



ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER I13

INLAND REVENUE DEPARTMENT ACT

Showing the Law as at 15 December 2014

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition consolidates—

Act 6/2010, in force 1 November 2010

Act 4/2013, in force 25 September 2013

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INLAND REVENUE ACT

PART 1

PRELIMINARY

Interpretation

1. (1) In this Act—

“Act” includes a provision of an Act and a regulation or provision of a regulation under this Act;

“certificate of good standing” means a certificate of good standing provided for under the regulations;

“compliance officer” means a person designated as such under section 6;

“Comptroller” means the Comptroller of Inland Revenue and includes any person acting as, or, to the extent of his or her authority, performing the functions of, the Comptroller;

“Court” means the High Court;

“Department” means the Inland Revenue Department continued under section 3;

“Deputy Comptroller” means the Deputy Comptroller of Inland Revenue and includes any person acting as, or, to the extent of his or her authority, performing the functions of, the Deputy Comptroller;

“designated tax Act” means one of the following Acts—

- (a) the Accommodation Tax Act;
- (b) the Airline Ticket Tax Act;
- (c) the Communication Levy Act;
- (d) the Environmental Levy on Electricity Act;
- (e) the Tourism Levy Act;

“documents” include books, records, letters, vouchers, invoices, accounts and statements, financial or otherwise, whether computerized or not, and also money, cheques and securities;

“Minister” means the minister with responsibility for finance;

“Permanent Secretary” means the permanent secretary with responsibility for finance;

“prescribed” means prescribed by regulation under section 35;
(*Am. in L.R. 15/12/2010*)

“responsible representative” means a trustee in bankruptcy, executor, administrator, liquidator, receiver, receiver-manager, mortgagee in possession or any other similar person administering, winding up, controlling or otherwise dealing with any of the property or business of a person;

“tax” means a tax, levy or duty;

“tax Act” means one of the following Acts—

- (a) the Accommodation Tax Act;
- (b) the Airline Ticket Tax Act;
- (c) the Communication Levy Act;
- (d) the Embarkation Tax Act;
- (e) the Environmental Levy on Electricity Act;
- (f) the Licensed Financial Institutions Levy Act;
- (g) the Public Entertainments Tax Act;
- (h) the Public Lotteries Tax Act;
- (i) the Stamp Act;
- (j) the Tourism Levy Act;
- (k) the Valuation and Rating Act.

(2) Section 6(d) of the Interpretation and General Clauses Act (computing time within a time not exceeding 6 days) does not apply to computing time under this Act.

(3) The provisions of this Act relating to a designated tax or a designated tax Act shall be read together with the provisions of the designated tax Act as if they constituted a single Act and, unless the contrary intention appears, when a provision of this Act refers to liability of a person under a designated tax Act to pay an amount of tax and—

- (a) the designated tax Act provides for tax to be collected from a person and paid by the collector to the Comptroller, the provision of this Act shall be interpreted as a reference to tax collected or deemed to be collected by the collector;
- (b) a designated tax Act provides—
 - (i) for a tax to be collected from a person and paid by the collector to the Comptroller, and
 - (ii) for another tax to be imposed on the person who collects tax under subparagraph (i) but in the person’s own right and paid to the Comptroller,

the provision of this Act shall be interpreted as a reference to both the tax collected or deemed to be collected by the collector and to the tax imposed on the person who collects tax under subparagraph (i) but in his or her own right.

(4) The Comptroller may exercise a power or perform a duty even if it has been delegated to another person.

(5) Unless the contrary intention appears, when a written notice or document is to be served by a person under this Act, it shall be served by that person in accordance with section 36.

Application of Act

2. This Act does not apply to—

- (a) fees, interest, penalties or other charges that under the Financial Services Commission Act or any other enactment are to be collected by the Financial Services Commission;
(Act 4/2013, s. 53)
- (b) fees and other charges that are collected by the Registrar of Companies;
- (c) customs duties, interest, penalties or other charges that are to be collected by the Comptroller of Customs under the Customs Act, Customs Administrative Costs Recovery Act or any other Act under which the Comptroller of Customs is responsible for the collection of customs duties, interest, penalties or other charges;
- (d) the collection of fines, penalties and other amounts, other than fixed or administrative penalties, imposed for criminal offences;
- (e) the proceeds of the sale of property that is forfeited to the Crown in connection with criminal matters or that otherwise becomes the property of the Crown;
- (f) the collection of other prescribed amounts.

PART 2

ADMINISTRATION

Continuation of IRD

3. The Inland Revenue Department is continued.

Appointment of Comptroller of Inland Revenue and staff

4. There shall be appointed a Comptroller of Inland Revenue, who shall be head of the Department, a Deputy Comptroller of Inland Revenue and such staff as are necessary for the due administration of the Department.

Comptroller's powers and duties

5. (1) Under the direction and supervision of the Minister and the Permanent Secretary, the Comptroller shall—

- (a) administer the Inland Revenue Department;
- (b) subject to subsection (2), administer and enforce this Act, the tax Acts and any other Act the administration or enforcement of which is expressly assigned to the Comptroller;
- (c) collect fees, charges, penalties (other than fixed or administrative penalties) and related amounts imposed by or under the provisions of an Act, the collection of which is expressly assigned to the Comptroller by or under that Act;
- (d) collect fees, charges, penalties and related amounts, not being assigned for collection to any other public officer, which are assigned to the Comptroller by written directive of the Minister;
- (e) collect rent, royalties and other similar revenue from Crown land or from the grant of concessions, domain names and other similar rights;
- (f) take steps, including commencing proceedings in the Magistrate's Court or the High Court, to recover revenue of a type or from a source referred to in paragraph (b), (c), (d) or (e);
- (g) collect fixed or administrative penalties;
- (h) take steps to initiate prosecutions under any Act, the enforcement of which is expressly assigned to the Comptroller;
- (i) account without delay for revenue received; and
- (j) exercise any powers or perform any duties assigned to the Comptroller by regulation or by written directive of the Minister in relation to revenue matters.

(2) Under the direction and supervision of the Comptroller, the collection of stamp duties in relation to alien land holding licences under the Aliens Land Holding Regulation Act and in relation to the registration of instruments under the Registered Land Act are assigned to the Director of Lands and Surveys.

(3) The Comptroller may—

- (a) on behalf of any public officer who has responsibility for the collection of an amount of money owing to the Crown of a type or from a source not referred to in paragraph (1)(b), (c), (d) or (e) undertake the recovery of that money; and
- (b) when he or she does so, exercise, subject to the approval of the public officer, the powers referred to in paragraph (1)(f) or (g) in relation to the recovery of that money.

Designation of compliance officers

6. (1) The Minister may designate any person or class of persons as compliance officers for the purposes of this Act and any designated tax Act.

(2) The Minister may not designate a public officer in a department for which another minister is responsible unless that other minister and the head of the department agree to the designation.

(3) The Comptroller and Deputy Comptroller are *ex officio* compliance officers for the purposes of this Act.

(4) For the purposes of this Act, a person designated as a compliance officer may exercise all the powers and perform all the duties of a compliance officer under this Act unless the Minister specifies limits on those powers or duties when designating any person or class of persons to act as compliance officers.

Identification card

7. (1) The Minister shall furnish the Comptroller, Deputy Comptroller and each person designated as a compliance officer with an identification card and, on entering any place in the exercise of his or her powers or performance of his or her duties under this Act, the compliance officer shall, on request, produce the identification card and identify and explain the nature of the powers or duties the compliance officer wishes to exercise or perform.

(2) The identification card remains the property of the Government.

(3) A person to whom an identification card is furnished shall return it to the Minister without delay upon request.

Delegation of Comptroller's powers and duties to staff

8. The Comptroller may delegate any of the powers or duties assigned to him or her under this or any other Act to any public officer who reports to the Comptroller and may make the delegation subject to conditions and limitations.

Delegation outside Department of Comptroller's powers and duties

9. (1) Subject to subsection (2), the Comptroller may in writing delegate any of the powers or duties assigned to him or her under this or any other Act to a public officer outside the Department and may make the delegation subject to terms and conditions or limitations.

(2) Before making a delegation under subsection (1), the Comptroller shall obtain the consent of the minister responsible for the department and the head of the department in which the public officer is employed.

PART 3

PAYMENT OF TAX AND OTHER REVENUE

Application of tax payment

10. (1) A payment in relation to a tax under a tax Act shall be applied by the Comptroller in the following order—

(a) to interest owing;

- (b) to penalties owing;
- (c) to arrears of tax;
- (d) to tax payable.

(2) If a payment made by a person is intended to be applied to tax under a tax Act but the person does not specify which tax, the Comptroller may apply the payment to the tax that the Comptroller considers appropriate.

Interest on arrears of tax

11. (1) Interest is payable on arrears of tax under a tax Act at the rate established under section 21 of the Financial Administration and Audit Act from the date the amount is due until the date the amount is received by the Comptroller.

(2) Notwithstanding the interest rate specified in section 6 of the Judgments Act, a judgment debt for tax under a tax Act shall carry interest at the rate referred to in subsection (1).

Waiver of interest or penalty

12. (1) In this section, “waiver committee” means the waiver committee established by regulation under section 35.

(2) Notwithstanding section 16 of the Financial Administration and Audit Act, but subject to subsection (3), the Comptroller may, with the approval of the waiver committee, waive the imposition of, or liability for, any interest or penalty or any part of interest or a penalty.

(3) A waiver by the Comptroller in relation to the interest or a penalty or any part of interest or a penalty under any one tax Act shall not, in relation to any person in any calendar year, exceed \$1,000 or such other amount as may be prescribed for the purpose of this subsection.

(4) The waiver committee may, to the extent that it is satisfied that the circumstances that gave rise to interest or a penalty were beyond the control of the person owing the interest or penalty under a tax Act or were the responsibility of the Department, approve the waiver by the Comptroller of the imposition of, or liability for, any interest or penalty or any part of interest or a penalty.

(5) Section 19 of the Financial Administration and Audit Act applies to a waiver of the imposition of, or liability for, any interest or penalty or any part of interest or a penalty imposed or payable under a designated tax Act as it applies to remissions under section 16 of that Act.

Agreements and security for payment of arrears of tax or other revenue

13. (1) Subsection (2) does not apply to payment of a fee for an application for or issue or grant of a licence, registration, permit or other service of the Crown.

(2) The Comptroller may, with the written authorisation of the Minister, enter into agreements in writing in relation to the orderly payment by a person of arrears of tax and any interest or penalty thereon or of other amount payable to or to be collected by the Comptroller and, if the Comptroller considers it advisable in a particular case, require security for payment of the amount, or part of the amounts.

(3) The authorisation of the Minister under subsection (2) may be specific or may apply to payments generally or to a class of payments.

(4) Subject to the regulations, the Comptroller may accept security for an amount referred to in subsection (2) on any kind of property and in any form approved by the Comptroller from the person liable for the amount or from any other person.

(5) If a person who has furnished security under subsection (4) requests in writing that the Comptroller surrender the security, the Comptroller shall surrender the security to the extent that, in the Comptroller's opinion, the value of the security exceeds the amount payable in relation to which the security was given by that person at the time the request was made.

PART 4

RECOVERY OF TAX AND OTHER REVENUE

Responsible representative personally liable for distribution made without certificate of good standing

14. (1) When at any time a person is a responsible representative of a person liable to pay an amount owing to the Crown or a government agency prescribed for the purposes of the regulations respecting certificates of good standing the responsible representative is jointly and severally liable with the person—

- (a) to pay the amount that is payable by the person at or before that time and that remains unpaid, to the extent that the responsible representative is at that time in possession or control, in the capacity of responsible representative, of property that belongs or belonged to, or that is or was held for the benefit of, the person liable to pay the amount; and
- (b) to perform any obligation or duty imposed on that person at or before that time and that remains outstanding, to the extent that the obligation or duty can reasonably be considered to relate to the responsibilities of the responsible representative acting in that capacity.

(2) If a responsible representative distributes property over which he or she has control in the capacity of responsible representative without obtaining a certificate of good standing, the responsible representative is personally liable for the payment of the amount to the extent of the value of the property distributed.

(3) For the purpose of subsection (2), an appropriation by a responsible representative of the property of the person liable to pay the amount that is in the possession or control of the responsible representative acting in that capacity is deemed to be a distribution of the property.

Tax, interest and penalties recoverable as civil debt

15. The amount of tax, interest or penalty payable under a tax Act is recoverable by the Crown as a civil debt.

Deposit of tax in bank account in trust for Comptroller

16. (1) Notwithstanding section 12 of the Financial Administration and Audit Act or any provision of a designated tax Act in relation to remittance of a designated tax by a specified date, the Comptroller may serve written notice on a person liable to pay tax under a designated tax Act requiring the person, until further notice, to deposit, at such intervals as are specified in the notice commencing on the following business day, all amounts owing from time to time as tax into a trust account in the name of the Comptroller at a bank licenced under the Banking Act specified in the notice by the Comptroller.

(2) A notice may be amended, revoked or revoked and replaced in writing by the Comptroller.

(3) A notice of amendment, revocation or revocation and replacement referred to in subsection (2) shall be effective on the day specified in the notice, which shall not be earlier than the day following the day on which the notice is served.

(4) A person on whom a notice under subsection (1) or (3) is served who fails to comply with the notice is guilty of an offence and is liable on summary conviction to a fine of \$2,000 and commits an offence for each day that he or she fails to comply with the notice.

(5) The Comptroller shall without delay serve or cause to be served a copy of each notice referred to in subsection (1) or (2) on the Accountant General.

Certificate of amount not paid may be filed in Court as judgment

17. (1) When an amount of tax, interest or penalty that is payable under a designated tax Act has not been paid, the Comptroller may issue a certificate naming the person from whom the amount is payable and stating the amount that has not been paid.

(2) A certificate issued under subsection (1) may be filed in the Court as if it were a judgment of the Court and, when it is so filed, a copy shall be served without delay on the person owing the amount.

(3) When a certificate issued under subsection (1) is filed in the Court—

- (a) the certificate has the same force and effect as if it were a judgment of the Court in the amount stated in the certificate, together with interest and penalties to the day of payment; and
- (b) proceedings may be taken, after a copy of the certificate is served on the person owing the amount, to enforce payment of the amount owing in relation to the certificate in the same manner as if the certificate were a judgment of the Court.

(4) All reasonable costs and charges payable in relation to the filing of a certificate in the Court are recoverable as if they had been certified and the certificate had been filed under this section.

Redirection of payment by third party to tax debtor

18. (1) This section does not apply to prescribed indebtedness to, or prescribed payments to, a debtor.

(2) If the Comptroller has knowledge or suspects that a third party is or will become, within one year, indebted to, or required to make any payment to, a person who owes an amount of tax, interest or penalty under a designated tax Act (in this section referred to as the “debtor”), the Comptroller may serve a written notice on the person requiring him or her to pay the money otherwise payable to the debtor in whole or in part to the Comptroller on account of the amount owing by the debtor under the designated tax Act.

(3) In subsection (2), payment to a person who owes an amount under a designated tax Act includes payment of an advance or the proceeds of a loan to or on behalf of a debtor.

(4) A receipt issued by the Comptroller for money paid under this section is a good and sufficient discharge of the amount owing by the debtor to the extent of that payment.

(5) A person who, after being served with a notice under subsection (2), fails to comply with it is liable to pay to the Crown an amount equal to the lesser of—

(a) the total amount of money paid; and

(b) the amount that the person was required under this section to pay to the Comptroller.

Liability of directors when person responsible fails to remit

19. (1) When a person that is a corporation liable to pay an amount of tax has failed to remit tax as required by a designated tax Act, the directors of the corporation at the time the corporation was required to remit the tax are, subject to this section, jointly and severally liable, together with the corporation, to pay the tax and the interest and penalty relating to the tax.

(2) A director is liable under subsection (1) if—

(a) either—

(i) the amount of tax has been owing for not less than 180 days, or

(ii) the corporation is struck off the Register by the Registrar of Companies under the Companies Act; and

(b) the Comptroller serves notice on the director demanding payment of the tax and the interest and penalty relating to the tax.

(3) No action or proceedings to recover any amount payable by a director of a corporation under subsection (1) may be commenced more than 2 years after the director last ceased to be a director of that corporation.

(4) A director who has satisfied a claim under this section is entitled to recover the amount paid as a civil debt from the corporation liable to pay the amount of tax, interest and penalty and, if that corporation does not pay the amount within 7 days after service of a written notice by the director demanding payment, the director is entitled to claim contribution from any other directors who were liable for the claim under this section.

(5) In the event of dissolution or liquidation of the corporation, a director who has satisfied a claim under this section is entitled to make any claim that the Crown would be entitled to make in

relation to the claim, unless the director recovers contribution from other directors, in which event the other directors are entitled to make the claim of the Crown in proportion to their contributions.

PART 5

GENERAL ENFORCEMENT POWERS

Powers of police officers

20. (1) Nothing in this Part limits the powers of a police officer to enforce this Act or a designated tax Act under any law.

(2) A police officer has all the powers of a compliance officer.

Demand for information

21. (1) The Comptroller may, for any purpose related to the administration or enforcement of a designated tax Act, by serving written notice—

- (a) demand that the person liable to pay tax; or
- (b) when the person liable to pay tax is a partnership or corporation, demand that a partner or the president or another officer or manager, secretary or any director, agent or representative of the partnership or corporation;

provide or produce any information or additional information or any document within a reasonable period of time, which shall not be less than 3 days, stipulated in the notice.

(2) The Comptroller may, for any purpose related to the administration or enforcement of this Act, by serving written notice, demand that—

- (a) a person holding an amount for or paying or liable to pay any amount to a person liable to pay tax, or
- (b) a partner, president or other officer, director or agent of any person holding an amount for or paying or liable to pay any amount to a person liable to pay tax,

provide or produce any information or additional information or any document within the reasonable period of time, which shall not be less than 3 days, stipulated in the notice.

(3) The Comptroller may, by serving written notice, demand the production by any person, or by that person's agent, of any document in the possession of or under the control of that person or that person's agent within a reasonable period of time, which shall not be less than 3 days, stipulated in the notice, for the purpose of determining what tax, if any, is payable under a designated Act by any person.

(4) Any document provided or produced to the Comptroller under subsection (1), (2) or (3) may be detained for a sufficient time to make a copy of it.

(5) If a person is served with a notice under this section and the person does not comply with the notice, or does not permit a document to be copied, Comptroller may apply to the Court for an order directing the person to comply with the notice or permitting the copy to be made.

(6) On hearing an application, the Court may do one or more of the following—

- (a) make an order directing the person to provide or produce the information, additional information or document when the Court is satisfied that—
 - (i) the information or document demanded is in the possession of or under the control of the person, and
 - (ii) the information or document demanded is relevant to the administration or enforcement of a designated tax Act or this Act;
- (b) make an order permitting documents to be copied;
- (c) make its order subject to any terms or conditions that the Court considers appropriate in the circumstances;
- (d) award costs in relation to the matter.

Inspection and audit

22. (1) In this section, “dwelling house” means the whole or any part of a building or structure that is kept or occupied as a permanent or temporary residence and includes—

- (a) a building within the curtilage of a dwelling house that is connected to it by a doorway or by a covered and enclosed passageway; and
- (b) a unit that is designed to be mobile and to be used as a permanent or temporary residence that is being used as a permanent or temporary residence.

(2) For the purposes of ensuring that a designated tax Act and this Act are being complied with, a compliance officer may, at any reasonable time—

- (a) inspect or audit or examine—
 - (i) the records of a person who is required to keep records under a designated tax Act and this Act, and
 - (ii) any document of that person or of any other person that relates or may relate—
 - (A) to the information that is or should be in the records of the person who is required to keep records under a designated tax Act or this Act, or
 - (B) to any amount payable under a designated tax Act or this Act by or to the person referred to in subparagraph (i);
- (b) require the production for inspection or audit or examination of all records or documents that are or may be relevant to the inspection, audit or examination; and

- (c) detain any document inspected, audited, examined or produced for a sufficient time to make a copy of it.

(3) When a compliance officer on reasonable grounds believes that the records or documents referred to in subsection (2) are located in any place, the compliance officer may, at any reasonable time—

- (a) subject to subsection (4), enter the place; and
- (b) require the owner or manager of the place and any other person in the place to give the compliance officer all reasonable assistance and to make reasonable efforts to answer all proper questions relating to the administration of a designated tax Act or this Act and, for that purpose, require the owner or manager to attend at the place with the compliance officer.

(4) When the place referred to in subsection (3) is a dwelling house, the compliance officer shall not enter the dwelling house without the consent of the occupant of the dwelling house.

(5) If a compliance officer—

- (a) is refused entry into a place referred to in subsection (3);
- (b) is not given consent to enter a dwelling house;
- (c) has reasonable grounds to believe that he or she—
 - (i) will be refused entry into a place referred to in subsection (3), or
 - (ii) will not be given consent to enter a dwelling house; or
- (d) is impeded or has reasonable grounds to believe that he or she will be impeded in the carrying out of an inspection or audit or examination of any record or document or making copies of documents;

the compliance officer may apply to the Court for an order authorizing him or her to enter the place or dwelling house and carry out the compliance officer's inspection or audit or examination.

(6) On hearing an application, the Court may do one or more of the following—

- (a) make an order—
 - (i) authorizing the compliance officer to enter the place or dwelling house and carry out the compliance officer's duties,
 - (ii) directing any occupant to assist the compliance officer in any manner that the Court specifies,
 - (iii) restraining any person from impeding the compliance officer from entering the place or dwelling house or from carrying out the compliance officer's duties;

- (b) make its order subject to any terms or conditions that the Court considers appropriate in the circumstances;
- (c) award costs in relation to the matter.

Use of assistants

23. In exercising any powers or performing any duties under this Act, a compliance officer may be accompanied by any persons that the compliance officer considers necessary to assist the compliance officer in exercising his or her powers or performing his or her duties.

Copies

24. (1) If documents have been detained, inspected, audited, examined or produced under section 21 or 22, the person by whom they are detained, inspected, audited, examined or to whom they are produced or any assistant referred to in section 23 or public officer of the Department may make, or cause to be made, one or more copies.

(2) A compliance officer may authorise the documents referred to in subsection (1) to be removed for copying to another place, and when the compliance officer does so, he or she shall—

- (a) give a receipt for the documents; and
- (b) return the documents as soon as the copying is complete and in any event within a reasonable time.

(3) A document purporting to be certified by the Comptroller or a person authorized by the Comptroller to be a copy made pursuant to this section shall be admitted in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

Powers of Comptroller

25. (1) The Comptroller may—

- (a) by serving written notice on a person, require the person liable to pay tax under a designated tax Act, in a particular case—
 - (i) to keep any record,
 - (ii) to make any return, or
 - (iii) to comply with a specified method of accounting or keep its accounts in a particular manner,

for a purpose related to the administration of a designated tax Act or this Act;

- (b) establish the form of any document or form used in the administration of a designated tax Act or this Act; or
- (c) when the Comptroller is satisfied that a return was not filed on time by reason of circumstances beyond the control of the person liable to pay or that were the responsibility of the Department, extend the time for making a return under a designated tax Act.

(2) A notice referred to in subsection (1)(a) may be amended, revoked or replaced by the Comptroller.

(3) A notice referred to in subsection (1)(a) or a notice of amendment, revocation and replacement referred to in subsection (2) shall be effective on the day specified in the notice, which shall not be earlier than the day following the day on which the notice is served.

PART 6

NOTICE OF OBJECTION AND APPEAL

Notice of objection

26. (1) When a designated tax Act provides that a person may object to an action or decision of the Comptroller, that person may, within 90 days after the day the notice of the action or decision is served on the person, serve on the Comptroller a notice of objection in the prescribed form setting out the reasons for the objection and the relevant facts.

(2) The Comptroller may accept a notice of objection under this section notwithstanding that it was not served in accordance with section 34.

(3) On receipt of a notice of objection, the Comptroller shall without delay reconsider the action or decision taken by the Comptroller and shall—

- (a) vacate, confirm or vary that action or decision and notify the objector of the Comptroller's decision in writing; or
- (b) when the decision relates to an assessment, serve a new notice of assessment.

Extension of time by Comptroller

27. (1) When no notice of objection has been served under section 26(1) within the time limited by that provision for doing so, the person may apply to the Comptroller for an extension of the time for serving the notice of objection.

(2) An application made under subsection (1) shall set out the reasons why the notice of objection was not served within the time otherwise limited by this Act for doing so.

(3) An application made under subsection (1) shall be served on the Comptroller and accompanied by a copy of the notice of objection.

(4) The Comptroller may accept an application under this section notwithstanding that it was not served in accordance with section 34.

(5) On receipt of an application made under subsection (1), the Comptroller shall without delay consider the application and grant or refuse it and serve written notice of the decision on the person.

(6) When an application made under subsection (1) is granted, the notice of objection is deemed to have been served on the day the decision of the Comptroller referred to in subsection (5) is served on the person.

- (7) No application shall be granted under this section unless—
- (a) the application is made within one year after the expiration of the time otherwise limited by this Part for serving a notice of objection; and
 - (b) the person demonstrates that—
 - (i) within the time otherwise limited by this Act for serving the notice, the person—
 - (A) was unable to act or to instruct another to act in the person's name, and
 - (B) intended in good faith to object to the assessment,
 - (ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application, and
 - (iii) the application was made as soon as circumstances permitted.

Extension of time by Court

28. (1) A person who has made an application under section 27(1) may apply to the Court to have the application granted after—

- (a) the Comptroller has refused the application; or
- (b) 90 days has elapsed after service of the application under section 27(1) and the Comptroller has not notified the person of the Comptroller's decision;

but no application under this section may be made after the expiration of 90 days after the day on which written notification of the decision was served on the person.

(2) An application under subsection (1) shall be made by serving on the Comptroller a copy of the documents referred to in section 27(3) and the notification, if any, referred to in section 27(5) and by filing a copy of each with the Registrar of the Court.

(3) The Court may grant or dismiss an application made under subsection (1) and, in granting an application, may impose such terms as it considers just or order that the notice of objection is deemed to have been served on the date of its order.

- (4) No application shall be granted under this section unless—
- (a) the application was made under section 27(1) within one year after the expiration of the time otherwise limited by this Act for serving a notice of objection; and
 - (b) the person demonstrates that—
 - (i) within the time otherwise limited by this Act for serving the notice, the person—
 - (A) was unable to act or to instruct another to act in the person's name, or
 - (B) intended in good faith to object to the assessment,

- (ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application, and
- (iii) the application was made under section 27(1) as soon as circumstances permitted.

Notice of appeal

29. (1) A person who has served a notice of objection under section 26(1) may appeal to the Court to have the action or decision taken by the Comptroller vacated or varied—

- (a) when the Comptroller has, under section 26(3), confirmed or varied the action or decision taken by the Comptroller or served a new notice of assessment; or
- (b) after 90 days has elapsed after service of the notice of objection and the Comptroller has not acted under section 26(3);

but no appeal under this section may be instituted after the expiration of 90 days from the day a written notification under section 26(3) was served on the objector.

(2) An appeal to the Court shall be instituted by serving on the Comptroller a notice of appeal and by filing a copy of the notice of appeal with the Registrar of the Court.

(3) The notice of appeal shall be attached to the notice of objection and, for the purposes of section 32, is deemed to be a claim.

Reply to notice of appeal

30. (1) The Comptroller shall, within 60 days from the day the notice of appeal is received or within any further time that the Court may, either before or after the expiration of that time, allow, serve on the appellant and file in the Court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of any further allegations of fact and of any applicable statutory provisions and any reasons that the Comptroller intends to rely on.

(2) The Court may strike out a notice of appeal or any part of the notice for failure to comply with section 29 and may permit an amendment to be made to a notice of appeal or a new notice of appeal to be substituted for the one struck out.

(3) The Court may—

- (a) strike out any part of a reply for failure to comply with this section or permit the amendment of a reply; or
- (b) strike out a reply for failure to comply with this section and order a new reply to be filed within a time that it considers appropriate.

(4) If a notice of appeal is struck out for failure to comply with section 29 and a new notice of appeal is not filed as and when permitted by the Court, the Court may dismiss the appeal.

(5) If a reply is not filed as required by this section or is struck out under this section and a new reply is not filed as ordered by the Court within the time ordered, the Court may dispose of the appeal *ex parte* or after a hearing on the basis that the allegations of fact contained in the notice of appeal are true.

Powers of Court

31. (1) On the filing of the material referred to in sections 29 and 30(1), (2) and (3), the matter is deemed to be an action in the Court.

(2) A fact or statutory provision not set out in the notice of appeal or reply may be pleaded or referred to in any manner and on any terms that the Court may direct.

(3) The Court may, in an appeal of a decision with respect to a notice of objection under section 26(1) in relation to a notice of assessment—

- (a) dismiss the appeal; or
- (b) allow the appeal and—
 - (i) vacate the assessment,
 - (ii) vary the assessment,
 - (iii) restore the assessment, or
 - (iv) refer the assessment back to the Comptroller for reconsideration.

(4) The Court may, in an appeal of a decision with respect to a notice of objection under section 26(1) in relation to a notice of refusal, suspension or cancellation of registration under a designated tax Act—

- (a) dismiss the appeal; or
- (b) allow the appeal and direct, as the case may be, that subject to the terms or conditions the Court considers appropriate—
 - (i) registration be granted,
 - (ii) the suspension be removed, or
 - (iii) the registration be reinstated.

(5) The Court may, in delivering judgment on an appeal, order payment or repayment of tax, interest, penalties or costs by the appellant or the Comptroller.

Practice and procedure

32. Except as provided in the regulations, the practice and procedure of the Court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter deemed to be an action under section 31, and every judgment and order given or made in such an action may be enforced in the same manner and by like process as a judgment or order given or made in an action commenced in the Court.

Irregularities

33. An assessment under a designated tax Act shall not be vacated or varied on appeal by reason only of an irregularity, informality, omission or error on the part of a person in the observation of a provision of the designated tax Act that does not affect the substance and is unlikely to mislead.

PART 7

MISCELLANEOUS

Serving notices and documents

34. (1) This section does not apply to any provisions of this Act or a designated tax Act that specifies the manner in which written notice or a document is to be served.

(2) A written notice or document directed to the Comptroller or other public officer by a person, other than another public officer, is deemed to be sufficiently served if it is—

- (a) personally given to the Comptroller or public officer;
- (b) given to an adult person in charge of the office of the Comptroller or public officer;
- (c) sent by registered mail addressed to the Comptroller or public officer;
- (d) served in the manner prescribed for the purpose of this subsection.

(3) A written notice or document directed to an individual is deemed to be sufficiently served if it is—

- (a) personally given to the individual or a person who holds a power of attorney from the individual under which the attorney is authorised to accept service of the notice or document;
- (b) given to an adult person at the individual's residence or in charge of his or her place of business;
- (c) sent by registered mail addressed to the individual at his or her address last known to the person serving the notice and the individual has acknowledged receipt in writing; or
- (d) served in the manner prescribed for the purpose of this subsection.

(4) A written notice or document directed to a corporation or association is deemed to be sufficiently served if it is—

- (a) personally given to a director or officer of the corporation or association;
- (b) given to an adult person in charge of the office or place of business of the corporation or association;

- (c) in the case of a corporation under the Companies Act, the International Business Companies Act or the Limited Liability Corporation Act, served in the manner that a written notice or document may be given to the corporation under that Act;
 - (d) given to a person who holds a power of attorney for the corporation or association under which the attorney is authorised to accept service of the notice or document;
 - (e) sent by registered mail addressed to the corporation or association at its office or place of business and a person has acknowledged receipt in writing of the letter on behalf of the corporation or association; or
 - (f) served in the manner prescribed for the purpose of this subsection.
- (5) A written notice or document directed to a partnership is deemed to be sufficiently served if it is—
- (a) in the case of a partner who is an individual, given to the partner in accordance with subsection (3);
 - (b) in the case of a partner that is a corporation or association, given to the partner in accordance with subsection (4);
 - (c) given to a person who holds a power of attorney from the partnership under which the attorney is authorised to accept service of the notice or document on behalf of the partnership; or
 - (d) served in the manner prescribed for the purpose of this subsection.

Regulations

35. The Governor in Council may make regulations generally for the better administration of this Act, including regulations—

- (a) prescribing anything that may be prescribed under this Act;
- (b) assigning powers and duties to the Comptroller for the purpose of section 5(1)(j);
- (c) relating to the collection, under the direction and supervision of the Comptroller, of taxes and fees, charges, penalties and related amounts under sections 5(1)(c) or (d) by persons outside the Government;
- (d) establishing a waiver committee of senior public officers for the purposes of section 12 and providing for any matter in relation to the committee including its quorum, decisions, procedures, conflicts of interest by members of the committee;
- (e) governing the kinds, forms and amounts of securities that may be accepted by the Comptroller for the purpose of section 13(4);
- (f) requiring any person who pays tax imposed by a designated tax Act to furnish security for its collection, payment and remittance and respecting the form and amount of the security and its forfeiture or return or surrender;

- (g) providing that a certificate of good standing be required or produced in relation to a privilege of the Crown, whether or not provided by or under an Act, in relation to the registration of a document under the Registered Land Act or that a certificate may be given in relation to section 14 of this Act and making provision in relation to certificates of good standing, including—
 - (i) establishing classes of applicants or certificates,
 - (ii) determining the form and content of applications or classes of applications,
 - (iii) prescribing fees in relation to applications or classes of applications,
 - (iv) providing for the issue of certificates by the Comptroller, including, without limitation, the exercise of discretion by the Comptroller in relation to the terms on which a certificate is issued, including entry into an agreement and the provision of security under section 13(2), and the expiry date of a certificate,
 - (v) providing for the cancellation of a certificate issued in error or containing a material error,
 - (vi) making provision for the effect of the issue of a certificate or class of certificate in error or that contains a material error, and
 - (vii) establishing exemptions from the requirement for a certificate or class of certificate;
- (h) qualifying the practice and procedure of the Courts for the purposes of section 32;
- (i) requiring and governing the assignment of tax numbers;
- (j) defining any term used but not defined in this Act.

Citation

36. This Act may be cited as the Inland Revenue Department Act, Revised Statutes of Anguilla, Chapter I13.

Transitional provision

37. The Comptroller, the Deputy Comptroller and staff holding office in the Department immediately before 1 November 2010 are deemed to have been appointed for the purposes of this Act.

Transitional regulations

38. The Governor in Council may, in the one year period after 1 November 2010, make such transitional regulations as he or she considers appropriate and may make them retroactive to 1 November 2010.

