

INCOME TAX ACT

Act 16 of 1995 – 1 July 1996

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INCOME TAX ACT

EDITORIAL NOTE: The words "Class B Banking Licence" have been replaced by the words "Category 2 Banking Licence" wherever they appear, by s. 14 (ab) of Act 20 of 2002; the words "Commissioner" and "Commissioner of Income Tax" have been replaced by the word "Director-General" wherever they appear, by s. 27 (10) (t) of Act 33 of 2004 w.e.f. 1 July 2006.

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Income Tax Act.

2. Interpretation

In this Act—

"absentee" means—

- (a) an individual who is, at the relevant time, not in Mauritius;
- (b) a company which does not have a permanent place of business in Mauritius at which it carries on business in its own name; or
- (c) a company not incorporated in Mauritius which is declared by the Director-General to be an absentee by notice given to that company or to its agent in Mauritius;

"accounting year", in sections 50B, 50C and 50D, means a period of 12 months ending with the date of the annual balance of the accounts of a company;

"agent" includes a person deemed by section 81, 82, or 83 to be an agent;

"allowable deduction" means—

- (a) in the case of an individual, any expenditure, loss or allowance which is deductible under Sub-part B of Part III; or
- (b) in any other case, any expenditure, loss, or allowance which is deductible under Sub-part C of Part IV,

for the purpose of ascertaining net income;

"appropriate retiring age" has the meaning assigned to it in section 23;

"approved investment trust company" means a public company, approved by the Director-General, the principal objects of which are to invest in the securities of companies generally;

"approved return date" means a date approved by the Director-General under section 118;

"APS" means the Advance Payment System referred to in Sub-part AA of Part IV;

"APS quarter" means the quarter referred to in section 50B;

“associate” includes a general partner or a limited partner of a limited partnership;

“authorised mutual fund” means a collective investment scheme under the Securities Act;

“Authority” means the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act;

“base value” means the cost to the owner of any fixed asset or other capital expenditure incurred for the production of gross income after deducting therefrom any amount allowed by way of annual allowance;

“benevolent association” means an association registered under the Registration of Associations Act, being an association whose main activity is to provide benefits during sickness or infirmity, or in old age, or in widowhood or for orphans;

“Board” has the same meaning as in the Mauritius Revenue Authority Act;

“body of persons” means any body corporate or unincorporate;

“business” includes any trade, profession, vocation or occupation, manufacture or undertaking, or any other income earning activity carried on with a view to profit;

“chargeable income” means—

- (a) for the purposes of section 107, the amount of income ascertained in accordance with that section;
- (b) for the purposes of Sub-part C of Part VIII—
 - (i) in the case of an individual, the amount remaining after deducting from the net income the income exemption threshold to which that individual is entitled; and
 - (ii) in any other case, the net income;

“charitable institution” means an institution approved by the Director-General, the objects of which—

- (a) are of a public character;
- (b) do not yield any profits to its members;
- (c) are exclusively—
 - (i) the advancement of religion;
 - (ii) the advancement of education;
 - (iii) the relief of poverty, sickness, and disability;
 - (iv) the protection of the environment;
 - (v) the advancement of human rights and fundamental freedoms;or

(vi) the promotion of any other public object beneficial to the community; and

(d) are to be carried out in Mauritius or elsewhere;

“charitable trust” has the same meaning as in the Trusts Act;

“child”, in section 27, means—

(a) an unmarried child, stepchild or adopted child of a person;

(b) an unmarried child whose guardianship or custody is entrusted to the person by virtue of any other enactment or of an order of a Court of competent jurisdiction;

(c) an unmarried child placed in foster care of the person by virtue of an order of a Court of competent jurisdiction;

“CIS manager” means a person holding a CIS manager licence under the Securities Act;

“collective investment scheme” has the same meaning as in the Securities Act;

“company”—

(a) means a body corporate, other than a local authority, incorporated in Mauritius or elsewhere; and

(b) includes a non-resident *société*, a trust or a trustee of a unit trust scheme; but

(c) does not include a Land Area Management Unit;

“consideration” means the price in money or money’s worth paid or given in return for any benefit;

“CPS” means the Current Payment System;

“CPS quarter” means the quarter specified in section 106;

“credit”, in relation to foreign tax, means the amount deductible from income tax under section 77;

“Current Payment System” means the system of payment of income tax referred to in Sub-part B of Part VIII;

“deep sea international trade” means any trade, excluding fishing, carried out outside the territorial waters of Mauritius;

“Director-General” means the Director-General of the Authority;

“disabled person” means a person suffering from permanent disablement;

“disincorporation”, in sections 16 and 56, means the transfer of all the assets and liabilities of a company to the persons who were shareholders of that company;

“dividends” –

- (a) means a distribution authorised by the Board of Directors of a company and made out of the retained earnings of the company, after having made good any accumulated losses at the beginning of its accounting period, either in cash or in shares to its shareholders; and
- (b) includes a distribution under sections 45 (3), 45A (4) and 46 (4); but
- (c) does not include interest deemed to be dividends under section 84 and a benefit referred to in section 86A;

“emoluments” –

- (a) means any advantage in money or in money’s worth referred to in section 10 (1) (a); and
- (b) includes –
 - (i) remuneration to the holder of any office and fees payable to the director of a company;
 - (ii) an allowance under the National Assembly Allowances Act or a pension under the National Assembly (Retiring Allowances) Act;
 - (iii) remuneration payable to a Mayor, Chairperson of a District Council or Chairperson of a Village Council under the Local Government Act;
 - (iv) an allowance payable to an apprentice;
 - (v) an allowance under the Rodrigues Regional Assembly (Allowances and Privileges) Act;

“employee” means a person who receives or is entitled to receive emoluments;

“employees’ share scheme” means a scheme or fund established for the benefit of the employees of an employer under the Companies Act;

“employer” –

- (a) means a person responsible for the payment of emoluments; and
- (b) includes an agent of that person; but
- (c) does not include a person employing only household employees;

“equity fund” means an equity fund approved by the Financial Services Commission established under the Financial Services Act;

“exempt income” means any income specified in the Second Schedule;

“exempt person” means an employee whose emoluments do not exceed 20,800 rupees per month;

“foreign source income” –

- (a) means income which is not derived from Mauritius; and

- (b) includes—
- (i) in the case of a corporation holding a Category 1 Global Business Licence under the Financial Services Act, income derived from its transactions with non-residents or corporations holding a Global Business Licence under the Financial Services Act; and
 - (ii) in the case of a bank holding a banking licence under the Banking Act, income derived from its banking transactions with—
 - (A) non-residents; or
 - (B) corporations holding a Global Business Licence under the Financial Services Act;

“foreign tax” means a tax, of a similar character to income tax, imposed by the laws of a foreign country;

“foreign vessel”, in relation to item 9 of Sub-part C of the Second Schedule, means a ship registered in Mauritius and owned by—

- (a) a body corporate incorporated in Mauritius which is not under the effective control of citizens of Mauritius; or
- (b) a body corporate which is incorporated outside Mauritius;

“Government securities” has the same meaning as in the Public Debt Management Act;

“gross”, in relation to an amount, means without any deduction from that amount;

“gross income” means—

- (a) the aggregate amount of all income—
 - (i) in the case of an individual, specified in Sub-part A of Part III; or
 - (ii) in any other case, specified in Sub-part B of Part IV, other than exempt income; or
- (b) the amount of income derived from a particular source without any deduction from that amount;

“hotel” means any building in which—

- (a) not less than 9 bedrooms appropriately furnished together with necessary amenities are set apart for letting; and
- (b) one or more rooms are set apart and structurally built or adapted and appropriately furnished for the preparation and sale to residents of food and drinks for consumption;

“household employee” means any person employed by a person, other than a company, *société*, trust, trustee, or other body of persons, to work in his private dwelling and the grounds attached thereto and includes a driver;

“ICT company” –

- (a) means a company deriving at least 75 per cent of its gross income from information and communication services as defined in the Information and Communication Technologies Act; but
- (b) does not include public paid or mobile telecommunication network and service including value added services and mobile internet;

“income tax” –

- (a) means the income tax imposed by section 4; and
- (b) includes –
 - (i) –
 - (ii) the levy imposed by Sub-part AB or Sub-part AC of Part IV;
 - (iia) the CSR charge under Sub-part AD of Part IV;
 - (iib) the one-off charge on turnover and book profit under section 50M;
 - (iic) –
 - (iii) any penalty or interest imposed under this Act; but
- (c) does not include any fine;

“income year”, in relation to the income of any person, means the year in which that income is derived by him;

“incorporation”, in sections 16 and 56, means the transfer to a company of all the assets and liabilities of a business in consideration of the issue of shares in that company;

“industrial premises” means any building or structure, including any extension thereto, used –

- (a) for the purposes of a trade –
 - (i) carried on in a mill, factory or other similar premises;
 - (ii) consisting of the manufacture of goods or materials, or the subjection of goods or materials to any process; or
 - (iii) consisting of the storage of goods or materials which are to be used in the manufacture of other goods or materials or are to be subjected, in the course of a trade, to any process;
- (b) for the purposes of a transport, dock or electricity undertaking;
- (c) for the purposes of a hotel;
- (d) for the provision of education or training;
- (e) for the purposes of operating an aerodrome;
- (f) for the welfare of workers employed in a trade or undertaking specified in paragraphs (a) to (e);

but does not include—

- (i) any building or structure in use as, or part of, a dwelling house or used for any purpose ancillary to the purposes of a dwelling house; or
- (ii) any land, tree, plant, garden or earthworks;

“Land Area Management Unit” has the same meaning as in the Farmers Service Corporation Act;

“lease” means a tenancy of any duration, whether in writing or otherwise, and includes a sublease or a contract of hire;

“limited partnership” means a limited partnership registered under the Limited Partnerships Act;

“listed company” means a company the securities of which are listed on a securities exchange;

“local authority” has the same meaning as in the Local Government Act;

“loss”, in sections 20 and 59, means the amount of the deficit where the allowable deductions exceed the gross income in an income year;

“manufacture” —

- (a) means the transformation of materials or semi-processed materials into finished or semi-finished goods; and
- (b) includes the assembly of parts into a piece of machinery or equipment or other product;

“manufacturing company” —

- (a) means a company which derives at least 75 per cent of its gross income from manufacturing activities in Mauritius; but
- (b) does not include—
 - (i) a company engaged in the manufacture of alcoholic drinks or cigarettes and other tobacco products; or
 - (ii) a company engaged in carrying on the business of restaurant;

“mineral” includes oil, clay, stone, gravel or sand;

“Minister” means the Minister to whom responsibility for the subject of finance is assigned;

“net income” means the aggregate amount remaining after deducting all allowable deductions from the gross income;

“non-citizen” means an individual who is not a citizen of Mauritius;

“non-resident” —

- (a) for the purposes of sections 6 (4) (b), 161A (1) (g) and items 4 and 5 of Sub-part B of Part II of the Second Schedule, and the

Income Tax (Foreign Tax Credit) Regulations 1996 in so far as they apply to a bank holding a banking licence under the Banking Act—

- (i) in the case of an individual, means a person—
 - (A) whose permanent place of abode is outside Mauritius; and
 - (B) who is outside Mauritius at the time the services are supplied;
- (ii) in the case of any other person—
 - (A) means a person whose centre of economic interest is located outside Mauritius; and
 - (B) includes a company incorporated in Mauritius in so far as its banking transactions carried out through a permanent establishment outside Mauritius are concerned; but
 - (C) does not include a company incorporated outside Mauritius in so far as its banking transactions carried out through a permanent establishment in Mauritius are concerned;

(b) in any other case, means a person who is not resident in Mauritius;

“non-resident trader” means a person who, being in Mauritius, carries on business in Mauritius but has no permanent place of business or abode in Mauritius;

“officer” has the same meaning as in the Mauritius Revenue Authority Act;

“other income earning activity” means any activity from which income of a kind specified under section 10 (1) (c), (d), or 10 (3) is derived;

“owner”, in relation to a foreign vessel, has the same meaning as in the Merchant Shipping Act;

“pay” means pay, distribute, transfer, credit or deal with in the interest or on behalf of any person and whether in money or money’s worth;

“PAYE” means the Pay As You Earn (PAYE) System referred to in Sub-part A of Part VIII;

“person” shall be deemed to include a trust;

“planter”, for the purposes of—

- (a) items 1 and 2 of Sub-part C of Part II of the Second Schedule, means any person or group of persons growing sugar cane in one or more factory areas and includes any person acting as manager for that person or group of persons; and
- (b) section 59 (3), means any person or group of persons, other than an individual, engaged wholly or mainly in the growing of sugar cane in one or more factory areas;

“premises” includes land or buildings;

“qualified auditor” has the same meaning as in the Companies Act;

“registered owner”, in relation to items 8 and 9 of Part I of the Second Schedule, means a person who has been registered as the owner of a ship under the Merchant Shipping Act;

“related company” has the meaning assigned to it in section 2 (2) of the Companies Act;

“relative”, in relation to a person, means any other person connected with him by—

- (a) blood relationship as parent, grandparent, brother, sister, or brother or sister of a parent, nephew, niece, or descendant;
- (b) marriage, as his spouse or the spouse of a person married to that other person or to a person specified in paragraph (a);
- (c) adoption, as his child or as a child of a person specified in paragraph (a) other than the adopted child of his nephew or niece; or
- (d) natural relationship, through a mother who has acknowledged her child;

“rent” includes any premium or other consideration for a lease;

“resident” has the meaning assigned to it in section 73;

“retiring allowance” means a lump sum payment by way of a bonus, gratuity or other allowance in respect of the full-time employment of a person made on the occasion of his retirement from that employment;

“return date” means the last day of the period for which a return of income is required to be made;

“royalty” means payment of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trademark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience;

“securities”, in item 1 of Part IV of the Second Schedule, has the same meaning as in the Securities Act but does not include Treasury Bills and Bank of Mauritius Bills;

“sell” includes transfer;

“share”—

- (a) in relation to a company, includes an interest in the capital of the company; and
- (b) in relation to a collective investment scheme, means an interest in the scheme as defined in the Securities Act;

“shareholder” includes a member of a company whether or not the capital of that company is divided into shares and, in sections 84, 85 and 86, includes a person by whom or on whose behalf shares in the company have at any time been held;

“société” —

- (a) means a *société* formed under any enactment in Mauritius; and
- (b) includes—
 - (i) a *société de fait* or a *société en participation*;
 - (iA) a limited partnership;
 - (ii) a joint venture; or
 - (iii) a *société* or partnership formed under the law of a foreign country;

“*société commerciale*” means a *société commerciale* within the meaning of article 18 of the Code de Commerce;

“*société de secours mutuels*” means an association registered under the Registration of Associations Act, whose main activity is to provide welfare benefits;

“solidarity levy” means the solidarity levy imposed under the Value Added Tax Act;

“stock exchange” means a securities exchange licensed under the Securities Act;

“superannuation fund” —

- (a) means a fund or scheme which is set up for the benefit of the employees of an employer and is licensed or authorised under the Private Pension Schemes Act; and
- (b) includes such other fund or scheme as may be prescribed;

“Tax Account Number” means the Tax Account Number (TAN) allotted to a person for the purposes of sections 99A to 105A;

“tax avoidance” includes, directly or indirectly—

- (a) altering the incidence of income tax;
- (b) relieving any person from liability to pay income tax; and
- (c) avoiding, reducing, or postponing any liability to pay income tax;

“taxpayer”, in relation to an income year, means a person having a chargeable income for that income year, whether on his own account or as an agent;

“trade” means any trade, adventure, or concern in the nature of trade;

“trade union” means a trade union of employees registered under the Employment Relations Act;

“trust” means a trust recognised under the laws of Mauritius;

“trustee”, in relation to a unit trust scheme, means the person holding property as trustee in relation to the scheme;

“unit”, in relation to unit trust scheme, means a unit into which the beneficial interest of the Unit Trust Fund for the scheme is divided;

“Unit Trust Fund” means the fund comprising the income and other property held by the trustee for the scheme;

“unit trust scheme” has the same meaning as “unit trust” in the Securities Act;

“unit holder” means a person who holds a unit in a unit trust scheme;

“venture capital fund” means a venture capital fund approved by the Minister;

“year” means a period of 12 months commencing on 1 January;

“year of assessment” means the year in and for which tax is payable under section 4.

[S. 2 amended by s. 72 (2) (a) of Act 14 of 2001 w.e.f. 1 December 2001; s. 35 (3) (a) of Act 20 of 2001 w.e.f. 17 September 2001; s. 11 (a) of Act 23 of 2001 w.e.f. the income year commencing on 1 July 2000, the income year commencing on 1 July 2001 and on 11 August 2001; s. 14 (a) of Act 20 of 2002 w.e.f. 1 July 2002; s. 9 (a) of Act 18 of 2003 w.e.f. 8 October 2002, the income year commencing on 1 July 2003 and the year of assessment of commencing on 1 July 2003; s. 27 (10) (a) of Act 33 of 2004 w.e.f. 1 July 2006; s. 11 (a) of Act 28 of 2004 w.e.f. 1 July 2004; s. 19 (a) of Act 14 of 2005 w.e.f. 1 July 2006; s. 156 (3) of Act 22 of 2005 w.e.f. 28 September 2007; s. 18 (a) of Act 15 of 2006 w.e.f. 1 July 2006; s. 17 (a) of Act 17 of 2007 w.e.f. 1 July 2007, 22 August 2007 and 1 July 2008; s. 15 (a) of Act 18 of 2008 w.e.f. 1 July 2008; s. 21 (a) of Act 14 of 2009 w.e.f. 30 July 2009; s. 9 (a) of Act 10 of 2010 w.e.f. 1 January 2011; s. 13 (a) of Act 20 of 2011 w.e.f. 1 January 2011; s. 82 (1) of Act 28 of 2011 w.e.f. 15 December 2011; s. 8 (a) of Act 37 of 2011 w.e.f. 5 November 2011; 15 December 2011; s. 57 (2) of Act 15 of 2012 w.e.f. 1 November 2012; s. 12 (a) of Act 26 of 2012 w.e.f. 1 November 2012; 1 January 2013.]

3. Application of Act

Sub-part A of Part VIII, Part XI, sections 123 and 154 (1) shall bind the State.

PART II – LIABILITY TO INCOME TAX

4. Imposition of tax

Subject to this Act, income tax shall, in and for every year—

- (a) be paid to the Director-General by every person on all income, other than exempt income, derived by him during the preceding year; and
- (b) be calculated on the chargeable income of the person at the rate specified in the First Schedule.

[S. 4 repealed and replaced by s. 18 (b) of Act 15 of 2006, in so far as it relates to individuals, w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 in respect of every subsequent income year; and in so far as it relates to companies, 1 July 2007 in respect of the year of assessment commencing 1 July 2007 and in respect of every subsequent year of assessment; amended by s. 17 (b) of Act 17 of 2007 w.e.f. 1 July 2007 in so far as it relates to individuals; w.e.f. 1 July 2008 in so far as it relates to companies.]

5. Derivation of income

(1) Income shall be deemed to be derived by a person where—

- (a) the income was derived from Mauritius, whether the person was resident in Mauritius or elsewhere; or

- (b) the income was derived at a time when the person was resident in Mauritius, whether the income was derived from Mauritius or elsewhere.

(2) Subject to this Act, income shall be deemed to be derived by a person when—

- (a) it has been earned or has accrued; or
- (b) it has been dealt with in his interest or on his behalf, whether or not it has become due or receivable.

(3) Income derived by an individual from outside Mauritius shall be deemed to be derived by the individual when—

- (a) it is received in Mauritius by him or on his behalf; or
- (b) it is dealt with in Mauritius in his interest or on his behalf.

[S. 5 amended by s. 17 (c) of Act 17 of 2007 w.e.f. 1 July 2007.]

6. Income to be expressed in Mauritius currency

(1) Income wherever derived, and expenses and losses, wherever incurred, shall subject to subsection (5), be expressed in terms of Mauritius currency.

(2) Where income, expenditure or losses are expressed in terms of any currency other than Mauritius currency, they shall be converted into Mauritius currency at the exchange rate between Mauritius currency and the other currency.

(3) For the purposes of subsection (2), the exchange rate shall be—

- (a) where income is remitted to Mauritius or the amount of any deduction is remitted from Mauritius during the income year in which it is derived or incurred, as the case may be, the rate in force at the date of the remittance; or
- (b) where income or the amount of deduction is not remitted during the income year in which it is derived or incurred, as the case may be, the rate in force at the end of that income year.

(4) Notwithstanding subsections (2) and (3) but subject to subsection (5), any income tax payable by—

- (a) a corporation holding a Category 1 Global Business Licence under the Financial Services Act; or
- (b) a bank holding a banking licence under the Banking Act in respect of its banking transactions with non-residents and corporations holding a Global Business Licence under the Financial Services Act,

shall be converted into Mauritius currency at the exchange rate in force at the date on which payment of tax is made to the Director-General.

(5) Notwithstanding this section, where a corporation holding a Category 1 Global Business Licence under the Financial Services Act, or any other company with the approval of the Registrar of Companies, prepares its financial

statements in either US dollars, Euros, GB pounds sterling, Singapore dollars, South African rands, Swiss francs or such other foreign currency as may be approved by the Director-General, it shall submit—

- (a) its APS Statement under section 50B; and
- (b) its return of income under section 116,

and pay any tax specified therein in that currency.

[S. 6 added by s. 12 (b) of Act 25 of 2000 w.e.f. 1 July 2000; amended by s. 46 (4) (a) of Act 13 of 2001 w.e.f. 1 December 2001; s. 9 (b) of Act 18 of 2003 w.e.f. the year of assessment commencing 1 July 2003; s. 103 (4) (a) of Act 35 of 2004 w.e.f. 10 November 2004; s. 21 (b) of Act 14 of 2009 w.e.f. 30 July 2009; s. 8 (b) of Act 37 of 2011 w.e.f. 15 December 2011.]

7. Exempt body of persons and exempt income

(1) Any body of persons specified in Part I of the Second Schedule shall be exempt from income tax.

(2) Any income specified in Part II of the Second Schedule shall be exempt from income tax.

(3) Except as otherwise provided for in this Act, nothing in this section shall exempt from taxation, in the hands of a recipient any sum paid to him, by way of emoluments, dividends, interest or otherwise, wholly or partly by the exempt body of persons or persons or out of income so exempt from taxation.

[S. 7 repealed and replaced by s. 18 (c) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year.]

PART III – PERSONAL TAXATION

8. Application of Part III

This Part shall apply to individuals.

Sub-Part A – Gross Income

9. Income of a married woman

(1) All income derived by a married woman shall be liable to income tax separately from the income of her husband in her own name.

(2) Any income derived by a married woman jointly with her husband shall be deemed to be derived by them in such proportion as may be declared by the couple in their tax returns.

(3) Where no declaration is made by the couple under subsection (2), the income shall be deemed to be derived by them in equal proportion.

10. Income included in gross income

(1) Subject to the other provisions of this Act, the gross income of an individual shall include—

- (a) any advantage in money or in money's worth which is—
 - (i) salary, wages, leave pay, fee, overtime pay, perquisite, allowance, bonus, gratuity, commission or other reward or remuneration in respect of or in relation to the office or employment of that individual;

(ii) superannuation, compensation for loss of office, pension (including any pension in respect of which a deduction is allowed under section 23 or 62, as the case may be), retiring allowance, annuity or other reward in respect of or in relation to past employment or loss or reduction of future income of that individual, whether receivable by that individual or by any person who is or has been the spouse or dependant of that individual;

- (b) any gross income derived from any business;
- (c) any rent, royalty, premium or other income derived from property;
- (d) any dividend, interest, charges, annuity or pension, other than a pension referred to in paragraph (a) (ii);
- (e) basic retirement pension payable under the National Pensions Act;
- (f) any gross income, in money or money's worth, derived from the sale of immovable property in the course of any business falling under paragraph (b); and
- (g) any other income derived from any other source.

(2) For the purposes of subsection (1) (a), any advantage in money or money's worth shall include—

- (a) any rent allowance, housing allowance, entertainment allowance, transport allowance, travelling allowance, travel grant, commuted travelling allowance or reimbursement of travelling expenses, petrol allowance, driver's allowance or any other allowance or sum by whatever name called;
- (b) any reimbursement of the cost or payment of personal and private expenses of the employee by the employer;
- (c) any reimbursement of the cost or payment of passages, by sea, air or land between Mauritius and another country on behalf of the employee, his spouse and dependants; and
- (d) such fringe benefits as may be prescribed.

(3) For the purposes of subsection (1) (b), the gross income derived from a business shall include—

- (a) any sum or benefit, in money or money's worth, derived from the carrying on or carrying out of any undertaking or scheme entered into or devised for the purpose of making a profit, irrespective of the time at which the undertaking or scheme was entered into or devised;
- (b) any sum or benefit derived from the extraction, removal or sale of any mineral, tree or wood;
- (c) any sum or benefit, in money or money's worth, derived from the sale of any immovable property or interest in immovable property, where the property was acquired in the course of a business the main purpose of which is the acquisition and sale of immovable property;

- (d) any increase in the value of trading stock on hand at the time of transfer by sale or otherwise of a business or on the reconstruction of a company; and
- (e) any subsidy derived in the carrying on of a business.

[S. 10 amended by s. 9 (b) of Act 9 of 1997 w.e.f. 1 July 1997; repealed and replaced by s. 18 (d) of Act 15 of 2006 w.e.f. 1 July 2006; amended by s. 9 (b) of Act 10 of 2010 w.e.f. 1 January 2011; s. 8 (c) of Act 37 of 2011 w.e.f. 5 November 2011.]

10A. —

[S. 10A inserted by s. 9 (c) of Act 10 of 2010 w.e.f. 1 January 2011; repealed by s. 8 (d) of Act 37 of 2011 w.e.f. 5 November 2011.]

11. Emoluments received in arrears

Where arrears of emoluments earned in an income year are received by a person in the following or any subsequent income year, those emoluments shall be deemed to have been earned in the income year in which they are received.

12. Income received in anticipation

Where income is derived by a person in any year by way of premium or payment in advance or in any like manner by way of anticipation, the Director-General may, on the written application of that person during the following year, apportion that income between the income year and any number of subsequent years not exceeding 5, and the part so apportioned to each of those years shall be deemed to be income derived in that year.

13. Valuation of trading stock

(1) Where a person owns or carries on a business, the value of his trading stock at the beginning and at the end of every income year shall be taken into account in ascertaining whether or not he has derived income during that year under section 10 (1) (b).

(2) The value of the trading stock to be taken into account shall be determined on such basis as may be prescribed.

[S. 13 amended by GN 78 of 1996 w.e.f. 1 July 1996.]

14. Transfer of trading stock with other assets or for inadequate consideration

(1) Subject to this Act, where any trading stock is sold or otherwise transferred together with other assets, the part of the consideration attributable to the trading stock shall be determined by the Director-General, and the part of the consideration so determined shall be deemed to be the price paid for the trading stock by the purchaser.

(2) For the purposes of subsection (1), any trading stock which has been transferred otherwise than by sale shall be deemed to have been sold, and any trading stock so transferred and any trading stock which has been sold for a consideration other than cash shall be deemed to have realised the market price at the day on which it was so transferred or sold, but where there is no market price the trading stock shall be deemed to have realised a price determined by the Director-General.

(3) In this section, “trading stock” includes any other property which, as and when realised, produces income for the person under section 10 (3) (c).

(4) Where any trading stock is sold or transferred without consideration in money or money’s worth or for a consideration that is less than its market price or true value on the day of the sale or transfer—

- (a) the trading stock shall be deemed to have been sold at and to have realised the market price on the day of the sale or transfer, but shall, where there is no market price, be deemed to have been sold at and to have realised a price determined by the Director-General;
- (b) the price which under this section the trading stock is deemed to have realised shall be taken into account in calculating the gross income of the person selling or transferring the trading stock; and
- (c) the person acquiring the trading stock shall, for the purpose of calculating his net income, be deemed to have purchased the trading stock at the price which under this section the trading stock is deemed to have realised.

[S. 14 amended by s. 18 (e) of Act 15 of 2006 w.e.f. 1 July 2006.]

15. Deemed income arising from expenditure or loss discharged

(1) Where the amount of any expenditure or loss incurred by a person has been taken into account in calculating his net income for an income year, and the liability of the person in respect of that amount is subsequently discharged in whole or in part, the amount so discharged shall be deemed to be income derived in the year in which the amount is discharged.

(2) For the purposes of this section, a liability in respect of expenditure or loss shall be deemed to have been discharged to the extent to which the person has been discharged from that liability without adequate consideration in money or money’s worth.

16. Apportionment of income on incorporation and disincorporation

(1) Where a business is transferred to a company on incorporation and the persons who carried on that business prior to incorporation are the shareholders in that company immediately after incorporation, this Act shall have effect as if—

- (a) the business had not ceased or been transferred on incorporation; and
- (b) at all times prior to incorporation the company had been carrying on the business.

(2) Where a business is transferred by a company on disincorporation and the persons who carry on that business after disincorporation were the shareholders in that company immediately prior to disincorporation, this Act shall have effect as if—

- (a) the business has not ceased or been transferred on disincorporation; and
- (b) at all times prior to disincorporation that person or those persons had been carrying on the business.

(3) Where incorporation or disincorporation takes place during an income year, the gross income of the business for that income year shall be apportioned between the company and the person carrying on the business on the basis of the proportion of the income year before and after incorporation or disincorporation.

Sub-Part AA – Solidarity Income Tax

[Heading inserted by s. 9(e) of Act 10 of 2010 w.e.f. 1 January 2011. Sub-part AA repealed by s. 8 (e) of Act 37 of 2011 w.e.f. 1 January 2012.]

16A. —

[S. 16A inserted by s. 9 (e) of Act 10 of 2010 w.e.f. 1 January 2011 the income year commencing 1 January 2011; repealed by s. 8 (e) of Act 37 of 2011 w.e.f. 1 January 2012.]

16B. —

[S. 16B inserted by s. 9 (e) of Act 10 of 2010 w.e.f. 1 January 2011 the income year commencing 1 January 2011; repealed by s. 8 (e) of Act 37 of 2011 w.e.f. 1 January 2012.]

Sub-Part B – Allowable Deductions

17. Deduction in connection with employment

(1) Any expenditure which is wholly, exclusively and necessarily incurred by a person in performing the duties of an office or employment shall be deductible from the gross income referred to in section 10 (1) (a) in the income year in which the expenditure is incurred.

(2) The Director-General may determine whether and to what extent an allowance made to a person constitutes a reimbursement of expenditure wholly, exclusively and necessarily incurred by that person in performing the duties of his office or employment and the allowance shall, to the extent so determined, be deductible from the gross income referred to in section 10 (1) (a) in the income year in which the allowance is made.

(3) Where the Director-General is satisfied that the whole or part of any advantage has necessarily to be provided by an employer for a person for the performance of the duties of his office or employment, the advantage, or part thereof, shall be deductible from the gross income referred to in section 10 (1) (a) in the income year in which the advantage is provided.

(4) – (5) —

[S. 17 amended by s. 11 (b) of Act 23 of 2001 w.e.f. the income year commencing on 1 July 2001; s. 9 (c) of Act 18 of 2003 w.e.f. 1 July 2003; s. 18 (f) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year.]

18. Expenditure incurred in production of income

(1) Any expenditure or loss shall be deductible from the gross income, other than gross income specified in section 10 (1) (a), of a person in the income year in which it is incurred to the extent to which it is exclusively incurred in the production of his gross income, other than gross income specified in section 10 (1) (a), for that income year.

(2) Any expenditure which satisfies the requirements of subsection (1), on or in relation to—

- (a) minerals, trees or wood which when realised, produces gross income under section 10 (1) (b); or
- (b) immovable property, including the cost of acquisition, which, when realised, produces gross income under section 10 (3) (c),

shall be deductible from the gross income, other than gross income specified in section 10 (1) (a), of a person in the income year in which he derives the gross income specified in this subsection.

(3) Any expenditure, which satisfies the requirements of subsection (1), incurred by a person on the repair of premises, machinery or plant, or on rent, or on export duties, rates and taxes, other than income tax or any other tax on income or profits, shall be deductible from his gross income, other than gross income specified in section 10 (1) (a), in the income year in which the expenditure is incurred.

(4) An amount equal to 200 per cent of the expenditure incurred by a person in an income year, and which satisfies the requirements of subsection (1), shall be deductible from his gross income in that income year where the expenditure is incurred on—

- (a) emoluments in respect of a disabled person; or
- (b) emoluments and training costs in respect of an employee employed in any business set up in Rodrigues.

(5) Subject to subsection (1) and section 26 (1) (b) and (3), where any expenditure or loss incurred by a corporation holding a Category 1 Global Business Licence under the Financial Services Act or by a bank holding a banking licence under the Banking Act, is not directly attributable to either its income derived from Mauritius or its foreign source income, the corporation or the bank, as the case may be, shall forward, together with its return of income which is required under this Act, a certificate from a qualified auditor certifying that such expenditure or loss has been apportioned in a fair and reasonable manner, after taking into account any expenditure or loss incurred in the production of exempt income.

(6) (a) Notwithstanding subsection (1) but subject to paragraph (b), any solidarity levy payable in an income year shall be deductible from the gross income referred to in section 10 (1) (b) in that income year.

(b) Where a deduction under paragraph (a) has been allowed in an income year and such solidarity levy is refunded in a subsequent income year, the deduction allowed shall be withdrawn and the amount of the deduction so withdrawn shall be deemed to be gross income of the person in the income year in which the refund is made.

[S. 18 inserted by Act 18 of 1999; amended by s. 19 (b) of Act 14 of 2005 w.e.f. 1 July 2006; s. 18 (g) of Act 15 of 2006 w.e.f. 1 July 2006; s. 9 (d) of Act 10 of 2010 w.e.f. the year of assessment 2012.]

19. Expenditure incurred on interest in the production of income

(1) Subject to this section, where in an income year a person has incurred expenditure on interest in respect of capital employed exclusively in

the production of gross income specified in section 10 (1) (b), (c) or (d), as the case may be, he shall be allowed, in that income year, a deduction in respect of the interest from the gross income in the production of which the capital was employed.

(2) The Director-General may require a person to support his claim for deduction in respect of interest under subsection (1) by a certificate from a qualified auditor certifying that the amount of interest claimed has been incurred on capital employed exclusively in the production of gross income specified in section 10 (1) (b), (c) or (d).

(3) The Director-General may refuse to allow a deduction on expenditure incurred as interest where he is satisfied that the interest—

- (a) is payable to a non-resident who is not chargeable to tax on the amount of the interest; or
- (b) is not likely to be paid in cash within a reasonable time.

20. Losses

(1) Where a person satisfies the Director-General that he has in an income year incurred a loss in the production of gross income specified in section 10 (1) (b), (c) and (d), that loss—

- (a) shall not be deducted from or set-off against his gross income specified in section 10 (1) (a) for that income year; but
- (b) may, subject to subsection (2), be set-off against his gross income, other than gross income specified in section 10 (1) (a), derived in that income year, and any excess loss carried forward for set-off against income derived in the 5 succeeding income years.

(2) The time limit of 5 income years under subsection (1) (b) shall not apply for the carry forward of any amount of loss that is attributable to annual allowance claimed in respect of capital expenditure incurred on or after 1 July 2006.

(3) Where the Director-General is not satisfied with a claim for loss made by a person under this section, the Director-General shall determine the quantum of the loss available for set-off or carry forward and shall give notice of his determination to the person.

[S. 20 amended by s. 20 (c) of Act 25 of 2000 w.e.f. 1 July 2000; repealed and replaced by s. 18 (h) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year; s. 15 (b) of Act 18 of 2008 w.e.f. 19 July 2008.]

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21. Bad debts and irrecoverable sums

(1) Subject to subsection (3), a person who derives gross income specified in section 10 (1) (b) in an income year may deduct the amount of a debt or sum which is proved to have become bad and to have been actually written off as a bad debt by the person in that income year.

(2) Subject to subsection (3), a person who derives gross income, other than gross income specified in section 10 (1) (b), may deduct any debt or sum not received in an income year but which is deemed to be derived in that income year and which is proved to have become irrecoverable by the person.

(3) Any amount allowed as a deduction which is subsequently received by the person on account of any bad or irrecoverable debt shall be deemed to be gross income derived in the income year in which it is received.

22. Contributions to superannuation fund

(1) Subject to subsection (2), an employer may deduct any amount irrevocably paid by him to provide—

- (a) a pension or retirement allowance to his employees and their dependants under a superannuation fund; and
- (b) for the medical expenses of his employees and their dependants under a scheme approved by the Director-General.

(2) Notwithstanding section 18, where an amount paid by an employer under subsection (1) is a lump sum payment in respect of past services of employees, one-tenth of the payment shall be deductible in the income year in which the payment is made and in each of the 9 succeeding years.

23. Pensions to former employees

(1) Subject to subsection (2), the Director-General may, in the case of a person deriving gross income specified in section 10 (1) (b), allow a deduction in respect of any amount which is not deductible otherwise than under this section and which, in the opinion of the Director-General, is reasonable in the particular circumstances of the case, paid by the person in that income year by way of a pension to any former employee in the business of that person, or to the surviving spouse of that employee, in consideration of the past services of that employee in that business of the person, where the Director-General is satisfied that—

- (a) the pension is receivable by the recipient—
 - (i) by virtue of any enactment;
 - (ii) as of right under a written document for a fixed period or for life;
 - (iii) in the case of the surviving spouse, for a fixed period or for life or until he or she remarries; or
 - (iv) on grounds which the Director-General determines to be compassionate grounds; and

- (b) except in the case of the death of the employee while in the employment of the person, the employee did not retire from his employment before attaining the appropriate retiring age.

(2) This section shall not apply where because of any relationship to or with the employer or otherwise the former employee or the surviving spouse had or has, in the opinion of the Director-General, any control in relation to the payment of the pension by the person.

(3) For the purposes of this section—

“appropriate retiring age” means—

- (a) not less than the age of 50;
- (b) such earlier age as the Director-General considers reasonable, having regard to the nature of the employment of the person or service or the general terms of employment in the business or occupation in which the person was employed;
- (c) the age at which the person retired in the case of retirement on the ground of serious illness or permanent disability; or
- (d) the age at which a person ceased to be employed in any full-time employment and the Director-General is satisfied that he ceased to be so employed by reason of redundancy or other similar circumstances.

24. Annual allowance

(1) Subject to the other provisions of this section, where, in an income year, a person has incurred capital expenditure on—

- (a) the acquisition, construction or extension of any—
 - (i) industrial premises;
 - (ii) clinics;
 - (iii) shops and shopping malls;
 - (iv) offices and showrooms;
 - (v) restaurants; or
 - (vi) entertainment premises;
- (b) the acquisition of plant or machinery;
- (c) agricultural improvement on agricultural land;
- (d) scientific research;
- (e) the setting up of golf courses; or
- (f) the acquisition or improvement of any other item of a capital nature which is subject to depreciation under the normal accounting principles,

he shall be allowed a deduction of the capital expenditure so incurred by way of an annual allowance in that income year and in each of the succeeding years at such rate as may be prescribed.

(2) —

(3) No annual allowance shall be allowed under this section unless—

- (a) the expenditure is incurred exclusively in the production of gross income; and
- (b) the provisions of section 153 (1) are complied with.

(4) (a) The total amount of allowance claimed under this section shall not exceed in the aggregate—

- (i) in the case of a motor car, 3 million rupees;
- (ii) in any other case, the amount of the capital expenditure incurred.

(b) Paragraph (a) (i) shall not apply to a person carrying on the business of tour operator and car rental.

(5) Subject to subsection (6), where, in an income year, a person sells or otherwise transfers an asset in respect of which an allowance has been allowed under this section at a price or for a consideration—

- (a) in excess of the amount to which the value of the asset has been reduced by the allowance, the excess to the extent of the amount of the allowance granted, shall be deemed to be the gross income of the person in that income year; or
- (b) which is less than the amount to which the value of the asset has been reduced by the allowance, the difference shall be allowed as a deduction from the gross income of the person in that income year.

(6) Where a person sells or otherwise transfers plant, machinery or industrial premises to a relative or to a related company and the plant, machinery or industrial premises sold or transferred is used by the relative or the related company for the production of gross income, the sale or transfer shall, unless the Director-General directs otherwise, be deemed to have been made at a price equal to the base value of the plant, machinery or industrial premises at the date of sale or transfer.

(7) —

[S. 24 amended by s. 7 (c) of Act 13 of 1996 w.e.f. 1 July 1996; s. 4 (b) of Act 10 of 1998 w.e.f. 21 July 1998; s. 12 (d) of Act 25 of 2000 w.e.f. 1 July 2000; s. 11 (b) (ii) of Act 28 of 2004 w.e.f. the year of assessment commencing 1 July 2005; s. 19 (c) of Act 14 of 2005 w.e.f. 1 July 2005; s. 18 (h) (i) and (ii) of Act 15 of 2006 w.e.f. 1 July 2007; s. 9 (f) of Act 10 of 2010 w.e.f. the income year commencing 1 January 2011.]

25. —

[S. 25 amended by s. 4 (c) of Act 10 of 1998 w.e.f. 21 July 1998; s. 10 (c) of Act 18 of 1999 w.e.f. 1 July 1999 and 31 July 1999; s. 35 (3) (b) of Act 20 of 2001 w.e.f. 17 September 2001; s. 11 (c) of Act 28 of 2004 w.e.f. 26 August 2004; s. 19 (d) of Act 14 of 2005 w.e.f. 1 July 2005; repealed by s. 18 (j) of Act 15 of 2006 w.e.f. 1 July 2007.]

26. Unauthorised deductions

(1) Notwithstanding sections 18 and 19 but subject to this section, no deduction shall be made in respect of—

- (a) any investment, expenditure or loss to the extent to which it is capital or of a capital nature;

- (b) any expenditure or loss to the extent to which it is incurred in the production of income which is exempt income;
- (c) any reserve or provision of any kind;
- (d) any expenditure or loss recoverable under a contract of insurance or of indemnity;
- (e) any expenditure incurred in providing business entertainment or any gift;
- (f) —
- (g) income tax or foreign tax; or
- (h) any expenditure or loss to the extent to which it is of a private or domestic nature.

(2) Where the Director-General is satisfied that any expenditure of a capital nature in relation to alterations or improvements to any premises, machinery or plant, does not increase the capital value of the premises, machinery or plant, or that the expenditure increases the capital value by an amount less than the amount of the expenditure, he may allow such deduction as he thinks fit.

(3) Where any expenditure or loss incurred by a person in the production of his gross income and exempt income is not directly attributable to the production of such income, that part of the expenditure or loss attributable to the production of the exempt income shall be disallowed in such proportion and as may be prescribed. (Now spelt out in GN 78 of 1996).

(4) —

[S. 26 amended by s. 10 (d) of Act 18 of 1999 w.e.f. 31 July 1999; s. 9 (d) of Act 18 of 2003 w.e.f. the year of assessment commencing 1 July 2003; s. 18 (k) of Act 15 of 2006 w.e.f. 1 July 2007; s. 8 (a) of Act 1 of 2009 w.e.f. 1 January 2009.]

Sub-Part C – Income Exemption Threshold for Individuals

[Heading repealed and replaced by s.18 (l) of Act 15 of 2006 w.e.f. 1 July 2006.]

27. Entitlement to income exemption threshold

(1) No person shall be entitled to an income exemption threshold unless he is resident in Mauritius in the incoming year in which the income is derived.

(2) Subject to the other provisions of this section, every person shall, in an income year, be entitled to deduct from his net income in that year, the appropriate amount of income exemption threshold in respect of Category A, Category B, Category C, Category D, Category E or Category F as specified in the Third Schedule.

(3) —

(4) Where, in an income year, a person claims an income exemption threshold in respect of Category B, Category C, Category D or Category F, the spouse of that person shall be entitled to claim in that income year an income exemption threshold in respect of Category A or Category E only, as the case may be.

(5) A person shall not be entitled to claim in an income year an income exemption threshold in respect of—

- (a) Category B or Category F, where the net income and exempt income of his dependant in that income year exceeds 110,000 rupees;
- (b) Category C, where the net income and exempt income of his second dependant in that income year exceeds 60,000 rupees;
- (c) Category D, where the net income and exempt income of his third dependant in that income year exceeds 40,000 rupees.

(6) Where the net income and exempt income of the first dependant, second dependant and third dependant does not exceed 110,000 rupees, 60,000 rupees and 40,000 rupees respectively, the net income of the dependant or dependants shall be deemed to be, and shall be added to, the net income of that person.

(7) For the purposes of this section, “dependant” means either—

- (a) a spouse;
- (b) a child under the age of 18; or
- (c) a child over the age of 18 and who is pursuing full-time course at an educational institution or a training institution.

[S. 27 amended by s. 7 (d) of Act 13 of 1996 w.e.f. 1 July 1996; repealed and replaced by s. 18 (l) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year; s. 17 (d) of Act 17 of 2007 w.e.f. 1 July 2006; s. 15 (c) of Act 18 of 2008 w.e.f. 1 July 2008.]

Sub-Part D – Interest Relief for Individuals

[Heading inserted by s. 9 (g) of Act 10 of 2010 w.e.f. the income year commencing 1 January 2011.]

27A. Interest relief

(1) Subject to this section, every person shall, in an income year, be allowed a relief by way of deduction from his net income in respect of the amount of interest paid in that income year to a bank or non-bank deposit taking institution under the Banking Act or to an insurance company under the Insurance Act on a housing loan secured by a mortgage or fixed charge on immovable property and used exclusively for the purchase or construction of his house.

(2) The relief under subsection (1) shall apply in respect of a loan secured by a mortgage or fixed charge on immovable property taken on or after 1 July 2006.

(3) The relief under subsections (1) and (2) shall be allowed for 5 consecutive years starting as from January 2011 and shall be—

- (a) 120,000 rupees, in the case of a couple where either spouse is a dependent spouse;

- (b) 120,000 rupees, in the case of a couple where neither spouse is a dependent spouse or at their option, divided equally for each spouse; or
- (c) in any other case, 120,000 rupees provided that in the case of a couple, the relief shall not exceed, in the aggregate, 120,000 rupees,

or the actual amount, whichever is the lesser.

(4) No relief under subsection (1) shall be allowed—

- (a) unless the person is resident in Mauritius in the income year in which the income year is derived;
- (b) where the person or the spouse of the person—
 - (i) is, at the time the loan is raised, the owner of a residential building; or
 - (ii) —
 - (iii) benefits from any new housing scheme set up on or after 1 January 2011 by such competent authorities as may be prescribed;
- (c) where the income of the person, or the spouse of the person, as the case may be, exceeds 2 million rupees in an income year.

(5) For the purposes of subsection (4) (c)—

“income” means the total of the net income and the income in respect of—

- (a) dividends received from a resident company or co-operative society registered under the Co-operatives Act; and
- (b) interest—
 - (i) on a savings or fixed deposit account received from a bank or non-bank deposit taking institution under the Banking Act; and
 - (ii) received on Government securities and Bank of Mauritius Bills.

[S. 27A inserted by s. 9 (g) of Act 10 of 2010 w.e.f. the income year commencing 1 January 2001; amended by s. 8 (f) of Act 37 of 2011 w.e.f. the income year commencing 1 January 2012 and in respect of every subsequent income year.]

Sub-Part E – Relief for Medical or Health Insurance Premium

[Heading inserted by s. 12 (b) of Act 26 of 2012 w.e.f. 1 January 2013 in respect of the income year commencing 1 January 2013 and in respect of every subsequent income year.]

27B. Relief for medical or health insurance premium

(1) Subject to this section, every person shall, in an income year, be entitled to deduct from his net income the actual amount of premium paid in that income year in respect of a medical or health insurance policy, contracted for himself and his dependent in respect of whom he has claimed a deduction under section 27.

(2) The relief under subsection (1) shall not exceed the amount specified in column 2 in Part II of the Third Schedule corresponding to the category specified in column 1 of that Schedule.

(3) No relief under subsection (1) shall be allowed where—

- (a) the premium has been paid by the employer of the person; or
- (b) the premium is paid under a combined medical and life assurance scheme.

[S. 27B inserted by s. 12 (b) of Act 26 of 2012 w.e.f. 1 January 2013 in respect of the income year commencing 1 January 2013 and in respect of every subsequent income year.]

28. —

[S. 28 amended by s. 7 (d) of Act 13 of 1996 w.e.f. 1 July 1996; s. 9 (c) of Act 9 of 1997 w.e.f. 1 July 1997; s. 4 (d) of Act 10 of 1998 w.e.f. 1 July 1998; s. 14 (c) of Act 20 of 2002 w.e.f. the income year commencing 1 July 2002 and in respect of every subsequent income year; s. 19 (e) of Act 14 of 2005 w.e.f. 1 July 2005; repealed by s. 18 (l) of Act 15 of 2006 w.e.f. 1 July 2006.]

28A. —

[S. 28A amended by s. 9 (d) of Act 9 of 1997 w.e.f. 1 July 1997; s. 4 (e) of Act 10 of 1998 w.e.f. 1 July 1998; repealed by s. 18 (l) of Act 15 of 2006 w.e.f. 1 July 2006.]

29. —

[S. 29 amended by s. 7 (d) of Act 13 of 1996 w.e.f. 1 July 1996; repealed by s. 18 (l) of Act 15 of 2006 w.e.f. 1 July 2006.]

30. —

[S. 30 amended by s. 11 (c) (ii) of Act 23 of 2001 w.e.f. the income year commencing on 1 July 2001; s. 14 (d) of Act 20 of 2002 w.e.f. 1 July 2002; s. 27 (10) of Act 33 of 2004 w.e.f. 1 July 2006; repealed by s. 18 (l) of Act 15 of 2006 w.e.f. 1 July 2006.]

31. —

[S. 31 amended by s. 7 (d) of Act 13 of 1996 w.e.f. 1 July 1996; s. 10 (f) of Act 18 of 1999 w.e.f. 1 July 1999; repealed by s. 18 (l) of Act 15 of 2006 w.e.f. 1 July 2006.]

32. —

[S. 32 amended by s. 7 (d) of Act 13 of 1996; w.e.f. 1 July 1996; s. 27 (10) of Act 33 of 2004 w.e.f. 1 July 2006; repealed by s. 18 (l) of Act 15 of 2006 w.e.f. 1 July 2006.]

33. —

[S. 33 amended by s. 7 (d) of Act 13 of 1996 w.e.f. 1 July 1996; s. 27 (10) of Act 33 of 2004 w.e.f. 1 July 2006; repealed by s. 18 (l) of Act 15 of 2006 w.e.f. 1 July 2006.]

34. —

[S. 34 amended by s. 7 (d) of Act 13 of 1996 w.e.f. 1 July 1996; repealed and replaced by s. 14 (e) of Act 20 of 2002 w.e.f. the income year commencing 1 July 2002 and in respect of every subsequent income year; amended by s. 27 (10) of Act 33 of 2004 w.e.f. 1 July 2006; repealed by s. 18 (l) of Act 15 of 2006 w.e.f. 1 July 2006.]

35. —

[S. 35 amended by s. 7 (d) of Act 13 of 1996 w.e.f. 1 July 1996; s. 9 (f) of Act 9 of 1997 w.e.f. 1 July 1997; s. 10 (g) of Act 18 of 1999 w.e.f. 1 July 1999; repealed by s. 18 (l) of Act 15 of 2006 w.e.f. 1 July 2006.]

36. —

[S. 36 amended by s. 7 (d) of Act 13 of 1996 w.e.f. 1 July 1996; s. 9 (g) of Act 9 of 1997 w.e.f. 1 July 1997; s. 4 (f) of Act 10 of 1998 w.e.f. 1 July 1998; s. 12 (e) of Act 25 of 2000 w.e.f. 1 July 2000; s. 14 (f) of Act 20 of 2002 w.e.f. 1 July 2002; s. 11 (d) of Act 28 of 2004 w.e.f. 1 July 2004; s. 19 (f) of Act 14 of 2005 w.e.f. 1 July 2005; s. 156 (3) (b) of Act 22 of 2005 w.e.f. 28 September 2007; repealed by s. 18 (l) of Act 15 of 2006 w.e.f. 1 July 2006.]

36A. —

[S. 36A inserted by s. 10 (h) of Act 18 of 1999 w.e.f. 1 July 1999; repealed by s. 18 (l) of Act 15 of 2006 w.e.f. 1 July 2006.]

36B. —

[S. 36B inserted by s. 12 (e) of Act 25 of 2000 w.e.f. 1 July 2000; repealed by s. 18 (l) of Act 15 of 2006 w.e.f. 1 July 2006.]

37. —

[S. 37 amended by s. 7 (d) of Act 13 of 1996 w.e.f. 1 July 1996; s. 9 (h) of Act 9 of 1997 w.e.f. 1 July 1997; s. 4 (g) of Act 10 of 1998 w.e.f. the income year commencing 1 July 1997 and in respect of every subsequent income year; s. 14 (g) of Act 20 of 2002 w.e.f. the income year commencing 1 July 2002 and in respect of every subsequent income year; s. 19 (g) of Act 14 of 2005 w.e.f. 1 July 2005; repealed by s. 18 (l) of Act 15 of 2006.]

37A. —

[S. 37A amended by s. 9 (i) of Act 9 of 1997 w.e.f. 1 July 1996; s. 12 (g) of Act 25 of 2000 w.e.f. 1 July 2000; s. 11 (e) of Act 28 of 2004 w.e.f. 1 July 2004; repealed by s. 18 (l) of Act 15 of 2006.]

37B. —

[S. 37B amended by s. 9 (i) of Act 9 of 1997 w.e.f. 1 July 1996; repealed and replaced by s. 11 (f) of Act 28 of 2004 w.e.f. 1 July 2004; repealed by s. 18 (l) of Act 15 of 2006 w.e.f. 1 July 2006.]

37C. —

[S. 37C inserted by s. 9 (i) of Act 9 of 1997 w.e.f. 1 July 1996; s. 9 (e) (ii) of Act 18 of 2003 w.e.f. 1 July 2003; repealed by s. 18 (l) of Act 15 of 2006 w.e.f. 1 July 2006.]

38. —

[S. 38 amended by s. 7 (d) of Act 13 of 1996 w.e.f. 1 July 1996; s. 9(i) of Act 9 of 1997 w.e.f. 1 July 1997; s. 27 (10) of Act 33 of 2004 w.e.f. 1 July 2006; repealed by s. 18 (l) of Act 15 of 2006 w.e.f. 1 July 2006.]

39. —

[S. 39 amended by s. 7 (d) of Act 13 of 1996 w.e.f. 1 July 1996; repealed by s. 18 (l) of Act 15 of 2006 w.e.f. 1 July 2006.]

40. —

[S. 40 amended by s. 7 (d) of Act 13 of 1996 w.e.f. 1 July 1996; repealed by s. 18 (l) of Act 15 of 2006 w.e.f. 1 July 2006.]

41. —

[S. 41 amended by s. 7 (d) of Act 13 of 1996 w.e.f. 1 July 1996; s. 14 (h) (ii) of Act 20 of 2002 w.e.f. the income year commencing 1 July 2002 and in respect of every subsequent year; s. 11 (g) of Act 28 of 2004 w.e.f. 1 July 2004; repealed by s. 18 (l) of Act 15 of 2006 w.e.f. 1 July 2006.]

41A. —

[S. 41A inserted by s. 4 (h) of Act 10 of 1998 w.e.f. 1 July 1998; amended by s. 14 (h) of Act 20 of 2002 w.e.f. 1 July 2002; repealed and replaced by s. 11 (h) of Act 28 of 2004 w.e.f. 1 July 2004; repealed by s. 18 (l) of Act 15 of 2006 w.e.f. 1 July 2006.]

42. —

[S. 42 amended by Act 13 of 1996; Act 10 of 1998; repealed by s. 18 (l) of Act 15 of 2006.]

42A. —

[S. 42A inserted by Act 10 of 1998; amended by s. 14 (i) of Act 20 of 2002 w.e.f. the income year commencing 1 July 2002 and in respect of every subsequent income year; repealed by s. 18 (l) of Act 15 of 2006.]

PART IV – CORPORATE TAXATION

43. Application of Part IV

This Part shall apply to companies, unit trust schemes, trusts, collective investment schemes and *sociétés*.

[S. 43 amended by Act 13 of 1996; s. 156 (3) (c) of Act 22 of 2005 w.e.f. 28 September 2007.]

Sub-Part A – Companies, Unit Trust Schemes, Trusts, Collective Investment Schemes, and Sociétés

[Heading amended by s. 156 (3) (d) of Act 22 of 2005 w.e.f. 28 September 2007.]

44. Companies

Every company shall be liable to income tax on its chargeable income at the rate specified in the First Schedule.

[S. 44 amended by Act 13 of 1996; Act 25 of 2000 w.e.f. year of assessment starting on 1 July 2001; s. 18 (m) of Act 15 of 2006 w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July 2007 and in respect of every subsequent year of assessment; s. 17 (e) of Act 17 of 2007 w.e.f. 22 August 2007.]

44A. Alternative minimum tax

(1) Notwithstanding this Act, but subject to this section, where in the case of a company, the normal tax payable is less than 7.5 per cent of its book profit in an income year, the tax payable for that income year shall be deemed to be—

- (a) 7.5 per cent of its book profit in respect of that year; or
- (b) 10 per cent of the aggregate amount of any dividends declared and any amount distributed by way of shares in lieu of dividends in that year,

whichever is the lesser.

(2) This section shall not apply—

- (a) to a company which holds a Category 1 Global Business Licence under the Financial Services Act or which is exempt from the payment of income tax;

- (b) where 10 per cent of the aggregate amount of any dividends declared and any amount distributed by way of shares in lieu of dividends by the company for the purposes of subsection (1) does not exceed the amount of the normal tax payable; or
- (c) to a manufacturing company or a company operating a hotel in respect of income derived for the period 1 January 2013 to 31 December 2014.

(3) Where a company derives gross income and any dividends, profits or gains referred to in subsection (4) (a), any expenditure attributable to the production of the dividends, profits or gains shall be disallowed for the calculation of the book profit of the company for the purposes of this section.

(4) In this section—

“book profit” means the profit computed in accordance with internationally accepted accounting practices—

- (a) as reduced by—
 - (i) dividends receivable from resident companies;
 - (ii) profits on disposal or revaluation of fixed assets; and
 - (iii) profits or gains from sale or revaluation of securities, if any such item is credited to the profit and loss account; and
- (b) as increased by—
 - (i) loss on disposal or revaluation of fixed assets; and
 - (ii) loss from sale or revaluation of securities, if any such item is debited to the profit and loss account;

“normal tax payable” means the tax payable arrived at by multiplying the chargeable income of the company by the tax rate applicable to that company and after allowing for any credit to which the company may be entitled except a credit for any foreign tax.

[S. 44A inserted by s. 11 (i) of Act 28 of 2004 w.e.f. the year of assessment commencing 1 July 2005; amended by s. 19 (h) of Act 14 of 2005 w.e.f. 1 July 2005; s. 18 (n) of Act 15 of 2006 w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July 2007 and in respect of every subsequent year of assessment; s. 17 (f) of Act 17 of 2007 w.e.f. 1 July 2007; s. 12 (c) of Act 26 of 2012 w.e.f. 22 December 2012.]

45. Unit trust schemes

(1) Every trustee of a unit trust scheme shall pay income tax on his chargeable income at the rate specified in the First Schedule.

(2) Any gains derived by the trustee of a unit trust scheme on realisation of any investments shall be deemed not to be income derived by the trustee provided that at least 70 per cent of the gain is—

- (a) not distributed as income to the unitholders, but is credited to the Unit Trust Fund of the scheme;
- (b) appropriated to meet realised losses; or
- (c) applied towards a capital purpose only.

(3) Any distribution to a unitholder out of the net income derived by the unit trust scheme shall be deemed to be a dividend to a shareholder.

(4) This section shall not apply in respect of the year of assessment 2005-2006 or subsequent years.

[S. 45 amended by Act 13 of 1996; s. 156 (3) (e) of Act 22 of 2005 w.e.f. 28 September 2007; s. 18 (o) of Act 15 of 2006 w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July 2007 and in respect of every subsequent year of assessment.]

45A. Collective investment schemes – year of assessment 2005-2006 and subsequent years

(1) This section shall apply in respect of the year of assessment 2005-2006 and subsequent years.

(2) Every collective investment scheme authorised under the Securities Act shall pay income tax on its chargeable income at the rate specified in the First Schedule.

(3) Any gains derived by such a scheme on the realisation of any investments of the scheme shall be deemed not to be income derived by the scheme provided that at least 70 per cent of the gains is—

- (a) not distributed as income to the participants in the scheme;
- (b) appropriate to meet realised losses; or
- (c) applied towards a capital purpose only.

(4) Any distribution to a participant in the scheme out of the net income derived by the schemes shall be deemed to be a dividend to a participant.

[S. 45A inserted by s. 156 (3) (f) of Act 22 of 2005 w.e.f. 28 September 2007; amended by s. 17 (h) of Act 17 of 2007 w.e.f. 1 July 2008; s. 8 (g) of Act 37 of 2011 w.e.f. 15 December 2011.]

46. Trusts

(1) Subject to section 7 and subsections (2) and (3) of this section, every trust shall be liable to income tax on its chargeable income at the rate specified in the First Schedule.

(2) A trust—

- (a) of which the settlor is a non-resident or holds a Category 1 Global Business Licence or a Category 2 Global Business Licence under the Financial Services Act or another trust which qualifies under this subsection; and
- (b) (i) of which all the beneficiaries appointed under the terms of the trust are, throughout an income year, non-residents or hold a Category 1 Global Business Licence or a Category 2 Global Business Licence under the Financial Services Act; or
(ii) which is a purpose trust under the Trusts Act and whose purpose is carried out outside Mauritius,

shall be liable to income tax on its chargeable income at the rate specified in the First Schedule.

(3) Where a trust which qualifies under subsection (2) deposits a declaration of non-residence for any income year with the Director-General within 3 months after the expiry of the income year, it shall be exempt from income tax in respect of that income year.

(4) Any distribution to a beneficiary of a trust shall be deemed to be a dividend to the beneficiary.

(5) – (6) –

[S. 46 repealed and replaced by s. 72 (2) (b) of Act 14 of 2001 w.e.f. 1 December 2001; amended by s. 9 (f) of Act 18 of 2003 w.e.f. the year of assessment commencing 1 July 2003; s. 18 (p) of Act 15 of 2006 w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July 2007 and in respect of every subsequent year of assessment; s. 17 (i) of Act 17 of 2007 w.e.f. 1 July 2008 in respect of the year of assessment commencing 1 July 2008 and in respect of every subsequent year of assessment; s. 8 (h) of Act 37 of 2011 w.e.f. 15 December 2011.]

47. *Sociétés*

(1) No resident *société* shall be liable to income tax.

(2) Subject to this Act, every associate of a resident *société* shall be liable to income tax on his share of income from that *société*.

(3) The net income of an associate from a resident *société* shall be deemed to be the share to which he would have been entitled in the income of the *société* during an income year if the income had been wholly distributed among the associates.

(4) For the purpose of calculating the net income of an associate specified in subsection (3), the associate shall be deemed to have—

- (a) derived that part of the gross income of the *société*; and
- (b) incurred that part of the allowable deductions of the *société*,

which bear the same proportion to the gross income or allowable deductions of the *société* as his share in the income of the *société* calculated in accordance with subsection (3) bears to the income of the *société*.

(5) Every associate of a *société* holding a Category 1 Global Business Licence under the Financial Services Act shall be liable to income tax in respect of his share of income in that *société* at the rate of 15 per cent.

(6) Notwithstanding subsection (1), a *société* referred to in subsection (5) may, by notice in writing given simultaneously to the Director-General and to the Commission established under the Financial Services Act, opt to be liable to income tax at the rate of 15 per cent.

(7) A non-resident *société* shall—

- (a) be liable to income tax as if the *société* were a company; and
- (b) pay income tax on its chargeable income at the rate specified in the First Schedule.

[S. 47 amended by Act 13 of 1996; Act 25 of 2000; s. 46 (4) (b) of Act 13 of 2001 w.e.f. 1 December 2001; s. 18 (q) of Act 15 of 2006 w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July 2007 and in respect of every subsequent year of assessment; s. 17 (j) of Act 17 of 2007 w.e.f. 1 July 2008.]

48. —

[S. 48 repealed by s. 18 (r) of Act 15 of 2006 w.e.f. 1 July 2007.]

49. Companies in the freeport zone

(1) Subject to this section, the income of a freeport operator shall be exempt from income tax.

(2) Where a freeport operator is authorised to provide goods and services on the local market—

- (a) it shall be liable to income tax on its chargeable income, computed by reference to its income derived from the provision of those goods and services at the rate specified in the First Schedule; but
- (b) it shall be exempt from income tax in respect of its income other than income referred to in paragraph (a).

(3) The chargeable income under subsection (2) shall be computed in accordance with regulation 16 of the Income Tax Regulations 1996.

(4) In this section—

“freeport operator” has the same meaning as in the Freeport Act.

[S. 49 amended by Act 18 of 1999; Act 25 of 2000; repealed and replaced by s. 14 (j) of Act 20 of 2002 w.e.f. the year of assessment commencing 1 July 2002 and in respect of every subsequent income year; s. 9 (g) of Act 18 of 2003 w.e.f. the income year commencing 1 July 2003; amended by s. 25 (1) of Act 43 of 2004 w.e.f. 1 January 2005; s. 19 (i) of Act 14 of 2005 w.e.f. 1 July 2005; repealed by s. 18 (r) of Act 15 of 2006 w.e.f. 1 July 2007; inserted by s. 8 (i) of Act 37 of 2011 w.e.f. 15 December 2011; amended by s. 12 (d) of Act 26 of 2012 w.e.f. 22 December 2012.]

50. Insurance, shipping, aircraft and other business

(1) The net income of a company deriving income from insurance, shipping or aircraft business shall be ascertained in such manner as may be prescribed.

(2) The Minister may, by regulations, make provision for the ascertainment of the net income of any other business.

Sub-Part AA – Advance Payment System

[Sub-Part AA (sections 50A to 50F) inserted by s. 17 (k) of Act 17 of 2007 but came into operation on 1 July 2008.]

50A. Application of Sub-Part AA

(1) This Sub-part shall apply to companies, unit trust schemes, collective investment schemes, trusts other than trusts to which section 46 (3) applies, non-resident *sociétés* and any *société* holding a Category 1 Global Business Licence under the Financial Services Act which has opted to be liable to income tax under section 47 (6).

(2) Any reference made to a company under this Sub-part shall be construed to refer also to a unit trust scheme, collective investment scheme,

trust other than trust to which section 46 (3) applies, non-resident *société* and any *société* holding a Category 1 Global Business Licence under the Financial Services Act which has opted to be liable to income tax under section 47 (6).

[S. 50A amended by s. 10 (a) of Act 20 of 2009 w.e.f. 19 December 2009.]

50B. Advance Payment System

(1) Subject to subsection (2), every company shall submit to the Director-General, in respect of each APS quarter, an APS Statement in such form and manner as may be approved by the Director-General and at the same time pay the tax in accordance with the APS Statement, as follows—

Quarter	Income for the period	Due date for submission of APS Statement and payment of tax
First	3 months commencing on the first day of the accounting year	Within 3 months from the end of the first quarter
Second	3 months immediately following the end of the first quarter	Within 3 months from the end of the second quarter
Third	3 months immediately following the end of the second quarter	Within 3 months from the end of the second quarter

(2) Where the APS quarter ends on 30 September, the due date for submission of the APS statement and payment of tax shall be 2 days, excluding Saturdays and public holidays, before the end of December.

(3) Where a change in return date has been approved under section 118 and the period immediately following the old return date and ending on the new return date is a period exceeding 12 months, an APS Statement shall be submitted in respect of the income year ending on the new return date for every period of 3 months commencing on the first day of that income year, the remaining period being covered in the return required to be submitted under section 116.

(4) Notwithstanding subsection (1), a company shall not submit an APS Statement in respect of an APS quarter where in the accounting year immediately preceding the commencement of that APS quarter—

- (a) the company’s gross income did not exceed 4 million rupees; or
- (b) it had no chargeable income.

[S. 50B amended by s. 15 (d) of Act 18 of 2008 w.e.f. 1 July 2008; s. 10 (b) of Act 20 of 2009 w.e.f. 19 December 2009; s. 9 (h) of Act 10 of 2010 w.e.f. 24 December 2010; s. 8 (k) of Act 37 of 2011 w.e.f. 1 January 2013 in respect of the year of assessment commencing 1 January 2013 and in respect of every subsequent year of assessment; s. 12 (e) of Act 26 of 2012 w.e.f. 1 January 2013 in respect of the year of assessment commencing 1 January 2013 and in respect of every subsequent year of assessment.]

50C. Ascertainment of chargeable income

The chargeable income of a company in respect of an APS quarter shall, at the option of the company, be—

- (a) deemed to be 25 per cent of the chargeable income of the company for the accounting year ending on a date immediately preceding the commencement of that quarter; or

- (b) the difference between—
 - (i) the gross income for that quarter; and
 - (ii) the allowable deductions for that quarter including any allowable loss brought forward from the accounting year immediately preceding that quarter or from the previous quarter, as the case may be.

[S. 50C amended by s. 15 (d) of Act 18 of 2008 w.e.f. 1 July 2008.]

50D. Calculation of tax

(1) Subject to subsection (2), the income tax payable under section 50B shall be calculated on the chargeable income ascertained under section 50C at the rate specified in the First Schedule.

(2) Where a company has been subject to tax under section 44A in respect of an accounting year, the income tax payable in respect of an APS quarter shall, at the option of the company, be—

- (a) 25 per cent of the tax paid for that accounting year; or
- (b) the amount of income tax computed on the chargeable income ascertained under section 50C (b).

[S. 50D amended by s. 15 (d) of Act 18 of 2008 w.e.f. 1 July 2008.]

50E. Return and payment of tax at end of income year

(1) Every company paying tax under this Sub-part shall, at the end of an income year, submit to the Director-General the return required to be submitted under section 116.

(2) Where the amount of tax payable on the chargeable income in accordance with the return referred to in subsection (1) exceeds the sum of—

- (a) the aggregate amount of any tax paid under this Sub-part excluding any penalty under section 50F; and
- (b) any amount of tax withheld under Sub-part BA,

the company shall pay the difference at the time the return is submitted under section 116.

50F. Penalty for late payment of tax under APS

Where a company fails to pay any income tax due on or before the last day on which it is payable under section 50B, it shall be liable to pay to the Director-General, in addition to the tax, a penalty of 5 per cent of the amount of tax remaining unpaid.

Sub-Part AB – Special Levy on Banks

[Sub-Part AB inserted by s. 17 (k) of Act 17 of 2007 w.e.f. 1 July 2007.]

50G. Interpretation

In this Sub-Part—

“bank” —

- (a) has the same meaning as in the Banking Act; but

(b) does not include the Development Bank of Mauritius Ltd;

“book profit” means the profit computed in accordance with International Financial Reporting Standards;

“levy”—

(a) means the special levy referred to in section 50H; and

(b) includes any penalty and interest imposed under this Act;

“net interest income” means interest income less interest expense;

“operating income” means the sum of net interest income and other income before deducting non-interest expense.

[S. 50G inserted by s. 17 (k) of Act 17 of 2007 w.e.f. 1 July 2007.]

50H. Liability to special levy

(1) Subject to this section, every bank shall, in every year, be liable to pay to the Director-General a special levy calculated by reference to its book profit and its operating income derived during the preceding year at the rates specified in subsection (2).

(2) The rates shall be, in the year of assessment commencing on—

- (a)
 - (i) 1 July 2009, 3.4 per cent on book profit and 1.0 per cent on operating income;
 - (ii) 1 January 2010, 3.4 per cent on book profit and 1.0 per cent on operating income;
 - (iii) 1 January 2011, 3.4 per cent on book profit and 1.0 per cent on operating income;
 - (iv) 1 January 2012, 3.4 per cent on book profit and 1.0 per cent on operating income;
- (b)
 - (i) 1 January 2013, 3.4 per cent on book profit and 1.0 per cent on operating income;
 - (ii) 1 January 2014, 3.4 per cent on book profit and 1.0 per cent on operating income;
 - (iii) 1 January 2015 and in respect of every subsequent year of assessment, 1.7 per cent on book profit and 0.50 per cent on operating income.

(3) The levy under subsection (1) shall be paid at the same time the Bank submits its return of income under section 116.

(4) No levy shall be paid in a year where in the preceding year—

- (a) the bank incurred a loss; or
- (b) the book profit of the bank did not exceed 5 per cent of its operating income.

[S. 50H inserted by s. 17 (k) of Act 17 of 2007 w.e.f. 1 July 2007; s. 21 (c) of Act 14 of 2009 w.e.f. 30 July 2009; amended by s. 9 (i) of Act 10 of 2010 w.e.f. 24 December 2010; s. 12 (f) of Act 26 of 2012 w.e.f. 22 December 2012.]

Sub-Part AC – Solidarity Levy on Telephony Service Providers

[Sub-Part AC inserted by s. 21(d) of Act 14 of 2009 w.e.f. 30 July 2009.]

50I. Interpretation

In this Sub-Part—

“book profit” means the profit derived by an operator from all its activities and computed in accordance with the International Financial Reporting Standards;

“levy”—

- (a) means the solidarity levy referred to in section 50J; and
- (b) includes any penalty and interest imposed under this Act;

“operator”—

- (a) means a provider of public fixed or mobile telecommunication networks and services; and
- (b) includes information and communication services such as value added services and mobile internet; but
- (c) does not include a provider engaged exclusively in the provision of internet services or internet telephony services or international long distance services as referred to in the Information and Communication Technologies Act;

“turnover” means the gross receipts derived by the operator from all its activities.

[S. 50I inserted by s. 21 (d) of Act 14 of 2009 w.e.f. 30 July 2009.]

50J. Liability to solidarity levy

(1) Subject to this section, every operator shall be liable to pay to the Director-General a solidarity levy calculated by reference to its book profit and turnover in respect of the preceding year at the rate specified in subsection (2).

(2) The levy under subsection (1) shall be calculated at the rate of 5 per cent of the book profit and 1.5 per cent of the turnover of the operator in respect of each of the years of assessment commencing on 1 July 2009, 1 January 2010, 1 January 2011, 1 January 2012, 1 January 2013 and 1 January 2014.

(3) The levy under this section shall be paid at the time the operator submits its return of income under section 116.

(4) No levy shall be paid in a year where, in the preceding year—

- (a) the operator incurred a loss; or
- (b) the book profit of the operator did not exceed 5 per cent of its turnover.

[S. 50J inserted by s. 21 (d) of Act 14 of 2009 w.e.f. 30 July 2009; amended by s. 21 (j) of Act 10 of 2010 w.e.f. 24 December 2010; s. 8 (m) of Act 37 of 2011 w.e.f. 15 December 2011; s. 12 (g) of Act 26 of 2012 w.e.f. 22 December 2012.]

Sub-Part AD – Corporate Social Responsibility

[Sub-Part AD inserted by s. 21 (d) of Act 14 of 2009 w.e.f. 1 July 2009.]

50K. Interpretation

In this Sub-Part—

“book profit” means the profit computed in accordance with the International Financial Reporting Standards, after income for and—

- (a) as reduced by profit on disposal or revaluation of fixed assets where any such profit or revaluation is credited to profit and loss account;
- (b) as increased by loss on disposal or revaluation of fixed assets where any such loss or revaluation is debited to profit and to account; and
- (c) as adjusted by such profit or loss as may be prescribed;

“company” has the same meaning as in section 2 but does not include—

- (a) a company holding a Category 1 Global Business Licence under the Financial Services Act;
- (b) a bank holding a banking licence under the Banking Act, in respect of its income derived from its banking transactions with—
 - (i) non-residents; or
 - (ii) corporations holding a Global Business Licence under the Financial Services Act;
- (c) an IRS Company referred to in the Investment Promotion (Real Estate Development Scheme) Regulations 2007; and
- (d) a non-resident *société*, a trust or trustee of a unit trust scheme;

“CSR” means Corporate Social Responsibility.

[S. 50K inserted by s. 21 (d) of Act 14 of 2009 w.e.f. 1 July 2009; amended by s. 10 (c) of Act 20 of 2009 w.e.f. 1 July 2009.]

50L. CSR Fund

(1) Every company shall, in every year, set up a CSR Fund equivalent to 2 per cent of its chargeable income of the preceding year to—

- (a) implement an approved programme by the company;
- (b) implement an approved programme under the National Empowerment Foundation; or
- (c) finance an approved NGO.

(2) A programme under subsection (1) (a) or (b) or an NGO under subsection (1) (c) shall be deemed to be an approved programme or an approved NGO, as the case may be, where it falls within the guidelines issued, with the approval of the Minister, by a committee set up under subsection (3).

(3) The committee referred to in subsection (2) shall be appointed by the Minister and shall consist of a Chairperson and not more than 9 other members comprising of representatives from the public sector, private sector and civil society.

(4) Where, in respect of a year, the amount paid out of the CSR Fund under subsection (1) is less than the amount provided under the Fund, the difference shall be remitted to the Director-General at the time the company submits its return of income under section 116.

(5) Notwithstanding subsection (4), where, in respect of a year, the amount paid out of the CSR Fund is less than the amount provided for under subsection (1), the difference, to the extent of an amount not exceeding 20 per cent of the amount provided for under that subsection, may, subject to the approval of the committee referred to in subsection (2), be allowed to be carried forward to the following year to form part of the CSR Fund for that following year.

(6) Where, in respect of a year, the amount paid out of the CSR Fund under subsection (1) exceeds the sum of the amount provided for under that Fund, the excess amount, to the extent of an amount not exceeding 20 per cent of the amount provided for under that subsection, may be allowed to be carried forward and offset in equal instalments against any amount to be remitted under subsection (4) in respect of the 5 succeeding years.

(7) The carry forward of any excess referred to in subsection (6) shall not apply to any excess arising in respect of more than 2 consecutive years.

(8) For the purposes of subsection (5), the amount provided under the CSR Fund in respect of a year shall include any amount brought forward to that year under that subsection to form part of the Fund for that year.

[S. 50L inserted by s. 21 (d) of Act 14 of 2009 w.e.f. 1 July 2009; amended by s. 8 (o) of Act 37 of 2011 w.e.f. the income year commencing 1 January 2012 and in respect of every subsequent income year; s. 12 (h) of Act 26 of 2012 w.e.f. 22 December 2012.]

50M. One-off charge on banks

(1) Every bank, except the Development Bank of Mauritius Ltd, holding a banking licence under the Banking Act shall create a one-off charge in the year immediately preceding the year of assessment 2012 for an amount equivalent to 0.5 per cent of its turnover plus 1.25 per cent of its book profit relating to its banking transactions with persons, other than non-residents and corporations holding a Global Business Licence under the Financial Services Act in respect of the year of assessment 2011 to finance the new private equity fund referred to in the Ministry's document entitled "Facing The Euro Zone Crisis and Restructuring for Long Term Resilience" and dated August 2010 and published as a General Notice in the *Gazette* of Thursday 9 December 2010, during the year immediately preceding the year of assessment 2012.

(2) Where the financing to the new private equity fund under subsection (1) is less than the one-off charge, the difference shall be remitted to the

Director-General at the time the company submits its return of income for the year of assessment 2012 under section 116.

(3) For the purposes of this section—

“book profit” has the same meaning as in section 44A (4).

[S. 50M inserted by s. 9 (k) of Act 10 of 2010 w.e.f. 24 December 2010.]

Sub-Part B – Gross Income

51. Income included in gross income

Subject to this Act, the gross income of a company shall include the income referred to in section 10 (1) (b), (c), (d) and (g).

[S. 51 amended by s. 18 (s) of Act 15 of 2006 w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July 2007 and in respect of every subsequent year of assessment; s. 9 (l) of Act 10 of 2010 w.e.f. 1 January 2011; s. 8 (p) of Act 37 of 2011 w.e.f. 5 November 2011.]

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51A. —

[S. 51A inserted by s. 9 (m) of Act 10 of 2010 w.e.f. 1 January 2011; repealed by s. 8 (q) of Act 37 of 2011 w.e.f. 5 November 2011.]

52. Income received in anticipation

Section 12 shall apply in all respects to a company as it applies to an individual.

53. Valuation of trading stock

Section 13 shall apply in all respects to a company as it applies to an individual.

54. Transfer of trading stock with other assets or for inadequate consideration

Section 14 shall apply in all respects to a company as it applies to an individual.

55. Deemed income arising from expenditure or loss discharged

Section 15 shall apply in all respects to a company as it applies to an individual.

56. Apportionment of income on incorporation and disincorporation

Section 16 shall apply in all respects to a company as it applies to an individual.

Sub-Part C – Allowable Deductions

57. Expenditure incurred in production of income

Section 18 shall apply in all respects to a company as it applies to an individual.

58. Expenditure incurred on interest in production of income

Section 19 shall apply in all respects to a company as it applies to an individual.

59. Losses

(a) Where a company satisfies the Director-General that it has in an income year incurred a loss, it may deduct that loss in computing its net income for that income year.

(b) Where the amount of a loss cannot be fully relieved under paragraph (a), the company may, subject to paragraph (c), claim that the unrelieved amount of the loss be carried forward and set-off against its net income derived in the following 5 years, subject to such conditions as may be prescribed.

(c) The time limit of 5 years under paragraph (b) shall not apply for the carry forward of any amount of loss that is attributable to annual allowance claimed in respect of capital expenditure incurred on or after 1 July 2006.

(d) Where the Director-General is not satisfied with a claim for loss made by a person under this section, the Director-General shall determine the quantum of the loss available for set-off or carry forward and shall give notice of his determination to the person.

[S. 59 amended by s. 10 (k) of Act 18 of 1999 w.e.f. 1 July 1999; s. 35 (3) (c) of Act 20 of 2001 w.e.f. 17 September 2001; s. 14 (k) of Act 20 of 2002 w.e.f. 10 August 2002; s. 27 of Act 33 of 2004 w.e.f. 1 July 2006; repealed and replaced by s. 18 (t) of Act 15 of 2006 w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July 2007 and in respect of every subsequent year of assessment; s. 15 (d) of Act 18 of 2008 w.e.f. 19 July 2008.]

59A. Transfer of loss on takeover or merger

[Heading amended by s.19 (j) (i) of Act 14 of 2005 w.e.f. 1 July 2005.]

(1) Notwithstanding the other provisions of this Act, where—

- (a) a company takes over another company engaged in manufacturing activities; or
- (b) 2 or more companies engaged in manufacturing activities merge into one company,

any unrelieved loss of the acquiree may be transferred to the acquirer in the income year in which the takeover takes place, on such conditions relating to safeguard of employment as may be approved by the Minister.

(2) Any unrelieved loss transferred under subsection (1) shall be deemed to be incurred by the acquirer in the income year in which the loss is transferred and shall be available for set-off against the net income of the acquirer.

(3) Where, at any time before the expiry of 3 years from the date of the takeover or merger, more than 50 per cent of the number of employees of the acquiree taken over by the acquirer, or of the employees of both the acquiree and the acquirer, as the case may be, are made redundant, any loss transferred under subsection (1) shall be withdrawn and the amount of the loss so withdrawn shall be deemed to be the gross income of the acquirer in the income year in which the employees are made redundant.

(4) For the purposes of this section—

“acquiree” means a company of which the assets and liabilities have been acquired by another company through a takeover or merger and which is dissolved;

“acquirer” means a company which has acquired the assets and liabilities of another company by means of a takeover or merger.

[S. 59A inserted by s. 9 (h) of Act 18 of 2003 w.e.f. the year of assessment commencing 1 July 2003; amended by s.19 (j) (iii) of Act 14 of 2005 w.e.f. 1 July 2005.]

60. Bad debts and irrecoverable sums

(1) Subject to subsection (3), a company which derives gross income specified in section 10 (1) (b) in an income year may deduct—

- (a) the amount of a debt or sum which is proved to have become bad and to have been actually written off as a bad debt by the company in that income year; and

- (b) in the case of banks, the amount of any irrecoverable loan due by a company in liquidation in respect of which winding up procedures have started.

(2) Subject to subsection (3), a company which derives gross income, other than gross income specified in section 10 (1) (b), may deduct any debt or sum not received in an income year but which is deemed to be derived in that income year and which is proved to have become irrecoverable by the company.

(3) Any amount allowed as a deduction under subsections (1) and (2) which is subsequently received by the company shall be deemed to be gross income derived in the income year in which it is received.

[S. 60 amended by s. 18 (u) of Act 15 of 2006 w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July 2007 and in respect of every subsequent year of assessment.]

61. Contributions to superannuation fund

Section 22 shall apply in all respects to a company as it applies to an individual.

62. Pensions to former employees

(1) Subject to subsection (2), the Director-General may, in the case of a company deriving gross income specified in section 10 (1) (b), allow a deduction in respect of any amount which is not deductible otherwise than under this section and which, in the opinion of the Director-General, is reasonable in the particular circumstances of the case, paid by the company in that income year by way of a pension to any former employee in the business of the company, or to the surviving spouse of that employee, in consideration of the past services of that employee in that business of the company, where the Director-General is satisfied that—

- (a) the pension is receivable by the recipient—
 - (i) by virtue of any enactment;
 - (ii) as of right under a written document for a fixed period or for life;
 - (iii) in the case of the surviving spouse, for a fixed period, or for life, or until he or she remarries; or
 - (iv) on grounds which the Director-General determines to be compassionate grounds; and
- (b) except in the case of the death of the employee while in the employment of the company, the employee did not retire from his employment before attaining the appropriate retiring age.

(2) This section shall not apply where—

- (a) the employee was or is a director of the company and was not in the full-time employment of the company; or
- (b) in any other case, because of any relationship to or with the employer or otherwise the former employee or the surviving

spouse had or has, in the opinion of the Director-General, any control in relation to the payment of the pension by the company.

63. Annual allowance

Section 24 shall apply in all respects to a company as it applies to an individual.

64. —

[S. 64 repealed by s. 18 (v) of Act 15 of 2006 w.e.f. 1 July 2007.]

64A. —

[S. 64A inserted by Act 25 of 2000; amended by s. 14 (l) (i) of Act 20 of 2002; s. 11 of Act 28 of 2004 w.e.f. 1 July 2005; repealed by s. 18 (v) of Act 15 of 2006 w.e.f. 1 July 2007.]

65. – 66. —

[Ss. 65 – 66 repealed by s. 18 (v) of Act 15 of 2006 w.e.f. 1 July 2007.]

67. —

[S. 67 amended by Act 25 of 2000; s. 11 (k) of Act 28 of 2004; repealed by s. 18 (v) of Act 15 of 2006 w.e.f. 1 July 2007.]

67A. —

[S. 67A inserted by Act 9 of 1997; repealed by s. 8 (s) of Act 37 of 2011 w.e.f. 1 January 2012.]

67B. —

[S. 67B inserted by Act 9 of 1997; amended by Act 10 of 1998; s. 11 (l) (ii) of Act 28 of 2004; amended by s. 27 of Act 33 of 2004; repealed by s. 18 (v) of Act 15 of 2006 w.e.f. 1 July 2007.]

67C. —

[S. 67C inserted by Act 9 of 1997; amended by s. 11 (m) of Act 28 of 2004 w.e.f. 1 July 2005; repealed by s. 18 (v) of Act 15 of 2006 w.e.f. 1 July 2007.]

67D. —

[S. 67D inserted by Act 18 of 1999; repealed by s. 18 (v) of Act 15 of 2006 w.e.f. 1 July 2007.]

67E. —

[S. 67E amended by Act 9 of 1997; Act 18 of 1999; Act 25 of 2000; repealed by s. 18 (v) of Act 15 of 2006 w.e.f. 1 July 2007.]

67F. —

[S. 67F inserted by Act 25 of 2000; repealed by s. 18 (v) of Act 15 of 2006 w.e.f. 1 July 2007.]

67G. —

[S. 67G inserted by Act 25 of 2000; repealed by s. 18 (v) of Act 15 of 2006 w.e.f. 1 July 2007.]

68. Unauthorised deductions

Section 26 shall apply in all respects to a company as it applies to an individual.

Sub-Part D

[Sub-Part D repealed by Act 15 of 2006 w.e.f. 1 July 2007.]

69. —

[S. 69 amended by Act 25 of 2000; s. 14 (m) of Act 20 of 2002 w.e.f. 1 July 2002; s. 11 (n) (ii) of Act 28 of 2004 w.e.f. 1 July 2005; s. 19 (k) of Act 14 of 2005 w.e.f. 1 July 2005; repealed by s. 18 (w) of Act 15 of 2006 w.e.f. 1 July 2007.]

69A. —

[S. 69A inserted by s. 9 (i) of Act 18 of 2003; amended by s. 27 of Act 33 of 2004; s. 19 of Act 14 of 2005; repealed by s. 18 (w) of Act 15 of 2006 w.e.f. 1 July 2007.]

70. —

[S. 70 amended by s. 11 (d) of Act 23 of 2001; repealed by s. 18 (w) of Act 15 of 2006 w.e.f. 1 July 2007.]

71. – 72. —

[Ss. 71 – 72 repealed by s. 18 (w) of Act 15 of 2006 w.e.f. 1 July 2007.]

PART V – INTERNATIONAL ASPECTS OF INCOME TAX

73. Definition of residence

(1) For the purposes of this Act, “resident”, in respect of an income year, when applied to—

- (a) an individual, means a person who—
 - (i) has his domicile in Mauritius unless his permanent place of abode is outside Mauritius;
 - (ii) has been present in Mauritius in that income year, for a period of, or an aggregate period of, 183 days or more; or
 - (iii) has been present in Mauritius in that income year and the 2 preceding income years, for an aggregate period of 270 days or more;
- (b) a company, means a company which—
 - (i) is incorporated in Mauritius; or
 - (ii) has its central management and control in Mauritius;
- (c) a *société*—
 - (i) means a *société* which has its seat or *siège* in Mauritius; and
 - (ii) includes a *société* which has at least one associate or *associé* or *gérant* resident in Mauritius;
- (d) a trust, means a trust—
 - (i) where the trust is administered in Mauritius and a majority of the trustees are resident in Mauritius; or
 - (ii) where the settlor of the trust was resident in Mauritius at the time the instrument creating the trust was executed;
- (e) any other association or body of persons, means an association or body of persons which is managed or administered in Mauritius.

(2) Where a person wishes to be certified as a resident of Mauritius in respect of an income year, he shall apply to the Director-General for a Tax Residence Certificate.

(3) The Tax Residence Certificate under subsection (2) shall be issued within a period of 7 days from the date of the application, provided that the person has submitted the return required to be submitted under section 112 or 116, as the case may be, and paid such service fee as may be prescribed.

[S. 73 amended by Act 9 of 1997; s. 18 (x) of Act 15 of 2006 w.e.f. 7 August 2006; s. 12 (i) of Act 26 of 2012 w.e.f. 22 December 2012.]

73A. Residence in case of company holding a Category 2 Global Business Licence

A company holding a Category 2 Global Business Licence or a special purpose fund established under the Financial Services Act shall not be resident for the purposes of section 76.

[S. 73A inserted by s. 362 (1) (a) of Act 15 of 2001 w.e.f. 1 December 2001; amended by s. 97 (4) (b) of Act 14 of 2007 w.e.f. 28 September 2007; s. 12 (j) of Act 26 of 2012 w.e.f. 22 December 2012.]

74. Income derived from Mauritius

(1) Subject to subsection (2), income derived from Mauritius shall include—

- (a) emoluments derived from any office or employment, the duties of which are performed wholly or mainly in Mauritius, whether such emoluments are received in Mauritius or not;
- (aa) directors' fees and any other similar payments derived by any person in his capacity as a member of the board of directors of a company which is resident in Mauritius, whether the services are performed in, or from outside, Mauritius;
- (b) annuities and pensions, including pensions in respect of past services referred to in sections 23 and 62;
- (c) income derived from any business carried on wholly or partly in Mauritius;
- (d) income derived from any contract wholly or partly performed in Mauritius;
- (e) income derived by a person in his capacity as owner of any immovable property in Mauritius;
- (f) income derived from investment in shares, debentures or other securities in Mauritius;
- (g) income derived by a person from money lent by him—
 - (i) in Mauritius; or
 - (ii) outside Mauritius to—
 - (A) a resident, other than a resident banking company, except where the money lent is used by the resident for the purpose of a business carried on by him outside Mauritius through a fixed establishment outside Mauritius; or
 - (B) a non-resident, if the money lent is used by the non-resident for the purpose of a business, other than the business of money-lending, carried on by him in Mauritius through a permanent establishment in Mauritius;

- (h) premiums or other like payments which are derived from property in Mauritius; and
- (i) income derived directly or indirectly from any other source in Mauritius.

(2) Where by reason of—

- (a) the manufacture, production, or purchase of goods in one country and their sale in another;
- (b) successive steps of production or manufacture in different countries;
- (c) the making of a contract in one country and its performance in another; or
- (d) any other cause,

the source of any income, other than income referred to in subsection (1) (e), is not exclusively in Mauritius, that income shall be apportioned between its source in Mauritius and its source elsewhere, or attributed to one of such sources to the exclusion of the other, in such manner as the Director-General thinks fit, having regard to the nature and relative importance of the source of that income, and the income so apportioned or attributed to a source in Mauritius shall be regarded as derived from Mauritius.

(3) For the purposes of subsection (1) (g), “money lent” includes—

- (a) any money advanced, deposited or otherwise let out whether on current account or otherwise; and
- (b) any credit given, including the forbearance of a debt, whether on current account or otherwise.

[S. 74 amended by s. 11 (e) of Act 23 of 2001 w.e.f. the income year commencing on 1 July 2001; s. 15 (f) of Act 18 of 2008 w.e.f. 1 July 2008.]

75. Application of arm’s length test

(1) This section shall apply to any case where—

- (a) any business or other income earning activity carried on in Mauritius—
 - (i) is controlled by a non-resident; or
 - (ii) is carried on by a non-resident company or by a company in which more than one half of the shares are held by or on behalf of a non-resident; or
- (b) in the carrying on of any business or other income earning activity in Mauritius any person controlling that business or activity, by reason of his relationship or otherwise with any other person, is not in the opinion of the Director-General at arm’s length with that person with respect to any commercial or financial transaction; and

- (c) it appears to the Director-General that the business or other income earning activity in Mauritius produces no net income or

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less than the amount of net income which in the opinion of the Director-General might be expected to be derived from that business or activity.

(2) Where the conditions specified in subsection (1) are satisfied, the net income of any person carrying on a business or other income earning activity in Mauritius shall be the amount which the Director-General determines would have been derived from that business or activity, had all its commercial and financial transactions and relations been wholly at arm's length.

(3) The Minister may make such regulations as he thinks fit for the purposes of this section.

76. Arrangements for relief from double taxation and for the exchange of information

(1) The Minister may enter into arrangements with the Government of a foreign country—

- (a) with a view to affording relief from double taxation, in relation to foreign tax imposed by the laws of that country and income tax; or
- (b) for the exchange of information with a view to assisting—
 - (i) in the determination of credits and exemptions in respect of income tax and foreign tax;
 - (ii) in the prevention of fraud; or
 - (iii) in the administration of the laws in relation to income tax and foreign tax.

(2) Notwithstanding this Act or any other enactment but subject to this section, an arrangement entered into under subsection (1) shall have effect in relation to income tax and according to its tenor.

(3) An arrangement under subsection (1) may contain provision in relation to foreign tax and income tax—

- (a) for relief from tax;
- (b) for assessing the income derived from sources in Mauritius by non-residents;
- (c) for determining the income to be attributed to non-residents and their agencies, branches, or establishments in Mauritius;
- (d) for determining the income to be attributed to residents who have special relationships with non-residents;
- (e) for relief from tax for periods before the commencement of this Act or before the making of the arrangement;
- (f) as to income which is not itself subject to double taxation; and
- (g) for exchange of information in respect of any person not resident in Mauritius.

(4) An arrangement under subsection (1) may at any time be amended or revoked by a subsequent arrangement, and the subsequent arrangement may contain such transitional provision as appears to the Minister to be necessary or expedient.

(5) Where an arrangement is made under subsection (1), the obligations as to secrecy imposed under section 154 shall not prevent the Director-General from disclosing to an officer authorised by the Government with which the arrangement is made such information as is required to be disclosed under the arrangement.

(6) The Minister may make such regulations as he thinks fit to give effect to any arrangement entered into under this section.

[S. 76 amended by s, 21 (e) of Act 14 of 2009 w.e.f. 30 July 2009.]

76A. Arrangements for assistance in the recovery of foreign tax

The Minister may enter into arrangements with the Government of a foreign country for the purposes of providing assistance in the collection and recovery of foreign tax in the same manner as is provided under Part XI.

[S. 76A inserted by s. 21 (f) of Act 14 of 2009 w.e.f. 30 July 2009.]

77. Credits in respect of foreign tax

(1) Where a taxpayer derives income which is subject to foreign tax, the amount of foreign tax so paid shall be allowed as a credit against income tax payable in Mauritius in respect of that income.

(2) The credit in respect of foreign tax shall, in the case of a dividend, include credit for any foreign tax imposed on the profits out of which that dividend is directly or indirectly paid.

(3) The Minister may, by regulations, provide for the implementation of the provisions of this section and for the granting of credit for foreign tax in such manner and on such conditions as he thinks fit.

PART VI – AGENTS, ABSENTEES, NON-RESIDENTS AND DECEASED PERSONS

78. Liability of principal not affected

(1) Nothing in this Act relating to an agent shall be construed so as to release the principal from liability to make returns and pay income tax, and the principal and agent shall be jointly and severally liable for the income tax.

(2) Where 2 or more persons are liable as agents in respect of the same income tax, they shall be jointly and severally liable for it.

79. Provisions applying to agents

Subject to this Act, every agent shall—

- (a) be answerable for the doing of all such things as are required to be done under this Act in respect of the income derived by him in his representative capacity, or derived by the principal by virtue of the agency, and for the payment of income tax on it;
- (b) in respect of that income, make returns and be liable on that income, but in his representative capacity only, and each return and tax liability shall be separate and distinct from any other;

- (c) be authorised and required to retain out of any money or other property received by him in his representative capacity so much as is sufficient to pay the income tax which is or will become payable in respect of that income;
- (d) not make any payment of income to a non-resident or absentee or transfer out of Mauritius any sum for the purpose of making any such payment, unless and until arrangements have been made to the satisfaction of the Director-General for the payment of any income tax which is or will become payable in respect of that income;
- (e) be personally liable for the income tax payable in respect of the income to the extent of any amount that he has retained, or should have retained under paragraphs (c) and (d);
- (f) be indemnified for all payments which he makes under this Act or for any requirement of the Director-General;
- (g) where another agent pays an amount for which they are jointly liable, be liable to pay to that agent his proportionate share of the amount so paid; and
- (h) for the purpose of ensuring the payment of income tax, be liable, to the extent provided in paragraph (e), in respect of attachable property of any kind vested in him or under his control or management or in his possession to the same measures which the Director-General may enforce against the property of any taxpayer in respect of income tax.

80. Income tax paid on behalf of another person

Every person who, under this Act, pays income tax for or on behalf of any other person may recover it from that other person as a debt in any Court of competent jurisdiction or may retain or deduct it out of money at any time in his hands belonging or payable to that other person.

81. Agents of incapacitated persons, companies and bodies of persons

(1) Every person who has the possession, control or disposal of any income derived by an incapacitated person shall be deemed to be the agent of the incapacitated person in respect of that income.

(2) Every secretary, manager or other principal officer of a company, *société* or other body of persons shall be deemed to be the agent of the company, *société* or other body of persons in respect of income derived by it.

(3) —

(4) Every trustee shall be deemed to be the agent of a trust in respect of income derived by that trust.

(5) Every trustee or manager of a unit trust scheme shall be deemed to be the agent of that unit trust scheme.

(6) For the purposes of this section—

“incapacitated person” means a minor or a person suffering from mental or physical disability;

“manager”, in relation to a unit trust scheme, has the same meaning as in the Unit Trust Act.

[S. 81 amended by s. 10 (d) of Act 20 of 2009 w.e.f. 19 December 2009.]

81A. Tax liability of appointed person

(1) Where an administrator, executor, receiver or liquidator is appointed to manage or wind up the business of any company, the appointed person shall—

- (a) give notice of his appointment to the Director-General, within 15 days of the date of his appointment, in such manner and in such form as may be approved by the Director-General;
- (b) before disposing of any asset of the company, set aside such sum out of the asset as appears to the Director-General to be sufficient to provide for any income tax that is or may become due and payable by the company; and
- (c) do everything that is required to be done by a company under this Act.

(2) Any appointed person who, without reasonable cause or justification, fails to comply with any of the requirements of subsection (1) shall be personally liable to pay any income tax that is or may become due and payable and shall commit an offence.

[S. 81A inserted by s. 10 (e) of Act 20 of 2009 w.e.f. 19 December 2009.]

82. Agents of absentees and non-residents

(1) Notwithstanding the fact that there may be another agent in Mauritius who shall continue to be liable as agent, but subject to this Act—

- (a) every person who carries on business in Mauritius on behalf of a principal who is an absentee shall be deemed to be the agent of that principal in respect of all income derived from that business and shall be liable to income tax on it, whether or not any income derived by the principal is received by him;
- (b) where a non-resident derives chargeable income from Mauritius from the business of shipping, the master of any ship and the captain of any aircraft shall be deemed to be the agent of that non-resident in respect of all income derived from the carriage of passengers, cargo or mail by that ship or aircraft and shall be liable to income tax on it, whether or not any income derived by the non-resident is received by him;

- (c) every person who in Mauritius collects or receives or in any way has the possession, control or disposal of any income derived by an absentee shall be deemed to be the agent of the absentee in respect of that income.

(2) Where a non-resident sells goods—

- (a) by himself while in Mauritius; or
- (b) through a person who is in Mauritius,

and the goods are in Mauritius or are to be brought into Mauritius for the purpose or in pursuance or consequence of the sale, the non-resident shall be deemed to have sold the goods in the course of carrying on business in Mauritius, whether the contract of sale is made in or outside Mauritius.

(3) Where goods are sold by a non-resident through a person who is in Mauritius, that person shall be deemed to be the agent of that non-resident in respect of all income derived from the business carried on in Mauritius by the non-resident and shall be liable to income tax on it, whether or not any income derived by the non-resident is received by him.

83. Deceased persons

(1) Where a taxpayer dies, every person specified in subsection (3) shall, subject to subsections (2), (4), (5) and (6), be liable to income tax on all income derived by the taxpayer in his lifetime in the same manner in which the taxpayer would have been liable had he remained alive, and shall be deemed to be an agent of the deceased taxpayer.

(2) The income tax payable in accordance with subsection (1) shall be reduced by—

- (a) 50,000 rupees; or

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- (b) an amount equivalent to half of any lump sum payable under any enactment on the death of the taxpayer by way of death gratuity or in commutation of pension or from a superannuation fund,

whichever is the higher.

(3) The persons specified for the purposes of subsection (1) shall be—

- (a) an heir who accepts the succession of the deceased simply (*purement et simplement*) or under benefit of inventory;
- (b) a surviving spouse;
- (c) a universal legatee;
- (d) an executor;
- (e) a notary acting as liquidator of the succession of the deceased;
- (f) where there is no person specified in paragraph (a), (b) or (c), a legatee or donee; and
- (g) where he is vested with the vacant succession of the deceased, the Curator of Vacant Estates.

(4) Where a person specified in subsection (3) has distributed the whole of the estate of the deceased taxpayer and thereafter a change occurs in the rate of income tax, he shall not be liable for any additional income tax resulting from the change.

(5) A person specified in subsection (3) (a), (b), or (f) shall not be liable under subsection (1) to any income tax in excess of his share in the estate of the deceased taxpayer.

(6) Nothing in this section shall affect the rights of a person specified in subsection (3) over or against any heir, surviving spouse or legatee.

[S. 83 amended by s. 18 (y) of Act 15 of 2006 w.e.f. 1 July 2006.]

PART VII – ANTI-AVOIDANCE PROVISIONS

84. Interest on debentures issued by reference to shares

Where a company has issued debentures to its shareholders or any class of shareholders, and the amount of the debentures issued to each shareholder has been determined by reference to the number, the nominal value or the paid-up value of the shares in that company or in any other company, whether or not that other company is being or has been wound up, that were held by or on behalf of the shareholder at the time the debentures were issued or at any earlier time, the interest paid by the company on the debentures so issued shall not be an allowable deduction and shall be deemed to be a dividend received from the company by the shareholders or class of shareholders of the company.

85. Excess of remuneration or share of profits

(1) Subject to subsection (3), where—

- (a) a taxpayer carries on any business or other income earning activity and employs a relative, or, being a company, employs a relative of a director or shareholder of the company, to perform services in connection with the business or activity;

- (b) a taxpayer carries on any business or other income earning activity as an associate with any person, whether or not any other person is a member of the *société*, and—
 - (i) a relative of the taxpayer is employed by the *société* to perform services in connection with the business or activity; or
 - (ii) where one of the associates is a company, a relative of a director or shareholder of the company is employed by the *société* to perform services in connection with the business or activity; or
- (c) a taxpayer carries on any business or other income earning activity in association with a relative or with a company of which a director or shareholder is a relative of the taxpayer or, being a company, carries on business or other income earning activity in association with a relative of a director or shareholder of the company, whether or not any other person is a member of the *société*,

and the Director-General is of opinion that the remuneration, salary, share of profits or other income payable to, or for the benefit of, that relative or company under the contract of employment or on the terms of the *société* exceeds the amount which is reasonable, having regard to the nature and extent of the services rendered, the value of the contributions made by the respective associates by way of services or capital or otherwise, and any other relevant matters, the Director-General may apportion the net income of the business or other income earning activity, without deducting any amount payable to that relative or company, between the parties to the contract of employment or the associates or any of them in such shares and proportions as he considers reasonable, and the amounts so apportioned shall be deemed to be income derived by the persons to whom those amounts are so apportioned and by no other person.

(2) Subject to subsection (3), where any sum paid or credited by a company, being or purporting to be remuneration for services rendered by a person who is a relative of a director or shareholder of the company, is apportioned to that company in accordance with subsection (1), the amount so apportioned to the company shall be deemed to be a benefit referred to in section 86A received by that person as a shareholder of the company.

(3) This section shall not apply to a contract of employment or an agreement to form a *société* where—

- (a) the contract or agreement is in writing and signed by all parties;
- (b) no associate and no person employed under the contract or agreement was a minor at the date on which the contract was signed;
- (c) the contract or agreement is binding on the parties for a term of not less than 3 years and cannot be terminated by any party before the expiry of that term;

- (d) each party to the contract has a real and effective control of the remuneration, salary, share of profit, or other income to which he is entitled under the contract; and
- (e) the remuneration, salary, share of profits, or other income payable to a relative or to a company of which a director or shareholder is a relative is not of such an amount that the transaction constitutes a gift or other disposition of property without adequate consideration in money or money's worth.

[S. 85 amended by s. 11 (f) of Act 23 of 2001 w.e.f. the income year commencing on 1 July 2001.]

86. Excessive remuneration to shareholder or director

Where any sum paid or credited by a company, being or purporting to be remuneration for services rendered by a person who is a shareholder or director of the company, exceeds the amount which in the opinion of the Director-General is reasonable, the amount of the excess shall not be an allowable deduction and shall be deemed to be a benefit referred to in section 86A received by that person as a shareholder of the company.

[S. 86 amended by s. 11 (g) of Act 23 of 2001 w.e.f. the income year commencing on 1 July 2001.]

86A. Benefit to shareholder

Where a benefit of any nature, whether in money or money's worth, other than payment of dividend, is made by a company to any shareholder or a relative of the shareholder, the value of that benefit, to the extent that it exceeds the payment, if any, made therefor, shall be deemed to be income referred to in section (10) (1) (g) and received by the shareholder or the relative of the shareholder, as the case may be.

[S. 86A inserted by s. 11 (h) of Act 23 of 2001 w.e.f. the income year commencing on 1 July 2001; amended by s. 18 (z) of Act 15 of 2006 w.e.f. 1 July 2006; s. 8 (t) of Act 37 of 2011 w.e.f. 15 December 2011.]

87. Excessive management expenses

(1) Subject to subsection (2), where a person carries on any business or other income earning activity and the Director-General is of the opinion that any management expenses incurred by him exceed the amount which is reasonable, having regard to the nature and extent of the management services rendered, the amount of the excess shall not be an allowable deduction.

(2) This section shall not apply to the extent that the income of the taxpayer concerned is adjusted under section 84, 85 or 86.

(3) For the purposes of this section, "management expenses" means emoluments, fee, rent, commission, charge or other administration expense incurred in the general management of a business or other income earning activity.

88. Leases for other than an adequate rent

(1) Where property owned by a person or by 2 or more persons, whether jointly or in undivided ownership, or by a *société*, is leased to a relative of any of those persons or any associate of the *société* or to a related company, or

where property owned by a company is leased to a shareholder or a relative of a shareholder or to any other person, and the rent is not an adequate rent for the property or the lease makes no provision for the payment of rent, there shall be deemed to be payable under the lease a rent that is equal to an adequate rent for the property, and that rent shall be deemed to be income derived by the lessor—

- (a) where a rent is payable under the lease, in respect of the periods for which the rent is so payable; or
- (b) where no rent is payable under the lease, in respect of such periods as the Director-General determines.

(2) The rent deemed to be payable under subsection (1) shall accrue from day-to-day during the period in respect of which it is payable, and shall be apportioned accordingly.

(3) For the purposes of this section, “adequate rent” means the amount of rent which the Director-General determines to be adequate for the period for which the determination is made.

89. Rights over income retained

Where a person sells property or any right to income to a relative and retains or obtains the power to enjoy income arising from that property or from that right or retains or obtains the right to dispose of, or direct, or control the disposition of that income or of that property or right, the income shall be deemed to be income derived by the transferor, and by no other person, as if the sale had not taken place.

90. Transactions designed to avoid liability to income tax

(1) This section shall apply where any transaction has been entered into or effected and that transaction has, or would have had, but for this section, the effect of conferring a tax benefit on a person, hereinafter referred to as relevant person, and having regard to—

- (a) the manner in which the transaction was entered into or carried out;
- (b) the form and substance of the transaction;
- (c) the result in relation to the operation of this Act that, but for this section, would have been achieved by the transaction;
- (d) any change in the financial position of the relevant person that has resulted, will result, or may reasonably be expected to result, from the transaction;
- (e) any change in the financial position of any person who has, or has had, any connection, whether of a business, family or other nature, with the relevant person, being a change that has resulted or may reasonably be expected to result from the transaction;
- (f) whether the transaction has created rights or obligations which would not normally be created between persons dealing with each other at arm’s length under a transaction of the kind in question; and

- (g) the participation in the transaction of a corporation resident or carrying on business outside Mauritius,

the Director-General may conclude that the person, or one of the persons, who entered into or carried out the transaction, did so for the sole or dominant purpose of enabling the relevant person, either alone or in conjunction with other persons, to obtain a tax benefit.

(2) Where subsection (1) applies, the Director-General shall assess the liability to tax of the relevant person—

- (a) as if the transaction or any part thereof had not been entered into or carried out; or
- (b) in such other manner as the Director-General considers appropriate to counteract the tax benefit which would otherwise be obtained.

(3) For the purposes of this section—

“tax benefit” means the avoidance or postponement of the liability to pay income tax or the reduction in the amount thereof;

“transaction” includes a transaction, operation, or scheme whether or not such transaction, operation, or scheme is enforceable, or intended to be enforceable, by legal proceedings.

PART VIII – RETURNS, COLLECTION AND PAYMENT OF TAX

91. Due date for payment of income tax

Subject to this Act, income tax for any year of assessment shall, whether or not a return of income has been submitted, or an assessment has been made, be due on 1 January in that year.

[S. 91 amended by s. 21 (g) of Act 14 of 2009 w.e.f. 1 January 2010.]

Sub-Part A – Pay As You Earn (PAYE) System

92. Application of Sub-Part A

This Sub-part shall apply to emoluments, but shall not apply to emoluments derived by an exempt person.

93. Employer to withhold tax from emoluments

(1) Every employer shall, at the time the emoluments are received by, or made available to, an employee, withhold income tax from the emoluments of that employee.

(1A) The remuneration earned by a director of a company shall, notwithstanding subsection (1), be deemed to have been received by the director in the income year in which such remuneration is charged in the income statement referred to in section 217 (1) (b) of the Companies Act, of the company.

(2) —

(3) Every employer shall give to his employee a Statement of Emoluments and Tax Deduction in such manner as may be prescribed.

(4) Every employer shall submit to the Director-General a Return of Employees giving such information and particulars, within such time and in such manner, as may be prescribed.

(4A) (a) Where an employer does not submit the Return of Employees under subsection (4) within the prescribed time, he shall be liable to pay to the Director-General a penalty of 5,000 rupees per month or part of the month, until the time the Return of Employees is submitted to the Director-General, provided that the total penalty payable shall not exceed 20,000 rupees.

(b) Where a penalty is payable under paragraph (a), the Director-General shall make, by registered post, a claim to the employer specifying the amount of penalty payable and the reasons for making such a claim.

(c) Where a claim is made under paragraph (b), the employer shall pay the amount of penalty within 28 days of the date of the claim.

(d) Where an employer is aggrieved by a claim made under paragraph (b), he may, within 28 days of the date of the claim, lodge with the Clerk to the Assessment Review Committee written representations in accordance with section 19 of the Mauritius Revenue Authority Act.

(5) Any employer who fails to comply with subsection (4) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees.

[S. 93 amended by s. 18 (za) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing on 1 July 2006 and in respect of every subsequent income year; s. 17 (l) of Act 17 of 2007 w.e.f. 22 August 2007; s. 8 (u) of Act 37 of 2011 w.e.f. 1 January 2012 in respect of the income year commencing 1 January 2012 and in respect of every subsequent income year; 15 December 2011.]

94. Registration of employers

Every employer shall register with the Director-General in such manner and on such conditions as may be prescribed.

95. Employee declaration

(1) Subject to subsection (2), every employee who, for an income year, is entitled to the income exemption threshold under section 27 and interest relief under section 27A in respect of that income year and who wishes to have the income exemption threshold taken into account for the purposes of determining his chargeable income and the amount of income tax, if any, to be withheld from his emoluments under section 93 during that income year shall submit to his employer an Employee Declaration Form in such manner and on such conditions as may be prescribed.

(2) Where the income exemption threshold referred to in subsection (1) has been claimed, that income exemption threshold shall not be claimed for the purposes of Sub-part B of Part VIII.

(3) Where an employee has, in his Employee Declaration Form, claimed, in respect of an income year, an additional exemption under paragraph (ix) of the Third Schedule or interest relief under section 27A and the claim is

thereafter found to be unjustified or in excess of the amount to which he is entitled, by 10 per cent or more, he shall be liable, in addition to the amount of the income tax underpaid, to a penalty not exceeding 25 per cent of the underpaid amount.

[S. 95 amended by s. 7 (f) of Act 13 of 1996 w.e.f. 1996; s. 9 (n) of Act 9 of 1997 w.e.f. 1 July 1997; s. 4 (l) of Act 10 of 1998 w.e.f. 1 July 1998; s. 10 (m) of Act 18 of 1999 w.e.f. 1 July 1999; s. 12 (p) of Act 25 of 2000 w.e.f. 1 July 2000; repealed and replaced by s. 18 (zb) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year; s. 9 (n) of Act 10 of 2010 w.e.f. the income year commencing 1 January 2011.]

96. Tax to be withheld

(1) Where an employee has submitted in respect of an income year an Employee Declaration Form to his employer, the amount of income tax to be withheld from the emoluments of the employee shall be calculated, on a cumulative basis, in such manner as may be prescribed.

(2) Where an employee has not submitted in respect of an income year an Employee Declaration Form to his employer, the employer shall withhold tax from the emoluments of the employee at the rate of 15 per cent of those emoluments.

(3) Where any fees are payable—

- (a) by a company to any of its directors; or
- (b) by a statutory body to any member of its Board, Council, Commission, Committee or by whatever name called,

tax shall be withheld from the fees of the director or member, as the case may be, at the rate of 15 per cent of those fees.

(4) Where tax is withheld in an income year under this section and, in that income year, the employee, director or member, as the case may be, is a non-resident and is not deriving any other gross income, the amount of tax so withheld shall be deemed to be the final amount of tax payable by that employee, director or member for that income year and, in relation thereof, the provisions of Sub-part C of Part VIII shall not apply.

[S. 96 amended by s. 7 (g) of Act 13 of 1996 w.e.f. 1 July 1996; s. 4 (m) of Act 10 of 1998 w.e.f. 1 July 1998; s. 14 (n) of Act 20 of 2002 w.e.f. 10 August 2002; amended by s. 27 of Act 33 of 2004 w.e.f. 1 July 2006; repealed and replaced by s. 18 (zc) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year; amended by s. 17 (m) of Act 17 of 2007 w.e.f. 1 July 2007; s. 15 (g) of Act 18 of 2008 w.e.f. 1 July 2008.]

97. Direction not to withhold tax

Where income tax is required to be withheld from the emoluments of an employee under this Sub-part during an income year and the employee proves to the satisfaction of the Director-General that he is not chargeable to income tax for that income year, the Director-General may, by written notice under his hand to the employer, direct that no tax shall be withheld from the emoluments of that employee.

98. Decision as to whether an amount is an emolument

Where any question arises in relation to an employer or an employee as to whether any amount is or is not an emolument to which this Sub-part applies,

the question shall be decided by the Director-General, whose decision shall be notified to the employer or employee in writing.

99. Obligation of employer to withhold tax

The obligation of an employer to withhold tax under section 93 shall prevail over—

- (a) any right or obligation to withhold any other amount from such payment; or
- (b) any law providing that the amount of any such payment shall not be reduced or be subject to attachment.

99A. Registration of employees

(1) Where in respect of an employee, tax is required to be withheld by an employer under section 93 at any time in an income year, the employer shall—

- (a) unless the employee has a Tax Account Number, make the necessary arrangements to obtain from the Director-General a Tax Account Number in respect of that employee; and
- (b) insert the Tax Account Number of the employee in his payroll at the time of withholding any tax under that section.

(2) —

[S. 99A inserted by s. 27 (10) (b) of Act 33 of 2004 w.e.f. 1 July 2006; repealed by s. 8 (v) of Act 37 of 2011 w.e.f. 1 January 2012.]

100. Payment of tax by employer

(1) An employer who has withheld tax under this Sub-part shall pay the tax so withheld within 20 days from the end of the month in which the tax was withheld, in such manner as may be prescribed.

(1A) Every person registered as an employer for the purposes of PAYE who, at any time, has in his employment 25 or more employees shall, unless otherwise authorised, submit his PAYE return and remit the tax withheld electronically through such computer system as may be approved by the Director-General under section 128A (1).

(1B) Every employer, irrespective of the number of employees in his employment, who submits his PAYE return and remits the tax withheld in the manner specified in subsection (1A), shall—

- (a) notwithstanding subsection (1), pay the tax so withheld on or before the end of the month immediately following the month in which the tax was withheld; and
- (b) continue to submit his PAYE return and remit the tax withheld electronically until such time as he ceases to be an employer.

(1C) The due date for submission of the PAYE return and remittance of the tax withheld under subsection (1A) in respect of the month of November shall, notwithstanding subsection (1B), be 2 days, excluding Saturdays and public holidays, before the end of December.

(2) An employer who has not withheld tax as required by this Sub-part shall be liable to pay to the Director-General the amount of tax which has not been so withheld, but the employer shall be entitled to recover that amount from the employee.

[S. 100 amended by s. 9 (j) of Act 18 of 2003 w.e.f. 1 December 2003; amended by s. 27 of Act 33 of 2004 w.e.f. 1 July 2006; s. 10 (f) of Act 20 of 2009 w.e.f. 19 December 2009; s. 8 (w) of Act 37 of 2011 w.e.f. 1 January 2012.]

101. Penalty for late payment of tax by employer

(1) Where an employer fails to pay the amount of tax required to be withheld under this Sub-part on or before the last day on which it is payable under section 100, he shall be liable to pay to the Director-General, in addition to the tax, a penalty of 5 per cent of the amount of the tax remaining unpaid.

(2) The penalty under subsection (1) shall apply to the tax excluding any interest under section 122D.

[S. 101 repealed and replaced by s. 18 (zd) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year.]

101A. Penalty for failure to join electronic system

Any registered employer who is required to submit his PAYE return under section 100 (1A) and make payment of tax withheld on behalf of his employees electronically, but fails to join the electronic system, after written notice being given to him by the Director-General, shall be liable to pay to the Director-General on his failure within a period of 7 days from the date of the notice to justify the failure to join the system, a penalty of 5,000 rupees, for every month or part of the month from the month specified in the notice, up to the month immediately preceding the month in which he submits his return, and to make any payment of tax withheld electronically, provided that the total penalty payable shall not exceed 50,000 rupees.

[S. 101A inserted by s. 18 (zd) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year.]

102. Priority over tax withheld

(1) Notwithstanding any other enactment, tax withheld by an employer under this Sub-part—

- (a) shall be held on behalf of the Government; and
- (b) shall not be subject to attachment in respect of any debt or liability of the employer.

(2) In the event of the liquidation or bankruptcy of the employer, the amount withheld under this Sub-part shall not form part of the estate in liquidation or bankruptcy and shall be paid in full to the Director-General before any distribution of property is made.

103. Tax withheld deemed to be tax paid by employee

Any amount withheld as tax under this Sub-part shall be deemed to be—

- (a) received by the employee at the time it was withheld; and
- (b) paid by him,

and shall be credited against the income tax liability of the employee for the income year in which the emoluments were paid.

104. Non-disclosure of information by employer

(1) Subject to subsection (2), no employer shall disclose to any person, other than the Director-General, any information contained in the Employee Declaration Form submitted by an employee or any matter relating to this Sub-part and concerning the employee.

(2) Nothing in this section shall prevent the disclosure to an employee, or with his written consent to any other person, of any information or matter relating to this section concerning the employee.

Sub-Part B – Current Payment System (CPS)

105. Application of Sub-Part B

(1) Subject to subsection (2), this Sub-part shall apply to the gross income specified in section 10 (1) (b), and to rent, specified in section 10 (1) (c), derived by an individual.

(2) This Sub-part shall not apply to an individual in respect of gross income derived from the cultivation of sugar cane or the growing of tobacco.

[S. 105 amended by s. 27 (10) (c) of Act 33 of 2004 w.e.f. 1 July 2006; s. 18 (ze) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year; s. 17 (n) (ii) of Act 17 of 2007 w.e.f. 1 July 2007; s. 8 (x) of Act 37 of 2011 w.e.f. 1 January 2012 in respect of the income year commencing 1 January 2012 and in respect of every subsequent income year.]

105A. —

[S. 105A inserted by s. 27 (10) (d) of Act 33 of 2004 w.e.f. 1 July 2006; repealed by s. 8 (y) of Act 37 of 2011 w.e.f. 1 January 2012.]

106. CPS Statement and payment of tax

(1) Every individual who derives gross income falling under this Sub-part and, in respect of the preceding income year, had a chargeable income, shall submit to the Director-General a CPS Statement in such form and manner as may be approved by the Director-General and at the same time pay tax, if any, as follows—

In respect of CPS quarter	Due date for submission of CPS Statement and payment of tax
1 January to 31 March	30 June
1 April to 30 June	30 September
1 July to 30 September	2 days, excluding Saturdays and public holidays, before the end of December

(2) Notwithstanding subsection (1), an individual shall not submit a CPS Statement where—

- (a) in respect of the preceding income year, his gross income falling under this Sub-part did not exceed 4 million rupees; or
- (b) the tax payable on the chargeable income computed in accordance with section 107 (1) is of an amount not exceeding 500 rupees.

(3) Where a resident *société* or the estate of a deceased person derives gross income referred to in section 105, the associate of the *société* or the beneficiary in the estate, as the case may be, shall include, in his CPS Statement, his share of income from that gross income.

[S. 106 amended by s. 7 (h) of Act 13 of 1996 w.e.f. 1 July 1996; s. 9 (o) of Act 9 of 1997 w.e.f. 1 July 1997; s. 27 (10) (e) of Act 33 of 2004 w.e.f. 1 July 2006; repealed and replaced by s. 18 (zf) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year; amended by s. 21 (h) of Act 14 of 2009 w.e.f. 1 July 2009; s. 10 (g) of Act 20 of 2009 w.e.f. 19 December 2009; repealed and replaced by s. 8 (z) of Act 37 of 2011 w.e.f. 1 January 2012 in respect of the income year commencing 1 January 2012 and in respect of every subsequent income year; amended by s. 12 (k) of Act 26 of 2012 w.e.f. 1 January 2013 in respect of the income year commencing 1 January 2013 and in respect of every subsequent income year.]

107. Calculation of chargeable income

(1) The chargeable income of an individual in respect of a CPS quarter shall be computed by reference to the chargeable income, the net income and the total net income of the preceding income year as follows—

$$\frac{25}{100} \times \text{Chargeable Income} \times \frac{\text{Net Income falling under CPS}}{\text{Total net income}}$$

(2) Notwithstanding subsection (1), but subject to subsection (3), an individual may opt to compute his chargeable income in respect of a CPS quarter as being the difference between—

- (a) the gross income for that quarter; and
- (b) the sum of—
 - (i) the amount of allowable deductions for that quarter including any allowable loss brought forward from the income year preceding the income year to which the quarter relates or from any previous quarter, as the case may be, that relates to the derivation of the gross income; and
 - (ii) 25 per cent of the income exemption threshold to which the individual is entitled under section 27 in respect of that income year.

(3) Where any income exemption threshold referred to in subsection (2) has been claimed for the purposes of this Sub-part, that income exemption threshold shall not be claimed for the purposes of Sub-part A of Part VIII.

[S. 107 amended by s. 7 (i) of Act 13 of 1996 w.e.f. 1 July 1996; s. 9 (p) of Act 9 of 1997 w.e.f. 1 July 1997; s. 4 (n) of Act 10 of 1998 w.e.f. 1 July 1998; s. 10 (n) of Act 18 of 1999 w.e.f. 1 July 1999; s. 12 (q) of Act 25 of 2000 w.e.f. 1 July 2000; repealed and replaced by s. 18 (zg) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year; s. 8 (z) of Act 37 of 2011 w.e.f. 1 January 2012 in respect of the income year commencing 1 January 2012 and in respect of every subsequent income year.]

108. Calculation of tax

The income tax payable under this Sub-part shall be calculated on the chargeable income ascertained under section 107 and in accordance with the First Schedule.

[S. 108 amended by s. 18 (zh) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year; s. 17 (o) of Act 17 of 2007 w.e.f. 1 July 2007.]

109. Penalty for late submission of Statement of Income

Where a person fails to submit a Statement of Income under section 106, he shall be liable to pay to the Director-General a penalty representing 2,000 rupees per month or part of the month, until such time as the Statement of Income is submitted, provided that the total penalty payable shall not exceed 6,000 rupees per Statement of Income.

[S. 109 amended by s. 9 (q) of Act 9 of 1997 w.e.f. 1 July 1997; s. 14 (o) of Act 20 of 2002 w.e.f. 1 July 2002; repealed and replaced by s. 18 (zi) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year.]

110. Penalty for late payment of tax under CPS

Where a taxpayer fails to pay any income tax due on or before the last day on which it is payable under section 106, he shall be liable to pay to the Director-General, in addition to the tax, a penalty representing 5 per cent of the amount of tax remaining unpaid.

[S. 110 repealed and replaced by s. 18 (zj) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year.]

111. Return and payment of tax at end of income year

(1) Every person who is required to submit a Statement of Income under section 106 shall, at the end of the income year, submit to the Director-General the return required to be submitted under section 112.

(2) Where the amount of tax payable on the chargeable income in accordance with the return referred to in subsection (1) exceeds the sum of—

- (a) the aggregate amount of any tax paid under this Sub-part excluding any penalty under sections 109 and 110; and
- (b) any amount of tax withheld under Sub-part A,

the person shall pay the difference at the time the return is submitted together with the penalty specified in subsection (3), if any.

(3) Subject to subsection (4), where the amount of tax payable on the income falling under this Sub-part exceeds the amount of any tax in accordance with the Statement of Income by more than 35 per cent of the amount of tax payable, the person shall, at the time the return under section 112 is submitted, pay, in addition to the difference referred to in subsection (2), a penalty representing 25 per cent of the amount in excess of the 35 per cent.

(4) The penalty under subsection (3) shall not apply where, in respect of the CPS quarter in an income year—

- (a) the taxpayer has opted to compute his chargeable income in accordance with section 107 (1); or
- (b) the amount in excess is solely attributable to income derived in the period immediately following the end of the third CPS quarter of the income year.

[S. 111 amended by s. 9 (r) of Act 9 of 1997 w.e.f. 1 July 1997; s. 18 (zk) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year; s. 8 (za) of Act 37 of 2011 w.e.f. 1 January 2012.]

Sub-Part BA – Deductions of Tax at Source

[Sub-Part BA inserted by s. 18 (zl) of Act 15 of 2006 w.e.f. 10 October 2006.]

111A. Interpretation

(1) In this Sub-Part—

“contractor”, in section 111B (d), means any person who enters into a contract for carrying out any work;

“interest” in section 111B (a), means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor’s profits and in particular income from debentures or any other loan instrument including premiums and prizes attaching to such debentures or other loan instrument;

“payee”, in relation to section 111C (1), means any person to whom an amount is made available by the payer;

“payer” means any person responsible for the payment of—

- (a) interest, royalties or rent;
- (b) any sum to contractors and sub-contractors; or
- (c) any sum to a provider of specified services;

“person”, in section 111B (c), includes a minor;

“rent”, in section 111B (c), means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any land or building together with furniture, fittings and the land appurtenant thereto, whether or not such building is owned by the payee and also includes any premium or other consideration for a lease;

“sub-contractor”, in section 111B (d), means any person who enters into a contract with a contractor for carrying out any work;

“work”, in the definitions of contractor and sub-contractor—

- (a) means civil construction including construction or repair of any building, road or other structure or execution of any works contract, and includes mechanical or electrical works; and
- (b) includes any supply of labour for carrying out works in respect of civil construction.

(2) For the purposes of sections 111B and 111C, an amount or a sum is deemed to have been made available to a payee where the amount or sum is paid to, or credited to the account of, or dealt with in the interest or on behalf of, the payee, whichever is earlier.

[S. 111A inserted by s. 18 (zl) of Act 15 of 2006 w.e.f. 1 October 2006; amended by s. 97 (4) of Act 14 of 2007 w.e.f. 28 September 2007; s. 15 (h) of Act 18 of 2008 w.e.f. 19 July 2008; s. 8 (zb) of Act 37 of 2011 w.e.f. 1 January 2012.]

111B. Application of Sub-Part BA

This Sub-Part shall apply to any amount or sum made available by way of—

- (a) interest, other than interest falling under Sub-part B of Part II of the Second Schedule, payable by any person, other than an individual, to a non-resident;
- (b) royalties payable to any person by any person, other than an individual or a corporation holding a Category 1 Global Business Licence under the Financial Services Act;
- (c) rent payable by any person, other than an individual, to any person, except a body of persons specified in Part I of the Second Schedule or a person exempt from income tax by virtue of any other enactment;
- (d) payments to contractors and sub-contractors by any person, other than an individual;
- (e) payments to a provider of services specified in the Fifth Schedule made by any person, other than an individual;
- (f) payments to any person, except a body of persons specified in Part I of the Second Schedule or a person exempt from income tax by virtue of any other enactment, made by a Ministry, Government department, local authority, statutory body or the Rodrigues Regional Assembly—
 - (i) for the procurement of goods and services under a single contract, where the payment exceeds 300,000 rupees;
 - (ii) for the procurement of goods under a contract, where the payment exceeds 100,000 rupees; or
 - (iii) for the procurement of services under a contract, other than telephone, insurance, postal, air travel and hotel services, where the payment exceeds 30,000 rupees,other than payments to contractors and sub-contractors referred to in paragraph (d) and payments to providers of services referred to in paragraph (e);
- (g) payments in respect of rental or other consideration for board and lodging made to the owner of an immovable property or his agent, other than a hotel, except where payments are made to a body of persons specified in Part I of the Second Schedule or a person exempt from income tax by virtue of any other enactment, by—
 - (i) a tour operator or travel agent, other than an individual;

- (ii) an IRS Company or RES Company or a provider of property management services, designated by the IRS Company or RES Company, as the case may be, under the Investment Promotion (Real Estate Development Scheme) Regulations 2007; or
 - (iii) any other agent, other than an individual, carrying on the business of providing services in respect of letting of properties; and
- (h) payments made by any person, other than an individual, to a non-resident for any services rendered in Mauritius, except where the payments are made to a body of persons specified in Part I of the Second Schedule or a person exempt from income tax by virtue of any other enactment or any arrangement for relief from double taxation.

[S. 111B inserted by s. 18 (zl) of Act 15 of 2006 w.e.f. 1 October 2006; amended by s. 8 (zc) of Act 37 of 2011 w.e.f. 1 March 2012; s. 12 (l) of Act 26 of 2012 w.e.f. 1 January 2013.]

111C. Payer to deduct tax

(1) Subject to the other provisions of this section, every payer shall, at the time any amount or sum referred to in section 111B is made available to the payee, deduct income tax from the amount or sum so made available at the appropriate rate specified in Part I of the Sixth Schedule.

(1A) No income tax shall be deducted under this Sub-part, where the amount of tax to be deducted is less than 500 rupees.

(2) —

(3) —

(4) Where interest referred to in section 111B (a) and royalties referred to in section 111B (b) are payable to a non-resident, the income tax to be deducted shall be at the rate specified in the Sixth Schedule or at the rate specified under any arrangement for relief from double taxation which is in force between Mauritius and the foreign country where the payee is resident, whichever is the lower.

(5) Where income tax is deducted from the interest or royalties in an income year under subsection (4), the amount of tax so deducted shall be deemed to be the final amount of tax payable in respect of the interest or royalties for that income year.

[S. 111C inserted by s. 18 (zl) of Act 15 of 2006 w.e.f. 1 October 2006; amended by s. 15 (i) of Act 18 of 2008 w.e.f. 19 July 2008; s. 10 (h) of Act 20 of 2009 w.e.f. on the year of assessment commencing on 1 January 2011; s. 8 (zd) of Act 37 of 2011 w.e.f. 1 January 2012; s. 12 (m) of Act 26 of 2012 w.e.f. 1 January 2013.]

111D. Remittance of tax deducted

A payer who has deducted income tax under section 111C shall remit to the Director-General the income tax so deducted, within 20 days from the end of the month in which the income tax was deducted, electronically or in such other manner as the Director-General may approve.

[S. 111D inserted by s. 18 (zl) of Act 15 of 2006 w.e.f. 1 October 2006; repealed and replaced by s. 8 (ze) of Act 37 of 2011 w.e.f. 1 January 2012.]

111E. Payer liable to pay tax

Any payer who has not deducted income tax as required under section 111C shall be liable to pay to the Director-General the amount of income tax which ought to have been deducted but the payer shall be entitled to recover the amount from the payee.

[S. 111E inserted by s. 18 (zl) of Act 15 of 2006 w.e.f. 1 October 2006.]

111F. Penalty and interest for late payment of tax

Sections 101 and 122D shall apply in all respects to a payer as they apply to an employer referred to in section 101 or to any person referred to in section 122D.

[S. 111F inserted by s. 18 (zl) of Act 15 of 2006 w.e.f. 1 October 2006.]

111G. Tax deducted deemed to be tax paid

(1) Any amount of tax deducted under this Sub-part in an income year shall be deemed to be—

- (a) received by the payee at the time it was deducted; and
- (b) paid by him to the Director-General,

and shall be offset against the income tax liability of the payee for that income year.

(2) Where the payee under subsection (1) is a *société* or a succession, the associates of the *société* or the heirs of the succession, as the case may be, shall be entitled to claim a credit in their annual return of income submitted under section 112 or 116, as the case may be, in respect of their share of the amount of tax deducted under this Sub-part.

[S. 111G inserted by s. 18 (zl) of Act 15 of 2006 w.e.f. 1 October 2006; amended by s. 17 (p) of Act 17 of 2007 w.e.f. 1 July 2007.]

111H. Direction not to deduct tax

Where income tax is required to be deducted from any amount or sum which is made available to a payee under this Sub-part during an income year and the payee proves to the satisfaction of the Director-General that he is not chargeable to income tax for that income year, the Director-General may, by written notice to the payer, direct that no income tax shall be deducted from the amount or sum which is made available to that payee.

[S. 111H inserted by s. 18 (zl) of Act 15 of 2006 w.e.f. 1 October 2006.]

111I. Obligation of payer to deduct tax

The obligation of a payer to deduct income tax under section 111C shall prevail over—

- (a) any right or obligation to deduct any other amount from such payment; or
- (b) any law providing that the amount of any such payment shall not be reduced or be subject to attachment.

[S. 111I inserted by s. 18 (zl) of Act 15 of 2006 w.e.f. 1 October 2006.]

111J. Priority over tax deducted

(1) Notwithstanding any other enactment, income tax deducted by a payer under this Sub-Part—

- (a) shall be held on behalf of the Government of Mauritius; and
- (b) shall not be subject to attachment in respect of any debt or liability of the payer.

(2) In the event of the liquidation or bankruptcy of the payer, the amount deducted under this Sub-Part shall not form part of the estate in liquidation or bankruptcy and shall be paid in full to the Director-General before any distribution of property is made.

[S. 111J inserted by s. 18 (zl) of Act 15 of 2006 w.e.f. 1 October 2006.]

111K. Statement to payee and to Director-General

(1) Every payer shall, not later than 15 February in every year—

- (a) give to each payee, a statement of any amount or sum made available to him and referred to in section 111B, in duplicate, in respect of the preceding income year; and
- (b) submit to the Director-General, in respect of the preceding income year—
 - (i) a statement giving the particulars of the payee, the amount or sum made available and income tax deducted therefrom;
 - (ii) where no income tax has been deducted by virtue of section 111C (1A), a statement giving the particulars of the payee and the amount or sum made available.

(2) In the case of a financial institution, the statement referred to in subsection (1) (b) shall include, in respect of each payee, the aggregate amount of interest payable by the financial institution including its branches, where such aggregate amount exceeds 50,000 rupees, whether or not income tax has been deducted.

(3) The statements under subsections (1) and (2) shall contain such other particulars, and shall be made in such form and manner, as may be prescribed.

(4) Notwithstanding section 64 of the Banking Act, section 26 of the Bank of Mauritius Act and the confidentiality provisions under any other enactment, a financial institution shall comply with the requirements of this Sub-part.

(4A) (a) Where a payer does not comply with subsection (1) (a) or (b) or (3) within the prescribed time, he shall be liable to pay to the Director-General a penalty of 5,000 rupees per month or part of the month, until the time the payer complies with that subsection, provided that the total penalty payable shall not exceed 20,000 rupees.

(b) Where a penalty is payable under paragraph (a), the Director-General shall, by registered post, make a claim to the payer specifying the amount of penalty payable and the reasons for making such a claim.

(c) Where a claim is made under paragraph (b), the payer shall pay the amount of penalty within 28 days of the date of the claim.

(d) Where a payer is aggrieved by a claim made under paragraph (b), he may, within 28 days of the date of the claim, lodge with the Clerk to the Assessment Review Committee written representations in accordance with section 19 of the Mauritius Revenue Authority Act.

(5) Any payer who fails to comply with subsection (1), (2) or (3) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees.

[S. 111K inserted by s. 18 (zl) of Act 15 of 2006 w.e.f. 1 October 2006; amended by s. 17 (q) of Act 17 of 2007 w.e.f. 22 August 2007; s. 15 (j) of Act 18 of 2008 w.e.f. 1 July 2008; s. 21 (i) of Act 14 of 2009 w.e.f. 1 January 2010; s. 9 (p) of Act 10 of 2010 w.e.f. 24 December 2010; s. 8 (zf) of Act 37 of 2011 w.e.f. 15 December 2011; s. 12 (n) of Act 26 of 2012 w.e.f. 1 January 2013.]

Sub-Part BB – National Residential Property Tax

[Sub-Part BB inserted by s. 18 (zl) of Act 15 of 2006 w.e.f. 1 July 2006; repealed by s. 9 (o) of Act 10 of 2010 w.e.f. the year of assessment 2011.]

111L. —

[S. 111L inserted by s. 18 (zl) of Act 15 of 2006 w.e.f. 1 July 2006; amended by s. 17 (r) of Act 17 of 2007 w.e.f. 1 July 2007.]

111M. —

[S. 111M inserted by s. 18 (zl) of Act 15 of 2006 w.e.f. 1 July 2006; amended by s. 17 (s) of Act 17 of 2007 w.e.f. 1 July 2007.]

111N. Application of property tax

(1) Where the owner is an individual and his total income in an income year does not exceed 400,000 rupees, no property tax shall be paid.

(2) Where a residential property is acquired, sold or transferred at any time in an income year, the owner shall be liable to pay property tax on a pro rata basis in respect of that income year.

(3) Where the owner is married, and—

- (a) the total income of each spouse in an income year exceeds 400,000 rupees and each spouse is under the obligation to submit a return of income under Sub-Part C of Part VIII for that income year, the property tax shall, at their option, be deemed to be payable by them in equal proportions or by one spouse in full; or
- (b) the total income of one spouse in an income year exceeds 400,000 rupees and that of the other spouse does not exceed 400,000 rupees in that income year, the property tax shall, notwithstanding this Sub-Part and any other enactment, be deemed to be payable by the spouse whose total income exceeds 400,000 rupees.

(4) Where no option is made by the couple under subsection (3) (a), the property tax shall be deemed to be payable by them in equal proportion.

(5) Where a residential property—

- (a) has been acquired by inheritance or legacy and no division-in-kind has been effected among the heirs or legatees; or
- (b) is owned by 2 or more individuals,

the property tax thereon shall, subject to subsection (3), be payable by each of the heirs, legatees or co-owners, as the case may be, on his share of the property, provided that his total income, in an income year, exceeds 400,000 rupees.

(6) Where the owner is a minor—

- (a) the residential property of the minor shall be included in that of the legal administrator;
- (b) and there is no legal administrator, the legal guardian shall be liable to pay the property tax, provided that the total income of the minor in an income year exceeds 400,000 rupees.

(7) Where a building used as residence is located on a portion of land—

- (a) used for agriculture for the purpose of making a profit and the gross income derived therefrom is declared by the owner in his return of income; or
- (b) at any other place outside a residential area,

the owner shall be liable to pay in respect of each residential property the property tax on the surface area of the land on which stands the building, garage and related structures as well as on the surface area of the backyard, grounds and garden, to a maximum area of 1A25 (0.5276 hectares).

(8) Where a person is the owner of a building used both for business and residential purposes or where the residential part is located above that on which stands the non-residential part, the owner shall be liable to pay the property tax on the whole surface area of the land.

(9) A residential building constructed on top of an existing building by virtue of a right so to construct (*droit de surélévation*) shall be deemed to be a flat from the purposes of section 111M.

(10) Where the owner—

- (a) is a person other than an individual;
- (b) in an income year, is a non-resident or a person whose place of abode is outside Mauritius;
- (c) is the proprietor of a residence under the Real Estate Development Scheme prescribed under the Investment Promotion Act,

the property tax shall be payable, irrespective of the total income of the owner.

(11) Section 111M (2) shall not apply to an owner referred to in subsection (10).

[S. 111N inserted by s. 18 (zl) of Act 15 of 2006 w.e.f. 1 July 2006; amended by s. 17 (t) of Act 17 of 2007 w.e.f. 1 July 2007; s. 15 (k) of Act 18 of 2008 w.e.f. 19 July 2008; s. 10 (i) of Act 20 of 2009 w.e.f. 1 January 2010 in respect of the income year commencing on 1 January 2010 and in respect of every subsequent income year.]

Sub-Part C – Returns

112. Return and payment of tax by individuals

- (1) Subject to this Act, every person who, in an income year—
- (a) derives—
 - (i) total net income of an amount exceeding the Category A Income Exemption Threshold specified in the Third Schedule;
 - (ii) gross income derived from any business, exceeding 2 million rupees;
 - (iii) emoluments in respect of which tax has been withheld under section 93;
 - (iv) income which has been subject to tax deduction at source under section 111C;
 - (b) acquires—
 - (i) an immoveable property, the cost of which, including the cost of construction of any building or structure thereon, exceeds 5 million rupees;
 - (ii) a motor vehicle, the cost of which exceeds 2 million rupees or in respect of which he paid registration duty of 75,000 rupees or more under the Registration Duty Act;
 - (iii) a pleasure craft as defined in the Tourism Authority Act, the cost of which, including the cost of its engine, exceeds one million rupees;
 - (c) pays the required contribution declared under section 17C of the National Pensions Act to the Director-General; or
 - (d) has a chargeable income,

shall, in respect of that income year, submit to the Director-General, not later than 31 March following that income year, a return in such form and manner as the Director-General may determine, specifying—

- (i) the income exemption threshold to which the person is entitled under section 27;
- (ii) the interest relief allowable under section 27A; and
- (iii) such other particulars as may be required in the form of the return and, at the same time, pay any tax payable in accordance with the return.

(1A) (a) Where, in an income year, a person is required to submit a return under subsection (1), he shall continue to submit a return in respect of every succeeding year, unless otherwise authorised, in writing, by the Director-General.

(b) Where, in an income year, a person is required to submit a return under paragraph (a) and is not likely, in the future, to have a chargeable income, he may apply to the Director-General to waive his obligation to submit a return under this subsection.

(c) The Director-General may, on application made by a person under paragraph (b), cancel the obligation of the person to submit a return under paragraph (a), on such conditions as the Director-General may determine.

(2) A planter, who is an individual, shall not be required to submit a return under this section where, in an income year—

- (a) he cultivates sugar cane on less than 15 hectares of land, in the aggregate;
- (b) the sugar accruing to him from the sugar cane cultivation does not exceed 60 tonnes; and
- (c) his net income, other than his basic retirement pension, is solely derived from sugar cane cultivation.

(3) Notwithstanding subsection (1), where an individual submits his return electronically through the computer system of the Authority and at the same time makes payment, through internet banking, to the Director-General, of the tax payable in accordance with the return, the due date for the submission and for payment shall be 15 April.

(4) Where the total income of a person exceeds 2 million rupees, he shall submit his return under subsection (1) electronically through such computer system as the Director-General may approve.

[S. 112 amended by s. 7 (j) of Act 13 of 1996 w.e.f. 1 July 1996 in respect of the income year commencing 1 July 1996 in respect of every subsequent income year; s. 9 (s) of Act 9 of 1997 w.e.f. 1 July 1997 in respect of the year of assessment commencing on 1 July 1997 and in respect of every subsequent year of assessment; s. 12 (r) of Act 25 of 2000 w.e.f. income year commencing 1 July 2000; s. 11 (i) of Act 23 of 2001 w.e.f. income year commencing on 1 July 2001; s. 14 (p) of Act 20 of 2002 w.e.f. 1 December 2001; s. 27 (10) (f) of Act 33 of 2004 w.e.f. 1 July 2006; repealed and replaced by s. 18 (zm) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year; amended by s. 21 (j) of Act 14 of 2009 w.e.f. 1 January 2010; s. 10 (j) of Act 20 of 2009 w.e.f. 1 January 2010 in respect of the income year commencing on 1 January 2010 and in respect of every subsequent income year; repealed and replaced by s. 9 (q) of Act 10 of 2010 w.e.f. 24 December 2010; amended by s. 8 (zg), in so far as it relates to section 112 (1) (ea) of the Income Tax Act, of Act 37 of 2011 w.e.f. 1 January 2012; s. 12 (o) of Act 26 of 2012 w.e.f. 1 January 2013 in respect of the year assessment commencing on 1 January 2013 and in respect of every subsequent year of assessment.]

113. Power to require returns

(1) For the purposes of ascertaining, for any income year, the chargeable income of any person, the Director-General may, by notice in writing, require that person to submit to him a return in such manner and in such form as he may approve giving the particulars specified in section 112.

(2) A person who has been required to submit a return under subsection (1) shall, not later than the date specified in the notice, submit to the Director-General the return of income and at the same time pay any tax payable in accordance with that return together with the appropriate penalty under sections 121 and 122, if any.

[S. 113 amended by s. 12 (s) of Act 25 of 2000 w.e.f. income year commencing 1 July 2000; amended by s. 27 of Act 33 of 2004 w.e.f. 1 July 2006; s. 18 (zn) of Act 15 of 2006 w.e.f. 7 August 2006.]

114. Time limit to require returns

(1) Subject to subsection (2), the Director-General shall not, in a year of assessment, require an individual to submit a return required to be submitted under section 113 in respect of a period beyond 4 years of assessment preceding that year of assessment.

(2) Where the Director-General considers that a return under section 113 is required to be submitted in respect of a period beyond the time limit specified in subsection (1), he shall, by notice in writing to the person, give reasons for which such return is required to be submitted.

(3) Any person aggrieved by a notice under subsection (2) may lodge written representations with the Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act.

[S. 114 amended by s. 11 (j) of Act 23 of 2001 w.e.f. 11 August 2001; s. 27 (10) (g) of Act 33 of 2004 w.e.f. 1 July 2006.]

115. Return by persons leaving Mauritius

Where a person, other than an exempt person, is about to leave Mauritius and his absence is unlikely to be temporary, he shall, before leaving, submit to the Director-General in respect of the relevant income year a return in such manner and in such form as he may approve, giving the particulars specified in section 112 and at the same time—

- (a) pay any tax payable in accordance with the return together with the appropriate penalty under sections 121 and 122, if any; or
- (b) give security to the satisfaction of the Director-General for the payment of the income tax payable.

116. Return of income by companies

(1) Subject to this Act, every company, non-resident *société*, cell of a protected cell company, Foundation, trust other than a trust to which section 46 (3) applies, or trustee of a unit trust scheme, whether or not it is a taxpayer, shall submit to the Director-General, not later than 6 months from the end of the month in which its accounting period ends, a return in such manner and in such form as he may approve specifying—

- (a) all income derived by it during the preceding income year; and
- (b) —
- (c) such other particulars as may be required by the Director-General,

and at the same time pay any tax payable in accordance with its return.

(2) Where the accounting period ends on 30 June, the due date for submission of the return and payment of tax shall be 2 days, excluding Saturdays and public holidays, before the end of December.

(3) Where in an income year, a company derives gross income and exempt income exceeding 10 million rupees or is an employer submitting

PAYE return and remitting tax withheld under Sub-part A of Part VII or is a corporation holding a Category 1 Global Business Licence under the Financial Services Act, it shall, unless otherwise authorised—

- (a) submit its return and pay any tax payable under subsection (1) electronically through such computer system as may be approved by the Director-General; and
- (b) continue to submit its return and pay tax electronically until such time as it ceases to be required to submit a return under subsection (1).

[S. 116 amended by s. 7 (k) of Act 13 of 1996 in relation to an individual, on 1 July 1996 in respect of the income year commencing on 1 July 1996 and in respect of every subsequent income year, and in relation to any other person or an associate in a société under section 47, on 1 July 1996 in respect of the year assessment commencing on 1 July 1996 and in respect of every subsequent year of assessment; s. 9 (t) of Act 9 of 1997 w.e.f. 1 July 1997 in respect of income year commencing on 1 July 1997 and in respect of every subsequent year of assessment; s. 72 (c) of Act 14 of 2001 w.e.f. 1 December 2001; s. 9 (k) of Act 18 of 2003 w.e.f. 1 December 2003; s. 18 (zo) of Act 15 of 2006 w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July 2007 and in respect of every subsequent year of assessment; s. 17 (v) of Act 17 of 2007 w.e.f. 1 July 2008 in respect of the year of assessment commencing 1 July 2008 and in respect of every subsequent year of assessment; s. 21 (k) of Act 14 of 2009 w.e.f. 30 July 2009; s. 10 (k) of Act 20 of 2009 w.e.f. 19 December 2009; s. 9 (r) of Act 10 of 2010 w.e.f. 1 January 2011 as from the year of assessment 2011; s. 8 (zh) of Act 37 of 2011 w.e.f. 1 January 2013 in respect of the year of assessment commencing 1 January 2013 and in respect of every subsequent income year; 15 December 2011; s. 51 (1) (h) of Act 8 of 2012 w.e.f. 1 July 2012.]

116A. —

[S. 116A inserted by s. 9 (s) of Act 10 of 2010 w.e.f. 1 January 2011; repealed by s. 8 (zi) of Act 37 of 2011 w.e.f. 1 January 2012.]

117. Return of income in special circumstances

Where—

- (a) a person—
 - (i) has ceased to derive gross income;
 - (ii) has ceased to carry on business in Mauritius;
 - (iii) is about to discontinue carrying on business in Mauritius; or
 - (iv) is a non-resident trader; or
- (b) a person is liable to income tax under section 83 on the death of a taxpayer in respect of all income derived by that taxpayer in his lifetime,

he shall forthwith submit to the Director-General in respect of the relevant income year a return in such manner and in such form as may be approved by him giving the particulars specified in section 112 or 116, as the case may be, and at the same time pay any tax payable in accordance with that return together with the appropriate penalty under sections 121 and 122, if any.

117A. Basis of assessment on commencement of business

(1) Any person engaged in business and required to submit a return under section 116 shall, in respect of the commencement year of income, submit a return for a period not exceeding 18 months ending with the date of the annual balance of his accounts.

(2) Where the annual balance of accounts in respect of the commencement year of income ends on a date other than 31 December, that date shall be deemed to be an approved return date under section 118.

(3) For the purposes of this section, "commencement year of income" means the income year in which the business of a person commences.

[S. 117A inserted by s 19 (m) of Act 14 of 2005 w.e.f. 1 July 2005; amended by s. 17 (w) of Act 17 of 2007 w.e.f. 1 July 2008; s. 21 (l) of Act 14 of 2009 w.e.f. 1 July 2009.]

118. Approved return date

(1) Any person engaged in business opting for *bona fide* commercial reasons to change his return date shall apply to the Director-General, within 6 months of the date of his last balance sheet, for approval of the change.

(2) The Director-General shall not approve any change under this section where no return has been submitted under section 116 in respect of any of the last 3 income years.

(3) The Director-General may approve or refuse to approve the change under this section and shall give notice of his decision to the applicant within 30 days of the date of receipt of the application under subsection (1).

(4) Where a change in return date is approved under this section, the basis on which the profit derived by the applicant from his business in the income year in which the return date is changed shall be computed in such manner as may be prescribed.

(5) —

[S. 118 repealed and replaced by s 19 (n) of Act 14 of 2005 w.e.f. 1 July 2005; amended by s. 15 (l) of Act 18 of 2008 w.e.f. 19 July 2008; s. 21 (m) of Act 14 of 2009 w.e.f. 1 July 2009; s. 10 (l) of Act 20 of 2009 w.e.f. 19 December 2009.]

118A. Return of income in respect of approved return date

Subject to the other provisions of this Act—

(a) where a person has an approved return date ending on any date falling on or between 1 January and 30 June, a return submitted under section 116 shall be deemed to have been made in relation to the income year ending on 31 December preceding that return date; and

(b) where a person has an approved return date ending on any date falling on or between 1 July and 30 December, a return submitted under section 116 shall be deemed to have been made in relation to the income year ending on 31 December following that return date.

[S. 118A inserted by s. 21 (n) of Act 14 of 2009 w.e.f. 1 July 2009.]

119. Return in respect of a trust or a resident *société*

(1) Where, in an income year, the trustee of a trust, other than a trust to which section 46 (3) applies, has distributed to its beneficiaries under the terms of the trust deed any amount out of income of the trust, the trustee shall submit to the Director-General, not later than 31 March following that income year, a return in such manner and in such form as the Director-General may approve, specifying—

- (a) the full name of the beneficiaries and the amount distributed to each of them; and
- (b) such other particulars as may be required by the Director-General.
- (c) —

(2) Notwithstanding section 47, every *société commerciale* or any other resident *société* deriving income falling under section 10 shall submit to the Director-General, not later than 31 March following an income year, a return in such manner and in such form as the Director-General may approve, specifying—

- (a) all income derived by it during the preceding income year; and
- (b) such other particulars as the Director-General may require.

[S. 119 amended by s. 7 (l) of Act 13 of 1996 w.e.f. 1 July 1996; s. 72 (d) of Act 14 of 2001 w.e.f. 1 December 2001; s. 18 (zp) of Act 15 of 2006 w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July 2007 and in respect of every subsequent year of assessment; s. 17 (x) of Act 17 of 2007 w.e.f. 22 August 2007; s. 21 (o) of Act 14 of 2009 w.e.f. 1 January 2010; s. 9 (t) of Act 10 of 2010 w.e.f. 1 January 2011; s. 12 (p) of Act 26 of 2012 w.e.f. 1 January 2013 in respect of the year of assessment commencing 1 January 2013 and in respect of every subsequent year of assessment.]

119A. Statement by *société* to associate and Director-General

(1) Every *société* required to submit a return under section 119 (2) shall, not later than 31 March in every year—

- (a) give to each associate a statement showing the share of income accruing to him, in respect of the preceding income year; and
- (b) at the same time, submit to the Director-General, in electronic form, a statement giving, in respect of the preceding income year, the particulars of the share of income accruing to each associate.

(2) The statements under subsection (1) shall contain such other particulars as may be required, and shall be made in such form and manner as may be approved, by the Director-General.

(3) The manager of every *société* required to submit a return under section 119 shall make the necessary arrangements to obtain from the Director-General the Tax Account Number (TAN) of every associate of the *société* and insert it in the statements required to be submitted under subsection (1).

(4) Where, in an income year, a *société* is required to submit a return under subsection (1), it shall continue to submit a return under that section unless otherwise authorised, in writing, by the Director-General.

[S. 119A inserted by s. 12 (q) of Act 26 of 2012 w.e.f. 1 January 2013 in respect of the year of assessment commencing 1 January 2013 and in respect of every subsequent year of assessment.]

120. Return in respect of the estate of a deceased person

(1) Subject to subsection (4), where the estate of a deceased taxpayer has not been distributed, any person liable to income tax under section 83 shall, in respect of an income year, submit to the Director-General, not later than 31 March following that income year, a return in such form and manner as the Director-General may determine, specifying—

- (a) all income derived by the estate during the preceding income year;
- (b) the full name of the beneficiaries and the respective share of their income in the estate; and
- (c) —
- (d) such other particulars as the Director-General may require.

(2) For the purposes of subsection (1), the date specified shall—

- (a) where the estate has an approved return date, be not later than 30 September following the income year; or
- (b) in any other case, be not later than 31 December following the income year.

(3) Every beneficiary of the estate shall be liable to income tax on his chargeable income including his share of the income derived from the estate.

(4) The Director-General may, by notice in writing, exempt the person from submitting the return under subsection (1) on such conditions as he thinks fit.

[S. 120 amended by s. 18 (zq) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year; s. 17 (y) of Act 17 of 2007 w.e.f. 22 August 2007; s. 21 (p) of Act 14 of 2009 w.e.f. 1 January 2010.]

121. Penalty for late submission of return of income

(1) Where a person fails to submit a return under section 112, 116 or 119, he shall be liable to pay to the Director-General a penalty representing 2,000 rupees per month or part of the month, until the time the return is submitted, provided that the total penalty payable shall not exceed 20,000 rupees.

(2) Where a company, *société*, trust or trustee submits a return under section 116 but does not fill in all the parts of the return, it shall be deemed not to have submitted a return under section 116 and it shall be liable to pay to the Director-General the penalty specified in subsection (1).

(3) Where a person deriving gross income specified in section 10 (1) (b) and rent specified in section 10 (1) (c) submits a return under section 112 but does not attach to the return his profit and loss account and balance sheet or such other statement of account as may be necessary to ascertain his net income, he shall be deemed not to have submitted a return under section 112 and shall be liable to pay to the Director-General the penalty specified in subsection (1).

[S. 121 amended by s. 9 (u) of Act 9 of 1997 w.e.f. 1 July 1997; s. 25 (t) of Act 25 of 2000 w.e.f. 1 July 2000; s. 14 (q) of Act 20 of 2002 w.e.f. 1 July 2002; s. 18 (zr) of Act 15 of 2006 w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July 2007 and in respect of every subsequent year of assessment; s. 9 (m) of Act 18 of 2008 w.e.f. 1 July 2008; s. 21 (q) of Act 14 of 2009 w.e.f. 30 July 2009.]

122. Penalty for late payment of tax

(1) Where a taxpayer fails to pay any income tax due on or before the last day on which it is payable under section 112, 116, 119, 129, 129A or 131, he shall be liable to pay to the Director-General, in addition to the tax and any penalty under sections 109, 110, 111 and 121, a penalty of 5 per cent of the amount of the tax.

(2) A penalty under subsection (1) shall apply to the tax excluding any penalty under sections 109, 110, 111 and 121 and any interest under section 122D.

[S. 122 amended by s. 9 (v) of Act 9 of 1997 w.e.f. 1 July 1997; repealed and replaced by s. 18 (zs) of Act 15 of 2006 w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July 2007 and in respect of every subsequent year of assessment; s. 21 (r) of Act 14 of 2009 w.e.f. 30 July 2009, amended by s. 12 (r) of Act 26 of 2012 w.e.f. 1 January 2013.]

122A. Publication of names of companies not submitting returns

(1) Notwithstanding section 13 of the Mauritius Revenue Authority Act and section 154, but subject to subsection (2), where a company fails to submit a return under section 116, the Director-General may, without prejudice to any action he may take under this Act, with the approval of the Authority, cause to be published, not later than 5 months after the due date, in 2 newspapers in circulation in Mauritius, the name of the company, the name and address of its directors, and the year of assessment in respect of which the return has not been submitted.

(2) The Director-General shall, prior to the publication referred to in subsection (1), notify the company in writing of his intention to publish the name of the company in accordance with subsection (1), unless the company submits the return due within 7 days of the date of the notice.

[S. 122A inserted by s. 10 (o) of Act 18 of 1999 w.e.f. 1 July 1999; amended by s. 27 (10) (h) of Act 33 of 2004 w.e.f. 1 July 2006.]

122B. Automatic tax claim in case of non-submission of return

(1) Where, in respect of a year of assessment—

- (a) a person deriving gross income falling under Sub-part B of Part VIII who is required to submit a return under section 112 or 113;
- or

- (b) a company which is required to submit a return under section 116,

does not submit such return, the Director-General may, without prejudice to the other provisions of this Act, automatically issue a tax claim for that year of assessment to the person specifying the amount of income tax payable.

(2) The amount claimed under subsection (1) shall be payable within 28 days of the date of issue of the tax claim.

(3) Any person who disagrees with the amount of income tax claimed under subsection (1) shall, within the time limit specified in subsection (2)–

- (a) give written notice of his disagreement; and
- (b) at the same time–
 - (i) submit the return of income for the relevant year of assessment; and
 - (ii) pay the income tax in accordance with the return of income, if any; and
 - (iii) pay the appropriate penalties.

(4) Where a person complies with subsection (3), the tax claim under subsection (1) shall automatically lapse.

(5) Where a person fails to comply with subsection (2) or (3), the Director-General shall proceed to–

- (a) enforce payment of the tax claimed under Part XI; and
- (b) institute legal proceedings for failure to submit a return under section 112, 113 or 116.

[S. 122B inserted by s 14 (r) of Act 20 of 2002 w.e.f. the year of assessment commencing 1 July 2002 and in respect of every subsequent year of assessment.]

122C. Penalty for failure to submit return of income electronically

Any person who is required to submit his return under section 116 (3) and make any payment of tax electronically, but fails to do so, after written notice being given to him by the Director-General, and his failure within a period of 7 days from the date of the notice to justify the failure, shall be liable to pay to the Director-General, a penalty of–

- (a) 20 per cent of the tax payable, provided that the penalty payable shall not exceed 100,000 rupees; or
- (b) 5,000 rupees where no tax liability is declared in the return.

[S. 122C inserted by s. 18 (zt) of Act 15 of 2006 w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July 2007 and in respect of every subsequent year of assessment; amended by s. 17 (z) of Act 17 of 2007 w.e.f. 22 August 2007.]

122D. Interest on unpaid tax

(1) Any person who fails to pay any tax under section 50F, 100, 106, 112, 116, 129, 129A or 131 shall be liable to pay, in addition to the tax and penalty under sections 50F, 101, 101A, 109, 110, 111, 121, 122 and

122C, interest at the rate of 1 per cent per month or part of the month during which the tax remains unpaid.

(2) The interest shall not apply to any penalty under sections 50F, 101, 101A, 109, 110, 111, 121, 122, 122C and 129 (1A).

[S. 122D inserted by s. 18 (zt) of Act 15 of 2006 w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July 2007 and in respect of every subsequent year of assessment; amended by s. 17 (za) of Act 17 of 2007 w.e.f. 1 July 2008; s. 21 (s) of Act 14 of 2009 w.e.f. 30 July 2009; s. 12 (r) of Act 26 of 2012 w.e.f. 1 January 2013.]

PART IX – GENERAL POWERS OF DIRECTOR-GENERAL

123. Power to require information

(1) Every person shall, when so required by notice in writing, furnish to the Director-General in such manner and in such form as he may approve, within the time specified in the notice, information and particulars relating to—

- (a) contracts for the provision of goods and services;
- (b) rents or premiums on property;
- (c) dividends and interest paid;
- (d) emoluments payable; and
- (e) such other transactions,

which the Director-General considers necessary or relevant for the purposes of this Act and which may be in the possession or custody or under the control of that person.

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(2) Subject to subsection (3), any person shall, when so required by notice in writing, furnish to the Director-General, within the time specified in the notice, information as to any money, funds, or other assets which may be held by that person for, or of any money due by that person to, any other person.

(3) Subsection (2) shall not apply to any person—

- (a) who, under any other enactment, is prohibited from communicating any information relating to any other person, but only in so far as that information is concerned; or
- (b) who carries on a banking business, but only in so far as information relating to transactions made by any person with the bank are concerned.

(4) Notwithstanding subsection (3) (b), section 64 of the Banking Act and any other enactment, the Director-General may require from any person information relating to—

- (a) interest to any depositor;
- (b) any account or deposit operated, made, or opened, as the case may be, by any client, customer, or patron of that person, whether such account or deposit is in his own name, in a fictitious name, or in the name of any other person, upon the Director-General stating in writing that—
 - (i) he has reason to believe that the client, customer or patron has been convicted of an offence relating to dangerous drugs or has been or is illicitly in possession of or has been or is illicitly dealing in dangerous drugs or dangerous weapons; or
 - (ii) he reasonably requires the information in order to prevent any evasion of income tax or any fraud on the public revenue.

(5) Where any person who is required to furnish any information under subsection (4) (b) considers that the Director-General's request is unreasonable, he may lodge written representations with the Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act.

(6) At the hearing on the representations before the Committee, it shall be sufficient for the Director-General to satisfy the Committee that he has reasonable grounds to request the disclosure of the information.

(7) —

(8) Every person who fails to comply with a request made by the Director-General under subsection (4) (b) shall, unless the request of the Director-General has been cancelled following the hearing on the representations before the Committee, commit an offence and shall, on conviction, be liable to a fine which shall not exceed one million rupees.

(9) —

[S. 123 amended by s. 4 (o) of Act 10 of 1998 w.e.f. 1 July 1998; s. 10 (p) of Act 18 of 1999 w.e.f. 1 July 1999; s. 11 (k) of Act 23 of 2001 w.e.f. 11 August 2001; s. 8 (6) (a) of Act 17 of 2003; s. 27 (10) (g) of Act 33 of 2004 w.e.f. 1 July 2006; s. 103 (4) (b) of Act 35 of 2004 w.e.f. 10 November 2004; s. 18 (zu) of Act 15 of 2006 w.e.f. 7 August 2006; s. 9 (t) of Act 10 of 2010 w.e.f. 24 December 2010.]

124. Obligation to furnish information

(1) Notwithstanding section 44 (6) of the Financial Services Act, every person, when so required by the Director-General, shall, within the time fixed by the Director-General, give orally or in writing, as may be required, all such information as may be demanded of him by the Director-General for the purpose of enabling the Director-General to—

- (a) make an assessment or to collect tax; or
- (b) comply with any request for the exchange of information under an arrangement made pursuant to section 76.

(2) Any person, when so required by notice in writing, shall furnish to the Director-General, within the time specified in the notice—

- (a) a certified copy of the profit and loss account and balance sheet, or such other statement of account as may be required, duly audited by a qualified auditor;
- (b) a statement analysing all moneys or value received and payments made by the person, his spouse and minor children;
- (c) a statement of all assets and liabilities of the person, his spouse, and minor children; and
- (d) where the request relates to subsection (1) (b), such information as may be specified in the notice for the purpose of satisfying the request under that subsection.

[S. 124 amended by s. 12 (u) of Act 25 of 2000 w.e.f. 1 July 2000; s. 46 (4) (c) of Act 13 of 2001 w.e.f. 1 December 2001; s. 97 (4) of Act 14 of 2007 w.e.f. 22 August 2007.]

125. Production of books and records

The Director-General may, for the purposes of ascertaining the tax liability of any person, require that person—

- (a) to produce for—
 - (i) examination, at such time and place as may be specified, books, accounts, records, registers, bank statements, and other documents, whether on computer or otherwise, which the Director-General considers necessary and which may be in the possession or custody or under the control of that person; or
 - (ii) retention for such period as the Director-General considers necessary, any book, account, record, register, statement, or document specified in subparagraph (i) and for taking copies or extracts therefrom; and

- (b) to attend, at such time and place as the Director-General may specify, for the purpose of being examined in respect of any transaction or matter relating to the income tax liability of that person.

[S. 125 amended by s. 11 (o) of Act 28 of 2004 w.e.f. 6 August 2004; amended by s. 27 of Act 33 of 2004.]

126. Power of inspection

(1) For the purposes of ascertaining the tax liability of any person or the tax paid or payable or for making any assessment under this Act or for the purpose of administering this Act, the Director-General or any officer authorised by him may—

- (a) at all reasonable times, enter any business premises or place where any business is carried on or anything is done in connection with the business;
- (b) inspect any information, book, record or other document, whether these are recorded in a computer system or otherwise, and retain any such information, book, record or document and take copies or extracts therefrom; and
- (c) require the person carrying on the business or any of his employees or any other person on those premises at that place to give him all reasonable assistance and to answer all proper questions either orally or in writing.

(2) Any person who—

- (a) fails to provide such assistance or to answer such questions as may be required under subsection (1); and
- (b) obstructs the Director-General or any officer in the exercise of his powers under subsection (1),

shall commit an offence.

[S. 126 amended by s. 11 (p) of Act 28 of 2004 w.e.f. 26 August 2004.]

126A. Power to access computers and other electronic devices

(1) For the purpose of ascertaining the tax liability of any person under this Act, the Director-General may, subject to subsection (2), at any reasonable time—

- (a) have access to—
 - (i) any computer, computer software, whether installed in the computer or otherwise, electronic till or any other device, used in connection with any document which the person is required to produce for the purpose of ascertaining his tax liability;
 - (ii) any information, code or technology which has the capability of retransforming or unscrambling encrypted data contained or available to such computers or devices into readable and comprehensive format or text;

- (b) inspect and check the operation of any such computer, electronic till or other device and make extracts of any computer software, computer output or such other document used in connection therewith;
- (c) require any person by whom or on whose behalf the computer or other electronic device is operated, or any person concerned with the operation of the equipment, to give such assistance as is necessary for the purpose of this section;
- (d) require any person in possession of decryption information to grant him access to such decryption information necessary to decrypt data required for the purposes of this section.

(2) Subsection (1) shall not apply to any banking business regulated by the Banking Act.

[S. 126A inserted by s. 11 (q) of Act 28 of 2004 w.e.f. 26 August 2004.]

127. Time limit to require information and production of books and records

(1) Subject to subsections (2) and (3), the Director-General shall not, in a year of assessment, require a person to—

- (a) furnish the information required to be furnished under sections 123 (1) and 124; or
- (b) produce the books and records required to be produced under section 125,

in respect of a period beyond 4 years of assessment preceding that year of assessment.

(2) Where the Director-General, in a year of assessment, requires a person to furnish information under section 124, or to produce books and records under section 125, for the purposes of examining a return submitted by that person under section 112, 113 or 116, the time limit under subsection (1) shall be a period of 4 years of assessment following the year of assessment in which the return is submitted.

(3) Where the Director-General considers that the information or the books and records referred to in subsection (1) or (2) are required to be furnished or produced in respect of a period beyond the time limit specified in that subsection, he shall, by notice in writing to the person, give reasons for which such information or such books and records are required.

(4) Any person aggrieved by a notice under subsection (3) may lodge written representations with the Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act.

[S. 127 amended by s. 11 (l) of Act 23 of 2001 w.e.f. 11 August 2001; s. 14 (s) of Act 20 of 2002 w.e.f. 1 July 2002; s. 27 (10) (g) of Act 33 of 2004 w.e.f. 1 July 2006.]

128. Power to waive penalty or interest

(1) The Director-General may waive the whole or part of any penalty or interest imposed under this Act where he is satisfied that failure to comply with this Act was attributable to a just or reasonable cause.

(2) In the exercise of his power under subsection (1), the Director-General shall, in writing, record the reasons for waiving the whole or part of the penalty or interest.

[S. 128 amended by s. 27 of Act 33 of 2004 w.e.f. 20 October 2004; repealed and replaced by s. 18 (zv) of Act 15 of 2006 w.e.f. 7 August 2006.]

128A. Use of computer system

(1) Notwithstanding this Act, the Director-General may authorise a return, document and payment of income tax or any act or thing which is required to be done in relation thereto, to be made, submitted or done electronically through such computer system as he may approve.

(2) A person who submits a return or document and pays income tax in the manner specified in subsection (1) shall continue to submit returns or documents and pay tax in that manner unless otherwise authorised by the Director-General.

(3) – (4) –

[S. 128A inserted by s. 11 (m) of Act 23 of 2001 w.e.f. 11 August 2001; amended by s. 27 (10) (i) of Act 33 of 2004 w.e.f. 1 July 2006.]

**PART X – ASSESSMENTS, OBJECTIONS AND REVIEW
OF ASSESSMENTS**

[Heading repealed and replaced by s. 11 (n) of Act 23 of 2001 w.e.f. 11 August 2001.]

129. Director-General may make assessments

(1) Where, in respect of a year of assessment, the Director-General—

- (a) is not satisfied with the return submitted by a person under section 112, 113, 116 or 119, as the case may be; or
- (b) has reason to believe that a person who has not submitted a return of income is a taxpayer,

he may, according to the best of his judgment, make an assessment of the amount of chargeable income of, and income tax payable by, including any penalty under sections 109, 110, 111, 121, 122 and 122C and any interest under section 122D, that person for that year of assessment and give him written notice of the assessment.

(1A) Where an assessment is made under subsection (1), the amount of additional tax claimed, excluding any penalty under sections 109, 110, 111, 121, 122 and 122C and any interest under section 122D, shall carry a penalty not exceeding 50 per cent and such penalty shall be part of the additional tax claimed.

(2) Where the Director-General has given written notice to any person of an assessment under subsection (1), that person shall pay the income tax within 28 days of the date of the notice of assessment.

(3) —

[S. 129 amended by s. 9 (w) of Act 9 of 1997 w.e.f. 1 July 1997; s. 14 (t) of Act 20 of 2002 w.e.f. 1 July 2002; s. 18 (zw) of Act 15 of 2006 w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July 2007 and in respect of every subsequent year of assessment; s. 21 (t) of Act 14 of 2009 w.e.f. 30 July 2009; s. 9 (v) of Act 10 of 2010 w.e.f. 24 December 2010; s. 8 (zj) of Act 37 of 2011 w.e.f. 1 January 2012.]

129A. Assessments on employers and payers

(1) Where, in respect of an income year, the Director-General has reason to believe that an employer or a payer has not remitted or paid the appropriate amount of tax under Sub-part A or Sub-part BA of Part VIII, he may claim the amount of tax due by giving the employer or the payer, as the case may be, written notice of assessment.

(2) Where the Director-General has given notice of assessment under subsection (1), the employer or the payer, as the case may be, shall pay the amount of income tax specified in the notice within 28 days of the date of the notice of assessment.

(3) (a) Where an employer or a payer is dissatisfied with a notice of assessment under subsection (1), he may, within 28 days of the date of the notice of assessment, object to the assessment in a form approved by the Director-General and sent to him by registered post.

(b) Sections 131A and 131B shall apply to any objection made under paragraph (a).

[S. 129A inserted by s. 8 (zk) of Act 37 of 2011 w.e.f. 1 January 2012.]

130. Time limit to make assessments

(1) Subject to subsection (2), the Director-General shall not, in a year of assessment, make an assessment under section 129 or 129A in respect of a period beyond 4 years of assessment preceding the year of assessment in which a return under section 112, 113, 116 or 119, as the case may be, is made.

(2) The Director-General may, at any time, make an assessment under section 129—

(a) where a return of income under section 112, 116 or 119, as the case may be, in respect of a year of assessment has not been made; or

(b) in case of fraud or wilful neglect.

[S. 130 amended by s. 14 (u) of Act 20 of 2002 w.e.f. 1 July 2002; s. 27 of Act 33 of 2004 w.e.f. 20 October 2004; s. 10 (m) of Act 20 of 2009 w.e.f. 19 December 2009; s 12 (s) of Act 26 of 2012 w.e.f. 1 January 2013.]

131. Special assessments

(1) Where the Director-General is not satisfied with the return submitted by a person under section 115 or 117, as the case may be, or has reason to believe that a person who has not submitted a return under those sections is a taxpayer, he may make an assessment of the amount of chargeable income

of and income tax payable by, including any penalty under section 109, 110, 111, 121 or 122, as the case may be, and any interest under section 122D, that person and give him written notice of the assessment.

(2) Notwithstanding section 112 or 116, where the Director-General has made an assessment under subsection (1), he may in the notice require that person to—

- (a) pay the income tax assessed within such time as may be specified in the notice; or
- (b) give security to the satisfaction of the Director-General for the payment of the income tax.

(3) —

[S. 131 amended by s. 9 (x) of Act 9 of 1997 w.e.f. 1 July 1997; s. 18 (zx) of Act 15 of 2006 w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July 2007 and in respect of every subsequent year of assessment.]

131A. Objection to assessments

(1) Subject to subsection (6), where a person who has been assessed to income tax under section 129, 129A or 131 is dissatisfied with the assessment, he may, within 28 days of the date of the notice of assessment, object to the assessment in a form approved by the Director-General and sent to him by registered post.

(2) Where a person makes an objection under subsection (1), he shall—

- (a) specify in the form, in respect of each of the items in the notice of assessment, the detailed grounds of the objection; and
- (b) subject to subsection (2A), at the same time, pay 30 per cent of the amount of income tax claimed in the notice of assessment.

(2A) Where the person, within the time limit referred to in subsection (1), satisfies the Director-General on reasonable grounds that he is unable to pay the amount of income tax under subsection (2) (b) in one sum, the person shall—

- (a) pay that amount; or
- (b) give security by way of a bank guarantee,

on such terms and conditions as the Director-General may determine.

(3) Subsection (2) (b) shall not apply where a person objects exclusively to the amount of gross income assessed as emoluments or to the amount of personal reliefs and deductions under Sub-part C of Part III allowed as deductions in the notice of assessment.

(4) Where a person who has made an objection under subsection (1) has not, for the relevant income year, submitted his Statement of Income under section 106 or his return of income under section 112, 115, 116 or 117, he shall, within 28 days of the date of the notice of assessment, comply with those sections, as appropriate.

(5) Any objection under this section and section 131B shall be dealt with independently by an objection directorate set up by the Director-General for that purpose.

(6) Where—

- (a) the Director-General considers that the person has not complied with subsections (2) and (2A); or
- (b) the person has not complied with subsection (4),

the objection shall be deemed to have lapsed and the Director-General shall give notice thereof.

(7) (a) Where it is proved to the satisfaction of the Director-General that, owing to illness or other reasonable cause, a person has been prevented from making an objection within the time specified in subsection (1), the Director-General may consider the objection on such terms and conditions as he thinks fit.

(b) Where the Director-General refuses to consider a late objection under this subsection, he shall, within 28 days of the date of receipt of the letter of objection, give notice of the refusal to the person.

(8) Where a notice under subsection (6) or (7) (b) is given, the tax specified in the notice of assessment together with any interest under section 122D shall be paid within 28 days of the date of the notice under subsection (5) or (6) (b), as the case may be.

(9) Any person who is aggrieved by a decision under subsection (6) or (7) (b) may lodge written representations with the Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act.

[S. 131A amended by s. 11 (o) (ii) of Act 23 of 2001 w.e.f. 11 August 2001; s. 14 (v) of Act 20 of 2002 w.e.f. 1 January 2003; s. 27 (10) (g) of Act 33 of 2004 w.e.f. 1 July 2006; s. 18 (zy) of Act 15 of 2006 w.e.f. 1 July 2007; s. 15 (n) of Act 18 of 2008 w.e.f. 19 July 2008; s. 10 (n) of Act 20 of 2009 w.e.f. 19 December 2009; s. 8 (zl) of Act 37 of 2011 w.e.f. 1 January 2012; s. 12 (t) of Act 26 of 2012 w.e.f. 22 December 2012.]

131B. Determination of objections

(1) Subject to subsection (3), where the Director-General does not refuse to consider an objection under section 131A, he shall—

- (a) review the assessment;
- (b) disallow or allow it in whole or in part; and
- (c) where appropriate, amend the assessment to conform with his determination.

(2) The Director-General shall give notice of the determination to the person.

(3) For the purposes of considering an objection and reviewing an assessment, the Director-General may, by notice, require the person, within the time fixed by the Director-General, to comply with sections 124 and 125.

(4) Where the person fails to comply with a notice under subsection (3) within the time specified in the notice, the Director-General may determine that the objection has lapsed and he shall give notice thereof.

(5) Where a notice of determination under subsection (2) or (4) is given, the tax specified in the notice of determination, together with any interest under section 122D, shall be paid within 28 days of the date of the notice of determination.

(6) Where the objection is upheld in whole or in part, any amount of income tax paid under section 131A in excess of the amount determined to be properly payable, shall be refunded together with interest at the prevailing bank rate, free of income tax, from the date the payment is received by the Director-General to the date it is refunded.

(7) – (8) –

(9) Any person who is aggrieved by a determination under this section may lodge written representations with the Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act.

[S. 131B inserted by s. 9 (x) of Act 9 of 1997 w.e.f. 1 July 1997; amended by s. 11 (o) (ii) of Act 23 of 2001 w.e.f. 11 August 2001; s. 11 (p) (i) of Act 23 of 2001 w.e.f. the income year commencing 1 July 2001; s. 14 (w) (i) of Act 20 of 2002 w.e.f. 1 January 2003; s. 27 (10) (g) of Act 33 of 2004 w.e.f. 1 July 2006; s. 18 (zz) of Act 15 of 2006 w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July 2007 and in respect of every subsequent year of assessment.]

131C. Objection to determination of loss

(1) Where a person is dissatisfied with a determination by the Director-General of the quantum of losses available for set-off or carried forward under section 20 or 59, he may, within 28 days of the date of the notice of determination, object to the determination in a form approved by the Director-General specifying the detailed grounds of objection and sent to the Director-General by registered post.

(2) An objection under subsection (1) shall be dealt with by an objection directorate set up by the Director-General for that purpose.

(3) (a) Where it is proved to the satisfaction of the Director-General that, owing to illness or other reasonable cause, a person has been prevented from making an objection within the time specified in subsection (1), the Director-General may consider the objection on such terms and conditions as he thinks fit.

(b) Where the Director-General refuses to consider a late objection under paragraph (a), he shall, within 28 days of the date of receipt of the letter of objection, give notice of the refusal to the person.

(4) Section 131B (1) to (4), (7), (8) and (9) shall apply in all respects for the determination of objections under this section as they apply for the determination of objections under section 131A.

[S. 131C inserted by s. 9 (l) of Act 18 of 2003 w.e.f. 1 July 2003; amended by s. 9 (w) of Act 10 of 2010 w.e.f. 24 December 2010; s. 12 (t) of Act 26 of 2012 w.e.f. 22 December 2012.]

132. Time limit to amend assessments

(1) Subject to subsection (2), the Director-General may amend an assessment made under section 129, 129A or 131.

(2) An assessment shall not be amended after 4 years of assessment from the year of assessment to which the assessment relates.

[S. 132 amended by s. 12 (r) of Act 26 of 2012 w.e.f. 1 January 2013.]

133. —

[S. 133 amended by s. 11 (q) of Act 23 of 2001; s. 14 (x) of Act 20 of 2002; repealed by s. 18 (zza) of Act 15 of 2006 w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July 2007 and in respect of every subsequent year of assessment.]

134. Representations to Assessment Review Committee

Any person who is aggrieved by a decision or determination under section 83, 93, 98, 111K, 114 (2), 123 (4), 127 (2), 131A, 131B or 131C may lodge written representations with the Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act.

[S. 134 amended by Act 9 of 1997; Act 18 of 1999; repealed and replaced by s. 11 (r) of Act 23 of 2001 w.e.f. 11 August 2001; amended by s. 9 (m) of Act 18 of 2003; s. 27 (10) (g) of Act 33 of 2004 w.e.f. 1 July 2006; s. 17 (zb) of Act 17 of 2007 w.e.f. 22 August 2007; s. 8 (zm) of Act 37 of 2011 w.e.f. 15 December 2011.]

135. Conclusiveness of assessment

Except in proceedings on objection to assessments under section 131A or on the hearing of representations under section 134—

- (a) no assessment, decision or determination under this Act shall be disputed in any Court or in any proceedings either on the ground that the person affected is not liable to income tax or the amount of tax due and payable is excessive or on any other ground; and
- (b) every assessment, decision or determination shall be final and conclusive and the liability of the person so affected shall be determined accordingly.

[S. 135 amended by Act 18 of 1999; s. 11 (s) of Act 23 of 2001 w.e.f. 11 August 2001.]

PART XI – RECOVERY OF TAX

136. Application of Part XI

This Part shall apply to any tax which has remained unpaid under this Act.

[S. 136 amended by Act 9 of 1997; Act 25 of 2000; s. 11 (t) of Act 23 of 2001 w.e.f. 11 August 2001; s. 14 (y) of Act 20 of 2002 w.e.f. the year of assessment commencing 1 July 2002 and in respect of every subsequent year of assessment; s. 18 (zzb) of Act 15 of 2006 w.e.f. 1 July 2006; s. 17 (zc) of Act 17 of 2007 w.e.f. 22 August 2007.]

137. Recovery of tax in arrears from emoluments

(1) The Director-General may, for the purpose of securing and enforcing payment of income tax in arrears payable by an employee, issue a notice to the employer requiring him to make deductions from the emoluments of that employee on account of income tax payable by him.

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(2) The deductions shall be made at such times and in such amount as the Director-General may specify in the notice.

(3) The aggregate of the amount of tax deducted under this section and tax withheld under Sub-part A of Part VIII shall not, except at the employee's request, exceed one third of his emoluments.

(4) An employer to whom a notice under subsection (1) has been issued shall pay the tax deducted under this section to the Director-General within 20 days from the end of the month in which the tax was deducted.

(5) Sections 100, 101, 102, 103 and 104 shall apply to this section and shall be construed with such modifications, adaptations, qualifications, and exceptions as may be necessary to bring them into conformity with this section.

138. Recovery of tax by attachment

The Director-General may, without prejudice to any other remedy which he may have, enforce payment of any tax under this Act by attachment in the same manner as is provided in the Attachment (Rates and Taxes) Act.

139. Recovery of tax by distress and sale

(1) The Director-General may issue a warrant in a form specified in Part I of the Eighth Schedule to an usher of the Supreme Court to recover income tax by distress and sale of the goods, chattels and effects of the person charged or of the person answerable for its payment.

(2) Three days' notice of such sale shall be given in the *Gazette*.

140. *Contrainte*

(1) Where any income tax is due under this Act, the Director-General may apply to a Judge in Chambers for an order (*Contrainte*) to issue against the debtor.

(2) Any order issued under subsection (1) shall—

- (a) be served on the debtor; and
- (b) be executory.

(3) Any debtor aggrieved by an order issued under subsection (1) may, within 10 days of the service of the order, appeal to the Supreme Court.

(4) No costs shall be awarded against an unsuccessful party except disbursements for—

- (a) stamp duty under the Stamp Duty Act;
- (b) service of the order; and
- (c) execution of the order.

140A. Proceedings for temporary closing down of business

(1) Where a person fails to pay any amount of income tax assessed under this Act, the Director-General may notify the person in writing of his

intention to close down part or the whole of the business of that person for a temporary period not exceeding 14 days, unless the person, within a period of 7 days of the date of the notice—

- (a) pays the amount of income tax unpaid;
- (b) gives security to the satisfaction of the Director-General for payment of the amount of the income tax unpaid.

(2) (a) Where the person fails to comply with the notice issued under subsection (1), the Director-General may make an application under oath, in such form as may be prescribed, to a District Magistrate for an order to close down part or the whole of the business of that person for a period not exceeding 14 days.

(b) Where an application under oath is made to a Magistrate in the manner specified in paragraph (a), the Magistrate may forthwith grant the application.

(c) Upon granting an application under paragraph (b), the Magistrate shall issue an order to an Usher, in such form as may be prescribed, to close down the business of the person in accordance with the provisions of this section.

(3) Where an Usher executes an order under subsection (2), he shall affix in a conspicuous place on the front of the premises of the business or part of the business which has been closed, a notice duly certified by the Director-General bearing the words "CLOSED TEMPORARILY FOR NOT PAYING INCOME TAX".

(4) Where an order under subsection (2) has been executed and the person—

- (a) effects payment of the amount of income tax unpaid; or
- (b) gives security to the satisfaction of the Director-General for payment of the amount of the income tax unpaid,

the order shall lapse and the Director-General shall, in writing, notify the person accordingly.

(5) Any person who, contrary to the order, carries on the business or part of the business concerned or who commits any act in breach of the order under this section, shall commit an offence.

[S. 140A inserted by s. 14 (z) of Act 20 of 2002 w.e.f. 1 July 2002.]

141. Privilege

(1) The Government shall have, in respect of any income tax due, and so long as the income tax is not paid in full, a privilege on all immovable properties belonging to the person by whom the income tax is payable.

(2) Where the Director-General thinks it necessary for securing the recovery of any income tax due to inscribe the privilege provided for under subsection (1), he shall deposit with the Conservator of Mortgages 2 identical

memoranda in the form specified in Part II of the Eighth Schedule and shall forthwith notify the person by whom the income tax is payable of the deposit of the memoranda.

(3) The Conservator of Mortgages shall, upon deposit of the memoranda, inscribe the privilege generally on all immovable properties belonging, or which may subsequently belong, to the person by whom the income tax is payable, and shall return one of the memoranda to the Director-General with a statement written or stamped on it to the effect that the privilege has been duly inscribed.

(4) Where a privilege is inscribed under this section, it shall take effect from the date of the inscription.

(5) Where any income tax in respect of which an inscription has been taken under this section is paid in full or the tax liability is discharged, the Director-General shall forthwith send to the Conservator of Mortgages a request in the form specified in Part III of the Eighth Schedule to erase the inscription.

(6) The inscription of privilege under this section shall be erased by the Conservator of Mortgages at the request of the Director-General.

(7) Any inscription or erasure which is required to be taken or made under this section shall be free from stamp duty under the Stamp Duty Act, or registration dues leviable under the Registration Duty Act, or any other costs.

[S. 141 amended by s. 27 (10) (j) of Act 33 of 2004 w.e.f. 1 July 2006; s. 4 (e) of Act 4 of 2006 w.e.f. 2 October 2004.]

142. Uninscribed privilege

(1) Notwithstanding section 141, but subject to subsection (2), the privilege for the recovery of direct taxes under articles 2148 and 2152 of the Code Civil Mauricien shall operate on account of income tax payable under this Act independently of and without the necessity for inscription, upon—

- (a) personal property wherever found;
- (b) the proceeds of the sale of immovable property; and
- (c) the crops, fruits, rents and revenues,

belonging to the person owing the tax.

(2) The privilege conferred under subsection (1) shall operate only in respect of tax payable in any one year of assessment, at the discretion of the Director-General, and shall rank immediately after the privilege for judicial costs.

143. Security

(1) The Director-General may, for the purposes of securing payment of any income tax due, order a person to furnish security in such manner and in such amount as the Director-General thinks fit.

(2) Any person who fails to comply with an order under subsection (1) shall commit an offence.

144. No limitation of action for recovery of tax

No law relating to the limitation of action shall bar or affect any action or remedy for recovery of income tax.

PART XIA

144A. – 144B. —

[Part XIA (sections 144A and 144B) amended by s. 10 (s) Act 18 of 1999 w.e.f. 1 July 1999; s. 12 (w) of Act 25 of 2000 w.e.f. 1 July 2000; repealed and replaced by s. 11 (u) of Act 23 of 2001 w.e.f. 11 August 2001; repealed by s. 27 (10) (k) of Act 33 of 2004 w.e.f. 1 July 2006.]

PART XII – OFFENCES

145. Offences relating to PAYE

(1) Any person who—

- (a) fails to register as an employer;
- (aa) fails to make necessary arrangements to obtain from the Director-General a Tax Account Number in respect of an employee from whose emoluments tax is withheld;
- (b) fails to pay the amount of tax required to be withheld;
- (c) fails to pay the amount of tax in arrears required to be deducted;
- (d) fails to give the Statement of Emoluments and Tax Deduction to his employee; or
- (e) submits to his employer an Employee Declaration Form which is incorrect or false in any material particular,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 6 months.

(2) Any person who—

- (a) gives a Statement of Emoluments and Tax Deduction which is false or misleading in any material particular; or
- (b) without lawful authority, discloses any information concerning his employee,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

[S. 145 amended by s. 27 (10) (l) of Act 33 of 2004 w.e.f. 1 July 2006.]

146. Offences relating to CPS

(1) Where a person fails to submit a Statement of Income under section 106, he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 6 months.

(2) Where a person furnishes a Statement of Income under section 106 which is false or misleading in any material particular, he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

146A. Offences relating to deduction of tax at source

Any person who—

- (a) fails to pay the amount of income tax required to be deducted under section 111C;
- (b) fails to give the statement of income tax deduction as required under section 111K (1) (a) and (3);
- (c) fails to submit the statement of particulars as required under section 111K (1) (b), (2) and (3);
- (d) submits a statement referred to in paragraph (b) or (c) which is false or misleading in any material particular;
- (e) without lawful authority, discloses to any person, other than the Director-General, any information concerning any person subject to tax deduction under Sub-part BA; or
- (f) otherwise contravenes any provision of Sub-part BA of Part VIII,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

[S. 146A inserted by s. 18 (zcc) of Act 15 of 2006 w.e.f. 7 August 2006.]

146B. Offences relating to gains

Any person who—

- (a) fails to declare, in his return of income under Sub-part C of Part VIII, the gains payable under section 10A;
- (b) fails to pay the gains required to be paid under section 10A;
- (c) submits information relating to gains in his return of income which is false or misleading in any material particular;
- (d) otherwise contravenes any provision of section 10A,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

[S. 146B inserted by s. 18 (zcc) of Act 15 of 2006 w.e.f. 7 August 2006; amended by s. 17 (zd) of Act 17 of 2007 w.e.f. 22 August 2007; amended by s. 9 (x) of Act 10 of 2010 w.e.f. 24 December 2010.]

147. Offences relating to returns, books and records

(1) Any person who wilfully and with intent to evade income tax—

- (a) submits a false return of income;
- (b) gives any false information;

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- (c) prepares or maintains or authorises the preparation or maintenance of any false books, records or documents or falsifies or authorises the falsification of any books, records or documents;
- (d) produces for examination any false books, records or documents;
- (e) makes default in the performance of any duty imposed on him under this Act;
- (f) refuses, or fails, to attend and give evidence when required by the Director-General or to answer truly and fully to any question put to him or to produce any document required of him; or
- (g) misleads, or attempts to mislead the Director-General, in relation to any matter or thing affecting his own or any other person's liability to income tax,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

(2) Where a person is convicted under subsection (1), he shall, in addition to any penalty imposed under subsection (1), be ordered by the Court to pay an amount which shall not exceed 3 times the difference between—

- (a) the income tax to which he is liable; and
- (b) the income tax paid or payable in terms of any return of income submitted.

[S. 147 amended by s. 21 (u) of Act 14 of 2009 w.e.f. 30 July 2009.]

148. Other offences

(1) Any person who—

- (a) fails to submit a return of income;
- (aa) fails to make necessary arrangements to obtain from the Director-General a Tax Account Number in his name;
- (b) fails to furnish information and particulars required for the purposes of this Act;
- (c) fails to keep books and records;
- (d) fails to produce books and records for examination;
- (e) fails to pay any tax payable under this Act; or
- (f) otherwise contravenes this Act,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 6 months.

(2) Any person who commits an offence in respect of which no specific penalty is provided shall, on conviction, be liable to a fine not exceeding 5,000 rupees.

(3) Where a person is convicted under subsection (1) (a) for failure to furnish a return of income, he shall, in addition to any penalty imposed under subsection (1), be ordered by the Court to furnish the return within such time as the Court may order.

[S. 148 amended by s. 27 (10) (m) of Act 33 of 2004 w.e.f. 1 July 2006.]

148A. —

[S. 148A inserted by Act 10 of 1998; repealed by s. 27 (10) (n) of Act 33 of 2004 w.e.f. 1 July 2006.]

149. Compounding of offences

(1) (a) The Director-General may, with the consent of the Director of Public Prosecutions, compound any offence committed by a person under this Act, where such person agrees in writing to pay such amount acceptable to the Director-General representing—

- (i) any income tax unpaid; and
- (ii) an amount not exceeding the maximum pecuniary penalty imposable under this Act for such offence.

(b) For the purposes of paragraph (a), the Director-General shall chair a committee which shall consist of 3 other officers of the management team of the Authority.

(2) Every agreement under subsection (1) shall be made in writing under the hand of the Director-General and the person and witnessed by an officer.

(3) Every agreement under this section shall be final and conclusive and a copy thereof shall be delivered to the person.

(4) Where the Director-General compounds an offence in accordance with this section—

- (a) the amount for which the offence is compounded shall be deemed to be tax assessed under this Act and shall be recoverable as income tax; and
- (b) no further proceedings shall be taken in respect of the offence so compounded against the person.

[S. 149 amended by Act 10 of 1998; s. 27 (10) (o) of Act 33 of 2004 w.e.f. 1 July 2006; s. 12 (u) of Act 26 of 2012 w.e.f. 22 December 2012.]

150. Tax payable notwithstanding prosecution

Any person convicted of an offence under this Act or who has agreed to the compounding of an offence under section 149 shall not be relieved of his liability for payment of any income tax due.

PART XIII – MISCELLANEOUS

151. Ascertainment of income tax in certain cases

(1) Where, for any of the purposes of this Act, including the application of the provisions of any double taxation arrangement, it is necessary to ascertain the amount of income tax payable by a taxpayer in respect of any

income of a particular nature or from a particular source derived by him in an income year, the amount of income tax shall be the product of the formula set out in subsection (2).

(2) The formula referred to in subsection (1) shall be—

$$\frac{a}{b} N c$$

where “a” is the amount in respect of which it is necessary to ascertain the amount of tax; “b” is the amount of the income that was taken into account in calculating “c”; “c” is the amount of income tax payable by the taxpayer before allowing any credit for foreign income tax in respect of income derived by him in that income year.

(3) Any reference to “income” in subsection (2) shall be construed as a reference to income reduced by any deduction, allowance or relief that may properly be regarded as referring to that income, in particular—

- (a) income derived by way of emoluments reduced by emoluments relief;
- (b) income derived from any business including agricultural activities, reduced by—
 - (i) the amount of interest paid on capital employed in the course of those activities; and
 - (ii) allowances allowed for assets used for the purposes of those activities.

151A. Islamic financing arrangement

(1) The provisions of sections 7, 10, 19, 58, 84, 111A, 111B, 111C, 111K and 123 of this Act shall apply in relation to any Islamic financing arrangement as if a reference in any of those provisions to interest payable, paid, derived, received or incurred in relation to any loan, deposit or mortgage were a reference to the effective return of the Islamic financing arrangement.

(2) For the purposes of this section—

- (a) “Islamic financing arrangement” means a financing arrangement between—
 - (i) a bank and any other person, in so far as the arrangement is related to its Islamic banking business; or
 - (ii) a non-bank deposit taking institution and any other person with respect to the acceptance of Islamic deposit and the financing of the activities of the non-bank deposit taking institution or such other activities as may be approved by the central bank, the aims and operations of which are, in addition to the conventional good governance and risk management rules in consequence with the ethos and value system of Islam;

- (b) "bank", "Islamic banking business", "non-bank deposit taking institution" and "Islamic deposit" have the same meaning as in the Banking Act;
- (c) "effective return" means the return in lieu of interest that is payable, paid, derived, received or incurred under an Islamic financing arrangement.

[S. 151A inserted by s. 15 (o) of Act 18 of 2008 w.e.f. 19 July 2008.]

152. Refund of excess income tax

(1) (a) Subject to this section, where, in respect of an income year, a person has paid tax of an amount in excess of the income tax liability on his chargeable income, he may claim a refund of the tax paid in excess provided he has submitted a return under section 112, 116 or 119.

(b) Where a person makes a claim under paragraph (a) and he has not submitted a return of income under section 112, 116 or 119, he shall submit the return together with his claim.

(2) A refund under subsection (1) shall be made—

- (a) in the case of an employee whose gross income consists exclusively of emoluments, within a period of 3 months of the date of the claim;
- (b) in any other case, within a period of 6 months of the date of the claim.

(2A) Where the refund is made after the period specified in subsection (2) (a) or (b), as the case may be, the refund shall carry interest, free of income tax, at the prevailing bank rate.

(3) Any person may make a claim to the Director-General for a refund of tax paid in excess within 4 years of assessment after the end of the year of assessment in respect of which the tax was overpaid.

(4) Where a claim is made under subsection (3) and the Director-General is satisfied that the claimant is entitled to the refund, he shall refund the amount of tax so paid in excess.

(5) No refund under this section shall be made where the amount claimed does not exceed 25 rupees.

[S. 152 amended by s. 11 (v) of Act 23 of 2001 w.e.f. the income year commencing 1 July 2000; s 9 (y) of Act 10 of 2010 w.e.f. 24 December 2010.]

152A. Erroneous refund

(1) Where any person has benefited through error from a refund, he shall be liable to pay to the Director-General the amount of income tax which has been erroneously refunded.

(2) The Director-General may, by written notice, order the person under subsection (1) to pay, within 28 days of the date of the notice, the tax which has been erroneously refunded.

(3) Where the person fails to pay the tax within the due date specified in the notice under subsection (2), he shall be liable to pay, in addition to the tax, interest at the rate of one per cent per month as from the date immediately following the due date until the date of payment.

[S. 152A inserted by s. 17 (zf) of Act 17 of 2007 w.e.f. 22 August 2007.]

153. Keeping of books and records

(1) Every person carrying on business or deriving income other than emoluments shall keep, whether on computer or otherwise, in the English or French language, proper books, registers, accounts, records such as receipts, invoices and vouchers, other documents such as contracts and agreements, and a full and true record of all transactions and other acts engaged in by him that are relevant for the purpose of enabling his gross income and allowable deductions to be readily ascertainable by the Director-General and for any other purposes of this Act.

(2) Every employer shall keep—

- (a) records showing emoluments paid to each employee and tax withheld from those emoluments; and
- (b) the Employee Declaration Forms furnished by his employees.

(3) Every book, record or document required to be kept under this section shall be kept for a period of at least 5 years after the completion of the transaction, act or operation to which it relates.

[S. 153 amended by s. 11 (r) of Act 28 of 2004 w.e.f. 28 August 2004; s. 9 (z) of Act 10 of 2010 w.e.f. 24 December 2010.]

154. Secrecy

(1) Subject to subsection (4) and section 76, every officer shall—

- (a) before he begins to perform his duties under this Act, take an oath of fidelity and secrecy in conformity with this section; and
- (b) maintain and aid in maintaining the confidentiality and secrecy of any matter relating to this Act which comes to his knowledge.

(2) Except for the purposes of—

- (a) this Act;
- (b) any other revenue law;
- (c) the National Pensions (Registration of Employers) Regulations 1977;
- (d) the Statistics Act;
- (e) notifying the Board of Investment under the Investment Promotion Act that a non-citizen—
 - (i) has not satisfied or is not satisfying the criteria referred to in items 1, 2 and 3 of Part I and Part II of the Schedule to the Investment Promotion Act; or
 - (ii) no more satisfies the requirements of section 5A (5AA) (a) of the Immigration Act;
- (f) the Prevention of Corruption Act; or

(g) the Dangerous Drugs Act,
or where he is authorised in writing to do so by the Minister, no officer shall communicate to any person any matter relating to this Act.

(2A) Notwithstanding subsection (2) (d), no officer shall, for the purposes of the Statistics Act, disclose the name of an individual.

(3) Except where it is necessary to do so for the purpose of administering this Act or any other revenue law, or the National Pensions (Registration of Employers) Regulations 1977, no officer shall be required to produce in any Court any document or to divulge or communicate to any Court any matter coming to his knowledge in the performance of his duties as an officer.

(4) Nothing in this section shall prevent the disclosure to a taxpayer or, with his written consent, to any other person of—

- (a) a document submitted to the Director-General by the taxpayer;
- (b) an assessment made upon the taxpayer; or
- (c) the amount of income tax paid or due by the taxpayer.

(5) Any officer who, without lawful excuse, contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 2 years.

[S. 154 added by s. 12 (x) Act 25 of 2000 w.e.f. 11 August 2000; amended by s. 11 (s) of Act 28 of 2004 w.e.f. 26 August 2004; s. 15 (p) of Act 18 of 2008 w.e.f. 19 July 2008; s. 13 (b) of Act 20 of 2011 w.e.f. 16 July 2011; s. 8 (zo) of Act 37 of 2011 w.e.f. 15 December 2011.]

155. Service of documents

(1) Any return, Statement of Income, payment, or other document required or authorised to be served on, or given or made to, the Director-General shall be forwarded so as to reach the office of the Director-General not later than the due date.

(2) —

(3) Any notice of assessment, determination or other notice required to be served on or given to any person by the Director-General may be served or given by—

- (a) delivering it personally to him; or
- (b) leaving it at, or sending it to, his usual or last known business or private address; or
- (c) transmitting it electronically through computer or other mechanical or electronic device.

(4) Where a person—

- (a) refuses to accept delivery of a letter addressed to him; or
- (b) fails to take delivery of such a letter which he has been informed awaits him at a post office,

the document shall be deemed to have been served on him on the date on which he refused to accept the letter or was informed that the letter was at the post office.

[S. 155 amended by s. 11 (t) of Act 28 of 2004; s. 15 (q) of Act 18 of 2008 w.e.f. 19 July 2008.]

156. Validity of notice of assessment or determination

The validity of a notice of assessment or a determination made under this Act shall not be affected by reason of an error or mistake or omission as to—

- (a) the name or address of the person;
- (b) the date or period;
- (c) the description of any income; or
- (d) the amount of income tax assessed,

if the person intended to be assessed or affected is sufficiently designated and the error or mistake or omission is not likely to deceive or mislead that person.

157. —

[S. 157 amended by Act 10 of 1998; repealed by s. 27 (10) (p) of Act 33 of 2004 w.e.f. 1 July 2006.]

158. Remission of tax

The Minister may remit or order the refund of the whole or part of any income tax other than the tax payable under section 149.

159. Rulings

(1) Any person who derives or may derive any income may apply to the Director-General for a ruling as to the application of this Act to that income.

(2) An application under this section shall be in writing and shall—

- (a) include full details of the transaction relating to the income together with all documents relevant to the transaction;
- (b) specify precisely the question as to which the ruling is required;
- (c) give a full statement setting out the opinion of that person as to the application of this Act to that income; and
- (d) be accompanied by such fee as may be prescribed.

(3) The Director-General shall, within 30 days of the receipt of an application under this section, give a ruling on the question to the applicant.

(4) Subject to subsection (5), a ruling under this section shall be binding upon the Director-General.

(5) Where there is any material difference between the facts relating to the transaction and the details contained in the application, the ruling shall not be binding upon the Director-General.

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(6) A ruling under this section shall be published by the Director-General in such manner as he thinks fit except that the identity of the person to whom it relates shall not be indicated.

(7) Subject to subsection (8), any person may rely upon a ruling published under subsection (6) as a statement binding on the Director-General as to the application of this Act to the facts set out in that ruling.

(8) The Director-General may, by publication in the *Gazette*, notify that a ruling which has been published shall cease to be binding with effect from a date which shall not be earlier than the date of the notice.

159A. Statement of Practice

The Director-General shall, from time to time, issue and publish Statements of Practice in relation to the application of specific provisions of this Act.

[S. 159A inserted by s. 19 (o) of Act 14 of 2005 w.e.f. 1 July 2005.]

160. Jurisdiction of Magistrate

(1) Notwithstanding—

- (a) section 114 (2) of the Courts Act; and
- (b) section 72 (5) of the District and Intermediate Courts (Criminal Jurisdiction) Act,

a Magistrate shall, subject to subsection (2), have jurisdiction to try an offence under this Act or any regulations made under this Act and may impose any penalty provided by this Act.

(2) The prosecution for an offence under any of the sections of the Act specified in the Fourth Schedule to the Mauritius Revenue Authority Act shall take place, at the sole discretion of the Director of Public Prosecutions, before a Judge sitting without a jury, the Intermediate Court or a District Court.

[S. 160 amended by s. 8 (6) (b) of Act 17 of 2003; s. 27 (10) (q) of Act 33 of 2004 w.e.f. 1 July 2006; s. 18 (zzd) of Act 15 of 2006 w.e.f. 1 July 2006.]

161. Regulations

(1) The Minister may—

- (a) make such regulations as he thinks fit for the purposes of this Act; or
- (b) by regulations, amend the Schedules, other than the First Schedule, the Fifth Schedule and the Seventh Schedule.

(2) Any regulations made under this section may provide for the levying of fees and charges.

[S. 161 amended by s. 7 (m) of Act 13 of 1996 w.e.f. 1 July 1996; s. 12 (y) of Act 25 of 2000 w.e.f. 1 July 2001; s. 21 (v) of Act 14 of 2009 w.e.f. 30 July 2009.]

161A. Transitional provisions

(1) – (2) —

(2A) Notwithstanding the repeal of sections 69 and 72, the provisions of those sections shall continue to apply to any company which has subscribed, on or before 30 June 2006, to the share capital issued by a company which is listed on the Stock Exchange or an equity fund or an authorised mutual fund.

(2B) (a) Notwithstanding the repeal of section 69A but subject to paragraph (b), the provisions of that section shall continue to apply to a company which has subscribed, on or before 30 June 2008, to the share capital of a company set up for the purpose of operating a spinning factory or an amount exceeding 60 million rupees or at least 20 per cent of the stated capital, whichever is the higher.

(b) The provisions of the repealed section 69A shall also apply to a company that has subscribed, on or before 30 June 2008, to the stated capital of a company engaged in weaving, dyeing and knitting of fabrics for an amount exceeding 10 million rupees or at least 20 per cent of the stated capital, whichever is the higher.

(2C) Notwithstanding the repeal of sections 70 and 72, the provisions of those sections shall continue to apply to a company holding an investment certificate in respect of a modernisation and expansion enterprise, issued under the Investment Promotion Act and in force as at 30 September 2006, which has incurred capital expenditure on or before 30 June 2006, of not less than 10 million rupees within 2 years from the date of the issue of the certificate, on the acquisition of new plant and equipment or technology for modernisation and expansion.

(2D) —

(3) – (6) —

(6A) —

Exempt Income

(7) —

(7A) Notwithstanding the repeal of item 33 of Part I of the Second Schedule, the income of a company set up for the purpose of operating a spinning, weaving, dyeing or knitting of fabrics factory and—

- (a) having started operations before 30 June 2006, shall be exempt from income tax for a period of 10 income years as from the income year it started operations; or
- (b) starting operation during the period from 1 July 2006 to 30 June 2008, shall be exempt from income tax for all income years up to and including income year ending 30 June 2016.

(7B) Notwithstanding the repeal of item 22 of Part IV of the Second Schedule, the exemption provided under that item shall continue to be granted to a company holding an investment certificate issued under the Investment Promotion (Regional Headquarters Scheme) Regulations 2001 and in force as at 30 September 2006.

(7C) Notwithstanding the repeal of item 29 of Part I of the Second Schedule, the exemption provided under that item shall continue to be granted to a company holding an investment certificate issued under the Investment Promotion (ICT Scheme) Regulations 2002 and in force as at 30 September 2006, subject to the following paragraphs—

- (a) where during the period of exemption referred to in paragraph (a) of the repealed item, a company provides services to residents, the net income derived therefrom shall be subject to income tax at the rate specified in the First Schedule;
- (b) where on or after 1 July 2008 a company holding an investment certificate issued on or before 30 June 2005 does not satisfy the requirements of regulation 5 of the Investment Promotion (ICT Scheme) Regulations 2002, the net income of the company shall, notwithstanding paragraph (a) of the repealed item, be subject to income tax at the rate specified in the First Schedule;
- (c) a company holding an investment certificate issued prior to 30 September 2006 in respect of business process outsourcing/back office operations, call centres or contact centres may, within 60 days of the date of the investment certificate, by irrevocable notice in writing to the Director-General, elect to have two thirds of its net income exempted;
- (d) where a company has made an election in accordance with paragraph (c), two thirds of its net income shall be exempted from income tax up to the income year ending 30 June 2012;
- (e) paragraph (a) shall not apply to the net income derived up to 30 June 2008 by a company holding an investment certificate issued on or before 30 June 2005.

(7D) Notwithstanding the other provisions of this Act, any loss incurred by a company referred to in subsections (7A), (7B) and (7C) during the period of exemption of its net income shall be available for carry forward under section 59.

(7E) Notwithstanding this Act, any payment made after 30 June 2006, by way of severance allowance, retiring allowance or commutation of pension, to a person entitled to such payment on or before 30 June 2006 shall be exempt as provided under item 4, 5, or 6 of Part II of the repealed Second Schedule.

(8) – (9) —

Investment Allowance

(10) Notwithstanding the repeal of section 64A, the provisions of that section shall continue to apply to—

- (a) a manufacturing company that has incurred capital expenditure on the acquisition of state-of-the-art technological equipment; or

- (b) an ICT company that incurs up to 30 June 2008 capital expenditure on the acquisition of new plant and machinery or computer software.

(11) —

50% Personal Income Tax Exemption on Emoluments of an Expatriate or Specified Mauritian Citizen

(12) —

Companies Operating in Freeport Zone

(13) Notwithstanding the repeal of section 49—

- (a) but subject to the other provisions of this subsection, a private freeport developer shall be exempt from income tax payable for income years up to and including income year ending 31 December 2013 and thereafter be subject to tax at the rate specified in the First Schedule;
- (b) where a private freeport developer is authorised by virtue of its licence to carry out any specified manufacturing or processing activities, it shall, subject to paragraph (c), be liable to income tax on its chargeable income at the rate specified in the First Schedule;
- (c) where a private freeport developer referred to in paragraph (b) is licensed prior to 1 June 2002 and is authorised to provide goods and services to a person outside the freeport zone—
 - (i) it shall be liable to income tax on its chargeable income computed by reference to its income derived from the provision of those goods and services at the rate specified in the First Schedule; but
 - (ii) it shall be exempt from income tax payable for all income years up to and including income year ending 31 December 2013 in respect of income other than its income referred to in subparagraph (i) and thereafter be subject to tax at the rate specified in the First Schedule;
- (d) – (f) —
- (g) the chargeable income under paragraphs (b) and (c) shall be computed in the manner prescribed under regulation 16 of the Income Tax Regulations 1996;
- (h) in this subsection, “private freeport developer” means a company licensed as such under the Freeport Act;
- (i) any income derived by a private freeport developer or freeport operator from paper trading activities shall be exempt from income tax payable for all income years commencing of 1 July 2003 and ending on 31 December 2013.

Annual and Investment Allowance

(14) Notwithstanding section 63 and the repeal of section 64, but subject to this subsection—

(a) a company whose application has been approved under the Investment Promotion Act, or whose proposed activity has been approved under any other enactment, may opt by irrevocable notice in writing to the Director-General to claim annual allowance in respect of capital expenditure incurred on or before 30 June 2009 at the rates prevailing on 30 June 2006;

(b) where a company referred to in paragraph (a) has opted to claim annual allowance at the rates prevailing on 30 June 2006, it shall also be allowed to claim investment allowances in respect of capital expenditure incurred on or before 30 June 2009, on—

- (i) the construction of industrial premises;
- (ii) the acquisition of new plant and machinery; or
- (iii) the acquisition of computer software,

and the company shall be allowed a deduction of 25 per cent of the capital expenditure so incurred by way of investment allowance in respect of the income year in which the expenditure is incurred;

(c) no deduction shall be allowed under paragraph (b) in respect of expenditure incurred in the acquisition of a road vehicle, other than a new bus of a seating capacity of not less than 30;

(d) subject to paragraph (e), where capital expenditure has been incurred on—

- (i) the construction of industrial premises; or
- (ii) the acquisition of new plant and machinery for the processing of agricultural, fisheries or livestock products, or for manufacture,

in the Island of Rodrigues, the company shall be allowed a deduction of the capital expenditure so incurred by way of investment allowance in respect of the income year in which the expenditure is incurred;

(e) no deduction shall be allowed under paragraph (b) where the person is allowed a deduction under paragraph (d);

(f) no investment allowance shall be allowed under this subsection—

- (i) unless—
 - (A) the expenditure is incurred exclusively in the production of gross income in the income year in which the expenditure is incurred; and
 - (B) section 153 (1) are complied with;
- (ii) in respect of expenditure incurred in the acquisition of machinery or plant which is used or second-hand machinery or plant at the date of its acquisition; or

- (iii) where before the expiry of 5 years from the date on which the expenditure was incurred—
 - (A) the industrial premises are sold, demolished or destroyed, or ceased to be used exclusively as industrial premises;
 - (B) the plant or machinery is sold, scrapped or ceases to be used for the purposes of the trade carried on by the person; or
 - (C) the trade carried on by the person is permanently discontinued;
- (g) subject to paragraph (h), where a deduction has been allowed under this subsection and any of the events specified in paragraph (f) (iii) occurs, the deduction allowed shall be withdrawn and the amount of the deduction so withdrawn shall be deemed to be the gross income of the person in the income year in which the event occurs;
- (h) paragraph (g) shall not apply—
 - (i) where a person sells or otherwise transfers plant or machinery to a relative or to a related company and the plant or machinery sold or transferred is used by the relative or the related company for the production of gross income;
 - (ii) where a person sells or otherwise transfers industrial premises to a relative or to a related company and the premises sold or transferred are used by the relative or the related company as industrial premises;
 - (iii) in respect of industrial premises or plant or machinery sold or otherwise transferred by a person or body of persons engaged in a specified activity to a company engaged in a specified activity provided that the company or its holding company, as the case may be, satisfies the conditions specified in section 12 of the Sugar Industry Efficiency Act.

(14A) Notwithstanding section 24 and regulation 7 and the Second Schedule to the Income Tax Regulations 1996, accelerated annual allowance shall be granted in respect of capital expenditure incurred during income years 2013 and 2014 as follows—

Capital expenditure incurred on	Rate of annual allowance – Percentage of	
	Base value	Cost
Industrial premises dedicated to manufacturing	30	–
Plant or machinery costing Rs 50,000 or less	–	100
Electronic and high-precision machinery (including computer hardware and software)	–	50
Plant and machinery (excluding passenger car) by a manufacturing company	–	50

continued

Capital expenditure incurred on	Rate of annual allowance – Percentage of	
	Base value	Cost
Green technology equipment	–	50
Scientific research	–	50
Landscaping and other earth works for embellishment purposes	–	50
Renovation works undertaken by hotels, restaurants and retail outlets	–	33

(15) In subsections (14) (h) and (14A)–

“green technology equipment expenditure” means any capital expenditure, excluding capital expenditure on passenger car, incurred on–

- (a) renewable energy;
- (b) energy-efficient equipment or noise control device;
- (c) water-efficient plant and machinery and rainwater harvesting equipment and system;
- (d) pollution control equipment or device, including wastewater recycling equipment;
- (e) effective chemical hazard control device;
- (f) desalination plant;
- (g) composting equipment; or
- (h) equipment for shredding, sorting and compacting plastic and paper for recycling;

“holding company” has the same meaning as in the Companies Act;

“specified activity” means–

- (a) the growing of sugar cane;
- (b) the milling of sugar; or
- (c) the processing of sugar cane by-products including the production of firm or continuous electricity for export to the grid through the use of bagasse or coal, as the case may be.

Losses

(16) Notwithstanding section 59, where a company referred to in subsection (14) (a) has opted to claim annual and investment allowances at the rates prevailing on 30 June 2006 and has losses arising as a result of such claim, such losses may be carried forward and set off against its net income derived in the 5 succeeding income years following the income year in which the capital expenditure has been incurred.

Voluntary Disclosure Incentive Scheme (VDIS)

(17) Where a person makes, by 31 December 2007, a voluntary disclosure of his undeclared or underdeclared income in respect of the 5 years of assessment ended 30 June 2007, he shall, at the same time, pay tax in accordance with the disclosure at the appropriate rate in force in respect of each of the years of assessment, together with interest at the rate of 0.5 per cent per month as from the date the tax was due and payable.

(18) Where the tax and interest under subsection (17) is not paid at the time of the disclosure, any unpaid tax and interest shall carry interest at the rate of 14 per cent per annum.

(19) Where a person makes a voluntary disclosure under subsection (17) and the Director-General is satisfied with such disclosure, that person shall be deemed, notwithstanding sections 146, 147, 148 and 149, not to have committed an offence.

(20) The disclosure under subsection (17) shall be made in such form and manner as may be determined by the Director-General.

Tax Arrears Settlement Scheme (TASS)

(21) (a) Where tax arrears as at 31 December 2012 are paid by a person on or before 30 November 2013, any penalty included therein shall be reduced—

(i) by 100 per cent where the penalty is charged under sections 101, 109, 110, 111, 121 or 133; and

(ii) by 75 per cent where the penalty is charged under section 122, provided that an application for the reduction is made to the Director-General on or before 30 September 2013.

(b) In paragraph (a)—

“tax arrears” —

(a) means tax and penalty due and payable under an assessment issued or a return submitted on or before 30 June 2006; but

(b) does not include tax due under an assessment which is pending before the Assessment Review Committee, Supreme Court or Judicial Committee of the Privy Council.

(22) (a) Notwithstanding subsection (21), where tax is due as at 31 December 2012 under an assessment issued or a return submitted on or before 1 July 1996, the Director-General may refer the case, whether or not the person has made an application, to the Panel set up under paragraph (b).

(b) The Director-General shall set up a Panel consisting of at least 3 officers, to review and revise the tax, penalties and interest outstanding as at 31 December 2012, in such manner as the Panel may deem appropriate, having regard to the person’s financial position or personal circumstance.

(c) The Panel may require the person to appear before it, and provide such information as may be required.

(d) The Director-General may, pursuant to paragraph (b), enter into an agreement with the person for settlement of the debt.

(23) Subsections (21) and (22) shall not apply to any person—

- (a) who has been convicted on or after 1 July 2001 of an offence relating to;
- (b) against whom any civil or criminal proceedings are pending or contemplated in relation to an act of; or
- (c) in relation to whom an enquiry is being conducted into an act of, trafficking of dangerous drugs, arms trafficking, or an offence related to terrorism under the Prevention of Terrorism Act, money laundering under the Financial Intelligence and Anti-Money Laundering Act or corruption under the Prevention of Corruption Act.

Tax Liability of Companies

(24) Every company which, in respect of the year of assessment 2008-2009, has a turnover exceeding 100 million rupees and pays tax under Sub-part AA of Part IV during that year of assessment, the company may pay any tax payable in accordance with its return of income for that year of assessment in 3 equal and consecutive yearly instalments starting as from the year of assessment 2008-2009 within the time specified in section 116.

(25) Every company which, in respect of the year of assessment 2009-2010, has a turnover not exceeding 100 million rupees and pays tax under Sub-part AA of Part IV during that year of assessment, the company may pay any tax payable in accordance with its return of income for that year of assessment in 3 equal and consecutive yearly instalments starting as from the year of assessment 2009-2010 within the time specified in section 116.

Application of Advance Payment System

(26) Notwithstanding any enactment, the provisions of Sub-part AA of Part IV shall, in relation to a company which, in respect of the year of assessment 2008-2009, has a turnover not exceeding 100 million rupees, come into operation on 1 July 2009.

Registration of construction projects

(27) For the purposes of benefitting from exemption of registration duty and land transfer tax under section 45A (5) of the Land (Duties and Taxes) Act—

- (a) on the transfer to a company of a plot of freehold land during the period 1 January 2009 to 31 December 2010 for the construction of any building thereon for sale, renting or its own use; or
- (b) upon transfer, on or before 30 June 2011, by a company of a plot of freehold land together with a building or part of a building thereon or by way of a *vente à terme* under article 1601-2, or a *vente en l'état futur d'achèvement* under article 1601-3, of the Code Civil Mauricien, the construction of which has started on or after 1 January 2009,

that company may, subject to subsections (28) to (30), register with the Director-General during the period 1 January 2009 to 31 December 2010 for such construction project.

(28) Registration under subsection (27) shall be subject to the conditions that—

- (a) the company is a company incorporated or registered under the Companies Act;

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- (b) the total costs of construction of the buildings under the project exceed 50 million rupees by 30 June 2011;
- (c) the company submits at the time of registration—
 - (i) a brief on the nature of its business;
 - (ii) the site plan, location plan, extent and transcription volume number of the land;
 - (iii) the pre-sale agreement in respect of the land, if any;
 - (iv) a business plan including project components and description, total investment, estimated total costs of construction and implementation schedule indicating the estimated costs of works;
 - (v) the estimated number of jobs to be created during construction and thereafter; and
 - (vi) the Outline Planning Permission (OPP) from the relevant local authority.

(29) For the purpose of the exemption of registration duty and land transfer tax, the costs of construction referred to in subsections (28) (b) and (32) (b) shall not include the costs of ancillary infrastructure works such as roads, walls, drains, landscaping and utility services.

(30) Subsection (27) shall not apply to a company implementing a project under the Investment Promotion (Real Estate Development Scheme) Regulations 2007.

(31) Where a company is registered with the Director-General under subsection (27), the Director-General shall issue to the company a certificate of registration on such terms and conditions, and in such form and manner, as he may determine.

Monitoring costs of construction of building

(32) For the purposes of monitoring the costs of construction of the building by the Director-General, the company registered under subsection (27) shall—

- (a) notify the Director-General in writing of the date on which the construction has started; and
- (b) submit to the Director-General, a report from a quantity surveyor certifying the progress of works and the costs of construction works completed, not later than 15 days after each period of 6 months from the beginning of the construction.

Notification to Registrar-General

(33) The Director-General shall, notwithstanding section 154, give written notice to the Registrar-General that the company has satisfied or has failed to satisfy the condition specified in subsection (28) (b).

Application of subsections (27) to (33) to leasehold land

(34) Subsections (27) to (33) shall, subject to subparagraph (b), shall apply to leasehold land.

Taxation of income derived by individuals during the period of 1 July to 31 December 2009

(35) Notwithstanding the other provisions of this Act—

- (a) income derived by an individual in the period 1 July to 31 December 2009 shall be deemed to be derived in the income year ending on 31 December 2009 and shall be taxable in the year of assessment ending on 31 December 2010;
- (b) subject to the conditions provided under section 27, an individual shall be entitled to an income exemption threshold as follows—
 - (i) Category A – 129,230 rupees;
 - (ii) Category B – 188,460 rupees;
 - (iii) Category C – 220,770 rupees;
 - (iv) Category D – 242,310 rupees;
 - (v) Category E – 153,460 rupees;
 - (vi) Category F – 212,690 rupees;
- (c) an individual shall not be entitled to claim an income exemption threshold in respect of—
 - (i) Category B or Category F, where the net income and exempt income of his dependent exceed 59,230 rupees;
 - (ii) Category C, where the net income and exempt income of his second dependent exceed 32,310 rupees;
 - (iii) Category D, where the net income and exempt income of his third dependent exceed 21,540 rupees;
- (d) where the net income and exempt income of the first dependent, second dependent and third dependent of an individual claiming an income exemption threshold do not exceed 59,230 rupees, 32,310 rupees and 21,540 rupees respectively, the net income of the dependent or dependents shall be deemed to be, and shall be added to, the net income of that individual;
- (e) every individual who, in the CPS quarter ending 30 September 2009, derives gross income falling under Sub-part B of Part VIII—
 - (i) which exceeds the CPS threshold, whether or not he has a chargeable income for that CPS quarter; or

- (ii) which does not exceed the CPS threshold, but has a chargeable income for that CPS quarter,

shall submit to the Director-General in respect of that CPS quarter, a Statement of Income not later than 31 December 2009 and at the same time pay any tax payable in accordance with that Statement of Income;

- (f) the computation of chargeable income and tax thereon under paragraph (e) shall be governed by the conditions specified under Sub-part B of Part VIII;
- (g) the due date for the submission of return and payment of tax under section 112 for the income year ending on 31 December 2009 shall be 5 April 2010;
- (h) for the purposes of Sub-Part BB of Part VIII and section 112 (c), the income threshold of 385,000 rupees is reduced to 207,310 rupees in respect of the income year ending on 31 December 2009;
- (i) the National Residential Property Tax imposed by section 111M on an individual owning a residential property referred to in Sub-part BB of Part VIII shall be calculated in respect of the income year ending on 31 December 2009 at 50 per cent of the rates specified in the Seventh Schedule;
- (j) an individual shall be deemed to be resident in Mauritius in the income year ending on 31 December 2009 where he—
 - (i) has his domicile in Mauritius unless his permanent place of abode is outside Mauritius;
 - (ii) has been present in Mauritius in that income year, for a period of, or an aggregate period of, 90 days or more; or
 - (iii) has been present in Mauritius in that income year and the 2 preceding income years, for an aggregate period of 225 days or more.

CSR Fund

(36) The amount of profit that a company is required to transfer to the CSR Fund under section 50L out of its book profit derived in the year forming the basis for the year of assessment ending on 30 June 2010 shall be calculated by applying the following formula—

$$\frac{2}{100} \times \frac{b}{12} \times n$$

Where—

- b is the book profit derived by the company in the year forming the basis for the year of assessment ending on 30 June 2010;
- n is the number of months starting on 1 July 2009 to the end of the accounting year of the company forming the basis for the year of assessment ending on 31 December 2010.

Tax credit in respect of tax withheld from interest in income year 2010

(37) (a) Where income tax has been deducted by a financial institution from interest made available to an individual in the income year ending 31 December 2010, the individual may claim a credit in respect of the amount of income tax so deducted in 2 equal instalments from his tax liability in respect of the income years ending 31 December 2011 and 31 December 2012.

(b) Any credit under subparagraph (a) remaining unrelieved from the tax liability of the individual in respect of the income year ending 31 December 2011, shall be carried forward to the following income year ending 31 December 2012.

(c) Any credit remaining unrelieved from the tax liability of the individual in respect of the income year ending 31 December 2012, shall be refunded to the individual, following the submission of his annual return of income under section 112.

Effective date of items 18 to 23 in Sub-Part C of Part II of Second Schedule

(38) Notwithstanding any enactment, items 18 to 23 in Sub-Part C of Part II of the Second Schedule shall be deemed to have had effect on 1 January 2011.

Voluntary Disclosure of Income Arrangement (VD1A)

(39) (a) Where, on or before 30 September 2013, a person makes a voluntary disclosure of his undeclared income in respect of any year of assessment preceding the year of assessment ending on 31 December 2013, he shall, at the same time, pay tax on that income at the rate of 15 per cent of his chargeable income, free from any penalty and interest that may have become due in accordance with this Act.

(b) The tax liability in respect of any undeclared income disclosed under paragraph (a) shall be computed, but for the tax rate, in accordance with the provisions of this Act in force in respect of the year for which the income is declared.

(40) Where a person who has been assessed to tax in respect of a year of assessment—

- (a) has objected to the assessment under section 131A;
- (b) has lodged a representation with the Clerk to the Assessment Review Committee; or
- (c) has appealed to the Supreme Court or to the Judicial Committee of the Privy Council,

and the objection, representation or appeal is pending as at 30 September 2012, he may apply to the Director-General for the income assessed to be considered as a voluntary disclosure of his undeclared income under subsection (39).

(41) Where a person who has made an application under subsection (40) withdraws his objection, representation or appeal, as the case may be, his tax liability in respect of the income assessed shall be re-computed without any penalty and interest that may have become due and after taking into account any agreement reached between the taxpayer and the Director-General on any item under dispute.

(42) (a) Where the tax under subsection (39) or (41), as the case may be, is not paid in full on or before 30 September 2013, any unpaid tax shall carry interest at the rate of one per cent per month.

(b) The disclosure under this section shall be made in such form and manner, and the payment of any tax liability shall be governed by such other conditions, as the Director-General may determine.

(c) Failure to comply with any condition under this subsection shall entail the withdrawal of any benefits under this section to the taxpayer.

(43) Where a person makes a voluntary disclosure of his undeclared income under subsection (39) and the Director-General is satisfied with such disclosure, that person shall be deemed, notwithstanding sections 146, 146B, 147, 148 and 149, not to have committed an offence.

(44) Subsections (39) to (43) shall not apply to any person—

- (a) who has been convicted on or after 1 July 2001 of an offence relating to;
- (b) against whom any civil or criminal proceedings are pending or contemplated in relation to an act of; or
- (c) in relation to whom an enquiry is being conducted into an act of, trafficking of dangerous drugs, arms trafficking, or an offence related to terrorism under the Prevention of Terrorism Act, money laundering under the Financial Intelligence and Anti-Money Laundering Act or corruption under the Prevention of Corruption Act.

Registration of construction of housing estates

(45) For the purposes of benefiting from exemption of registration duty and land transfer tax under section 27 of the Registration Duty Act and section 45A (9) of the Land (Duties and Taxes) Act—

- (a) on the transfer to a company of a plot of freehold land during the period 1 January 2012 to 31 December 2013 for the construction of any housing estate thereon for sale; or
- (b) on transfer, not later than 30 June 2015, by the company of a plot of land together with a housing unit or by way of a *vente en l'état futur d'achèvement* under article 1601-3 of the Code Civil Mauricien, the construction of which has started on or after 1 January 2012,

that company may, subject to subsections (47) and (48), register with the Director-General during the period from 1 January 2012 to 31 December 2013 for such construction of housing estates.

(46) Registration under subsection (45) shall be subject to the conditions that—

- (a) the company is a company incorporated or registered under the Companies Act;
- (b) the company submits at the time of registration—
 - (i) a brief on the nature of its business;
 - (ii) the site plan, location plan, extent and transcription volume number of the land;
 - (iii) the pre-sale agreement in respect of the land, if any;
 - (iv) a business plan, including project components and description, total investment, estimated total costs of construction and implementation schedule; and
 - (v) the Outline Planning Permission (OPP) from the relevant local authority;
- (c) the housing estate comprises at least 5 residential units, the construction of which shall be completed not later than 31 December 2014; and
- (d) the sale value of a residential unit shall, where the registration is made—
 - (i) from 1 January 2012 to 31 December 2012, not exceed 2.5 million rupees; or
 - (ii) from 1 January 2013 to 31 December 2015, not exceed 4 million rupees.

(47) Where a company is registered with the Director-General under subsection (45), the Director-General shall issue to the company a certificate of registration on such terms and conditions, and in such form and manner, as he may determine.

(48) For the purposes of monitoring the construction of the housing estate by the Director-General, the company registered under subsection (45) shall notify the Director-General in writing of the date on which the construction has started and the date the construction of the housing estate is completed.

Notification to Registrar-General

(49) The Director-General shall, notwithstanding section 154, give written notice to the Registrar-General that a company has satisfied or has failed to satisfy the condition specified in subsection (46).

[S. 161A amended by s. 46 (4) (d) (i) of Act 13 of 2001 w.e.f. 1 December 2001; s. 11 (w) of Act 23 of 2001 w.e.f. the income year commencing 1 July 2001; s. 9 (n) of Act 18 of 2003 w.e.f. 1 July 2002; s 11 (u) (i) of Act 28 of 2004 w.e.f. 26 August 2004; s. 103 (4) (c) of Act 35 of 2004 w.e.f. 10 November 2004; s. 18 (zze) of Act 15 of 2006 w.e.f. 7 August 2006; s. 17 (zf) (v) of Act 17 of 2007 w.e.f. 1 July 2007; 22 August 2007; 1 July 2008 in respect of the year of assessment commencing 1 July 2008 and in respect of every subsequent year of assessment; 1 July 2009 in respect of the year of assessment commencing 1 July 2009 and

in respect of every subsequent year of assessment; s. 15 (r) (i) of Act 18 of 2008 w.e.f. 1 July 2007; s. 15 (r) (ii) of Act 18 of 2008 w.e.f. 19 July 2008; s. 8 (b) (i) of Act 1 of 2009 w.e.f. 16 April 2009; s. 8 (b) (ii) of Act 1 of 2009 w.e.f. 1 January 2009; s. 21 (w) of Act 14 of 2009 w.e.f. 1 July 2009; s. 9 (za) of Act 10 of 2010 w.e.f. 24 December 2010; s. 13 (c) of Act 20 of 2011 w.e.f. 16 July 2011; ss. 8 (zp) of Act 37 of 2011 w.e.f. 15 December 2011; 1 January 2012; s. 12 (v) of Act 26 of 2012 w.e.f. 22 December 2012.]

162. – 163. —

FIRST SCHEDULE

[Section 4]

Rate of income tax 15 per cent

[First Sch. amended by s. 4 (s) of Act 10 of 1998 w.e.f. 21 July 1998; s. 10 (t) of Act 18 of 1999 w.e.f. 1 July 1999 in respect of the income year commencing on 1 July 1999 and in respect of every subsequent income year; s. 12 (ac) of Act 25 of 2000 w.e.f. income year commencing 1 July 2000; s. 46 (4) (e) of Act 13 of 2001 w.e.f. 1 December 2001; s. 11 (x) (i), (iii), (iv) and (v) of Act 23 of 2001 w.e.f. income year commencing on 1 July 2001; GN 124 of 2002 w.e.f. 20 August 2002; s. 9 (o) of Act 18 of 2003 w.e.f. the year of assessment commencing 1 July 2003; s. 11 (v) of Act 2004 w.e.f. 1 July 2004; s. 156 (3) (g) of Act 22 of 2005 w.e.f. 28 September 2007; repealed and replaced by s. 18 (zzf) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year, in so far as it relates to individuals, w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July 2007 and in respect of every subsequent year of assessment in so far as it relates to companies; s. 17 (zg) of Act 17 of 2007 w.e.f. 1 July 2007 in so far as it relates to individuals, w.e.f. 1 July 2008 in so far as it relates to companies; s. 9 (zb) of Act 10 of 2010 w.e.f. 24 December 2010; s. 8 (zq) of Act 37 of 2011 w.e.f. 5 November 2011.]

SECOND SCHEDULE

[Sections 2 and 7]

PART I – EXEMPT BODIES OF PERSONS

1. A charitable institution, a charitable Foundation or a charitable trust.
2. A *société de secours mutuels*.
3. A benevolent association.
4. A trade union.
5. A local authority.
6. The National Pensions Fund established under the National Pensions Act.
7. The Sugar Industry Pension Fund.
8. A superannuation fund.
9. A trust in respect of a superannuation fund.
10. The Agricultural Research Fund.
11. The Sugar Insurance Fund.
12. The Sugar Planters Fund.
13. The Sugar Employees Fund.
14. The Mauritius Cane Industry Authority.

15. An equity fund.
16. A special purpose fund established under the Financial Services Act.
17. —
18. The Food and Agricultural Research Council.
19. A company holding a Category 2 Global Business Licence under the Financial Services Act.
20. An international organisation approved by the competent authority.
21. The Mauritius Sugar Syndicate.
22. An investment club registered as such under rules made by the Financial Services Commission or taken to be so registered under the Securities Act.

[Part I amended by s. 17 (zh) (i) of Act 17 of 2007 w.e.f. 22 August 2007; s. 156 (3) of Act 22 of 2005 w.e.f. 28 September 2007; s. 51 (1) (i) of Act 8 of 2012 w.e.f. 1 July 2012; s. 12 (w) (i) of Act 26 of 2012 w.e.f. 22 December 2012.]

PART II – EXEMPT INCOME

Sub-Part A – Emoluments

1. Emoluments derived from the office of the President or Vice-President.
2. Any rent allowance payable to a person appointed to an office in—
 - (a) the Police Force;
 - (b) the Mauritius Fire and Rescue Service;
 - (c) the Forests Division of the Ministry responsible for the subject of agriculture;
 - (d) the Prisons Service;
 - (e) the Ministry responsible for the subject of fisheries;
 - (f) the Department of Civil Aviation; or
 - (g) the Fire Unit of the Mauritius Marine Authority.
3. Any housing allowance not exceeding 100 rupees per month payable by an employer to an employee under any enactment or by virtue of an award made under an enactment.
4. Any transport allowance payable by an employer to an employee by virtue of the terms and conditions of service equivalent to—
 - (a) the return bus fare between residence and place of work;
 - (b) petrol allowance, commuted travelling allowance and travel grant payable by Government and the local authority to their employees; or
 - (c) the actual petrol or travelling allowance paid or 25 per cent of the monthly basic salary up to a maximum 9,050 rupees, whichever is the lesser, provided that the employee makes use of a private car registered in his own name for attending duty and for the performance of the duties of his office or employment.
5. Passage benefits provided under a contract of employment not exceeding 6 per cent of the basic salary.

6. The first one million and five hundred thousand rupees of the aggregate amount received—

- (a) as lump sum by way of commutation of pension or by way of death gratuity or as consolidated compensation for death or injury and paid—
 - (i) by virtue of any enactment;
 - (ii) from a superannuation fund;
 - (iii) under a personal pension scheme approved by the Director-General;
- (b) as lump sum under the National Savings Fund Act;
- (c) by way of retiring allowance;
- (d) by way of severance allowance determined in accordance with the Employment Rights Act; and
- (e) as compensation negotiated under section 42 of the Employment Rights Act, limited to the amount of severance allowance referred to in section 46 (5) (i) and (ii) of that Act,

on such conditions as maybe prescribed

7. Any payment of foreign service allowance reimbursement or the cost or payment of personal and private expenses including medical expenses, to home-based staff of overseas mission.

8. Any advantage in money or in money's worth received as lump sum by an employee voluntarily terminating his contract of employment in the context of a factory closure pursuant to the Mauritius Cane Industry Authority Act or under the Voluntary Retirement Scheme or Early Retirement Scheme under the Sugar Industry Efficiency Act.

9. Any benefit to an employee for a payment by his employer to provide a pension or retiring allowance for the employee or his dependants and which is an allowable deduction under section 22 or 61, as the case may be.

10. Any benefit to an employee for a payment by his employer to a scheme approved by the Director-General to provide against medical expenses for the employee or his dependants and which is an allowable deduction under section 22 or 61, as the case may be.

11. Emoluments of a non-citizen who holds office in Mauritius as an official of a Government other than the Government of Mauritius and is posted to Mauritius for that purpose.

12. Any foreign service allowance payable under a contract of employment to staff or statutory bodies posted abroad, as may be approved by the Director-General.

13. Any retirement pension not exceeding the income exemption threshold in respect of Category A payable to a citizen of Mauritius who is not resident in Mauritius.

14. Any car allowance payable in lieu of duty exemption on a car, to a public officer, an officer of a local authority, or officer of a statutory body, whose terms and conditions of service are governed by the 2013 Report of the Pay Research Bureau.

[Sub-Part A amended by GN 129 of 2006 w.e.f. 1 July 2006; s. 15 (1A) of Act 3 of 2007 w.e.f. 1 March 2007; s. 17 (zh) (ii) of Act 17 of 2007 w.e.f. 22 August 2007; GN 128 of 2008

w.e.f. 1 July 2008 in respect of the income year commencing 1 July 2008 and in respect of every subsequent income; s. 21 (x) of Act 14 of 2009 w.e.f. 2 February 2009; s. 21 (x) of Act 14 of 2009 w.e.f. 2 February 2009; s. 9 (zc) of Act 10 of 2010 w.e.f. 1 January 2011 as from the income year commencing 1 January 2011; GN 214 of 2011 w.e.f. 1 July 2008; s. 12 (w) (ii) of Act 26 of 2012 w.e.f. 1 February 2009; GN 54 of 2013 w.e.f. 1 January 2013.]

Sub-Part B – Dividends, Interest and Royalty

1. Dividends—

- (a) paid by a company resident in Mauritius; or
- (b) paid by a co-operative society registered under the Co-operatives Act.

2. Dividends or other distributions paid by a company holding a Global Business Licence under the Financial Services Act to another company holding a Global Business Licence under the Financial Services Act.

3. Interest payable on—

- (a) a balance maintained in a bank holding a banking licence under the Banking Act by an individual who is not resident in Mauritius;
- (b) call and deposit accounts held with any bank under the Banking Act by a corporation holding a Category 1 Global Business Licence under the Financial Services Act;
- (c) a savings or fixed deposit account held by an individual, a *société* or a succession with any bank or a non-bank deposit taking institution under the Banking Act;
- (d) Government securities, debentures quoted on the stock exchange and Bank of Mauritius Bills held by an individual, a *société* or a succession.

4. Interest paid to a non-resident, not carrying on any business in Mauritius—

- (a) by a corporation holding a Category 1 Global Business Licence under the Financial Services Act out of its foreign source income; or
- (b) by a bank holding a banking licence under the Banking Act insofar as the interest is paid out of gross income derived from its banking transactions with non-residents and corporations holding a Global Business Licence under the Financial Services Act.

5. Royalty payable to non-resident—

- (a) by a corporation holding a Category 1 Global Business Licence under the Finance Services Act out of its foreign source income;
- (b) by a bank holding a banking licence under the Banking Act insofar as the royalty is paid out of gross income derived from its banking transactions with non-residents and corporations holding a Global Business Licence under the Financial Services Act; or
- (c) by a trust.

[Sub-Part B amended by s. 9 (zc) (ii) of Act 10 of 2010 w.e.f. 1 January 2010 as from the year of assessment 2012; s. 8 (zr) (i) of Act 37 of 2011 w.e.f. 1 January 2012 in respect of the income year commencing 1 January 2012 and in respect of every subsequent income year; s. 12 (w) (ii) of Act 26 of 2012 w.e.f. 22 December 2012.]

Sub-Part C – Miscellaneous

1. Gains derived by a planter, miller or service provider from the sale of land provided that the proceeds are used exclusively for the implementation of the Voluntary Retirement Scheme under the Sugar Industry Efficiency Act or used exclusively under section 30 of the Mauritius Cane Industry Authority Act, as the case may be.

2. Gains derived by any person from the sale of land previously acquired by him from a planter implementing the Voluntary Retirement Scheme under the Sugar Industry Efficiency Act.

3. Gains derived from the sale of land converted pursuant to section 29 (1) (c) (ii) (B), (e) or (f) of the Sugar Industry Efficiency Act provided that the proceeds are used exclusively for the implementation of the schemes specified in that section.

4. Income derived by any person in the form of maintenance allowance or other benefit provided in respect of his attendance at a university, college, school or other educational institution in terms of a scholarship, bursary, exhibition or other education award.

5. —

6. Interest, rents, royalties, compensations and other amounts paid by a company holding a Category 2 Global Business Licence or a special purpose fund established under the Financial Services Act to a non-resident.

7. Gains or profits derived from the sale of units or of securities by a company holding a Category 1 Global Business Licence under the Financial Services Act.

8. Gains or profits derived from the sale of shares, debt obligations or other securities of a company holding a Category 1 Global Business Licence or Category 2 Global Business Licence under the Financial Services Act by a non-resident.

9. Income derived by the registered owner of a foreign vessel from the operation of the vessel.

10. Income derived by the registered owner of a foreign vessel registered in Mauritius provided the income is derived from deep sea international trade only.

11. (a) Income derived by a small enterprise under the Small and Medium Enterprise Development Authority Act provided that—

- (i) the enterprise carries out an activity other than an activity in respect of the information and communication technologies under the Information and Communication Technologies Act or financial services under the Financial Services Act; and
- (ii) the enterprise operated by a person, other than a company, is converted into a company; or
- (iii) the enterprise is operated by a company; and
- (iv) the period of exemption of the income of the company does not exceed 4 succeeding income years as from the income year the company starts its activity.

(Item 11 (a) came into operation on 29 January 2010.)

(b) Notwithstanding the other provisions of this Act, any loss incurred by a company under paragraph (a) during the period of exemption of its income shall be available for deduction and carry forward under section 59.

12. —

13. (a) Income derived by a company registered with the Board of Investment established under the Investment Promotion Act, as a company engaged in the provision of health services, provided that the period of exemption of the income of the company does not exceed 5 succeeding income years as from the income year the company starts its operation.

(b) Notwithstanding the other provisions of this Act, any loss incurred by a company under paragraph (a) during the period of exemption of its income shall be available for deduction and carry forward under section 59.

14. Alimony paid to a previous spouse whose marriage has been dissolved by a Court of competent jurisdiction or in respect of maintenance paid to the spouse in accordance with an order of a Court.

15. Income which is expressly exempt from income tax under any other enactment to the extent of the exemption so provided.

16. The surplus income generated by a co-operative credit society registered with the Sugar Insurance Fund Board established under the Sugar Insurance Fund Act.

17. The income derived on the first 60 tonnes of sugar accruing to a planter who is an individual cultivating less than 15 hectares of land.

18. Gains derived by a planter, miller or service provider from the sale of land, provided that the proceeds are used exclusively for the implementation of the Voluntary Retirement Scheme under the Sugar Industry Efficiency Act or used exclusively by a miller in compliance with the conditions imposed under section 30 of the Mauritius Cane Industry Authority Act, as the case may be.

19. Gains derived by any person from the sale of land previously acquired by him from a planter implementing the Voluntary Retirement Scheme under the Sugar Industry Efficiency Act.

20. Gains derived from the sale of land converted pursuant to section 29 (1) (c) (ii) (B), or (f) of the Sugar Industry Efficiency Act, provided that the proceeds are used exclusively for the implementation of the schemes specified in that section.

21. —

22. —

23. —

24. —

(Items 16 to 23 not in operation; item 24 came into operation on 1 January 2011.)

[Second Sch. amended by s. 46 (4) (f) of Act 13 of 2001 w.e.f. 1 December 2001; s. 362 (1) (b) of Act 15 of 2001 w.e.f. 1 December 2001; s. 11 (y) (i) of Act 23 of 2001; GN 124 of 2002; GN 150 of 2002; s. 9 (p) of Act 18 of 2003; s. 11 (w) (i) of Act 28 of 2004; s. 103 (4) (e) (i) of Act 35 of 2004; GN 31 of 2004; s. 19 (p) (i) of Act 14 of 2005; s. 156 (3) (h) of Act 22 of 2005 w.e.f. 28 September 2007; GN 100 of 2005; repealed and replaced by s.18 (zzf) of Act

15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year in so far as it relates to individuals, and w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July and in respect of every subsequent year of assessment in so far as it relates to companies. Sub-Part C

amended by GN 129 of 2006; s. 166 (4) of Act 9 of 2007 w.e.f. 6 December 2007; s. 17 (zh) (ii) of Act 17 of 2007 w.e.f. 22 August 2007; s. 21 (x) of Act 14 of 2009 w.e.f. 2 February 2009; s. 9 (zc) (iii) of Act 10 of 2010 w.e.f. 1 January 2012 as from the year of assessment 2012; s. 3 of GN 22 of 2011; s. 8 (zr) (ii) of Act 37 of 2011 w.e.f. 1 October 2011 and 5 November 2011; s. 12 (w) (ii) (c) of Act 26 of 2012 w.e.f. 22 December 2012.]

THIRD SCHEDULE

[Section 27 (2)]

PART I – INCOME EXEMPTION THRESHOLD

<i>Individual</i>	<i>Amount (Rs)</i>
Category A	270,000
Category B	380,000
Category C	440,000
Category D	480,000
Category E	320,000
Category F	430,000

For the purposes of this Schedule—

- (i) Category A refers to an individual who, in an income year, does not have any dependant;
- (ii) Category B refers to an individual who, in an income year, has one dependant only;
- (iii) Category C refers to an individual who, in an income year, has 2 dependants only;
- (iv) Category D refers to an individual who, in an income year, has 3 or more dependants;
- (v) Category E refers to—
 - (A) a retired person who, in an income year, has no dependant and has gross income, other than specified income; or
 - (B) a disabled person who, in an income year, has no dependant;
- (vi) Category F refers to—
 - (A) a retired person who, in an income year, has one dependant and has gross income, other than specified income; or
 - (B) a disabled person who, in an income year, has one dependant;
- (vii) “retired person” means a person who attains the age of 60 at any time prior to the first day of July of an income year in respect of which a claim for income exemption threshold in respect of Category E or Category F, as the case may be, is made;
- (viii) “specified income” means the gross income derived from emoluments, other than any income specified in section 10 (1) (a) (ii), or from any business;

- (ix) where the dependant under Category B, C, D and F is a child pursuing a non-sponsored full-time undergraduate course at a recognised tertiary educational institution, the person shall, in addition to the income exemption threshold he is entitled to, be eligible to an additional exemption of—
 - (A) 80,000 rupees in respect of each dependant pursuing his undergraduate course in Mauritius at an institution recognised by the Tertiary Education Commission established under the Tertiary Education Commission Act; or
 - (B) 125,000 rupees in respect of each dependant pursuing his undergraduate course outside Mauritius at a recognised institution;
- (x) no exemption under paragraph (ix) shall be allowed—
 - (A) where the annual tuition fees, excluding administration and student union fees, are less than 44,500 rupees; or
 - (B) where the income referred to in section 27A (5) of the person, or the spouse of the person, as the case may be, exceeds 2 million rupees in an income year;
 - (C) in respect of the same dependant for more than 3 consecutive years.

PART II – RELIEF FOR MEDICAL OR HEALTH INSURANCE PREMIUM

COLUMN 1	COLUMN 2
Category claimed as Income Exemption Threshold	Premium allowable (Rs)
Category A (no dependant)	12,000
Category B (1 dependant)	12,000 for self + 12,000 for dependant
Category C (2 dependants)	12,000 for self + 12,000 for first dependant + 6,000 for second dependant
Category D (3 dependants)	12,000 for self + 12,000 for first dependant + 6,000 for second dependant + 6,000 for third dependant
Category E (retired or disabled person with no dependant)	12,000
Category F (retired or disabled person having one dependant)	12,000 for self + 12,000 for dependant

[Third Sch. amended by s. 11 (z) (i) of Act 23 of 2001 w.e.f. the income year commencing on 1 July 2001; s. 14 (aa) of Act 20 of 2002 w.e.f. the income year commencing 1 July 2002 and in respect of every subsequent income year; repealed and replaced by s. 9 (q) of Act 18 of 2003; s. 11 (x) of Act 28 of 2004 w.e.f. 1 July 2004; s. 19 (q) of Act 14 of 2005 w.e.f. 1 July 2005; s. 18 (zzf) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year in so far as it relates

to individuals, and w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July 2007 and in respect of every subsequent year of assessment in so far as it relates to companies; s. 15 (s) of Act 18 of 2008 w.e.f. 1 July 2008; amended by s. 10 (o) of Act 20 of 2009 w.e.f. 1 January 2010 in respect of the income year commencing on 1 January 2010 and in respect of every subsequent income year; s. 9 (zd) of Act 10 of 2010 w.e.f. 1 January 2011 as from the income year commencing 1 January 2011; s. 8 (zs) of Act 37 of 2011 w.e.f. 1 January 2012 in respect of the income year commencing 1 January 2012 and in respect of every subsequent income year; s. 8 (zs) (ii) of Act 37 of 2011 w.e.f. 1 January 2012; amended by s. 12 (x) of Act 26 of 2012 w.e.f. 1 January 2013 in respect of the year of assessment commencing 1 January 2013 and in respect of every subsequent year of assessment; s. 12 (x) of Act 26 of 2012 w.e.f. 1 January 2013 in respect of the income year commencing 1 January 2013 and in respect of every subsequent income year.]

FOURTH SCHEDULE

[Fourth Sch. amended by s. 9 (af) of Act 9 of 1997 w.e.f. 1 July 1997 in respect of income year commencing 1 July 1997 and in respect of every subsequent income year; s. 4 (v) of Act 10 of 1998 w.e.f. 1 July 1998 in respect of income year commencing on 1 July 1998 and in respect of every subsequent income year; s. 9 (r) of Act 18 of 2003 w.e.f. 1 July 2003; s. 11 (y) of Act 28 of 2004 w.e.f. 1 July 2004; s. 27 (10) (r) of Act 33 of 2004 w.e.f. 1 July 2006; repealed and replaced by s. 18 (zzf) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of income year commencing 1 July 2006 and in respect of every subsequent income year in so far as it relates to individuals, and w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July and in respect of every subsequent year of assessment in so far as it relates to companies; amended by s. 17 (zi) of Act 17 of 2007 w.e.f. 22 August 2007; repealed and replaced by s. 21 (y) of Act 14 of 2009 w.e.f. 1 July 2009; repealed by s. 8 (zt) of Act 37 of 2011 w.e.f. 1 January 2012.]

FIFTH SCHEDULE

[Section 111B (e)]

SERVICES OTHER THAN SERVICES PROVIDED BY A NON-RESIDENT

Architect

Attorney/Solicitor

Barrister

Engineer

Land surveyor

Legal consultant

Medical service provider

Project manager in the construction industry

Property valuer

Quantity surveyor

[Fifth Sch. repealed and replaced by s. 7 (q) of by Act 13 of 1996 w.e.f. in relation to an individual, on 1 July 1996 in respect of income year commencing on 1 July 1996 in respect of every subsequent year , and in relation to any other person or associate in a *société* under section 47, on 1 July 1996 in respect of year of assessment commencing on 1 July 1996 and in respect of every subsequent year of assessment ; Act 10 of 1998 w.e.f. 1 July 1998 in respect of income year commencing on 1 July 1998 and in respect of every subsequent year; s. 10 (w) of Act 18 of 1999 w.e.f. 1 July 1999 in respect of income year commencing on 1 July 1999 and in respect of every subsequent year; s. 12 (af) of Act 25 of 2000 w.e.f. income year commencing 1 July 2000; Act 28 of 2004; s.18 (zzf) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year in so far as it relates to individuals, and w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July and in respect of every subsequent year of assessment in so far as it relates to companies; s. 8 (zu) of Act 37 of 2011 w.e.f. 1 March 2012; amended by s. 12 (y) of Act 26 of 2012 w.e.f 1 January 2013.]

SIXTH SCHEDULE

[Section 111C]

DEDUCTION OF TAX AT SOURCE

	Amount or sum made available to the payee by way of—	Rate of tax (%)
1	Interest payable by any person, other than by a bank or non-bank deposit taking institution, under the Banking Act, to a non-resident	15
2	Royalties payable to— (a) a resident (b) a non-resident	10 15
3	Rent	5
4	Payment to contractors and sub-contractors	0.75
5	Payment to providers of services as specified in the Fifth Schedule to the Income Tax Act	3
6	Payment made by Ministry, Government department, local authority, statutory body or the Rodrigues Regional Assembly on contracts, other than payments to contractors and subcontractors and payments to providers of services specified in the Fifth Schedule— (a) for the procurement of goods and services under a single contract, where the payment exceeds 300,000 rupees; (b) for the procurement of goods under a contract, where the payment exceeds 100,000 rupees; or (c) for the procurement of services under a contract, other than telephone, postal, air travel and hotel services, where the payment exceeds 30,000 rupees	1 1 3
7	Payment made to the owner of an immovable property or his agent pursuant to section 111B (g)	5
8	Payment made to a non-resident for any services rendered in Mauritius pursuant to section 111B (h)	10

[Sixth Sch. amended by Act 9 of 1997; s. 27 (10) (s) of Act 33 of 2004 w.e.f. 1 July 2006; repealed and replaced by s. 18 (zzf) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year in so far as it relates to individuals, and w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July and in respect of every subsequent year of assessment in so far as it relates to companies; amended by GN 129 of 2006 w.e.f. 1 October 2006; s. 10 (p) of Act 20 of 2009 w.e.f. 1 January 2011 as from the year of assessment commencing on 1 January 2011; s. 9 (ze) (i) and (ii) of Act 10 of 2010 w.e.f. 1 January 2011 as from the income year commencing 1 January 2011; amended by GN 58 of 2012 w.e.f. 1 March 2012; repealed and replaced by s. 8 (zv) of Act 37 of 2011 w.e.f. 1 March 2012; s. 12 (z) of Act 26 of 2012 w.e.f. 1 January 2013.]

SEVENTH SCHEDULE

[Section 111M]

<i>Area</i>	<i>Rate</i>
1. In the case of apartment, flat or tenement, its floor area as specified in the title deed or contract	30 rupees per square metre
2. In the case of any other residential property, the surface area of land	10 rupees per square metre

[Seventh Sch. amended by s. 9 (ab) of Act 9 of 1997 w.e.f. 1 July 1997 in respect of the income year commencing on 1 July 1997 and in respect of every subsequent income year; s. 10 (x) of Act 18 of 1999 w.e.f. 1 July 1999 in respect of the income year commencing on 1 July 1999 and in respect of every subsequent income year; Act 25 of 2000; repealed and replaced by s. 11 (aa) of Act 28 of 2004 w.e.f. 1 July 2004; s. 18 (zzf) of Act 15 of 2006 w.e.f. 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year in so far as it relates to individuals, and w.e.f. 1 July 2007 in respect of the year of assessment commencing 1 July and in respect of every subsequent year of assessment in so far as it relates to companies; s. 17 (zj) of Act 17 of 2007 w.e.f. 22 August 2007.]

EIGHTH SCHEDULE

[Sections 139 and 141]

PART I

Office of the Director-
General, Port Louis

Date

Income Tax Account No.

Financial Year

Year of Assessment

Account Reference

DISTRESS WARRANT – continued

Under section 139 of the Income Tax Act.

To the Usher of the Supreme Court

Whereas

is

indebted to the Director-General of the Mauritius Revenue Authority in the sum of

.....

being income tax due and payable by the aforesaid

.....

particulars of which are set out in the Annex.

And whereas default has been made in the payment of the aforesaid amount to the Director-General and the aforesaid amount is still due.

These are therefore to authorise and order you forthwith to make distress of the goods, chattels and effects of the said person, and, if within the period of 3 clear days next after the making of such distress, the amount of the tax due and payable including the charge of taking and keeping the distress is not paid, you shall sell the goods, chattels, and effects of the said person up to the amount mentioned in the distress including the costs and that you certify to me on or before the

..... day of 20

what you shall have done by virtue of this warrant.

Given under my hand at Port Louis, this day of 20

.....

Director-General of Mauritius Revenue
Authority

RETURN OF THE ABOVE WARRANT

In execution of the above warrant, I certify that I have this day seized the goods, chattels and effects of the herein named and have made and signed an inventory of the same hereunto annexed, and have appointed as guardian of the same.

Date 20

.....

Usher of the Supreme Court

PART II – FORM OF MEMORANDUM OF INSCRIPTION

Privilege inscribed under section 141 of the
Income Tax Act

by the

Director-General of the Mauritius Revenue Authority
electing his legal domicile in his office in Port Louis
against

..... (names in full)
of (address in full)
..... (occupation)

and

Mrs (Christian and maiden names in full)
of (address in full) his wife, hereinafter called the debtor/s
for the sum of rupees (in words)
upon all immovable property belonging to the debtor/s including:

.....
.....
.....

Drawn up in Port Louis on the day of 20.....
I certify that this memorandum is an exact copy of the other original with which it
has been duly collated.

.....
Director-General

[Part II repealed and replaced by s. 11 of Act 33 of 2004.]

PART III

The Conservator of Mortgages is hereby requested to erase in his registers the privi-
lege inscribed by the Director-General of the Mauritius Revenue Authority on
the
of 20 in
Vol. No.
against:

.....
.....

upon all immovable property which belonged to the latter, including

.....

Dated, signed and sealed in Port Louis on the day of 20.....

.....
Director-General

[Part III repealed and replaced by s. 11 of Act 33 of 2004.]