PROVISIONAL TAX REGULATIONS

Revised to 28th February 2009

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INCOME TAX (COLLECTION OF PROVISIONAL TAX) REGULATIONS

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Short title

1. These Regulations may be cited as the Income Tax (Collection of Provisional Tax) Regulations.

Provisional tax on commissions, and on payments for services

2.—(1) For the purpose of assisting persons whose income is derived wholly or partly from commissions received from the selling, leasing and renting of any property of whatever nature including insurance on life or property and the sale of books, publications and land, the Commissioner may make such arrangements as he considers appropriate in respect of any particular person or class of persons, which may include instalment deductions at source upon the crediting or payment of such commissions.

(2) To facilitate the payment of provisional tax payable by any person in respect of the profits or gains of the trade, profession or vocation of that person, there shall be deducted from any payment made under any contract for services, but not being a contract of employment, including progress payments under a contract, a sum equal to 15 per cent of such payment. The sum so deducted shall be paid to the Commissioner and shall be treated for the purposes of income tax as not diminishing the payment:
Provided—

(a) that such person entitled to such payment may request the Commissioner to make such other determination as to the sum properly payable and to notify the person making such payment of such determination;

(b) that it shall be lawful for the Commissioner to issue to persons liable to the deduction of provisional tax in the manner aforesaid certificates of exception from the provisions of this Regulation. Such certificates may be issued subject to such conditions, and may be withdrawn, in the manner prescribed by regulation 8, but, whilst in force, shall entitle such person to receive any moneys due under any contract for services without any deduction of any sum as provisional tax.

(3) For the purpose of facilitating the making of the arrangements referred to in paragraph (1), the Commissioner may, at his discretion, nominate the person who shall be responsible for making the deduction at source of the instalments to be paid in respect of provisional tax and the person so nominated shall make and account for such deductions in such manner [and in the appropriate form, which may include an electronic version,]\(^2\) as the Commissioner shall require.

Recovery of tax

3. Where any sum has been deducted by any person under the provisions of these Regulations, such sum shall be deemed to be held in trust for the [State]\(^2\) in accordance with the provisions of section 82 of the Act.

Date of payment

4. Any person who is required to make any such deductions and fails to do so or fails to remit or pay the sum of such deductions to the Commissioner on or before the fifteenth day of the month next succeeding the month in which the payment under the contract was made shall be guilty of an offence and shall be liable to the penalties provided under the provisions of section 93 of the Act.

Deductions deemed to have been consented to by taxpayer

5. Any sums lawfully deducted under the provisions of these Regulations shall be deemed to have been deducted with the consent of the person otherwise entitled to receive the same and no action shall lie by such person against any other person by reason of the making of such deductions.

Recovery from person under an obligation to deduct tax

6. For all purposes of the Act, any tax to be lawfully deducted under the provisions of these Regulations shall be recoverable in the same manner in all respects as if it were tax payable by the person by whom the payment is made.
Exemption from liability to deduct when contract under $300 in any year

7. These Regulations shall not require the deduction of provisional tax by any person making payments in respect of contracts for services where the total to be paid to any 1 person in any year is less than [$300].

Withdrawal of certificate of exception

8.—(1) The Commissioner may, if he considers it necessary, withdraw any certificate of exception issued by him in terms of paragraph (b) of the proviso to paragraph (2) of regulation 2.

(2) The Commissioner shall signify his intention to withdraw any such certificate by means of notification to that effect published in the Gazette, specifying the certificate number and the name of the holder.

(3) The certificate shall be deemed to have been withdrawn upon the expiration of 14 days from the date of publication of the notification in the Gazette.
These Regulations shall apply mutatis mutandis to the collection of advance payments of tax from companies.

1. Inserted “, leasing and renting” by §2 Legal Notice No. 6 of 2009 WEF 1st January 2009
3. Substituted for “Crown” by §3(e) Interpretation Act (Cap.7) WEF 7th October 1987
4. Substituted for “Exemption from liability to deduct when contract under two hundred dollars in any year” by §2(a) Legal Notice 28/2005 WEF 1st January 2005
5. Substituted by LN 12/1982
6. Regulation 9 inserted by LN 12/1982