals from assessment under those provisions, and the necessary modifications and adaptations of the provisions shall be made accordingly.

**Penalty for non-payment of tax**

**30.** If any tax is not paid within the period prescribed in section 28—

- (a)** a penalty, being a sum equal to one fifth of the amount of the tax payable, shall be added thereto, and the provisions of this Ordinance relating to the collection and recovery of tax shall apply to the collection and recovery of such penalty;
- (b)** the Commissioner shall serve a demand note upon the person assessed, and if payment is not made 30 days from the date of the service of such demand note, the Commissioner may proceed to enforce payment thereof as hereafter provided.

**Procedure as to enforcement of payment**

**31.** The provisions contained in Schedule IV to this Ordinance shall apply to the enforcement of payment of Income Tax.

**Procedure in cases where objection or appeal is pending**

**32.** Collection of tax shall in cases where notice of an objection or an appeal has been given remain in abeyance until such objection or appeal is determined; provided that the Commissioner may in any such case enforce payment of that portion of the tax (if any) which is not in dispute.

**Suit for tax by Commissioner**

**33. (1)** Tax may be recovered, as a civil debt due to the Government of Ascension, by suit taken before the Court in the name of the Commissioner.

**(2)** Notwithstanding any limitations on the jurisdiction of the Magistrates' Court, any suit for the recovery of income tax and any penalty claimed to be due as the result of non-payment of such tax may be heard and

determined by the Magistrates' Court irrespective of the amount of income tax and penalty for which the suit is brought.

### **Recovery of tax from persons leaving Ascension**

**34.** If in any particular case the Commissioner has reason to believe that a person who has been assessed to tax may leave Ascension before such tax becomes payable under the provisions of section 28, without having paid such tax, he may by notice in writing to such person demand payment of such tax within a time to be limited in such notice; and such tax shall thereupon be payable at the expiration of the time so limited and shall in default of payment, unless security for payment thereof be given to the satisfaction of the Commissioner, be recovered forthwith in accordance with the provisions of this Ordinance in that behalf.

### **Deduction of tax from official pension**

**35. (1)** Where any official pension is payable to any person, deductions on account of tax which is or will be payable by him for any year of assessment may be made out of the pension or any arrears thereof; provided that where any such deduction has been made from the pension of any person, he shall have the same right of objection or appeal against the deduction as he has against an assessment made upon him.

**(2)** Deductions authorised by this section shall be made at such times in each year as the payments on account of the pension are made, whether or not the tax has been assessed, so however that if on assessment it appears that the deductions made exceed the tax payable, the amount overpaid by means of the previous deductions shall be repaid.

**(3)** If and so far as any official pension is paid without such deduction of tax as aforesaid, the tax may be collected and payment thereof enforced as provided by this Ordinance.

**(4)** For the purpose of this section, “**official pension**” means any pensions which are payable out of the revenue of the Government of Ascension, whether by general or special appropriation.

### **Power of Commissioner to remit penalty**

**36.** The Commissioner may remit the whole or any part of a penalty imposed under the provisions of section 30, if he is satisfied that the failure to comply with the provisions of this Ordinance was due to causes beyond the taxpayer's control, or to any other good or sufficient reason.

**Repayment of tax**

**37. (1)** If it be proved to the satisfaction of the Commissioner that any person for any year of assessment has paid tax, by deduction or otherwise, in excess of the amount with which he is properly chargeable, such person shall be entitled to have the amount of that excess refunded.

**(2)** Every claim for repayment under this section shall be made within two years from the end of the year of assessment to which the claim relates.

**PART V - Appeals****Appeals against assessments**

**38. (1)** Any person who, being aggrieved by an assessment made upon him, has failed to agree with the Commissioner in the manner provided in section 26(4), may appeal against the assessment to the Court upon giving notice in writing to the Commissioner within 15 days from the date of the refusal of the Commissioner to amend the assessment as desired:

Provided that, notwithstanding the lapse of such period of 15 days, any person may appeal against the said assessment if he shows to the satisfaction of the Court that, owing to absence from Ascension, sickness or other reasonable cause he was prevented from giving notice of appeal within such period, and that there has been no unreasonable delay on his part.

**(2)** Every person appealing shall attend before the Court in person on the day and at the time fixed for the hearing of his appeal:

Provided always that if it be proved to the satisfaction of the Court that owing to absence from Ascension, sickness, or other reasonable cause, any person is prevented from attending in person at the hearing of his appeal on the day and at the time fixed for that purpose, the Court may postpone the hearing of the appeal for such reasonable time as it thinks necessary for the attendance of the appellant, or it may admit the appeal to be made by any agent, clerk or servant of the appellant, on his behalf.

**(3)** Seven clear days' notice of the date fixed for the hearing of the appeal shall, unless rules made hereunder otherwise provide, be given to the Commissioner and to the appellant.

**(4)** The onus of proving that the assessment complained of is excessive shall be on the appellant.

(5) If the Court is satisfied that the assessment is in error, the Court shall order that the assessment be amended in such manner (either by way of reduction or increase) as may be necessary to bring the same into conformity with the provisions of this Ordinance.

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

(7) All appeals shall be heard in camera, unless the Court shall, on application of the appellant, otherwise direct.

(8) The cost of the appeal shall be in the discretion of the Court hearing the appeal.

## PART VI - Supplemental

### **Penalties for offences**

39. Any person guilty of an offence against this Ordinance for which no other penalty is prescribed shall be liable on summary conviction to a fine not exceeding £500 or to imprisonment for a term not exceeding six months, or to both.

### **False statements and returns**

40. Any person who—

- (a) for the purpose of obtaining any deduction, rebate, reduction or repayment in respect of tax for himself or for any other person, in any return, account or particulars made or furnished with reference to tax, knowingly makes any false statement or false representations; or
- (b) aids, abets, assists, counsels, incites or induces another person—
  - (i) to make or deliver any false return or statement under this Ordinance; or
  - (ii) to make or prepare any false accounts or particulars concerning any income on which tax is payable under this Ordinance,

shall be liable on summary conviction to a fine not exceeding £500 or to imprisonment for a term not exceeding 12 months, or to both.

**Tax to be payable notwithstanding any proceedings**

**41.** The institution of proceedings, or the imposition of a penalty, fine or term of imprisonment under this Ordinance shall not relieve any person from liability to pay any tax for which he is or may be liable.

**Saving for criminal proceedings**

**42.** The provisions of this Ordinance shall not affect any criminal proceedings under any other Ordinance or Law.

**Rules**

**43. (1)** The Governor may—

- (a) remit, wholly or in part, the tax payable by any person, if he is satisfied that it is just and equitable to do so:

Provided that it shall be lawful for the Governor to delegate his power under this paragraph to the Commissioner, either generally or subject to specific conditions, or in specified circumstances;

- (b) from time to time make rules generally for carrying out the provisions of this Ordinance and may, in particular, by those rules provide—

- (i) for the forms to be used for the purposes of this Ordinance;
- (ii) any matters which are authorised by this Ordinance to be prescribed;
- (iii) any matter for which rules are necessary or desirable for the purpose of giving effect to the provisions of section 29, 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;

- (c) authorise the Commissioner—

(i) 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

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

**(2)** If any person fails to comply with or contravenes the provisions of any rule made under this Ordinance he shall be guilty of an offence against this Ordinance.

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**SCHEDULE I**

(Section 6)

**PART A — INCOME FROM EMPLOYMENT****Income From Employment**

1. The income taxable under this Part comprises a person's gains or profits from any employment, including any monetary allowances granted in respect of employment; but any taxable income arising under this paragraph which is paid after the 1st April in any year in respect of the immediately preceding year of assessment shall be deemed to be taxable income accruing in that preceding year of assessment.

**Benefits in kind**

2. (1) Where in any year of assessment a person is employed and by reason of his employment—

- (a) there is allowed to him or paid to him any sum as a benefit which, apart from this paragraph, is not treated as his taxable income; or
- (b) there is provided for him, or for others being members of his family or household, any benefit to which a monetary value can be applied,

then all or any of such benefits shall be evaluated in cash terms and he shall be deemed to be in receipt of taxable income of an amount equal to the value of the benefits so received.

(2) For the purposes of subparagraph (1) 'benefit' is confined to any benefit which relates only to the provision of accommodation and meals.

**PART B - PROFITS OF A TRADE OR BUSINESS****Profits of business**

1. The income taxable under this part comprises a person's gains or profits from any trade, business, profession or vocation which may have been carried on or exercised by him.

**Special accounting periods**

2. Where the Commissioner is satisfied that any person usually makes up the accounts of his trade or business on some day other than that immediately

preceding any year of assessment, the Commissioner may permit the gains or profits of that trade or business to be computed for the purposes of this Ordinance upon the income of the year terminating on that day in the year immediately preceding the year of assessment on which the accounts of the said trade or business have been usually made up:

Provided that, where permission has been so given for any year of assessment, tax shall be charged, levied and collected for each subsequent year of assessment upon the gains or profits for the full year terminating on the like date in the year immediately preceding the year of assessment, subject to any such adjustment as, in the opinion of the Commissioner, may be just and reasonable.

### **Trade losses**

3. Where the amount of a loss incurred in any year of assessment in any trade, business, profession or vocation carried on by any person either solely or in partnership is such that it cannot be wholly set off against his income from other sources for the same year, the amount of such loss shall to the extent to which it is not allowed against his income from other sources for the same year be carried forward and shall be set off against what would otherwise have been his chargeable income for the next five years in succession.

## **PART C - General Deductions**

### **Allowable deductions**

1. For the purpose of ascertaining the taxable income of any person engaged in a trade, business, profession or vocation there shall be deducted all outgoings and expenses wholly and exclusively incurred by such person in the production of the income, including—

- (a) sums payable by such person by way of interest upon any money borrowed by him, where 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 by him for the purpose of acquiring the income;
- (c) any sum expended for repair of premises, plant and machinery employed in acquiring the income, or for the renewal, repair or alteration of any implement, utensil or article so employed;
- (d) such other deductions as may be prescribed by any regulation made under this Ordinance.

**Rules**

2. The Governor may by rules provide for the method of calculating or estimating the deductions allowed or prescribed under this Part of this Schedule.

**Wear and tear allowance**

3. In ascertaining the taxable income of any person engaged in a trade, business, profession or vocation, there shall be allowed as a deduction a reasonable amount for the exhaustion, wear and tear of property owned by him, including plant and machinery, arising out of the use or employment of such property in the trade, business, profession or vocation during the year immediately preceding the year of assessment.

**Non-permissible deductions**

4. For the purpose of ascertaining the taxable income of any person engaged in a trade, business, profession or vocation no deduction shall be allowed in respect of—

- (a) domestic or private expenses;
- (b) any disbursements or expenses not being money wholly and exclusively laid out or expended for the purpose of acquiring the income;
- (c) any capital withdrawn or any sum employed or intended to be employed as capital;
- (d) any capital employed in improvements;
- (e) any sum expended which has been recovered under insurance or contract of indemnity;
- (f) rent of or cost of repairs to any premises or part of premises not paid or incurred for the purpose of producing the income.

**SCHEDULE II**

(Section 7)

**ALLOWANCE A—PERSONAL ALLOWANCE**

1. A Personal Allowance shall be granted in each year of assessment to every person who has any taxable income in that year. Where married or common law partners are a part of the same household any unused personal allowances, or parts thereof, of one partner may be claimed by the other partner:

Provided that, if a person has a continuous period of employment of less than 12 months, the personal allowance in any tax year will be multiplied by the fraction  $A/B$  where A is the number of days in the tax year in question spent on Ascension and B is the total number of days in the tax year in question. (*Ord 10/2011*)

**ALLOWANCE B—DEPENDANT CHILD ALLOWANCE**

1. A Dependant Child Allowance shall be granted to every person who establishes to the satisfaction of the Commissioner that (during the year of assessment for which his chargeable income is being calculated) he maintains a dependant child.

2. “**Dependant child**” means a young person who has not attained the age of 18 years at the commencement of the year of assessment and who is—

- (1) wholly dependent on the claimant taxpayer; and
- (2) not gainfully employed in any capacity; and
- (3) is, during that year, either—
  - (a) in his legal care and custody; or
  - (b) an illegitimate child, of whom he is the putative father, in the legal care and custody of someone else.

3. If two or more persons contribute to the care of one child it shall be permissible for each such person to claim a part of the allowance, proportionate to their respective contributions to the care of the child; but otherwise only one person may claim the allowance in respect of any one child.

4. Where the conditions mentioned in paragraph 2 are satisfied for only part of a year of assessment, the appropriate proportion of the Allowance may be granted.

#### ALLOWANCE C—DEPENDANTS ALLOWANCE

1. A Dependant's Allowance shall, upon such proof as the Commissioner may require, be granted to every person whom the Commissioner is satisfied is (in the year of assessment for which his chargeable income is being calculated) responsible for the maintenance of a Dependant, other than a Dependant Child.

2. **“Dependant”** means any person who—

- (1) Through age or disability was unable to undertake gainful employment; and
- (2) Was not in receipt of any pension, dividend, interest, social welfare payment, or other income exceeding £1700 in the year of assessment; and
- (3) Is wholly dependent upon the claimant taxpayer.

3. Where the conditions mentioned in paragraph 2 are satisfied for only part of a year of assessment, the appropriate proportion of the Allowance may be granted.

#### ALLOWANCE D—LIFE ASSURANCE

1. A Life Assurance Allowance shall be granted to every person who (in the year of assessment for which his chargeable income is being calculated) pays a premium on a qualifying policy.

2. A qualifying policy is a life assurance policy secured upon the life of the claimant or the life of his wife; being a policy for a period of at least ten years, under which the capital sum payable on death or maturity is not less than 75 per cent of the total premiums paid.

3. The allowance shall be the actual amount of the premium paid up to a maximum of £30 per annum, or the sum of £30 if the amount of the premium paid exceeds £30 per annum.

## ALLOWANCE E—SUPERANNUATION

1. A superannuation allowance shall be granted to every person who pays (during the year of assessment for which his chargeable income is being calculated) contributions to any superannuation scheme approved by the Commissioner.
2. The allowance shall be an amount equal to the total of all sums paid by the claimant (by deduction or otherwise) in respect of such contributions.

**SCHEDULE III**

(Section 8)

There shall be exempt from tax—

- (a) the official emoluments received by the Officer Administering the Government and any Crown Servants employed in right of the Government of the United Kingdom;
  - (b) the income of any statutory or registered friendly or co-operative society;
  - (c) the income of any ecclesiastical, charitable or educational institution of a public character in so far as such income is not derived from a trade or business carried on by such institution;
  - (d) wound and disability pensions granted to members of Her Majesty's Forces;
  - (e) the income of the Government Savings Bank;
  - (f) income arising from a scholarship (which expression includes 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; provided that nothing in this paragraph shall be construed to exempt in the hands of the recipients any dividends, interests, bonuses, salaries or wages paid wholly or in part out of income so exempted;
  - (g) any sum received by way of gratuity in respect of employment under a contract of service on Ascension;
  - (h) income arising as interest earned on monies deposited with the Government Saving Bank;
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- (i) the official emoluments received by United States nationals employed on Ascension in accordance with Article XII of the Bahamas Long Range Proving Ground Agreement of 25<sup>th</sup> June 1956.

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## SCHEDULE IV

(Section 31)

### PROVISIONS FOR ENFORCEMENT OF INCOME TAX

#### Enforcement of payment of tax

1. (1) Subject to subparagraph (2), if any person fails to pay any sum legally demanded from him in respect of tax within 21 days of the last date for payment thereof, the payment of that sum may be enforced by distress and sale of his goods and chattels under warrant issued by a Magistrates' Court; and, if there is insufficient distress, he may be liable to imprisonment under the provisions of this Schedule.

(2) Where the tax payable by any person in respect of any parcel is payable by instalments, that tax shall be recoverable only to the extent of each respectively of those instalments as and when it falls due.

#### Applications for warrant of distress

2. (1) Proceedings for the issue of a warrant of distress may be instituted by making complaint before a Justice of the Peace and applying for a summons requiring the person named in the complaint to appear before a Magistrates' Court to show why he has not paid the tax specified in the complaint.

(2) 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 upon him a reasonable time before the time appointed for the hearing, the Magistrates' Court may either—

- (a) proceed to hear the complaint in his absence; or
- (b) issue a warrant for his arrest.

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

**Execution of warrant of distress**

3. A warrant of distress may be directed to the Commissioner and to such other persons, if any, as the Magistrates' Court issuing the warrant may think fit, and the warrant shall 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 his goods and chattels.

**Costs of obtaining warrant of distress**

4. (1) The Magistrates' Court issuing a warrant of distress under this Schedule may, if it thinks fit, include in the warrant an order that such sum as it may deem reasonable for the costs incurred in obtaining the warrant shall be levied under the warrant.

(2) A warrant of distress may provide that the costs and charges attending the distress shall be levied under the warrant.

**Imprisonment in default of sufficiency of distress**

5. (1) If the person charged with the execution of a warrant of distress makes a return to the Magistrates' Court to the effect that he could find no goods or chattels (or no sufficient goods or chattels) on which to levy the sums directed to be levied under the warrant, the Magistrates' Court may, if it thinks fit, issue a warrant of commitment against the person, against whose goods the warrant of distress was issued.

(2) The order in the warrant of commitment shall be that the said person be imprisoned for a time therein specified, not exceeding six months, unless the sums mentioned in the warrant be sooner paid.

**Inquiry as to means**

6. (1) Paragraph 5 of this Schedule shall have effect subject to the following provisions—

- (a) on the application for the issue of a warrant of commitment of any person, the Magistrates' Court shall make inquiry in his presence as to whether his failure to pay the sum which he was liable to pay in respect of tax and in respect of which the warrant of distress was issued was due either to his wilful refusal or to his culpable neglect;
- (b) if the Magistrates' Court is of the opinion that the failure of the said person to pay the said sum was not due either to his wilful refusal or to his culpable neglect, it shall not issued a warrant of commitment.



(2) Where no warrant of commitment is issued, the Magistrates' Court may remit the payment of any sum to which the application relates, or of any part of the sum.

(3) Where no warrant of commitment is issued, the application for such a warrant may be renewed (except in respect of any sum the payment of which has been remitted under subparagraph (2)) on the ground that the circumstances of the person to whom the application relates have changed.

(4) A statement in writing to the effect that wages or salary of any specified amount have been paid to a person during any specified period, purporting to be signed by or on behalf of his employer, shall be evidence of the facts therein stated in any proceeding before a Magistrate's Court under this Part against that person.

### **Warrant to secure attendance for means inquiry**

7. (1) For the purpose of enabling inquiry to be made under paragraph 6 of this Schedule in the presence of any person in relation to whom a return of insufficiency of distress had been made, a Justice of the Peace may issue a summons to that person to attend before the Magistrates' Court; and, if he fails to attend in answer to the said summons, the Magistrates' Court may (upon being satisfied that the said summons was duly served upon that person a reasonable period before the time named therein for his attendance) issue a warrant for his arrest.

(2) Where a warrant is issued under this paragraph, then, if the sum in respect of which the warrant was issued is sooner paid to the police officer holding the warrant, the warrant shall be executed.

### **Abatement of proceedings on payment of tax**

8. If, after proceedings have been begun against a person to compel payment of any tax for which he is liable, but not after he has been imprisoned in default of sufficiency of distress, that 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), the payment shall be accepted and no further proceedings shall be taken for the recovery thereof.

**[The remainder of this page is intentionally blank;**

**Tax (PAYE) begin on the next page]**

**INCOME TAX (P.A.Y.E.) RULES, CAP A7**

[Legal Notice A1 of 2002]

**Commencement**

[11 January 2002]

**Citation**

1. These rules may be cited as the Income Tax (P.A.Y.E.) Rules, Cap A7.

**Interpretation**

2. In these rules—

“**registered employer**” means an employer registered under rule 3;

“**remuneration**” means taxable income of the kind referred to in section 29 (1) of the Ordinance;

“**Tax**” means the income tax payable on remuneration.

**Registration of employers**

3. (1) Every person who pays or becomes liable to pay any remuneration to any employee shall, within the time specified in subrule (2), register with the Commissioner by completing and filing the appropriate form provided by the Commissioner for the purpose.

- (2) The time referred to in subrule (1) is 30 days from the commencement of these rules; or, in the case of every person who becomes an employer after such commencement, within 30 days from the last day of the month in which he became an employer.

- (3) Every employer who changes his registered business address or ceases to be an employer shall notify such change of address or that he has ceased to be an employer to the Commissioner within 30 days of such change of address or ceasing to be an employer.

**P.A.Y.E. Tables**

4. For the purpose of ascertaining and determining the amount of tax to be levied and deducted by the employers under section 29 of the Ordinance the Commissioner shall issue to each registered employer Tax Tables bearing his official seal, hereinafter referred to as “P.A.Y.E. Tax Tables”.

**Deduction of tax by registered employers**

5. (1) Every registered employer shall deduct, from remuneration paid by him, an amount of tax in accordance with the P.A.Y.E. Tax Tables issued to him by the Commissioner.

- (2) Where during any year an employee receives remuneration from more than one employment, the tax to be deducted in respect of each such employment shall be such amount as the Commissioner may direct.

- (3) Every person shall on ceasing to be an employee or on the commencement of employment furnish a declaration to the Commissioner in such form as may be provided for the purpose.

- (4) Every employee, who is not ordinarily resident or is temporarily resident in Ascension, shall furnish the Commissioner with a declaration of his expected duration of residence in Ascension.

(5) The P.A.Y.E. Tax Tables shall be in such form as to enable an employer to ascertain the amount of tax to be deducted from any remuneration paid by him.

(6) The Commissioner shall from time to time issue such instructions as he may deem necessary as to the mode and manner of the use of the Tax Tables.

#### **Power to deduct larger amounts**

6. (1) Every employer, at the written request of any employee and with the sanction of the Commissioner, may deduct from the remuneration payable to such employee, tax greater than the tax deduction under the Tax Tables.

(2) Where in relation to a year of assessment any employee is of the opinion that the amount of tax required to be deducted by his employer under the Tax Tables, during that year will be substantially greater than the amount properly payable by him in that year, he may apply to the Commissioner for the issue of a direction to his employer, and the Commissioner may, on being satisfied of the merits of the application of the employee, issue such directions to the employer relating to the deductions to be made from such employee, as he may deem fit.

(3) A request made by an employee under subrule (1) or a direction under subrule (2) may be withdrawn by notice in writing to the employer and upon such withdrawal the employer shall make tax deductions in accordance with the Tax Tables.

#### **Tax deducted to be remitted to Commissioner**

7. All tax deducted by an employer from the remuneration of employees shall be remitted to the Commissioner not later than the 15<sup>th</sup> day of the month immediately following the month in which such deductions were made.

#### **“Tax free” payments**

8. Any agreement by an employer to pay any remuneration to an employee free of tax shall be deemed to be an agreement to pay such remuneration as, after deduction of tax in accordance with the provisions of the Ordinance and these rules, would produce a net payment to the employee of the amount specified in the agreement; and the provisions of the Ordinance and of these rules shall be applied accordingly.

#### **Certificate of tax deducted**

9. (1) Every employer who has deducted tax from the remuneration of his employees in any year of assessment shall within the time specified in subrule (2) furnish to every employee to whom remuneration has been paid, a certificate, in the form provided for the purpose, which shall show—

- (a) the total remuneration paid to the employee; and
- (b) the total tax deducted from such remuneration.

(2) The certificate referred to in subrule (1) shall specify the period of employment to which it relates and shall be furnished to the employee or former employee—

- (a) where the employer has not ceased to be an employer in relation to that employee, within one month after the end of that year of assessment;
- (b) where 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) where the employer has ceased to be an employer in relation to all employees, within one month after the date on which he ceased to be an employer.

(3) Any employee who has not received a certificate within the time specified in subrule (2) may apply to the employer forthwith for such certificate to be furnished and in the event of such certificate not being furnished within a further period of 15 days he shall notify the Commissioner of such failure by the employer to furnish the certificate.

(4) The certificate to be furnished under this rule by an employer to an employee may be delivered—

(a) by hand to such employee or his authorised agent;

(b) by registered letter addressed to that employee at his usual or last known postal address; or

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

(5) In the event of inability to deliver a certificate in the manner prescribed by subrule (1), the employer shall retain such certificate and forward it to the Commissioner with the Return required under rule 13.

(6) In addition to the annual certificate referred to in subrule (1), on every occasion upon which a payment of remuneration is made to an employee from which tax is deducted under these Rules, the employer shall furnish to the employee particulars of the total remuneration payable for the pay period and of the amount of tax deducted therefrom.

### **Employer's personal liability**

**10. (1)** Where an employer fails to deduct any tax under rule 5, he shall, in addition to any penalty for which he may be liable, be personally liable to pay to the Commissioner within the time specified in rule 7 the amount which he has failed to deduct.

(2) Where an employer pays to the Commissioner the amount of tax which he failed to deduct, such amount shall be deemed to have been deducted under these rules.

(3) Nothing in these rules shall prevent the employer recovering from the employee any amount paid to the Commissioner under subrule (2).

(4) Where in relation to any payment of remuneration an employer has failed to deduct tax under rule 5, but the Commissioner is satisfied that the tax deducted under these rules from earlier or later payments of remuneration is sufficient to meet the amount of tax which he has failed to deduct, the Commissioner may absolve the employer from his liability under subrule (1).

(5) Where the Commissioner is of the opinion that any amount of tax which has been included on a certificate under rule 9 has not been deducted by the employer with the knowledge and connivance of the employee, the employer and the employee shall be jointly and severally liable to pay to the Commissioner the amount which has been not deducted and such amount shall be recoverable under the Ordinance; but where the Commissioner is satisfied that the employee alone was responsible for the incorrect amount being shown on the certificate under rule 9 the employer shall be absolved from liability under this subrule.

(6) Where it is proved to the satisfaction of the Commissioner that any amount of tax has been deducted from the remuneration of any employee, notwithstanding that the employer has failed to pay such amount to the Commissioner, no action shall be taken by the Commissioner for the recovery thereof from that employee.

**Employers to keep records**

**11.** Every employer shall, in respect of each of his employees maintain a record showing in relation to each year of assessment, the amounts of—

- (a) the remuneration accrued to that employee; and
- (b) tax deducted from such remuneration, and such records shall be kept available for examination, by the Commissioner as and when required.

**Returns to be made by employers**

**12.** Every employer shall, when making any payment to the Commissioner under these rules, furnish a return showing the amount of tax deducted and remitted.

**Annual returns**

**13. (1)** Every employer shall, in respect of each year of assessment—

- (a) within one month after the end of the year; or
- (b) where he ceased to be an employer during that year, within 15 days after such cessation; or
- (c) within such further time as the Commissioner may allow,

furnish to the Commissioner a Return showing the total amount of tax deducted by him in respect of all his employees during that year and the total payments of such tax made to the Commissioner.

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 shall be required to account to the Commissioner for such deficiency.

**Income Tax (Declaration of Secrecy) Rules, CAP A7**

[Legal Notice A2 of 2002]

**Commencement**

[11 January 2002]

**Citation**

- 1. These rules may be cited as the Income Tax (Declaration of Secrecy) Rules, Cap A7.

**Prescribed form**

- 2. The declaration required to be made under section 4(1) of the Ordinance shall be in the following form—

THE INCOME TAX ORDINANCE

Section 4

**DECLARATION**

I ..... hereby declare that I have read and understand the provisions of Section 4 of the Income Tax Ordinance Cap A7. In particular, I understand that I may not disclose any information received by me in the course of my duties in connection with Income Tax.

Signed .....

Declared before me this .....day of ....., 20.....

.....

Commissioner of Oaths

## ASCENSION

## INCOME TAX ORDINANCE, CAP. A7

## INCOME TAX EXTRA-STATUTORY CONCESSION (SHORT TERM BUSINESS VISITORS), 2014

In exercise of the powers conferred by section 43(1)(c) of the Income Tax Ordinance, Cap. A7, and having been authorised to do so by the Governor, I hereby make and publish the following Extra-Statutory Concession:

**Short Term Business Visitors**

Any person visiting Ascension for business purposes for a period of seven days or less, shall not be liable to pay income tax during such period, provided they hold a valid Short Term Business Permit for such period.

Made this 30<sup>th</sup> day of July 2014.

Ms Catherine Leo  
Commissioner of Income Tax

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