

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

[1st January, 1990]

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Regulations

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Schedule

Citation  
and  
interpretation

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

(2) In these Regulations -

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

"business" includes the Government and a public body;

"service" includes any type of work or service.

Provisional  
tax to be  
deducted on  
payment for  
service

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

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

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

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

(c) authorise a business -

(i) to record the deduction of; or

(ii) to remit,

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

Provisional  
tax free  
payment

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

(2) Where subregulation (1) applies -

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

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

Liability to deduct provisional tax not abated by other right or obligation	<p><b>4. (1)</b> The liability of a business liable to deduct provisional tax under these Regulations shall not be abated or extinguished by reason of -</p> <ul style="list-style-type: none"><li>(a) the fact that the business has a right or is under another obligation to deduct any other amount from the amount to be paid, or deemed to be paid, to the specified business, or</li><li>(b) any written law which provides that the amount due to a specified business shall not be reduced or be subject to attachment or any deduction.</li></ul> <p>(2) Where there is a right or obligation referred to in subregulation 1, the right or obligation shall, notwithstanding any other written law, only apply to the balance remaining after provisional tax has been deducted.</p>
Provisional tax deducted to be paid within prescribed time	<p><b>5.</b> Provisional tax deducted under these Regulations shall -</p> <ul style="list-style-type: none"><li>(a) be due when it is deducted and be payable to the Commissioner within 15 days after the date on which it was deducted or deemed to be deducted, and</li><li>(b) when it becomes due, be a debt due to the Government.</li></ul>
Penalty for late payment of provisional tax	<p><b>6. (1)</b> Subject to subregulation (2), if provisional tax deducted under these Regulations is not paid within the time prescribed in regulation 5 there is payable, in addition to any other penalty under the Act, -</p> <ul style="list-style-type: none"><li>(a) a penalty of 10 per centum of the unpaid provisional tax, and</li><li>(b) additional tax at the rate of 20 per centum per annum or part thereof on the unpaid provisional tax, computed from the date when the provisional tax becomes payable.</li></ul> <p>(2) The Commissioner may, in any particular case, remit the penalty or additional tax, or any part of the penalty or additional tax.</p>
Personal liability to pay provisional tax	<p><b>7. (1)</b> Where a business which is liable to deduct provisional tax under these Regulations fails to deduct provisional tax, the business shall, in addition to any other penalty to which it may be liable, be liable to pay to the Commissioner, within the time prescribed for the payment of the provisional tax, the amount which it has failed to deduct.</p> <p>(2) Where a business which is liable to deduct provisional tax under these Regulations pays to the Commissioner the amount of provisional tax which it failed to deduct, the amount shall be deemed to have been deducted under these Regulations and the business may recover from the specified business the amount paid to the Commissioner.</p>
Credit for provisional tax deducted	<p><b>8.</b> In any assessment made in a tax year under Part V of the Act in respect of the taxable income of a specified business credit shall be allowed for provisional tax deducted, or deemed to have been deducted, under these Regulations and if the amount of credit allowed exceeds the amount of tax payable by the owner of the business under</p>

the assessment the amount in excess shall be dealt with in the manner set out in section 100 of the Act.

Business to  
furnish  
commissioner  
with return

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

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

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

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

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

Registration  
of specified  
business

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

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

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

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

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

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

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

Certificate of  
Commissioner  
is prima facie  
evidence

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

Offence

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

## SCHEDULE

(Reg.2)

**RATES OF PROVISIONAL TAX**

	<b>Specified business</b>	<b>Rate</b>	<b>1.1.2007</b>
1.	Blaster or Driller	10%	5%
2.	Blockmaker or Pillar Maker	10%	5%
3.	Cabinet Maker	10%	5%
4.	Carpenter or Upholsterer	10%	5%
5.	Electrician or Wireman	10%	5%
6.	Decorator, Sign Writer or Public Scribe	10%	5%
7.	Mason	10%	5%
8.	Painter, including a Spray Painter	10%	5%
9.	Plumber	10%	5%
10.	Roof Tiler	10%	5%
11.	Floor or Wall Tiler	10%	5%
12.	Labour Contractor	15%	5%
13.	Building contractor -		
	(a) in relation to a building contract with the Seychelles Housing Development Corporation	2%	5%
	(b) in relation to any other contract	5%	5%
14.	Contractor providing cleaning services, Including cleaning of buildings and offices	10%	5%
15.	Contractor providing services of clearing or Improving land and landscaping	10%	5%
16.	Grass Cutter	10%	5%
17.	Maintenance contractor including those constructing Or maintaining roads, bridges, or pathways	10%	5%
18.	Mechanic (motor vehicle, marine or refrigeration)	10%	5%
19.	Hirer or operator of plant, equipment or sea vessels	10%	5%
20.	Hirer or Operator of motor vehicle used for the Transportation of goods	10%	5%
21.	Hirer or operator of equipment used for towing	10%	5%
22.	Contractor providing the service of repairing or Installing electrical appliances including Air conditioners and heaters	10%	5%
23.	Contractor providing the service of constructing, Repairing or maintaining fibreglass products	10%	5%
24.	Performing artist, including disc jockey, but excluding a musician as defined in Section 2 of the Act	10%	0%