

EXPLANATION NOTE

TAX ADMINISTRATION AND PROCEDURE BILL

1. The Bill for consideration is the Tax Administration and Procedure Bill (the Bill).
2. The purpose of the Bill is to revise, consolidate and harmonize the rules relating to the administration of the tax laws in Saint Lucia and to ensure the efficient collection of taxes and other fees in the nature of taxes.
3. In the preliminary part of the Bill, provision is made for the short title and commencement in clause 1 of the Bill, interpretation in clause 2 of the Bill, application in clause 3 of the Bill and construction of the Bill and tax legislation in clause 4 of the Bill.
4. Part 1 of the Bill provides for administration. Clause 5 of the Bill provides for the Comptroller of Inland Revenue (the Comptroller) and clause 6 of the Bill provides the functions of the Comptroller. Clauses 7, 8 and 9 of the Bill make provision for the delegation of powers by the Comptroller, assistance of experts and confidentiality. Tax officers, and the indemnity against liability for acts done are provided for in clauses 10 and 11 of the Bill. The Inland Revenue Department must prepare an annual report under clause 12 of the Bill.
5. Public and private directives are provided for in Part II of the Bill. Public directives on tax legislations is provided for in clause 13 of the Bill and clauses 14 and 15 of the Bill provide for the publication, application and non-application of a public directive and withdrawal of a public directive. In clauses 16 to 20 of the Bill private directives are considered. Private directive by a taxpayer is provided for in clause 16 of the Bill. Consideration of an application for a private directive, making of a private

directive and withdrawal of a private directive are provided for in clauses 17 to 19 of the Bill. The publication of private directives is provided for under clause 20 of the Bill. The Department may provide guidelines, publication or other advice in accordance with clause 21 of the Bill.

6. A taxpayer must be registered under clause 22 of the Bill and have a Taxpayer Identification Number under clause 23 of the Bill as stated in Part III of the Bill on Taxpayer Registration and Taxpayer Identification Number.
7. Communications, forms and notices are provided for in Part IV of the Bill. Clauses 24, 25 and 26 of the Bill make provision for communications with taxpayers and other persons, the application of electronic tax system and electronic communications and forms and notices. A defect does not effect the validity a document according to clause 27 of the Bill and the rectification of a mistake is provided for in clause 28 of the Bill. A taxpayer has a right to information under clause 29 of the Bill and due dates and statement of reasons are provided for in clauses 30 and 31 of the Bill.
8. In Part V of the Bill, provision is made for record keeping and information collection. Under clauses 32, 33 and 34 provision is made for accounts and records access to information and the requiredment to produce information. There are provisions relating to the obligation of a bank or financial institution in clause 35 of the Bill, search and seizure warrants in clause 36 of the Bill and execution of a search and seizure warrant in clause 37 of the Bill. Clause 38 of the Bill provides for search and seizure without a warrant.
9. The provisions on Tax Returns in Part VI of the Bill deal with tax returns generally in clause 39 of the Bill, a notice to require filing in clause 40 of the Bill and a return is deemed to be furnished by due authority in clause 41 of the Bill. In Part IV of the Bill provision is also made for information returns under clause 42 of the Bill, extension of time to file returns under clause 43 of the Bill and the filing of a tax return under clause 44 of the Bill.

10. Assessments are provided for in Part VII of the Bill. Clauses 45, 46 and 47 of the Bill provide for self-assessments, default assessments and advance assessments. Amended assessments and application for making an amendment to a self-assessment are provided for in clauses 48 and 49 of the Bill. Clause 50 of the Bill provides the general anti-avoidance rule. The finality of an assessment is provided for under clause 51 of the Bill.
11. Part VIII of the Bill makes provision for objections and appeals. An objection may be made to an assessment under clause 52 of the Bill and the Comptroller may make a decision on an objection under clause 53 of the Bill. Clauses 54 and 55 of the Bill make provision for Appeal Commissioners and appeal from a decision by the Comptroller. A hearing may be held by the Appeal Commissioners under clause 56 of the Bill and there is a right to a further appeal under clause 57 of the Bill. The payment of tax is suspended by an objection or appeal according to clause 58 of the Bill and the burden of proof is presented in clause 59 of the Bill.
12. The liability for and payment of tax is covered in Part IX of the Bill. Clauses 60, 61 and 62 of the Bill make provision for the liability of a taxpayer and the due date, representative taxpayers and obligations and liabilities of a representative taxpayer. Clause 63 of the Bill provides for officers of unincorporated bodies. Liability for tax following winding-up, managers of entities and refundable amounts are set out in clauses 64, 65 and 66 of the Bill. Extension of time for payment, default in payment and the priority of tax are provided for under clauses 67 to 69 of the Bill. The order of payment of tax debts and currency are dealt with under clauses 70 and 71 of the Bill.
13. Provision is made for interest in Part X of the Bill which contains a general provision on interest in clause 72 of the Bill and provisions on interest on underpayments, interest on refundable amounts and interest rate under clauses 73, 74 and 75 of the Bill.

14. Tax may be recovered in accordance with Part XI of the Bill. General provisions relating to the recovery of the tax are made under clause 76 of the Bill. By virtue of clauses 77, 78 and 79 of the Bill provision is made for the period of limitations for collection, remission of tax and court proceedings. A lien is created under clause 80 of the Bill and clauses 81 and 82 of the Bill provide for execution against the taxpayer's property and the sale of seized property. The recovery of tax from persons leaving Saint Lucia is provided for under clause 83 of the Bill and a person may be prohibited from leaving Saint Lucia under a departure prohibition order in accordance with clause 84 of the Bill. The priority of a tax in bankruptcy is stated in clause 85 of the Bill and clauses 86 and 87 of the Bill make provision for offset against payments and third party debtors. Compliance with a notice issued to a third party debtor is provided for in clause 88 of the Bill and the preservation of assets and non-arm's length transferees are provided for in clauses 89 and 90 of the Bill. Transferred tax liabilities, receivers and security are provided for in clauses 91, 92 and 93 of the Bill. A tax compliance certificate may be issued under clause 94 of the Bill.
15. Civil penalties are specified in Part XII of the Bill. In clause 95 of the Bill a general provision relating to civil penalties is provided. Clauses 96, 97 and 98 of the Bill provide for failure to notify changes in taxpayer information or failure to register, late filing of tax return and a late payment. Underpayments are provided for in clause 99 of the Bill. Civil penalties are also created for false or misleading statements, failure to maintain documents, failure to comply with a third party notice, failure to provide facilities and failure to comply with a notice to give information under clauses 100 to 104 of the Bill.
16. Criminal proceedings are provided for in clauses 105 to 110 of the Bill contained in Part XIII of the Bill. Here there is a general provision on criminal proceedings as

well as provisions on the period of limitations, aiding and abetting and tax evasion. Provision is additionally made for impeding tax administration, failure to preserve confidentiality and offences by tax officers.

17. Part XIV of the Bill contains miscellaneous provisions on implementation of Mutual Administrative Assistance Agreements in clause 111 of the Bill. Clause 112 and 113 of the Bill provide for disclosure of information by the National Insurance Corporation and the amendment of the Schedules. The Minister may make Regulations under clause 114 of the Bill.
18. The Bill has two Schedules. In Schedule 1 the tax legislation that is applicable to the Bill are identified. Schedule 2 has the interest rate to be applied.

SAINT LUCIA

No. of 2022

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SAINT LUCIA

No. of 2022

AN ACT to revise, consolidate and harmonize the rules relating to the administration of the tax laws of Saint Lucia and to ensure the efficient collection of taxes and other fees in the nature of taxes and for related matter.

[]

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

PRELIMINARY**Short title and commencement**

1.—(1) This Act may be cited as the Tax Administration and Procedure Act, 2022.

(2) This Act comes into force on a day fixed by the Minister by Order published in the *Gazette*.

Interpretation

2.—(1) In this Act —

“authorized officer” in relation to the exercise of a particular power under this Act, means the Comptroller or tax officer with delegated authority or any other person authorized in writing by the Comptroller to exercise the power;

“Appeal Commissioners” means the Appeal Commissioners appointed under section 54;

“body of persons” —

(a) means an association of persons, howsoever described;

(b) does not include an incorporated company or a partnership;

“Comptroller” means the Comptroller of the Department;

“Comptroller of Customs” means the Comptroller of Customs referred to under section 4 of the Customs (Control and Management) Act, Cap. 15.05;

“company” —

(a) means a body corporate, wherever incorporated,;

(b) does not include a partnership or an unincorporated body of persons;

“Department” means the Inland Revenue Department;

“electronic” means technology having electrical, digital, magnetic, wireless optical, electromagnetic, biometric, photonic or similar capabilities;

“electronic form” means a form of electronic communication of the contents of a document;

“electronic record” means a record created sent communicated, received or stored in electronic form and which can be read or perceived by a person or a computer system or other similar device;

“executor” means the executor, administrator or other person administering or managing the estate of a deceased person;

“Minister” means the Minister responsible for finance;

“online platform” means the web-based online application which has been developed and implemented to offer taxpayer and his or her representative —

- (a) access to tax accounts, information filed electronically;
- (b) to receive communication via electronic means from the Department; and
- (c) to make payments on a tax account;

“person” includes —

- (a) an individual;
- (b) a trust;
- (c) the estate of a deceased person;
- (d) a company;
- (e) a partnership;
- (f) an unincorporated body of persons;
- (g) a public authority;
- (h) a local authority;
- (i) a government, such as a foreign government or a political subdivision of a government, and
- (j) other juridical person; where a juridical person is an non-natural person recognized by law or fact to have legal personality, such as bodies of persons or contractual arrangements without a legal personality, and permanent establishments;

“Permanent Secretary” means the Permanent Secretary in the Department of finance;

“police officer” includes —

- (a) a member of the Royal Saint Lucia Police Force; and
- (b) a member of the special reserve, a special constable or a rural constable appointed under the Police Act, Cap. 14.02;

“record” includes —

- (a) accounting record;
- (b) an account;
- (c) a book;
- (d) an electronic record;
- (e) computer-stored information;
- (f) information that is inscribed, stored or otherwise fixed in a tangible medium or that is stored in an electronic form and is retrievable in perceivable form; and
- (g) other records, such as the records section 69 of the Value Added Tax Act, Cap. 15.42;

“related person”, —

- (a) in relation to a person, means —
 - (i) a natural person and a relative of that natural person,
 - (ii) a trust and a person who is or may be a beneficiary in respect of that trust or whose relative is or may be a beneficiary,
 - (iii) a partnership or company limited by shares and a member of the partnership or company limited who, together with shares or other membership interests held by persons who are related to such member under another paragraph of this definition, owns twenty-five per cent or more of the rights to income or capital of the partnership or company,

- (iv) a shareholder in a company limited by shares if the shareholder, together with shares held by persons who are related to such shareholder under another paragraph of this definition —
 - (A) controls twenty-five per cent or more of the voting power in the company limited by shares; or
 - (B) owns twenty-five per cent or more of the rights to dividends or of the rights to capital, or
 - (v) two companies, if a person, alone or together with a person or persons who are related to such person under another paragraph of this definition —
 - (A) controls twenty-five per cent or more of the voting power in both companies; or
 - (B) owns twenty-five per cent or more of the rights to dividends or of the rights to capital in both companies; and, for the purposes of paragraphs (c), (d), and (e) of this definition, a person is treated as owning, on a pro rata basis, shares or other membership interests which are owned or controlled by such person indirectly through one or more interposed persons; or
 - (b) in relation to a private tax ruling, a tax consultant or tax representative of that person;
- “relative” in relation to an individual, means the individual’s —
- (a) descendant;
 - (b) spouse;
 - (c) parent;
 - (d) grandparent;
 - (e) ancestor;
 - (f) sibling;
 - (g) aunt;
 - (h) uncle;

(i) nephew;

(j) niece;

(k) first cousin by marriage or adoption;

“relevant material” means a document that contains information relevant to an alleged failure to comply with a tax law or the commission of a tax offence by a person;

“senior tax officer” means a tax officer appointed by the Public Service Commission as a Senior Tax Inspector;

“tax” —

(a) means a compulsory payment to Government imposed under a law to which this Act applies, regardless of whether that payment is designated as a tax, fee, duty, cost of recovery, levy or otherwise;

(b) includes withholding tax, instalments, interest, late fee, or penalty in relation to a tax;

“taxable activity” has the meaning assigned under section 6 of the Value Added Tax Act, Cap. 15.42;

“tax legislation” means an enactment specified in the Schedule;

“tax officer” means —

(a) the Comptroller; and

(b) a person appointed within the Department;

“taxpayer” means —

(a) a person who is required to pay tax under a tax law including a person who has zero chargeable income or a loss for a year of assessment;

(b) a person who is required to register for tax purposes under a tax law;

(c) a person who is required to withhold tax and pay it to the Department; or

(d) a person who is required to file a tax return under a tax law;

“tax return” —

- (a) means a return;
- (b) includes an information return, that a person is required to file with the Department, in which information about that person’s or some other person’s possible tax liability is provided;

“taxpayer identification number” has the meaning assigned under section 23;

“trustee” —

- (a) means a person appointed or constituted as a trustee by act of parties, order or declaration of a court or operation of law;
- (b) includes a person having or taking on himself or herself the administration or control of property subject to a trust.

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

Application

3.—(1) This Act applies to —

- (a) the taxes imposed under the tax laws;
- (b) a tax under another law if responsibility for the general administration of the tax is assigned to the Comptroller; and
- (c) an Act the Comptroller has responsibility to administer including delegated authority.

(2) Where there is inconsistency between this Act and the provisions of a law to which this Act applies, this Act prevails, unless provided otherwise in this Act or in the provisions of a law to which this Act applies.

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

(4) The provisions of Part II, Division 3, Part IV and sections 9, 32, 35, 94, 95, 98 and 102 of this Act apply to the laws listed in Schedule 3.

Construction of this Act and tax legislation

4. —(1) In construing a provision of this Act or tax legislation —
- (a) a construction that would promote the purpose or object underlying the provision or the tax legislation, whether that purpose or object is expressly stated in the law or not, must be preferred to a construction that would not promote that purpose or object;
 - (b) if any material that does not form part of the law is capable of assisting in ascertaining the meaning of the provision, consideration may be given to that material —
 - (i) to confirm that the meaning of the provision is the ordinary meaning conveyed by the text of the provision, taking into account its context in the law and the purpose or object underlying the law, or
 - (ii) to determine the meaning of the provision when —
 - (A) the provision is ambiguous or obscure; or
 - (B) the ordinary meaning conveyed by the text and taking into account its context in the law and the purpose or object underlying the law, leads to a result that is manifestly absurd or is unreasonable.

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

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

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

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

(6) A reference in this Act to “this Act” or “this law” or to a provision of “this Act” or “this law” includes, as the context requires, a reference to the tax legislation or to a corresponding provision of the tax legislation.

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

PART I ADMINISTRATION

Comptroller of Inland Revenue

5. The Comptroller shall, administer the laws relating to the audit, assessment, administration, collection and accounting of all domestic tax revenue and any other Act that applies from this Act and any other law to which this Act applies.

Functions and powers of the Comptroller

6.—(1) The functions of the Comptroller are to —

- (a) provide for the general direction, supervision and administration of this Act; and
- (b) shall have such other functions as may be assigned to him or her by this Act or any other law.

(2) For the purposes of discharge of the functions under this Act, the Comptroller has the power to —

- (a) advise the Permanent Secretary on matters relating to revenue;
- (b) serve as principal adviser to the Financial secretary in matter respecting administration of the relevant laws relating to revenue;

- (c) make recommendations to the Permanent Secretary concerning proposals for taxation legislation;
- (d) assist the Permanent Secretary with planning and research activities for tax administration in Saint Lucia;
- (e) administer domestic tax laws, other than those relating to custom duties;
- (f) undertake public relations activities for tax administration in Saint Lucia; and
- (g) supervise the tax officers.

Delegation of functions and powers

7.—(1) The Comptroller may, by written instrument, delegate to an officer of the Department or tax officer a power, function or duty conferred or imposed on the Comptroller under this Act in relation to any matter or class of matter, other than —

- (a) the power of delegation conferred by this section; and
- (b) the power to sanction prosecutions under section 103.

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

(3) A delegation made under this section is revocable at any time by the Comptroller.

(4) A delegation does not prevent the performance or exercise of the delegated powers, functions or duties by the Comptroller.

Assistance of experts

8.—(1) The Comptroller may engage experts, on terms and conditions as the Comptroller thinks fit, to assist the Department and its tax officers in the proper performance of functions and for the proper implementation of this Act.

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

(3) An authorized tax officer shall supervise assistance provided by an expert.

(4) A person may —

- (a) refuse to deal directly with an expert;
- (b) complain in writing to the Comptroller that the engagement of a particular expert involves a conflict of interest.

(5) A person shall not obstruct an expert that is assisting an authorized officer.

(6) The Comptroller shall decide on a complaint made under subsection (4)(b) within thirty days and the decision of the Comptroller whether to continue with the engagement is final and where a decision required is not made within thirty days, the expert may no longer be engaged on the matter.

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

(8) Sections 9, 10(3) and (4) , 108, and 109 apply to an experts appointed under this section.

Confidentiality

9.—(1) Subject to this section, the Comptroller and a person employed in carrying out the provisions of or having an official duty under this Act shall regard and deal with as secret —

- (a) all documents and information relating to a person; and
- (b) all confidential instructions in respect of the administration of this Act which may come into his or her possession or to his or her knowledge in the course of his or her duties.

(2) This section does not apply to the disclosure of confidential information —

- (a) to a person authorized to receive such information for the purposes of this Act by —

- (i) Cabinet,
 - (ii) the Comptroller, or
 - (iii) a person under any other enactment;
- (b) where disclosure is necessary for the purposes of this Act, to —
- (i) the Comptroller of Customs or his or her agent in the course, and for the purpose, of carrying out their duties,
 - (ii) the Permanent Secretary in the course, and for the purpose, of carrying out supervision of the Department,
 - (iii) employees of the Ministry responsible for finance, for the purpose of reviewing and evaluating tax issues,
 - (iv) tax authorities of a foreign country, in accordance with an international agreement,
 - (v) law enforcement agencies, for the purpose of the prosecution of a criminal offence,
 - (vi) a court, in proceedings to establish a taxpayer's tax liability or responsibility for an offence under a law,
 - (vii) the Permanent Secretary the for the purposes of carrying out his or her duties related to this Act, and
 - (viii) other government agencies and statutory bodies, after execution of a formal agreement, and only for the purpose and extent that it is relevant or material to the administration and enforcement of their laws;
- (c) to any other person to whom such disclosure is necessary for the purposes of this Act or any other law in force in Saint Lucia which the Comptroller has the power, duty or function to administer;
- (d) to the taxpayer or the taxpayer's authorized representative after obtaining reasonable assurance of the authenticity of the claim; or

(e) to another person if the information concerns a taxpayer and that taxpayer has provided written consent.

(3) This section does not prevent the disclosure of information of a statistical nature, that is supplied in a manner that does not disclose the identity of a person in relation to his or her income.

(4) A person appointed under or employed in carrying out the provisions of this Act and a person to whom confidential information is disclosed under subsection (2)(a) or (b) shall make an oath or affirmation of secrecy in the manner and form approved by the Comptroller.

(5) A person to whom confidential information is disclosed under subsection (2)(a) or (b) may be relieved by the Comptroller from making an oath or affirmation of secrecy in the manner and form approved, where the Comptroller is satisfied that another piece of legislation under which the confidential information is issued maintains at least the secrecy and penal provisions under this Act.

(6) An oath or affirmation under subsection (4) may be taken before the Comptroller who is hereby authorized to administer such oath or affirmation or before a magistrate, and no fee is payable.

(7) The obligation as to secrecy imposed by this section continues to apply in respect of a person who ceases to have an official duty under or be employed in carrying out the provisions of this Act.

(8) A person under subsection (1) is not required to produce in a court, a return of income, assessment or notice of assessment or to divulge or communicate any information which comes to his or her knowledge in the performance of his or her duties under this Act except to the extent to which it is necessary for the purposes of this Act.

(9) Nothing in this section prevents the Comptroller from publishing a list of the names of taxpayers —

- (a) who are in default under section 66;
- (b) who have failed to file a return as required; or
- (c) on whom a penalty has been imposed.

(10) Nothing in this section prevents the Comptroller and the Comptroller of Customs from exchanging information in order to

perform their duties under an enactment that is administered by the Comptroller and the Comptroller of Customs.

(11) A person who contravenes section 9(1) or (2) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years, or both.

Conflict of interest

10. A tax officer shall not exercise a power, or perform a duty or function, under a tax law that —

- (a) relates to a person in respect of which the tax officer has or had a personal, family, social, business, professional, employment, or financial relationship; or
- (b) otherwise presents a conflict of interest including —
 - (i) to prepare a tax return on behalf of a taxpayer or provide tax advice to a taxpayer, for reward, whether by cash or kind,
 - (ii) to act as a tax accountant or consultant,
 - (iii) to accept employment from any person preparing tax returns or giving tax advice.

Indemnity against liability for acts done

11. The Comptroller, an officer of the Department, an expert engaged under section 8, or any other person authorized by the Comptroller to carry out the provisions of this Act shall be indemnified against any liability in civil or criminal proceedings for any acts done in good faith by or in the name of the Comptroller under any duty imposed under this Act.

Annual report of the Department

12.—(1) The Comptroller shall prepare an annual report of the Department's activities for each financial year and submit a copy of the annual report to the Minister through the Permanent Secretary within three months after the end of the financial year.

(2) An annual report under subsection (1) must contain the prescribed information.

(3) The Minister shall cause a copy of the annual report of the Department to be laid before Parliament within two months after the Minister receives the report.

(4) In this section, “financial year” means the period of twelve months commencing on April 1 in each year, or such period that may be determined by the Ministry responsible for finance.

PART II PUBLIC AND PRIVATE DIRECTIVE

Public Directive on tax legislation

13.—(1) To achieve consistency in the application of tax legislation and to provide guidance to the general public and officers of the Department, the Comptroller may issue a directive setting out the Comptroller’s interpretation and application of the tax legislation.

(2) A public directive under subsection (1) is binding on the Comptroller until withdrawn.

(3) A public directive under subsection (1) is not binding on taxpayers and may be relied on by the Comptroller or a person for legitimate expectation.

(4) A public directive under subsection (1) must —

- (a) set out the Comptroller’s opinion on the application of a tax law in the circumstances specified in the ruling and is not a decision of the Comptroller for the purposes of this Act or any other law;
- (b) state that it is a public ruling and have a number and subject heading.

Publication, application and non-application of directive

14.—(1) The Comptroller issues a directive by publishing the public directive in the *Gazette* and on the Department’s official website.

(2) Subject to subsection (3), a public directive applies from the date specified in the public directive or, if a date is not specified, from the date of publication.

(3) A public directive does not apply before the date of publication unless it is for the benefit of taxpayers.

Withdrawal of a public directive

15.—(1) The Comptroller may withdraw a public directive, in whole or part, by publishing the withdrawal in the *Gazette* and on the Department's official website.

(2) Where legislation is passed, or the Comptroller publishes a later public directive that is inconsistent with an existing public directive, the existing directive is treated as withdrawn to the extent of the inconsistency.

(3) The withdrawal of a public ruling, in whole or part, has effect from —

- (a) where subsection (1) applies and subject to paragraph (b), the date specified in the notice of withdrawal or, if no date is specified, the date that the notice of withdrawal of the public directive is published; or
- (b) where subsection (2) applies, the date of application of the legislation or later public ruling.

(4) A public directive may not be withdrawn under subsection (3) before the date of publication of the notice of withdrawal unless the withdrawal of the public directive is for the benefit of taxpayers.

(5) A public directive that has been withdrawn, in whole or in part —

- (a) continues to apply to a transaction commenced before the public ruling was withdrawn; and
- (b) does not apply to a transaction commenced after the public ruling was withdrawn to the extent that the ruling is withdrawn.

Application for private directive by taxpayer

16.—(1) A taxpayer may make an application to the Comptroller for a private directive setting out the Comptroller's position regarding the application of tax legislation to a transaction entered into, or proposed to be entered into, by the taxpayer.

- (2) An application under subsection (1) must —
- (a) be in writing;
 - (b) include full details of the transaction to which the application relates together with all documents relevant to the transaction;
 - (c) specify precisely the question on which the ruling is required; and
 - (d) give a full statement setting out the opinion of the taxpayer as to the application of the tax legislation to the transaction.

Consideration of application

17.—(1) Subject to section 17 the Comptroller shall, within one hundred and eighty days of receipt of an application under this section issue a private directive on the question to the taxpayer.

(2) A private directive is binding on the Comptroller as against the taxpayer identified in the private directive if —

- (a) the taxpayer has made a full and true disclosure of all aspects of the transaction relevant to the making of a private directive; and
- (b) the transaction has proceeded in all material respects as described in the application for the private directive.

(3) A private directive is not binding on a taxpayer, other than the taxpayer identified in the private directive.

(4) The Comptroller may refuse an application for a private directive if —

- (a) the Comptroller has decided the question that is the subject of the application in —
 - (i) a notice of a tax assessment served on the taxpayer,
 - (ii) a notice of a public ruling on the question or other guidance issued by the tax authority that is in force,
 - (iii) a ruling published under section 20 that is in force;
- (b) the application relates to a question that is the subject of a tax audit in relation to the applicant or a related person

to the applicant, or an objection lodged by the applicant or a related person to the applicant;

- (c) the application is frivolous or vexatious as determined by the Comptroller;
- (d) the transaction to which the application relates has not been carried out and there are reasonable grounds to believe that the transaction will not be carried out;
- (e) the applicant has not provided the tax authority with sufficient information to make a private ruling;
- (f) in the opinion of the Comptroller, it would be unreasonable to comply with the application, having regard to the resources needed to comply with the application and any other matters the tax authority considers relevant; or
- (g) the making of the ruling involves the application of a tax avoidance provision.

(5) The Comptroller shall serve the taxpayer with a written notice of a decision to refuse to make a private directive under this section.

Making a private directive

18.—(1) The Comptroller may issue a private directive by serving written notice of the private ruling on the taxpayer of the private directive or his or her representative.

(2) The Comptroller may issue a private directive on the basis of assumptions about a future event or other matters as considered appropriate.

(3) A private directive must —

- (a) state that it is a private directive;
- (b) set out the question directed on; and
- (c) identify the following —
 - (i) the taxpayer to whom the private directive applies,
 - (ii) the tax law relevant to the private directive,
 - (iii) the tax period to which the private directive applies,

(iv) the transaction to which the private directive relates, and

(v) any assumptions on which the private directive is based.

(4) A private directive comes into effect when the taxpayer is served with written notice of the private directive and the private directive remains in force until withdrawn under section 19.

(5) A private directive sets out the Comptroller's opinion on the question raised in the private directive application and is not a decision of the Comptroller that can be formally reviewed, appealed or otherwise objected to, for the purposes of this Act or any other enactment.

(6) Subject to section 16(4), subsection (5) does not limit a taxpayer's rights with respect to a tax assessment served on the taxpayer to which the private directive relates, and the conclusions of the private directive may be used during any review by or against the taxpayer.

Withdrawal of a private directive

19.—(1) The Comptroller may, for reasonable cause, withdraw a private directive, in whole or in part, by written notice served on the taxpayer.

(2) Where legislation is passed that is inconsistent with an existing private directive, the private directive is treated as withdrawn to the extent of the inconsistency.

(3) The withdrawal of a private directive, in whole or part, has effect from —

(a) where subsection (1) applies, the date specified in the notice of withdrawal; or

(b) where subsection (2) applies, from the date of application of the inconsistent legislation.

(4) A private directive that has been withdrawn —

- (a) continues to apply to a transaction of the taxpayer commenced before the private directive was withdrawn; and
- (b) does not apply to a transaction of the taxpayer commenced after the private directive was withdrawn to the extent the ruling is withdrawn.

Publication of private directive

20.—(1) The Comptroller shall publish a private directive made under section 18 in the *Gazette* except that the identity of the taxpayer to whom the private directive relates must not be indicated in the publication.

(2) Where a private directive has been withdrawn under section 19, the Comptroller shall immediately publish a notice of withdrawal in the *Gazette* stating that the private directive ceases to be binding with effect from the date determined under section 19(3).

Guidelines, publication or Other advice

21.—(1) Guidelines, publication, or other advice, oral or in writing, provided by the Department is binding on the Comptroller unless it is a public directive or a private directive.

(2) A taxpayer who relies on guidelines, a publication, or other advice provided by the Department is not subject to penalty or late payment interest if the guidelines, publication, or other advice is subsequently found to be inaccurate.

PART III
TAXPAYER REGISTRATION AND TAXPAYER IDENTIFICATION
NUMBER

Registration

22.—(1) Subject to registration requirements in tax legislation, a person who furnishes a return of income for a year or period of assessment or taxable event, and who is not registered, is required to register with the Comptroller no later than thirty days after the end of the basis period for that year.

(2) A person registering under this section shall submit the application for registration in the form and manner specified by the Comptroller and provide information to the Comptroller as the Comptroller requires to give effect to the registration.

(3) The Comptroller may register a person whom the Comptroller considers to appear to meet the requirements for registration and assign the person a taxpayer identification number.

(4) Where the Comptroller refuses to register a person who has applied for registration under tax legislation, the Comptroller shall serve the person with written notice of the refusal within fourteen days of making the decision.

(5) Subject to tax legislation, a taxpayer shall notify the Comptroller in writing of a change in name, including business name or other trading name, representative, address, place of business, or nature of the taxable activity carried on no later than thirty days following the date of the change.

Taxpayer identification number

23.—(1) The Comptroller shall assign a unique taxpayer identification number to a taxpayer.

(2) The taxpayer identification number must be used for the tax legislation.

(3) The Comptroller may assign a taxpayer identification number to a person who is not a taxpayer, and who —

- (a) makes payments which are subject to tax in the hands of the recipient;
- (b) is, or may be, required to file a tax return;
- (c) is required under this Act or Regulations to furnish a taxpayer identification number to another person; or
- (d) is required to register under section 22.
- (e) is entitled to a refund of tax paid; or
- (f) are prescribed persons.

(4) A taxpayer shall —

- (a) include the taxpayer identification number on documents relating to tax legislation; and
- (b) furnish the taxpayer identification number to another prescribed person as a person who is required to furnish tax information with respect to the person furnishing the number.

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

PART IV COMMUNICATIONS, FORMS, AND NOTICES

Communications with taxpayers and other persons

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

(2) Where a notice or other document is required or authorized to be served on or given to a person by the Comptroller, the notice or other document is sufficiently served —

- (a) in the case of a person other than a company, a body of persons or a partnership if —
 - (i) personally served on him or her or his or her representative,
 - (ii) left at his or her address for service,
 - (iii) sent by post to the address for service, or
 - (iv) subject to the tax legislation communicated via an electronic form;
- (b) in the case of a company if —
 - (i) personally served on the principal officer of the company or its representative,

- (ii) left at or sent by post to the company's address,
- (iii) where no address for service has been appointed, left at or sent by post to an office or place of business of the company, or
- (iv) subject to the tax law, communicated via an electronic form;

(c) in the case of a partnership if —

- (i) personally served on the precedent partner or agent of the partnership or its representative,
- (ii) left at or sent by post to the partnership's address,
- (iii) where no address for service has been appointed, left at or sent by post to any office or place of business of the partnership, or
- (iv) subject to the tax law, communicated via electronic means or via an online platform provided by the Department;

(d) in the case of a juridical or body of persons, if left at or sent by post to the address for service of that body or communicated via electronic means.

(3) Where a notice is served on a person —

- (a) requiring the personal attendance of that person before the Comptroller; or
- (b) appointing that person as the agent of some other person for the payment of tax,

the provisions of subsection (1) relating to service by post is construed as service by registered post.

(4) A notice served by post under this section is considered to be served, in the case of —

- (a) a person resident in Saint Lucia, seven days; and
- (b) a non-resident with an address outside of Saint Lucia, thirty days,

after the date on which such notice was posted.

(5) Service may be electronic if permitted under sections 24(2) and 25.

(6) Where a person —

- (a) refuses to accept delivery of a letter addressed to the person; or
- (b) fails to collect a letter after being informed that the letter is available for collection at a post office,

the letter is treated as having been served on the person on the date on which the person refused to accept delivery of the letter or was informed that the letter was at the post office.

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

(8) Where a person has failed to comply with section 22(6), or the requirements to notify the Comptroller of a change in name including business name or other trading name, representative, address, or place of business as required by a tax law, service to an inaccurate address is considered effective.

Application of electronic tax system and electronic communications

25.—(1) Subject to this Act, the Comptroller may authorize any of the following to be done electronically through a computer system, mobile electronic device or an electronic platform —

- (a) the lodging of an application for registration under tax legislation;
- (b) the filing of a tax return or other document under tax legislation;
- (c) the payment or repayment of tax under tax legislation;
- (d) the paying of a refund under tax legislation;
- (e) the service of documents by the Comptroller; and
- (f) the doing of any other act or thing that is required or permitted to be done under tax legislation.

(2) The Comptroller may direct that a person must do anything referred to in subsection (1) via electronic means or through the use of a computer system or mobile electronic device.

(3) The Comptroller may do anything referred to in subsection (1) via electronic means or through the use of a computer system, mobile electronic device or an electronic platform.

(4) A person who files a tax return and pays tax via electronic means under this section shall continue to file tax returns and pay tax in that manner unless otherwise authorized by the Comptroller.

Forms and notices

26.—(1) Subject to this Act, the Comptroller may approve the form of a notice, return of income or other return required for the purposes of this Act, and where a form has been approved the form of the notice or return must be used for such purposes.

(2) A notice given by the Comptroller under this Act may be signed by the Comptroller or an officer not being below the rank of a senior tax inspector authorized by the Comptroller in that behalf and a notice signed on behalf of the Comptroller is, unless the contrary is proved, presumed to have been signed by an officer so authorized.

(3) A form, notice or other document issued, served or given by the Comptroller under this Act is sufficiently authenticated if the name or title of the Comptroller or the name or title of the officer authorized in that behalf, is printed, stamped or written on the form, notice or document.

(4) The Minister may, on recommendation of the comptroller, make Regulations to prescribe the form and notices approve under this section.

Defect does not affect validity

27.—(1) A notice of assessment or other notice or document issued under this Act is not to be considered invalid or ineffective by reason of a failure to comply with the requirements of section 24 if the taxpayer had effective knowledge of the fact of the notice and of its content.

(2) A notice of assessment or other notice or document issued under this Act is not to be considered invalid or ineffective by reason

of defects if it is, in substance and effect, in conformity with this Act, and the person assessed, or affected by the document, is designated in it according to common understanding.

Rectification of mistakes

28. When a notice of a tax assessment or other document served by the Comptroller under a tax law contains a mistake that is apparent from the record and the mistake does not involve a dispute as to the interpretation of the law or facts of the case, the Comptroller may, for the purposes of rectifying the mistake, amend the assessment or other document before the expiry of six years from the date of service of the notice of the tax assessment or other document.

Taxpayer's right to information

29. On the request of a taxpayer, the Department —

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

Due dates

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

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

Statement of reasons

31.—(1) When the Comptroller has refused an application made by a person under this Act, the notice of refusal must include a statement of reasons for the refusal.

(2) Where the Comptroller has failed to provide a person with a statement of reasons under subsection (1), the person may, by notice

in writing to the Comptroller within thirty days of being served with the notice of refusal, request the Comptroller to provide a statement of reasons.

(3) Where a person has filed a notice of request with the Comptroller under subsection (2), the time for challenging the decision to which the request relates does not commence until the date that the Comptroller serves the person with the statement of reasons.

PART V RECORD KEEPING AND INFORMATION COLLECTION

Accounts and records

32.—(1) A taxpayer engaged in business or independent professional activity or required to make a return under a tax law shall keep and maintain in Saint Lucia records and accounts sufficient to record all transactions and to ascertain the gains and profits made or the loss incurred in respect of those transactions.

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

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

(4) Without prejudice to the records and accounts described in subsection (1), a taxpayer shall retain source documents and underlying documentation utilized in the creation of the records and accounts.

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

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

tax period to which the records are relevant and until any related proceedings have been completed; or

- (c) if provided by notice in writing by the Comptroller, for any such further period of time as he or she considers necessary for their proper examination.

(6) Notwithstanding anything in a tax law, the Regulations may provide for a system of simplified recordkeeping for small businesses.

(7) Where records required under this section are requested, the records must be produced in English within a reasonable time.

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

(9) Costs incurred by a person subject to this Part is borne by that person.

(10) In this section, “source documents” include —

- (a) sales and purchase invoices;
- (b) costing documents;
- (c) bookings;
- (d) diaries;
- (e) purchase orders;
- (f) delivery notes;
- (g) bank statements;
- (h) contracts;
- (i) tax credit notes;
- (j) tax debit notes;
- (k) customs documentation relating to imports; and
- (l) exports, and other documents which relate to an element of a transaction.

Access to information, assets, and land

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

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

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

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

(3) An authorized officer may enter on any property for the purpose of surveying and valuing the property —

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

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

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

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

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

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

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

(9) Documents specifically requested by the Comptroller under this section or section 35, and which a taxpayer or other specified person fails to provide, must not be used by the taxpayer or other person in an objection, appeal or judicial proceedings challenging an assessment or determination, except with the agreement of the Comptroller.

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

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

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

(13) The Comptroller may —

(a) cause any land or property to be visited, inspected, and measured; and

(b) may call on any person to produce for inspection any map,

plan, title deed, instrument of title, or other document in the custody or under the control of that person which relates to the land or property.

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

(15) In this section —

“authorized purpose” means the collection of information —

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

“business premises” includes a place where any business is carried on or where anything is done in connection with a business.

Requirement to produce information

34.—(1) For the purposes of administering tax legislation or to comply with a request for the exchange of information under section 9 (2), the Comptroller may, by giving reasonable notice in writing, require a person, whether a taxpayer or not —

- (a) to furnish the information that is required by the notice, including information concerning another person;
- (b) to appear at the time and place designated in the notice for the purpose of being examined or of producing documents or other evidence in the control of that person which are described in the notice; or
- (c) to produce, by the time specified in the notice, all documents in the person’s custody or under the person’s control relating to the person’s or any other person’s tax affairs as specified in the notice.

(2) Without prejudice to the generality of subsection (1), the Comptroller may require a bank or financial institution —

- (a) to furnish to the Comptroller details of any banking or financial account or other assets which may be held on behalf of any person, or to furnish a copy of statements of any such account;
- (b) to permit the Comptroller or an authorized officer to inspect the records of the bank or financial institution with respect to the account of any person; or
- (c) to furnish annually a schedule showing the amount of deposits, contributions, premiums or any transaction that increase an asset with the bank or financial institution together with the names and addresses of the persons to whom such transactions were made; or may require the attendance of any officer of a bank or financial institution before the Comptroller to give evidence respecting any account or other assets which may be held by the bank or financial institution on behalf of any person.

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

- (a) a payment by a person to a non-resident; and
- (b) a payment by an employer to an employee, the deduction of tax and the accounting for the tax deducted.

where such course of action appears to the Comptroller to be necessary for the purposes of any prosecution or the substantiation of an assessment.

(4) The Comptroller may —

- (a) make copies of books of account or other documents that are produced for purposes of this section; or
- (b) retain books of accounts or other documents.

(5) Subject to section 34(8), this section has effect notwithstanding any law relating to confidentiality, privilege, or the public interest with respect to the production of or access to documents or other evidence, including a law relating to bank secrecy and any contractual duty of confidentiality.

Obligations of bank or financial institution

35.—(1) A bank or financial institution shall keep account of transactions with a client, including the client's identity, the client's beneficial owner and the client's ultimate beneficial owner.

(2) In this section, "beneficial owner" —

- (a) means the natural owner or person who owns or controls a client or natural person on whose behalf a transaction is being conducted;
- (b) in the case of a company, includes a person who owns shares or exercises control equivalent to five per cent or more of the company;
- (c) includes a persons who exercises ultimate effective control over a legal person or legal arrangement.

Search and seizure warrants

36.—(1) For the purposes of determining whether a person has failed to comply with an obligation under tax legislation or committed a tax offence, the Comptroller or an authorized officer may apply *ex parte* to a judge or magistrate for a search and seizure warrant.

(2) An application under subsection (1) must set out the —

- (a) alleged failure to comply with a tax law or tax offence that is the basis for the application;
- (b) name of the person alleged to have failed to comply with a tax law or to have committed the tax offence;
- (c) premises to be searched; and
- (d) documents sought.

(3) When an application has been made under subsection (1), the judge or magistrate may issue a search and seizure warrant if satisfied that there are reasonable grounds to believe that —

- (a) the search and seizure is necessary to determine whether a person has failed to comply with an obligation under a tax law or committed a tax offence; and

(b) a document or record is likely to be found on the premises may provide evidence as to the matters specified in paragraph (a).

(4) A warrant issued under subsection (3) must, as far as is reasonably practical contain the —

- (a) alleged failure to comply with a tax law or tax offence that is the basis for the application;
- (b) person alleged to have failed to comply with a tax law or to have committed the tax offence;
- (c) premises to be searched; and
- (d) documents that are the subject of the search.

Execution of a search and seizure warrant

37.—(1) An owner or occupier of premises to which access is sought under a search and seizure warrant may refuse access to the premises if the Comptroller or authorized officer fails to produce a warrant.

(2) An authorized officer shall not enter or remain on any premises the subject of a search and seizure warrant if, on request by the owner or lawful occupier, the officer is unable to produce an authorization in writing from the Comptroller permitting the officer to exercise powers under the warrant.

(3) In executing powers under a search and seizure warrant, the Comptroller or authorized officer —

- (a) has full and free access, at any time and without notice —
 - (i) to the premises specified in the warrant,
 - (ii) to any relevant material or record located on the premises,
 - (iii) to any data storage device located on the premises containing relevant material;
- (b) may open or cause to be opened or removed in conducting a search of the premises specified in the warrant, anything that the Comptroller or authorized officer reasonably

- suspects to contain relevant material;
- (c) may make an extract, or a paper or electronic copy of any relevant material, including on a data storage device;
- (d) may seize any relevant material;
- (e) may, if a paper or electronic copy of relevant material on a data storage device is not provided, seize and retain the device for as long as is necessary to copy the information required; and
- (f) may search with the assistance of a police officer any person on the premises specified in the warrant.

(4) An owner or a lawful occupier of the premises to which an exercise of a search and seizure warrant relates shall provide reasonable facilities and assistance to the Comptroller or authorized officer including —

- (a) answering questions, orally or in writing, concerning whether a person has failed to comply with an obligation under a tax law or committed a tax offence; and
- (b) providing access to decryption information necessary to decrypt data to which access is sought in exercise of a search and seizure warrant.

(5) The Comptroller or authorized officer shall —

- (a) make a written inventory of the relevant material seized and provide a copy thereof to the owner of the material; and
- (b) sign for any relevant material or data storage device removed and retained under this section.

(6) For the purposes of exercise of powers under this section, the Comptroller or authorized officer may require a police officer to be present when executing a warrant under this section.

(7) The Comptroller or authorized officer shall not retain any document seized under this section for a period longer than six months from the date of seizure unless the document is required for the purposes of any proceedings under this Act or any other law.

(8) A person whose relevant material or data storage device has been seized under subsection (3) may examine the material or device and make copies or extracts, at the person's expense, during regular office hours under such terms and conditions as the Comptroller or authorized officer may specify.

(9) A search and seizure warrant must be executed within sixty days of issue or such further period as a judge or magistrate considers appropriate on good cause shown.

(10) In this section, "relevant material" includes the documents specified in the search and seizure warrant.

Search and seizure without a warrant

38.—(1) The Comptroller or authorized officer may without a search and seizure warrant exercise the powers under section 37(3) —

- (a) if the owner or lawful occupier of premises consents in writing to the exercise of powers under section 37(3) without a search and seizure warrant; or
- (b) if the Comptroller or authorized officer has reasonable grounds to believe that —
 - (i) there may be an imminent removal or destruction of relevant material likely to be found on the premises,
 - (ii) if an application for a search and seizure warrant was made, the warrant would be issued, and
 - (iii) the delay caused by having to obtain a search and seizure warrant would defeat the object of the search and seizure.

(2) Sections 37(2) and (4) to (10) apply, with the necessary changes made, to an exercise of the power specified under subsection (1).

PART VI
TAX RETURNS

Tax returns

39.—(1) A taxpayer shall, if required by a tax law applies, furnish to the Comptroller a tax return under subsection (2), within the time and manner specified by that law, or as demanded by the Comptroller.

(2) The Comptroller may specify —

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

(3) The Comptroller is not bound by a tax return or information provided by, or on behalf of, a taxpayer and the Comptroller may determine a taxpayer's tax liability based on any source of information available to the Comptroller.

(4) Subject to a tax law applies, a taxpayer may file an amended return for a tax period no later than six years after the latest date on which the original return was required to be filed.

(5) A taxpayer or the taxpayer's authorized agent, shall sign the return, attesting to its accuracy and completeness.

(6) Where a return or part of a return was prepared for reward by some other person, other than a full-time employee of the taxpayer, that other person shall provide their tax identification number and sign the return.

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

Notice to require filing

40.—(1) Where it appears to the Comptroller that any person is or may be liable to furnish a return and has not done so, the Comptroller may, by notice in writing, require such person to furnish a return within such time as may be specified in the notice, not being less than seven days from the date of service of the notice.

(2) Nothing in this section extends the time limits provided by a tax law for the furnishing of a return.

(3) The Comptroller may serve on the person a notice in writing requiring him or her to furnish within a time specified in the notice, not being less than seven days from the date of service of the notice, a return of income for a year of income. Where it appears to the Comptroller that —

- (a) a person may leave Saint Lucia during any year of income or shortly after its expiry and that the absence from Saint Lucia of the person is unlikely to be temporary;
- (b) a person has ceased to carry on business during a year of income; or
- (c) in the case of any other person, it is expedient to do so.

Return deemed to be furnished by due authority

41. A return, statement, or form purporting to be furnished under this Act or tax legislation applies by or on behalf of a person is deemed to have been furnished by that person or with the person's authority, unless the contrary is proved, and a person signing the return, statement, or form is deemed to be cognizant of all matters contained in the return, statement or form.

Information returns

42. This Act, in relation to returns, applies to a person required by a tax legislation to file a return of information related to matters other than the person's own tax liability.

Extension of time to file returns

43.—(1) Where a return is required to be furnished by a person under tax legislation within a specified period the person may make an application in writing to the Comptroller to extend the period within which the return is to be furnished.

(2) The Comptroller may, on receipt of an application, by notice in writing served on the person extend the period within which the return is to be furnished.

(3) The granting of an extension of time under subsection (2) does not affect the due date for payment of the tax.

Tax return filed

44. A tax return that is purported to be filed by or on behalf of a taxpayer is treated as having been filed by the taxpayer or with the taxpayer's authority unless the contrary is proved.

PART VII ASSESSMENTS

Self-assessment

45.—(1) A taxpayer who has filed a self-assessment return in the approved form for a tax period is treated, for all purposes of this Act, as having made an assessment of the amount of tax payable, including a nil amount, for the tax period to which the return relates being that amount as set out in the return.

(2) When a taxpayer liable for income tax has filed a self-assessment return in the approved form for a year of assessment and the taxpayer has a loss for the year, the taxpayer is treated, for all purposes of this Act, as having made an assessment of the amount of the loss being that amount as set out in the return.

(3) A tax return in the approved form completed and filed electronically by a taxpayer is a self-assessment return despite the following —

- (a) the form included pre-filled information provided by the Comptroller;
- (b) the tax payable is computed electronically as information is inserted into the form.

(4) Subject to subsection (5), a notice of assessment in respect of a taxpayer chargeable with tax must be made and issued to such person in a form approved by the Comptroller.

(5) The Comptroller shall not be required to issue a notice of assessment to a taxpayer where —

- (a) no liability to tax arises and no tax has to be repaid; or

- (b) liability to tax arises but the tax payable does not exceed five dollars,

unless the taxpayer makes a request for the issue of a notice of assessment.

Default assessments

46.—(1) The Comptroller may, based on evidence or information as has been accessed by the Comptroller and to the best of his or her judgement, make an assessment of the tax, including a nil amount, payable by the taxpayer for the period where —

- (a) a taxpayer has failed to furnish a tax return a tax law;
or
- (b) the Comptroller is not satisfied that the return furnished by a person is true and correct,

(2) The Comptroller shall serve a person assessed under subsection (1) with notice, in writing, of a default assessment specifying the —

- (a) amount tax assessed;
- (b) amount assessed as penalty, if any, payable in respect of the tax assessed;
- (c) amount of late payment interest, if any, payable in respect of the tax assessed;
- (d) tax period to which the assessment relates;
- (e) due date for payment of the tax, penalty, and interest being a date that is not less than thirty days from the date of service of the notice; and
- (f) manner of objecting to the assessment.

(3) The service of a notice of a default assessment under this section does not change the due date for payment of the tax payable under the assessment as determined under the tax law imposing the tax, and late payment penalty and late payment interest remain payable based on the original due date.

(4) This section applies for the purposes of a tax that is collected by an assessment.

(5) A default assessment may be made —

(a) at any time; or

(b) if the taxpayer can demonstrate that the default is not fraudulent, or the result of willful default, within six years of the end of the tax year period or taxable event in issue, which may be extended by one year where matters related to the tax assessment are the subject of a request under an Exchange of Information Treaty.

(6) Nothing in this section relieves a taxpayer from being required to file the tax return to which the default assessment served under this section relates.

(7) A tax return filed by a taxpayer for a tax period after a default assessment has been served on the taxpayer for the period is not a self-assessment return.

(8) In this section, “default assessment” means an assessment made under subsection (1).

Advance assessment

47.—(1) Subject to subsection (2), the Comptroller may, based on evidence or information as has been accessed by the Comptroller and to the best of his or her judgement, make an assessment of the tax payable by a taxpayer specified in section 40 for a tax period.

(2) Subsection (1) applies when —

(a) the taxpayer has not filed a tax return for the tax period;
and

(b) the tax is collected by an assessment.

(3) An advance assessment —

(a) may be made before the date on which the taxpayer’s tax return for the period is due; and

(b) must be made in accordance with the law in force at the date the advance assessment was made.

(4) The Comptroller shall serve a taxpayer assessed under subsection (1) with notice, in writing, of the advance assessment

specifying the —

- (a) amount of tax assessed;
- (b) amount assessed as penalty, if any payable in respect of the tax assessed;
- (c) tax period to which the assessment relates;
- (d) due date for payment of the tax and penalty, which may be a date before the tax would otherwise be due for the tax period; and
- (e) manner of objecting to the assessment.

(5) The Comptroller may specify in a notice of an advanced assessment that the tax and penalty due are payable immediately.

(6) An advance assessment may be the subject of an amended assessment under section 49 with the result that the taxpayer is assessed in respect of the whole of the tax period to which the advance assessment relates.

(7) Nothing in this section relieves a taxpayer from the requirement to file the tax return to which the advance assessment served under this section relates.

(8) A tax return filed by a taxpayer for a tax period after an advance assessment has been served on the taxpayer for the period is not a self-assessment return.

(9) In this section, “advance assessment” means an assessment made under subsection (1).

Amended assessments

48.—(1) Subject to this section, the Comptroller may amend a tax assessment by making alterations or additions, based on evidence or information as has been assessed by the Comptroller and to the best of his or her judgement, to the original assessment of a taxpayer for a tax period to ensure that —

- (a) in the case of a loss carried forward under the Income Tax Act, Cap 15.02, the taxpayer is assessed in respect of the correct amount of the loss carried forward for the tax period; or

- (b) in any other case, the taxpayer is liable for the correct amount of tax payable, including a nil amount, in respect of the tax period to which the original assessment relates.

(2) Subject to subsection (3), the Comptroller may amend a tax assessment under subsection (1) —

- (a) in the case of fraud, or gross or willful neglect by, or on behalf of, the taxpayer, at any time; or
- (b) in any other case, within six years of —
 - (i) for a self-assessment, the date that the self-assessment taxpayer filed the self-assessment return to which the self-assessment relates, or
 - (ii) for any other assessment, the date the Comptroller served notice of the assessment on the taxpayer.

(3) The period of time to amend a tax assessment under subsection (2) may be extended by one year where matters related to the tax assessment year are the subject of a request under an Exchange of Information Treaty.

(4) Subject to subsection (5), when the Comptroller has served a notice of an amended assessment on a taxpayer under subsection (1), the Comptroller may further amend the original assessment to which the amended assessment relates within the later of —

- (a) six years after —
 - (i) for a self-assessment, the date the taxpayer filed the self-assessment return to which the self-assessment relates, or
 - (ii) for any other assessment, the date the Comptroller served notice of the original assessment on the taxpayer; or
- (b) one year after the Comptroller served notice of the amended assessment on the taxpayer.

(5) Where subsection (4)(b) applies, the Comptroller is limited to amending the alterations or additions made in the amended assessment to the original assessment.

(6) When the Comptroller has made an amended assessment under this section, the Comptroller shall serve the taxpayer with notice, in writing, of the amended assessment specifying the —

- (a) original assessment to which the amended assessment relates;
- (b) amount of tax assessed;
- (c) amount assessed as penalty, if any, in respect of the tax assessed;
- (d) amount of late payment interest, if any, payable in respect of the tax assessed;
- (e) tax period to which the assessment relates;
- (f) due date for payment of any tax, penalty, and interest being a date that is not less than thirty days from the date of service of the notice; and
- (g) manner of objecting to the assessment.

(7) The service of a notice of an amended assessment under this section does not change the due date for payment of the tax payable under the assessment as determined under the tax law imposing the tax, and late payment penalty and late payment interest remain payable based on the original due date.

(8) In this section, “original assessment” means a tax assessment referred to under subsection (1).

Application for making an amendment to a self-assessment

49.—(1) A taxpayer who has filed a self-assessment return under tax legislation may make an application to the Comptroller for the Comptroller to make an amendment to the self-assessment.

- (2) An application under subsection (1) must —
 - (a) state the amendments that the taxpayer believes are required to be made to correct the self-assessment and the reasons for the amendments; and
 - (b) be filed with the Comptroller within the period specified under section 48(2)(b)(i).

(3) When an application has been made under subsection (2), the Comptroller may make a decision to amend the self-assessment return or to refuse the application.

(4) Where the Comptroller makes a decision to amend the self-assessment return —

- (a) the amended assessment is made under section 48(1); and
- (b) notice of the amended assessment must be served on the taxpayer under section 49(6).

(5) Where the Comptroller makes a decision to refuse an application under subsection (1), the Comptroller shall serve the taxpayer with written notice of the decision.

(6) Where the Comptroller has not made a decision on an application made under subsection (1) within ninety days of the application being filed, the Comptroller is deemed to have —

- (a) made a decision to disallow the application; and
- (b) served the taxpayer with notice of the decision on the ninetieth day after the application was filed.

(7) This section does not apply to the Land and House Tax Act, Cap. 15.13, withholding tax and contract tax provisions under the Income Tax Act, Cap. 15.02.

General anti-avoidance rule

50.—(1) This section applies when the Comptroller is satisfied that —

- (a) a scheme has been entered into or carried out;
- (b) a person has obtained a tax benefit in connection with the scheme; and
- (c) having regard to the substance of the scheme, it would be concluded that a person, or one of the persons, who entered into or carried out the scheme did so for the sole or dominant purpose of enabling the person referred to in paragraph (b) to obtain a tax benefit.

(2) Notwithstanding anything in this Act, when this section applies, the Comptroller may —

- (a) determine the tax liability of the person who obtained the tax benefit as if —
 - (i) the scheme had not been entered into or carried out, or
 - (ii) a reasonable alternative to entering into or carrying out the scheme would have instead been entered into or carried out; and
- (b) make compensating adjustments to the tax liability of any other person affected by the scheme.

(3) Where a determination or adjustment is made under subsection (2), the Comptroller shall issue an amended assessment giving effect to the determination or adjustment.

(4) An amended assessment under subsection (3) must be served within six years from the last day of the tax year to which the determination or adjustment relates.

(5) In this section —

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

“tax benefit” means —

- (a) a reduction in a liability to pay tax, including on account of a deduction, credit, offset, or rebate;
- (b) a postponement of a liability to pay tax;
- (c) any other advantage arising because of a delay in payment of tax; or
- (d) anything that causes —
 - (i) an amount of gross revenue to be an exempt amount or otherwise not subject to tax, or
 - (ii) an amount that would otherwise be subject to tax not to be taxed.

Finality of assessment

51.—(1) An assessment is final and conclusive, where, in relation to the assessment —

- (a) no valid notice of objection is given under section 51;
- (b) subsequent to the determination of an objection, no valid notice of appeal is given under section 55; or
- (c) an appeal is determined and there is no right of further appeal.

(2) Subsection (1) does not prevent the Comptroller from making an amended assessment within the time permitted under section 49 and for any tax period which does not involve re-opening any matter which has been determined on appeal for the year.

(3) Notwithstanding subsections (1) and (2) where fraud or willful default has been committed by or on behalf of a person in relation to his or her liability to tax for a tax period, the Comptroller may make an amended assessment for the period.

(4) Subsection (3) applies to the re-opening of a matter which has been determined on appeal, in respect of a matter on which no finding of fact was in dispute.

**PART VIII
OBJECTIONS AND APPEALS**

Objection to assessment

52.—(1) Except in proceedings under this Part —

- (a) a taxation decision may not be disputed at the tribunal of Appeal Commissioners, in a Court, or in other proceedings on another ground; and
- (b) the amount and particulars of an assessment are treated as correct and the liability of the taxpayer is determined accordingly.

(2) Subject to section 106 of the Income Tax Act, Cap. 15.02, section 41 of the Value Added Tax Act, Cap. 15.42 and section 28 of the Land and House Tax Act, Cap. 15.13, a person who is

aggrieved by an appealable decision, assessment or a determination by the Comptroller made on him or her may, by notice in writing to the Comptroller within thirty days after the date of service of the notice of assessment or determination, or within such further time as the Comptroller may for good cause allow, object to the assessment or determination.

(3) Where the assessment is an amended assessment the person assessed has no further right of objection than he or she would have had if that assessment had not been made except to the extent to which that assessment has imposed a fresh liability on him or her.

(4) An objection must specify particulars of the grounds on which it is made.

(5) Where the Comptroller is satisfied that owing to absence from Saint Lucia, sickness, or other reasonable cause, the person was prevented from lodging an objection within the time specified under subsection (2) and there has been no unreasonable delay by the person in lodging the objection, the Comptroller may accept an objection lodged after the time specified under subsection (2).

(6) For the purposes of assessments of liabilities under the Income Tax Act, Cap 15.02, in this Part “aggrieved by an appealable decision, assessment or a determination” section 106 94) of the Income Tax Act, Cap. 15.02 applies.

(7) For the purposes of assessments of liabilities under the Value Added Tax Act, Cap 15.42, in this Part “aggrieved by an appealable decision, assessment or a determination” section 41(10), of the Value Added Tax Act, Cap 15.42 applies.

(8) For the purposes of assessments of liabilities under tax legislation except the Income Tax Act, Cap 15.02, and the Value Added Tax Act, 15.42, and any other tax legislation that references certain provisions in the Income Tax Act, Cap. 15.02 in this Part “aggrieved by an appealable decision, assessment or a determination” means aggrieved by —

- (a) the inclusion in an assessment of an amount that increases the base on which the applicable tax is calculated; or
- (b) the determination by the Comptroller of a matter affecting a person’s liability to tax in circumstances where the determination does not involve the making of an assessment.

Decision by Comptroller on objection

53.—(1) Subject to section 107 of the Income Tax Act, Cap. 15.02, section 41 of the Value Added Tax Act, Cap. 15.42 and section 29 of the Land and House Tax Act, Cap. 15.13 the Comptroller shall —

- (a) consider a valid objection made under section 51 and may disallow it, or allow it, wholly or in part; and
- (b) by notice in writing, inform the objector of his or her decision or as soon as is practicable.

(2) Where a notice is not delivered under subsection (1)(b) within one hundred and eighty days of the objection being filed, the objection is deemed to be rejected.

(3) Where a decision of the Comptroller in determining an objection requires the reduction of or an increase in, an assessment, the Comptroller shall amend the assessment under section 49 and issue a notice of re-assessment to the objector together with the notice of his or her decision.

Appeal Commissioners

54.—(1) For the purposes of this Part, a tribunal of Appeal Commissioners is established, constituted and regulated in accordance with this section.

(2) Subject to section 108 of the Income Tax Act, Cap. 15.02, section 30 of the Land and House Tax Act, Cap. 15.13 the Appeal Commissioners shall comprise such persons as may be appointed by Cabinet and includes the following three persons —

- (a) a public officer, or a person who has previously held an office in the public service;
- (b) an attorney-at-law of not less than five years' standing; and
- (c) a member of the Institute of Chartered Accountants of the Eastern Caribbean.

(3) Cabinet shall appoint one of the Commissioners to be Chairperson and another to be Deputy Chairperson and a meeting of the Appeal Commissioners must comprise the Chairperson and two other members one of whom shall be the member who is an attorney at-law.

(4) In the absence of or inability of the Chairperson to act a meeting of the Appeal Commissioners must comprise the Deputy Chairperson and two other members.

(5) A decision of the Appeal Commissioners must be given under the signature of the Chairperson presiding at the meeting.

(6) Cabinet shall appoint a Secretary to the Appeal Commissioners and a notice or correspondence, other than decisions of the commissioners, may be issued and signed by the Secretary.

(7) At a hearing by the Appeal Commissioners, in the event of a division of opinion, the decision of the majority prevails.

(8) The Appeal Commissioners have the —

- (a) power to summon to attend at the hearing of an appeal a person who in its opinion is or might be able to give evidence respecting the appeal;
- (b) power, where a person is summoned under paragraph (a), to examine him or her on oath or otherwise;
- (c) power to require a person to produce books or documents which are in his or her custody or under his or her control and which the Appeal Commissioners may consider necessary for the purpose of the appeal;
- (d) powers of a court with regard to the enforcement of attendance of witnesses, hearing evidence on oath and punishment for contempt;
- (e) power to postpone or adjourn the hearing of an appeal where the Appeal Commissioners are satisfied that, for any reasonable cause, either party to the appeal is prevented from attending on the date fixed for such hearing; and
- (f) power to determine the procedure to be followed in an appeal.

Appeal from decision by the Comptroller

55.—(1) Subject to section 109 of the Income Tax Act, Cap. 15.02 of the Value Added Tax Act, Cap. 15.42 and section 31 of the Land and House Tax Act, Cap. 15.13, a person who is aggrieved by

a decision of the Comptroller may, by notice of appeal, appeal to the Appeal Commissioners.

(2) A copy of the notice of appeal, which is lodged with the Comptroller, must be made in writing and lodged with the Secretary to the Appeal Commissioners within thirty days of the date of service of —

- (a) the Comptroller’s decision on the objection; or
- (b) the Comptroller’s determination in relation to any other matter from which an appeal may be made, or within such further time as the Appeal Commissioners may for good cause allow.

(3) In an appeal to the Appeal Commissioners against an objection and subject to section 57, the Appeal Commissioners may consider the objection if the Comptroller —

- (a) certifies that the person assessed has paid the full amount of the tax due under the assessment; or
- (b) is satisfied that the person objecting is unable to pay the full amount of tax due and has given sufficient security, for the amount of tax unpaid and interest payable.

(4) In this section “aggrieved by a decision of the Comptroller” has the meaning assigned to “aggrieved by an appealable decision, assessment or a determination” in section 51(6), (7), and (8).

Hearing by Appeal Commissioners

56.—(1) On a hearing of an appeal, the Appeal Commissioners may confirm, increase or order the reduction of an assessment or make such other order as they consider fit.

(2) On an appeal to which this section relates both the appellant and the Comptroller shall bear their own costs except where the Appeal Commissioners otherwise direct.

(3) At least thirty days before the date fixed for the hearing of an appeal, the Secretary to the Appeal Commissioners shall, by notice in writing, advise the appellant and the Comptroller of the date on, and the place at which the appeal has been set down for hearing.

(4) At a hearing by the Appeal Commissioners the appellant and the Comptroller may appear in person or by a representative.

(5) The hearing of an appeal by the Appeal Commissioners shall not be public unless the Chairperson of the Appeal Commissioners directs on application by the appellant and in any case where a direction is made the obligation as to confidentiality imposed under section 9 does not apply.

(6) The Chairperson of the Appeal Commissioners may authorize the publication of the decision on an appeal and the publication must be in such a manner as not to disclose the identity of the appellant.

(7) Where the Appeal Commissioners have not decided on the appeal and one hundred and eighty days have passed since the appeal was lodged, the Appeal Commissioners are deemed to have made a decision to reject the appeal.

Right of further appeal

57.—(1) The Comptroller or the appellant may within thirty days appeal to the High Court from a decision of the Appeal Commissioners which involves a question of law, including a question of mixed fact and law.

(2) The Comptroller or the appellant may within thirty days appeal to the Court of Appeal from a decision of the High Court being a decision of the High Court on an appeal from the Appeal Commissioners which involves a question of law, including a question of mixed fact and law.

(3) On any further appeal to which this section relates, the High Court or the Court of Appeal may —

- (a) confirm, increase or order the reduction of an assessment;
- (b) make such other order as it considers fit; and
- (c) make such order as to costs as it considers fit.

Payment of tax suspended by objection or appeal

58.—(1) The obligation to pay —

- (a) a tax chargeable under an assessment;
- (b) a penalty imposed in an assessment for failure to lodge

a return or for failure to lodge a correct return; or

- (c) a penalty or interest imposed for late payment of an assessed tax,

is suspended by reason of any notice of objection or appeal having been given against an assessment, pending determination of the objection or appeal.

(2) The Comptroller may enforce payment of that portion of the tax which is not in dispute.

(3) Notwithstanding subsection (1), the Comptroller may allow a taxpayer to pay fifty per cent of the tax in dispute pending the determination of the objection or appeal or a smaller percentage.

(4) Where a taxpayer's appeal or objection is allowed, the amount paid under subsection (3) shall be refunded by the Comptroller to the taxpayer.

Burden of proof

59. The burden of proof that an assessment is excessive or that a decision of the Comptroller is wrong is on the person objecting to the assessment or decision.

PART IX LIABILITY FOR AND PAYMENT OF TAX

Liability of taxpayer and due date

60.—(1) Tax is due and payable at the time provided by the tax law.

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

- (a) stated in a notice of assessment to be due is due and payable on the date stated in the notice; or
- (b) deemed to be assessed under Part VII is due and payable on the due date for the return in question.

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

(4) Where a taxpayer fails to pay tax by the due date, the taxpayer is liable for any costs incurred by the Comptroller in taking action to recover the unpaid tax.

Representative taxpayers

- 61.—**(1) A “representative taxpayer” means, in relation to —
- (a) the estate of a deceased person, an incapacitated person, a trust or a settlement, the trustee of that person;
 - (b) a non-resident, any person appointed under section 22 of the Income Tax Act, Cap 15.02 to act as agent on his or her behalf; or
 - (c) Tax due and payable —
 - (i) by a deceased person at the date of his or her death, the executor of the estate of that deceased person, or
 - (ii) at the commencement of liquidation by a company which is being wound up, the liquidator of that company;
 - (d) a taxable person —
 - (i) the Financial Controller or the designated officer in the case of a company (other than a company in liquidation);
 - (ii) any member of the committee of management in the case of an unincorporated association or body;
 - (iii) any person who is responsible for accounting for the receipt and payment of money or funds on behalf of the company in any other case;
 - (iv) the liquidator in the case of a company in liquidation;
 - (v) any person responsible for accounting for the receipt and payment of money under the provisions of any law or for the receipt and payment of public funds or of funds voted by Parliament in the case of the State or Constituency Council;

- (vi) any partner in the case of a partnership;
- (vii) any trustee in the case of a trust; or
- (viii) any person controlling the non-resident's affairs in Saint Lucia, including any manager or a taxable activity of the non-resident in Saint Lucia in the case of a non-resident or a person referred to in paragraph (b) of the definition of "resident" in section 2 of the Value Added Tax Act, Cap. 15.42.

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

(3) Where, there is more than one representative the person shall designate which of these serves as the representative, and in the absence of a designation all serve as representatives pending the designation.

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

(5) A company carrying on business in Saint Lucia must be represented for the purposes of this Act by a principal officer residing in Saint Lucia and if there is none, by an authorized agent residing in Saint Lucia, and must notify the Comptroller of its appointed representative within one month after it commences carrying on business in Saint Lucia, or one month after the designated representative ceases to qualify as such.

(6) A partnership carrying on business in Saint Lucia shall at all times be represented by a resident individual who is —

- (a) an acting partner resident in Saint Lucia who is —
 - (i) first named in the partnership agreement, the precedent partner,
 - (ii) if there is no partnership agreement, is specified by name or initial singly or with precedence to the other partners in the usual name of the partnership, or
 - (iii) in any case where subparagraph (i) or (ii) is applicable, such other partner as is specified by the partnership;
- or

- (b) if no acting partner is resident in Saint Lucia, the person appointed to act as agent of the partnership in Saint Lucia, or if someone has not been appointed, a person who has management and control of property in Saint Lucia of the partnership or controls the partnership's affairs in Saint Lucia, including as a manager of a business of that partnership in Saint Lucia.

(7) Where a representative of a person designated under subsection (3) is unable to perform duties, the Comptroller may, by notice in writing, declare another individual to be a representative of the person for the purposes of this Act.

Obligations and liability of a representative taxpayers

62.—(1) A representative of a person is responsible for performing duties or obligations imposed under this Act on the person, including maintaining records, filing returns and other documents, and the payment of tax.

(2) Subject to subsection (3), tax that is payable by a representative of a person under subsection (1) is recoverable from the representative only to the extent of any assets of the person that are in the possession or under the control of the representative.

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

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

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

(5) A representative is not personally liable for tax under subsection (4) if —

- (a) the monies were paid by the representative on behalf of a taxpayer and the amount paid has priority, in law or equity, over the tax payable by the taxpayer; or
- (b) at the time the monies were paid, the representative did not have knowledge, and could not reasonably be expected to know, of the taxpayer's tax liability.

(6) A trustee, curator, liquidator, tutor or executor, is personally liable for the payment of any tax if, before distributing any assets under his or her control to the persons entitled, he or she fails to obtain from the Comptroller a certificate showing that all tax which may be recovered from such assets has been paid.

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

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

(9) Where —

- (a) a partnership, or unincorporated association or body is dissolved in consequence of —
 - (i) the retirement or withdrawal of one or more, but not all, of its partners or members, or
 - (ii) the admission of a new partner or member;
- (b) a new partnership, or unincorporated association or body comes into existence consisting of the remaining members and one or more new members; and
- (c) the new entity continues to carry on the taxable activity of the dissolved entity as a going concern,

the dissolved entity and the new entity are, for the purposes of this Act, deemed to be one and the same, unless the Comptroller, having regard to the circumstances of the case, otherwise directs.

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

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

(12) Where a person is a trustee in more than one capacity, the person is treated as a separate person in relation to each of those capacities.

(13) In this section —

“dissolved entity” means a partnership or unincorporated association or body that is dissolved;

“new entity” means a new partnership or unincorporated association or body that comes into existence;

“representative,” in respect of a person, means —

- (a) subject to section 61(1) if the person is an individual under a legal disability, the guardian or manager who receives or is entitled to receive income on behalf of, or for the benefit of, the individual;
- (b) subject to section 61(1) if the person is an estate of a deceased person, the trustee of that person;
- (c) subject to section 61(1), if the person is a company, a director or principal officer of the company or an agent under in subsection (4);
- (d) subject to section 61(1), if the person is a partnership, a partner;

- (e) subject of section 61(1) if the person is a trust, a trustee;
- (f) if the person is a body of persons other than a partnership or company, an individual responsible for accounting for the receipt and payment of moneys or funds on behalf of the body;
- (g) if the person is the Government of Saint Lucia, an individual responsible for accounting for the receipt and payment of moneys or funds on behalf of the Government;
- (h) if the person is a local authority in Saint Lucia, an individual responsible for accounting for the receipt and payment of moneys or funds on behalf of the local authority;
- (i) if the person is a foreign government or political subdivision of a foreign government, an individual responsible for accounting for the receipt and payment of moneys or funds in Saint Lucia on behalf of the government or political subdivision of the government;
or
- (j) if the person is a non-resident, a person appointed to act as agent on his or her behalf, or if someone has not been appointed, a person who has management and control of property in Saint Lucia of such non-resident or controls the non-resident person's affairs in Saint Lucia, including as a manager of a business of that person in Saint Lucia.

Officers of unincorporated bodies

63.—(1) An obligation or liability imposed by a tax law on an unincorporated body is imposed on the body and on a person who is an officer of the body at the time the obligation or liability is imposed, and the body and each officer is jointly and severally liable for that obligation or liability.

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

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

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

(5) In this section —

“officer of an unincorporated body” means —

- (a) in the case of a partnership, a partner of the partnership;
- (b) in the case of a joint venture, a participant in the joint venture;
- (c) in the case of a trust, a trustee of the trust;
- (d) in the case of an unincorporated body, other than a body referred to in paragraph (a) or (b) —
 - (i) a person who holds office as Chairperson, President, Treasurer or Secretary of the body or a similar office,
 - (ii) where there is no officer under subparagraph (i) of the body, a member of a committee that has management of the affairs of the body, or
 - (iii) where there is no officer under subparagraph (i) or committee under subparagraph (ii), a member of the body;

“unincorporated body” includes unincorporated associations.

(6) For the purposes of the Value Added Tax Act, a supply of goods or services made or received in the course or furtherance of a taxable activity carried on by an unincorporated body is regarded as being made or received by the body and not by any member or officer, and any such activity engaged in by a person in his or her capacity as a member or officer of the body is deemed to be an activity of the body and not an activity of the person.

Liability for tax following winding-up

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

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

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

Managers of entities

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

(2) Subsection (1) applies whether or not the entity ceases to exist.

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

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

(5) Where a manager pays tax by reason of a liability under subsection (1), the manager may recover the payment from the entity and from other managers who were liable for the claim as a debt due.

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

(7) In this section —

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

“manager”, in relation to —

(a) an entity, includes a person purporting to act as a manager of the entity;

- (b) a company, includes a director, the chief executive officer, and the chief financial officer of the company;

“relevant time” means six months before the events that gave rise to the entity’s tax liability.

Refundable amounts

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

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

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

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

Extension of time for payment

67.—(1) A taxpayer may make an application, on a form prescribed by the Comptroller, for an extension of the time for payment of tax beyond the date on which it is required to be paid under section 60.

- (2) The Comptroller may —
 - (a) with good cause, extend the time for payment as requested under subsection (1);
 - (b) grant an extension period different from the period requested by the taxpayer;
 - (c) extend time for payment pending resolution of an appeal, and

(d) make other arrangements to ensure payment of the tax, including arrangements requiring the person to pay the amount due in instalments.

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

(4) Where a taxpayer has been granted an extension under subsection (1), interest is payable under Part VIII notwithstanding the extension of time.

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

Default in payment

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

(2) A notice under subsection (1) must state —

- (a) the name of the taxpayer;
- (b) the taxpayer identification number, if one has been issued to the taxpayer;
- (c) the date of issue of the notice;
- (d) the amount of tax, interest, and penalties payable, and the tax period or periods to which they relate;
- (e) a demand for payment of these amounts;
- (f) the place at which payment is to be made; and
- (g) that the taxpayer is on notice, if payment is not made within twenty-one days after service of the notice, the Comptroller has the right to pursue action to collect the amounts specified in the notice.

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

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

- (a) entered into a payment arrangement with the Comptroller pursuant to the applicable tax legislation; or
- (b) received an extension under section 66, and has remained in compliance with the terms of the arrangement.

Priority of tax

69.—(1) This section applies to —

- (a) withholding tax;
- (b) an amount that a taxpayer is required to pay under a notice issued under section 86.

(2) Subject to sections 1889, 1898 and 1903 of the Civil Code of Saint Lucia, Cap. 3.01, a person owing, holding, receiving, or withholding an amount to which this section applies holds the amount in trust for Saint Lucia and, in the event of the liquidation or bankruptcy of the person, the amount —

- (a) does not form part of the person's estate in liquidation or bankruptcy; and
- (b) must be paid to the Comptroller before any distribution of property is made.

(3) Notwithstanding any other enactment, withholding tax withheld by a person —

- (a) is not subject to attachment in respect of a debt or liability of the person;
- (b) is a first charge on the payment or amount from which the tax is withheld; and
- (c) is withheld prior to any other deduction that the person is required to make from the payment or amount under an order of any court or any law.

Order of payment of tax liability

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

- (a) interest relating to the tax;

- (b) penalties relating to the tax; and
- (c) the principal amount of the tax.

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

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

Currency

71.—(1) Tax is payable in Eastern Caribbean Dollars, EC\$ or XCD\$.

(2) Where an amount is expressed in a currency other than Eastern Caribbean Dollars, EC\$ or XCD\$ —

- (a) in the case of imports, the amount is to be converted at the exchange rate as determined for purposes of the Customs (Control and Management) Act, Cap.15.05;
- (b) in all other cases, the amount is to be converted at the exchange rate applying between the currency and the Eastern Caribbean Dollar, EC\$ or XCD\$ at the time the amount is taken into account under this Act.

PART X INTEREST

Interest: general

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

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

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

(4) Where a person has paid interest under this Part and the interest relates to a tax or part of a tax deducted or deductible under

sections 53, 63, 76, 77, or 87 of the Income Tax Act, Cap. 15.02 and not paid by the time specified in those sections or in section 116 of the Income Tax Act, Cap. 15.02 is a debt by that person and is not recoverable by him or her from the person in respect of whom the tax was deducted or should have been deducted.

Interest on underpayments

73.—(1) Where an amount of tax is not paid by the due date, the taxpayer is liable for interest on the amount for the period from the due date, determined without regard to an extension of time under section 66 to the date the tax is paid.

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

Interest on refundable amounts

74.—(1) Where the Comptroller is required to refund an amount under section 65(2), interest must be paid to the taxpayer from the later of —

- (a) the due date; or
- (b) the date the tax was paid,

until the date on which the refundable amount is paid.

(2) Notwithstanding subsection (1), no interest is payable in respect of a refund that is based on a claim for refund and is paid to the taxpayer within thirty days of the filing of the claim for refund if the refund is under to the Value Added Tax, Cap. 15.42 and within sixty days of the filing of the claim for refund.

(3) A refundable amount that is applied against another tax liability under section 65(1) is deemed to have been paid to the taxpayer on the due date of the liability against which the refundable amount was applied.

Interest rate

75. The interest rate for this Part is as specified in Schedule 2.

PART XI
RECOVERY OF TAX

Recovery of Tax: general

76.—(1) Tax that is due and payable is a debt to the Government and accountable to the Comptroller.

(2) The Comptroller may proceed with any remedy under this Part once the taxpayer is determined to be in default under section 67.

Period of limitations for collection

77. Proceedings under this Part must be commenced within six years of the date on which the taxpayer was determined to be in default under to section 67.

Remission of tax

78.—(1) Where the Comptroller has taken steps permissible under the tax legislation to recover tax and the Comptroller is unable to recover any amount of tax, penalty and interest due and payable under the tax legislation by a person for a specified period, the Comptroller shall advise the Minister to remit the tax and the Minister may return the matter to the Comptroller for the steps to be re-taken or may, subject to reinstatement under subsection (3), order the extinguishment of the liability as a debt due to the Crown.

(2) An Order made under subsection (1) shall be approved by Cabinet.

(3) Where the Comptroller determines that a person subject to an Order under subsection (1) has assets that may be attached to recover the unpaid tax, penalty and interest specified in the Order, with the approval of Cabinet, the Order may be revoked and the liability reinstated.

Court proceedings

79.—(1) Where a person fails to pay tax when it is due, the Comptroller may commence proceedings in a court of competent jurisdiction to recover the debt outstanding in respect of the amount owing, but any proceedings must be commenced after the service of

a notice in accordance with section 68(3) on that person.

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

(3) In any proceedings for the recovery of tax it is not competent for the defendant to enter a defense that —

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

Lien

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

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

(3) The Comptroller may file notice of a lien after a taxpayer is determined to be in default under section 68.

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

(5) At least fifteen days prior to registering a lien with the Registrar of the High Court, the Land Registry, or the Registry of Deeds and Mortgages, the Comptroller may send notice of the intention to register the lien to the taxpayer.

(6) Subsection (5) does not apply if the Comptroller believes that person owing taxes under the legislation may leave Saint Lucia or property associated with such person is being disposed without notice to the Comptroller of at least two working days.

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

Execution against taxpayer's property

81.—(1) Where a taxpayer is in default, the Comptroller may cause execution on the taxpayer's property to settle amounts due and payable and, except when a determination has been made under section 80 (6), the Comptroller may proceed to execution if the taxpayer has been served with a notice of intention in the form given in schedule II to collect on the lien, and the taxpayer has failed to pay the tax within thirty days after service of the notice.

(2) Where the Comptroller has reasonable grounds for believing that a person owing moneys under this Act may leave Saint Lucia or property associated with such person is being disposed without notice to the Comptroller of at least two working days, the Comptroller may demand immediate payment of the tax and, on failure of the taxpayer to pay the tax, may proceed to collect on the lien on the taxpayer's property immediately, notwithstanding section 68(3).

(3) A person, including a bank or other financial institution, in possession of, or holding security over, property on which execution has been initiated shall, on the demand of a designated officer, surrender the property, or discharge the security, to the Comptroller, except in respect of the part of the property that is already subject to attachment or execution under judicial process.

(4) A person who fails to comply with the demand is liable to the Comptroller in the amount of the value of the property or security held, not in excess of the amount for the collection of which the execution was initiated.

(5) A person complying with the requirements of this section or of section 86 is, from the time of compliance, discharged from an obligation to the taxpayer or another person to the extent of the value of property surrendered, or the security discharged, to the Comptroller and is not personally liable for loss or damage incurred as a consequence of compliance.

(6) An execution under this section must be commenced within six years of the date on which the taxpayer was determined to be in default.

(7) A taxpayer's personal effects and household furnishings without substantial value are exempt from an execution.

Sale of seized property

82.—(1) Unless the Comptroller has good reason to release the seized property, the Comptroller shall sell property seized pursuant to an execution.

(2) The sales proceeds are applied first against the expenses of the execution and sale, then against the liability for interest, penalties, and tax and the excess must be returned to the taxpayer.

(3) The Comptroller may make conditions with respect to the procedure on sale by public auction under the power of sale conferred on the Comptroller under this Act, and may —

- (a) fix an amount of a deposit to be made by the highest bidder;
- (b) reserve a price;
- (c) prescribe a time within which a deposit must be made and the events following which it may be forfeited; and
- (d) declare, in the event that the highest bidder fails to make the required deposit or to complete the purchase within the required time, the next highest bidder to be the highest bidder and purchaser of the property.

(4) Seized goods or property must be sold at public auction at a time and place as the Comptroller directs; and a sale must not take place within fourteen days of the seizure of the goods or property, unless the goods seized are, in the opinion of the Comptroller, of a perishable nature, or the owner of the goods has requested an earlier sale.

(5) Goods seized under this Act must be deposited in some fit place, or left in the possession of a fit person, as the Minister on the advice of the Comptroller may determine via regulations.

(6) The date, time, and place of sale of goods seized under this Act must be published in the *Gazette* and notice given to the taxpayer prior to the date of sale unless the goods are being sold before the expiry of the fourteen-day period under subsection (4).

(7) For the purpose of seizing and selling goods, an officer of the rank of senior Tax Inspector may —

- (a) if authorized in writing by the Comptroller, execute a warrant of distress, and if necessary break open, in the day-time, a house or premises to levy the distress; and
- (b) seek assistance from a police officer, when so required, to assist in the execution of a warrant of distress and in levying the distress.

(9) At the sale of goods or other property under this Act a designated officer of the Government may bid for and purchase the goods or other property on behalf of Saint Lucia.

(10) Where goods or property advertised for sale are not sold on the day appointed for the sale, the property may be put up for sale again.

(11) An officer or other person conducting the sale may report to the Comptroller the result of the sale and the Comptroller may direct that, on payment of the purchase money the property be conveyed to the purchaser.

(12) Where the Comptroller, after review of the report provided under subsection (11), is satisfied that there has been fraud or improper conduct in relation to the sale of a property mentioned in the report or that the relevant tax had been paid, the Comptroller may declare the sale to be null and void.

(13) On the execution of the deed of conveyance or the assignment to the purchaser by the Comptroller under this section, the goods or property shall be vested in the purchaser freed and discharged from all encumbrances arising under this Act.

(14) Notwithstanding anything contained in this Act authorizing the Comptroller to sell property for the recovery of tax, the conveyance or assignment executed to give effect to the sale does not affect any estate, interest, or right of Saint Lucia in the property.

Recovery of tax from persons leaving Saint Lucia

83.—(1) Where the Comptroller has reason to believe that a person may leave Saint Lucia owing moneys under a tax legislation, the Comptroller may, by notice in writing served on that person, require that he or she pay the amount owing or give security to the satisfaction

of the Comptroller for the payment of the amount, within the time specified in the notice.

(2) Where a person fails to pay money owing or give satisfactory security as required under subsection (1), an exit certificate shall not be issued to such person under the subsidiary legislation in force in relation to income tax exit certificates.

Departure prohibition notice

84.—(1) This section applies when the Comptroller or an authorized officer has reasonable grounds to believe that a person may leave Saint Lucia without paying —

- (a) tax that is or will become payable by the person; or
- (b) tax that is or will become payable by a company in which the person is a representative.

(2) When this section applies, the Comptroller or authorized officer may issue a departure prohibition notice, in writing, to the Chief Immigration Officer stating —

- (a) the name and address of the person; and
- (b) the amount of tax that is or will become payable by the person or by the company in which the person is a representative.

(3) The Comptroller or authorized officer shall, as soon as practicable after issuing a departure prohibition notice, serve a copy of the notice on the person named in the notice or via a notice published in the Gazette, but without details of the amount of tax that is or will become payable by the person or by the company in which the person is a representative.

(4) When a departure prohibition notice is issued, the Chief Immigration Officer must exercise the powers that the Comptroller lawfully possesses, or cause an officer under his or her direction to exercise such powers, so far as is necessary to prevent the person named in the notice from departing Saint Lucia.

(5) A departure prohibition notice remains in force until revoked by the Comptroller or authorized officer.

(6) The Comptroller or authorized officer may revoke a departure prohibition notice when —

- (a) the person makes payment in full of the tax payable or that will become payable by the person or by the company in which the person is a representative; or
- (b) the person makes an arrangement satisfactory to the Comptroller or authorized officer for payment of the tax referred to in paragraph (a).

(7) As soon as practicable after making a decision to revoke a departure prohibition notice, the Comptroller or authorized officer shall serve the notice of the revocation on the Chief Immigration Officer and on the person named in the departure prohibition notice.

(8) No proceedings, criminal or civil, may be instituted or maintained against the Government, the Chief Immigration Officer, the Comptroller, an authorized officer, or a Customs, immigration, police, or other officer for anything lawfully done under this section.

(9) In this section, “Chief Immigration Officer” means the Chief Immigration Officer referred to under section 3 of the Immigration Act, Cap. 10.01.

Priority in bankruptcy

85. Subject to sections 1889, 1898 and 1903 of the Civil Code of Saint Lucia, Cap. 4.01, and notwithstanding anything contained in any other enactment —

- (a) the trustee in bankruptcy of an individual; or
- (b) the liquidator of a company which is being wound up,

shall apply the assets of the bankrupt individual or the company, as in payment of tax due under a tax law, whether assessed before or after the date of bankruptcy or commencement of winding up, as a privileged debt in priority over all debts of that individual or company, except law costs and any wages which constitute a privileged debt under the Labour Act, Cap. 16.04.

Offset against payments

86. When the Accountant General is about to make a payment to a person, other than a payment in respect of wages or salary, the Accountant General may apply the whole or part of that payment in satisfaction in whole or in part to any amount in respect of which that person is in default under section 68 and shall notify the person.

Third party debtors

87.—(1) Where a taxpayer is in default under section 68, the Comptroller may serve a notice in writing on a third party debtor to deduct and pay prescribed amounts to the Comptroller.

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

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

(3) A notice may be served on a third party debtor in relation to an amount in a joint account only when —

- (a) the holders of the joint account have unpaid tax liabilities;
or
- (b) the taxpayer can withdraw funds from the account, other than a partnership account, without the signature or authorization of the other account holders.

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

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

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

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

(8) Money owed to a taxpayer includes —

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

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

(10) The first \$3,000.00 or 40 per cent of wages per month, whichever is lower, is not subject to withholding under a notice under subsection (9).

(11) Where the third party debtor fails to pay the amount specified within the time specified in a notice under this section, this Act applies as if the amount is tax due and payable by the third party debtor on the date by which the third party debtor was required to make the payment to the Comptroller.

(12) In this section —

- “money” includes a debt obligation denominated or payable in money;
- “third party debtor”, in relation to a taxpayer, means a person who owes money to the taxpayer.

(13) For the purposes of sections 88 and 102, a notice issued under section 87 to a third party shall be called a third party debtor notice.

Compliance with third party debtor notice

88.—(1) A third party who pays the Comptroller under a third party debtor notice is —

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

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

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

(4) A third party debtor notice ceases to have effect once the tax or obligations described in it is paid or otherwise satisfied.

(5) Where a third party served with a third party debtor notice is unable to comply with the notice, the third party shall notify the Comptroller.

(6) A third party notice must —

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

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

- (a) accept the third party notice and cancel or amend the third party debtor notice; or

(b) reject the third party notice.

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

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

Preservation of assets

89.—(1) This section applies when the Comptroller has reasonable cause to believe that —

- (a) a taxpayer will not pay the full amount of tax owing when due; and
- (b) the taxpayer will take steps to frustrate the recovery of the tax, including the dissipation of the taxpayer's assets.

(2) Where this section applies, the Comptroller may make an *ex-parte* application to the District Court for an order for the preservation of the assets of the taxpayer including holding, controlling, or managing assets belonging to the taxpayer by another person and to where applicable conserve, restrict, protect, safeguard, maintain or keep these assets.

(3) The Comptroller may take such steps as necessary to secure the assets of the taxpayer, including seizure of the assets, pending making an application for an order under subsection (2), and the application must be made within twenty-four hours from taking steps to secure the taxpayer's assets.

(4) The District Court must issue an asset preservation order when satisfied that the requirements in subsection (1) are satisfied and the order must be served on the taxpayer and any person holding, controlling, or managing the taxpayer's assets.

(5) An asset preservation order is valid for thirty days and may be extended by the District Court on application by the Comptroller.

(6) A taxpayer whose funds are the subject of an asset preservation order may, within fifteen days of being served with the order, make an application to the District Court to discharge or vary the order.

(7) When the District Court has issued an asset preservation order, the Comptroller shall, within thirty days of service of notice of the order, determine the tax due by the taxpayer to whom the order relates and serve a notice of a tax assessment on the taxpayer and commence recovery of the tax assessed under this Division.

(8) An asset preservation order automatically expires on service of a notice of assessment under subsection (7) unless the District Court extends the order on application by the Comptroller under subsection (5).

(9) A person who preserves funds pursuant to an asset preservation order is, deemed to have acted within the authority and the person and all other persons concerned are indemnified in respect of the actions taken in connection with the order, against all proceedings, civil or criminal and all process, judicial or extrajudicial, despite any provisions to the contrary in any written law, contract, or agreement.

(10) A person who, without reasonable cause, fails to comply with an asset preservation order served on the person is personally liable for the amount specified in the order.

Non-arm's length transferees

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

(2) Subsection (1) does not apply to an amount for which a person is liable under section 63.

(3) Any tax due and payable by a disposer as is attributable to income accrued under a disposition, and charged to tax in the name of the disposer under sections 14, 15(5) or 16 of the Income Tax Act, Cap. 15.02 may be recovered from the assets of the disposition.

(4) For the purposes of subsection (3), the tax attributable to income considered to have accrued to a disposer under sections 14, 15(5) or 16 of the Income Tax Act, Cap. 15.02 means the amount by which the tax charged under section 80 of the Income Tax Act,

Cap. 15.02 has been increased by the inclusion of such income in the assessable income of the disposer.

(5) Where income is considered to have accrued to the disposer under two or more dispositions the amount ascertained under subsection (4) must be apportioned between those dispositions in such proportions as the chargeable income of each such disposition bears to the total chargeable income of all such dispositions.

(6) In this section, “fair market value” means the price, expressed in of money or money’s worth, obtainable in an open and unrestricted market between knowledgeable, informed and prudent parties acting at arm’s length, neither party being under any compulsion to transact.

Transferred tax liabilities

91.—(1) When a taxpayer has a tax liability in relation to a business carried on by the taxpayer and the taxpayer has transferred all or some of the assets of the business to an associate, the transferee is personally liable for the unpaid tax liability of the transferor in relation to the business.

(2) Subsection (1) does not preclude the Comptroller from recovering the whole or part of the transferred liability from the transferor.

(3) For the purposes of this section, two persons are associates where the relationship between the two is —

- (a) that of an individual and a relative of the individual;
- (b) that of partners in the same partnership;
- (c) that of an entity and a person referred to in subsection (2);
or
- (d) that of a person referred to in subsection (4) and a relative of that person; or
- (e) in any case not covered by paragraphs (a) to (c), such that one may reasonably be expected to act, other than as employee, in accordance with the directions, requests, suggestions or intentions of the other.

(4) For the purposes of this section, a person and an entity are associates where the person controls the entity or may benefit from

fifty per cent or more of the rights to income, capital or voting power of the entity —

(a) alone or together with persons who, under another application of this section, are associated with the person; and

(b) whether directly or through one or more interposed entities.

(5) In this section —

“relative” in relation to an individual, means the individual’s child, spouse, parent, grandparent, grandchild, sibling, aunt, uncle, nephew, niece or first cousin, including by way of marriage or adoption,

“transferred liability” means a liability transferred under subsection (1),

Receivers

92.—(1) A receiver shall notify the Comptroller of his or her appointment within fourteen days after being appointed.

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

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

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

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

(6) In this section, “receiver” means a person who, with respect to an asset situated in Saint Lucia, is —

- (a) a liquidator of a company or other entity;
- (b) a receiver appointed out of court or by a court;
- (c) a trustee in bankruptcy;
- (d) a mortgagee in possession;
- (e) an executor, administrator, or heir of a deceased individual's estate;
- (f) conducting the affairs of an incapacitated individual; or
- (g) a successor in a corporate reorganization.

Security

93.—(1) Where it is reasonable to do so for the protection of the revenue or as provided for in this Act and in any other Act to which this Act applies, the Comptroller, by notice in writing, may require a person to give security for the payment of tax within a specified time that is or may become payable by the person under this Act.

(2) The Comptroller may require security to be provided —

- (a) by a bond;
- (b) by an unconditional bank guarantee; or
- (c) in any other form as the Comptroller determines, including by way of a mortgage over the taxpayer's property and subject to any pre-existing mortgage over the property.

(3) A taxpayer is liable to provide security if the Comptroller serves the taxpayer with a notice, in writing, setting out —

- (a) the amount of the security required;
- (b) the manner in which the security is to be provided; and
- (c) the due date for providing the security.

(4) Where a taxpayer fails to comply with a notice under subsection (3), the Comptroller may recover the amount of the security under Part IX on the basis that the unpaid security is unpaid tax.

(5) Where security under subsection (1) is in cash and the Comptroller is satisfied that the security is no longer required, the

Comptroller shall refund the amount of the security as specified under section 65.

(6) A person dissatisfied with a decision of the Comptroller under subsection (1) may challenge the decision under Part VI.

(7) A promoter of public entertainment shall not allow the public entertainment to take place unless the promoter has paid the amount required under subsection (1) and obtains a Tax Compliance Certificate in accordance with section 94.

(8) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding one year or to both.

(9) In this section, “promoter of public entertainment” —

- (a) means a person who arranges the staging of public entertainment;
- (b) does not include entertainment organized by —
 - (i) a duly recognized educational institution under the Education Act, Cap. 18.01,
 - (ii) the board of management or a parent teacher association of an approved educational institution,
 - (iii) a person who provides entertainment on a daily or weekly basis,
 - (iv) a church incorporated or registered in Saint Lucia under any statute; or
 - (v) an approved charitable organization.

Tax Compliance Certificate

94.—(1) A taxpayer may request a Tax Compliance Certificate in the prescribed form issued by the Comptroller.

(2) The Comptroller shall provide a taxpayer with a Tax Compliance Certificate if the Comptroller is satisfied that the taxpayer —

- (a) does not have tax due and outstanding;

- (b) has made an arrangement that the Comptroller believes will result in the payment of tax due and outstanding; or
- (c) having made an arrangement with the Comptroller for tax due and outstanding, has paid all instalments due at the date of the request.

**PART XII
CIVIL PENALTIES**

Civil penalties: general

95.—(1) This section applies to penalties under this Act or under tax law.

(2) Procedures for the assessment, payment, collection, and dispute of a tax apply equally to penalties relating to a tax.

(3) A person's liability for a penalty under a section in this Part is separate and distinct from the person's liability, if any, for a penalty under another section of this Act or another tax law and is in addition to interest levied under Part VIII and to a criminal sanction imposed under Part XI.

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

(5) The Comptroller may make an assessment of a penalty charged as if the penalty were tax payable under this Act, and may specify the date on which the penalty is payable.

(6) A notice of an assessment of a penalty must be served on the person subject to the penalty and must state the amount of the penalty payable, the provision under which it is payable, and the due date for payment, and on service of the notice —

- (a) the notice and the assessment are treated as if they were a notice and assessment of tax payable under this Act;
- (b) the amount of the penalty specified in the notice is treated as tax payable under this Act; and
- (c) the due date for payment is the date specified in the notice.

(7) A person's liability to pay a penalty arises on the making of an assessment by the Comptroller under subsection (6).

(8) The period of limitations for assessing a penalty is six years after the violation that causes the penalty occurs, except for a violation under section 98, in which case the limitation for assessing a penalty is the same as the limitation for assessing the tax to which the penalty relates.

(9) Where a person liable for a penalty shows reasonable cause, the Comptroller may —

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

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

Failure to notify of changes in taxpayer information or failure to register

96.—(1) A person who fails to notify the Comptroller under section 22(6) or section 61(4) is liable for a penalty of two hundred and fifty dollars for the first instance, five hundred dollars for the second instance and one thousand for the third and any subsequent instance.

(2) A person who fails to apply for registration under sections 12 and 112(12) of the Value Added Tax Act, Cap. 15.42 is liable to a penalty equal to double the amount of output tax payable from the time the person is required to apply for registration until the person files an application for registration with the Comptroller.

(3) A person who fails to display the certificate of registration issued by the Comptroller as required by section 13(11) of the Value Added Tax Act, Cap. 15.42 is liable to a penalty of one hundred dollars per day for each day or portion of the day that the failure continues.

(4) A carrier who fails to register as required by the Travel Tax Act, Cap. 15.12 is liable for a penalty of not exceeding five thousand dollars.

Late filing of tax return

97. A person who fails to file a tax return on or before the date by which filing is required is liable to pay a penalty equal to the

greater of —

- (a) five per cent of the amount of the tax due and not paid, plus a further one percent of the amount of tax due but not paid for each month or part of a month during which the failure to file continues; and
- (b) one hundred dollars, and a further one hundred dollars for each month or part of a month during which the failure to file continues.

Late payment

98.—(1) Subject to subsection (2), a person who fails to pay all or part of a tax due for a tax period within fourteen days of the due date, or by the due date specified in the notice of assessment, if later, is liable to a penalty equal to twenty per cent of the amount of tax due and not paid.

(2) A person who fails to pay all or part of an instalment required pursuant to the Income Tax Act, Cap. 15.02 within fourteen days of the due date for the instalment is liable to a penalty equal to ten per cent of the amount of tax due but not paid.

(3) Where an extension is granted under section 66, a person is not liable to a penalty under subsection (1) unless the extension period expires without payment having been made.

Underpayment

99.—(1) Where tax is underpaid, or might have been underpaid, as a result of an incorrect statement or a material omission in a taxpayer's tax return, or property tax declaration or stamp duty calculation, and that statement or omission is a result of intentional conduct or negligence on the part of the taxpayer, the taxpayer is liable to a penalty in the amount of —

- (a) twenty-five per cent of the underpayment if paragraph (b) does not apply; or
- (b) seventy-five per cent of the underpayment if the amount of the underpayment is —
 - (i) greater than five hundred thousand dollars, or

- (ii) greater than twenty-five per cent of the person's tax liability for the period.

(2) Where, for a year of income, determination of the chargeable income under the Income Tax Act, Cap. 15.02 of a person results in an assessed loss, and the amount of such loss is less than it would have been if it had been calculated on the basis of the return of income or information furnished by him or her because of a statement or omission that is a result of neglect, carelessness, fraud or willful default, he or she is liable to a penalty in the amount of twenty-five per cent of the increased assessed loss.

False or misleading statements

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

(2) The amount of the penalty for which a person under subsection (1) is liable is the greater of fifty thousand dollars and —

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

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

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

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

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

(6) This section does not apply to conduct subject to the penalty under section 99.

Failure to maintain documents

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

(2) The penalty is one hundred dollars per day for each day the failure continues.

(3) Before assessing a penalty under this section, the Comptroller shall issue a warning notice, and no penalty is due under this section if the taxpayer complies with the warning notice within the time specified in the notice.

Failure to comply with third party notice

102. A person who fails to comply with a notice issued under section 87 is liable for a penalty of twenty-five per cent of the difference between the amount payable by the third party and the amount paid to the Comptroller by the due date specified in a third party debtor notice.

Failure to provide facilities

103. A person who fails to provide a tax officer with reasonable facilities and assistance as required under this Act or a tax legislation is liable for a penalty in an amount not exceeding ten thousand dollars.

Failure to comply with notice to give information

104.—(1) A person who fails to comply with a request for information properly made under this Act a tax legislation within the specified time, is liable for a penalty in an amount not exceeding five thousand dollars and a further penalty of one hundred dollars for each day or part of the day that the breach continues receiving a written warning from the Comptroller to correct the breach.

(2) Where an employer fails to furnish the return in accordance with Schedule 4 of the Income Tax Act, Cap. 15.02 he or she is liable to pay a penalty of five hundred dollars for every month or part thereof that the return remains unfurnished.

(3) Before assessing a penalty under this section, the Comptroller must issue a warning notice, and no penalty is due under this section if the taxpayer complies with the warning notice within three days of service of the notice.

**PART XIII
CRIMINAL PROCEEDINGS**

Criminal proceedings: general

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

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

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

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

- (a) the maximum term of imprisonment imposed for the offences may not exceed a term of five years; and
- (b) the person may not subsequently be prosecuted for additional offences in relation to the same act, omission, or course of conduct.

(5) A penalty is not payable under Part X in respect of an act, omission, or course of conduct by a person if —

- (a) the person has been convicted of an offence under this Part in respect of the same act, omission, or course of conduct; or
- (b) the offence has been compounded by the Director of Public Prosecutions.

(6) In any criminal proceedings which may be taken for failure to furnish a return of income against any person liable to furnish such a return it is not a defence by such person that he or she has not received from the Comptroller —

- (a) a form for the return of income; or
- (b) any notice calling upon him or her to furnish such return.

(7) In any criminal proceedings which may be taken against a person for failure to comply with any other request or notice by the Comptroller it shall be no defence by such person who has failed to notify the Comptroller of a change of address that he or she has used a different address in any correspondence with or application to the Comptroller after such change of address has occurred.

Period of limitations

106. Proceedings under this Part may be commenced —

- (a) if the offence alleged involves the doing of an act, within twelve years after the doing of the act;
- (b) if the offence alleged involves the failure to do an act, within twelve years after the failure occurred or, if later, within three years after the Comptroller becomes aware of the failure; or

- (c) if the offence alleged involves the non-disclosure or incorrect disclosure by a person of information relating to that person's liability under a tax law, within three years after the person's correct liability to tax becomes final for that tax period.

Aiding and abetting

107. A person who willfully aids, abets, assists, counsels, incites, or induces another person to commit a criminal offence under this Part is liable summarily to the same penalty as if the offence had been committed by that person.

Tax evasion

108.—(1) A person who willfully evades, or attempts to evade the assessment, payment, or collection of tax, or who willfully claims a refund of tax to which the person is not entitled, commits an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding three years, or both.

(2) In any proceedings under this section, if it is proved that any incorrect statement or entry is willfully made in any return, document, answer, books of account or other records by a person, he or she is presumed, until the contrary is proved, to have made, caused or allowed to be made that incorrect statement or entry with intent to evade assessment or liability to tax.

Impeding tax administration

109.—(1) A person who willfully impedes or attempts to impede the Department in its administration of this Act commits an offence and is liable summarily to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding six months, or both.

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

- (a) fails to comply with a lawful request by officials of the Department to examine documents, records, documents, or data within the control of the person;

- (b) fails to comply with a lawful request by officials of the Department to have the person appear before officials of the Department;
- (c) interferes with the lawful right of an official of the Department to enter onto premises;
- (d) fails to file a return;
- (e) uses a false taxpayer identification number or a taxpayer identification number that does not apply to the person;
- (f) refuses to allow the Comptroller to inspect or measure land or refuses to delivery for inspection any map, plan, title deed, instrument of title, or other document;
- (g) makes a statement to a taxation officer that is false or misleading in a material particular;
- (h) fails to comply with a notice issued under section 86;
- (i) fails to maintain required records; or
- (j) otherwise impedes the determination, assessment, or collection of tax.

(3) A person who, having been convicted under subsection (1) of failing to do anything required to be done by him or her under this Act, fails within any further period specified by the Comptroller in a notice served on him or her, to comply with the requirements of that notice, commits a further offence and is liable on summary conviction for each day during which the offence continues to a fine not exceeding ten thousand dollars or to imprisonment for a tern not exceeding one year.

Offences by tax officers

110.—(1) A tax officer shall not, in carrying out the provisions of this Act —

- (a) directly or indirectly ask for, or take, in connection with the officer's duties, a payment or reward, whether pecuniary or otherwise, or a promise or security for the payment or reward, not being a payment or reward which the officer is lawfully entitled to receive; or

- (b) enter into or acquiesce in an agreement to do, refrain from doing, permit, conceal, or connive at an act or thing that is contrary to the provisions of this Act or to the proper execution of the officer's duty, or that has the effect that the tax revenue is or may be defrauded.

(2) A tax officer who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding one year, or both, and the Court may, in addition to imposing a fine, order the convicted person to pay to the Comptroller an amount of tax that has not been paid as a result of the officer's wrong doing and which cannot reasonably be recovered from the person liable for the tax.

PART XIV

MISCELLANEOUS

Implementation of Mutual Administrative Assistance Agreements

111.—(1) The Minister may, on behalf of the Government, enter into, amend, or terminate a mutual administrative assistance agreement with a foreign government or governments and where necessary seek the approval of Parliament to give legal effect in Saint Lucia according to its terms.

(2) A mutual administrative assistance agreement for which Parliament has issued an instrument of ratification has legal effect in Saint Lucia according to its terms.

(3) If there is any conflict between the terms of a mutual administrative assistance agreement to which subsection (2) applies and a tax law, the mutual administrative assistance agreement prevails.

(4) If a tax treaty or mutual administrative assistance agreement having legal effect in Saint Lucia provides for exchange of information, or reciprocal assistance in the recovery of tax or service of process, the Comptroller must use the powers available under this Act or any other law to meet Saint Lucia's obligations under the treaty or agreement on the basis that a reference in this Act or other law —

- (a) to "tax" includes a foreign tax to which the exchange of information or reciprocal assistance relates;

- (b) to “unpaid tax” or words to that effect includes an amount specified in paragraph (a) that has not been paid by the due date;
- (c) to “taxpayer” includes a person liable for an amount specified in paragraph (a); and
- (d) to “tax law” includes the law under which a foreign tax specified in paragraph (a) is imposed.

(5) In this section —

“international agreement” means an agreement between Saint Lucia and a foreign government or governments;

“mutual administrative assistance agreement” means a tax information exchange agreement or other international agreement for mutual administrative assistance in relation to taxation matters;

“tax treaty” means an international agreement relating to the avoidance of double taxation and the prevention of fiscal evasion.

Disclosure of information by National Insurance Corporation

112.—(1) An obligation as to secrecy imposed by statute or otherwise on persons employed in the Inland Revenue Department shall not prevent information relating to the assessment or collection of income tax from being disclosed to the Director where such information relates to the collection of contributions, or the payment of benefit under this Act.

(2) Subsection (1) extends only to disclosure by or under the authority of the Comptroller of Inland Revenue and information which is the subject of disclosure to any person by virtue of the subsection shall not be further disclosed to any person, except where the further disclosure is made —

- (a) to a person to whom disclosures could otherwise have been made by or under the authority of the Comptroller of Inland Revenue; or
- (b) for the purpose of any proceedings (civil or criminal) in connection with the operations of any enactment relating

to the calculation or collection of contributions, or the payment of benefit under this Act.

Amendment of Schedules

113. The Minister may, by Order published in the Gazette amend Schedule 1 or Schedule 2.

Regulations

114. The Minister may make Regulations —

- (a) for matters that under this Act are to be prescribed;
- (b) for matters necessary or convenient to be prescribed for the better carrying out or giving effect to this Act.

SCHEDULE 1

(Section 2)

TAX LEGISLATION

1. Income Tax Act, Cap. 15.02
2. Insurance Premium Tax Act, Cap. 12.09
3. Land and House Tax Act, Cap. 15.13
4. Stamp Duty Act, Cap. 15.11
5. Travel Tax Act, Cap. 15.12
6. Value Added Tax Act, Cap. 15.42.

SCHEDULE 2

(Section 75)

INTEREST RATE

This interest rate is [] per cent per month or part of a month, compounded monthly.