

THE INCOME TAX LAW OF 2002

No.118(I)/2002, 15.7.2002

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**THE INCOME TAX LAW OF 2002,
No. 118(I) of 2002, 15.7.2002**

THE INCOME TAX LAW

For the purposes of harmonization with the acts of the European Union under the title-

(a) «Council Directive 90/434/EEC of 23 July 1990 on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States», (EE L 225 of 20/8/1990, p. 1-5),

(b) «Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States», (EE L 225 of 20/8/1990, p.6-9), and

(c) «Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises», (EE L 225 of 20/8/1990, p.10-24),

The House of Representatives enacts as follows:

PART I

INTRODUCTORY PROVISIONS

Short title	1. This Law may be cited as the Income Tax Law of 2002.
Interpretation	2. (1) In this Law unless the contrary intention appears - «Business» means commercial or manufacturing business, profession or vocation and includes any other business of a trading nature; «chargeable income» means the aggregate amount of that income of any person from the sources specified in section 5 remaining after deducting such sums as are permitted by or under this Law; «Commissioner» means the Commissioner of Income Tax charged with the administration of this Law as provided in sub-section (1) of section 3 and includes any officer of the Department of Inland Revenue authorized by him in this respect;

Cap.113	«company» has the meaning given to this term by the Companies
9 of 1968	Law and includes any body with or without legal personality, or
76 of 1977	public corporate body, as well as every company, fraternity or
17 of 1979	society of persons, with or without legal personality, including any
105 of 1985	comparable company incorporated or registered outside the
198 of 1986	Republic and a company listed in the First Schedule; but it does not
19 of 1990	include a partnership;
41(I) of 1994	
15(I) of 1995	
21(I) of 1997	
82(I) of 1999	
149(I) of 1999	
2(I) of 2000	
135(I) of 2000	
151(I) of 2000	
76(I) of 2001.	
First Schedule.	
	«Constitution» means the Constitution of the Republic of Cyprus;
	«Corporation tax» means the tax imposed on the income of a
	company pursuant to the provisions of this Law;
	«Director» means the Director of the Department of Inland
	Revenue;
	«guardian» when used in relation to an infant person includes the
	parent of the infant;
	«investment income» means any income which is not derived or
	arising from any business, employment, pensions or annuities which
	are paid by reason or in connection with a past employment;
86 of 1972	«private motor vehicle» means a vehicle falling within sub-
37 of 1974	paragraph (vi) of paragraph (7) of Regulation 8 of the Motor
58 of 1976	Vehicles and Road Traffic Regulations of 1984 to 2001;
20 of 1978	
64 of 1978	
72 of 1981	
83 of 1983	
75 of 1984	
72 of 1985	
134 of 1989	
152 of 1991	
241 of 1991	
44(I) of 1992	
5(I) of 1993	

28(I) of 1993
49(I) of 1994
5(I) of 1996
45(I) of 1996
95(I) of 1996
56(I) of 1998
1(I) of 1999
18(I) of 1999
66(I) of 1999
117(I) of 1999
61(I) of 2000
80(I) of 2000
81(I) of 2000
110(I) of 2000
38(I) of 2001
98(I) of 2001.

«Permanent establishment» means-

- (a) A fixed place of business through which the business of an enterprise is wholly or partly carried on.
- (b) The term «permanent establishment» includes especially:
 - (i) a place of management;
 - (ii) a branch;
 - (iii) an office;
 - (iv) a factory;
 - (v) a workshop,
 - (vi) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
- (c) A building site or construction or installation project or supervisory activities constitute a permanent establishment only if they last more than three months.
- (d) Notwithstanding the provisions of paragraphs (a), (b) and (c) of this definition, the term «permanent establishment» shall be deemed not to include:

- (i) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - (ii) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - (iii) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - (iv) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
 - (v) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
 - (vi) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (i) to (v), provided that the overall activity of the fixed place of business resulting from this combination has a preparatory or auxiliary character.
- (e) Notwithstanding the provisions of paragraphs (a) and (b), where a person-other than an agent of an independent status to whom paragraph (f) applies- is acting on behalf of an enterprise and has, and habitually exercises, in the Republic an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in the Republic in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph (d) which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.
- (f) An enterprise shall not be deemed to have a permanent establishment in the Republic merely because it carries business in the Republic through a broker, general commission agent or

any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

- (g) The fact that a company which is a resident in the Republic controls or is controlled by a company which is not a resident in the Republic, or which carries on business outside the Republic (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other;

«person» includes an individual and a company;

«public corporate body» means a legal person of public law or any other public corporate body established by law for the public interest notwithstanding that such body is deemed to be agent, servant of the state or in consimili casu to servant of the state;

«Republic» means the Republic of Cyprus;

«resident in the Republic», when applied to an individual, means an individual who stays in the Republic for a period or periods exceeding in aggregate 183 days in the year of assessment and when applied to a company, means a company whose management and control is exercised in the Republic and «non-resident or resident outside the Republic» shall be construed accordingly:

Provided that the presence of an individual in the Republic for part of a day shall be counted as one day;

«securities» means shares, bonds, debentures, founders' shares and other securities of companies or other legal persons, incorporated under a law in the Republic or abroad and options thereon;

«Sovereign Base Area» means the Akrotiri Sovereign Base Area and the Dhekelia Sovereign Base Area, as defined in Article 1 of the Treaty concerning the Establishment of the Republic of Cyprus, signed at Nicosia on the 16th day of August, 1960;

«tax» means the tax imposed by this Law;

«year of assessment» means the period of twelve months commencing on the first day of January in each year.

PART II

ADMINISTRATIVE APPLICATION OF THE LAW

Commissioner of
Income Tax.

3. (1) For the due administration of this Law the Director shall be the Commissioner of Income Tax who shall do all such acts as he may deem necessary or expedient for the purpose of carrying into effect the provisions of this Law.

(2) The exercise of powers and duties relating to the administration of this Law may be delegated by the Commissioner to any other Officer or Officers of the Department of Inland Revenue.

Official secrecy.

4. (1) Every individual having any official duty or being employed in the administration of this Law shall regard and deal with the information and all documents, returns and assessment lists relating to the income of any person as secret and confidential and shall make and subscribe a declaration to that effect in a form prescribed before a Judge of a District Court.

(2) An individual having information or possessing or having control over or access to any document, return or assessment list relating to the income of any other person shall not at any time communicate or attempt to communicate such information or anything contained in such document, return or list otherwise than for the purposes of this Law:

Provided that the Minister of Finance may for the public interest authorize any such information or anything contained in any such document, return or list to be communicated to such person or persons as he shall specify.

PART III
IMPOSITION OF TAX

Charge of Tax.

- 5. (1)** Subject to the provisions of this Law, in the case of a person who is resident in the Republic, tax shall be charged at the rate or rates specified hereinafter for each year of assessment upon the income accruing or arising from sources both within and outside the Republic, in respect of-
- (a) any profits or other benefits from any business, for whatever period of time such business may have been carried on or exercised;
 - (b) any profits or other benefits from any office or employment, including the estimated annual value of any quarters or board or residence or of any other allowance granted in respect of office or employment, whether in money or otherwise, to the individual providing the salaried services or to any member of his family;
 - (c) any dividend, interest or discount;
 - (d) any pension, charge or annuity;
 - (e) any rents, royalties, remuneration or other profits arising from property, including the value of the benefit derived by the owner of land from the erection thereon at the expense of the tenant of any structure or from any addition or alteration or both made to any structure, building or works at the expense of the tenant, where any such structure, addition or alteration shall upon the termination of the tenancy become the property of the owner, the value of such benefit being determined by the Commissioner in the year of erection, addition or alteration, the deductions provided by section 10 being, mutatis mutandis, allowed as in such section provided and regard being had to all the circumstances of the case:

Provided that the value of such benefit shall -

- (i) not be taken to exceed the cost of such erection, addition or alteration;
 - (ii) be spread evenly by the Commissioner over the period of the tenancy; but in the event of the owner parting with the land or structure or building or works before the lapse of such period, the unassessed balance of such benefit as at the date of the disposition of the land or structure or building or works shall be treated as income of the year in which the land or structure or building or works was disposed of by the owner, or of that year and the preceding five years or the actual years of tenancy whichever is the smaller number of years;
- (f) any amount or consideration in respect of any trade goodwill reduced by any amount incurred for the purchasing of such trade goodwill;
- (2) Subject to the provisions of this Law, in the case of a person who is not a resident in the Republic, tax shall be charged at the rate or rates specified hereinafter for each year of assessment, upon the income accruing or arising from sources in the Republic only, in respect of -
- (a) any profits or other benefits from a permanent establishment situated in the Republic:

Provided that the profits or benefits from the business of operating ships or aircraft in respect of fares or freight for passengers or goods or mails shipped in the Republic shall be subject to tax, irrespective of the existence or not of a permanent establishment in the Republic;

- (b) profits or other benefits from any office or employment exercised in the Republic, including the estimated annual value of any quarters, board or residence or of any other allowance granted in respect of office or employment, whether in money or otherwise, to the individual providing the salaried services or

to any member of his family:

Provided that members of the Public Service of the Republic and employees of public corporate bodies thereof serving abroad are deemed to be exercising their employment in the Republic;

- (c) pensions deriving from a past employment exercised in the Republic, charge or annuity directly or indirectly borne by a resident in the Republic, with the exception of any pension paid by, or out of funds created by, the Government of the Republic or a local authority thereof;
- (d) income falling within paragraph (e) of sub-section (1);
- (e) any amount or consideration in respect of any trade goodwill reduced by any amount incurred for the purchasing of such trade goodwill;
- (f) notwithstanding the existence of a permanent establishment or not, the gross income derived by an individual from the exercise in the Republic of any profession or vocation, the remuneration of public entertainers, and the gross receipts of any theatrical or musical or other group of public entertainers, including football clubs and other athletic missions from abroad, derived from performances in the Republic

(3) For the purposes of this section, any receipts from the sale of trees in respect of which a deduction has been allowed under section 9 or any compensation received or receivable under a policy of insurance or otherwise in respect of damage to or destruction of such trees, shall be deemed to be income liable to tax:

Provided that such tax shall be imposed on an amount not exceeding the maximum of the deductions allowed up to the season in which the trees started to yield or the maximum of the insurance premiums paid, as the case may be.

(4) Persons having a permanent establishment situated in the Republic may opt to be treated like a resident in the Republic.

Basis of assessment.	6. Tax shall be charged, levied and collected upon the chargeable income of any person derived in the year of assessment.
Special periods of assessment.	7. The accounts of persons exercising a business shall close on the last day of the year of assessment: Provided that the Commissioner may permit that the accounts of a business close on a date different than the last day of the year of assessment, but in such a case the chargeable income based on the income of the year ending on the same date is apportioned in the year of assessment concerned, subject to such conditions as, in the opinion of the Commissioner, may be just and reasonable.
Exemptions.	8. There shall be exempt from the tax - (1) the official emoluments of the President of the Republic or the officer performing the duties of the President of the Republic during his absence; (2) the pension granted to the President of the Republic upon his retirement from office under the provisions of the Pensions (Certain Office Holders of the Republic) Laws 1980 to 1996; (3) that part of the pension granted to the President of the House of Representatives upon his retirement from office under the provisions of the Pensions (Certain Office Holders of the Republic) Laws 1980 to 1996, which is calculated on the basis of the representation allowance; (4) any other benefit or allowance granted to the President of the Republic and the President of the House of Representatives upon his retirement from office under the Benefits (President and Vice-President of the Republic, President and Vice-President of the House of Representatives) Laws of 1988 to 1989; (5) the representation allowance to the Ministers, the President of

the House of Representatives and the members thereof;

- (6) the special allowance for service abroad granted to members of the Public Service of the Republic, or to an employee of a public corporate body, provided the Minister of Finance certifies that such allowance is granted to such members as compensation in respect of the extra expenditure such members have to incur by reason of their having to live away from Cyprus for the performance of their duties:

Provided that the amount of the allowance to an employee of a public corporate body does not exceed the corresponding allowance to a member of the Public Service of the Republic;

- 114(I) of 1988
64(I) of 1994
108(I) of 1998
129(I) of 2001
- (7) the pensions and special grants made under the Relief of Suffered Laws of 1988 to 2001;

- 41 of 1980
48 of 1982
11 of 1983
7 of 1984
10 of 1985
116 of 1985
4 of 1987
199 of 1987
214 of 1987
68 of 1988
96 of 1989
136 of 1989
17 of 1990
218 of 1991
98(I) of 1992
64(I) of 1993
18(I) of 1995
55(I) of 1996
87(I) of 1997
80(I) of 1998
84(I) of 1998
55(I) of 1999
98(I) of 2000
99(I) of 2000
- (8) the widows' pensions granted under the Social Insurance Laws of 1980 to 2002 or in accordance with any pension scheme approved under regulations;

2(I) of 2001
51(I) of 2001
135(I) of 2001
143(I) of 2001
71(I) of 2002.

- (9) any lump sum received by way of retiring gratuity, commutation of pension, death gratuity or as consolidated compensation for death or bodily injury;
- (10) the income arising from a scholarship, exhibition, bursary or any other similar educational endowment held by an individual receiving full-time instruction at a university, college, school or other recognized establishment;
- (11) capital sums accruing to individuals from any payments which are allowable deductions under section 14;
- (12) the emoluments of foreign officers of an institution exercising an educational, cultural or scientific function, if the Minister of Finance is satisfied that the public interest is best served by this exemption;
- (13) the income of any religious, charitable or educational institution of a public character;
- (14) the income of any registered co-operative society or any co-operative savings bank in respect of transactions with its members;
- (15) the income of any local authority where such income is not derived from any business carried on by the local authority;
- (16) the income of any fund falling within sub-section (3) of section 14;
- (17) subject to such conditions as the Council of Ministers may impose, the income of any company formed exclusively for the purpose of promoting art, science or sport, not involving the acquisition of gain by such company or by its individual members and whose activities are confined solely to that purpose;
- (18) the emoluments of foreign diplomatic and consular representatives, if not citizens of the Republic, who in accordance with the rules and principles of International Law enjoy diplomatic immunity on the basis of reciprocity;

- (19) the whole income of an individual from interest and fifty per cent (50%) of income of a company from interest:

Provided that interest accruing to any person from the ordinary carrying on of any business, including any interest closely connected with the ordinary carrying on of the business, is deemed not to be interest for the purposes of this sub-section;

- (20) any income from dividends;

- (21) twenty per cent (20%) of the remuneration from any office or employment exercised in the Republic by an individual who was resident outside the Republic before the commencement of his employment, or £5,000, whichever is the lower. This exemption applies for a period of three years commencing from the 1st January following the year of commencement of the employment;

- (22) profit from the sale of securities.

Deductions
allowed.

9. (1) Subject to the provisions of sub-section (2), for the purpose of ascertaining the chargeable income of any person there shall be deducted all outgoings and expenses wholly and exclusively incurred by such person in the production of the income, including-

- (a) any sum expended either for the repair of premises, plant, machinery and means of transport or for the renewal, repair or alteration of any implement, utensil or article, employed in acquiring the income;
- (b) ordinary annual contributions paid by an employer to an approved fund pursuant to sub-section (3) of section 14;
- (c) bad debts of any business proved to the satisfaction of the Commissioner to have become bad debts during the year of assessment and actually written off during the same year notwithstanding that such bad debts were due and payable prior to the commencement of the said year, and also the amount of any specific provision for doubtful debts in respect of which the Commissioner is satisfied that they have or will eventually become irrecoverable:

Provided that any amount recovered during the said year on account of amounts previously written off or allowed in respect of bad debts under the provisions of any previous law imposing tax on income or under the provisions of this Law shall, for the purposes of this Law, be treated as receipts of the business for that year;

- (d) any expenditure for scientific research incurred by a person carrying on any business, so long as the Commissioner is satisfied that such expenditure has been incurred for the use and benefit of the business:

Provided that no deduction shall be allowed under the provisions of this paragraph in the case of any such expenditure on plant and machinery or buildings, including employees' dwellings, in respect of which any deduction is allowable under section 10 of this Law:

Provided further that any such expenditure of a capital nature not qualifying for any deduction under section 10 shall be spread equally over the year of assessment in which it has been incurred and the five years next following;

- (e) any expenditure on patents or patent rights or royalties incurred by a person carrying on a business with regard to which the Commissioner is satisfied that it has been incurred for the benefit of the business:

Provided that any such expenditure of a capital nature shall be spread over the life of the patent or patent rights in a reasonable manner to the satisfaction of the Commissioner:

Provided further that any sums received or receivable from any sales of such patents or patent rights or royalties or any part thereof, as well as all royalties or other income received or receivable in respect thereof shall be included in the chargeable income;

- (f) donations or contributions made for educational, cultural or

other charitable purposes to the Republic or a Local Authority or to any charitable institution therein approved as such by the Council of Ministers:

Provided that, notwithstanding any provisions of this Law to the contrary, in the event of a loss incurred in the year in which such donation or contribution was made, any part of the loss up to the amount of the donation or contribution shall not be carried forward and shall not be set off against the income of subsequent years;

(g) any expenditure incurred, irrespective of whether it had been incurred for the acquisition of income or not,

(i) for the maintenance of a building in respect of which there is in force a Preservation Order made under the Town and Country Planning Law, if the Minister of the Interior certifies that the expenditure has been incurred for the completion of maintenance works for such building;

90 of 1972
56 of 1982
7 of 1990
28 of 1991
91(I) of 1992
55(I) of 1993
72(I) of 1993
59(I) of 1999
142(I) of 1999.

(ii) for the maintenance, preservation or restoration of an ancient monument specified in the Second Schedule to the Antiquities Law, if the Director of Antiquities certifies that the expenditure has been incurred for the completion of the maintenance, preservation or restoration works for that ancient monument:

Cap.31
48 of 1964
32 of 1973

Provided that no deduction under this paragraph shall be allowed -

(i) to the extent to which the amount of expenditure exceeds the sum of one hundred and eighty pounds per square meter of the area of the building or ancient monument;

(ii) in respect of any amount which the owner of such building or ancient monument has received under sub-section (2)

of section 8 of the Antiquities Law or from any public fund;

- (h) interest up to an amount of five hundred pounds in connection with a loan made for the construction of residence ordinarily used by an individual or his children for the purpose of residence:

Provided that this provision applies only for the year of assessment 2003;

- (i) any amount of interest in relation to the acquisition of business assets used in the business;
- (j) sums paid into a Fund approved under Regulations for educational purposes and maintenance of an individual attending any university, college, school or other educational institution.

(2) In the case of income of an individual from the letting of buildings an amount of twenty per cent (20%) is deducted from such gross income before the deduction of the wear and tear allowance as provided in section 10 and the expenditure for interest.

Deductions and additions on account of property used in business.

10. (1) In this section «property» means plant, machinery or buildings, including employees' dwellings, owned by a person carrying on a business or by an employee and used and employed by such person in such business or used in employment, or in scientific research proved to the satisfaction of the Commissioner to be for the benefit of such business or employment.

Provided that for the purposes of this sub-section a private motor vehicle, shall not be deemed to be within the meaning of the term «plant and machinery».

(2) In ascertaining the chargeable income of any person carrying on business or employment, there shall be allowed, subject to the provisions of sub-section (1) of this section, a deduction of a reasonable amount for the exhaustion and wear and tear of property arising out of its use and employment in the business or

employment during the year of assessment:

Provided that the total of any such deductions shall not exceed the capital expenditure incurred by such person in acquiring this property:

Provided further that-

- (i) no individual in employment shall be entitled to claim the deduction under this section in respect of property owned by him if he is not expressly required by the terms of his employment to use such property in the performance of his duties or if he is paid any compensation or other allowance in respect of such use;
 - (ii) if property is used and employed partly for business and partly for private purposes, the Commissioner shall determine what part of the capital expenditure incurred in acquiring the property is applicable to the private use of the property and, thereupon, the deductions aforesaid shall be allowed in respect of that part of the capital expenditure which is applicable to the use of the property in the business or employment;
 - (iii) for the purposes of this section, the length of life of a building, other than an industrial or hotel building, shall be fixed at thirty three years and that of an industrial or hotel building at twenty five years, and in the event of the building being transferred by sale or otherwise, the new owner shall be entitled to claim over the remaining life of the building the unexhausted balance of the original cost of such building.
- (3) In cases in which, in ascertaining the chargeable income of a person carrying on a business or employment, a deduction has been allowed in any year of assessment under the provisions of this section in respect of property and during the year of assessment -
- (a) the property or any part thereof ceases to belong to the person carrying on the business or employment, whether on a sale of the property or any part thereof or in any other circumstances

of any description; or

- (b) while continuing to belong to the person carrying on the business or employment, the property or any part thereof permanently ceases to be used for the purposes of the business or employment carried on by him; or
- (c) the business or employment is permanently discontinued, the property not having previously ceased to belong to the person carrying on the business or employment,

the person liable to tax shall render to the Commissioner, in the year of assessment, together with his return of income, a statement in respect of the property in question showing the following items -

- (i) the amount of the capital expenditure on the provision thereof;
- (ii) the total depreciation which has occurred by reason of exhaustion or wear and tear since the date of purchase of such property, including the aggregate amount of all deductions previously allowed under the provisions of this section; and
- (iii) the amount of all sale, insurance, salvage or compensation moneys in respect thereof or the written down value of such capital item:

Provided that the demolition of a building at the instance of the owner shall not be a ground for rendering a balancing statement if made before the lapse of five years from the date of acquisition.

(4) In ascertaining the chargeable income of a person who is required under sub-section (3) to render a balancing statement to the Commissioner, a deduction (hereinafter referred to as a «balancing deduction») shall be allowed or, as the case may be, an addition (hereinafter referred to as a «balancing addition») shall be made, and such balancing deduction or balancing addition shall be calculated by reference to the balancing statement or statements rendered by the person in respect of the year of assessment as follows -

- (a) the amount of a balancing deduction shall be the amount by which the amount of item (i) of the balancing statement exceeds the sum of the amounts of item (ii) and item (iii) of that statement;
- (b) the amount of the balancing addition shall be the amount by which the sum of the amounts of item (ii) and item (iii) of the balancing statement exceeds the amount of item (i) of that statement:

Provided that in no case shall the balancing addition exceed the aggregate amount of any deductions previously allowed under the provisions of this section and included in item (ii) of the balancing statement.

- (5) For the purposes of sub-sections (3) and (4) the term «property» does not include buildings which are referred to in sub-section (2) of section 9.

(6) Where property, in respect of which any of the events mentioned in paragraphs (a) and (b) of sub-section (3) has occurred, is replaced by the owner thereof and a balancing addition falls to be made by reason thereof, then, if by notice in writing to the Commissioner he so elects, the following provisions shall have effect, that is to say -

- (a) if the amount of the balancing addition which would have been made is greater than the capital expenditure on providing the new property -
 - (i) the balancing addition shall be an amount equal to the difference; and
 - (ii) no balancing deduction under sub-section (4) and no deduction under paragraph (a) of sub-section (2) shall be allowed in respect of such new property; and
 - (iii) in considering whether any balancing addition falls to be made in respect of the capital expenditure on providing such new property, the aggregate amount of all deductions previously allowed in respect of such property under the

provisions of this section, shall be deemed to be equal to the full amount of such expenditure;

(b) if the capital expenditure on providing the new property is equal to, or greater than, the amount of the balancing addition that would have been made -

(i) the balancing addition shall not be made; and

(ii) the amount of any deductions under the provisions of this section shall be calculated as if the capital expenditure on providing such new property had been reduced by the amount of the balancing addition; and

(iii) in considering whether any balancing deduction or balancing addition falls to be made in respect of such new property, the aggregate amount of all deductions previously allowed in respect of such property under the provisions of this section, shall be deemed to have been increased by an amount equal to the amount of the balancing addition that would have been made.

(7) Where a person has delivered a balancing statement, the Commissioner may -

(a) accept the statement and make a balancing deduction or addition accordingly; or

(b) refuse to accept the statement and, to the best of his judgment, determine the amount of balancing deduction or addition and make a balancing deduction or addition accordingly.

(8) For the purposes of this section -

(a) the capital expenditure on providing any property shall be the amount which in the opinion of the Commissioner such property would have cost if bought in the open market at the time it was provided;

(b) the sale moneys in respect of any property sold shall be the

amount which in the opinion of the Commissioner such property would have realized if sold in the open market at the time it was sold;

- (c) where there is no sale, insurance, salvage or compensation or if there is no written down value in respect of any property, the amount deemed receivable in respect of such property, shall be the amount which in the opinion of the Commissioner such property would have realized if sold in the open market at the time of the event;
- (d) the word "business" shall include the letting of buildings;
- (e) any deduction or investment deduction allowed under the provisions of any law formerly in force relating to the imposition of income tax shall be deemed to be a deduction allowed under the provisions of this Law.

Deductions not
allowed

11. Notwithstanding the provisions of any other section, for the purpose of ascertaining the chargeable income of any person no deduction shall be allowed in respect of -

- (1) domestic or private expenses including the cost of travelling between the place of residence and the place of work;
- (2) rent of any premises owned and used in connection with the carrying on by him of a business;
- (3) any remuneration or interest on capital paid or credited to himself;
- (4) cost of goods taken out of the business for the use of the proprietor or any partner or the family of such proprietor or partner;
- (5) any disbursements or expenses not being money wholly and exclusively laid out or expended for the purpose of acquiring the income;
- (6) any capital withdrawn or any sum employed or intended to be employed as capital;
- (7) expenditure of any improvements, alterations or additions;
- (8) any sum recoverable under an insurance or contract of indemnity;

- (9) rent of, or cost of repairs to, any premises or part of premises not paid or incurred for the purposes of producing the income;
- (10) any amounts paid or payable in respect of tax under this Law;
- (11) any payments of a voluntary nature except such payments as are allowed under section 14;
- (12) any expenses of business entertainment, including hospitality of any kind, made in connection with a business :

Provided that this sub-section does not apply to the extent where the total amount of business entertainment expenses in the year of assessment does not exceed half per cent (0,5%) of the gross income of the business up to a maximum of C£5.000;

- (13) expenses in respect of a private motor vehicle;
- (14) amount paid or payable in respect of professional tax;
- (15) interest applicable or which is deemed to be applicable to the cost of purchase of a private motor vehicle, irrespective of whether it is used in the business or not, and to the cost of purchasing of any other asset not used in the business:

Provided that this provision does not apply after the lapse of seven years from the date of purchase of the relevant asset.

Valuation of trading stocks on discontinuance of business.

12. (1) In computing the chargeable income of a business, which has been discontinued in the year of assessment, any trading stocks belonging to the business at the discontinuance thereof shall be valued as follows:

- (a) in the case of any such trading stocks -
 - (i) sold or transferred for a valuable consideration to a person who carries on or intends to carry on a business in the Republic; and
 - (ii) the price of acquisition whereof the purchaser may claim as a deduction in computing the chargeable income of the business carried on or to be carried on by the purchaser,

the value thereof shall be taken to be equal to the amount realised on the sale or equal to the value of the consideration

given for the sale; and

- (b) in the case of any other such trading stocks, the value thereof shall be taken to be equal to the price which would have realized if it sold in the open market on the discontinuance of the business.

(2) For the purposes of sub-section (1)-

- (a) the business is not deemed to be discontinued in the case of death of the individual carrying on the business, provided that such business continues to be carried on by the heirs who shall submit a written undertaking to this effect;
- (b) the expression «trading stocks» in relation to any business means property of any description, whether movable or immovable, being either-
 - (i) property sold in the ordinary course of trade or would be so sold if it were mature or if its manufacture or construction were complete; or
 - (ii) materials used in the manufacture, preparation or construction of any such property described in the foregoing sub-paragraph.

Allowance of losses.

13. (1) Subject to the provisions of sub-section (9) of this section, where the amount of a loss which, if a gain or profit would be chargeable to tax under this Law, is such that it cannot be wholly set off against a person's income from other sources for that year of assessment, the amount of such loss shall, to the extent to which it is not so set off, be carried forward and shall, subject as hereinafter provided, be set off against such person's income for subsequent years.

Provided that-

- (a) if within any three-year period there is any change in the

ownership of the shares of a company and a substantial change in the nature of the business of the company, or

- (b) if at any time since the scale of the company's activities has diminished or has become negligible and before any substantial reactivation of the business there is a change in the ownership of the company's shares,

no loss which has been incurred before the change in the ownership of the shares of the company shall be carried forward in the years subsequent to such change:

Provided further that any loss in respect of the year 1997 and after which was not set off against profits up to the year 2002 may be carried forward to the year 2003 and the following years.

(2) For the purposes of this section there is a change in the ownership of the shares of the company -

- (a) if a person acquires more than half of the ordinary share capital of the company, or
- (b) if two or more persons jointly or severally acquire at least 5% of the ordinary share capital of the company so that all together acquire more than half of the ordinary share capital of the company:

Provided that there is no change in the ownership of the shares of the company if the change involves a gift made from parent to child, between spouses or relatives up to the second degree of kindred or to a limited company all shareholders of which are and continue to be members of the disposer's family for a period of five years after such gift.

(3) No amount of loss under this section may be allowed in respect of any year of assessment for which the person liable to tax delays the submission of accounts for such year for a period exceeding six years from the date when he ought to have submitted the accounts for the said year.

(4) Subject to and in accordance with the provisions in the following sub-sections, losses may be surrendered by a company resident in the Republic («the surrendering company») and, on the making of a claim by another company resident in the Republic («the claimant company») may be allowed to the claimant company set-off of group losses as provided in sub-section (7).

(5) Set-off of group losses shall be allowed in a case where the surrendering company and the claimant company are both members of the same group for the whole of the year of assessment.

(6) A payment for set-off of group losses-

(a) shall not be taken into account in the computation of the chargeable income of the surrendering or the claimant company, and

(b) shall not for the purposes of this Law be regarded as a distribution of dividend or as an allowed deduction.

(7) If in any year of assessment the surrendering company has incurred a loss in carrying on a business, the amount of such loss may be set off for the purposes of corporation tax against the total chargeable income of the claimant company for its corresponding year of assessment:

Provided that in the computation of the loss which may be surrendered, no amount of loss brought forward from a previous year shall be taken into account.

(8) For the purposes of this section-

(a) payment for the set-off of group losses means a payment made by the claimant company to the surrendering company in pursuance of an agreement between them with regard to an amount surrendered by way of set-off of group losses, which does not exceed that amount;

(b) two companies shall be deemed to be members of a group if one is by seventy five per cent (75%) subsidiary of the other or both, each one separately, are by seventy five per cent (75%)

subsidiaries of a third company;

- (c) a company shall be deemed to be by seventy five per cent (75%) subsidiary of another company if and so long as not less than seventy five per cent (75%) of its ordinary share capital with voting rights are owned directly or indirectly by that other company and that other company has a beneficial entitlement to not less than seventy five per cent (75%) of-
 - (i) any profits available for distribution, and
 - (ii) any assets of the subsidiary company which would be available for distribution to the shareholders on its winding-up;
- (d) in determining whether one company is by seventy five per cent (75%) subsidiary of another company, the other company shall be treated as not being the owner -
 - (i) of any share capital which it owns directly in a company if the profit on a sale of the shares would be treated as a trading receipt; or
 - (ii) of any share capital which it owns indirectly, and which is owned directly by a company for which the profit on a sale of the shares would be a trading receipt; or
 - (iii) of any share capital which it owns directly or indirectly in a company not resident in the Republic.
- (9) Notwithstanding the provisions of sub-section (1), losses incurred by any person from any business carried on outside the Republic, whether through a permanent establishment or not, shall be allowed as a deduction from such person's income from other sources for the same year, and to the extent that it cannot be wholly set off in this way, the remaining amount of such loss shall be carried forward and shall, subject as hereinafter provided, be set off against such person's income for subsequent years.
- (10) In case where an owner of a business, including a partnership,

- converts his business into a company, any accumulated losses of the owner may be carried forward to the company.
- Deduction in respect of life insurance and contributions to pensions and other funds.
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- 14.** In ascertaining the chargeable income of any individual who-
- (1) shall have made an insurance on his life securing the payment of a fixed or determinable capital sum on death under a policy as defined in the Law on Insurance Services and other Related Issues, or
 - (2) shall have made contributions to a Widows' and Orphans' Pensions Fund established under any law in force in the Republic or under a comparable law in force outside the Republic, or
 - (3) shall have made contributions to an approved Pension or Provident Fund or any other Insurance Fund established in the Republic or outside the Republic, or
 - (4) shall have paid premiums or some other contribution to an insurance company for the issue of an approved insurance policy providing for an annuity, whose form has been approved by the Commissioner, having for its main object the provision for the individual of a life annuity in old age; or
 - (5) shall have paid premiums or other contributions to an insurance company for a Pension Scheme or Medical Scheme approved under Regulations, or
- 89(I) of 2001.
- (6) shall have paid any contribution under the General Health Scheme Law in force from time to time in the Republic or under a comparable law in force from time to time outside the Republic,
- there shall be allowed a deduction equal to the annual amount of the premiums paid by such individual or other deduction equal to the amount of such premiums or contributions, as the case may be:
- Provided that -
- (i) in the case of any policy of insurance securing the payment of a fixed or determinable capital sum on death the amount of the deduction allowed shall not exceed seven per cent (7%) of that

capital sum, exclusive of any additional benefit by way of bonus or otherwise; and

- (ii) no such deduction shall be allowed in respect of any premiums and contributions beyond an amount equal to one-sixth of the chargeable income of such individual computed in accordance with the provisions of this Law before making the deductions specified in this section; and
- (iii) in the case of surrendering a life insurance policy within three years from the date of such policy there shall be added to the income of such individual thirty per cent (30%) of the premiums for which a deduction had been allowed under the provisions of this section, and twenty per cent (20%) of such premiums if the surrender takes place within the fourth, fifth and sixth year from the date of the insurance policy;
- (iv) within sub-section (1) also fall the insurance premiums paid by an individual in insuring the life of the spouse before the commencement of the present Law and in respect of which allowance was granted pursuant to the provisions of the previously existing income tax law.

PART IV

SPECIAL MODES OF TAXATION OF

CERTAIN KINDS OF INCOME

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| Special modes of taxation. | 15. Notwithstanding anything provided in this Law, tax shall be assessed in the cases specified and as provided in this Part . |
| Insurance undertakings engaged in insurance business in general | 16. (1) In the case of an insurance undertaking, engaged in insurance business in general class, the profits or benefits from such business on which tax is payable in accordance with the provisions of section 25, shall be ascertained in the following manner: <ul style="list-style-type: none">(a) all sums of gross premiums, interest, commissions and other |

class.

income are added together,

- (b) from the sum of (a) any premiums returned to the insured and premiums paid on reinsurance are deducted,
- (c) from the sum of adding together (a) and (b) the reserve for unexpired risks at the end of the year of assessment is deducted and the reserves similarly calculated for unexpired risks outstanding at the commencement of the year of assessment added thereto, and
- (d) from the amount arrived at in (c) the net claims, expenses and any other deductions allowed under the provisions of this Law are deducted.

(2) Where the amount of loss which, if a profit or benefit would be chargeable to tax under this Law, is such that it cannot be wholly set off against the income of the insurance undertaking from other sources for the same year of assessment, the amount of such loss shall, to the extent to which it is not so set off, be carried forward and shall be set off against the income of the insurance undertaking for subsequent years in accordance with the provisions of section 13.

(3) For the purposes of this section:-

«claims» means the amount arrived at after adding or deducting, as the case may be, to or from the total amount of compensations paid under insurance policies during the year of assessment, the increase or decrease in compensations payable during the same year of assessment;

«reserves for unexpired risks» include the reserve for unearned income and the reserve for unexpired risks and shall be calculated according to the methods adopted by the insurance undertaking. These methods shall be applied consistently from year to year, unless there is adequate justification for any change by the insurance undertaking to the satisfaction of the Commissioner:

Provided that the Commissioner may not accept any method or a change in a method followed by the insurance undertaking, if evidently it does not conform with generally accepted insurance and accounting principles. For this purpose the Director may demand from the insurance undertaking the submission of such evidence which he may deem necessary;

35(I)/2002. «insurance undertaking» and «business in general class» have the meaning assigned to these terms in the Law on Insurance Services and other Related Issues;

«expenses» include commissions and, in the case of an insurance undertaking whose Head Office is outside the Republic, a fair proportion of the expenses of the Head Office of the insurance undertaking which shall not exceed three per cent (3%) of the premiums in the Republic, after deducting premiums paid on reinsurances; and

«net claims» means the claims reduced by the amount recovered during the year of assessment in connection thereto pursuant to reinsurance.

Insurance undertakings engaged in insurance business in life class.

17. (1) In the case of an insurance undertaking engaged in insurance business in life class, the profits or benefits from such business on which tax is payable in accordance with the provisions of section 25 shall be ascertained in the following manner -

- (a) all sums of the gross premiums and net investment income are added together,
- (b) from the sum of (a) any premiums paid on reinsurances, net claims, surrenders, expenses and any other deductions allowed under the provisions of this Law are deducted, and
- (c) from the sum ascertained in (b) the reserves for the liabilities in respect of the long term business in the Republic at the end of the year of assessment are deducted and the reserves for

liabilities outstanding at the commencement of the year of assessment added thereto.

(2) Where no tax is due or the tax payable on the profits or benefits from long term insurance business, does not exceed one and a half per cent (1.5%) of the gross premiums, excluding contributions to any approved Pensions or Provident Funds or any other Fund which the insurance undertaking manages for the benefit of its members, the insurance undertaking shall pay the difference by way of income tax prepayment.

(3) The relevant provisions of this Law shall apply in respect of income of the insurance undertaking from other sources, including income from the management of any Pensions or Provident Fund or any other Fund.

(4) Where the amount of loss which, if a profit or benefit would be chargeable to tax under this section is such that it cannot be wholly set off against the income of the insurance undertaking from other sources for the same year of assessment, the amount of such loss shall, to the extent to which it is not so set off, be carried forward and shall be set off against the income of the insurance undertaking for subsequent years in accordance with the provisions of section 13.

(5) For the purposes of this section-

«claims» means the amount arrived at after adding or deducting from, as the case may be, the total amount of compensations paid under insurance policies during the year of assessment, the amount of increase or decrease in compensation payable during the year of assessment;

«insurance business undertaking», «actuary», and «business in general class» and «Superintendent of Insurance» have the meaning assigned to these terms by the Law on Insurance Services and other Related Issues;

«expenses» include commissions and, in the case of an insurance undertaking whose Head Office is situated outside the Republic, a

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fair proportion of the expenses of the Head Office of the insurance undertaking which shall not exceed two per cent (2%) of the premium income in the Republic, less premiums paid on reinsurances;

«net claims» means the claims reduced by the amount which was recovered during the year of assessment in connection thereto from reinsurance;

«net investment income» includes any profit or loss from the sale of investments of the long term business reserve fund and any appreciation or depreciation in the value of investments relating to unit linked policies;

«liabilities» include benefits to the insured and shall be ascertained by an annual actuarial valuation approved by the Superintendent of Insurance. Liabilities and any reserves which relate to liabilities of long term business shall be ascertained by the actuarial method adopted by the insurance undertaking. This method, as well as the discounting factors or other factors not related to discounting will be applied consistently from year to year unless there is adequate justification for any changes by the insurance undertaking and the Commissioner is satisfied to this effect:

Provided that the Commissioner may not accept any method or a change in a method followed by the insurance undertaking, if evidently it does not conform with generally accepted insurance and accounting principles. For this purpose the Director may demand from the insurance undertaking, the submission of such evidence which he may deem necessary.

Shipping and
aircraft
businesses.

18. (1) In the case of an owner of a ship or aircraft, the profits or benefits of his business as an owner of a ship or aircraft shall, if he produces or causes to be produced to the Commissioner a certificate as is mentioned in sub-section (2), be taken to be a sum bearing the same ratio to the sums payable in respect of fares or freight for passengers, goods or mails shipped in the Republic as his total profits for the relevant accounting period shown by that certificate bears to

the gross income for that period.

(2) The certificate mentioned in sub-section (1) shall be a certificate by the taxing authority of the country in which the principal place of business of the owner of a ship or aircraft is situated and shall state-

- (i) that the owner of a ship or aircraft has furnished, to the satisfaction of that authority, an account of the whole of his business; and
- (ii) the ratio of the profits or benefits for the relevant accounting period to the gross income of the owner of a ship or aircraft for that period, as computed according to the income tax law of that country, after deducting interest on any money borrowed and employed in acquiring the profits or benefits.

(3) If the profits or benefits of an owner of a ship or aircraft have been computed on any basis other than the ratio of the profits or benefits, shown by a certificate as provided in sub-section (2), at any time within two years from the end of the year of assessment the owner of a ship or aircraft shall be entitled to such revision as may be necessary to give effect to the said certificate and to have any tax paid in excess refunded:

38(I) of 1992
29(I) of 1995
63(I) of 1999
73(I) of 1999

Provided that, subject to the provisions of section 4 of the Merchant Shipping (Fees and Taxing Provisions) Laws, profits or benefits arising from the business of operating ships or aircraft carried on by a person who is not resident in the Republic, shall be exempted from tax, provided that the Minister of Finance is satisfied that an equivalent exemption from income tax is granted by the country in which such person is resident to persons resident in the Republic.

(4) In this section-

- (a) the expression «owner of a ship or aircraft» means any owner or charterer of ships or aircraft who is not resident in the Republic; and
- (b) the expression «business of operating ships or aircraft» means the business carried on by an owner or charterer of ships or

aircraft.

Taxation of
income of a person
from the rendering
of ship
management
services.

19. The income of any person which is derived from the rendering of ship management services, as this term is defined in the Merchant Shipping (Fees and Taxing Provisions) Laws, shall be subject to tax at the rate of 4,25 per cent (4,25%):

Provided that, in the case of an individual falling within the provision of this section, no tax allowances, credits or exemptions shall be allowed:

Provided further that such income shall not be added to any other income, and in the case of a loss, such loss cannot be carried forward, notwithstanding the provisions of section 13 of this Law.

Pensions from
services rendered
outside the
Republic.

20. The income of any individual, who is resident in the Republic, from pension for services rendered outside the Republic, which exceeds the amount of two thousand pounds, shall be charged to tax at the rate of five cent in the pound:

Provided that this income shall not be added to any other income:

Provided further that an individual who falls within the provisions of this section may elect to be assessed in respect of each year of assessment either in accordance with the provisions of this section or in accordance with the provisions of Parts III and V of this Law.

Tax on the gross
amount of
royalties,
premiums,
compensation,
etc.

21. The gross amount of any royalty, premium, compensation or other income derived from sources within the Republic by any person not being resident in the Republic, who is not engaged in any business in the Republic, in consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trade mark, know-how or any other like property or in consideration of technical assistance, shall be charged to tax at the rate of ten cent in the pound:

Provided that in case the right is granted for use outside the Republic, this amount shall not be deemed as income derived from sources within the Republic.

Film rentals, etc.	22. The gross amount of any rental in respect of the show in the Republic of cinematograph films (whether such rental is fixed or constitutes a percentage of the gross receipts) derived by any person who is not resident in the Republic shall be charged to tax at the rate of five cent in the pound.
Profits of professional men, artists, etc.	23. The gross income derived by an individual not resident in the Republic from the exercise in the Republic of any profession or vocation, the remuneration of public entertainers not resident in the Republic, and the gross receipts of any theatrical or musical or other group of public entertainers, including football clubs and other athletic missions from abroad, derived from performances in the Republic, shall be charged to tax at the rate of ten cent in the pound: Provided that where tax is imposed under this section on any group, its individual members shall not be liable to tax.
Deduction of tax before payment is effected and remittance of the tax made to the Commissioner.	24. (1) Any person entering into any contract with any individual not resident in the Republic or with any company not engaged in the Republic in any business, in connection with transactions of the kind set out in sections 21, 22 and 23, shall deduct tax at the rate prescribed in the said sections from any receipts made on or on behalf of, or from any payments made or to be made to, such individual or company and remit the same forthwith to the Commissioner, together with a statement showing full details of the circumstances which gave rise to the deduction and showing how the tax deducted was computed. (2) Any tax required to be deducted under the provisions of subsection (1), shall be deemed to be a tax assessed on the person who is required to deduct that tax and shall be recoverable from such person in any manner provided in any law concerning the collection of taxes: Provided that nothing in this section contained shall be construed as preventing the Commissioner from recovering such tax from the person who has earned the income on which the tax was charged, notwithstanding the fact that no assessment has been raised on such

person:

Provided further that where no statement or other particulars have been furnished, the Commissioner may, to the best of his judgment, determine the amount of the tax that ought to have been deducted.

(3) If any such tax is not deducted or, if deducted, is not remitted to the Commissioner in the month following that in which the deduction was made, a sum equal to the sum payable in case of an arrear of payment of tax shall be added thereto, by way of interest, and the provisions of any law relating to the collection and recovery of taxes shall apply to the collection and recovery of such interest.

(4) The provisions of any law relating to objections and recourses shall apply to any decision of the Commissioner under this section, but payment of the tax demanded shall not be postponed pending the result of such objection or recourse.

PART V RATES OF TAX

Rates as per the Second Schedule.	25. There shall be charged and levied upon the chargeable income tax at the rates and in accordance with the provisions set forth in the Second Schedule.
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PART VI COMPANY REORGANIZATIONS

Carry over of balance sheet values in case of reorganization.	26. (1) Assets and liabilities, including provisions and reserves, which are transferred under a reorganization, shall not give rise to profits liable to tax for the transferring company. (2) The receiving company shall compute any new depreciation and any profits or losses in respect of the assets, liabilities, provisions and reserves transferred according to the conditions that would have applied to the transferring company or companies if the reorganization had not taken place.
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Carry over of losses.	27. In the case of a reorganization involving companies which are resident in the Republic and or companies not being resident in the
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	Republic, any accumulated losses of the transferring company which is resident in the Republic or has a permanent establishment in the Republic shall be transferred to the receiving company resident in the Republic or to the receiving company not resident in the Republic and having a permanent establishment in the Republic and the provisions of section 13 of this Law regarding set-off or carry forward of losses shall apply accordingly.
Existing holding in transferring company.	28. Where the receiving company, resident in the Republic or, if not resident in the Republic having a permanent establishment in the Republic, has a holding in the capital of the transferring company, any profits accruing to the receiving company on the cancellation of the holding shall not be liable to tax.
No taxation of shareholder in case of exchange of shares.	29. (1) The allotment of shares representing the capital of the receiving or acquiring company to a shareholder of the transferring or acquired company in exchange for shares representing the capital of the latter company shall not, of itself, give rise to any profits or benefits liable to tax in respect of that shareholder. (2) The shares received shall have the same value for tax purposes as the shares exchanged had immediately before the reorganization. (3) The application of sub-section (1) shall not prevent the taxing of the profit arising out of the subsequent transfer of shares received.
Meaning of the term 'reorganization'	30. For the purposes of this Part, "reorganization" means a merger, division, transfer of assets and exchange of shares, involving companies resident in the Republic and or companies not resident in the Republic and - (a) «merger» shall mean an operation whereby: (i) one or more companies, on being dissolved without going into liquidation, transfer all their assets and liabilities to another existing company in exchange for the issue to their shareholders, of shares representing the capital of that other company, and, if applicable, in exchange for a cash payment not exceeding ten per cent (10 %) of the nominal value of the shares, or, in the absence of a

- nominal value, of the accounting par value of those shares,
- (ii) two or more companies, on being dissolved without going into liquidation, transfer all their assets and liabilities to a new company that they form, in exchange for the issue to their shareholders, of shares representing the capital of that new company, and, if applicable, in exchange for a cash payment not exceeding ten per cent (10 %) of the nominal value, or in the absence of a nominal value, of the accounting par value of those shares,
 - (iii) a company, on being dissolved without going into liquidation, transfers all its assets and liabilities to the company holding all the shares representing its capital;
- (b) «division» shall mean an operation whereby a company, on being dissolved without going into liquidation, transfers all its assets and liabilities, to two or more existing or new companies, in exchange for the pro rata issue to its shareholders, of shares representing the capital of the companies receiving the assets and liabilities, and, if applicable, in exchange for a cash payment not exceeding ten per cent (10%) of the nominal value or, in the absence of a nominal value, of the accounting par value of those shares;
- (c) «transfer of assets» shall mean an operation whereby a company transfers, without being dissolved, all or one or more branches of its activity to another company in exchange for the transfer of shares representing the capital of the company receiving the transfer;
- (d) «exchange of shares» shall mean an operation whereby a company acquires a holding in the capital of another company such that it obtains a majority of the voting rights in that company, in exchange for the issue to the shareholders of the latter company, in exchange for their shares, of shares representing the capital of the former company, and, if

applicable, in exchange for a cash payment not exceeding ten per cent (10%) of the nominal value or, in the absence of a nominal value, of the accounting par value of the shares issued in exchange;

- (e) «transferring company» shall mean the company transferring its assets and liabilities or transferring all or one or more branches of its activity;
- (f) «receiving company» shall mean the company receiving the assets and liabilities, or all or one or more branches of the activity of the transferring company;
- (g) «acquired company» shall mean the company in which a holding is acquired by another company by means of an exchange of shares;
- (h) «acquiring company» shall mean the company which acquires a holding by means of an exchange of shares;
- (i) «branch of activity» shall mean all the assets and liabilities of a division of a company which, from an organizational point of view, constitute an independent business, that is to say an entity capable of functioning by its own means.

PART VII TRUSTEES, AGENTS, ETC.

Chargeability of trustees.

31. Trustees in bankruptcy or receivers, trustees, executors of a will or administrators of an estate or guardians entrusted with the management, control or administration of any property or business on behalf of any person, shall be chargeable to tax in respect of income derived from such property or business in like manner and to the like amount as such person would be chargeable if he had received such income personally, and every such trustee in bankruptcy, receiver, trustee, executor of a will or administrator of an estate, or guardian, shall be answerable for doing all matters and

things required to be done under this Law for the purpose of assessment and payment of tax:

Provided that nothing in this section contained shall preclude the raising of an assessment in the name of any person represented by any such trustee in bankruptcy, receiver, trustee, executor of a will or administrator of an estate or guardian.

Chargeability of agent of person residing out of the Republic.

32. (1) Any person not resident in the Republic, shall be assessable in the name of his attorney, factor or agent, trustee in bankruptcy, receiver, administrator or custodian, whether such attorney, agent, factor, trustee in bankruptcy, receiver, administrator or custodian has the receipt of the income or not, in like manner and to the like amount as such non-resident person would be assessed and charged if he received personally such income.

(2) Any person who is not resident in the Republic shall be charged to tax in respect of any income arising, directly or indirectly, from any attorneyship, factorship, agency, partnership or from acts of his trustee in bankruptcy or receiver, administrator or custodian, and such assessment shall be made in the name of his attorney, factor, agent, trustee in bankruptcy or receiver, administrator or custodian.

(3) Nothing in this section shall render a person who is not resident in the Republic subject to assessment in the name of a broker or general commission agent or other agent where such broker, general commission agent or other agent is not an authorized person, carrying on the general agency of the person who is not resident in the Republic, or a person subject to assessment as if he were an agent in pursuance of sub-section (1) and (2) of this section in respect of profits or benefits arising from sales or transactions carried out through such broker or agent.

Arms' length principles.

33. (1) Where -

- a) a business in the Republic participates directly or indirectly in the management, control or capital of a business of another person; or

- b) the same persons participate directly or indirectly in the management, control or capital of two or more businesses;

and in either case conditions are made or imposed between the two businesses in their commercial or financial relations which differ from those which would be made between independent businesses, then any profits which would, but for those conditions, have accrued to one of the businesses, but, by reason of those conditions, have not so accrued, may be included in the profits of that business and taxed accordingly.

(2) The provisions of sub-section (1) apply also in connection with any transactions between connected persons.

(3) For the purposes of this section:

- (a) An individual is connected with another individual if the first individual is the spouse or relative of the second individual, or the spouse of a relative of the second individual, or relative of the husband or wife of the second individual;
- (b) a person is connected with any person with whom he is in partnership, and with the husband or wife or relative of any individual with whom he is in partnership;
- (c) a company is connected with another company -
 - (i) if the same person has control of both, or a person has control of one and persons connected with him, or he and persons connected with him, have control of the other; or
 - (ii) if a group of two or more persons has control of each company, and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person with whom he is connected;
- (d) a company is connected with another person if that person has control of it or if that person and persons connected with him

together have control of it;

- (e) any two or more persons acting together to secure or exercise control of a company shall be treated in relation to that company as connected with one another and with any person acting on the directions of any of them to secure or exercise control of the company.

(5) In this section -

- (a) «control», in relation to a company, means the power of a person to secure -

- (i) by means of the holding of shares or the possession of voting power in or with relation to that or any other company, or
 - (ii) by virtue of any powers conferred by the articles of association or other document regulating that or any other company,

that the affairs of the first-mentioned company are conducted in accordance with the wishes of that person, and,

- (b) «control», in relation to a partnership, means the right to a share of more than one-half of the assets, or of more than one-half of the income of the partnership;
- (c) «relative» means spouse and individual up to the third degree of kindred whether unmarried or married.

PART VIII

RELIEF IN CASE OF DOUBLE TAXATION

Double taxation conventions.

34. (1) If the Council of Ministers by Order declares that a convention specified in the Order has been made with the Government of any country outside the Republic with a view to affording relief from double taxation in relation to income tax and any tax of a similar character, which is imposed by the laws of that country, and that it is expedient that that convention should have effect, such convention shall have effect in relation to income tax

notwithstanding anything in any Law contained.

(2) Any Order made under this section may be revoked by a subsequent Order.

Tax credits.

35. (1) The provisions of this section shall apply where, under a convention having effect under section 34, tax payable in respect of any income in the country with the Government of which the convention is made, is to be allowed as a credit against tax payable in the Republic in respect of that income, and in this section the term "foreign tax" means any tax payable in the country with which the convention was made, which under the convention shall be allowed in the form of credit.

(2) The amount of the tax chargeable in respect of the income shall be reduced by the amount of the credit.

(3) The amount of the credit shall not exceed the amount which would be ascertained if the amount of the income were computed in accordance with the provisions of this Law and charged to tax at a rate ascertained by dividing the tax chargeable (before granting allowances for credits in accordance with the convention made pursuant to section 34 of this Law) on the total income of the person entitled to the income by the amount of his total income.

(4) Without prejudice to the provisions of sub-section (3), the total amount of credit to be allowed for any year of assessment in respect of foreign tax pursuant to section 34 shall not exceed the total tax payable by him for that year of assessment.

(5) In computing the amount of the income -

- (a) no deduction shall be allowed in respect of foreign tax whether in respect of the same or any other income;
- (b) where the tax chargeable depends on the amount received in the Republic, such amount shall be increased by the appropriate amount of the foreign tax;
- (c) where the income includes dividends of companies and under

the convention foreign tax not chargeable directly or by deduction on the dividends has to be taken into account in considering whether any credit is to be given against tax in respect of such dividends, the amount of the income shall be increased by the amount of the foreign tax not so chargeable, which has to be taken into account in computing the amount of the credit:

Provided that notwithstanding anything in the preceding provisions of this sub-section, there shall be deducted from the deemed amount of the foreign income any amount by which the foreign tax exceeds the respective credit.

(6) The provisions of paragraphs (a) and (b) of sub-section (5) shall apply to the computation of the deemed total income for the purposes of determining the rate mentioned in sub-section (3); and shall in the same way apply to such computations in relation to every income in the case of which credit falls to be given for foreign tax pursuant to a convention for the time being in force under section 34.

(7) Where -

- (a) the convention provides, in relation to dividends of some classes but not in relation to dividends of other classes, that foreign tax not chargeable directly or by deduction in respect of dividends, is to be taken into account in considering whether any credit is to be given against tax in respect of such dividends; and
- (b) dividends are paid which are not of a class for which such provision has been made in the convention ,

then, if the dividends are paid to a company which controls, directly or indirectly, not less than fifty per cent of the shares with voting rights of the company paying the dividends, credit shall be allowed as if the dividends were of a class for which such provision has been made in the convention .

(8) The allowable credit under such convention against the tax imposed on income of any person for any year of assessment shall not be allowed if such person so elects for that year.

(9) Claims for an allowance by way of credit shall be made not later than six years after the end of the year of assessment and in the event of any dispute as to the amount allowable, the claim shall be subject to objection and recourse in like manner as an assessment.

(10) Where the amount of any credit given under a convention is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either in the Republic or elsewhere, the provisions of this Law limiting the time for the making of assessments or claims for relief, shall not apply to any assessments or claims which are the result of the adjustment made, if such assessments and claims are made before the lapse of six years from the year in which they were made, in the Republic or elsewhere, all the assessments, adjustments and other determinations which were material in determining whether any credit falls to be given.

Unilateral relief

36. (1) Notwithstanding the provisions of section 34, where the Commissioner is satisfied that income tax has been paid on income derived by him from a foreign country with which a double taxation convention has not been concluded, and such income is subject to income tax under this Law, the Commissioner shall grant relief from tax payable under this Law, in respect of such income, not exceeding the amount of tax paid in the foreign country in respect of such income.

(2) For the purposes of this section the procedure prescribed in section 35 shall, so far as practicable, be followed.

(3) Notwithstanding any other provisions of this Law, profits of a person which derive from a permanent establishment situated outside the Republic are exempt from tax:

Provided that where deductions for losses have been allowed, in previous year or years of assessment, under section 13 in respect of

losses from a permanent establishment situated outside the Republic, an amount of profits equal to the amount of losses so allowed shall be included in the chargeable income.

(4) The provisions of sub-section (3) shall not apply-

(a) if the permanent establishment directly or indirectly engages more than fifty per cent (50%) in activities which lead to investment income, and

(b) the foreign tax burden on the income of the permanent establishment is substantially lower than the tax burden of the resident company or person controlling the permanent establishment and resident in the Republic.

(5) The remuneration from the rendering outside the Republic of salaried services for a total aggregate period in the year of assessment of more than 90 days to an employer not resident in the Republic or to a permanent establishment of an employer resident in the Republic shall be exempt from tax.

PART IX

GENERAL POWERS OF COMMISSIONER

Power of
Commissioner to
require
particulars to be
furnished.

37. The Commissioner may, by notice in writing, require any person to furnish him with such particulars as he may require for the purposes of this Law with respect to the income of such person, or to attend before him and give evidence on oath or otherwise with respect to his income and to produce any accounts, books or other documents in his custody or under his control relating to such income.

Accounts
prepared and
certified by
professional
accountants.

38. Any accounts and any computations of chargeable income produced to the Commissioner or accompanying any return of income submitted to the Commissioner may not be considered if they have not been prepared and certified by a person holding the qualifications to be appointed auditor of a company under the Companies Law:

Provided that any individual who has been duly authorized by the Minister of Finance, to act as an independent accountant for the purposes of the Income Tax Laws, and is in fact acting as such as at the date of commencement of this Law, shall continue to have the right to prepare and certify accounts and computations for income tax purposes.

Loans to
directors.

39. Subject to the provisions of sub-section (19) of section 8, whenever a company, controlled by not more than five persons, grants a loan or any other financial facility to any of its directors or shareholders or, in case such directors or shareholders are individuals, to their relatives up to the second degree of kindred, the Commissioner may deem that interest at the rate of nine per cent (9%) per annum is payable to the company on the amount of the loan.

PART X

ASSESSMENT AND CHARGE OF TAX

IN RESPECT OF EMOLUMENTS

Interpretation.

40. For the purposes of sections 9, 41, 42 and 44 the term «emoluments» means all income derived by an individual from profits or benefits as specified in paragraph (b) of sub-section (1) and paragraph (b) of sub-section (2) of section 5 and includes any pensions.

Assessment,
charge, etc., on
emoluments.

41. Notwithstanding anything in this Law contained, tax for every year of assessment shall be assessed and charged on all emoluments for any such year and on the payment of the emoluments or any amount, on account of such emoluments during the year of assessment, tax, shall, be deducted by the person making the payment of the emoluments, in accordance with the Regulations made by the Council of Ministers under section 44, notwithstanding that when the payment is made no assessment has been made in respect of the emoluments and notwithstanding that the emoluments constitute, in whole or in part, emoluments of a year of assessment other than the year during which the payment is made.

Other provisions of the Law to apply.	42. All the other provisions of this Law relating to income shall apply to income from emoluments in so far as they are consistent with section 41.
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PART XI
MISCELLANEOUS PROVISIONS

Liability to tax of members of United Kingdom Forces, of Greek and Turkish Forces in the Republic and other persons.	43. (1) Notwithstanding anything in this Law contained, the liability to tax of the profits or income derived by, or arising or accruing to, any person who resides or works in the British Sovereign Base Areas and the liability to tax of the profits or income derived in the Republic by any member of the United Kingdom Forces or civilian component or Authorized Military Organization or of the Forces of the Republic of Greece and the Republic of Turkey within the territory of the Republic, shall be subject to the relative provisions of the Treaty of Establishment or, of the Agreement for the Application of the Treaty of Alliance signed at Nicosia on the 16th August, 1960, as the case may be, and tax shall be charged, and collected on the basis of such provisions.
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(2) For the purposes of this section -

- (a) «Treaty of Establishment» means the Treaty concerning the Establishment of the Republic of Cyprus signed at Nicosia on the 16th August, 1960, and includes the Exchange of Notes signed on the same date;
- (b) the terms used in sub-section (1) of this section shall have the meaning assigned to them in the Treaty of Establishment or in the Agreement for the Application of the Treaty of Alliance signed at Nicosia on the 16th day of August, 1960, as the case may be.

Regulations	44. (1) The Council of Ministers may make Regulations with respect to the assessment, charge, collection and recovery of tax on emoluments as defined in section 40 and such Regulations may include provision -
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- (a) for requiring any person making any payment of, or on account of, any such emoluments to make a deduction, when making the payment, of tax calculated by reference to tax tables prepared by the Commissioner and for rendering persons who are required to make any such deduction accountable to the Commissioner;
 - (b) for the production to any inspection by the Commissioner or any person authorized by him, of wages sheets and other documents or records for the purpose of satisfying the Commissioner that tax has been and is being deducted and accounted for in accordance with the Regulations and that clearances of the tax deducted are duly submitted ;
 - (c) for the collection and recovery, whether by deduction from income paid in any later year or otherwise, of tax in respect of emoluments to which this Law applies, which has not been deducted or otherwise recovered during the year, and the tax tables to which reference is made in paragraph (a) shall be drawn up with a view to securing that, as far as possible, the total tax payable in respect of the emoluments of an individual for any year of assessment is deducted from the emoluments paid during that year.
- (2) The Council of Ministers may make Regulations for carrying out the provisions of any conventions having effect under section 34.
- (3) The Council of Ministers may make Regulations generally for carrying out the provisions of this Law and for such matters as are required or authorized by this Law to be prescribed and may also make Regulations with respect to any matter or thing in respect of which it is expedient to make Regulations for the purpose of carrying this Law into execution.
- (4) Persons failing to comply with or contravening the provisions of any Regulation made under this section he shall be guilty of an offence against this Law.

(5) The Regulations made in pursuance of this section shall be published in the official Gazette of the Republic.

Administrative instructions for allowances etc. shall be published.

4 of 1978
23 of 1978
41 of 1979
164 of 1987
159 of 1988
10 of 1991
57 of 1991
86(I) of 1994
104(I) of 1995
80(I) of 1999
153(I) of 1999.

45. Notwithstanding anything contained in this Law or in the Assessment and Collection of Taxes Laws, all administrative instructions of the Commissioner which are contained in circulars and which relate to any allowances of a general nature, relaxations or concessions which are granted on the basis of this Law or of the Assessment and Collection of Taxes Law, shall be published in the official gazette of the Republic and shall come into operation from the date of their publication.

Foreign companies having income from sources outside the Republic.

46. (1) Notwithstanding anything in this Law contained, in the case of a company, incorporated in the Republic as well as in the case of a company registered under section 347 of the Companies Law and having the management and control of its business in the Republic the shares of which belong directly or indirectly exclusively to aliens, and which, during the year ending on 31 December 2001, derived and continue to derive income from sources outside the Republic,

- (a) from the carrying on of any business the object of which lies outside the Republic; or
- (b) from the investment of capital in bonds, shares, debentures or loans of any nature; or
- (c) from any royalties; or
- (d) from immovable property,

may, as long as they continue to satisfy all the above conditions, elect to be taxed in the years of assessment 2003, 2004 and 2005 at the tax rate of 4,25 per cent (4.25%) on their chargeable income after deducting any tax which is payable outside the Republic:

Provided that where such company is a bank or finance company which carries on a business which entails deriving income from sources within the Republic after the issue of a permit in accordance with the provisions of any law in force for the time being and under such conditions as may be prescribed by Regulations made under this Law, then the income derived in the Republic shall be liable to tax according to the rates set out in paragraph 2 of the Second Schedule.

(2) For the purposes of paragraph (b) of sub-section (1) the income from investment of capital is deemed to emanate from sources outside the Republic if, notwithstanding the place of investment and the parties to the relevant agreement, such capital is used for activities outside the Republic.

(3) For the purposes of this section «chargeable income» means the chargeable income as computed in accordance with the provisions of this Law before deducting the allowances or exemptions prescribed in sections 8(19), 8(20), 8(22), 13(4), (5), (6), (7), (8), 26, 27, 28, 29, 30, 35 and 36.

(4) Notwithstanding the provisions of section 13, loss occurred during any year of assessment up to the year 2000 shall not be carried forward and shall not be set-off against the income of any year of assessment after the lapse of five years from the end of the year of assessment in which the loss occurred.

(5) The election provided in sub-section (1), once made, is irrevocable for the period of three years 2003, 2004 and 2005.

Repeal and
savings

47. The Income Tax Laws of 1961-2002 are hereby repealed without prejudice to anything done or omitted to be done thereunder:

58 of 1961
4 of 1963
21 of 1966
60 of 1969
47 of 1973
37 of 1975
12 of 1976
15 of 1977
8 of 1979
40 of 1979

24 of 1981
41 of 1983
33 of 1984
76 of 1984
14 of 1985
73 of 1985
180 of 1986
163 of 1987
301 of 1987
26 of 1988
109 of 1988
133 of 1988
173 of 1988
233 of 1988
14 of 1989
39 of 1989
101 of 1989
137 of 1989
77 of 1990
225 of 1990
226 of 1990
245 of 1990
58 of 1991
174 of 1991
240 of 1991
45(I) of 1992
115(I) of 1992
38(I) of 1993
103(I) of 1994
103(I) of 1995
51(I) of 1996
53(I) of 1996
70(I) of 1997
81(I) of 1997
95(I) of 1997
61(I) of 1998
49(I) of 1999
50(I) of 1999
56(I) of 1999
145(I) of 1999
155(I) of 1999
162(I) of 1999
67(I) of 2000
76(I) of 2000
3(I) of 2001
116(I) of 2002.

Provided that all Regulations, all orders and all notifications and appointments, as well as all notices issued under the provisions of the Income Tax Laws, 1961-2002, shall be deemed to have been issued pursuant to this Law and shall continue in force, mutatis mutandis, until revoked, cancelled or substituted:

Provided further that, the assessments which have not been made and the taxes which have not been assessed or collected with respect to the year of assessment 2002 and all previous years, shall be made, assessed and collected in accordance with the provisions of the Income Tax Laws of 1961-2002.

Date of
commencement of
this Law.

48. This Law shall enter into force as from 1st January, 2003.

FIRST SCHEDULE

(Section 2)

List of companies referred to in the definition of the term «company» in section 2.

1. Companies under Belgian law known as «societe anonyme/naamloze vennootschap», «société en commandite par actions commanditaire vennootschap op aandelen», «société privée à responsabilité limitée /besloten vennootschap met beperkte aansprakelijkheid» and those public law bodies that operate under private law;
2. companies under Danish law known as "aktieselskab", "anpartsselskab";
3. companies under German law known as «Aktiengesellschaft», «Kommanditgesellschaft auf Aktien», «Gesellschaft mit beschränkter Haftung», «bergrechtliche Gesellschaft»;
4. companies under Greek law known as «anonyme etairia»;
5. companies under Spanish law known as «sociedad anonima», «sociedad comanditaria per acciones», «sociedad de responsabilidad limitada» and those public law bodies that operate under private law;
6. companies under French law known as «société anonyme», «société en commandite par actions», «société à responsabilité limitée» and industrial and commercial public establishments and undertakings;
7. the companies in Irish law known as public companies limited by shares or by guarantee, private companies limited by shares or by guarantee, bodies registered under the Industrial and Provident Societies Acts or building societies registered under the Building Societies Acts;
8. companies under Italian law known as: «società per azioni», «società in accomandita per azioni», «società a responsabilità limitata» and public and private entities carrying on industrial and commercial activities;

9. companies under Luxembourg law known as «société anonyme», "«société en commandite par actions», «société à responsabilité limitée»;
10. companies under Netherlands law known as «naamloze vennootschap», «besloten ven-nootschap met beperkte aansprakelijkheid»;
11. commercial companies or civil law companies having a commercial form, co-operatives and public undertakings incorporated in accordance with Portuguese law;
12. companies incorporated under the law of the United Kingdom;
13. companies under Austrian law known as «Aktiengesellschaft», «Gesellschaft mit beschränkter Haftung»;
14. companies under Finnish law known as «osakeyhtio/aktiebolag», «osuruskunta/andelslag», «saastopankki/sparbank» et «vakuutusyhtiö/forsakringsbolag»;
15. companies under Swedish law known as «aktiebolag», «bankaktiebolag», «forsakringsbolag»;
16. companies under Czech law known «akciová společnost», «komanditní společnost», «společnost s ručením omezeným»;
17. companies under Estonian law known as «täisühing», «osalduühing», «osahing», «aktsiaselts», «tulundusühistu»;
18. companies under Latvian law known as «akciju sabiedrība», «sabiedrība ar ierobežotu atbildību»;
19. companies incorporated under the law of Lithuania «individualios (personalios) įmonės», «tikrosios ūkio bendrijos», «komanditines (pasitikėjimo) ūkio bendrijos», «akcinių bendrovių», «udarosios akcinių bendrovių», «investicinių bendrovių», «valstybės įmonės», «savivaldybės įmonės», «ems ūkio bendrovių», «kooperatinių bendrovių (kooperatyvai)»;
20. companies under Hungarian law known as «közkereseti társaság», «betteti társaság», «közös vállalat», «korlatolt felelősségű társaság», «résztvénytársaság», «egyesülés», «szövetkezet»;

21. companies under Maltese law known as «Kumpaniji ta Responsabilita Limitata», «Sojetajiet en commandite li l-kapital taghom maqsum fazzjonijiet»;
22. companies under Polish law known as «spolka akcyjna», «spolka z ograniczon odpowiedzialnoci»;
23. companies under Slovenian law known as «delniska druzba», «komanditna druzba», «druzba z omejeno odgovornostjo»;
24. companies under Slovak law known as «Akciova spolocnost», «Spolocnost s ruenim obmedzenym», «Verejna obchodna spolocnost», «Komanditna spolocnost».

SECOND SCHEDULE

(Section 25)

SCALE OF RATES OF TAX PAYABLE

1. Subject to the provisions of paragraphs 2 and 3 of this Schedule the rates of tax for individuals shall be as set out in the following table:

(a) For the year of assessment 2003:

<u>Chargeable income</u>	<u>Rate of tax</u>
On every pound up to £9.000	nil
On every pound in excess of £9.000- £12.000	20 cent
On every pound in excess of £12.000- £ 15.000	25 cent
On every pound in excess of £ 15.000	30 cent

(b) From the year of assessment 2004:

<u>Chargeable income</u>	<u>Rate of tax</u>
On every pound up to £10.000	nil
On every pound in excess of £10.000- £15.000	20 cent
On every pound in excess of £15.000- £20.000	25 cent
On every pound in excess of £20.000	30 cent

2. Companies, other than public corporate bodies, shall be liable to corporation tax at ten per cent (10%) for each pound of chargeable income.

3. Public corporate bodies shall be subject to corporation tax at the rate of twenty five per cent (25%) for each pound of chargeable income.

4. In the computation of the tax payable in respect of the years of assessment 2003 and 2004, the chargeable income of a company or a public corporate body which exceeds the amount of one million pounds shall be subject to additional tax at the rate of five per cent (5%) for each pound of chargeable income.

