

Income Tax Law No. 113 of 1982

INCOME TAX LAW

(Law #113 of November 22, 1982, as amended through 2003)

(Amendments brought by CPA Order 37, 49 and 84 are in italic red characters)

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CHAPTER ONE

DEFINITIONS

Article 1.

The meaning of the following expressions are as follows unless the context stipulates otherwise:

(1) Tax: The income tax imposed by this Law.

(2) Income: The net income of the taxpayer earned from sources specified in Article 2 of this Law.

(3) Assessment year: The period of 12 months starting the first day of January of each year - with due consideration to special periods referred to in this Law.

(4) Person: Natural or juristic persons.

(5) Juristic Person: Any administration or State Organization to which juristic personality is extended by Law, such as associations of all kinds and companies as defined in paragraph (6) of this Article.

(6) Company: Joint Stock or Limited Liability Companies incorporated in or outside Iraq but undertaking commercial enterprises or having offices or control centers therein.

- (7) Partnership: Companies other than those referred to in paragraph (6), such as collective companies.
- (8) Taxpayer: Any person subject to taxation in accordance with this Law.
- (9) Married person: A natural person bound by a permanent legal marriage contract recognized by Iraqi laws, provided that the spouses are alive, not divorced or separated.
- (10) Resident:
- (a) The Iraqi who has been resident in Iraq for a period of not less than 4 months during the year in which the income has arisen or resided temporarily outside Iraq with a permanent domicile or place of business in Iraq.
- (b) The Iraqi official, employee or pensioner of the official departments and establishments of socialist sector who is resident outside Iraq or whose services have been loaned by the Government to a juristic person outside Iraq, if he is exempted from tax in his place of work.
- (c) Nationals of Arab countries working in Iraq regardless of the period of their residence.
- (d) Non-Iraqi person other than a national of other Arab countries who:
- (i) resided in Iraq during the year in which the income arose, for a total period of not less than 6 months or he resided in Iraq for a period of not less than four consecutive months.
- (ii) is residing in Iraq regardless of the period of his residence if he is employed by a juristic person in Iraq or he has a scientific or technical specialization and he is being employed for an industrial project which has the right to enjoy the exemptions of the Encouragement of Industrial Projects Law.
- (e) Any juristic person incorporated under Iraqi Laws or other laws having its place of management and control in Iraq.
- (11) Non-resident: The person who does not meet the residence qualifications stated in paragraph (10) above, even if income has arisen for him in Iraq from any source.
- (12) Minister: the Minister of Finance
- (13) Financial authority: An official or a body of officials authorized by the minister to exercise the powers provided for in this law.

CHAPTER TWO

SOURCES OF TAXABLE INCOME

Article 2.

Tax shall be imposed on the following sources of income:

- (1) Profits from commercial activity or from activity having a commercial nature, vocations and

professions, including contracts, undertakings and compensation for non-fulfillment thereof if not for making good a loss sustained by the taxpayer.

(2) Interest, commissions, discount and profit arising from trading in bonds and securities.

(3) Rentals of agricultural land.

(4) [This item (4) suspended by Resolution #120] Profits arising from transfer of ownership or usufruct of immovable property, even only once, by any means whatsoever of acquiring ownership or usufruct or transfer thereof, such as sale, exchange, compromise, renunciation, donation, partition, liquidation of waqfs, and long-leases.

(5) Salaries, pensions, bonuses, wages for specified work in a limited period of time, allowances for workers including payments in cash or allowances for the taxpayer against his services, such as housing, food and accommodation¹.

(6) Any other source not exempted by law and not liable to any tax in Iraq, provided that dividends, notwithstanding what is contained in this Article, are not income liable to tax if a company has deducted or is entitled to deduct tax there from under Article 15 of this Law. However, distributed dividends by Limited Liability Companies which are not exempted by the Law of Promoting and Organizing Industrial Investment must be taken into consideration as a base to determine the graduated tax rates applicable on other income.

*All income tax for assessed income assessed income resources detailed in Article 2 is suspended from January 1, 2003 until March 31, 2004. Income tax for assessed income resources with regard to individuals detailed in Article 2 are suspended from January 1st 2003 until April 30, 2004.*²

¹Modified by paragraph (1a) of Article 11 of CPA Order dated of February 19th 2004 as followed:

The phrase in paragraph (5) of Article 2 of the Income Tax Law No. 113 of 1982 "other than those working for government offices, socialist and mixed sector companies" is deleted.

² Added by paragraph (a) of Section 2 of CPA Order 37 dated of September 19th 2003, later modified by paragraph 5 of Article 8 of CPA Order 84 of April 30th 2004 and paragraph (1) of CPA Order 49.

CHAPTER THREE

TAX IMPOSITION AND ASSESSMENT

Article 3.

(1) Tax shall be imposed on income referred to in paragraphs 1, 2, 3, and 6 of Article 2 on the amount

arising in the year directly prior to the year of assessment.

(2) Tax shall be imposed on income mentioned in paragraph 5 of article 2 on the amount arisen during the year of assessment itself if such amount is known. However, where it is not possible to determine the amount of income, wholly or partly, the Financial Authority may take the income of the previous year as basis for assessment.

(3) If the source of income ceases to exist during the year of assessment, the Financial Authority shall assess, impose and collect the tax and record it as final income for the same year, as an exception from the provisions of paragraph 1 of this Article.

(4) The Financial Authority may assess provisionally the income referred to in paragraph 1 of this Article before the beginning of the assessment year and collect the tax as a deposit on account of the related assessment year.

(5) As for income of non-resident, tax shall be imposed on it in the year of its receipt or its registration in his account, except the one whose income has already been assessed in the previous year in accordance with paragraph 1 of this Article.

Article 4.

If a taxpayer fixes a particular date to close his accounts, other than the day preceding the assessment year, the Financial Authority may allow him to present his income account for the year ending on the day he has fixed to close his accounts of the preceding year, and in case the Financial Authority approves this rule in any year, they may then follow it in the assessment of tax for the following years, and they may also make any other fair reconciliation.

Article 5.

(1) Tax shall be imposed on the income of the Iraqi person resident which arises inside or outside Iraq regardless of place of receipt.

(2) Tax shall be imposed on the income of the non-resident which arises in Iraq even if he does not receive it in Iraq.

(3) Tax shall not be imposed on income arising outside Iraq for the non-Iraqi persons who are resident in Iraq.

(4) Income tax paid to a foreign country on income earned in that country may be credited against tax paid to Iraq. The amount of the credit may not exceed the amount of tax assessed in Iraq on the income earned in the foreign country at the rate in effect in Iraq. If taxes paid to a foreign country exceed the amount of this limitation then the excess taxes may be carried forward to credit in 5 consecutive years subject to the limitation in those years. The taxes paid in the carried forward year will be credited first. If, during a taxation period, income is earned in more than one country, the credit allowed by this paragraph will be applied on an individual basis to the income earned in each foreign country. To be credited, the amount of foreign tax paid to the foreign country must be confirmed by either a copy of the

*tax paid receipt or a confirmation of the amount of tax paid from the tax collection agency of the foreign country.*³

*Foreign companies that are registered in Iraq or otherwise have a permanent establishment in Iraq will be subject to tax at a fixed rate of 15% on their income in Iraq.*⁴

Article 6.

(1) The wife shall be considered as an independent taxpayer, and shall enjoy the legal allowance granted to her before marriage, and shall be given the legal allowance for her husband in addition to the allowance given to her if the husband is incapacitated from work and he has no income.

(2) The two spouses may apply together, within the period of submitting returns as prescribed in Article 27 of this Law, for the incorporation of their incomes and the imposition of the tax in the name of the husband in either of the following cases:

(a) If the husband has no taxable income;

(b) If the husband's income is below the legal allowance.

(c) If the wife's income is below the legal allowance which is determined for her as an independent taxpayer.

(3) When any of the cases stated in (a), (b) and (c) of paragraph (2) of this Article is applicable, the husband shall be granted the legal allowance determined for himself, his wife, and his children.

(4) The income of unmarried children who have not attained the age of 18, shall be incorporated with the income of their father in whose name the tax shall be assessed.

(5) In case of death of the father, or non-existence of the parents, the income of children under 18 years of age, shall be considered as independent taxpayers and tax shall be assessed on each one of them in the name of the mother, guardian or trustee.

³Added by Section 12 of CPA Order 49.

⁴Added by paragraph (3) of Section 3 of CPA Order 49.

CHAPTER FOUR

EXEMPTIONS

Article 7.

The following income shall be exempted from tax:

- (1) Agricultural income arising to cultivators and cattle breeders from agricultural and animal products, including cattle breeding.
- (2) Real estate income which is subject to Real Estate Tax Law [Note: Law #162].
- (3) Income of Al-Awqaf, places of worship, religious institutions, which are legally recognized, charitable and educational establishments formed for the public interest, if such income has not arisen from a vocation, profession, or trade.
- (4) Salaries and allowances paid by foreign diplomatic delegations to their diplomatic officials, whereas payments to their non-diplomatic officials who are not Iraqi may be exempted by decision of the Council of Ministers, provided there is reciprocal treatment.
- (5) *Deleted by paragraph (5b) of CPA Order 49⁵.*
- (6) Income of pensioners or the children thereof arising from the following sources:
 - (a) Pension salary
 - (b) Pension bonus
 - (c) End-of-service indemnity
 - (d) Salaries for annual leave.
- (7) Salaries and allowances paid by the United Nations from its own budget to its officials and employee.
- (8) Profits of establishments and enterprises, including municipalities and Local Government, of the socialist sector.
- (9) Any lump-sum paid as remuneration or compensation to the family of a deceased person or any compensation paid to the taxpayer for injury or death.
- (10) Any income exempted from tax by a special law or an international agreement.
- (11) Income of owners or lessees of means of marine transport provided for in Article 50 of this Law, if these means of transport are used for oil transport.
- (12) Income of cooperative societies.
- (13) Income of DeLuxe and First Class hotels erected in Baghdad, during their construction and within the first 5 years of business. Similar hotels erected outside the City of Baghdad the exemption period is 7 years from the state of business, provided that places attached to those hotels and which are not connected to the hotel business, such as shops and show-rooms, shall not benefit from the exemption, whether these places are leased by the hotel owner or exploited by him directly.
- (14) Commissions arising in Iraq for local banks correspondents abroad which exempt Iraqi banks from tax on commissions arising for them in their countries, upon confirmation of the competent Iraqi bank.

⁵This paragraph is deleted by CPA Order 49. Previously this paragraph was read as follows: Salaries,

wages and allowances received by employees of the Government, socialist and mixed sectors, for their work therein. This exemption does not apply to income arising from other sources

(15) Income of individuals arising from interest on their deposits and accounts in Iraqi banks and savings funds.

(16) Income of aviation organizations, wholly or partly, by decision of the Minister, provided reciprocal treatment and the existence of an air route or interest to Iraq in the country to which such organizations belong.

(17) Income of Arab and International Organizations working in Iraq in respect of their deposits and accounts in Iraqi banks and savings funds, whether these deposits are kept in Iraqi currency or in foreign currencies.

(18) Incentive rewards granted by the Government to citizens.

(19) [Cancelled] One house for dwelling for each of the husband and wife, or wives, and minor children; but if either of the parents or any minor child has already been exempted on one dwelling house, then this exemption will not apply for a second dwelling house of any of them. For the purpose of applying the exemption under this paragraph, the value of the house shall not exceed 40,000 dinars; if it exceeds that amount the excess shall be subject to tax after deduction of the proportion-cost from the balance of sale after exemption.

(20) [Suspended by Resolution #120.] Profit from the sale of certain real estate exempted from the income tax.

(21) Profit arising to the taxpayer from poultry farms which he owns or manages.

(22) Amounts paid by the government or socialist sector for writing, translation, copyright or typing assistance.

(23) Surrender of share transactions, which take place among the martyr's inheritors, who eventually own the dwelling house or apartment for dwelling or piece of residential land, which has been given to the martyr's family.

(24) Income of non-Iraqi owners of land transport with agreements with the General Establishment for the transport of oil and gas into and out of Iraq.

(25) Amounts due to Iraqi beneficiaries as a result of expropriation of real estate and the rights of usufruct and its other original material rights regardless of its kind or category, whether this was called expropriation, compulsory purchase, replacement or write off, or any other similar expression.

(26) Donation to public institutions and charitable, cooperative, cultural, and scientific associations.

(27) Bakeries which produce bread of the weight 120 gm. And 165 gm. respectively after being baked.

(28) Children's day nurseries.

Supplementary exemptions added by Section 5 of CPA Order 49:

1) The CPA, Coalition Forces, forces of countries acting in coordination with Coalition Forces, and departments and agencies of Coalition Forces' governments, are not liable for any tax or similar charge within the territory of Iraq.

2) Governments and international organizations are not liable for any tax or similar charge within the territory of Iraq.

3) Foreign (non-Iraqi) employees and foreign (non-Iraqi) contractors and subcontractors of the CPA, Coalition Forces, forces of countries acting in coordination with Coalition Forces, and departments and agencies of Coalition Forces' governments, that are providing technical, financial, logistical, administrative or other assistance to Iraq, and foreign employees of such contractors and subcontractors, shall not be liable to pay any tax on income or similar charge within the territory of Iraq on income from foreign sources or on income from or paid on behalf of the CPA, Coalition Forces, forces of countries acting in coordination with Coalition Forces, or departments or agencies of the governments of Coalition Forces.

4) Foreign (non-Iraqi) employees and foreign (non-Iraqi) contractors and subcontractors of foreign (non-Iraqi) governments, international organizations, and non-governmental organizations registered pursuant to CPA Order Number 45, that are providing technical, financial, logistical, administrative or other assistance to Iraq, and foreign employees of such contractors and subcontractors, shall not be liable to pay any tax on income or similar charge within the territory of Iraq on income from foreign sources or on income from or paid on behalf of such governments, international organizations, and non-governmental organizations.

5) In addition to the foregoing, the following persons shall be exempt from payment of income tax:

a) Members of foreign diplomatic missions to Iraq, as well as members of their households, if they are not citizens of Iraq;

b) Members of consular offices, as well as members of their households, if they are not citizens of Iraq;

c) Honorary consuls of foreign countries, but only for income received from the country that has appointed them honorary consul.

6) In accordance with administrative guidance to be issued by the Ministry of Finance, non-governmental organizations registered pursuant to CPA Order Number 45 and non-profit organizations that are not required to register as non-governmental organizations that are not engaged in political activities are not liable for tax on income or similar charge within the territory of Iraq.

Supplementary exemptions added by Section 10 of CPA Order 17 as amended on June 27, 2004:

1) The MNF, Sending States and Contractors shall be exempt from general sales taxes, Value Added Tax (VAT), and any similar taxes in respect of all local purchases for official use or for the performance of

Contracts in Iraq. With respect to equipment, provisions, supplies, fuel, materials and other goods and services obtained locally by the MNF, Sending States or Contractors for the official and exclusive use of the MNF or Sending States or for the performance of Contracts in Iraq, appropriate administrative arrangements shall be made for the remission or return of any excise or tax paid as part of the price. In making purchases on the local market, the MNF, Sending States and Contractors shall, on the basis of observations made and information provided by the Government in that respect, avoid any adverse effect on the local economy.

2) Contractors shall be accorded exemption from taxes in Iraq on earnings from Contracts, including corporate, income, social security and other similar taxes arising directly from the performance of Contracts. MNF Personnel, CPA Personnel, Foreign Liaison Mission Personnel and International Consultants shall be accorded exemption from taxes in Iraq on earnings received by them in their capacity as such Personnel and Consultants

CHAPTER FIVE

DEDUCTIONS

Article 8.

There shall be deducted from income all expenses incurred by the taxpayer in order to produce that income during the year. These expenses, which must be confirmed by acceptable documents, include the following:

- (1) Interests paid on money borrowed and invested in the production of the income or its increase.
- (2) (a) The rental of the place occupied for earning income;

(b) Depreciation of the building owned by the taxpayer and used by the taxpayer to earn income. The estimated rental shall be exempted from the Real Estate Tax [Note: Law #162];

(c) The annual cost of superfluous which includes the cost of the rental of the lands and cost of the buildings constructed on them if the building occupied for earning income is being build on leased land. The estimated rental shall be exempted from the Real Estate Tax [Note: Law #162].
- (3) Amounts expended for the maintenance of machinery and equipment or for replacement of tools and parts.
- (4) The proportion, determined by regulation, of the cost of tangible fixed assets (excluding buildings and lands), such as machinery and other equipment, for depreciation or consumption by reason of their use during the year in which the income has arisen.
- (5) Debts related to the source of income if the Financial Authority is satisfied that they cannot be recovered during the year, even if they were due before its commencement. The recovered bad debts during a year shall be taxed during the year of recovery. The provisions of this paragraph does not include amounts which may be recovered through insurance or other contract.

(6) Taxes and fees actually paid except Income Tax and Real Estate Tax [Note: Law #162].

(7) Pensions, salaries and contributions decided by Pension and Social Security Laws.

(8) Donations paid in Iraq to the Government and Socialist Sector departments and to scientific, cultural, educational, charitable and spiritual organizations which are legally recognized, provided that the Minister of Finance shall issue a list containing the names of these organizations, when necessary. Also contributions by virtue of subscriptions allowed by the Government shall be accepted.

(9) The legal alimony ordered by a competent court and paid in cash by the taxpayer to the person for whom the taxpayer is not entitled to the allowance under Article 12 of this Law.

(10) Life insurance premiums paid during the year, provided that they do not exceed ID 2000 per annum and ID 500 in respect of other insurance premiums (which are not related to the source of income) and provided that insurance is made with an Iraqi insurance company.

(11) Amounts of amortization of intangible assets not exceeding the cost incurred by the taxpayer and in accordance with the limits specified in the depreciation regulation.

Article 9.

It shall not be allowed to deduct more than ID 15000 paid as salary, allowances, rewards, and commissions to the company's director which are subject to tax in limited liability companies.

CHAPTER SIX

TRANSFER OF SOURCE OF INCOME

Article 10.

If a source of income or part thereof has been conveyed from one person to another, and the Financial Authority is satisfied that the conveyance will not change the source's actual position by reason of the administration thereof remaining in the hands of the taxpayer, and over which he has direct or indirect control by holding shares or by any other means, the Financial Authority shall then deduct from the income of the taxpayer to whom the source was conveyed, any amounts which would have been deductible under paragraph (4) of Article 8. Any person having relationship of the first, second, and third grade with the conveying taxpayer shall be regarded in the above said cases as the conveyer himself.

CHAPTER SEVEN

LOSSES

Article 11.

The loss of a taxpayer in some sources of income arising in Iraq, substantiated by legally accepted documents, shall be deducted from profits arising from other sources, liable to tax in the same year of assessment. Losses which cannot be settled in this manner, shall be carried forward and deducted from the income of the taxpayer during 5 consecutive years, subject to the following conditions:

(1) Losses may not offset more than half of the taxable income of each of the five years.

(2) The loss shall not be deducted except from the same source of income from which it has arisen.

(3) Income from financial year 2003 and for the first three months of financial year 2004 shall not be taken into consideration in determining the income against which losses from preceding financial years may be deducted under this article.⁶

(4) Financial year 2003 shall not be taken into account in determining the 5 consecutive years to which losses may be carried under this article.⁷

(5) Losses incurred in financial year 2003 and in the first three months of financial year 2004 may not be carried forward under this article.⁸

CHAPTER EIGHT

ALLOWANCES

Article 12.

(1) A resident person⁹ shall be granted the following allowances per each year of assessment on the basis of his status in the year in which the income has arisen:

(a) ID 2,500,000¹⁰ for the taxpayer himself *or herself, if she is unmarried (other than a widow or divorcee) or if her income is not added to her husband's income*¹¹ and ID 2,000,000¹² for his wife, or wives, if she is a housewife and has no income or if her income is added to his income.

⁶Added by Section 5 of CPA Order 49.

⁷*Idem.*

⁸*Idem.*

⁹The phrase "including a non-Iraqi resident whose family lives with him in Iraq" is deleted by paragraph (1) of Section 2 of CPA Order 49.

¹⁰ As amended by paragraph (1) of Section 2 of CPA Order 49. Paragraph (2) of Section 11 of CPA Order 49 states "*For financial year 2004, employees of the government offices, public and mixed sectors shall be entitled to an allowance of ID 5,300,000 for themselves, spouse and children collectively under Item (1) of Article 12 of the Income Tax Law No. 113 of 1982*".

However, the allowances shall be reduced by one third for financial year 2004 as stipulated by paragraph (1) of CPA Order 84 dated of April 30th 2004.

¹¹Added by paragraph (1) of Section 2 of CPA Order 49.

(b) ID 200,000¹³ for each of his children irrespective of their number.

(c) ID 3,200,000¹⁴ for the widow or divorcee herself and ID 200,000¹⁵ for every child lawfully maintained by her, regardless of the number.

(2) If the resident is non-Iraqi, then he is granted the allowance entitled to him for the year in which the income has arisen in the proportion of the complete months resided in Iraq to the complete months of the year, except those with whom the Government has contracted or employed to teach in Iraq for an academic year who will be granted the legal allowances in full, with due consideration given to the provisions of paragraph (6) of Article 13 of this Law.

(3) The term "child" provided for in paragraph (1) of this Article shall include daughters legally maintained by the taxpayer, as well as sons unable to earn their living due to mental or physical infirmity, even if they are more than 18 years old. Allowances granted to children, who have completed 18 years but are still continuing their studies at a secondary or a higher school, shall continue until the child has completed his studies or completed 25 years, whichever is shorter.

(4) If the widow or divorcee gets married, and her income has been added to the income of her husband, the legal allowance shall be denied her only in the proportion of the complete months remaining in the year in which the income has arisen and the marriage concluded, to the whole year; fractions of the month shall be ignored; allowances for her children shall be granted according to the specified limits and conditions.

(5) The taxpayer shall be granted an additional allowance of ID 300,000¹⁶ if his age is more than 63 years of age, in addition to allowances granted to him in other sections of this Article.

(6) Allowance shall not be granted for children who have completed the age of 18 years and have an independent income exceeding ID 200,000¹⁷ per year, even if they are continuing their studies.

(7) If the taxpayer gets married or a child is born to him during the year in which the income arises, the allowance he is entitled to for the wife and the child shall be added to the other allowance in the proportion of the complete months remaining in the year in which the income has arisen and the marriage or the birth took place to the whole year. Fractions of a month shall be ignored. If the taxpayer is separated or one of the children dies for whom an allowance was granted, the allowance shall be reduced by the proportion of the complete months remaining in the year to the whole year. Fractions of months shall be ignored. If the amount of an allowance includes a fraction of a dinar, the amount shall be rounded up to a dinar.

¹²*Supra* footnote 10.

¹³*Idem.*

¹⁴*Idem.*

¹⁵*Idem.*

¹⁶ As amended by paragraph (2) of Section 2 CPA Order 49. For financial year 2004, the allowance shall be reduced by one third as stipulated by paragraph (1) of Section 3 of CPA Order 84 dated of April 30th 2004.

¹⁷ As amended by paragraph (2) of Section 3 of CPA Order 84.

CHAPTER NINE

TAX RATES

Article 13.

(1) Tax shall be imposed on the taxpayer in respect of each year of assessment at the following rates:

(A) Income of resident individual after granting the allowance provided for in Article 12 :

At the rate of 3% on amounts up to ID 250,000.

At the rate of 5% on amounts over ID 250,000 and up to ID 500,000.

At the rate of 10% on amounts over ID 500,000 and up to ID 1,000,000.

At the rate of 15% on amounts over ID 1,000,000¹⁸

(B) Income of non-resident individual (other than the income provided for in Article 19 of this Law).

At the rate of 3% on amounts up to ID 250,000.

At the rate of 5% on amounts over ID 250,000 and up to ID 500,000.

At the rate of 10% on amounts over ID 500,000 and up to ID 1,000,000.

At the rate of 15% on amounts over ID 1,000,000¹⁹

(C) Income of limited liability companies, *at a fixed rate of 15%²⁰*.

(D) Income of private joint-stock companies, *at a fixed rate of 15%²¹*.

(E) Income of joint-stock companies, *at a fixed rate of 15%²²*.

¹⁸ As amended by paragraph (1) of Section 3 of CPA Order 49.

¹⁹ *Idem.*

²⁰ *Idem.*

²¹ *Idem.*

(F) *The amounts delineating the tax brackets as set forth in paragraphs (A) and (B) shall be reduced by one-third for financial year 2004.²³*

2. Iraqi non-resident individuals shall be subject to tax at the rates for Iraqi residents on their income from Iraqi sources.²⁴

3. The provisions of paragraph 6 of Article 2 of this law shall be taken into consideration when imposing the tax in accordance with paragraph 1/A/B/ of this article so that the income which is added to dividends

shall be taxable in accordance with the corresponding progressive rates.

Article 13 (repeated)

The minister may, within the scope of the draft law for the annual general budget of the state, make a recommendation with a view to modifying the allowances specified in Article 12 and the chargeable rates specified in Article 13 of this law whenever the social and economic circumstances may require.

CHAPTER TEN

TAX CHARGEABLE ON COMPANIES

Article 14.

Tax shall be charged on the income of a company before any payment thereof is made to shareholders. The company and its director shall be personally financially responsible to deduct the tax and pay it to the Financial Authority, as well as submitting the accounts and necessary documents and all other matters required by the provisions of this Law.

Article 15.

(1) Companies registered in Iraq may deduct the tax paid or payable on their aggregate income, in accordance with this Law, from the dividends they pay to shareholders. This deduction is restricted to dividends on which tax was paid or is due to be paid by the company.

(2) If the companies, referred to in paragraph (1) of this Article, distribute dividends, part of which is chargeable under paragraphs 3, 4, and 5 of Article 13 of this Law, the company shall then be entitled to deduct tax from each part at the rate paid or payable on that part of income from which said dividends have been paid.

(3) Companies referred to in paragraph (2) of this Article shall furnish the shareholders, when paying dividends, with a certificate showing the amount of dividend paid to each of them and the amount of tax which has been deducted or is entitled to be deducted from the said dividend. Limited liability companies shall furnish the Financial Authority with a copy of this certificate.

²²*Idem.*

²³Added by paragraph (3) of Section 3 of CPA Order 84.

²⁴As amended by paragraph (2) of Section 3 of CPA Order 49.

Article 16.

The dissolution or liquidation of a company shall be considered as tantamount to distribution of dividends

and any sum becoming due to the shareholder over the original value paid for his shares, shall be liable to tax except amounts of reserve on which the tax has already been paid. The liquidator and the founding members shall pay the tax due in the said manner and the liquidation shall not be finalized except with the approval of the Financial Authority.

CHAPTER ELEVEN

DUTIES OF EMPLOYERS ON BEHALF OF THEIR EMPLOYEES

Article 17.

(1) The employer shall deduct the tax due on his employees from payments made to them, or to persons representing them, in cash, in kind, in pensions, and the like, subject to tax, and shall pay the same to the Financial Authority as from the beginning of the year of assessment, in the manner prescribed by the Minister.

(2) The employer may increase or decrease the amount of installments he deducts in accordance with this Article in order to adjust any excess or deficit in the amount of tax to be collected during the year of assessment.

(3) The employer is responsible for paying to the Financial Authority the amount of tax to be deducted by him under this Article, even if he has not deducted it from salaries and allowances due to his employees; he may recover the tax paid in that way from amounts which will thereafter become due to his employees.

(4) The employer is required to pay the additional amounts provided for in Article 45 if he fails to pay the tax to the Financial Authority within 21 days from dates determined by the Minister.

(5) There is nothing in this Article which prevents the Financial Authority from requiring an income declaration from any employee in accordance with Article 27 of this Law.

Article 18.

(1) Every employer shall submit a declaration to the Financial Authority, within the period specified in the demand, containing the following:

(a) Names and addresses of his employees, salaries, allowances, and amounts paid to them.

(b) Names and addresses of those receiving, from or through him, pensions, allowances, and the like, and the amount thereof.

(2) The director or other senior official of the juristic person to whom the management is entrusted shall

be considered as the employer for the purpose of this Article.

CHAPTER TWELVE

DUTIES OF A PERSON REPRESENTING OTHERS

Article 19.

(1) If an amount is due from any person residing in Iraq, directly or on behalf of another, to a person or persons outside Iraq whether payment was made in cash or credited to the account, he shall be held responsible before the Financial Authority to settle the tax thereon provided that the sum falling due is:

- (a) Interest on debentures, mortgages, loans, deposits, and advances.
- (b) Annual allowances or pension salaries or other yearly payments.

The rate of the tax payable on such amounts shall be 15% ²⁵ for other than banks, in accordance with the definition of "Bank" in the Banks Control Law No. 64 of 1976 or any other law replacing it. The tax shall be paid to the Financial Authority on payment or recording the amounts due, of which details are mentioned above, except banks which are exempted from this tax.

(2) Those who are subject to settle tax on interest and other yearly payments, already mentioned in paragraph (1) of this Article, have the right to deduct the amount of tax due and payable to the Financial Authority from those amounts paid by them, provided that they submit to the person who is not residing in Iraq a written statement every time they pay the tax on his behalf which includes:

- (a) Amount payable to him.
- (b) Rate and amount of tax on said amount.
- (c) The net amount paid to him.

(3) If the chargeable income belonging to a person includes an amount from which the tax has been deducted in accordance with this Article, then the tax so paid shall be deducted from the total of income tax payable by that person.

(4) As far as this Law is concerned, each payment shall be considered as yearly payment whether paid monthly or at longer or shorter periods and whether paid in equal or different amounts.

(5) Paragraphs of this Article do not apply on dividends paid by any company from income on which tax

has been paid or is payable by the said company.

Article 20.

Whoever takes charge of administration or control of properties or work belonging to another person such as a receiver (syndic), trustee, guardian, or curator, shall be responsible for the assessment of the tax and payment thereof on behalf of that person whom he represents, in the same manner and amount that person would have been charged had he been eligible.

²⁵ As amended by paragraph (4) of CPA Order 84.

Article 21.

(1) The person who is not residing in Iraq shall be subject to assessment and chargeable to tax in the name of the trustee, guardian, committee, authorized person, factor, agent, receiver, head of a branch, or manager of a company whether they receive the income or not in the same manner and in the same amount as would have been assessed had the non-resident been residing in Iraq and actually receiving that income. The non-resident shall be liable for tax assessment and subject to it for any income arisen or collected by representation, factorships, agency, receivership, branch administration, or company management, in the name of the representative, factor, agent, receiver, head of the branch, or manager of the company.

(2) If a non-resident undertakes a commercial enterprise with a resident and it appears to the Financial Authority that because of the special connection existing between the resident and the non-resident, and the substantial control of the one of them over the other, it is possible to arrange the business or it is actually so arranged to leave no profits to the resident, or the profits left are much less than what could normally be earned, then the tax shall be assessed on actual profits on the non-resident and he shall be charged for the tax in the name of the resident as if he was an agent for the non-resident for administering the business.

(3) Where it appears to the Financial Authority that the actual amount of profits of a non-resident subject to tax in the name of a resident, cannot easily be determined, the Financial Authority, if they find it suitable, may assess the tax on the non-resident and make him subject to it at a fair and reasonable percentage of the turnover of the commercial business undertaken, by the non-resident through or with the resident. In such cases, the provisions of this Law relating to submission of returns and notifications by persons acting on behalf of others shall necessarily include submitting returns and notifications by the resident concerning the business done by the non-resident in the same manner followed by the persons acting for interdicted persons or non-resident persons. The percentage of profit shall, in each case be determined having regard to the nature of the business and shall, when determined by the Financial Authority, be subject to appeal as provided for in this Law.

(4) Nothing in this Article shall render a non-resident person subject to tax in another way in the name of a broker, factor, or an agent unless that broker, factor, or agent is a duly authorized person and carrying on an orderly agency business for the non-resident or is a taxable person as if he was an agent in pursuance of the provisions of paragraphs (2 and 3) of this Article in respect of gains or profits arising from sales and transactions carried out by a broker or such an agent.

(5) The mere undertaking of sales or transactions by a non-resident person with other non-residents, does not make him subject to tax in pursuance of the provisions, of paragraphs (2 and 3) of this Article in the name of the resident for gains and profits arising from such sales and transactions.

(6) If the tax has to be imposed on a non-resident person in the name of any authorized person, factor, agent, receiver, head of a branch, or company manager, in respect of any gains and profits arising from the sale of goods or products manufactured outside Iraq, then the person in whose name the non-resident person is so chargeable may, if he thinks it is appropriate, make an application to the Financial Authority (and in the case of appealing, to them or to the Appeal Committee), requesting to make the tax assessment on those gains and profits and amending them, on the basis of profits which can be reasonably expected to have been earned by a merchant or by a retailer who bought the goods from the manufacturers or producers directly or on their behalf to a retailer. When the Financial Authority and Appeal Committee are satisfied that the amount of profit is in the above mentioned rate, the assessment or amendment shall be made accordingly.

(7) The provisions of the article do not make the non-resident chargeable to tax in accordance with paragraph (1) of Article 2 of this law unless trade, commercial business, vocations or any other transaction of a commercial nature, from which the gains and profits have arisen, are carried on in Iraq. The financial authority shall differentiate between trading in and with Iraq, and their decision shall be subject to appeal.

Article 22.

It is required from every person in Iraq whoever he might be who:

- (1) Receive profit or income subject to the provisions of this Law which belongs to another person, or
- (2) Pay to another person, to his order, or credit his account with a profit or an income the same as above, even though it is payable outside Iraq.

To furnish the Financial Authority within 21 days of receipts, payment or registration with a return containing:

- (a) A truthful declaration of all said profit and income.
- (b) Name and address of the persons to whom the said profit and income belongs. The Financial Authority can request this information from any other person by issuing a written notice.

Article 23.

Any person responsible for payment of tax on behalf of another person may deduct from money received on behalf of such other persons, sufficient amounts to pay such tax and shall be immune from suit against him for whatever he has paid in accordance with this law, provided that he shall submit an account to the person he represents, showing the amount of tax paid, the rate thereof and the net amount outstanding to his credit.

Article 24.

If a person dies and tax has not been imposed on his income in the previous year of assessment or within the preceding 5 years, the inheritor and the person to whom the estate has been transmitted or who takes charge of its distribution, shall be responsible for the assessment of tax due on the deceased and payment thereof from the property of the estate, and he shall be treated as if the deceased were alive.

Article 25.

The manager, the accountant, or one of the high officials of the juristic person who is being entrusted with tax matters, shall be responsible for undertaking all acts and matters as are required to be done under the provisions of this Law for the assessment of the tax and the payment thereof.

CHAPTER THIRTEEN

PARTNERSHIPS

Article 26.

(1) The income of a partnership shall be assessed as a whole and divided among the partners according to their share, and tax shall be imposed thereon after the income of each from other sources has been added to it, provided that the partnership is proved by legal documents and records or by such other documents that satisfies the Financial Authority.

(2) If the Financial Authority is not satisfied that the partnership is valid or if it appears that the purpose of the formation of the partnership is to avoid or decrease tax, or if it is not proved that there is actual participation of each partner in an appropriate portion of the partnership capital or actual participation in its management, the Financial Authority may assess tax on the person to whom it believes the income belongs.

(3) The senior partner, or the one appointed to represent the partners, shall present to the Financial Authority a return stating the income of the partnership, the share of each partner, each partners address, and a statement of account. He shall also present all documents, records and statements required by the Financial Authority.

(4) The senior partner is the one whose name is mentioned before other partners in either the partnership agreement or the inheritance certificate or whose name was mentioned alone or before the others in the partnership name, where there is no written agreement amongst the partners, otherwise he is the active partner whose name is mentioned before others in the partnership agreement or partnership name.

(5) If one of the partners is not residing in Iraq, the agent, representative or the manager responsible for the partnership is to present the necessary statements and returns.

(6) If a partnership falls under the regulation pertaining to the keeping of commercial books for income tax purposes and fails to comply with the provisions of that regulation, the Financial Authority may assess the senior partner, or the one owning the greatest share, in respect of all the profits of the partnership. That partner will have recourse against the other partners. No allowance shall be deducted from the profits of the partnership, except what is granted to the senior partner or the one owning the greatest share.

CHAPTER FOURTEEN

SUBMISSION OF RETURNS AND INFORMATION

Article 27.

(1) The Financial Authority may ask any taxable person, or person it believes to be taxable, whether or not his name is registered in the income tax department, to submit a return of his income within 21 days from the date of notification in writing or by other means of publication.

(2) Every person whether registered or not, who has taxable income, must submit a return in respect of his income, before the first day of June of the year of assessment, even if he has not been requested to do so by a written notice or by any other means of publication.

(3) The Financial Authority may extend the period mentioned in paragraphs (1) and (2) of this Article to an appropriate period if it is satisfied of the existence of a lawful excuse.

(4) The employee shall submit, through his employer, a return of his income other than salaries and allowances, within the periods mentioned in the preceding paragraphs; the employer must confirm the authenticity of the signature and submit the return to the Financial Authority.

Article 28.

(1) Government Offices, Municipalities (including Amanat Al-Asima) Government and establishments and enterprises of socialist and mixed sectors and their Officials shall submit to the Financial Authority on demand such statements and information as it considers necessary for the implementation of the provisions of this Law.

(2) The Financial Authority may investigate the true income of the taxpayer and ascertain its sources in the places of their origin. It may call for information to be given by any person whom it believes to be in possession of anything useful for the assessment of the tax of any taxpayer.

(3) The Financial Authority may stop transactions related to tax and prevent their completion by the other government offices until the tax or the due deposit is paid.

(4) The Financial Authority may require from any government office, socialist and mixed sector enterprise or establishment or from any person, to deduct a percentage not exceeding 10% of the amount due to contractors or other persons connected with them, whether these are natural persons, companies or establishments, and amounts to be deducted shall not be released to them unless a certificate of clearance from income tax has been obtained. The Financial Authority may request the transfer of the deducted amounts to it.

Article 29.

Every return, statement, or form submitted in accordance with this Law shall be deemed to have been submitted by the person from whom it has been demanded or by the person obliged to submit it, or by their representative, unless the contrary is proved. Any person who affixes his signature, seal or thumb impression to a return, statement, or form, shall be deemed to know and acknowledge all matters contained therein.

CHAPTER FIFTEEN

ASSESSMENT

Article 30.

After the expiration of the period prescribed for the submission of returns in accordance with Article 27 , the Financial Authority shall study the return submitted to it. It may accept it and assess tax accordingly, or refuse it and assess tax on the income it estimates according to available information. As to the person who did not submit a declaration, if the Financial Authority considers that such person is liable for tax, it may estimate his income and assess tax thereon. Such assessment shall not relieve the taxpayer from responsibility for non-submission of the return at the required time.

Article 31.

The tax shall be assessed on the person liable in the office of the tax assessor at the taxpayer's place of abode, or his business. If he has transacted business at places attached to different offices, the tax shall be assessed at the office of one or more assessors as the Financial Authority may decide. The Minister or whoever is authorized by him may direct that a person liable to tax shall be assessed at the office of another assessor other than the assessor of the aforesaid office.

Article 32.

The Financial Authority must assess the tax on the basis of the actual income. It shall have the right to re-open the assessment with regard to any of the five years preceding the year of assessment, in respect of any person whose income has been assessed in those years at less than what it should have been if it has material evidence, including written information. As for those whose income has not been assessed, the assessment may be made from the date of realization of tax. The right of the Financial Authority to re-open the assessment shall not be affected even if the said persons have not been notified.

CHAPTER SIXTEEN

OBJECTION TO ASSESSMENT

Article 33.

(1) The taxpayer, after being notified of the assessed income and the tax payable thereon, may submit an objection in writing to the Financial Authority which notified him of the assessment or to any of the offices of the General Commission for Taxes within 21 days from the date he is notified, showing reasons for his objection and the amendment demanded by him. He shall have to submit to the Financial Authority such books, records and the necessary statements regarding his income as it may require in order to verify his objection.

(2) The Financial Authority may accept the objection after the lapse of the period set out in paragraph (1) if it is satisfied that the objector was unable to submit it owing to absence from Iraq, sickness incapacitating him from work, or other events of force majeure.

(3) The taxpayer's objection shall not be considered, unless the taxpayer pays the tax assessed on him. If the taxpayer is unable to pay the entire amount of the assessed tax, the Financial Authority may, if satisfied, collect the tax by installments in accordance with instructions to be issued by the Minister, with due consideration to be given to the text of Article 46 of this law.

Article 34.

If agreement is reached between the objector and the Financial Authority regarding the assessment of the income and the amount of the tax, or if the objection is submitted after the legal period and the Financial Authority does not agree on an extension, the assessment shall become final and no appeal shall be accepted thereto.

CHAPTER SEVENTEEN

APPEAL

Article 35.

(1) The person whose objection regarding the amount of income or the tax is rejected by the Financial Authority, may appeal against its decision to the Appeal Committee, by an application to be submitted to the Committee or to any of the Offices of the General Commission for Taxes within 21 days from the date he is notified of the rejection of his objection. He shall have to prove his claims by documents, records, and other statements.

(2) The Financial Authority may accept the application of appeal submitted after the lapse of the legal time limit if it is satisfied that the appellant was late in submitting it owing to his absence from Iraq, sickness incapacitating him from work, or other events of force majeure, and that the appeal was submitted to the Financial Authority without undue delay on his part.

(3) The Appeal Committee will not continue with the appeal if the taxpayer has not paid the required installment payments, unless the taxpayer takes the initiative to settle them.

Article 36.

The appellant and the Financial Authority shall be notified of the date of hearing before the Appeal Committee at least 7 days before the date of hearing. Both parties shall attend in person before the Committee or send a representative on their behalf on the day and hour fixed, or may state that they are satisfied with written statements submitted by them. The Committee may cancel, confirm, increase, or decrease the assessment, stating the reasons for its decision. It may also confirm the assessment if neither, or either, party fails to attend without lawful excuse, or it may adjourn the appeal hearing to such date it may consider suitable.

CHAPTER EIGHTEEN

APPEAL COMMITTEE AND CASSATION PANEL

Article 37.

(1) Appeal Committees shall be formed by notifications issued by the Minister in the Official Gazette to consider appeal cases and shall be formed from a judge of at least grade two and two members from officials specializing in financial matters.

(2) Additional members shall be appointed on the same conditions as (1) above, to take the place of original members in their absence.

Article 38.

The Appeal Committee formed in Baghdad shall consider cases falling within the jurisdiction of another committee at the request of the appellant himself. The Minister or the person authorized by him may transfer any case of appeal with or without a request from the appellant, if he finds reasons necessitating this.

Article 39.

(1) The Appeal Committees shall consider and decide all matters connected with the assessment of the tax, the determination of the income liable thereto, refunds, and allowances. The Financial Authority shall execute the decisions after both they and the taxpayer have been notified of them.

(2) With due consideration to be given to paragraph (1) of Article 57 of this Law, the Appeal Committee is authorized to hear cases on violations committed with respect to Commercial Book-Keeping Regulation No. 5 of 1957 and its Amendments, or any other regulation that may replace it, which are referred to it by the Financial Authority, and to impose penalties stated in the Regulation. If payment of penalty is not made, the case shall be transferred to the competent court to change the penalty into imprisonment.

Article 40.

(1) The decisions of the Committees, formed in accordance with Article 37 of this Law, shall be final if the tax amount was ID 10,000 or less.

(2) If the tax amount by the decision was more than ID 10,000, the Financial Authority and the taxpayer may object on it within 15 days from the date of notification of the decision, before a Cassation Panel headed by a judge from the Court of Cassation and two members who are general directors from the Ministry of Finance and one member from each of the Iraqi Commercial Chambers Union and the Iraqi Industries Union formed by a statement issued by the Minister and published in the Gazette.

(3) The Cassation Panel may cancel, confirm or modify the decision of the Appeal Committee and its decision is final.

(4) The taxpayer who wishes to object to the decision of the Appeal Committee before the Cassation Panel must pay a fee to the General Commission of Taxes. The fee amount is limited to 1% of the tax amount with a maximum limit of ID 1,000. The fee is considered as a final revenue for the general case.

(5) The reward of the members of the Cassation Panel and Appeal Committee is assessed by direction issued by the Minister.

CHAPTER NINETEEN

NOTICES

Article 41.

The Financial Authority shall sign notices issued under this Law, the signature shall be deemed to be valid whether sealed or written on the notice unless there is evidence to the contrary.

Article 42.

The notice and other forms issued by the Financial Authority shall be served by either of the following two methods:

(1) By delivery to the addressee or to one of his employees at his place of business or to a member of his family residing with him, in accordance with the legal procedures of serving notices.

(2) By sending, through the registered post to his address recorded with the Financial Authority. The Post Office shall transmit the letter to its addressee or to those mentioned in paragraph (1) of this Article.

(3) If the letter is sent by registered post, the service to the person resident in Iraq shall be deemed to have taken place after 14 days of its registration. The person resident outside Iraq shall be deemed to have been served after 60 days from its registration. The registration of the letter in the post with a correct address of its addressee shall be sufficient to prove that notice has been made, unless the letter is returned undelivered.

Article 43.

Notices, forms and transactions carried out under this law shall not be considered as void by reason of a defect in form or a mistake or omission which would not affect the purpose thereof or prevent the identification of the address. The assessment likewise shall not be void by reason of a mistake in the name and title of the taxpayer, the category of his income or the amount of tax imposed upon him, or by reason of a difference between the assessment and the notice which, as far as the result is concerned, has no bearing on the statements on which the assessment was based.

CHAPTER TWENTY

COLLECTION

Article 44

The Financial Authority shall notify the taxpayer in writing to pay the tax stating the amount thereof and the date it becomes due. The signature of the taxpayer on the notice of the assessment shall be considered as notification for payment.

Article 45.

If the tax is not paid within 21 days from the date of notification in accordance with Article 44 , there shall be added 5% of the amount of tax. This amount shall be doubled if the tax is not paid within 21 days after the lapse of the first period. The Minister, or the person authorized by him, may exempt the taxpayer from the additional amount, wholly or partially, if that he is satisfied that the delay in payment by the taxpayer was due to his absence from Iraq, sickness incapacitating him from work or any other event of force majeure.

The Minister may also refund the additional amount if paid under one of the said circumstances.

Section 10 of CPA Order 49 added the following:

(1) The suspension of income taxes for financial year 2003 by CPA Order Number 37 does not affect income taxes for financial year 2002 and previous years, which remain payable by taxpayers and collectible by the Tax Commission.

2) In case of late payment of taxes owed for financial year 2002, a taxpayer may file a written request with the Tax Commission requesting waiver of interest and penalties. The Tax Commission may, in its discretion, upon making a good faith determination that there was reasonable cause for the late payment, waive such interest and/or penalties.

Article 46.

(1) The Financial Authority, according to a written request from the taxpayer, may accept settlement of the tax to be made by installments if it finds justifying reasons for doing so, provided it notifies him of the amount and due date of each installment.

(2) If payments by installments is accepted and the taxpayer does not pay one of the installments within 21 days of the due date, then all installments shall become automatically payable without prior notice with due consideration to be made to Article 45 of this law.

Article 47.

The tax and the additional amounts shall be collected in accordance with the Law of Collection of Debts Due to the Government and its amendments.

Article 48.

(1) The tax shall be collected from the property of the taxpayer himself in respect of his income and the income of his wife and minor children. If the spouses are separated or in case of the husband's inability to pay, collection shall be effected from the properties of the wife and minor children of such an amount as is payable by them, proportionate to the total amount of tax due. As regards the wife falling under the

provisions of paragraph (1) of amended Article 6 , the tax payable on her income shall be collected from her own other property.

(2) Tax shall be collected from the property of the widow or divorcee in respect of her income and that of her children who are under her guardianship, and if her insolvency is proved, collection will be effected from the properties of the children of such amount as is payable by them proportionate to the total amount of tax due. Those children who are covered by the provisions of paragraph (5) and Article 6 of this Law, the tax payable on their income shall be collected from their personal property.

CHAPTER TWENTY ONE

REFUNDS

Article 49.

The Financial Authority shall refund to the taxpayer any amount of tax paid by him in excess of the amount due from him, provided that he shall submit an application in this respect within five years from the close of the financial year in which the excess has been paid. The tax collected by direct deduction, shall be refunded without the necessity of presenting an application by the taxpayer.

CHAPTER TWENTY TWO

TAX ON MEANS OF TRANSPORT

Article 50.

The following provisions shall apply for the assessment and collection of tax from owners or charterers of different kinds of sea, river or land means of transport when operating in Iraq or when arriving at a port or city in Iraq if their owners or charterers are residing outside Iraq.

(1) The income liable to tax shall be an amount equivalent to 7.5% of the total amount receivable by or due to the owner or charterer of the means of transport from passengers, mail, livestock and goods transported in Iraq.

(2) If the owner of the means of transport has no agent in Iraq, the master of the vessel or driver thereof shall be regarded as the agent of its owner or charterer.

(3) The Financial Authority may send a certificate to the General Administration for Customs or to any other official authorized to grant clearance declaration, containing the amount which remained unpaid for a period exceeding three months from the date it fell due, and the names of those who are charged to pay tax. The official receiving such a certificate shall not permit the exit of the means of transport from any city or port in Iraq, until the said tax has been paid.

(4) The detention of a means of transport under this Article shall not exempt its owner or charterer or agent from the payment of the port dues or other charges during the period of detention.

CHAPTER TWENTY THREE

GUARANTEE OF TAX PAYMENT ON DEPARTURE FROM IRAQ

Article 51.

If the Financial Authority is satisfied that a person is attempting to leave Iraq in order to delay payment of the tax imposed or which may be imposed on him personally or on behalf of others, wholly or partially, it may require the authorities to delay or prevent his departure, giving his identity and that the amount of tax due or that may become due. The authorities must prevent that person from leaving Iraq until he has paid the tax or produced a certificate from the Financial Authority indicating that the ban has been lifted.

CHAPTER TWENTY FOUR

PROVISIONAL ATTACHMENT

Article 52.

The Minister or whoever is authorized by him may attach properties whose owner attempts to conceal or evade payment of tax. The attachment shall not be lifted unless the tax has been assessed and collected, or a solvent guarantor is presented to undertake payment thereof.

CHAPTER TWENTY FIVE

INFORMATION PROHIBITED TO BE DISCLOSED

Article 53.

All papers, statements, returns, assessment lists and copies thereof and information relating to the income of taxpayers, shall be considered as secrets prohibited to be disclosed by officials and others executing this Law. The Financial Authority may, however, give the government offices and socialist sector such statements as it considers not prohibited to be given or wherever is necessary to execute the provisions of the Law or for following any crime committed in relation to the tax, except what may concern items of the taxpayer's income.

CHAPTER TWENTY SIX

REWARDS FOR INFORMANTS

Article 54.

Anyone who submits to the Financial Authority verbally or in writing any genuine information which any taxpayer has concealed or was attempting to conceal, leading to the tax being assessed, imposed or

increased, shall be granted a monetary award at rates to be determined by the Minister by instructions, provided that it shall not exceed 30% of the tax realized by reason of such notification. The notification together with the name of the informant shall be regarded as being one of the secret matters provided for in Article 53 of this Law.

CHAPTER TWENTY SEVEN

COURTS PROHIBITED FROM HEARING TAX CASES

Article 55. [This article was suspended by Saddam Hussein.]

The courts are prohibited from hearing any case relating to the assessment, imposition and collection of the tax or any transaction carried out under this law.

CHAPTER TWENTY EIGHT

OFFENSES AND PENALTIES

Article 56.

(1) There shall be punished with a fine of not less than ID 100, and not more than ID 500, anyone whose offence is proved before the competent courts for committing any of the following contraventions [applies only to paragraphs (a) and (b)]:

(a) Failing to carry out the duties imposed on him under this Law or the regulations issued there under, or refusing or delaying to submit to the Financial Authority the income return or any other statement or information he was obliged or called upon to submit under the provisions of this Law, with due consideration to be given to paragraph (2) of this article.

(b) Being found in possession of or having access to any information, statements, documents, lists, returns or copies thereof, relating to the income of another person which he has given or communicated to a person, other than authorized to be given or communicated to, or wholly or partly divulges the contents thereof to any person not so authorized by the Minister.

(c) A penalty shall be imposed on the person making any contravention to the provisions of the Commercial Bookkeeping Regulations for Income Tax Purposes at the rate of 10%-25% of the assessed income, before deducting legal allowances, provided the amount of penalty shall not be less than ID 500.

(d) The Financial Authority shall impose an additional amount at the rate of 10% of the tax provided it does not exceed ID 500,000 on the taxpayer who does not submit or refuses to submit an income tax return by 31 May of each year or on whoever causes a delay to the completion of the assessment of his income, unless the taxpayer proves that the delay has been caused by a lawful excuse.

(2) The Financial Authority shall impose an additional amount of ID 10,000 on each branch of a company working in Iraq which fails to submit its final accounts, as examined by the Audit Office, to the Financial Authority within 6 months after the end of the financial year of the company unless the said branch proves that the delay has been caused by a lawful excuse and such excuse is confirmed by the office.

Article 57.

Whoever is proved before the competent court of committing one of the following acts shall be punished with imprisonment for a period not exceeding one year:

(1) Whoever knowingly submits false statements or false information or includes same in a return, account or statement concerning the tax or conceals information which he should have stated, with the intention of obtaining a reduction, allowance or deduction from amounts of tax imposed on him or on another, or a refund of the amount paid thereof.

(2) Whoever prepares or submits a false or incomplete account, return or statement that he should have prepared or submitted according to this Law, or assisted or instigated or participated in another person doing so.

Article 58.

There shall be punished with imprisonment for not less than 3 months and not exceeding 2 years, any person who is proved by the competent courts to have practiced deceit, or fraud for the purpose of evading whole or partial payment of the tax imposed or to be imposed under this Law.

Article 59.

The Financial Authority shall double the tax on the income which is the subject of the court cases indicated in either Article 57 and 58, after the judgment in respect thereof becomes final.

Article 59 (repeated).

(1) The Minister of Finance may accept a settlement with respect to the acts stipulated in Articles 57 and 58 of the Law, prior to bringing action before the competent courts or during such suit, under which the penalties mentioned in those two Articles would be replaced by paying an amount not less than the adequate payments of the tax on the income of the litigant concerned.

(2) The settlement shall be made pursuant to a written request presented by the perpetrator of the act or whoever legally represents him; if the settlement is accepted the perpetrator of the dissenting act shall not have the right to rescind it.

(3) Once a settlement is reached, the penal action against the person who has committed the contravention

shall be stayed provided that he pays the amount prescribed in paragraph 1 of this Article and the legal proceedings, no matter what stage they might have reached, shall be regarded as cancelled.

(4) The amount prescribed in paragraph 1 of this Article must be paid within a period not exceeding 10 days from the date on which the reconciliation is accepted.

CHAPTER TWENTY NINE

REGULATIONS AND INSTRUCTIONS

Article 60.

Regulations shall be issued to govern the following matters:

(1) Specifying the books and commercial registers required for the purposes of this

law, the person required to maintain them, and the manner of preparation and attestation thereof.

(2) Specifying the deductions and the rates of depreciation to be applied.

(3) Anything required for the implementation of this Law.

Article 61.

The Minister, or whoever is authorized by him, shall issue notifications or instructions for the implementation of this law, governing the following matters:

(1) Types and specimen returns, notices, statements and the like.

(2) Specification of committees and means necessary for the assessment of income.

(3) Inspection and investigation of the income of persons liable for tax and the sources of that income.

(4) Definition of the nature of salaries, allowances and wages in respect of which tax is charged by direct deduction.

(5) Other points which the Financial Authority considers necessary.

Article 62.

The Income Tax Law No. 95 of 1959 and its amendments shall be repealed, but it remains in force for the years falling under its provisions; all regulations, notifications and instructions issued by virtue of it shall remain in force unless they are inconsistent with the provisions of this Law or are amended or repealed.

Article 63.

This Law shall be published in the Official Gazette and it shall come into force as from the financial year 1983.

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The information on this web site is provided as a convenience only and should not be relied on as authoritative. For the authoritative text of the law and its amendments, see the Official Gazette published by the Ministry of Justice.