

THE SPECIAL CONTRIBUTION FOR THE DEFENCE OF THE REPUBLIC LAWS¹ (AS AMENDED, 2003)

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For the purposes of harmonization with the acts of the European Union under the title -

“Council Directive 90/435/EEC of the Council of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States”, (EE L 225 of 20/8/1990, p.6-9),

PART I - INTRODUCTORY PROVISIONS

Short Title

1. This Law may be cited as the Special Contribution for the Defence of the Republic Law of 2002.

Interpretation

2.

- 1) In this Law, unless the context otherwise requires -

“Director” means the Director of the Department of Inland Revenue and any Officer of the Department of Inland Revenue duly authorized by him;

“special contribution” means the special contribution which is payable under the provisions of this Law.

- 2) Terms used in this Law not otherwise defined shall have the meaning assigned thereto by the Income Tax Law.

PART II - LEVYING OF SPECIAL CONTRIBUTION

Obligation To Pay Special Contribution

3.

- 1) Notwithstanding the provisions of any other Law, any person specified in sub-section (2) shall be liable to pay a special contribution for strengthening the defence of the Republic.

- 2) The persons liable for the payment of the contribution under sub-section (1) are -

- a) every person resident in the Republic receiving or deemed to be receiving any dividends from a company, at a rate of fifteen per cent (15%) on the amount of the dividend:

Provided that a company which is resident in the Republic shall be exempt from the payment of special contribution in respect of any dividends received from a company resident in the Republic:

Provided further that a company which is resident in the Republic, or a company which is not resident in the Republic but has a permanent establishment in the Republic, which receives dividends from a company which is not resident in the Republic, in which the company which is resident in the Republic, or the company which is not resident in the Republic but has a permanent establishment in the Republic, holds directly at least one per cent (1%) of the share capital shall be exempt from the payment of special contribution on such dividends. This exemption does not apply -

- (i) if the company paying the dividend engages directly or indirectly more than fifty per cent (50%) in activities which lead to investment income; and
- (ii) the foreign tax burden on the income of the company paying the dividend is substantially lower than the tax burden of the company which is resident in the Republic or the company which is not resident in the Republic but has a permanent

establishment in the Republic:

Provided further that dividends issued from income emanating from dividends which suffered income tax at source at the rate of 20% and the issue of which is made within a period of six years from the date of their acquisition, are exempt from the payment of special contribution.

- b) every person who is resident in the Republic, who receives or is credited with an amount of interest, except interest falling within the provisions of paragraph (c), at a rate of ten per cent (10%) on the interest received or credited:

Provided that -

- (i) Interest accruing to any person from the ordinary carrying on of his business, including interest closely connected with the ordinary carrying on of the business, is not treated as interest for the purposes of this paragraph;
 - (ii) interest deemed to be paid to a company pursuant to section 39 of the Income Tax Law falls within the provisions of this paragraph;
 - (iii) an individual whose total annual income, including interest, does not exceed the amount of seven thousand pounds (£7.000) annually, has a right of refund of the special contribution withheld on interest in excess of the amount corresponding to three per cent (3%);
- c) every individual who is resident in the Republic for interest received or credited from savings certificates of the Cyprus Government, development stocks of the Cyprus Government, as well as interest accruing to a provident fund at the rate of three per cent (3%);
- d) every person who is resident in the Republic having income from rents, at the rate of three per cent (3%) on the amount of the gross rents reduced by twenty five per cent (25%);
- e) every public corporate body, at the rate of three per cent (3%) on its chargeable income, except income falling within the provisions of paragraphs (a), (b) and (d), before the deduction of the allowances envisaged in section 13 of the Income Tax Law.
- 3) Subject to the provisions of sub-section (4) of this section, a company which is resident in the Republic, is deemed to have distributed seventy per cent (70%) of its profits arising or accruing in the year of assessment, after their reduction by the corporation tax paid or payable on such profits, in the form of dividends to its interested shareholders as at the end of the period of two years from the end of the year of assessment to which the profits relate, and the interested shareholders concerned shall be assessed accordingly to special contribution on such dividends. Any special contribution payable by the shareholder concerned

in consequence of a deemed dividend distribution shall in the first instance be paid by the company which will debit such contribution to the shareholders:

Provided that in the case of a person not being resident in the Republic receiving dividend from a company which is resident in the Republic emanating from profits which at any stage suffered deemed distribution under this section, the special contribution paid because of the deemed distribution which is attributable to such person shall be repayable:

Provided that in case of liquidation of the company, the total of the profits of the last five years before the liquidation which have not been distributed or they have not been deemed to have been distributed shall be deemed on liquidation to be distributed and the shareholders shall be deemed to receive such dividends. This provision does not apply in case of liquidation of a company for the purposes of a reorganization subject to such conditions and procedures prescribed in Regulations issued under this Law:

Provided even further that a company falling within this sub-section shall submit to the Director relevant return of the deemed dividend on a prescribed form and shall pay the special contribution in accordance with such return.

- 4) The amount of deemed dividends under sub-section (3) is reduced by any actual dividend distributed during the period of two years from the end of the year of assessment to which the profits relate and where the actual dividend is paid after the lapse of the two years from the end of the year in which the profits relate, any amount of deemed dividend distribution reduces the actual dividend on which the special contribution payable shall be withheld under this section.
- 5) For the purposes of sub-section (3), the term "profits" means the accounting profits as computed in accordance with acceptable accounting principles but after deducting any transfers to reserves provided in any law:

Provided that the provisions of sub-sections (4) to (8) of section 13 of the Income Tax Law concerning set-off of losses of a group, as well as any amounts, including any additional depreciation, which emanate or are the result of revaluation of movable or immovable property, shall not affect the accounting profits.

- 6) The provisions of sub-section (3) shall not apply as regards profits attributable to the shareholders who are not residents in the Republic.
- 7) When a company pays a dividend, it must furnish every shareholder with a certificate in which the following must be stated:
 - a) The amount of dividend which is paid to the shareholder,
 - b) the special contribution withheld by the company with respect to the dividend paid.
- 8) In the case of reduction of capital of a company, any amounts paid or payable to the

shareholders, up to the amount of undistributed chargeable income of any year arrived at before the deductions in respect of losses which are brought forward from previous years under the provisions of section 13 of the Income Tax Law, shall be deemed as distributed dividends and the shareholders shall be deemed to receive such dividends:

Provided that the dividends deemed as distributed under this subsection shall be reduced by any dividend falling within the provisions of sub-section (3).

- 9) An allowance in respect of foreign tax on the income subject to special contribution shall be given in accordance with sections 34, 35 and 36 of the Income Tax Law.
- 10) For the purposes of this section a company which has elected to be taxed in accordance with section 46 of the Income Tax Law shall be exempt from the payment of special contribution for the years 2003, 2004 and 2005.
- 11) For the purposes of paragraph (a) of sub-section (2) and subsections (3) to (9) the term «dividends» does not include any dividends emanating directly or indirectly from profits made from the operation of a Cyprus ship or from the rendering of ship management services as referred to in section 4 of the Merchant Shipping (Fees and Taxing Provisions) Laws.

Payment Of The Contribution

4.

- 1) Any person who pays any dividends or interest, shall deduct special contribution in accordance with sub-section (2) of section 3 from any payment made or to be made and shall pay such contribution to the Director together with a statement containing full particulars of the circumstances as a result of which the deduction has been made and showing how the deduction of the special contribution has been calculated.
- 2) Any special contribution required to be deducted under the provisions of sub-section (1), shall be deemed to be special contribution charged on the person required to deduct the special contribution and may be recovered from such person:

Provided that nothing in this Law contained shall be interpreted as preventing the Director to collect such special contribution from the person who acquired the dividend or the interest, notwithstanding the fact that no assessment was imposed on that person:

Provided further that where no statements or other particulars are furnished, the Director may assess to the best of his judgment the amount of the special contribution which should have been deducted.

- 3) If any such special contribution is not withheld or if, when withheld, is not paid to the Director within the month next following the month in which the withholding ought to have been made or had been made, there shall be added thereon interest at a rate of nine per cent per

annum.

- 4) The contribution on rents and profits is payable in two six-monthly instalments, namely until 30 June and 31 December of every year respectively. In case where the contribution is not paid within these dates interest at the rate of nine per cent (9%) per annum is added thereon.
- 5) Subject to the provisions of this Law, the assessment, payment, collection and withholding of any amount of special contribution as well as any interest thereon shall be made in accordance with the provisions of the Assessment and Collection of Taxes Laws and the Collection of Taxes Law.

PART III - MISCELLANEOUS PROVISIONS

The Special Contribution Shall Not Be Deducted From The Income Tax

5. Notwithstanding the provisions of any other law, the special contribution payable under this Law shall not be deducted from the chargeable income of any person.

Offences And Penalties

6.
 - 1) Subject to the provisions of any other law relating to matters of criminal responsibility of persons holding or exercising any office, any person who refuses, fails or neglects to pay the special contribution, which he is liable to pay under the provisions of this Law, shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding five hundred pounds and, in case of a second or repeated conviction thereof for the same offence, to a fine not exceeding six hundred pounds or to imprisonment for a term not exceeding six months or to both such penalties.
 - 2) In the case of conviction of any person for refusing or failing or neglecting to pay special contribution, he shall, in addition to any other penalty to which he is liable, pay an amount equal to the amount which he refused or failed or neglected to pay, together with an additional amount not exceeding fifty per cent of the said amount and, in case of a second or repeated conviction thereof for the same offence, an amount not exceeding one hundred per cent of such amount, as the Court may direct.
 - 3) Any person who contravenes or fails to comply with any of the provisions of this Law and for such contravention or failure of compliance no other penalty is provided, shall be liable for each offence thus committed to a fine not exceeding five hundred pounds. Where it is proved that an offence committed by a corporate
 - 4) body in contravention of the provisions of this Law and the Regulations made thereunder, has been committed with the consent, connivance or negligence of a manager, director, secretary

or other official of the corporate body or any person acting in such capacity, that person, as well as the corporate body shall be guilty of that offence and shall be liable, on conviction thereof to the penalties provided for each case.

- 5) Nothing in this section contained shall be interpreted as preventing the Republic to claim, by civil action, any amount due to it.

Criminal Prosecution

7. Criminal prosecution for an offence under this Law shall not commence without the consent of the Attorney-General of the Republic.

Regulations

8. The Council of Ministers may make Regulations for the better carrying out of the provisions of this Law and may by these Regulations prescribe or regulate any matter which requires or may be prescribed or regulated.

Repeal And Savings

9. The Special Contribution for the Defence of the Republic Laws of 1985 to 2002 are hereby repealed without prejudice to anything done or omitted to be done thereunder.

Provided that all regulations, all orders, all notifications and all appointments, as well as all notices issued under the provisions of the Special Contribution for the Defence of the Republic Laws of 1985 to 2002, shall be deemed to have been issued pursuant to this Law and shall continue in force, mutatis mutandis, until revoked, cancelled or substituted:

Provided further that, the assessments which have not been made and the special contribution which has not been assessed or collected with respect to the year of assessment 2002 and all previous years, shall be made, assessed and collected in accordance with the provisions of the Special Contribution for the Defence of the Republic Laws of 1985 to 2002.

Date Of Commencement Of This Law

10. This Law shall come into force on the 1st January, 2003.