

INCOME TAX ACT 2015
(ACT NO. 32 OF 2015)

Income Tax (Collection of Provisional Tax) Regulations 2016

IN exercise of the powers conferred upon me by section 142(1) of the Income Tax Act 2015, I hereby make these Regulations—

Short title and commencement

- 1.—(1) These Regulations may be cited as the Income Tax (Collection of Provisional Tax) Regulations 2016.
- (2) These Regulations shall come into force on 1 January 2016.

Interpretation

- 2.—(1) In these Regulations, unless the context otherwise requires—
 - “Act” means the Income Tax Act 2015; and
 - “contract for service” includes any person who is an independent contractor.
- (2) In these Regulations, words and phrases have the same meaning as under the Act unless the context otherwise requires.

Provisional tax on commissions, and on payments for services

- 3.—(1) For the purpose of assisting persons whose income is derived wholly or partly from commissions received from the selling, leasing and renting of any property of whatever nature including insurance on life or property and land, and the sale of books and

publications, the CEO may make such arrangements as he or she considers appropriate in respect of any particular person or class of persons, which may include instalment deductions at source upon the crediting or payment of such commissions.

(2) To facilitate the payment of provisional tax payable by any person in respect of the profits or gains of the trade, profession or vocation of that person, there shall be deducted from any payment made under any contract for services, but not being a contract of employment, including progress payments under a contract, a sum equal to 5 per cent of such payment, and the sum so deducted shall be paid to the CEO and shall be treated for the purposes of income tax as not diminishing the payment, provided that such person entitled to such payment may request the CEO to make such other determination as to the sum properly payable and to notify the person making such payment of such determination.

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

Recovery of tax

4. Where any sum has been deducted by any person under the provisions of these Regulations, such sum shall be deemed to be held in trust for the State in accordance with the provisions of section 111 of the Act.

Date of payment

5. Any person who is required to make any such deductions and fails to do so or fails to remit or pay the sum of such deductions to the CEO on or before the fifteenth day of the next month in which the payment under the contract was made guilty of an offence and is liable to penalties prescribed in the Tax Administration Decree 2009.

Deduction of lawful sums

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

Recoverable of tax lawfully deducted of tax

7. For all purposes of the Act, any tax to be lawfully deducted under the provisions of these Regulations shall be recoverable in the same manner in all respects as if it were tax payable by the person by whom the payment is made.

Circumstances where deduction of Provisional Tax not required

8. These Regulations shall not require the deduction of provisional tax by any person making payments in respect of contracts for services where the total to be paid to any one person in any year is less than \$1,000.

Revocation

9. The Income Tax (Collection of Provisional Tax) Regulations are hereby revoked.

Made this 1st day of January 2016.

F. S. KOYA
Acting Minister for Finance