TITLE 48 - TAXATION
CHAPTER 7 - NET PROFIT TAX ACT 2025

Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

NET PROFIT TAX ACT, 2025.

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TITLE 48 - TAXATION
CHAPTER 7 - NET PROFIT TAX ACT 2025

Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

NET PROFIT TAX ACT, 2025.

AN ACT to include a new Chapter under Title 48 of the MIRC in order to provide for the imposition of net profit tax and for matters connected therewith.

Commencement:	*October 6, 2025*
Source:	*P.L. 2025-38*

§701. Short title.

This Chapter may be cited as the Net Profit Tax Act, 2025..

§702. Definitions

In this Act, unless the context otherwise requires:

a. "acquire", in relation to a business asset, has the meaning in section 727;

b. "amount" includes an amount-in-kind;

c. "associate" has the same meaning as in the Tax Administration Act;

d. "bank" has the same meaning as in the Banking Act 1987;

e. "business" includes:

(1) any profession, trade, manufacture, or other commercial undertaking and includes all activities whether personal, professional, unincorporated, or incorporated carried on for economic benefit, either direct or indirect, but does not include the activity of a person in the capacity of an employee; and

(2) any activity undertaken by a body corporate or partnership;

f. "business asset" means an asset, whether of a revenue or capital nature, used or held in carrying on a business wholly or partly to derive gross revenue;

g. "business intangible" means any of the following when used or held wholly or partly to derive gross revenue:

(1) an industrial or intellectual property right that has a limited useful life that exceeds one year;

(2) contractual rights (including arising as a result of a prepayment of expenses) with a benefit for a limited period that exceeds one year;

(3) an expenditure used wholly or partly to derive gross revenue that provides an advantage or benefit for a period that exceeds one year, other than expenditure incurred to acquire any right or property; and

(4) preliminary expenditure;

h. "commencement date" means the date specified in section 749(2);

i. "Consumption Tax Act" means the Consumption Tax Act, 2025;

j. "corporation" has the same meaning as in the Business Corporations Act;

k. "consideration", in relation to the disposal of a business asset, has the meaning in section 730;

l. "consumption tax" means the consumption tax imposed under the Consumption Tax Act;

m. "cost", in relation to a business asset, has the meaning in section 729;

n. "depreciable asset" means:

(1) any tangible movable property or structural improvement to immovable property that:

(a) has a useful life exceeding one year;

(b) is likely to lose value as a result of normal wear and tear, or obsolescence; and

(c) is used or held wholly or partly to derive gross revenue; and

(2) a business intangible;

o. "depreciation deduction" means a deduction allowed under section 714;

p. "derived" means:

(1) for net profit tax, received or the arising of the right to receive as determined under section 720; or

(2) for any other tax, received;

q. "disposal" has the meaning in section 728;

r. "distribution" means:

(1) a dividend paid by a body corporate to a shareholder:

(2) an allocation of profits by a partnership to a partner;

(3) an entitlement to income of a beneficiary of a trust; and

(4) a distribution of profits by any other entity to a member of the entity;

s. "domestic corporation" has the meaning in the Business Corporations Act;

t. "employee" has the same meaning as in Income Tax Act;

u. "entity" means a partnership, trust, corporation, foreign corporation, and an unincorporated body or association of persons;

v. "exempt income" has the meaning in section 711;

w. "fair market value" has the meaning in section 703;

x. "fee for the provision of professional or other independent services" does not include a management fee;

y. "financial institution" has the same meaning as in the Banking Act 1987;

z. "foreign corporation" has the same meaning as in the Business Corporation Act;

aa. "Government" means the Government of the Republic of the Marshall Islands;

bb. "gross revenue" means the amounts referred to in section 710;

cc. "gross revenue tax" means the gross revenue tax imposed under section 706;

dd. "immovable property income tax" means the immovable property income tax imposed under section 707;

ee. "insurance premium" means a premium paid under a policy of insurance or reinsurance;

ff. "interest" includes:

(1) an amount, whether described as interest, discount, premium, or otherwise, whether periodical or a lump sum, given as consideration for the use of money or being given time to pay; or

(2) an amount, however described, that is functionally equivalent to an amount referred to in paragraph (a);

gg. "international agreement" means an agreement between the Government and a foreign government for the provision of financial, technical, humanitarian, or administrative assistance to the Government;

hh. "Income Tax Act" means the Income Tax -Act,1989;

ii. "international organization" has the same meaning as in the International Organization Immunities Act 1974;

jj. "international traffic", in relation to an aircraft, means any operation of the aircraft except as between two places in the Republic;

kk. "inventory" includes anything produced, manufactured, purchased, or otherwise acquired for sale or exchange, and includes any raw materials or consumables used in the production or manufacturing process, and livestock (other than animals used as beasts of burden or working beasts);

ll. "liaison office" means an office the sole activity of which is representation;

mm. "long-term contract" means a contract for manufacture, installation, or construction, or, in relation to each, the performance of related services, that is not completed within the tax year in which work under the contract commenced, other than a contract estimated to be completed within six months of the date on which work under the contract commenced;

nn. "management fee" means an amount given as consideration for the rendering of a managerial service, but does not include salary or wages;

oo. "member" has the same meaning as in the Tax Administration Act;

pp. "membership interest has the same meaning as in the Tax Administration Act;

qq. "natural resource amount" means:

(1) an amount (including a premium or like amount) as consideration for the right to take minerals or a living or non-living resource from land or sea; or

(2) an amount calculated in whole or part by reference to the quantity or value of minerals or a living or non-living resource taken from land or sea;

rr. "net book value", in relation to a business asset:

(1) for a business asset to which section 729(7) applies, the cost apportioned to the asset under that section reduced by any depreciation deductions allowed or that would have been allowed but for section 714(4) that relate to the cost apportioned to the asset under section 729(7); or

(2) for any other business asset, the cost of the asset reduced by depreciation deductions (if any) allowed in respect of the asset or that would have been allowed but for section 714(4);

ss. "net loss", in relation to a tax year, has the meaning in section 719;

tt. "net profit tax" means the net profit tax imposed under section 705;

uu. "non-resident person" means a person who is not a resident person;

vv. "permanent establishment" means a fixed place of business through which the business of a person is wholly or partly carried on, and includes:

(1) a place of management, branch, office, factory, warehouse, or workshop, other than a liaison office;

(2) a mine, oil or gas well, quarry, or other place of exploration for, or extraction of, natural resources;

(3) a building site, or a construction, assembly or installation project, or supervisory activities connected with such site or project, but only if the site, project, or activities continue for more than ninety days;

(4) the furnishing of services by the person, including through employees or other personnel engaged by the person for such purpose, but only if activities of that nature continue for a period or periods aggregating more than ninety days within any twelve-month period; or

(5) a person (other than an agent of independent status) acting on behalf of another person (referred to as the "principal"), if the person:

(a) regularly negotiates or signs contracts on behalf of the principal, regardless of whether the contracts are concluded in the name of the principal or agent; or

(b) maintains a stock of inventory from which the agent regularly delivers inventory on behalf of the principal;

ww. "person" means a natural person, entity, government, political subdivision of a government, or international organization;

xx. "preliminary expenditure" means expenditure incurred before the commencement of a business if the revenue to be derived by the business will be wholly and exclusively included in gross revenue, other than expenditure incurred to acquire any right or property;

yy. "qualified pension or deferred compensation plan" has the same meaning as under the Income Tax (Wages and Salaries) Act, 2025;

zz. "qualified trust" has the same meaning as under Income Tax Act;

aaa. "quarter" means a period of three months ending on March 31, June 30, September 30, or December 31;

bbb. "received", in relation to a person, includes:

(1) applied on behalf of the person either at the instruction of the person or under any law;

(2) reinvested, accumulated, or capitalized for the benefit of the person;

(3) credited to an account, or carried to any reserve, or a sinking or insurance fund for the benefit of the person; or

(4) made available to the person;

ccc. "Republic" means the Republic of the Marshall Islands;

ddd. "resident domestic partnership" has the same meaning as in the Marshall Islands Revised Partnership Act;

"resident person" means:

(1) a natural person who:

(a) has his/her home in the Republic;

(b) is present in the Republic for a period of, or periods amounting in aggregate to, one hundred eighty-three days or more in any twelve-month period; or

(c) is an employee of the Government posted abroad;

(2) a domestic corporation,

(3) resident domestic partnership;

(4) an unincorporated body or association of persons formed in the Republic;

(5) a trust that is formed, organized, settled, or otherwise established in the Republic; and

(6) the Government and a political subdivision of the Government;

eee. "royalty" means an amount, however described, whether periodical or a lump sum, as consideration for:

(1) the use of, or right to use a patent, invention, design or model, secret formula or process, trademark, or other like property or right;

(2) the use of, or right to use a copyright of a literary, artistic, or scientific work (including films or video tapes for use

in connection with television or tapes in connection with radio broadcasting);

(3) the receipt of, or right to receive, visual images or sounds, or both, transmitted by satellite, cable, optic fiber, or similar technology in connection with television, radio, or internet broadcasting;

(4) the supply of technical, industrial, commercial, or scientific knowledge, experience, or skill;

(5) the use of or right to use industrial, commercial, or scientific equipment; or

(6) the supply of assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the application or enjoyment of, property or a right referred to in paragraphs (a) through (e);

fff. "Secretary" means the Secretary of the Ministry responsible for finance;

ggg. "Social Security Act" means the Social Security Act of 1990;

hhh. "Social Security Retirement Fund" means the Social Security Retirement Fund established under section 120 of the Social Security Act of 1990;

iii. "sources in the Republic" has the meaning in section 704;

jjj. "structural improvement", in relation to immovable property, means a building or any other addition or alteration to the property that becomes part of, or is permanently affixed to, the property, including a road, driveway, car park, pipeline, bridge, tunnel, airport runway, canal, dock, wharf, retaining wall, fence, power lines, water or sewerage pipes, drainage, landscaping, or dam;

kkk. "tax" means any tax imposed under this Chapter;

lll. "Tax Administration Act" means the Tax Administration Act, 2025;

mmm. "tax year" means:

(1) the period of twelve months ending on September 30; and

(2) for a domestic or foreign corporation, includes, with the approval of the Secretary and subject to such conditions

as the Secretary may provide, the period of twelve months ending on the date of the annual balance of its financial accounts;

nnn. "taxable income" has the meaning in section 709;

ooo. "trust" includes the estate of a deceased person;

ppp. "US GAAP" means the most recent Generally Accepted Accounting Principles adopted by the United States Securities and Exchange Commission; and

qqq. "wages and salaries" has the same meaning as in the Income Tax Act 1989.

§703. Fair Market Value

(1) The fair market value of an asset, property, service, or benefit at a particular time shall be the consideration the asset, property, service, or benefit would fetch in an open market transaction made at that time between persons who are not associates.

(2) If it is not possible to determine the fair market value of an asset, property, service, or benefit at a particular time under subsection (1), the fair market value shall be the consideration a similar asset, property, service, or benefit would fetch in an open market transaction made at that time between persons who are not associates and adjusted to take account of the differences between the similar asset, property, service, or benefit and the actual asset, property, service, or benefit.

(3) For the purposes of subsection (2), an asset, property, service, or benefit is similar to another asset, property, service, or benefit, as the case may be, if it is the same as, or closely resembles, the other asset, property, service, or benefit having regard to its character, quality, quantity, functionality, materials, and reputation.

(4) If the fair market value of an asset, property, service, or benefit cannot be determined under subsection (1) or (2), the fair market value shall be the amount determined by the Secretary provided it is consistent with generally accepted principles of valuation.

(5) This section is subject to section 734.

§704. Sources in the Republic

(1) An amount derived by a resident person in carrying on a business is derived from sources in the Republic except to the extent that it is attributable to a business carried on by the person through a permanent establishment outside the Republic.

(2) An amount derived by a non-resident person in carrying on a business is derived from sources in the Republic to the extent that it is attributable to:

(a) a business carried on by the person through a permanent establishment in the Republic;

(b) sales in the Republic of goods or merchandise of the same or similar kind as those sold by the person through a permanent establishment in the Republic; or

(c) any other business activity carried on in the Republic of the same or similar kind as that carried on by the person through a permanent establishment in the Republic.

(3) Notwithstanding subsections (1) and (2), the following amounts are derived from sources in the Republic:

(a) rental income from the lease of immovable property in the Republic;

(b) a gain arising on the disposal of immovable property in the Republic;

(c) a gain arising on the disposal of a membership interest in an entity whose assets consist, directly or indirectly through one or more interposed entities, solely or principally of immovable property in the Republic at any time in during the period of 365 days preceding the disposal of the interest;

(d) a gain arising on disposal of a membership interest in a domestic corporation or resident domestic partnership;

(e) a dividend paid by a domestic corporation;

(f) a natural resource amount if it relates to the taking of minerals or a living or non-living resource from land in, or the territorial waters of, the Republic;

(g) an insurance premium in respect of the insurance of a risk in the Republic; or

(h) interest, royalty, management fee, or fee for the provision of professional or other independent services if it is:

(i) paid by a resident person, other than as an expenditure of a business carried on by the person through a permanent establishment outside the Republic; or

(ii) paid by a non-resident person as an expenditure of a business carried on by the person through a permanent establishment in the Republic.

(4) In this section, "immovable property" includes an exploration, prospecting, development, or similar natural resource right relating to immovable property.

PART II – IMPOSITION OF TAX

§705. Imposition of Net Profit Tax

(1) Subject to this Act, there is hereby imposed a net profit tax at the rate of 16% on a person who has taxable income for a tax year.

(2) The net profit tax payable by a person under subsection (1) for a tax year shall be calculated by applying the rate of tax specified in subsection (1) to the taxable income of the person for the year.

(3) A person who is subject to gross revenue tax shall not be subject to net profit tax under subsection (1).

§706. Imposition of Gross Revenue Tax

(1) Subject to this Chapter, there is hereby imposed a gross revenue tax for each quarter on:

(a) a person carrying on business who satisfies the following conditions:

(i) the person carries on the business solely in the Republic;

(ii) the person is not a registered person for the purposes of the consumption tax; and

(iii) the annual total gross revenue received by the person is less than $300,000; and

(b) a non-resident person operating an airline in international traffic.

(2) In determining whether the annual gross revenue received by the person referred to in subsection (1)(a) is less than $300,000, the Secretary may have regard to the annual gross revenue of an associate of the person.

(3) The gross revenue tax payable by a person referred to in subsection (1)(a) whose annual total gross revenue received does not exceed $10,000, shall be the amount of $80 payable in total for the first quarter of the year or, if the person commences to carry on business during the year, payable for the first quarter after the person commenced business.

(4) The gross revenue tax payable by a person referred to in subsection (1)(a) whose annual total gross revenue received exceeds $10,000 000 shall be the total of the following amounts:

(a) the amount of $80 payable for the first quarter of the year or, if the person commences to carry on business during the year, payable for the first quarter after the person commenced business; and

(b) 3% of the gross revenue received above $10,000 payable quarterly; and

(5) The gross revenue tax payable by a person referred to in subsection (1)(b) shall be the amount of 3% of the gross revenue derived by the person from the carriage of passengers, livestock, mail, merchandise, or goods embarked or loaded in the Republic payable quarterly.

(6) A person subject to gross revenue tax under subsection (1)(a) may apply, in writing, to the Secretary for section 705 to apply instead of this section.

(7) If the Secretary is satisfied that a person who has lodged an application under subsection (6) will keep proper records, the Secretary may grant the application subject to such conditions as the Secretary may specify by notice in writing to the applicant.

(8) Subsection (1)(b) shall not apply to the following:

(a) a passenger who is in the Republic solely as a result of being in transit between two places outside the Republic; or

(b) the transhipment of livestock, mail, merchandise, or goods.

§707. Imposition of Immovable Property Income Tax

(1) Subject to this Chapter, there is hereby imposed an immovable property income tax at the rate of 3% on a person who has derived gross income from the lease of immovable property in the Republic, exclusive of buildings and other structural improvements.

(2) The immovable property income tax payable by a person shall be calculated by applying the rate of tax specified in subsection (1) to the gross income derived by the person.

(3) Subsection (1) shall not apply to gross income that is exempt income.

(4) The immovable property income tax imposed on a person under subsection (1) on the income from immovable property derived by the person shall be a final tax on the income and the liability of the person shall be discharged if the tax has been withheld from the income under section 742.

§708. Imposition of Non-resident Tax

(1) Subject to this Act, there is hereby imposed a non-resident tax at the rate specified in subsection (2) on a non-resident person who has derived interest, a royalty, natural resource amount, insurance premium, management fee, or a fee for the provision of professional or other independent services from sources in the Republic.

(2) The rate of tax under subsection (1) shall be:

(a) for an insurance premium, 5%;

(b) for interest, royalty, natural resource amount, or a fee for the provision of professional or other independent services, 10%; or

(c) for a management fee, 16%.

(3) The non-resident tax payable by a non-resident person under subsection (1) shall be calculated by applying the rate of tax specified in subsection (2) to the gross amount of the interest, royalty, natural resource amount, insurance premium, management fee, or a fee for the provision of professional or other independent services received by the person.

(4) Subsection (1) shall not apply to:

(a) an amount that is exempt income; or

(b) interest, a royalty, natural resource amount, insurance premium, management fee, or fee for the provision of professional or other independent services that is attributable to a business carried on by the non-resident person through a permanent establishment of the person in the Republic and, in that case, the amount is taxable under section 705 or 6, as the case may be.

(5) The non-resident under subsection (1) shall be a final tax on the income on which it has been imposed and the liability of the non-resident person shall be discharged if the tax has been paid withheld from the income under section 743.

PART III – NET PROFIT TAX

Division I – Taxable Income

§709. Taxable Income

The taxable income of a person for a tax year shall be the gross revenue of the person for the year reduced by the total amount of deductions allowed to the person for the year.

Division II – Gross Revenue and Deductions

§710. Gross Revenue

(1) Subject to subsection (2), the gross revenue of a person for a tax year shall be the sum of the following amounts derived by the person during the year from sources in the Republic:

(a) the gross receipts from the carrying on of a business, including the gross proceeds from the disposal of inventory and the gross fees as compensation for personal services provided (other than wages and salaries);

(b) the gross receipts from the investment of capital of a business, including interest, rentals, royalties, fees, or other amounts however designated;

(c) a gain on disposal of a business asset during the year, other than inventory dealt with under paragraph (a);

(d) the amount of an expenditure, loss, or bad debt previously allowed as a deduction that has been reimbursed or recovered by the person during the year; and

(e) any other amount included in gross revenue under this Chapter.

(2) The gross revenue of a person shall not include:

(a) exempt income; or

(b) an amount subject to tax under section 707 or 708.

(3) For the purposes of subsection (1)(c), the gain on disposal of a business asset shall be calculated as the consideration for the disposal of the asset reduced by the net book value of the asset at the time of disposal.

§711. Exempt Income

(1) The following amounts shall be exempt income for the purposes of this Chapter:

(a) a distribution;

(b) an amount exempt from tax under an international agreement;

(c) an amount derived by an international organization to the extent provided for in the International Organization Immunities Act 1974;

(d) interest paid by a domestic corporation (referred to as the "borrower") to a non-resident person (referred to as the "lender") where the Secretary is satisfied that:

(i) the interest is paid in respect of a borrowing raised by the borrower on international monetary markets;

(ii) the lender is not an associate of the borrower;

(iii) the borrowed funds are for use by the borrower in a business carried on in the Republic; and

(iv) there is no arrangement in place whereby a non-resident associate of the borrower will directly or indirectly benefit from the interest;

(e) an amount derived by the Government or a political subdivision of the Government;

(f) an amount derived by a company, association, or society organized and operated exclusively for religious, charitable, scientific, or educational purposes provided that no part of the income or other funds of the company, association, or society is used or are available for use for the pecuniary profit of a proprietor, member, or shareholder of the company, association, or society;

(g) an amount derived by a cooperative association organized under an Act of the Nitijela; and

(h) amounts derived by the Social Security Retirement Fund or a qualified trust in relation to a qualified pension or deferred compensation plan.

(2) Subject to subsection (3), a provision in another law providing that an amount is exempt income shall not have legal effect unless also provided for in this Chapter.

(3) Subsection (2) does not apply to a provision in another law that is in force at the commencement date.

§712. Deductions

(1) Subject to this Chapter, the total amount of deductions allowed to a person for a tax year shall be the sum of the following amounts:

(a) expenditures or losses to the extent incurred by the person during the year in deriving amounts included in gross revenue;

(b) the cost of inventory disposed of by the person during the year as determined under US GAAP;

(c) the total amount, as determined under section 714, by which the value of the depreciable assets of the person have declined during the year from use by the person in deriving amounts included in gross revenue;

(d) a loss incurred by the person on disposal of a business asset during the year, other than inventory dealt with under paragraph (b); and

(e) any other amount that the person is allowed as a deduction under this Chapter for the year.

(2) For the purposes of subsection (1)(d), the loss on disposal of a business asset shall be calculated as the net book value of the asset at the time of disposal reduced by the consideration for the disposal of the asset.

§713. Non-deductible Expenditures and Losses

(1) Except as provided for in this Chapter, no deduction shall be allowed for the following:

(a) an expenditure or loss to the extent to which it is of a domestic or private nature;

(b) a distribution, an amount of capital withdrawn, or a sum employed or intended to be employed as capital;

(c) an expenditure or loss that is taken into account in calculating a gain included in gross revenue under section 710(1)(c) or a loss allowed as a deduction under section 712(1)(d);

(d) an expenditure or loss of a capital nature except as provided by way of depreciation under section 710(1)(c) or a loss on disposal of a business asset under section 712(1)(d);

(e) an amount that a person has transferred, in its financial accounts, to a reserve or provision for expenditures or losses not yet incurred but expected to be incurred in a subsequent tax year;

(f) an expenditure or loss to the extent recovered or recoverable under a policy of insurance or contract of indemnity, guarantee, or surety;

(g) net profit tax payable in the Republic or an equivalent tax payable elsewhere, including any penalty or interest payable in respect of any net profit tax or equivalent tax payable elsewhere;

(h) a fine or penalty imposed for violation of any law or regulation;

(i) a bribe, kickback, or similar amount; or

(j) interest payable to an associate other than if the interest is:

(i) included in the gross revenue of the associate and taxable under section 705; or

(ii) subject to non-resident tax.

(2) If a person is allowed a deduction for payment from which the person is required to withhold tax under Division III of Part VI, the deduction

shall not be allowed until the tax year in which the withholding tax has been paid to the Secretary.

(3) The amount of a deduction for expenditure on entertainment incurred by a person during a tax year to derive gross revenue shall be limited to the lesser of:

(a) 60% of such expenditure actually incurred by the person; and

(b) 0.5% of the gross revenue derived by the person during the year.

(4) The excess amount under subsection (3) shall not be carried forward to the following tax years.

(5) In this section:

"entertainment" means:

(a) the provision of food, beverages, recreation, or hospitality of any kind other than:

(i) provided in the ordinary course of carrying on a business of providing food, beverages, recreation, or hospitality to customers;

(ii) food and beverages provided while the recipient is away from home for the purposes of the business of the recipient or the recipient's employer; or

(iii) food and beverages provided to employees in a canteen, cafeteria, or similar premises operated by, or on behalf of, a person solely for the benefit of employees and made available to employees generally; and

(b) the provision of accommodation or travel related to the provision of food, drink, or recreation treated as entertainment under paragraph (a); and

"recreation" includes amusement, sport, or other leisure time activities, including when provided on a vehicle, vessel, or aircraft.

§714. Depreciation of Depreciable Assets

(1) A person shall be allowed a deduction for a tax year for the amount by which the person's depreciable assets have declined in value during the year through use in deriving amounts included in gross revenue.

(2) Subject to subsection (3), the decline in value of a depreciable asset of a person for a tax year shall be calculated under the straight-line or declining balance method in accordance with US GAAP and at the rates specified in section 715.

(3) A structural improvement and a business intangible shall be depreciated only under the straight-line method.

(4) If a depreciable asset is used or held by a person in a tax year partly to derive gross revenue and partly for another use, the amount allowed as a deduction under subsection (1) shall be the proportion of the amount calculated under subsection (2) that relates to the derivation of gross revenue.

(5) If a depreciable asset is not used or held for use by a person in deriving gross revenue for the whole of the tax year, the amount allowed as a deduction under subsection (1) shall be the amount calculated according to the following formula:

A x B/C

where:

A is the depreciation deduction allowed under subsection (1) for the tax year after taking account of subsection (4);

B is the number of days in the tax year the depreciable asset is used to derive gross revenue; and

C is the number of days in the tax year.

(6) The total deductions allowed, or that would be allowed but for subsection (4), to a person under this section in respect of a depreciable asset for the current tax year and all previous tax years under the straight-line depreciation method shall not exceed the cost of the asset.

§715. Depreciation Rates

(1) Subject to Subsection (2), the depreciation rates for depreciable assets are set out in the table below:

Class	Depreciable Asset	Straight-line Rate	Diminishing Value Rate

1	Motor vehicles; buses and minibuses with a seating capacity of less than 30 passengers; goods vehicles with a load capacity of less than 7 tons; computers, computer equipment, data handling equipment and software; construction and earthmoving equipment	25%	37.5
2	Buses with a seating capacity of 30 or more passengers; goods vehicles designed to carry or pull loads of 7 or more tons; specialized trucks; tractors; trailers and trailer-mounted containers; and plant and machinery used in manufacturing and agricultural operations	20%	30
3	Vessels, barges, tugs, and similar water transportation equipment; aircraft; office furniture, fixtures, and equipment; and any depreciable asset not included in another class	12.5%	18
4	Buildings and other structural improvements to land	5%	-
5	Intangible assets	Rate determined under subsection (3)	-

(2) The depreciation rate applicable to a depreciable asset that has a cost of less than $500 is 100%.

(3) The straight-line depreciation rates applicable to business intangibles are:

(a) for preliminary expenditure, 25%;

(b) for a business intangible with a useful life of more than 10 years, 10%; and

(c) for any other business intangible, 100% divided by the number of years in the useful life of the intangible.

§716. Disposal of a Depreciable Asset

(1) Subject to subsection (2), if a person disposes of a depreciable asset in a tax year and:

(a) there is a gain on disposal calculated in accordance with section 710(3), the gain shall be included in the gross revenue of the person for that year under section 710(1)(c); or

(b) there is a loss on disposal calculated in accordance with section 712(2), the loss shall be allowed as a deduction for that year under section 712(1)(d).

(2) If subsection (1) applies to a depreciable asset that has been used partly in deriving gross revenue and partly for another use, the amount of the gain or loss on disposal to which subsection (1) applies shall be the fair proportional part of the gain or loss that relates to the derivation of gross revenue.

§717. Deduction for Contributions to Retirement Funds

(1) Subject to subsection (3), an employer shall be allowed a deduction for the amount of a contribution paid by the employer in a tax year to the Social Security Retirement Fund in respect of an employee, other than by way of deduction from the wages or salary of the employee, or which is otherwise recovered from the employee.

(2) Subject to subsection (3), a self-employed person shall be allowed a deduction for the amount of a contribution paid by the person in a tax year to the Social Security Retirement Fund.

(3) The amount of the deduction allowed under subsection (1) or (2) shall be limited to the amount that the employer or self-employed person is required to contribute under section 130 of the Social Security Act 1990.

(4) Subject to subsection (5), an employer is allowed a deduction for the amount of a contribution paid by an employer in a tax year to a qualified trust in relation to a qualified pension or deferred compensation plan in respect of an employee, other than by way of deduction from the wages or salary of the employee, or which is otherwise recovered from the employee.

(5) The total amount allowed as a deduction to an employer under subsection (1) and (4) for a tax year in respect of an employee shall not exceed 15% of the total wages and salaries of the employee for the year.

(6) No deduction shall be allowed for a contribution made by an employer or self-employed person to a retirement or savings fund except as specified in this section.

(7) In this section, "wages or salary" has the same meaning as in the Income Tax Act.

§718. Apportionment of Deductions

(1) Subject to this Chapter, an expenditure or loss relating to:

(a) the derivation of more than one class of revenue; or

(b) the derivation of a class of revenue and to some other purpose,

shall be apportioned on any reasonable basis taking account of the relative nature and size of the activities or purposes to which the expenditure or loss relates.

(2) The following shall be treated as a separate "class of revenue":

(a) amounts included in gross revenue; and

(b) exempt income.

§719. Net Loss Carry Forward

(1) If the total amount of deductions allowed to a person for a tax year exceeds the gross revenue of the person for the year, the amount of the excess shall be the person's net loss for the year.

(2) If a person has a net loss for a tax year, the amount of the loss shall be carried forward to the following tax year and allowed as a deduction in calculating the person's taxable income for that following year.

(3) If a net loss is not wholly deducted under subsection (2), the amount not deducted shall be carried forward to the next following tax year and applied as specified in subsection (2) in that year, and so on until the loss is fully deducted, but no loss can be carried forward for more than seven (7) tax years after the year in which the loss was incurred.

(4) If a person has a net loss carried forward under this section for more than one tax year, the net loss of the earliest year shall be deducted first.

Division III – Tax Accounting

§720. Method of Tax Accounting

(1) Subject to this Chapter, the taxable income of a person for a tax year shall be calculated in accordance with US GAAP.

(2) The following persons shall account for gross revenue, and expenditures and losses on an accrual basis:

(a) a company;

(b) a partnership; or

(c) a registered person for the purposes of the consumption tax.

(3) A person to whom subsection (2) does not apply may account for gross revenue, and expenditures and losses on a cash or accrual basis provided the same basis shall be used for both gross revenue, and expenditures and losses.

§721. Cash-basis Accounting

A person accounting on a cash basis derives an amount when it is received by the person and incurs expenditure when it is paid by the person.

§722. Accrual-basis Accounting

(1) A person accounting on an accrual basis derives an amount when it is due to the person and incurs expenditure when it is payable by the person.

(2) An amount is due to a person at the time the person becomes entitled to receive it even if the time for discharge of the entitlement is postponed or the amount is payable by installments.

(3) An expenditure is payable by a person when all the events that determine the liability to pay the expenditure have occurred and the amount of the liability can be determined with accuracy.

§723. Long-term Contracts

(1) A person shall calculate the gross revenue and expenditures arising under a long-term contract during a tax year under the percentage of completion method.

(2) Subject to subsection (3), where, for the tax year in which a long-term contract is completed, the person carrying out the contract has a net loss and the person is not able to carry the net loss forward under section 719 because the person ceases to carry on business in the Republic at the end of the contract, the net loss may be carried back to the preceding tax years and allowed as a deduction in those years commencing with the year immediately preceding the year in which the contract was completed until the loss is fully deducted.

(3) A loss shall be carried back for no more than two tax years.

(4) For the purposes of this section, "percentage of completion method" has the same meaning as under US GAAP.

§724. Bad Debts

(1) A person shall be allowed a deduction for a tax year for a bad debt if the following conditions are satisfied:

(a) the amount of the debt:

(i) has been included in the gross revenue of the person; or

(ii) is money lent by the person in the normal course of carrying on a business of money lending; and

(b) the debt or part of the debt is written off in the person's financial accounts for the tax year in accordance with US GAAP.

(2) The amount of the deduction allowed to a person under this section for a tax year shall not exceed the amount of the debt written off in the person's financial accounts for that year.

§725. Net Profits Tax Accounting and Consumption Tax

(1) The gross revenue of a consumption tax registered person shall not include:

(a) any output tax received or receivable by the person on a taxable supply made by the person; or

(b) any consumption tax refunded by the Secretary to the person.

(2) A consumption tax registered person shall not be allowed a deduction for input tax paid or payable by the person on a taxable supply made to, or taxable import made by, the person to the extent that the person is allowed a credit for the input tax under the Consumption Tax Act.

(3) The cost of an asset acquired by a consumption tax registered person shall not include any input tax paid or payable in respect of the acquisition of the asset to the extent that the person is allowed a credit for the input tax under the Consumption Tax Act.

(4) In this section:

(a) "consumption tax registered person" means a person registered for consumption tax under the Consumption Tax Act;

(b) "taxable import" means an import of goods subject to consumption tax under the Consumption Tax Act; and

(c) the terms "input tax", "output tax", and "taxable supply" have the same meanings as under the Consumption Tax Act.

§726. Change in Tax Accounting Method

(1) A person may apply to the Secretary, in writing, for a change in the person's method of accounting and the Secretary may, by notice in writing, approve the application but only if satisfied that the change is necessary to properly calculate the taxable income of the person.

(2) If a person's method of accounting changes, the person shall make adjustments in the tax year of change to items of income, deduction, or credit, or to any other items affected by the change so that no item is omitted and no item is taken into account more than once.

Division IV – Business Assets

§727. Acquisition of Business Assets

(1) A person acquires a business asset when the legal ownership of the asset passes to the person.

(2) A person acquires a business asset that is a right or option when the right or option is granted to the person.

(3) The application of an asset used for personal purposes by a person to a business use to derive gross revenue shall be treated as an acquisition

of the asset by the person and the acquisition occurs at the time the asset is first applied to such business use.

§728. Disposal of Business Assets

(1) A person disposes of a business asset when the person parts with the ownership of the asset, including when the asset is sold, exchanged, transferred, or distributed, or the asset is destroyed.

(2) A person disposes of a business asset that is a right when the right is cancelled, redeemed, relinquished, destroyed, lost, expired, or surrendered.

(3) If a person creates a business asset in another person being an asset that did not previously exist, the first-mentioned person shall be treated as having made a disposal of the asset to the second-mentioned person and the disposal occurs when the asset is created.

(4) The transmission of a business asset by succession or under a will shall be treated as a disposal of the asset by the deceased and the disposal occurs when the asset is transmitted.

(5) The application of a business asset to personal use shall be treated as a disposal of the asset by the owner and the disposal occurs when the asset is first so applied.

(6) A disposal includes the disposal of a part of a business asset.

(7) The vesting of a business asset of a person (referred to as the "owner") in a liquidator, trustee-in-bankruptcy, or receiver is not treated as a disposal of the asset or part of it for the purposes of this Act, and acts done in relation to the asset by the liquidator, trustee-in-bankruptcy, or receiver are treated as done by the owner.

§729. Cost of Business Assets

(1) Subject to this section, the cost of a business asset of a person, other than a business intangible, shall be the sum of the following amounts (other than an amount allowed as a deduction under section 712(1)(a)):

(a) the total consideration given by the person for the asset, including the fair market value of any consideration in kind determined at the time the asset is acquired and, if the asset is

constructed, produced, or developed, the cost of construction, production, or development;

(b) any incidental expenditure incurred by the person in acquiring and disposing of the asset; and

(c) any expenditure incurred by the person to install, alter, renew, reconstruct, or improve the asset.

(2) Subject to this section, the cost of a business intangible (other than an amount allowed as a deduction under section 712(1)(a)) shall be:

(a) in relation to a business intangible referred to in paragraph (a) or (b) of the definition of "business intangible" in section 702, the total expenditure incurred by the person in acquiring, creating, improving, and renewing the intangible, and any incidental expenditure incurred in acquiring or disposing of the intangible; or

(b) in relation to a business intangible referred to in paragraph (c) or (d) of the definition of "business intangible" in section 702, the amount of the expenditure.

(3) The cost of a business asset of a person shall include any amount given for the grant of an option to the person to acquire the asset.

(4) The cost of a structural improvement to immovable property shall not include the cost of the land on which the structural improvement is located.

(5) An amount is included in the cost of a business asset on the earlier of the date that it is paid or payable.

(6) The cost of a business asset of a person shall not be reduced by an impairment write down in relation to the asset made in the financial accounts of the person.

(7) If a person disposes of a part of a business asset, the cost of the asset shall be apportioned between the part of the asset retained and the part disposed of in accordance with their respective fair market values determined at the time the person acquired the asset.

(8) The cost of a business asset of a person shall not include the amount of any grant, subsidy, rebate, commission, or other assistance received or receivable by a person in respect of the acquisition of the asset, except

to the extent to which the amount is included in the gross revenue of the person.

(9) The cost of a business asset treated as acquired by a person under section 727(3) is the fair market value of the asset determined at the date it is treated as acquired.

(10) If the acquisition of a business asset by a person is:

(a) the derivation of an amount included in the gross revenue of the person, the cost of the asset shall be the amount so included plus any amount paid by the person for the asset; or

(b) the derivation of exempt income of the person, the cost of the asset shall be the exempt amount plus any amount paid by the person for the asset.

(11) In this section, "impairment write down", in relation to an asset of a person, means the write down of the value of the asset in the financial accounts of the person because the fair market value of the asset is less than the cost of the asset.

§730. Consideration for the Disposal of a Business Asset

(1) The consideration for the disposal of a business asset by a person is the total amount received or receivable by the person for the asset, including the fair market value of any consideration-in-kind determined at the time of disposal.

(2) If a business asset has been lost or destroyed by a person, the consideration for the asset shall include any compensation, indemnity, or damages received by the person as a result of the loss or destruction, including amounts received or receivable:

(a) under an insurance policy, indemnity, or other agreement;

(b) under a settlement; or

(c) as a consequence of a judicial decision.

(3) The consideration for a business asset treated as disposed of under section 728(5) shall be the fair market value of the asset determined at the time it is applied to personal use.

(4) If two or more assets are disposed of by a person in a single transaction and the consideration for each asset is not specified, the total consideration shall be apportioned among the assets disposed of in

proportion to their respective fair market values determined at the time of the disposal.

(5) An amount shall be included in the consideration for the disposal of a business asset on the earlier of the date that it is received or the date that it is receivable.

§731. Deferral of Recognition of Gain or Loss

(1) For the purposes of this Act, no gain or loss shall be taken to arise on the disposal of a business asset:

(a) between spouses as part of a divorce settlement or separation agreement, but only if the asset is used or held by the recipient spouse to derive gross revenue;

(b) by reason of the transmission of the asset on the death of a person to an executor or beneficiary, but only if the asset is used or held by the executor or beneficiary to derive gross revenue;

(c) by reason of the loss or destruction, or compulsory acquisition of the asset (referred to as the "replaced asset") if the consideration received for the disposal is reinvested by the recipient in an asset of a like kind (referred to as a "replacement asset") within one year of the disposal or within such further period as the Secretary may allow; or

(d) if the asset is a depreciable asset (referred to as the "replaced asset") and the person acquires a depreciable asset of a like kind (referred to as the "replacement asset") to be wholly used to derive amounts included in gross revenue within six months after the disposal or within such further period as the Secretary allows.

(2) If subsection (1)(a) or (b) applies, the person acquiring the business asset shall be treated as:

(a) acquiring an asset of the same character as the person disposing of the asset; and

(b) acquiring the asset for an amount equal to the net book value of the asset for the person disposing of the asset at the time of the disposal.

(3) If subsection (1)(c) or (d) applies, the cost of the replacement asset is the net book value of the replaced asset at the time of disposal:

(a) increased by the amount by which any consideration given by the person for the replacement asset exceeds the consideration for the replaced asset; or

(b) reduced by the amount by which any consideration for the replaced asset exceeds the cost of acquiring the replacement asset.

PART IV – MISCELLANEOUS RULES RELATING TO TAXES

§732. Jointly-owned Assets

(1) For the purposes of this ~~Act~~ Chapter, if an asset is jointly owned by two or more persons (other than in partnership or under a trust), any income, revenue, expenditures, or losses relating to the asset shall be apportioned among the owners according to their respective interests in the asset.

(2) If the interests of the owners of a jointly-owned asset cannot be ascertained, the owners of the asset shall be treated as having an equal interest in the asset.

§733. Currency Translation

(1) An amount taken into account under this Chapter shall be expressed in United States dollars.

(2) Subject to subsection (3), where an amount is in a currency other than United States dollars, the amount shall be translated to United States dollars at the United States Federal Reserve exchange rate applying between the foreign currency and United States dollars on the date the amount is taken into account for the purposes of this Chapter.

(3) With the prior written permission of the Secretary, amounts taken into account in calculating a person's taxable income for a tax year may be translated to United States dollars at the average mid-exchange rate for the tax year between the foreign currency and United States dollars.

PART V – ANTI-AVOIDANCE

§734. Cross-border Transfer Pricing

(1) A person who has entered into a transfer pricing arrangement shall determine the income, expenditures, gains, losses, and tax credits arising under the arrangement consistent with arm's length conditions as specified in the Regulations.

(2) Where a person has failed to comply with subsection (1), the Secretary may make adjustments to the income, expenditures, gains, losses, and tax credits of the person, and of any other person affected by the transfer pricing arrangement, in accordance with the Regulations.

(3) In making adjustments referred to in subsection (2), the Secretary may disregard the actual commercial or financial relations of the parties to a transfer pricing agreement where:

(a) the form of those relations is inconsistent with the substance of those relations;

(b) independent parties dealing wholly independently with one another in comparable circumstances would not have entered into the actual commercial or financial relations and the Secretary may replace the actual conditions with arm's length conditions; or

(c) independent parties dealing wholly independently with one another in comparable circumstances would have entered into other actual commercial or financial relations and the Secretary may replace the actual conditions with arm's length conditions.

(4) The allocation of revenue and deductions to a permanent establishment in the Republic of a non-resident person, or to a permanent establishment of a resident person outside the Republic, shall be made in accordance with the Regulations.

(5) The Regulations may provide for transfer pricing documentation to be maintained by persons entering into transfer pricing arrangements.

(6) In this section:

"arm's length conditions", in relation to a transfer pricing arrangement, means the conditions that might reasonably be expected to operate between independent persons dealing

wholly independently with one another in comparable circumstances to those applicable under the transfer pricing arrangement and, subject to subsection (3), the arm's length conditions must be determined by reference to:

(a) the actual commercial or financial relations that operate between the parties to the transfer pricing arrangement; and

(b) the form and substance of those relations;

"cross-border transaction" means a transaction between:

(a) a resident person and a non-resident person except where the transaction takes place wholly in the Republic;

(b) two resident persons where the transaction relates to a business carried on through a permanent establishment outside the Republic by one or both resident persons; or

(c) two non-resident persons except where the transaction relates to businesses carried on through permanent establishments in the Republic by both non-resident persons

"transfer pricing arrangement" means a transaction, or a series of transactions, that satisfies both the following conditions:

(a) the transaction is for the supply or acquisition of goods, services, money, intangibles, or an asset; and

(b) the transaction is a cross-border transaction between associates.

§735. Tax Avoidance Schemes

(1) Notwithstanding anything in this Chapter, if the Secretary 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 the tax benefit,

the Secretary may determine the tax liability of the person who obtained the tax benefit, and any other person connected with the scheme, as if the scheme had not been entered into or carried out, or some other basis as in the circumstances the Secretary considers appropriate for the prevention of, or reduction in, the tax benefit.

(2) The Secretary shall serve a notice of a tax assessment on any person whose tax liability is adjusted as a result of the determination so as to give effect to the determination.

(3) A notice of a tax assessment under subsection (2) shall be served on a person within three years from the last day of the tax year to which the determination relates.

(4) In this section:

"scheme" includes:

(a) an agreement, arrangement, or promise, whether express or implied, and whether or not legally enforceable; and

(b) any undertaking, plan, proposal, course of action, or course of conduct whether undertaken unilaterally or by two or more persons; and

"tax benefit" means:

(a) a reduction in a liability to pay tax;

(b) a postponement of a liability to pay tax;

(c) an entitlement to a refund of tax;

(d) an increase in a tax credit;

(e) any other advantage arising because of a delay in payment of tax; or

(f) anything that causes gross revenue to be exempt income.

§736. Thin Capitalization

(1) Where a foreign-controlled domestic corporation, other than a financial institution, has an average debt to average equity ratio in excess of 2 to 1 for a tax year, a deduction shall be disallowed for the

interest paid by the corporation during that year calculated in accordance with the following formula:

A x B/C

where:

A is the corporation's total amount of deductible interest expenditure for the year ignoring this section;

B is the corporation's excess debt for the year; and

C is the corporation's average debt for the year.

(2) This section shall apply to a foreign corporation with a permanent establishment in the Republic on the following basis:

(a) the permanent establishment is treated as a foreign-controlled domestic corporation; and

(b) the average debt to average equity ratio of the permanent establishment is calculated by reference to:

(i) the debt obligations of the foreign corporation attributable to the permanent establishment; and

(ii) the equity of the foreign corporation attributable to the operations of the corporation carried on through the permanent establishment.

(3) In this section:

"average debt", in relation to a foreign-controlled domestic corporation for a tax year, is the amount calculated in accordance with the following formula:

A/B

where:

A is the sum of the amount of debt of the corporation at the end of each calendar month in the tax year; and

B is the number of calendar months in the year that the corporation carried on business in the Republic;

"average equity", in relation to a foreign-controlled domestic corporation for a tax year, is the amount calculated in accordance with the following formula:

A/B

where:

A is the sum of the amount of equity of the corporation at the end of each calendar month in the tax year; and

B is the number of calendar months in the year that the corporation carried on business in the Republic;

"debt", in relation to a foreign-controlled foreign corporation, means the debt obligations of the corporation as determined according to US GAAP;

"debt obligation" means an obligation to make a repayment of money to another person, including obligations arising under promissory notes, bills of exchange, and bonds, but not including accounts payable that have been outstanding for less than 120 days;

"equity", in relation to a foreign-controlled domestic corporation, means the equity of the corporation as determined according to US GAAP;

"excess debt", in relation to a foreign-controlled domestic corporation for a tax year, means the amount by which the corporation's average debt for the year exceeds two times the corporation's average equity for the year; and

"foreign-controlled domestic corporation" means a domestic corporation in which more than fifty per cent of the membership interests in the corporation is held by a non-resident person either alone or together with an associate or associates.

PART VI – PROCEDURE

§737. Application of the Tax Administration Act

The Tax Administration Act shall apply for the purposes of the administration of this Chapter but subject to this Part.

Division I – Returns and Records

§738. Filing of Tax Return

(1) A person liable for net profit tax shall file a net profit tax return for each tax year:

(a) for a domestic or foreign corporation with audited accounts, within six months after the end of the year; or

(b) for any other person, within three months after the end of the year.

(2) A person liable for gross revenue tax referred to in section 706(4) or (5) shall file a gross revenue tax return for each quarter by the last day of the month following the end of the quarter.

§739. Records

(1) A person shall keep such accounts, documents, and records as enable the calculation of any tax payable by the person under this Chapter.

(2) The Secretary may disallow a person a claim for:

(a) a deduction for an expenditure or loss; or

(b) the inclusion of an amount of expenditure in the cost of a business asset,

if the person is unable, without reasonable excuse, to produce a receipt or other record of the expenditure or loss, or to produce evidence relating to the circumstances giving rise to the claim for the deduction or the inclusion of the amount in the cost of a business asset.

Division II – Payment of Tax

§740. Payment of Tax

(1) The net profit tax payable by a person for a tax year shall be due on the date that the net profit tax return for the year is due.

(2) The gross revenue tax payable by a person under section 706(4) or (5) for a quarter shall be due on the date that the gross revenue tax return for the quarter is due.

(3) The gross revenue tax payable by a person under section 706(3) shall be due on the last day of the first quarter of the tax year or, if the person commenced carrying on business during a tax year, on the last day of the first quarter after commencing business.

§741. Instalments of Net Profit Tax

(1) A person liable for net profit tax shall pay instalments of tax for a tax year on the last day of the month following the end of the third, sixth, ninth and twelfth months of the tax year.

(2) Subject to subsection (3), the amount of each instalment for a tax year shall be one-quarter of the amount of net profit tax estimated by the person to be payable for the tax year.

(3) If the gross revenue of a person is derived on a seasonal basis, the amount of each instalment shall be such amount as determined by the Secretary.

(4) A person liable for instalments of tax under this section for a tax year shall file an estimate of net profit tax payable for the year with the Secretary by the due date for payment of the first instalment for the year and the estimate shall remain in force for the whole of the tax year unless the person files a revised estimate under subsection (6).

(5) If a person fails to file an estimate of net profit tax as required under subsection (4), the person's estimated net profit tax liability for the year shall be such amount as estimated by the Secretary and the Secretary's estimate shall remain in force for the whole of the tax year unless a revised estimate is filed by the person in accordance with subsection (6).

(6) A person may file a revised estimate for a tax year with the Secretary and the revised estimate shall apply to the calculation of instalments of net profit tax for a tax year due both before and after the date the revised estimate was filed.

(7) If a revised estimate has been filed under subsection (6):

(a) the amount of any underpayment of instalments made prior to filing the revised estimate shall be paid by the person together with the first instalment due after the revised estimate is filed; or

(b) the amount of any overpaid instalments made prior to filing the revised estimate shall be credited against future net profit tax instalments due.

(8) Each instalment of tax paid by a person during a tax year shall be credited against the net profit tax liability of the person for the year

and, if the amount of the credit allowed exceeds the net profit tax due for the year, the amount of the excess shall be refunded to the person in accordance with section 832 of the Tax Administration Act.

(9) If the estimate (including a revised estimate) of net profit tax payable by a person for a tax year is less than eighty percent (80%) of the actual net profit tax liability of the person for the year (the difference is referred to as the "instalment shortfall"), the person shall be liable for a penalty equal to:

(a) if the under-estimate is due to fraud or wilful neglect, fifty percent of the instalment shortfall; or

(b) in any other case, ten percent of the instalment shortfall.

(10) No penalty shall be imposed under subsection (9)(b) if the Secretary is satisfied that the reason for the instalment shortfall was due to circumstances beyond the person's control and all reasonable care was taken in making the estimate.

Division III – Withholding Tax

§742. Withholding of Immovable Property Income Tax

(1) A lessee making a payment to a lessor that is subject to immovable property income tax shall withhold the tax from the gross income paid at the rate of 3%.

(2) A lessee shall file a return and pay the tax required to be withheld under subsection (1) to the Secretary by the last day of the month following the end of the quarter in which the payment was made.

§743. Withholding of Non-resident Tax

(1) A person paying an amount to a non-resident person that is subject to non-resident tax shall withhold the tax from the gross amount paid at the rate specified in section 708.

(2) A person required to withhold tax under subsection (1) shall file a return and pay the tax to the Secretary by the last day of the month following the end of the month in which the amount was paid.

§744. Time of Withholding

A person required to withhold tax under this Division from an amount paid by the person shall withhold the tax at the earlier of:

(a) the time the amount is credited to the account of the recipient; or

(b) the time the amount is actually paid.

§745. Withholding Tax Documentation

(1) A person withholding tax from a payment under this Division shall:

(a) provide a tax withholding statement to the recipient of the payment; and

(b) file an annual withholding tax return with the Secretary.

(2) In this section, "tax year" shall have the meaning in paragraph (b) of the definition of "tax year" in section 702.

PART VII – FINAL PROVISIONS

§746. Application of Act

This Chapter binds the Republic.

§747. Regulations

(1) The Minister of Finance may make regulations pursuant to the Marshall Islands Administrative Procedures Act 1979:

(a) providing rules for business assets; and

(b) prescribing all matters that are by this Chapter to be prescribed or convenient to be prescribed to give effect to this Chapter.

(2) Without limiting the general effect of subsection (1), the regulations made under that subsection may:

(a) contain provisions of a saving or transitional nature consequent on the making of this Chapter; or

(b) prescribe penalties for the contravention of the regulations.

(3) Regulations of a transitional nature made under this section within six months after the day the Chapter receives certification may have effect retrospectively from that day.

§748. Repeal and Savings.

(1) Subject to subsections (2) and (3), the following Parts of Income Tax Act 1989 are hereby repealed.

(a) Part III, Tax on Gross Revenue;

(b) Part IV, Apportionment;

(c) Part VI, Non-Resident Income Tax ; and

(d) Part VII, Tax Incentives.

(2) Notwithstanding subsection (1) and Section 11(2), a contract of exemption made under section 121 of the Income Tax 1989 in force at the time the Bill for this Act is first introduced into the Nitijela shall continue to apply until the exemption expires.

(3) A contract of exemption shall not be extended after the date specified in subsection (2).

(4) The repealed Parts under subsection (1) shall continue to apply to all purposes whatsoever before the commencement date of this Chapter under section 749(2).

§749. Effective Date

(1) This Chapter shall take effect on the date of certification in accordance with Article IV of the Constitution and Rules and Procedures of the Nitijela.

(2) This Chapter shall apply to tax years commencing on or after October 1, 2026.