

AN ACT to revise and consolidate the law relating to the administration of taxation laws and to ensure the efficient collection of taxes and other fees in the nature of taxes.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives and by the authority of the same as follows:

PART I PRELIMINARY

Short Title

1. This Act may be cited as the Tax Administration Act 2015.

Preliminary

2.(1) In this Act, unless the context otherwise requires, the following expressions have the meanings indicated:

“Assessment” means the entering into the records of the Department of the amount of a taxpayer's liability for tax for a specific taxation period, and includes a revised assessment and an assessment described in subsection 29(5);

“Authorised officer,” in relation to a function, means the Comptroller or any person employed in the Inland Revenue Department and authorised in writing by the Comptroller to perform the function;

“Bank” has the meaning given in the Banking Act (Chapter 26A);

“Comptroller” means the Comptroller of Inland Revenue;

“Department” means the Inland Revenue Department;

“Financial institution” has the meaning given in the Banking Act (Chapter 26A);

“Fixed penalty offence” means an offence listed in Schedule VI of the VAT Act, or an offence described in Division II of Part IX and attracting a fixed penalty;

“Law” means an Act of the Parliament of Grenada and regulations, rules, or determinations made under such an Act;

“Minister” means the Minister responsible for finance;

“tax” means a compulsory payment to government imposed under a law to which this Act applies, regardless of whether that payment is designated as a tax, fee, duty, levy or otherwise, and, unless the context otherwise requires, includes interest, late fee, or penalty in relation to a tax;

“Tax law” means a law listed in Schedule I;

“Tax legislation” means a tax law or a regulation under such a law;

“Taxpayer” means—

- (a) a person who is required to pay tax under a law or regulation to which this Act applies; or
- (b) a person who is required to withhold tax and pay it to the Department;

“tax return” means a return, including an information return, that a person is required to file with the Department, in which information about that person’s or some other person’s possible tax liability is provided;

“TIN” has the meaning given in section 9.

(2) When this Act applies in respect of a law, any term not defined in this Act has the meaning that it has for the purposes of that law.

(3) Whenever this Act refers to something being written, in writing, contained in a record or document, or the like, the reference shall be read as including information communicated or stored electronically.

Interpretation of tax laws

3.—(1) In the case of a tax law, the following shall be considered to be part of the law:

- (a) the headings of the sections, Parts, Divisions, and Subdivisions into which the law is divided; and
- (b) any Schedule to the law.

(2) In interpreting a provision of a tax law, a construction that would promote the purpose or object underlying the provision or the law (whether that purpose or object is expressly stated in the law or not), should be preferred to a construction that would not promote that purpose or object.

(3) Subject to subsection (5), in interpreting a provision of a tax law, if any material that does not form part of the law is capable of assisting in ascertaining the meaning of the provision, consideration may be given to that material:

(a) to confirm that the meaning of the provision is the ordinary meaning conveyed by the text of the provision, taking into account its context in the law and the purpose or object underlying the law; or

(b) to determine the meaning of the provision when:

(i) the provision is ambiguous or obscure; or

(ii) the ordinary meaning conveyed by the text and taking into account its context in the law and the purpose or object underlying the law, leads to a result that is manifestly absurd or is unreasonable.

(4) Without limiting the generality of subsection (3), material that may be considered in interpreting a provision of a tax Act includes:

(a) all matters not forming part of the Act that are set out in the document containing the text of the Act, as printed by the Government Printery;

(b) any treaty or other international agreement or international assistance agreement that is referred to in the Act;

(c) any explanatory memorandum relating to the Bill containing the provision, or any other relevant document, that was laid before, or furnished to the members of either House of the Parliament, by a Minister, before the time when the provision was enacted;

(d) the speech made to a House of the Parliament by a Minister on the occasion of the moving, by that Minister, of a motion that the Bill containing the provision be read a second time in that House; and

(e) any relevant material in any official record of proceedings of debates in the Parliament or either House of the Parliament.

Scope of the Act

4.(1) Except as otherwise provided, this Act applies to—

(a) the taxes imposed under the laws, as amended, listed in Schedule I; and

(b) a tax under another law if responsibility for the general administration of the tax is assigned to the Comptroller.

(2) If there is inconsistency between the provisions of this Act and the provisions of an Act to which this Act applies, the provisions of the other Act prevail.

(3) This Act does not apply to provisions for the collection and recovery of tax that reside with the Comptroller of Customs.

PART II GENERAL PROVISIONS

Comptroller and Inland Revenue Department

5.(1) The Public Service Commission must appoint a Comptroller of Inland Revenue and other officers and persons as may be necessary for the administration of this Act.

(2) The Comptroller is responsible, subject to the general control and supervision of the Minister—

- (a) for the collection and accounting for taxes to which this Act applies; and
- (b) for the administration and application of the provisions of this Act and the laws to which this Act applies.

(3) There is established an Inland Revenue Department which is administered by the Comptroller.

(4) The Comptroller, an officer of the Inland Revenue Department, an expert engaged under section 7, or any other person authorised by the Comptroller to perform any functions under this Act shall not be personally liable in civil proceedings in connection with any act done by the person in good faith in the discharge of those functions.

(5) The Comptroller may prescribe such forms as the Comptroller considers appropriate for the purposes of this Act.

Delegation of Powers

6.(1) The Comptroller may delegate to an officer of the Department a power or duty conferred or imposed on the Comptroller by this Act, other than this power of delegation.

(2) A delegation by the Comptroller may be either to a specific individual or to the incumbent of a specific post.

(3) Subject to conditions that the Comptroller specifies, the Comptroller may provide that any information, declaration, or document required to be furnished to the Comptroller is to be supplied to such other person as the Comptroller may nominate.

(4) A delegation under this section does not prevent the Comptroller from personally exercising the power, duty, or function in question.

(5) The Comptroller may, at any time, revoke in writing a delegation under this section.

Assistance of Experts

7.(1) The Comptroller may engage experts, on such terms and conditions as the Comptroller thinks fit, to assist the Department and its tax officers in the proper performance of their functions.

(2) An authorised officer must supervise assistance provided by an expert.

(3) Every person has the right to refuse to deal directly with an expert but a person must not obstruct an expert that is assisting an authorised officer.

(4) A person has the right to complain to the Comptroller that the engagement of a particular expert involves a conflict of interest.

(5) The Comptroller must decide on a complaint made under subsection (4) and the decision of the Comptroller whether to continue with the engagement is final.

(6) The appointment of an expert is ineffective unless it is in writing and is expressly made under this section.

(7) An expert to whom this section applies must regard and deal with as secret and confidential all information and documents that, by reason of the expert's employment, engagement, or assistance, come into the expert's possession in connection with a tax law.

(8) Sections 8, 91, and 92 apply to experts appointed under this section.

Confidentiality

8.(1) Except as provided in subsection (3), (4), (5), or (7) every person having a duty under this Act or being employed in the administration of this Act, must regard as secret and confidential all information and documents the person has received in an official capacity in relation to a specific taxpayer, and may disclose that information only to the following persons:

- (a) other agents and employees of the Department and of the Customs and Excise Department in the course, and for the purpose, of carrying out their duties;
- (b) the Minister of Finance in the course, and for the purpose, of carrying out supervision of the Department;
- (c) employees of the Ministry of Finance, for the purpose of reviewing and evaluating tax issues;
- (d) tax authorities of a foreign country, in accordance with an international agreement;
- (e) law enforcement agencies, for the purpose of the prosecution of a criminal offence; and

- (f) a court, in a proceeding to establish a taxpayer's tax liability or responsibility for an offence under a tax law.

(2) A person who is permitted to disclose information under subsection (1) must maintain secrecy except to the minimum extent necessary to achieve the object for which disclosure is permitted.

(3) A person who receives information under subsection (1) must maintain secrecy except to the minimum extent necessary to achieve the object for which the information was received.

(4) The Comptroller may disclose information concerning a taxpayer's affairs to a person claiming to be the taxpayer or the taxpayer's authorised representative only after obtaining written assurance of the authenticity of the claim.

(5) Information concerning a taxpayer may be disclosed to another person with the taxpayer's written consent.

(6) The obligation as to secrecy imposed by this section shall continue to apply in respect of any person notwithstanding that the person ceases to be appointed under or employed in carrying out the provisions of this Act.

- (7) The Comptroller may publish a list of the names of taxpayers –
- (a) who are in default under section 51;
 - (b) who have failed to file a return as required; or
 - (c) on whom an understatement penalty has been imposed.

Taxpayer Identification Numbers

9.(1) The Comptroller must assign a unique taxpayer identification number ("TIN") to every taxpayer.

(2) The TIN is to be used for all taxes to which this Act applies.

(3) The Comptroller may assign a TIN to a person who is not a taxpayer, but who

- (a) makes payments which are subject to tax in the hands of the recipient;
- (b) is, or may be, required to file a tax return;
- (c) is required under this Act or regulations to furnish a TIN to another person; or
- (d) is required to register under section 10.

(4) To the extent provided by regulations, a person is required --

- (a) to include the person's TIN on documents relating to a tax to which this Act applies; and
- (b) to furnish the TIN to another person designated in regulations as a person who is required to furnish tax information with respect to the person furnishing the number.

(5) The Comptroller may include the TIN on correspondence sent to a taxpayer concerning the taxpayer's tax liability, and the taxpayer must include the number on returns and correspondence with the Comptroller.

(6) A taxpayer must notify the Comptroller in writing of a change in name (including business name or other trading name), address, place of business, or nature of the taxable activity carried on.

(7) If the taxpayer has registered under the VAT Act, notice of the change as required by subsection (6) must be made within fourteen days of the change occurring; otherwise notice must be provided within one year.

Registration

10. (1) Every person liable to furnish a return of income for a year of assessment or an annual stamp tax return, and who is not already registered, is required to register with the Comptroller no later than 30 days after the end of the basis period for that year or, in the case of annual stamp tax, 30 days after the end of the year to which the return relates.

(2) A person registering under this section is required to submit the application for registration in the form and manner prescribed by the Comptroller and to provide such information to the Comptroller as the Comptroller may require to give effect to such registration.

(3) The Minister may by regulations prescribe additional classes of persons required to register under this section.

(4) The Comptroller may register any person whom the Comptroller considers to appear to meet the requirements for registration and assign the person a TIN.

Public Rulings

11.(1) To achieve consistency in the administration of tax legislation and to provide guidance to the general public and officers of the Department, the Comptroller may issue written public rulings setting out the Comptroller's interpretation of the application of the tax legislation.

(2) A public ruling is binding on the Comptroller until revoked.

(3) A public ruling is not binding on taxpayers.

Advance Rulings

12.(1) The Comptroller may issue to a taxpayer a written advance ruling setting out the Department's position regarding the application of tax legislation to a specific transaction proposed by the taxpayer.

(2) If the taxpayer has made a full and true disclosure of the nature of all aspects of the transaction relevant to the ruling and the transaction proceeds in all material respects as described in the taxpayer's application for the ruling, the advance ruling is binding on the Department and on the taxpayer with respect to the application to the transaction of the law as it stands at the time of the ruling.

(3) If the Comptroller proposes to issue a ruling where the tax treatment differs from tax proposed by the taxpayer in its application, the Comptroller must notify the taxpayer and give the taxpayer an opportunity to withdraw the ruling request.

(4) For reasonable cause, the Comptroller may amend or revoke an advance ruling, in whole or in part, by written notice served on the applicant.

(5) Revocation or amendment of an advance ruling has prospective effect only, and the specifics of how the revocation or amendment is applied with prospective effect must be stated in the notice of revocation or amendment.

(6) The subsequent passage of legislation that is inconsistent with an advance ruling revokes the ruling to the extent of inconsistency.

(7) The Comptroller must publish advance rulings, deleting or redacting the taxpayer's name and other information specific to the taxpayer that is not needed by others to understand the ruling.

(8) The Comptroller may adopt procedures for the issuance of advance rulings and specify reasonable fees to be charged.

Other Statements

13. With the exception of a ruling issued under section 11 and other cases authorised by law, no statement or agreement concerning a taxpayer's tax liability made by an officer of the Department is binding on the Department.

Communications with Taxpayers and Other Persons

14.(1) A notice, statement, or agreement issued by the Comptroller to a taxpayer or other person is effective only if it is authorised by law, is in writing, is signed by an official of the Department with apparent authority, and is served upon the taxpayer or other person to whom it is addressed.

(2) If the Comptroller is required to give notice in writing to a person other than a company or a partnership, the notice is considered sufficiently served if it is —

- (a) served personally on that person;

- (b) sent by registered mail to the person's last known address; or
- (c) communicated electronically and in accordance with the *Electronic Transactions Act*.

(3) If the Comptroller is required to give notice in writing to a company or other body of persons, the notice is considered sufficiently served if it is —

- (a) served personally on, or communicated electronically and in accordance with the *Electronic Transactions Act* to, the company's or body's representative;
- (b) delivered to the company's or body's principal place of business in Grenada; or
- (c) sent by registered mail to the registered office of the company or body.

(4) If the Comptroller is required to give notice in writing to a partnership, the notice is considered sufficiently served if it is —

- (a) served personally on, or communicated electronically and in accordance with the *Electronic Transactions Act* to, the precedent partner or agent of the partnership;
- (b) left at or sent by registered mail to the partnership's last known address for service of notices; or
- (c) left at or sent by registered mail to any office or place of business of the partnership.

(4) A notice sent by registered mail is considered served seven days succeeding the day when posted where the address is in Grenada and, where the address is not in Grenada, thirty days succeeding the day when posted.

(5) A notice under the *Property Tax Act* may be served on a person by leaving it at the usual or last known place of abode of that person or, if no other service option is practicable, by addressing the notice to "the owner" of the property, describing the property to which it relates, and delivering it to a person on the property to whom it can be delivered or affixing it or a copy of it to a conspicuous part of the property.

(6) A signature written on a notice, statement, agreement, return, form, declaration, table, or other document and purporting to be the signature of a particular person is considered to be the signature of that person unless the contrary is shown.

Forms and Notices

15.(1) Forms, notices, declarations, statements, tables, and other documents prescribed or published by the Department may be in the form the Comptroller determines for the efficient administration of this Act.

(2) The Department must make the documents described in subsection (1) available to the public at its main office and at other locations, or by mail or electronically, as it may determine.

(3) Every public notice to be given by the Comptroller under this Act must be signed by the Comptroller or by a person with apparent authority, and is considered valid if the signature is printed or written on it.

Defect Does not Affect Validity

16.(1) A notice of assessment or other notice or document issued under this Act is not to be considered invalid or ineffective by reason of a failure to comply with the requirements of section 14 if the taxpayer had effective knowledge of the fact of the notice and of its content.

(2) A notice of assessment or other notice or document issued under this Act is not to be considered invalid or ineffective by reason of defects if it is, in substance and effect, in conformity with this Act, and the person assessed, or affected by the document, is designated in it according to common understanding.

Regulations

17. The Minister may make regulations—

- (a) for matters that under this Act are to be prescribed by regulations, as specified in sections 9(4), 10(3), 39(8), 64(3), and 64(5); or
- (b) whether or not to be prescribed by regulations under this Act, for matters necessary or convenient to be prescribed for the better carrying out or giving effect to this Act or the Acts to which this Act applies.

Taxpayer's Right to Information

18. Upon request by a taxpayer, the Department must—

- (a) inform the taxpayer of the status of the taxpayer's account with respect to tax; and
- (b) provide a copy of a tax return filed by the taxpayer and still on file with the Department.

Due Dates

19.(1) If the last day for performing an act prescribed by tax legislation falls on a day on which the Department is not open to the public for business, the act is considered timely if it is performed on the next succeeding day on which the Department is open for business.

(2) A declaration, appeal, or other document, other than a payment, is considered filed on the date it is stamped as received by the Department or, in the case of filing by mail, on the date of the postmark.

PART III RECORDKEEPING AND INFORMATION COLLECTION

Accounts and Records

20.(1) A taxpayer engaged in business or independent professional activity or required to make a return under tax legislation is required to keep and maintain in Grenada records and accounts sufficient to record all transactions and to ascertain the gains and profits made or the loss incurred in respect of those transactions.

(2) Where the Comptroller is of the opinion that records or books of account are not being kept in accordance with subsection (1), or where no records or books of account are being kept, by any person carrying on business then in addition to prosecution for an offence, the Comptroller may direct such person to keep such records or books of account as the Comptroller may specify.

(3) The records or books of account required by this section shall be kept at the place of business of the person carrying on business unless the Comptroller approves of them being kept at some other place.

(4) In addition to the records and accounts described in subsection (1), a taxpayer must also retain source documents and underlying documentation utilized in the creation of the records and accounts.

(5) A person required to prepare or retain records of a transaction under tax legislation must retain the documents—

- (a) for a period of seven years from the date on which the transaction took place; or
- (b) if longer than the period specified in paragraph (a), until expiration of the time limit for assessment of tax for any tax period to which the records are relevant.

(6) If a person has prepared records required under this section in a language other than English, that person is required at that person's expense, upon request, to provide an English translation acceptable to the Comptroller.

(7) Financial statements, invoices, books of original entry, and all written communications between the Department and the taxpayer must be in English.

(8) For the purposes of this section, source documents include—

- (a) sales and purchase invoices, costing documents, bookings, diaries, purchase orders, delivery notes, bank statements, contracts, and other documents which relate to an element of a transaction; and
- (b) for purposes of the VAT Act, a copy of all VAT invoices, VAT credit notes, VAT debit notes issued and received by the person, all customs documentation relating to imports and exports of goods by a person and, in relation to imported services

to which section 22 of the VAT Act applies, sufficient written evidence to identify the supplier and the recipient, and to show the nature and quantity of services supplied, the time of supply, the place of supply, the consideration for the supply, and the extent to which the supply has been used by the recipient for particular purposes.

Obligations of Financial Institutions

21. A bank or financial institution is required to keep account of all transactions with a client, including the client's identity.

Tax Returns

22.(1) Every taxpayer must, if required by a law to which this Act applies, furnish to the Comptroller a tax return in accordance with subsection (2), within the time and at the place specified by that law, or as demanded by the Comptroller.

(2) The Comptroller specifies—

- (a) the form for returns;
- (b) the information to be furnished on the return and attachments, if any, required to be filed with the return; and
- (c) the manner of filing.

(3) A taxpayer may file an amended return for a tax period no later than six years after the end of the tax period.

(4) A taxpayer, or the taxpayer's duly authorised agent, must sign the return, attesting to its accuracy and completeness.

(5) If a return or part of a return was prepared for consideration by some other person, other than a full-time employee of the taxpayer, that other person must also sign the return.

(6) The Comptroller may, by notice in writing, require a person to file, whether on that person's own behalf or as agent or trustee for another person, fuller or additional returns for a tax period as the Comptroller requires, even if the taxpayer has not submitted a return for the period.

(7) An amended return pursuant to subsection (3) may not be filed for a tax period between the time that an assessment is issued under section 30 for that period and the time that the assessment becomes final under section 42.

Notice to require filing

23.—(1) Where it appears to the Comptroller that any person is or may be liable to furnish a return and has not done so, the Comptroller may, by notice in writing, require such person to

furnish a return within such time as may be specified in the notice, not being less than seven days from the date of service of such notice.

(2) Nothing in this section shall be construed as extending the time limits provided by the relevant tax Act for the furnishing of a return.

Return deemed to be furnished by due authority

24. Every return, statement, or form purporting to be furnished under this Act by or on behalf of any person shall for all purposes of this Act be deemed to have been furnished by that person or with the person's authority, as the case may be, unless the contrary is proved, and any person signing such return, statement, or form shall be deemed to be cognisant of all matters contained therein.

Information Returns

25. The provisions of this Act relating to returns apply to a person required by a law to which this Act applies to file a return of information related to matters other than the person's own tax liability.

Extension of Time to File Returns

26.(1) The Comptroller may extend the time limit prescribed for filing a tax return if the taxpayer or other person required to file applies for the extension by the due date.

(2) The Comptroller may issue a general extension of the time limit for filing tax returns for a specific tax period in cases of natural disaster or similar events that impede filing of returns.

(3) The granting of an extension of time under subsection (1) or (2) does not affect the due date for payment of tax, unless an extension of time for payment is also expressly granted.

Access to Information, Assets, and Land

27.(1) An authorised officer may enter a business premises, or other premises open to the public, without prior notice, for an authorised purpose—

- (a) during normal business hours; or
- (b) at another time authorised in writing by a magistrate upon application by the Comptroller and a showing of necessity to enter at that time.

(2) The authorised officer may enter a taxpayer's dwelling, or other premises not described in subsection (1), for an authorised purpose—

- (a) with the consent of the taxpayer; or
- (b) at the time stated and in the manner authorised in writing by a magistrate upon application by the Comptroller and a showing of necessity to enter at that time.

(3) The authorised officer may enter on any property for the purpose of surveying and valuing it—

- (a) with the consent of the taxpayer; or
- (b) after giving not less than twenty-four hours' notice in writing.

(4) An authorised officer who is lawfully upon premises or in a dwelling under subsections (1), (2), or (3) may—

- (a) make a copy of a record;
- (b) seize a record or other item that appears to be relevant to an authorised purpose; or
- (c) seal records or other items.

(5) If an authorised officer seizes a record or other item pursuant to the authority provided under this section, the Comptroller may make a copy of the record or other item and must return the original to the person in the shortest time practicable, unless otherwise permitted by court order.

(6) A copy of a document made pursuant to the power conferred by this section may be produced in Court and has the same evidentiary value as if it were an original.

(7) This section does not authorise access to premises of diplomatic, consular, or other missions of foreign countries and international organizations which enjoy immunity from such investigations under international law.

(8) If a person asserts privilege under law over documents or other evidence which the Comptroller wishes to seize or examine pursuant to this section, the materials over which privilege is claimed must be deposited into envelopes which are then sealed and retained unopened by an officer of the Department pending an application by the Comptroller to a court of competent jurisdiction to determine whether the items in question are privileged.

(9) Documents specifically requested by the Comptroller under this section or section 28, and which a taxpayer or other specified person fails to provide, cannot be used by the taxpayer or other person in a judicial proceeding challenging an assessment, except with the agreement of the Comptroller.

(10) The owner or lawful occupier of the premises or place to which an exercise of power under this section relates must provide all reasonable facilities and assistance to the Comptroller or authorised officer.

(11) A person whose books, records, or other items have been seized under this section may examine them and make copies, at the person's expense, during office hours.

(12) An authorised officer must sign for all records, books, or other items removed and retained under this section and must return them to the owner within fourteen days of the conclusion of the investigation or related proceedings.

(13) The Comptroller may cause any land to be visited, inspected, and measured and may call on any person to produce for inspection any map, plan, title deed, instrument of title, or other document in the custody or under the control of that person which relates to the land.

(14) The Comptroller may require a peace officer to be present for the purposes of exercising powers under this section.

(15) In this section and section 28, “authorised purpose” means:

- (a) the collection of information for the purpose of determining the liability of a specific person for a tax;
- (b) the collection of information for the purpose of collecting tax from a specific person; or
- (c) the collection of information related to the investigation or prosecution of tax matters related to a specific person.

Notice to Obtain Information

28.(1) In respect of an authorised purpose, the Comptroller may, by giving reasonable notice in writing, require a person, whether a taxpayer or not—

- (a) to furnish the information that is required by the notice, including information concerning another person; or
- (b) to appear at the time and place designated in the notice for the purpose of being examined or of producing documents or other evidence in the control of that person which are described in the notice.

(2) Without prejudice to the generality of subsection (1), the Comptroller may require any bank

- (a) to furnish to the Comptroller details of any banking account or other assets which may be held on behalf of any person, or to furnish a copy of bank statements of any such banking account;
- (b) to permit the Comptroller or an authorised officer to inspect the records of the bank with respect to the banking account of any person;
- (c) to furnish annually a schedule showing the amount of interest paid on deposits together with the names and addresses of the persons to whom such interest accrued; or may require the attendance of any officer of a bank before the Comptroller to give evidence respecting any bank account or other assets which may be held by the bank on behalf of any person.

(3) Subsection (1) extends to the supply of information, the production of documents and the giving of evidence to the Comptroller in relation to—

(a) the payment of income by any person to a non-resident;

(b) the payment of remuneration by an employer to an employee, the deduction of tax therefrom and the accounting for any tax so deducted.

(4) The Comptroller may make copies of books of account or other documents that are produced for purposes of this section, or may retain them where such course of action appears to the Comptroller to be necessary for the purposes of any prosecution or the substantiation of any assessment.

(5) Subject to section 27(8), section 27 and this section have effect notwithstanding any law relating to confidentiality, privilege, or the public interest with respect to the production of or access to documents or other evidence, including a law relating to bank secrecy and any contractual duty of confidentiality.

PART IV ASSESSMENTS

Assessments

29.(1) An assessment of a taxpayer's liability to pay tax is to be made in the manner prescribed by this Act and the relevant law to which this Act applies.

(2) An assessment by the Comptroller may be based upon the information supplied by the taxpayer in a tax return and upon any other relevant information available to the Comptroller.

(3) If a taxpayer fails to file a tax return as required, the Comptroller may make an assessment of the amount of tax payable, based upon best judgement and information reasonably available to the Comptroller.

(4) If the Comptroller bases an assessment in whole or in part on information other than that supplied by a taxpayer in a tax return, the Comptroller must provide an indication of the nature of the information on which the assessment is based.

(5) If the relevant tax legislation to which this Act applies requires the taxpayer to include in a tax return a calculation of the amount of tax payable, the filing of the return has the same effect as if the Comptroller had made an assessment in that amount, but does not prevent the Comptroller from issuing a new or revised assessment.

New or Revised Assessment

30.(1) The Comptroller may make a new assessment, or may revise an assessment previously made, within the time limits specified in section 31, if the Comptroller is of the opinion that the original assessment was incorrect.

(2) If the taxpayer has failed to comply with record keeping requirements or has submitted inaccurate information, the Comptroller may use best judgement and information reasonably available in making a new or revised assessment.

(3) If a taxpayer files an amended return under subsection (3) of section 22, the Comptroller must revise the original assessment if satisfied that the original assessment was based on incorrect information.

Time Limits for Assessments and Revised Assessments

31.(1) The Comptroller may not make an assessment, including a new assessment or a revised assessment, more than six years after the end of the tax period to which the assessment relates.

(2) Notwithstanding subsection (1), in the case of an assessment made under subsection (1) of section 30 if the original assessment was based upon incorrect information due to the fraud or wilful neglect of the taxpayer, the assessment must be made within twelve years of the end of the tax period to which the return relates.

(3) Notwithstanding subsection (1), an assessment under section 29(3) must be made within 12 years of the end of the tax period to which the return relates, but if the taxpayer files a return within 6 years after the end of the tax period, the assessment must be made within 6 years of the date the return is filed.

(4) Notwithstanding subsection (1), if the return for a tax period is filed 5 years or later after the end of the tax period, a revised assessment must be made within one year after that return is filed, and a revised assessment may be made at any time, if no return has yet been filed.

(5) If an assessment is not made within the time limits specified in this section, and no assessment has been made under subsection (5) of section 29, an assessment is treated to have been made in the amount of tax, if any, that has been withheld for the tax period, or, if no tax has been withheld, that no tax is payable.

(6) Nothing in this section prevents the amendment of an assessment to give effect to a decision of the Appeal Commissioners or Court.

Jeopardy Assessment

32.(1) The Comptroller may make an assessment, using best judgement and information reasonably available, in advance of the date on which tax is normally due, if that action is required to secure the collection of the tax.

(2) In addition to a right of appeal under Part V, an appeal against an assessment made under this section may be made to the High Court on the ground that—

- (a) its amount is excessive; or
- (b) circumstances that justify an advance assessment do not exist.

Notice of Assessment

33. When an assessment is made under subsection (2) or (3) of section 29, under section 30, or under section 31, the Comptroller must issue a notice of assessment, to be served on the person assessed, which must be signed by an authorised officer, and contain the following information—

- (a) the name of the taxpayer;
- (b) the taxpayer identification number, if one has been issued to the taxpayer;
- (c) the date of issue of the notice;
- (d) the matter to which the notice relates;
- (e) the amount of tax payable;
- (f) a demand for payment of the tax by the date stipulated in the notice;
- (g) the place at which, or manner in which, payment is to be made;
- (h) a summary statement of the reasons why the Comptroller made the assessment and the manner in which the assessment is calculated;
- (i) the time, place, and manner of objecting to the assessment; and
- (j) other information, at the discretion of the Comptroller.

(2) The original or a certified copy of a notice of assessment is receivable in proceedings as conclusive evidence that the assessment has been duly made and, except in proceedings in relation to the assessment under Part V, that the amount and all particulars of the assessment are correct.

Anti-avoidance

34. (1) In making an assessment, the Comptroller may disregard a transaction or series of transactions that are artificial or fictitious, or treat according to its economic substance a transaction or series of transactions that have been mischaracterised.

(2) In making an assessment, the Comptroller may adjust transactions between related persons to the terms that would have obtained if the transaction had taken place between unrelated persons at arm's length.

(3) In this section—

“scheme” includes a course of action and an agreement, arrangement, promise, plan, proposal, or undertaking, whether expressed or implied and whether or not legally enforceable; and

“tax benefit” includes a reduction or deferral in the liability of a person to pay tax, or an increase in the entitlement of a person to a refund.

- (4) If the Comptroller is satisfied that a scheme has been entered into or carried out and—
- (a) a person has obtained a tax benefit in connection with the scheme in a manner that constitutes a misuse or abuse of the provisions of a tax law; and
 - (b) having regard to the substance of the scheme, it would be concluded that the person, or one of the persons, who entered into or carried out the scheme, did so for the sole or dominant purpose of enabling the person to obtain the tax benefit,

the Comptroller may, in making an assessment, determine the liability of the person who has obtained the tax benefit as if the scheme had not been entered into or carried out, or in such manner as the Comptroller considers appropriate for the prevention or reduction of the tax benefit.

(5) For the purposes of determining a person's liability under subsection (4), and for the purposes of ensuring the prevention or reduction of the tax benefit, the Comptroller may do any of the following—

- (a) treat a particular event that actually happened as not having happened;
- (b) treat a particular event that did not actually happen as having happened and, if appropriate, treat the event as:
 - (i) having happened at a particular time; and
 - (ii) having involved particular action by a particular person;
- (b) treat a particular event that actually happened as:
 - (i) having happened at a time different from the time it actually happened; or
 - (ii) having involved particular action by a particular person (whether or not the event actually involved any action by that person).

PART V OBJECTIONS AND APPEALS

Taxation Decisions

35. Except in proceedings under this Part—

- (a) no taxation decision may be disputed in the Appeal Commissioners, in a Court, or in another proceeding on another ground; and
- (b) the amount and particulars of every assessment are to be treated as correct and the liability of the taxpayer is to be determined accordingly.

Reviewable decisions

36.—(1) The following decisions made under the VAT Act are reviewable decisions—

(a) a decision under Part III of such Act to register or not register a person under the Act, including—

(i) a decision in relation to the date of commencement of registration;

(ii) a declaration under section 14(5) of the Act that reasonable grounds exist for believing that the person is required to be registered;

(b) a decision under section 15 of the Act to cancel or not to cancel a person's registration under the Act, including a decision in relation to the date of cessation of registration;

(c) a decision under Part XI of the Act not to pay a refund or allow an input tax credit;

(d) the issue of an assessment under Part XII of the Act;

(e) a decision under section 60 of the Act to require a person to give security;

(f) a decision under sections 34(11), (12), and (13) of the Act to allow or not allow an input tax credit to a registered person, including a decision as to the amount of any input tax credit allowed.

(2) The following decisions under the Income Tax Act are reviewable decisions:

(a) a decision under section 11(3) of the Act to refuse to approve varying the basis period;

(b) a decision to require payment of an additional amount under section (11)(4)(b) of the Act;

(c) a decision not to approve a fund under section 48 of the Act;

(d) a decision under section 50(3) of the Act to refuse to direct the deduction of a lesser amount than that provided in the third schedule;

(e) a decision to refuse to grant a waiver under section 52(7) of the Act or to revoke a waiver under section 52(8) of the Act;

(f) a decision under section 66 of the Act to require furnishing a return of income;

(g) a decision under section 93(6) of the Act to refuse to revise the estimated tax payable or to revise it in an amount less than that requested by the taxpayer.

(h) a decision not to remit tax under section 109(3) of the Act.

(3) The following decisions under the Excise Tax Act are reviewable decisions:

(a) a decision under section 4(1) of the Act to impose excise tax on goods for which a deficiency has arisen;

(b) a decision under section 11 of the Act not to grant an application for registration or to impose terms, conditions, or restrictions on a registered manufacturer;

(c) a decision under section 13 of the Act to cancel a registration, including a decision as to the date of effect of a cancellation;

(d) a decision under Part IV of the Act not to pay a refund, or a decision as to the amount of a refund payable;

(e) a decision under section 12 of the Act with respect to the entering of a security arrangement.

(4) The following decisions under this Act are reviewable decisions:

- (a) the making of an assessment;
- (b) the declaration of a person as a representative under section 45(5);
- (c) a decision not to extend time for payment under section 50(1), or not to extend for the full period requested by the taxpayer;
- (d) assessment of a fee under section 57 or 58;
- (e) a decision to issue a certificate of noncompliance under section 65(2);
- (f) the issuance of a notice under section 69(1) or a decision to reject a third party notice under section 70(7)(b).

Administrative Review

37.(1) A taxpayer who is dissatisfied with an assessment or other reviewable decision of the Department described in section 36 may request the Comptroller to review the decision.

(2) A request for administrative review must be made to the Comptroller in writing not later than thirty days after the taxpayer was notified of the decision, and must specify in detail the grounds upon which it is made.

(3) Where the objection is against an assessment which has been made in the absence of a return required to be made, the notice of objection must be sent together with a return duly made.

(4) The Comptroller must consider the taxpayer's request and notify the taxpayer in writing of the Comptroller's decision and the reasons for the decision.

Appeal from Administrative Review

38.(1) A person aggrieved by the result of a review under section 37 may appeal against the assessment to the Appeal Commissioners, constituted as provided in Section 39.

(2) An appeal to the Appeal Commissioners may not be made unless a request for administrative review has first been made, and—

- (a) a decision has been received from the Comptroller; or
- (b) ninety days have elapsed since the request for administrative review was made.

(3) If the Appeal Commissioners are satisfied that the appellant is overcharged they may reduce the amount of the assessment by the amount of the overcharge, and if they are satisfied that the appellant is undercharged, they may increase the amount of the assessment by the amount of the undercharge.

(4) Notwithstanding anything contained in Part VIII, if the Appeal Commissioners are satisfied that tax in accordance with their decision upon the appeal may not be recovered, the Appeal Commissioners may require the appellant to furnish security for payment of the tax, if any, which may become payable by the appellant as may seem to the Appeal Commissioners to be proper.

(5) Notice of an appeal under this section must be given in writing to the Comptroller within ninety days from the date of the decision of the Comptroller under section 37.

(6) Notwithstanding subsection (5), the appellant may appeal against an assessment or other reviewable decision if the Appeal Commissioners are satisfied that owing to absence from Grenada, sickness, or other reasonable cause the appellant was prevented from giving notice of appeal within ninety days of the event described in subsection (2), and that there has been no unreasonable delay on the appellant's part.

Constitution of Appeal Commissioners

39.(1) There shall be a tribunal of Appeal Commissioners established and regulated in accordance with this section.

(2) The Governor-General may appoint not more than seven suitable and qualified persons to serve as the Appeal Commissioners who may hold office for a period of five years.

(3) The Governor-General must appoint one of the Commissioners to be the Chairperson of the Appeal Commissioners.

(4) The Appeal Commissioners may meet as often as circumstances may require.

(5) Three members form a quorum.

(6) Every decision of the Board must be signified under the hand of the chair.

(7) The Governor-General must appoint some person to be secretary to the Appeal Commissioners and all notices and documents other than decisions of the Appeal Commissioners may be signified under the hand of the secretary.

(8) The Minister prescribes the allowances to be paid to members of the Appeal Commissioners when they sit to hear and determine appeals, and any other terms or conditions for the composition and functioning of the Appeal Commissioners, including provisions related to conflict of interest.

(9) The Appeal Commissioners shall have—

(a) power to summon to attend at the hearing of an appeal any person who in their opinion is or might be able to give evidence respecting the appeal;

(b) power, where any person is so summoned, to examine the person on oath or otherwise;

(c) power to require any person to produce any books or documents which are in the person's custody or control and which the Appeal Commissioners may consider necessary for the purpose of the appeal;

(d) all the powers of a subordinate court with regard to the enforcement of attendance of witnesses, hearing evidence on oath, and punishment for contempt;

(e) power to admit or reject any evidence adduced, whether or not admissible under the provisions of any written law for the time being in force relating to the admissibility of evidence;

(f) power to postpone or adjourn the hearing of an appeal where the Appeal Commissioners are satisfied that, for any reasonable cause, either party to the appeal has been prevented from attending on the date fixed for such hearing; and

(g) power to determine the procedure to be followed in an appeal.

Burden of Proof

40. The burden of proof is on the taxpayer or person making an objection to an assessment to show that the assessment is incorrect.

Appeals do not Suspend Collection of Undisputed Amounts

41. (1) If a request for administrative review of an assessment has been filed or a taxpayer has appealed to the Appeal Commissioners against an assessment, the undisputed tax liability remains due and payable, unless the Comptroller grants an extension of time under section 50.

(2) Notwithstanding subsection (1), the Appeal Commissioners or the court may rule, upon the Commissioner's motion, that all or a portion of the tax is being disputed on a frivolous basis, in which case such amount becomes due and payable.

Finality of Assessment

42. (1) Subject to the right of the Comptroller to issue a new or revised assessment under section 30, and subject to subsection (2), if no request for review is made within the time permitted by section 37, an assessment is treated as final.

(2) If an assessment is final under subsection (1), and the taxpayer timely files an amended return under section 22, the filing of the amended return has the effect of revising the assessment, but only if the tax shown on the amended return exceeds the tax assessed.

Appeal from a Decision of the Appeal Commissioners

43.(1) Either party to a proceeding before the Appeal Commissioners who is dissatisfied with the decision of the Appeal Commissioners may, within ninety days after being notified of the decision, file a notice of appeal with the Registrar of the High Court; and the party so appealing must serve a copy of the notice of appeal on the other party to the proceeding before the Appeal Commissioners.

(2) An appeal to the High Court may not be made unless an appeal request to the Appeal Commissioners has first been made, and—

- (a) a decision has been received from the Appeal Commissioners; or
- (b) ninety days have elapsed since the request for appeal to the Appeal Commissioners was made and no response to the request for appeal has been received from the Appeal Commissioners.

(3) An appeal from a decision of the Appeal Commissioners to the High Court may be made only on a point of law.

(4) If an appeal is made from a decision of the Appeal Commissioners, the Appeal Commissioners must provide a written statement of their decision, including a summary of the evidence, the Board's finding of the facts, and their conclusions on the points of law involved.

PART VI LIABILITY FOR AND PAYMENT OF TAX

Liability of Taxpayer and Due Date

44.(1) Tax is due and payable at the time provided by the relevant tax legislation to which this Act applies.

(2) Subject to subsection (1), the amount of tax—

- (a) stated in a notice of assessment to be due; or
- (b) deemed to be assessed under subsection (5) of section 29 or subsection (5) of section 31,

is due and payable on the date stated in the notice or, in the case described in paragraph (b), on the due date for the return in question.

(3) Tax must be paid in the manner and place prescribed by the Comptroller.

(4) If the Comptroller has reasonable grounds to believe that a taxpayer may leave Grenada before the due date for payment of an amount that would be due under a law to which this Act applies, that tax is due on the date specified by the Comptroller by notice in writing to the person.

Liability and Obligations of Representatives

45.(1) For the purposes of this Act, subject to subsection (2), “representative,” in respect of a person, means—

- (a) if the person is an individual under a legal disability, the guardian or manager who receives or is entitled to receive income on behalf of, or for the benefit of, the individual;
- (b) subject to subsection (4), if the person is a company, a principal officer of the company or an agent described in subsection (4);
- (c) if the person is a partnership, a partner;
- (d) if the person is a trust, a trustee;
- (e) if the person is a body of persons other than a partnership or company, an individual responsible for accounting for the receipt and payment of moneys or funds on behalf of the body;
- (f) if the person is the Government of Grenada, an individual responsible for accounting for the receipt and payment of moneys or funds on behalf of the Government;
- (g) if the person is a local authority in Grenada, an individual responsible for accounting for the receipt and payment of moneys or funds on behalf of the local authority;
- (h) if the person is a foreign government or political subdivision of a foreign government, an individual responsible for accounting for the receipt and payment of moneys or funds in Grenada on behalf of the government or political subdivision of the government; or
- (i) if the person is a non-resident, a person controlling the person’s affairs in Grenada, including a manager of a business of that person in Grenada.

(2) Where, in relation to a person, there is more than one representative described in subsection (1), then the person must designate which of these serves as the representative, but in the absence of a designation all serve as representatives pending the designation.

(3) The designation under subsection (2) must be of a person residing in Grenada, unless there is none in relation to the person.

(4) Every company carrying on business in Grenada must be represented for the purposes of this Act by a principal officer residing in Grenada and if there is none, by an authorised agent residing in Grenada, and must notify the Comptroller of its appointed representative within one

month after it commences carrying on business in Grenada, or one month after the designated representative ceases to qualify as such.

(5) If a representative of a person designated under subsection (1) is unable to perform duties, the Comptroller may, by notice in writing, declare another individual to be a representative of the person for the purposes of this Act.

(6) Every representative of a person is responsible for performing duties or obligations imposed by this Act on the person, including maintaining records, filing returns and other documents, and the payment of tax.

(7) Subject to subsection (9), tax that, by virtue of subsection (6), is payable by a representative of a person is recoverable from the representative only to the extent of any assets of the person that are in the possession or under the control of the representative.

(8) A representative of a person who pays tax owing by the person is entitled to recover the amount so paid from the person or to retain the amount so paid out of any moneys of the person that are in the representative's possession or under the representative's control.

(9) A representative is personally liable for the payment of tax due by the representative in a representative capacity if, while the amount remains unpaid, the representative—

- (a) alienates, charges, or disposes of moneys received or accrued in respect of which the tax is payable; or
- (b) disposes of or parts with moneys or funds belonging to the taxpayer that are in the possession of the representative or which come to the representative after the tax is payable, if the tax could legally have been paid from or out of the moneys or funds.

(10) Nothing in this section relieves a person from performing duties imposed by this Act on the person that the representative of the person has failed to perform.

(11) If there are two or more representatives of a person, the duties or obligations referred to in this section apply jointly and severally to the representatives but may be discharged by any of them.

(12) If—

- (a) a partnership or other unincorporated association or body is dissolved or otherwise ceases to exist because of the retirement or withdrawal of one or more, but not all, of its partners or members, or because of the admission of a new partner or member; and
- (b) apart from the provisions of this Act a new partnership, association, or body, consisting of the remaining members, or of the existing or remaining members and one or more new members, thereby comes into existence; and

- (c) the new partnership, association, or body continues to carry on the activity that was carried on by the dissolved partnership, association, or body,

the dissolved partnership, association, or body and the new partnership, association, or body are, for the purposes of this Act, deemed to be one and the same.

(13) If, after the death of a taxable person or the sequestration of a taxable person's estate, a taxable activity previously carried on by the taxable person is carried on by or on behalf of the executor or trustee of the person's estate or anything is done in connection with the termination of the taxable activity, the estate of the taxable person, as represented by the executor or trustee, is deemed for the purposes of this Act to be the taxable person in respect of the taxable activity.

(14) If a mortgagee is in possession of land or other property previously mortgaged by a mortgagor who is a taxable person, and the mortgagee carries on a taxable activity in relation to the land or other property, the mortgagee is deemed, from the date the mortgagee took possession of that land or property until such time as the mortgagee ceases to be in possession of the land or property, to be the taxable person carrying on the taxable activity.

(15) For the purposes of the tax legislation, if a person is a trustee in more than one capacity, the person is treated as a separate person in relation to each of those capacities.

Officers of Unincorporated bodies

46.—(1) A liability or obligation imposed by tax legislation on an unincorporated body is imposed on the body and on any person who is an officer of the body at the time the liability or obligation is imposed, and the body and each such officer is jointly and severally liable for that liability or obligation.

(2) For the purposes of the tax legislation, the existence of an unincorporated body and any taxable activity carried on by the unincorporated body are deemed not to be affected by any change in its members or officers.

(3) A document which is required to be served on an unincorporated body under the tax legislation may be served on an officer of the body.

(4) An offence under the tax legislation committed by an unincorporated body is taken to have been committed by the officers of the unincorporated body.

Liability for Tax Following Winding-up

47.(1) This section applies to a company that is wound up without having satisfied its tax liabilities, including any liability to withhold and remit tax.

(2) A person who was a shareholder of the company at the time of the winding-up or during the preceding year is jointly and severally liable to pay the unpaid tax to the extent of a distribution of cash or property from the company received as a shareholder within one year prior to its winding-up.

(3) A person liable for tax of a company under this section may invoke any rights as against the Department that would have been available to the company.

Managers of Entities

48.(1) If an entity fails to pay tax on time, every person who is or has been a manager of the entity at any time since the relevant time is jointly and severally liable with the entity and every other such person for payment of the tax.

(2) Subsection (1) applies irrespective of whether the entity ceases to exist.

(3) Subsection (1) does not apply to a manager who has exercised the degree of care, diligence, and skill that a reasonably prudent person in the position of the manager would have exercised in preventing the initial and continuing failure to pay tax.

(4) Amounts payable to the Comptroller by a manager under this section are a personal tax liability of the manager.

(5) If a manager pays tax by reason of a liability under subsection (1), the manager may recover the payment from the entity as a debt due.

(6) A manager of an entity may not be assessed for an amount under this section after the period of limitations for collecting the relevant tax from the entity has expired.

(7) In this section –

“entity” means any taxpayer other than a partnership, unincorporated body, or an individual;

"manager" of an entity includes a person purporting to act as a manager of the entity and, in the case of a company, includes a director, the chief executive officer, and the chief financial officer of the company; and

"relevant time" is six months before the events that gave rise to the entity's tax liability.

Refundable Amounts

49.(1) If the amount of tax which has been paid by a taxpayer exceeds the amount of tax assessed or found to be payable, the Comptroller must—

- (a) apply the refundable amount against the taxpayer's assessed liability to pay tax, interest, late fees, or penalties to which this Act applies ; and
- (b) unless the taxpayer objects, apply an amount remaining against the taxpayer's liability to make advance payments of tax that will become due within the succeeding six months.

(2) Subject to subsection (1), refundable amounts must be paid to the taxpayer.

(3) This section does not apply to the VAT.

(4) A refund or credit may be made under this section only if the taxpayer applies for it within six years of the date of payment or, if made on the Comptroller's initiative, within this time period.

Extension of Time for Payment

50.(1) The taxpayer may apply, on a form prescribed by the Comptroller, for an extension of the time for payment of tax beyond the date on which it is required to be paid under section 44.

(2) An application under subsection (1) is valid only if filed before the due date on which tax is required to be paid under section 44.

(3) The Comptroller may, with good cause, extend the time for payment as requested under subsection (1), may grant an extension period different from the period requested by the taxpayer, may extend time for payment pending resolution of an appeal, and may make other arrangements to ensure payment of the tax, including arrangements requiring the person to pay the amount due in instalments.

(4) If the Comptroller does not notify the person who made an application under subsection (1) of the decision in writing within thirty days, the application is granted.

(5) If a taxpayer has been granted an extension under subsection (1), interest is payable under Part VII notwithstanding the extension of time.

(6) If an extension is granted by permitting the taxpayer to pay by instalments and the taxpayer defaults in paying any of the instalments, the whole balance of the tax outstanding becomes payable immediately.

Default in Payment

51. (1) The Comptroller may send a notice to the taxpayer demanding payment when a tax is not paid by the date on which it became due and payable.

(2) The notice must state:

- (a) the name of the taxpayer;
- (b) the taxpayer identification number, if one has been issued to the taxpayer;
- (c) the date of issue of the notice;
- (d) the amount of tax, interest, and penalties payable, and the tax period or periods to which they relate;
- (e) a demand for payment of these amounts;

- (f) the place at which payment is to be made; and
- (g) that the taxpayer is on notice that, if payment is not made within 21 days after service of the notice, the Comptroller has the right to pursue collection action to collect the amounts specified in the notice.

(3) The taxpayer is in default twenty-one days after service of the notice, in respect of any amounts remaining unpaid as of that date.

(4) Subsection (3) does not apply if the taxpayer has –

- (a) entered into a payment arrangement with the Comptroller pursuant to the applicable tax legislation; or
- (b) received an extension pursuant to section 50,

and has remained in compliance with the terms of the arrangement.

Order of Payment of Tax Debts

52.(1) Payments of a specific tax are applied against the taxpayer's liability in the following order—

- (a) interest relating to the tax;
- (b) late fees relating to the tax;
- (c) penalties relating to the tax; and
- (d) the principal amount of the tax.

(2) The Comptroller may apply a tax payment to any tax which has been assessed and is due—

- (a) if the taxpayer fails to indicate to which specific tax or taxation period the payment should be applied; or
- (b) if the payment has been collected pursuant to Part VIII.

Currency

53. Tax is payable in Eastern Caribbean dollars, except as otherwise provided in a law to which this Act applies.

PART VII INTEREST, LATE FEES, AND DELINQUENCY LIST

General

54.(1) Procedures for the payment, collection, and dispute of a tax apply equally to interest and late fees relating to a tax.

(2) Liability for interest under this Act is calculated separately and is in addition to penalties provided by law.

(3) If a person has paid interest under this Part and an amount to which the interest relates is found not to have been payable, the interest paid on that amount must be refunded to the person.

Interest on Underpayments

55.(1) If an amount of tax is not paid by the due date, the taxpayer is liable for interest on the amount for the period from the due date (determined without regard to an extension of time under section 50) to the date the tax is paid.

(2) In the case of tax due under a revised assessment, the due date for the calculation of interest is the original due date of the tax.

Interest Rate

56.(1) The interest rate for this Part is one and one-half per cent per month or part month, compounded monthly.

(2) Notwithstanding subsection (1), the Minister may vary the interest rate by Order published in the *Gazette*.

Late filing of tax return

57. (1) A person who fails to file a tax return on or before the date by which filing is required shall be liable to pay a late fee equal to the greater of—

- (a) five percent of the amount of the tax owing, plus a further one percent of the amount of tax owing for each month or part of a month during which the failure to file continues; and
- (b) \$500, plus a further \$100 for each month or part of a month during which the failure to file continues.

(2) The amount of the late fee in respect of a given tax return under subsection (1) is limited to \$10,000.

(3) The late fee under subsection (1) does not apply where the failure to file was due to an Act of God or other force majeure.

(4) The late fee under this section is treated as an addition to the tax liability for the tax period to which the return relates and may be assessed and collected in the same manner as the tax for that period.

(5) For purposes of subsection (1), a failure to file in respect of a tax period is deemed not to extend beyond the date on which the Comptroller issues an assessment for that period under section 29(3).

Late Payment Fee

58.(1) A person who fails to pay all or part of a tax (including withholding tax) due for a tax period on or before the due date, or the due date specified in the notice of assessment, if later, is liable to a late payment fee equal to 20 percent of the amount of tax due but not paid.

(2) A person who fails to pay all or part of an instalment required pursuant to the *Income Tax Act* on or before the due date for the instalment is liable to a late payment fee equal to 10 percent of the amount of tax due but not paid.

(3) Where an extension is granted under section 50, a person is not liable to a late payment fee under subsection (1) unless the extension period expires without payment having been made.

Delinquency List

59. (1) If the taxpayer is in default for any amount under section 51(3) or has failed to file a return that is required to be filed, the Comptroller may include the taxpayer's name on a list of delinquent taxpayers and communicate this list to the Comptroller of Customs and the clerk of the Court.

(2) The Comptroller of Customs shall refuse customs clearance for imports by any person on a list pursuant to subsection (1) until such time as the Comptroller removes the person from the list due to satisfaction of the default (or entry into a payment arrangement) or filing of the return, as the case may be.

(3) The clerk of the Court shall refuse to record any deed on which the grantor is a person on a list pursuant to subsection (1) until such time as the Comptroller removes the person from the list due to satisfaction of the default (or entry into a payment arrangement) or filing the return, as the case may be.

PART VIII RECOVERY OF TAX

General

60.(1) The Comptroller may proceed with any remedy under this Part once the taxpayer is determined to be in default pursuant to section 51.

(2) This Part does not apply to VAT or excise collected by the Comptroller of Customs, which is recoverable under procedures for recovery of customs duty.

Period of Limitations for Collection

61.(1) Proceedings under this Part must be commenced within six years of the date on which the taxpayer was determined to be in default pursuant to section 51.

(2) Subject to subsection (1), no enactment relating to the limitation of actions bars or affects an action or remedy for the recovery of unpaid tax, interest, late fees, or penalties under this Act.

Extinguishment of Uncollectible Amounts

62.(1) If the Comptroller is unable to recover an amount of tax, interest, or penalty due and payable by a person under legislation to which this Act applies, the Minister may, on recommendation of the Comptroller and approval by the Cabinet, order the extinguishment of the liability as a debt due to the Crown.

(2) If the Comptroller determines that a person whose debt was extinguished under subsection (1) has assets that may be attached to recover all or part of the unpaid amounts, the liability for the debt may be reinstated by an order of the Minister, approved by Cabinet, revoking the order made under subsection (1).

Court Proceedings

63.(1) Tax that is due and payable is a debt to the Crown and is payable to the Comptroller.

(2) If a person fails to pay tax when it is due, the Comptroller may commence proceedings in a court of competent jurisdiction to recover the debt outstanding in respect of the amount owing.

(3) In any proceedings under this section, the production of a certificate signed by the Comptroller, stating the name of the defendant and the amount of tax owing, is sufficient evidence that the amount is due and suffices for the court to give judgment in that amount.

(4) In any proceedings for the recovery of tax it shall not be competent for the defendant to enter a defence that—

- (a) the chargeable income or other tax base is incorrect; or
- (b) the tax charged is excessive; or
- (c) the assessment is the subject of objection or appeal.

Lien

64.(1) If a taxpayer fails to pay a tax by the due date, a lien in favour of the Comptroller is created in the amount owing (together with interest, late fees, penalty, and costs of collection that may accrue) on all property belonging to the taxpayer, and has priority as against all other rights, except as otherwise provided in this section.

(2) The lien described in subsection (1) arises at midnight at the end of the due date and continues until the liability is satisfied or becomes unenforceable by reason of lapse of time.

(3) The lien imposed by this section is not valid against the interest of a person who is a purchaser from the taxpayer, a holder of a security interest granted by the taxpayer, or other lien holder specified in regulations, if the interest arises—

- (a) before the person has actual knowledge of the lien; or
- (b) before notice of the lien has been duly registered by the Registrar of the High Court and the Registrar of Lands,

whichever first occurs.

(4) The Comptroller may file notice of a lien at any time after a taxpayer is determined to be in default pursuant to section 51.

(5) Regulations may prescribe procedures for filing notice of a lien and may prescribe categories of interests against which the lien is not valid even though notice of the lien has been filed.

(6) At least fifteen days prior to registering a lien with the Registrar of the High Court and the Registrar of Lands, the Comptroller must send notice of the intention to register the lien to the taxpayer.

(7) Subsection (6) does not apply if the Comptroller believes that the ability to collect tax is in jeopardy.

(8) The Comptroller may file an action in the High Court to enforce the lien imposed by this section.

(9) An affected person may apply to the Comptroller for a release of the lien on the person's property and a decision by the Comptroller not to release a lien may be appealed to the High Court.

Departure from Grenada

65.—(1) If the Comptroller has reasonable grounds to believe that any person may leave Grenada without paying the tax payment of which is in default under section 51 and is due from the person, or from a company or other body of persons controlled by the person, the Comptroller

may, by notice in writing served on that person, require the person within the timeframe specified in the notice to:

(a) make payment in full; or

(b) make arrangements satisfactory to the Comptroller for the payment of the tax or to secure the amount that is owing.

(2) If any person fails to make payment in full or give satisfactory security as required under subsection (1), the Comptroller may issue a Certificate of Non-Compliance, stating that the person has an outstanding tax debt, and a copy of the certificate must be given to the person and to the Chief Immigration Officer, who shall not permit the person to leave Grenada until the Comptroller revokes the certificate because the debt is paid or appropriate security is given.

(3) Where a certificate is given under subsection (2)—

(a) the Comptroller may revoke the certificate at any time; and

(b) the Comptroller shall revoke the certificate within 24 hours of the person complying with the notice given under subsection (1).

(4) Nothing in this section prevents the Chief Immigration Officer from allowing the person to leave Grenada if, in the view of the Chief Immigration Officer, there are compelling circumstances justifying a decision to allow the person to leave.

Withholding held in trust

66. Notwithstanding anything contained in any other enactment, all amounts deducted or withheld by any person pursuant to Part VII of the Income Tax Act shall be deemed to be held in trust by that person for the Comptroller and shall not be subject to attachment in respect of any debt or liability of that person and in the event of any liquidation, assignment or bankruptcy, the amounts shall form no part of the estate in liquidation, assignment or bankruptcy but shall be paid in full to the Comptroller before any distribution of the property is made.

Priority in bankruptcy

67. Notwithstanding anything contained in any other enactment—(a) the trustee in bankruptcy of an individual; or (b) the liquidator of a company which is being wound up, shall apply the assets of the bankrupt individual or the company, as the case may be, in payment of tax due under a tax law (whether assessed before or after the date of bankruptcy or commencement of winding up) as a privileged debt in priority over all debts of that individual or company, except law costs and any wages which constitute a privilege debt under the Protection of Wages Act.

Offset against payments

68. When the Accountant General is about to make a payment to any person, other than a payment in respect of wages or salary, the Accountant General may apply the whole or part of

that payment in satisfaction in whole or in part to any amount owing under a tax law by that person and shall notify that person accordingly.

Third Party Debtors

69.(1) If a taxpayer is in default under section 51, the Comptroller may serve a notice in writing on a third party debtor.

(2) On receiving a notice, the third party debtor must pay to the Comptroller (on account of the taxpayer and by the date specified in the notice) the lesser of the following three amounts—

- (a) the amount in respect of which the taxpayer is in default;
- (b) the money owed by the third party debtor to the taxpayer; and
- (c) the amount specified in the notice.

(3) The date for payment specified in the notice must not be before fifteen days following the date the third party debtor is served with the notice.

(4) On receiving a notice under subsection (1), the third party debtor must not pay any amount to the taxpayer until the Comptroller withdraws the notice.

(5) As soon as practicable after service of the notice on the third party debtor, the Comptroller must serve the taxpayer with a copy of the notice.

(6) Amounts payable to the Comptroller by a third party debtor under this section are a personal liability of the third party debtor, which may be collected in the same manner as a tax.

(7) Money owed to a taxpayer includes:

- (a) amounts currently owing or that may subsequently become owing to a taxpayer;
- (b) amounts held or that may subsequently be held for or on account of a taxpayer;
- (c) amounts held or that may subsequently be held on account of a third person for payment to a taxpayer;
- (d) amounts held by a person who has authority from a third person to pay the money to a taxpayer; and
- (e) in relation to a third party debtor that is a financial institution, amounts that the taxpayer holds in an account with the institution.

(8) A notice may be served under this section on the taxpayer's employer, requiring the employer to withhold and to pay to the Department, for a specified period, some part of the future wages or salary that become payable to the taxpayer.

(9) The first \$3,000 of wages per month are not subject to withholding under a notice described in subsection (8).

(10) If the third party debtor fails to pay the amount specified within the time specified in a notice under this section, the provisions of this Act shall apply as if such amount were tax due and payable by the third party debtor on the date by which the third party debtor was required to make the payment to the Comptroller.

(11) In this section—

"money" includes a debt obligation denominated or payable in money; and

"third party debtor", in relation to a taxpayer, means a person who owes money to the taxpayer.

Compliance with Notice

70.(1) A third party who pays the Comptroller pursuant to section 69 is—

- (a) treated as having acted with the authority of the taxpayer and of all other persons concerned; and
- (b) indemnified in respect of the payment against all proceedings, civil or criminal, and all processes, judicial or extra judicial.

(2) A third party who pays the Comptroller pursuant to this section may be entitled to recover the amount paid from the taxpayer originally liable to make the payment, by offset or otherwise.

(3) Subsection (1) applies irrespective of a provision to the contrary in written law, contract, or agreement.

(4) A notice under section 69 ceases to have effect once the tax or obligations described in it is paid or otherwise satisfied.

(5) If a third party served with a notice under section 69 is unable to comply with the notice by reason of lack of money owing to or held for the taxpayer, the person must notify the Comptroller (a "third party notice").

(6) A third party notice must—

- (a) be in writing;
- (b) set out the reasons for the inability; and
- (c) be filed with the Comptroller within three days after the third party becomes aware of the inability and, in any event, before the payment date specified in the section 69 notice.

(7) On receipt of a third party notice the Comptroller may, by notice in writing served on the third party—

- (a) accept the third party notice and cancel or amend the section 69 notice; or
- (b) reject the third party notice.

(8) The filing of a third party notice has no effect on the third party's personal liability for amounts under section 69 unless and until the Comptroller cancels or amends the section 69 notice.

(9) In this section, "third party" means a third party debtor served with a notice under 69.

Non-Arm's Length Transferees

71.(1) If a taxpayer's liability has not been satisfied after levy of execution on property known to the Comptroller, a person who has received assets of the taxpayer in a transaction that is not at arm's length in the period of one year preceding the date of the levy is secondarily liable for the tax to the extent of the value of the assets received.

(2) Subsection (1) does not apply to an amount for which a person is liable under section 47.

Receivers

72.(1) A receiver is required to notify the Comptroller of the receiver's appointment within fourteen days after being appointed.

(2) The Comptroller may notify the receiver of the amount that appears to the Comptroller to be sufficient to provide for payment of tax owing, or that will become owing, by the person whose assets are in the possession or care of the receiver.

(3) A receiver may not dispose of an asset situated within Grenada held in the receiver's capacity as receiver, without the prior permission of the Comptroller.

(4) A receiver must set aside out of the proceeds of sale of an asset the amount notified by the Comptroller under subsection (2), or a lesser amount as may be agreed with the Comptroller.

(5) A receiver is personally liable for the amount of tax notified in subsection (2) to the extent of an amount required to be set aside under subsection (4), if the receiver fails to comply with the requirements of this section.

(6) In this section, "receiver" means a person who, with respect to an asset situated in Grenada, is—

- (a) a liquidator of a company or other entity;
- (b) a receiver appointed out of court or by a court;

- (c) a trustee in bankruptcy;
- (d) a mortgagee in possession;
- (e) an executor, administrator, or heir of a deceased individual's estate;
- (f) conducting the affairs of an incapacitated individual; or
- (g) a successor in a corporate reorganisation.

PART IX OFFENCES

Division I: General Provisions

In General

73. (1) This section applies to offences under this Act or under any other tax law.

(2) A person's liability for a fixed penalty under a section in this Part is separate and distinct from the person's liability, if any, for a penalty under another section of this Act or another tax law and is in addition to the person's liability for the tax itself (including cases where the penalty is based on the amount of tax), interest levied under Part VII, a late fee under Part VII, and to a criminal sanction imposed under Division III.

(3) The burden of proof is on the Comptroller to show non-compliance with the provisions of tax laws with respect to the imposition of a penalty.

(4) The period of limitations for assessing a penalty is seven years after the violation that causes the penalty occurs, except for a violation under section 80, in which case the limitation for assessing a penalty is the same as the limitation for assessing the tax to which the penalty relates.

(5) If a person liable for a penalty shows reasonable cause for the violation, the Comptroller may—

- (a) refrain in whole or in part from assessing the penalty; or
- (c) remit or waive in whole or in part a penalty that has been assessed.

(6) A penalty payable for each day, month, or other period during which a particular state of affairs exists or continues, is payable in full for part of that day, month, or other period in which the state of affairs commences, continues, or ends.

Offence by company

74.—(1) Subsection (2) applies if—

(a) an act has been committed, or an omission has been made, by a company; and

(b) because of the act or omission, the company is liable to a penalty or to prosecution for an offence in relation to the act or omission.

(2) Every person who, at the time of the act or omission referred to in subsection (1)—

(a) was a director or other similar officer of the company; or

(b) was acting or purporting to act in such capacity,

is liable to a penalty and may be prosecuted for an offence, as if the person were the company.

(3) Subsection (2) does not apply in respect of a person if—

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

(b) the person exercised all diligence to prevent the commission of the offence as ought to have been exercised having regard to the nature of the person's functions and all the circumstances.

Division II: Fixed Penalties

Fixed penalty notice

75.—(1) Where an authorised officer has reason to believe that a person has committed a fixed penalty offence, the officer may serve on the person a fixed penalty notice, informing the person that if the person does not wish to be prosecuted for the alleged offence in court, the person may pay, in the manner and by the time specified in the notice, the amount of the penalty prescribed for the offence, if dealt with under this section.

(2) A fixed penalty notice must be served on a person within thirty days after the occurrence giving rise to the allegation of the offence.

(3) Notwithstanding subsection (2), a fixed penalty offence relating to an offence under section 80 may be served together with a notice of assessment of the tax to which the offence relates.

(3) A person who receives a fixed penalty notice may decline to be dealt with under the provisions of this Part, and where the person fails to pay the fixed penalty provided for the offence within the time specified in the fixed penalty notice, or within such further time as may, in any particular case, be allowed, the person is deemed to have declined to be dealt with under the provisions of this Part.

Contents of fixed penalty notice

76. A fixed penalty notice must be signed by an authorised officer and must specify—

(a) the date, time and place of the issuance of the notice;

- (b) the section of the tax law creating the offence alleged, and such particulars of the offence as are required under this Act;
- (c) the time within which the fixed penalty may be paid in accordance with section 64E (2);
- (d) the amount of the fixed penalty;
- (e) the clerk of the Magistrate's Court to whom, and the address at or to which, the fixed penalty may be paid or remitted; and
- (f) the address of the Magistrate's Court at which the person is required to appear in the event of the person's failure to pay the fixed penalty within the specified time, and the date and time of such appearance.

Procedure

77.—(1) Where a fixed penalty notice has been given under section 75, the person to whom the notice is issued may pay the fixed penalty in accordance with the notice.

(2) The time within which a fixed penalty is payable is thirty-one (31) days from the date of service of the notice, and where payment reaches the clerk of the Magistrate's Court after that time, it shall be returned to the sender.

(3) Notwithstanding subsection 2, the time within which a fixed penalty under section 80 is payable is thirty-one (31) days from the date of final determination of the understatement of tax to which the penalty relates.

(4) Where the fixed penalty is paid in accordance with the notice, no person shall then be liable to be convicted for the offence in respect of which the notice was given, and the proceedings instituted by the notice shall be deemed to have been dismissed.

(5) Notwithstanding anything to the contrary contained in this Act or any other law, where in respect of an offence attracting a fixed penalty, a person is served with a fixed penalty notice under section 75 requiring the person to pay the fixed penalty or to appear at the court specified, but the person does not pay the fixed penalty and instead is proceeded against in court, if the person is convicted of the offence and the court decides to impose a fine, that fine shall not be less than the sum that is the fixed penalty attached to that offence by this Act or another tax law.

Failure to Register

77a. A person who is required to be registered under section 10 and does not apply for registration within the required time is liable for a fixed penalty of \$2,500.

Failure to Notify of Changes in Taxpayer Information

78. A person who fails to—

- (a) notify the Comptroller as required by subsections (6) and (7) of section 9 or section 45(4);
- (b) apply for cancellation of the person's registration as required by subsection 15(1) of the VAT Act; or
- (c) inform the Valuation Officer of the permission for subdivision of land as required by section 35 of the *Property Tax Act*,

is liable for a fixed penalty of \$2,500.

Falsification of Invoices, Receipts, Credit and Debit Notes

79. (1) A person is liable for a fixed penalty of \$10,000 if the person—

- (a) uses a false taxpayer identification number or a taxpayer identification number that does not apply to the person;
- (b) issues a false invoice or sales receipt;
- (c) issues a false VAT credit note or debit note; or
- (d) provides, or fails to provide, an invoice, credit note, debit note, or sales receipt as provided under Part IX of the VAT Act.

(2) A supplier under the VAT Act is not liable for a penalty under paragraph 1(b), (c) or (d) only because information relating to the recipient of the supply, which was relevant to the issue of, or required to be included in, the invoice, debit or credit note, or sales receipt (including information about the registration status or taxpayer identification number of the person) was incorrect, if the person, having exercised all due care, believes on reasonable grounds that the information relating to the recipient was accurate.

(3) A supplier under the VAT Act is not liable for a penalty under paragraph 1(d) if the supplier, having exercised all due care, believes on reasonable grounds that the recipient of the supply for which an invoice, debit or credit note, or sales receipt was required to be issued was or was not a registered person.

Negligent or Fraudulent Underpayment

80. If tax is underpaid, or might have been underpaid, as a result of an incorrect statement or a material omission in a taxpayer's tax return, and that statement or omission is a result of intentional conduct or negligence on the part of the taxpayer, the taxpayer is liable to a fixed penalty in the amount of—

- (a) 25 percent of the underpayment if paragraph (b) does not apply; or
- (b) 75 percent of the underpayment if the amount of the underpayment is —

- (i) greater than \$150,000; or
- (ii) greater than 25 per cent of the person's tax liability for the period.

False or Misleading Statements

81.(1) A person who makes a statement to a taxation officer that is false or misleading in a material particular is liable for a fixed penalty under this section if an amount properly payable by or refundable to the person under this Act exceeds or is inferior to the amount that would be payable or refundable if the person were assessed on the basis that the statement were true.

(2) The amount of the fixed penalty for which the person is liable is the greater of \$250 and—

- (a) if an amount payable by the person would have been less if it were determined on the basis of the information provided in the statement, the amount by which that amount would have been so reduced; or
- (b) if the amount of a refund that the person applied for would be increased if it were determined on the basis of the information provided in the statement, the amount by which that amount would have been so increased.

(3) No penalty is imposed under this section if the person who made the statement did not know and could not reasonably be expected to know that the statement was false or misleading in a material particular.

(4) A reference in this section to a statement made to a taxation officer includes a reference to a statement made orally, in writing, or in another form to that officer acting in the performance of the officer's duties under this Act, and includes a statement made—

- (a) in an application, certificate, declaration, notification, return, objection, or other document made, prepared, given, filed, lodged, or furnished under this Act;
- (b) in any information required to be furnished under this Act;
- (c) in a document furnished to a taxation officer otherwise than pursuant to this Act;
- (d) in an answer to a question asked of a person by a taxation officer; or
- (e) to another person with the knowledge or reasonable expectation that the statement would be conveyed to a taxation officer.

(5) A reference in this section to a statement that is misleading in a material particular includes a reference to a statement that is so because of the omission of a matter or thing from the statement.

(6) This section does not apply to conduct consisting of an offence under section 79 or 80.

Failure to Maintain Documents

82.(1) A person who fails to maintain proper documents as required by this Act or any tax law is liable for a fixed penalty for each month or part of a month during which the failure continues.

(2) The penalty is \$50 per day for each day the failure continues.

(3) Before issuing a fixed penalty notice relating to an offence under this section, the Comptroller must issue a warning notice, and no penalty is due under this section if the taxpayer complies with the warning notice within the time specified in the notice.

Failure to Comply with Third Party Notice

83. A person who fails to comply with a notice issued under section 69 is liable for a fixed penalty of 25 percent of the difference between the amount payable by the third party and the amount paid to the Comptroller by the due date specified in the section 69 notice.

Failure to Provide Facilities

84. A person who fails to provide a taxation officer with reasonable facilities and assistance as required under this Act or an Act to which this Act applies is liable for a fixed penalty in the amount of \$1,000.

Failure to Comply with Notice to Give Information

85. (1) A person who fails to comply with a request for information properly made under this Act or an Act to which this Act applies, within the specified time, is liable for a fixed penalty in the amount of \$2,500.

(2) Before issuing a fixed penalty notice relating to an offence under this section, the Comptroller must issue a warning notice, and no penalty is due under this section if the taxpayer complies with the warning notice within three days of service of the notice.

Division III. Offenses Punishable by Imprisonment

General Provisions

86. (1) The Comptroller may investigate an offence specified in this Act or a tax law.

(2) The power to bring charges and seek prosecution for the criminal offences specified in this Act belongs exclusively to the Director of Public Prosecutions or a delegate authorised by the Director, but criminal proceedings may be brought only with the sanction of, and in the name of, the Comptroller.

(3) Proceedings under this Act do not affect criminal proceedings that may be brought under any other Act or law.

(4) Where, in respect of a single act, omission, or course of conduct, a person is convicted of more than one offence under this Part—

(a) the maximum term of imprisonment imposed for the offences may not exceed a term of 5 years; and

(b) the person may not subsequently be prosecuted for additional offences in relation to the same act, omission, or course of conduct.

(5) No fixed penalty is payable under a section in Division III in respect of an act, omission, or course of conduct by a person if—

(a) the person has been convicted of an offence under this Division in respect of the same act, omission, or course of conduct; or

(b) the offence has been compounded by the Director of Public Prosecutions.

Aiding and Abetting

87. A person who wilfully aids, abets, assists, counsels, incites, or induces another person to commit a criminal offence under this Division is liable on conviction to the same penalty as if the offence had been committed by that person.

Period of Limitations

88. Proceedings under this Division may be commenced—

- (a) if the offence alleged involves the doing of an act, within twelve years after the doing of the act;
- (b) if the offence alleged involves the failure to do an act, within twelve years after the failure occurred or, if later, within three years after the Comptroller becomes aware of the failure; or
- (c) if the offence alleged involves the non-disclosure or incorrect disclosure by a person of information relating to that person's liability under a tax law, within three years after the person's correct liability to tax becomes final for that tax period.

Tax Evasion

89. A person who wilfully evades, or attempts to evade the assessment, payment, or collection of tax, or who wilfully claims a refund of tax to which the person is not entitled, is guilty of an offence and is liable on conviction to a fine not exceeding \$100,000, or to imprisonment for a term not exceeding two years, or both.

Impeding Tax Administration

90.(1) A person who wilfully impedes or attempts to impede the Department in its administration of this Act is guilty of an offence and is liable on conviction to a fine not exceeding \$20,000, or to imprisonment for a term not exceeding one year, or both.

(2) For the purposes of this section, a person impedes the administration of this Act if the person—

- (a) fails to comply with a lawful request by officials of the Department to examine documents, records, documents, or data within the control of the person;
- (b) fails to comply with a lawful request by officials of the Department to have the person appear before officials of the Department;
- (c) interferes with the lawful right of an official of the Department to enter onto a business premises or a dwelling unit;
- (d) fails to file a return;
- (e) uses a false taxpayer identification number or a taxpayer identification number that does not apply to the person;
- (f) issues a false VAT invoice, sales receipt, VAT credit note, or VAT debit note;
- (g) provides, or fails to provide, an VAT invoice, sales receipt, VAT credit note, or VAT debit note, otherwise than as provided for pursuant to Part IX the VAT Act;
- (h) fails to pay security within the time allowed for payment pursuant to section 60 of the VAT Act;
- (i) refuses to allow the Comptroller or the Valuation Officer to inspect or measure land or refuses to delivery for inspection any map, plan, title deed, instrument of title, or other document;
- (j) makes a statement to a taxation officer that is false or misleading in a material particular;
- (k) fails to comply with a notice issued under section 69;
- (l) fails to maintain required records; or
- (k) otherwise impedes the determination, assessment, or collection of tax.

(3) A supplier is not guilty of an offence under subsections (2)(f) and (g) only because information relating to the recipient of the supply, which was relevant to the issue of, or required to be included in, the VAT invoice, debit or credit note, or sales receipt (including, but not limited to, information

about the registration status or taxpayer identification number of the person) was incorrect, if the person believes on reasonable grounds that the information relating to the recipient was accurate.

Failure to Preserve Secrecy

91. A person who contravenes subsection (2) or (3) of section 8 is guilty of an offence and is liable on conviction to a fine not exceeding \$20,000, or to imprisonment for a term not exceeding one year, or both.

Offences by Taxation Officers

92. (1) A taxation officer who, in carrying out the provisions of this Act—

- (a) directly or indirectly asks for, or takes, in connection with the officer's duties, a payment or reward, whether pecuniary or otherwise, or a promise or security for the payment or reward, not being a payment or reward which the officer is lawfully entitled to receive; or
- (b) enters into or acquiesces in an agreement to do, refrain from doing, permit, conceal, or connive at an act or thing that is contrary to the provisions of this Act or to the proper execution of the officer's duty, or that has the effect that the tax revenue is or may be defrauded,

commits an offence and is liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding one year, or both, and the Court may, in addition to imposing a fine, order the convicted person to pay to the Comptroller an amount of tax that has not been paid as a result of the officer's wrongdoing and which cannot reasonably be recovered from the person liable for the tax.

(2) This section applies in addition to and does not limit the operation of the Integrity in Public Life Act 2007.

Compounding of Offences

93.(1) If a person has committed an offence under this Division or under another law to which this Act applies, other than an offence under section 91 or 92, the Comptroller may, at any time prior to the commencement of the hearing by a Court of the proceedings relating thereto, compound the offence and order the person to pay the sum of money as specified by the Comptroller, not exceeding the maximum amount of the fine prescribed for the offence.

(2) The Comptroller may compound an offence under this section only if the person concerned requests the Comptroller in writing to do so.

(3) If the Comptroller compounds an offence under this section, the order described in subsection (1) must—

- (a) be in writing and have attached the written request described in subsection (2);

- (b) specify—
 - (i) the offence committed;
 - (ii) the sum of money to be paid; and
 - (iii) the due date for the payment; and
- (c) be served on the person who committed the offence.

(4) An order under subsection (3) is final and not subject to appeal.

(5) If the Comptroller compounds an offence under this section, the offender is not liable for prosecution or penalty in respect of that offence.

(6) The Comptroller's power under this section is subject to the powers of the Director of Public Prosecutions under the Constitution, and the Comptroller must give the Director of Public Prosecutions a copy of the order described in subsection (3) at the time it is served on the taxpayer.

(7) The amount ordered to be paid under subsection (1) is recoverable as if it were tax due and payable under this Act.

PART X FINAL PROVISIONS

Repealed Legislation

94. (1) Provisions of the laws set out in Schedule 2 are repealed or amended as provided in that Schedule to conform to the introduction of this Act.

(3) A reference in this Part to repealed legislation is a reference to legislation repealed or amended pursuant to subsection (2).

Effective Date and Transitional Provisions

95. (1) Subject to this section, this Act takes effect on January 1, 2016.

(2) The repealed legislation continues to apply in respect of events occurring prior to the date on which this Act comes into operation pursuant to subsection (1).

(3) All appointments made under the repealed legislation and subsisting at the date of commencement of this Act are treated as appointments made under this Act.

(4) All forms and documents used in relation to the repealed legislation may continue to be used under this Act, and all references in those forms and documents to provisions of and expressions appropriate to the repealed legislation are taken to refer to the corresponding provisions and expressions of this Act.

(5) Appeals, prosecutions and other proceedings commenced before the commencement date continue and are disposed of as if this Act had not come into force.

(6) Tax liabilities that arose before the commencement date may be recovered by fresh proceedings under this Act, but without prejudice to an action already taken for the recovery of the tax.

(7) A reference in this Act to "this Act" or "this law" or to a provision of "this Act" or "this law" includes, as the context requires, a reference to the prior law or to a corresponding provision of the prior law, respectively.

(8) Section 9(1) does not preclude the use, on an interim basis, of a different identification number assigned before this law came into effect.

(9) If the law concerning tax administration and procedure in effect prior to the enactment of this Act is silent with respect to a matter addressed in this Act, the relevant provision in this Act applies with retroactive effect to matters that are not closed under the period of limitations.

(10) Subsection (1) of section 56 comes into effect on the date appointed by the Minister by Order.

SCHEDULE 1

Laws, as amended, to which this Act applies:

1. VAT Act, 2009, except to the extent governed by the Customs legislation
2. Excise Tax Act, except to the extent governed by the Customs legislation
3. Income Tax Act
4. Property Tax Act
5. Property Transfer Tax Act
6. Provisional Collection of Taxes Act, and any taxes levied pursuant to this Act.
7. Annual Stamp Tax Act

SCHEDULE 2

CONSEQUENTIAL CHANGES TO LEGISLATION AND REGULATIONS

Part 1: Amendments to the VAT Act, 2009

1. The following sections of the VAT Act, 2009, are amended as follows —

Section 44 is amended by repealing subsections (2) through (7).

Section 45(amended returns) is repealed.

Section 46 is amended by repealing subsections (3) through (9).

Section 53 is amended by repealing subsections (5), (6), (7), (8), (9), (10), (11), and (12).

Section 55 is repealed.

Section 56 is repealed.

Section 57 is amended by revising the marginal note to read: “Powers and duties of the Comptroller of Customs” and by deleting subsections (1) through (4) and deleting the numbering for subsection (5).

Section 59 (secrecy) is repealed.

Subsection (4) of Section 60 is revised to read as follows: “A decision under subsection (1) may be challenged only under Part V of the Tax Administration and Procedure Act.”

Sections 62, 68, 69, 70, 71, 72, 78, 79, 80, 81, 82, 84, 85, 86, 87, 88, 89, 90, 91, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, and 126 are repealed.

Part 2: Amendments to the Annual Stamp Tax Act

Section 6 is amended by repealing subsections (3) and (4).

Sections 7, 8, 9, 10, 11, 12 are repealed.

Section 13 is amended in subsection (1) by deleting the words following 30th June and replacing them by “of that year”. Subsection (2) is repealed.

Sections 14, 15, 16, 17, and 18 are repealed.

Part 3: Amendments to the Property Transfer Tax Act

Section 3 is repealed.

Section 10 is repealed.

Section 15 is repealed.

Section 16 is repealed.

Section 17 is repealed.

Part 4: Amendments to the Income Tax Act

Sections 3, 4, 5, and 6 are repealed.

Section 65(1) is revised to read as follows:

- (1) Every person liable to furnish a return of income in respect of any year of assessment, either personally or in a representative capacity, shall furnish a return within ninety days after the end of the basis period.

Section 65A, 67, 68, 69, 70, 71, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 94, 95, 97, 98, 99, 100, 103, 104, 105, 106, 107, 107A, 108 are repealed.

Section 109 is amended by repealing subsections (1), (2), (4), and (5).

Sections 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, and 127 are repealed.

Part 5: Amendments to the Excise Tax Act

Section 16(2) is repealed.

In section 19(1): delete the words "section 68 of the VAT Act" and substitute "section 56 of the Tax Administration Act"

In section 24, delete the words "Part XVI of the VAT" and substitute "the Tax Administration Act."

Section 28 is repealed.

Section 29 is repealed.

Sections 31 and 32 are repealed.

Part 6: Amendments to the Property Tax Act

1. The following amendments are made to the Property Tax Act:

Section 39 is repealed.

In section 42(1), delete the words "at a rate of two per cent per month or part thereof" and substitute "at the rate specified in section 56 of the Tax Administration Act."

Section 43(4) is repealed and replaced by the following: "(4) Sections 69 and 70 apply for purposes of collection under subsection (3)."

Section 44 is repealed.

Section 76A is repealed.